

EcoNorfolk Foundation Inc  
NGO – Norfolk Island

Submission to:  
Joint Standing Committee  
Australian Parliament House  
Canberra

Email: [jscncet@apj.gov.au](mailto:jscncet@apj.gov.au)

By: EcoNorfolk Foundation Inc

Tuesday, April 06, 2010

Reference: Territories Law Reform Bill 2010  
To: The Federal Parliament – Territories Committee

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EcoNorfolk Foundation Inc endorses the Australian Governments initiative to bring into the House the Territories Law Reform Bill 2010 which provides for the implementation of significant reforms to improve the governance of Norfolk Island and strengthen the accountability of the Norfolk Island government.

We agree with Minister O'Connor that the amendments to the Norfolk Island Act 1979 to reform the electoral system and establish a contemporary financial management framework will assist the Norfolk Island government in meeting the needs and expectations of our community and to plan for our future.

Examples which are currently being affected by the lack of Commonwealth legislation extending to Norfolk Island are:

- Waste Management - Target for No Ocean outfall after 2015 (Ref: ART Attachment A)
- Argentine Ant issue - lack of planned risk assessments for the implementation for the eradication programmed including processes for complaints mechanism and
- Reliable source of potable water quality

We commend the amendments to the administrative law legislation which will strengthen the transparency and accountability of the Norfolk Island government and public sector.

It is important that the JSC consider that all Australians - especially those of us who are in Territories of Australia have the same rights as all Australians. We should be able to have all Commonwealth Laws extended to our territory. Not only should the Administrative Appeals Tribunal Act 1975, the Freedom of Information Act 1982 and the Privacy Act 1988 to Norfolk Island be provided to us but other laws are also required. Some that are of concern are:

- Mental Health, Gender equity, Child protection, racial discrimination to name a few.

We commend the amendments to the Ombudsman Act 1976 and the Norfolk Island Act which will make the Commonwealth Ombudsman the Ombudsman for Norfolk Island.

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This is important as examples of non transparency can be provided with a focus on the Corporations & Companies Acts including Workers Compensation Act.

We commend the Commonwealth on its consultation process for the Norfolk Island Reforms, This has been ongoing and extensive by the Australian government since May 2009.

We acknowledge and endorse the reforms, which have been implement by a number of recommendations from the Joint Standing Committee on the National Capital and External Territories 2003 report which was entitled *Quis custodiet ipsos custodes?: inquiry into governance on Norfolk Island*.

We agree that good governance is important for Norfolk Island and that these be adopted as soon as possible through the development of formal mechanisms by the Australian government. These include:

- ensuring public accountability through finance and performance audits, annual reporting and access to the Ombudsman;
- regulating accuracy and disclosure of personal information and providing access to public policies and guidelines of public sector agencies; and
- The availability of merits review of decisions which affect rights and entitlements.

We can site examples where the current informal mechanisms aimed to facilitate good governance, are being held back because of nepotism and the financial hardship of the Norfolk Island Government who have limited ability to implement essential services . The island is faced with large areas of mismanagement such as:

- Risk - in the informal mechanisms of complaints
- probity
- risk assessments
- compliance
- breaches
- duty of care

EcoNorfolk is concerned that the Islands' Administration and Government will continue to argue against these most important changes. It is appalling to consider that as of 2010 the Norfolk Island community is still identifying the lack of public accountability through finance and performance audits, annual reporting and access to the Ombudsman.

Because of the ongoing mismanagement we should all agree that 'the current arrangement of the absence of formal and effective mechanisms of accountability and transparency, seriously undermine the quality of governance on the island'.

- We support Minister O'Connor's address in the House of Representatives and feel that by allowing the Governor-General and the minister responsible for the territories to take a more active role in the introduction and passage of Norfolk Island legislation that a more transparent decision making process is a fair outcome.

Part 7 of the bill is an important area as the Information Privacy principles should run parallel with other Australian government public sector agencies.

