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Submission

To

House of Representatives standing Committee *NH*
on
Legal and constitutional Affairs

By

Stephen Paul Hatton

On

15th November 2006

**on the question of Northern Territory
Statehood**

Summary of submissions

1. In the 21st century it unacceptable that some Australian citizens should be denied recognition, inclusion and the protection of the Australian Constitution purely because of the geographic location in Australia where they Live.
2. Under the current Australian Constitutional structure the only way in which this inequity can be corrected is by granting Statehood to the Northern Territory.
3. It must be recognized that Statehood can only be achieved by the approval of the Federal Government and the Federal Parliament
4. The Federal Government should immediately announce its decision to commence the processes of granting Statehood to the Northern Territory at the earliest opportunity
5. That at least both the major political parties resolve at a national level that they will actively support this, and will approach the task in a bipartisan manner.
6. That having taken the decision to make the Northern Territory a State, the Federal Government accept its constitutional responsibilities and take charge of the processes, and proactively ensure that the necessary steps are done in such a way that the proper principals of inclusion, involvement, informed decision making and proper democratic processes are applied at all appropriate stages.
7. That adequate resources are made available to ensure that the process does not falter because of any such inadequacies.
8. That the Federal Government ensure that the steps to implement Statehood are as far as reasonably possible kept free of undue political control and influence.

Submission

1. Should the Northern Territory **now** proceed towards Statehood ?

The answer to this question is, I submit, unquestionably **yes**.

The 1st January 2007 will be the 96th anniversary of the date that Australians who live in the Northern Territory had their rights and recognition under the Australian constitution stripped from them. Australians who lived in the Northern Territory then immediately lost the right to vote, the right to have any political representation at a local, regional or federal level, and the right to virtually any other protection under the Australian Constitution which Australians living in any state enjoy and take for granted.

Since 1st January 1911, the history of the Northern Territory has been punctuated with demands and protests to recover those democratic rights withdrawn on 1st January 1911, when the NT became a federal Territory. For a summary of this history, I refer you to the **"Report into appropriate measures to facilitate Statehood"** presented to the Legislative Assembly of the Northern Territory in April 1999 particularly at pages 11 to 17. A copy of this report is attached.

In the 1975 Federal election, Malcolm Fraser committed to Northern Territory Statehood "within 5 years".

Following the election, it was agreed that the NT would go through **an interim phase** of limited self government to enable the infrastructure necessary for Statehood to be put in place. That limited self government came into existence on 1st July 1978 by means of the Federal Northern Territory Self Government act.

The objectives of the interim arrangements have now been fully met. Since that time:

- The legislative Assembly has been through 9 elections, there have been 7 different Chief Ministers, and both major parties have now served in Government.
- The administrative infrastructure of the public sector has been fully developed, modified and evolved to meet the emerging needs of the people of the Northern Territory.
- The judicial infrastructure of both the judiciary and the legal fraternity have been fully developed to serve the interests of the people of the Northern Territory
- The fiscal and taxation infrastructure of the Northern Territory has been fully developed.
- Financial arrangements for Federal funding have since 1988 been identical with the states. The Northern Territory, since 1988, has not received any special funding as a result of being a Federal Territory. Federal money to the Northern Territory (principally through GST revenue), is allocated on

the same terms and conditions as the various States share of that money is calculated, using the same methodology of horizontal fiscal equalization by the Commonwealth Grants Commission.

Notwithstanding that the Northern Territory people have now, on the face of it, recovered the significant majority of those "rights" taken away from them in 1911, those gains are in constitutional terms illusory and transitory. In fact they are best described as gifts presented by the Federal Government and Parliament, gifts which are capable of being taken away if the will of the Federal Parliament so determines.

It is clear that the people of the Northern Territory are wrapped in "a silken web" created by the Commonwealth Government and Parliament. For all intents and appearances, Australians living in the Northern Territory seem to have the same democratic rights as other Australians, and operate in a comprehensive "claytons state" (although there are some powers and functions which are part of a State which are still excluded from the NT.

