

## The Way Forward

### The Focus of the Inquiry

- 1.1 The Committee had been asked to examine “measures to improve the operations and organisation of the Territory Ministry and Legislature on Norfolk Island, with particular emphasis on the need for a financially sustainable and accountable system of representative self-government in the Territory”.<sup>1</sup> In addition to questions concerning the existing political arrangements, witnesses also raised concerns about the declining financial status of the Island, the inability to meet the Island’s infrastructure needs and barriers to economic growth.
- 1.2 The financial and administrative capacities of the Norfolk Island Government and the system of financial management have been the subject of a number of inquiries and reports.<sup>2</sup> A body of expert

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1 Inquiry Terms of Reference.

2 See, for example, Butland, G. J. 1974, *Report to the Department of the Capital Territory of the Australian Government on a Long Term Population Study of Norfolk Island*; Nimmo, J. 1976, *Report of the Royal Commission into Matters relating to Norfolk Island*, Australian Government Publishing Service, Canberra; House of Representatives Standing Committee on Legal and Constitutional Affairs, 1991, *Islands in the Sun: The Legal Regimes of Australia’s External Territories and the Jervis Bay Territory*, Australian Government Publishing Service, Canberra; Australian Law Reform Commission, 1994, Report No. 69, *Equality before the Law: Women’s Equality* (Chapter 14: *Women in Remote Communities: Norfolk Island – a case study*); Joint Standing Committee on the National Capital and External Territories, 1995, *Delivering the Goods*, Australian Government Publishing Service, Canberra; Australian Law Reform Commission, 1995, Report No. 77, *Open*

analysis and recommendations on the remedial steps necessary to overcome these problems was already available to the Federal Government and the Territory legislature.

- 1.3 The Committee has therefore focused its analysis in this report on the inadequacy of existing political arrangements and legal infrastructure, and on ways to improve and strengthen the governance arrangements for Norfolk Island. The Committee has formed the view that, in the absence of proper accountability mechanisms and stronger political leadership, it is unlikely the administration of the Island will improve. The measures recommended by the Committee are review mechanisms that increase the accountability of the Norfolk Island Government and Legislative Assembly to the people of Norfolk Island. The task of implementing and maintaining these review mechanisms falls singularly on the Commonwealth. The Committee does not intend for the Norfolk Island Government to take on additional, costly functions, nor should a small, isolated community, such as Norfolk Island, have to shoulder the burden of regulating itself alone.
- 1.4 The Terms of Reference directed that the governance arrangements for Norfolk Island “should be considered in the context of the financial sustainability” of the Territory in light of the findings of relevant government and parliamentary reports. In particular, the Committee was directed to consider the findings of the Commonwealth Grants Commission documented in its 1997 report on Norfolk Island on the Territory's capacity to administer and fund obligations associated with:
- current and future government functions and responsibilities;
  - the Island's current and foreseeable infrastructure requirements; and

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*Government: a review of the federal Freedom of Information Act 1982* (Chapter 11); Commonwealth Grants Commission, 1997, *Report on Norfolk Island*, Australian Government Publishing Service, Canberra; Access Economics, 1997, *Norfolk Island: Recent Economic Performance, Present Situation, and Future Economic Viability. Is there a Case for Change?*; John Howard and Associates, 1998, *Norfolk Island Administration, Strategic Review*, Sydney; Human Rights and Equal Opportunity Commission, 1999, *Territorial Limits: Norfolk Island's Immigration Act and Human Rights*, J. S. McMillan Printing Group, Sydney; Joint Standing Committee on the National Capital and External Territories, 1999, *Island to Islands: Communications with Australia's External Territories*; 2001, *In the Pink or in the Red?: Health Services on Norfolk Island*; and 2002, *Norfolk Island Electoral Matters*, Canprint, Canberra; and *Focus 2002 – Sustainable Norfolk Island*, 10<sup>th</sup> Legislative Assembly, Norfolk Island.

- the provision of government services on Norfolk Island at an appropriate level.

In considering and making recommendations in respect of the above, the Committee was required to have regard to the role of the Commonwealth and its responsibilities for Norfolk Island as part of remote and regional Australia.

- 1.5 While these matters have been raised and touched upon in both this report and the report of the review of the annual reports of the departments of Transport and Regional Services and Environment and Heritage for 2001-02 in relation to Norfolk Island, the Committee is still to consider them in detail and make specific recommendations.<sup>3</sup> It will do so and table a second report, specifically on these aspects. Before doing so, the Committee intends to consider the Government's Response to this report as well as the annual report review and the implementation of its recommendations. Any taxation or fiscal reforms implemented by the Norfolk Island Government in the interim, for example, as a result of the Territory Government's Revenue Base Review, will also be examined. Further hearings may be held and witnesses called as part of this process. The Committee will then table its second report for this inquiry, on the financial sustainability of the Territory. In light of the problems the Norfolk Island community is confronting, the Committee expects a rapid and comprehensive response from the Federal Government to these reports.