Even though the bill establishes the foundations for processes to commence, and will be supplemented by regulations it would be hoped that the development is in a short time frame, (within 12 months) in consultation with the Norfolk Island community

### **Financial Frameworks**

We thank the Commonwealth government for its continual commitment in assisting Norfolk Island in implementing this framework effectively. It is an important milestone that the appointment by the Commonwealth of a Commonwealth financial officer for Norfolk Island is undertaken as a priority as is the amendment to the Norfolk Island Act to provide for the appointment of the Commonwealth Auditor-General to conduct audits of the Norfolk Island administration's financial statements.

#### **Administrative law reforms**

The application of Commonwealth administrative law accountability and oversight mechanisms to Norfolk Island is imperative. The health and wellness of our community suffers because of the lack of accountability and oversights.

It is important that administrative decisions which are made under Norfolk Island laws can be reviewed by the Administrative Appeals Tribunal on request by an affected party.

The regulations should include all Norfolk Island laws which may be subject to Administrative Appeals Tribunal merits review. The staged implementation of the reforms to be undertaken should be in a short time frame (within 12 months) in consultation with the Administrative Appeals Tribunal and Norfolk Island community.

It is important that individuals on Norfolk Island have the same rights to

- seek access to documents held by the public sector and to official documents of Norfolk Island government ministers; and
- To ask for their personal information in such documents to be changed if it is incomplete, incorrect, out of date or misleading.

We agree that the Commonwealth Ombudsman assume the function of the Norfolk Island Ombudsman under Norfolk Island legislation

It is important that Part 7 of the bill proposes amendments to the Privacy Act be applied so that the act will apply to the Norfolk Island public sector. It is agreed

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that the Norfolk Island public sector be required to adhere to the Information Privacy Principles in the same manner as other Australian government public sector agencies.

We are grateful that relevant Australian government agencies will play a significant and ongoing educative role about the rights and obligations established by the administrative law amendments in relation to the community of Norfolk Island and its public sector.

In conclusion, we are thankful that the Norfolk Island reforms included in the Territories Law Reform Bill are only the first step towards ensuring high levels of transparency and accountability in Norfolk Island governance and financial frameworks, and in administrative decision making.

We agree that this is an important part of providing Norfolk Island with the tools necessary to ensure ongoing stability and to sustain strong and effective self-government under the Norfolk Island Act.

As Minister BRENDAN O'CONNOR (Gorton– Minister for Home Affairs) stated<sup>1</sup>: 'These reforms, together with the amendments to the Christmas Island Act and the Cocos (Keeling) Islands Act, represent the government's ongoing commitment fulfilling its obligations to provide the legislative frameworks for the future growth and sustainability of Australia's territories'.

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<sup>1</sup>Questioner Responder Speaker Oâ##Connor, Brendan, MP TERRITORIES LAW REFORM BILL 2010  
Second Reading SPEECH  
Wednesday, 17 March 2010  
BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

ATTACHMENT A

NORFOLK



ISLAND

**THE ADMINISTRATION OF NORFOLK ISLAND**

LEGAL SERVICES UNIT  
ADMINISTRATION OFFICES  
NORFOLK ISLAND 2899

27 August 2002

Attention: Michael Morehead  
Michael Morehead and Associates, Solicitors and Attorneys  
C/- Ms Denise Quintal  
Eco Norfolk

Dear Michael,

**Re: Denise Quintal – Administration Review Tribunal**

Undertakings were provided to the Tribunal to convey in writing the intent of the Administration of Norfolk Island in matters of Waste Management.

I am instructed that part of the recommended policy of the development of the proposed Waste Service Centre is to achieve a fee-based permit system for the disposal of commercial and industrial effluent and solid waste.

The policy is that any effluent or solid waste that is transferred from the WSC should not result in any receiving coastal waters or land on the island becoming more noxious or poisonous to humans or to aquatic or terrestrial wildlife.

It should be possible, through the attainment of full re-cycling of such effluent and solid waste and through the staged development of an integrated waste management process, to remove any need for the outfall, tips and burning pits at Headstone by 2015.

Yours faithfully

  
**Graham Rhead**  
**Crown Counsel**