However those rights and privileges are illusory and transitory. They can be taken away without the consent of the people of the Northern Territory if and whenever it takes the fancy of the Commonwealth Parliament.

Section 122 of the Australian constitutions states:

"The Parliament may make laws for the government of any territory surrendered by any state to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such Territory in either House of Parliament to the extent and on the terms it thinks fit."

See also the commentary on this section in "The Australian Constitution" published by the Constitutional Centenary Foundation at pages 116 and 117.

It is clear that the Commonwealth have unlimited power, unfettered by constitutional constraints, in respect to all matters associated with the Northern Territory. The history of the last 96 years shows that it has been prepared to exercise such power. For example:

- On several occasions to grant rights to the people of the NT, including the right to vote, eventually for their elected representatives to have speaking and voting rights in Parliament, and to evolve processes for some form of democratic government at both the local and Northern Territory level.
- To refuse to grant such rights for example in 1957 and 1958 when it refused a request from the then Legislative Council for self Government, even after the elected members resigned in protest over this, and were re-elected (5 of the 6 unopposed), and a remonstrance was sent to the Commonwealth Parliament protesting the lack of progress in constitutional advancement.
- The grant of limited self Government as an interim step to Statehood in 1978.

- The refusal of the Commonwealth Government of the day to consider the request from the then Chief Minister of the Northern Territory in 1988, to extend the Self Government Act to provide for "full Self Government".
- The action of the Commonwealth Parliament in removing the authority of the NT Legislative Assembly to make laws in respect to voluntary euthanasia thereby making the then pre-existing NT law on the matter redundant, despite the fact that it had the strong support of the great majority of the Northern Territory people.

The only way that this situation can be corrected, and the democratic rights of Australians be restored and protected, is for the Northern Territory to become a State under the Australian Constitution. This would be the final step in a 96 year battle to recover what Australians residing in the Northern Territory lost when it became a Federal Territory in 1911.

The time for this to occur is now overdue. The procedures to implement this must be started forthwith.

2. Recent Developments

2.1 Background

To understand recent developments and their relevance, and to make a proper consideration of the appropriate measures to achieve Statehood which, I submit, must be the principal outcome of this matter, it is vital to understand the historical context in which the current attitudes towards this question have arisen. To not do this would, I submit, be potentially counterproductive. In this context I refer to the old adage that those who do not learn the lessons of history are condemned to repeat the mistakes.

For the purposes of this paper I have set out this background from the commencement of the process of the bid for Statehood in 1986, and conclude the background with the 2001 NT election. Therefore "recent developments" refer to developments following that election in 2001.

In early 1986, the NT Legislative Assembly created a parliamentary Committee on Constitutional development charged principally with the responsibility of researching and making recommendations for a new constitution for the Northern Territory when Statehood is granted and to make recommendations to the Legislative Assembly concerning how that constitution should be finalized and implemented.

The Committee commenced quite aggressively, publishing in 1987 discussion papers on a State Constitution for the NT, on representation in a constitutional convention, and shortly thereafter an information

paper on "options for a grant of Statehood. The committee conducted an extensive series of meetings and consultations in over 70 communities throughout the Territory to educate on constitutional matters and receive views from the people on issues which were relevant to them.

Concurrently, in the period from 1986 to 1988 the Government produced papers on:

- Land matters upon Statehood
- National parks upon Statehood
- Minerals and energy upon statehood

For further information I have attached the ministerial statement and attachments titled "towards Statehood" which I presented to the Legislative Assembly on 28th August 1986. Almost all the issues referred to in that document, and all the case presented, are still current and relevant.

In 1990/1991, the committee budget was slashed to such an extent that the Committee had no capacity to travel or market constitutional issues. Also from late 1988 the NT Government changed direction and sought to achieve "full self government" rather than aggressively pursue the attainment of Statehood. The result of these 2 events was that there was an hiatus in public discussion on the question on Statehood for a period of 4 or 5 years, which resulted in the matter dropping out of the public consciousness.

The matter started to gain momentum from 1994 when:

- The budget of the parliamentary committee was increased enabling the committee to again travel, consult with Territorians, and proceed to finalise the task of presenting a draft constitution and recommendations on the procedures for its implementation
- The NT Government re energized its commitment to push for Statehood
- With the support of the NT Government, Northern Territory Statehood was adopted as a Centenary of Federation project for 2001.
- Following the 1996 Federal election, the new Government announced that it was prepared to facilitate the move to NT statehood.

The committee presented exposure drafts of a Northern Territory Constitution to the NT Legislative Assembly in June and November 1995 in an attempt to get some Parliamentary feedback. In this attempt the Committee was unsuccessful.

The committee also conducted a series of public meetings and consultations on those drafts.

The Committee presented its final report to the Legislative Assembly in late 1996. This report included a recommended draft constitution, a series of recommendations to progress the matter, and included a record of all the proceedings, papers, transcripts of community consultations, and all written submissions. In total the report and appendices comprised some 1.2 million words and covered all the work of the committee over a period of some 10 years.

This report received little consideration or feedback from the Legislative Assembly, and no decision on the recommendations of the committee. The Assembly simply noted the report.

There was no public comment on the issue of Statehood or constitutional development from the (inconsequential) debate in the Legislative Assembly until the 1997 Northern Territory election.

Following that election, the process of Statehood and constitutional development was essentially "hijacked" by the Chief Minister. A "Statehood Executive Group" was formed by the Chief Minister, reporting only to the Chief Minister. The Legislative Assembly Committee was excluded from this process but the workings of the Committee were overseen by that executive group.

The executive group proceeded to produce a separate draft constitution without reference to or consultation with anybody.

In late 1997 the Chief Minister announced that a "Statehood convention" was to be held in February/ March 1998 to:

- Consider whether the NT should become a State,
- Recommend what the new State should be called, and
- Prepare a draft constitution for submission to the NT people at a constitutional referendum

The Convention was to be made up of people either appointed by the Chief Minister or elected from organizations or groups nominated by the Chief Minister.

Nominations for positions on the Convention were to be submitted to the Chief Minister (by the end of January 1998).

The selection of members on the "Convention" was finalised in February 1998 with the final appointment occurring only 3 or 4 days before the convention commenced.

Convention delegates were given 1 or 2 day briefing during which the procedural rules were also finalized.

The "Convention" met for a total of 6 or 7 days over approximately a 2 week period, in which they determined that the NT should proceed to statehood, that the new State should be called Northern Territory, and drafted a constitution which was submitted to the Legislative Assembly on 8th August 1998.

On 11th August 1998, the Minister for Territories and Local Government announced that at the request of the Chief Minister, the Commonwealth Parliament had agreed that a referendum on the Statehood issue would be put to residents of the Northern Territory at the next Federal election. On the same day the Prime Minister announced that the Commonwealth Government supported Statehood for the Northern Territory and set 1st January 2001 as the target date.

On 20th August 1998, the member for Nightcliff presented 2 petitions, with a total of 2,182 signatures, relating to a demand for democratic and popularly elected people's constitutional conventions. The petitions further requested that any future Constitution be decided by the people in referendum and not the Parliament.

On 3rd October 1998, concurrent with the Federal election, the following question was put to a referendum in the Northern Territory:

"Now that a constitution for a state of the Northern Territory has been recommended by the Statehood Convention and endorsed by the Northern Territory Parliament:
DO YOU AGREE that we should become a State?"

The referendum resulted in a NO vote of 51.3% (44,702 yes and 48,241 no, a majority no vote of 3,539).

On 7th October 1998, the Legislative Committee referred the following matter to the standing Committee on Legal and Constitutional Affairs:

"That the Legal and Constitutional Affairs Committee of the Legislative Assembly,
(a) inquire into the appropriate measures to facilitate Statehood by 2001; and
(b) the committee consult widely with the Territory community and report its progress with recommendations to the Legislative Assembly within six months of the day."

The committee carried out this reference and reported its findings and recommendations to the Assembly in April 1999. **A copy of that report is attached.**

Analysis of these results shows:

The urban (essentially non aboriginal) vote was 52.3% in favour of Statehood (40,237 yes to 36,692 no, a majority of 3,545 yes votes).

The predominantly aboriginal vote (remote mobile teams and prison mobile teams) was 74.8% against Statehood (10,079 no to 3,389 yes, a majority of 6,690 no votes).

This analysis clearly demonstrated that there was a clear dichotomy between the aboriginal and non-aboriginal population on their attitudes towards statehood.

Aboriginal Constituency

The attitude of the aboriginal people, to a significant sense, reflected their belief (I believe justifiably) that they were being excluded from the Statehood process.

In response to this, aboriginal Territorians held their own separate "convention" at Kalkarinji between 17th and 20th August 1998 which was attended by over 800 people. Out of that convention came a statement which became known as "the Kalkarinji statement". A copy of that statement is attached to the Committee's report to the Legislative Assembly. It adopted the following general principals:

- (a) That we do not consent to the establishment of a new State of the Northern Territory on the terms set out in the draft Constitution adopted by the legislative Assembly on 13 August 1998.
- (b) That we will withhold consent until there are good faith negotiations between the Northern Territory Government and the freely chosen representatives of the aboriginal peoples of the Northern Territory leading to a constitution based on equality, co-existence and mutual respect.
- (c) That the Northern Territory Government must provide adequate resources and negotiate in good faith a realistic timetable for such negotiations.

The resultant vote at the subsequent referendum clearly demonstrated that these were the generally held feelings of aboriginal Territorians. It further demonstrated that until these matters were properly dealt with, there could be no successful transition to Statehood. Further, it would be folly to presume that the Commonwealth Parliament would ignore such a clear demonstration of concern from the Northern Territory aboriginal population, and proceed to grant Statehood to the Northern Territory if those concerns

were not resolved, even if there was a majority yes vote in a subsequent Statehood referendum.

Subsequent to the referendum, a further "Indigenous Constitutional Convention" was held from 29 November 1998 to 4 December 1998. Out of that Convention was produced a document titled "Standards for Constitutional Development". A copy of that document is in the Committee's report.

The document adopted and endorsed the Kalkarinji statement and went on to deal with such matters as an inquiry into Self-Government, the Reeve's review of the Aboriginal Land Rights (NT) Act, Aboriginal law, land rights and other rights, human rights, education, good government, self-government, political participation, Aboriginal self-determination and process issues.

The convention also resolved to establish a committee of the Convention "to commission and oversee research into the options for political participation. The Committee is to report back and make recommendations to the Convention within 12 months on how the options would provide for effective Aboriginal political representation."

The LCAC Committee met with the Indigenous Constitutional Convention committee at its first meeting in Alice Springs on 24th April 1999, at which meeting they presented the LCAC Committee with the following position statement:

"The Legal and Constitutional Affairs Committee must acknowledge the Kalkaringi and Batchelor statements as the representative position of aboriginal people and the framework for inclusive constitutional development in the NT. The statements spell out the content and process for negotiation with aboriginal people.

Negotiation over statehood can only proceed when the NT Government makes a commitment to the negotiation of a framework agreement including:

- The NT Government commits itself to protecting the Aboriginal Land Rights Act in its current form, and no change without the informed consent of Aboriginal people.
- No major reforms affecting Aboriginal people and their inherited rights (e.g. local government, health education and housing) are to proceed without:
 - (a) recognition of Aboriginal law;
 - (b) recognition of traditional land ownership;
 - (c) informed consent of aboriginal people."

In discussions with the committee, the most powerful messages were:

- that its call for a framework agreement must be addressed – with or without Statehood. It recognized that this issue was quite distinct from Statehood but it is not prepared to address constitutional development

issues until its other concerns are met. The conflict and controversy had left a high level of distrust amongst aboriginal people and their organizations, much as it has amongst the non-aboriginal population and the NT Government. Aboriginal people were no longer prepared to come to the table to negotiate other people's priorities until their own concerns were resolved.

- The development of a framework agreement was seen as an essential starting point to enable self-determination. They reaffirmed that self-determination was not about "a nation within a nation" but about individual communities choosing the extent to which they achieve a greater control over their own affairs.
- Convention The Committee observed that aboriginal people were primarily responsible for the No result in the October referendum, stressed the point that they are not prepared to even enter into the early processes of moving towards Statehood until the priorities of aboriginal people are dealt with, however, if the NT Government makes a commitment to the negotiation of a framework agreement and to implement the Kalkarinji and Batchelor Convention resolutions, aboriginal people would be prepared to participate in the Statehood process. In this regard it was indicated that it would be expected that the membership of the Convention Committee be included as delegates to any future Constitutional Convention.

Non-aboriginal constituency

The methodology for assessing the feeling of the (mainly non-aboriginal) constituency was through a process of community consultation meeting, receiving written submission, and telephone polling. Whilst the telephone polling was essentially quantitative, and the community consultation process was essentially qualitative, there was high high similarity between the results of both methods. Furthermore these results were consistent across the Territory and consistent with previous survey results. For these reasons there is every reason to accept their reliability.

Reasons for the No vote

"No means no!

In the survey results there were only a small number of people who voted no because they did not support Statehood at all (14.8% voted no because they like the Territory the way it is, and 7.4% voted no because they considered the Territory too small to justify Statehood). 23% of respondents were identified as "pessimistic, disinterested in the statehood debate, and believed that it was somebody else's responsibility. They believed that they already had sufficient information, and were likely to vote No a second time."

Other reasons given for voting no

- Lack of information. This was raised extensively in the community consultation process was the most cited reason given in the polling (19.8%).
- Convention process. This was raised most in urban meetings. Polling results showed 14% of respondents nominated this as a specific matter on which they required more information.
- A lack of trust, arrogance of politicians, politicization of the process, and the arrogance and approach of the Chief Minister. Whilst there are several descriptions of this, they have been combined because they were clearly interrelated. This was probably the single biggest issue for the No vote in the urban areas. Poll results showed that 3 of the 6 top ranking reasons for the reasons for the No vote related to the Chief Minister, and/or politicians generally. They represented 30% of the respondents to this question. Further 35.7% of the unsolicited comments to a question on the respondent's reaction to the outcome of the referendum made the point that "people were rejecting the party, not Statehood".
- The referendum question. This was ranked the second most common response to the question concerning reactions to the referendum 24% of respondents said "Not really surprised – there was a lot of confusion as to what the question really meant." During the community consultation and in written submissions it was mentioned consistently but less frequently than other matters above. It appeared in many instances to galvanise people's decision to vote No.

Attitudes towards continuing to pursue statehood

The community consultations and the survey results showed that the great majority of people wanted the pursuit of Statehood to continue. In the survey only 23% did not support the process continuing. Approximately half the respondents were committed to support Statehood, while approximately 28% could be called "swinging voters who wanted the process to continue but to be done properly. Two quotes from the community consultations are indicative of the views consistently expressed:

- People are not saying "No stop – we are sick of it" But what we are saying is that it needs to be open, it needs to be fair. We want this process to have integrity and we expect our politicians to deliver that
- The Convention was a problem but I would not have reservations about Statehood if provided with information. People do not fear Statehood; it was fear of the way it was gone about.

When the Committee's report and recommendations were given to the Legislative Assembly, the report was simply note. None of the recommendations were adopted formally by the Legislative Assembly,

and to my knowledge no action was taken on any of them prior to the 2001 election when the CLP Government was voted out and the first Labour Government was voted in.

2.2 Recent events on Statehood since 2001

As I was not directly involved during this time, my knowledge is limited to that of an interested private citizen and should be considered by the LCAC in that light. It would be more appropriate for you to obtain more informed information from other speakers. However I will make some brief comments which I trust will direct your attention.

Shortly after election to Government, the Chief Minister publicly committed to re-start the process towards Statehood, and committed that it would be conducted in an open and democratic manner.

She specifically committed to an elected Constitutional Convention, and committed to the constitution being referred to the people for approval at a referendum prior to its adoption.

A Committee of inquiry into aboriginal customary law was set up in late 2002 or early 2003. The committee of inquiry comprised members of the Law reform Committee and aboriginal members appointed by the Attorney General with support provided by the Department of Justice. The Committee was to report to Government by 30th June 2003. The committee first met on 6th February 2003. In its report the Committee made 12 recommendations. Whether there has been any follow up action on those recommendations, or whether they have the support of the aboriginal constituency of the Northern Territory I have no knowledge.

I have no knowledge of whether or not there has been any action on the question of negotiating a "framework agreement" as referred to by the Indigenous Convention Committee. This may be an issue your Committee may wish to explore.

The Legislative Assembly Standing Committee on Legal and Constitutional affairs still has a reference concerning Statehood and Constitutional Development matters.

In August 2004, the Legislative Assembly adopted terms of reference which created a Northern Territory Statehood steering Committee. That Committee, which comprises 12 community members and 3 members of the Legislative Assembly, met for the first time in April 2005.

The Statehood Steering Committee (SSC) has since that time been very active in developing information resources and disseminating that to the community through "fact sheets which seem to be in an appropriate format, a web site, and through community meetings throughout the NT. I understand this process will continue through stalls at NT shows to expose as many people as they can to information about Statehood. I cannot comment on the appropriate budget allocation or the discretionary authority of SSC to expand awareness through mass media. This may be something which your Committee may wish to direct its attention to with other speakers who will be better able to advise you.

Overall, it is my perception that so far the approach adopted by the current Government is appropriate. It also appears that there is now less antagonism and distrust between the NT Government and the aboriginal people of the Northern Territory, however this is a matter which I can only provide observations and encourage your Committee to inform itself on whether this is true or not and what is being done to address this issue.

3. Proposals to advance Statehood

3.1 The role of the Commonwealth

The role of the Commonwealth is critical and pivotal to the whole question of Statehood.

Under Sections 122 of the Australian Constitution, the Commonwealth has total powers and responsibilities for the Northern Territory. Constitutionally, the Commonwealth has chosen to delegate most of that control and responsibility to a Territorial Legislative Assembly and body politic known as the Northern Territory Government through the Northern Territory Self Government Act. However this is only a delegated authority, the ultimate Constitutional responsibility still rests with the Commonwealth.

Only the Commonwealth can admit the Northern Territory as a new State on such terms and conditions it thinks fit. This power derives from Section 121 of the Australian Constitution which states:

"The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit."

It is constitutionally clear therefore that the Northern Territory can only proceed to Statehood when and if the Commonwealth decides

that it should occur, in accordance with the procedure and on the conditions that are approved by the Commonwealth.

The role of the Territorial Legislative Assembly and Government is essentially one of advocacy for this to occur and how it should occur. This should not be regarded as diminishing in any way the significance of the role the NT Government or the Legislative Assembly exercises in this matter. They are the democratically elected representatives of the people of the Northern Territory and are legislatively charged with the peace, order and good government of the NT. As such they have a duty to promote the advancement of the rights of the Australian citizens they are elected to serve. This includes the question of Statehood and through it the reinstatement of the constitutional rights of those citizens.

However it is equally clear that neither the NT Government nor the Legislative Assembly have the authority to achieve this outcome on their own volition.

At the end of the day, this is properly a matter for the Commonwealth Government and the Commonwealth Parliament. It requires a decision from the Commonwealth for the NT to be granted Statehood and action taking to implement that decision.

Essentially, the methodology to achieve this outcome and the conditions on which it is to be implemented are best achieved by a dialogue between the Commonwealth and the people of the NT as the two directly affected parties.

In its decision to proceed to NT Statehood, the Commonwealth accept its primary authority and responsibility in this matter, and that it be proactive in ensuring the transition to Statehood incorporates:

- the highest principles of inclusiveness, involvement and democracy in all its stages.
- That the decision on the way the people of the NT choose to be governed, and the terms of their constitution, be totally within the hands of the NT people provided such constitution complies with the Constitutional provisions of the Australian Constitution. The Commonwealth should accept that it has no role in determining matters which are totally internal matters of the NT, except to ensure that any decisions don't offend against the Australian Constitution or other relevant Commonwealth matters such as treaty obligations.
- That sufficient financial resources be provided to enable all the processes to be properly carried out.
- Whilst not allowing undue delays which may cause the process to stall, to allow sufficient time to ensure that matters don't have to be dealt with in a rushed or inadequate way. This is

particularly important to allow the people the time to talk out and resolve lingering distrust and antagonism between the aboriginal and non-aboriginal communities and to develop understanding of each others needs, and mutually resolve fears which exist in both communities. Through this process Territorians can come to terms with the demographic reality of the NT, and develop ways in which they can live together with mutual respect and understanding in the future.

The Legislative Assembly and the NT Government should not have any control over this process or any decision making that arises.

It must be accepted that the process, from the NT side, should be in the hands of the people of the Northern Territory, either directly or through specially elected representatives.

It should also be recognized that if the above democratic processes are implemented, when Statehood is achieved the Territorial Legislative Assembly and Government will (subject to transitional arrangements) cease to exist, and will be replaced by new institutions (however named) which will have structures, functions and powers (including limitations on powers) determined by the people of the NT through their own accepted Constitution.

In conclusion

The process of transforming the Northern Territory into a state involves several separate but related steps. Clearly explaining these steps would significantly remove confusion on this question. The steps involved include:

- The taking of the decision to make the NT a State. This is a matter solely for the Federal Government. Lobbying and submissions on this question may be involved to influence the Government to that decision, but that decision rests solely with the Federal Government.
- The determination of the conditions of the grant of statehood including State powers currently withheld from the NT, and the extent of representation in each of the Houses of the Federal Parliament. This is a matter for decision of the Federal Houses of Parliament, presumably on the recommendation of the Government of the day.
- The name of the new State be determined. This should properly be determined by the people of the NT, logically in the context of drafting a new State Constitution.

- The making of a constitution for the new State. This should be the right of the people of the NT to draft and approve. When the Constitution is approved by popular vote in the Northern Territory, it would need to be referred to the Federal Parliament for implementation prior to the grant of Statehood, thus avoiding any potential complications from Section 106 of the Australian Constitution. By convention, the Constitution Act should be passed through both Houses of Parliament without amendment.

The research and consideration of issues concerning NT Statehood has been substantially completed. The information and options on the issues have been thoroughly explored taking into account all the various views that have been expressed since 1986. This information and research is not time sensitive, although the options chosen today may be different to those which may have been chosen previously.

The results of all the research, community consultation, options, and discussion documents have been distilled into a draft Constitution which was only intended to be a working document to commence discussion at a democratic and representative Constitutional Convention to better enable the NT people, through their chosen representatives, to prepare a draft Constitution which would be submitted to the people to consider and vote on. It was understood that even this process may not achieve general acceptance on its first attempt, but it was anticipated that the processes would be repeated as much as was necessary to finally create a document which properly reflects the wishes and aspirations of the people.

There is no reason to repeat this research. Everything that is needed to enable a properly established Convention to draft a Constitution is now available.

The recommendation and options for the establishment of a Constitutional Convention have been prepared in "interim Report 1" of The previous Constitutional Development Committee of the Legislative Assembly. According to the most recent public opinion results, this document still provides valid options to determine that structure.

On Constitution making, it is time to refer the matter to the NT people for decision. The politicians have no more legitimate role in this matter.

Particularly in Constitution drafting, neither the NT Government or the Legislative Assembly should have any formal role in the process. To allow any direct involvement creates the risk of undue influence on any Constitutional Convention, and could bring the whole process into disrepute.