## Structure of the Report

- 1.6 The report is divided into four chapters. Chapter Two outlines the case for reform. Two options for reform – withdrawing self-government or modifying self-government – and the respective merits of each, are discussed, with the Committee favouring the latter,

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3 The role of the Commonwealth and its responsibilities for Norfolk Island as part of remote and regional Australia is raised in Chapter Two and Recommendation Two of this report. The provision of Commonwealth services to Norfolk Island is also addressed in the Committee's review of the annual reports of the departments of Transport and Regional Services and Environment and Heritage for 2001-02. Both reports also detail concerns with the Territory's administrative and financial capacity and the Territory Government's ability to raise and secure sufficient revenue to meet its current and future responsibilities to the Norfolk Island community at the appropriate level. The second report of the governance inquiry will also examine such areas as emergency service provision and the Island Hospital. See also reports listed in Footnote 2.

although with conditions. In this chapter, the status of the Territory, the enabling legislation and the role of the Commonwealth are also examined.

- 1.7 Chapter Three examines the quality of governance on Norfolk Island. The chapter begins with the recommendation that the Federal Government's role in relation to Norfolk Island be re-examined in light of the growing problems of sustainability the Territory is grappling with. A range of mechanisms for implementing good governance in the Territory are then examined. These include a code of ethical conduct for Legislative Assembly Members, the disclosure of pecuniary and non-pecuniary interests, access to an independent anti-corruption body, a series of administrative law measures and public reporting.
- 1.8 Chapter Four looks at the structure of government on Norfolk Island. In this chapter, the Committee makes a number of recommendations designed to improve the way in which the Territory Government and the Legislative Assembly work. These include the manner in which the Chief Minister and Ministers are chosen, the appointment of the Speaker and Deputy Speaker, the term of the Legislative Assembly, the electoral system, and the legal infrastructure.

## **Role of the Committee**

- 1.9 The role of the Commonwealth with respect to Norfolk Island is not limited to the responsibilities of the Federal Government but also involves the Federal Parliament. It is the function of the Federal Parliament to participate in developing law and policy, to scrutinise government action and public administration and to inquire into matters of public interest on behalf of all Australians. A system of Federal parliamentary committees facilitates the work of the Parliament.
- 1.10 A Resolution of Appointment, passed by the House of Representatives on 14 February 2002 and by the Senate on 15 February 2002, is the source of authority for the establishment and operations of the Joint Standing Committee on the National Capital and External Territories.<sup>4</sup> The Committee is appointed to inquire into

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4 By convention, where the Resolution of Appointment is silent joint committees follow Senate committee procedures to the extent that such procedures differ from those of the House.

and report to both Houses of Parliament, in an advisory role, on a range of matters.

- 1.11 The Committee was established in 1993. Prior to 1993, inquiries relating to external territories were dealt with by other committees - for example, the House of Representatives Standing Committee on Legal and Constitutional Affairs reported on legal regimes in the external territories in 1991. A Joint Standing Committee on the Australian Capital Territory has been appointed in each Parliament since 1956. In 1992, the Joint Standing Committee on the Australian Capital Territory changed its name to the Joint Standing Committee on the National Capital, to emphasise the significant change in the focus of the Committee's work which occurred following the introduction of self-government in the ACT in 1989. At the start of the 37th Parliament in 1993, a committee specifically to cover Australia's external territories was established for the first time.
- 1.12 The Committee has produced five reports in relation to the external territories so far, of which only two have exclusively focused on Norfolk Island:
- *Delivering the Goods*, February 1995;
  - *Island to Islands: Communications with Australia's External Territories*, March 1999;
  - *In the Pink or in the Red: Health Services on Norfolk Island*, July 2001;
  - *Risky Business: Inquiry into the tender process followed in the sale of the Christmas Island Casino and Resort*, September 2001; and
  - *Norfolk Island Electoral Matters*, June 2002.<sup>5</sup>

## Conduct of the Inquiry

- 1.13 The Inquiry was initiated by a reference from the then Minister for Regional Services, Territories and Local Government, the Hon. Wilson Tuckey MP. The Committee resolved to accept the reference on 28 March 2003. Interest in an inquiry of this type arose from the nature of the evidence given by Island residents to the Committee's review of

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5 Mr Geoff Bennett states that there have been "endless Parliamentary Committee Inquiries - around ten inquiries in a decade and a half is a little 'over the top!'", a view expressed by several other residents. Bennett, Submissions, p. 25. See also McCullough, Christian-Bailey, Blucher, Submissions.

the annual reports of the departments of Transport and Regional Services and Environment and Heritage for 2001-02. An advertisement calling for submissions was placed in *The Norfolk Islander* newsletter on 5 April 2003 and letters of invitation were sent to a wide range of people seeking submissions. The closing date for submissions was set at 2 May; however, as with all parliamentary inquiries, the Committee continued to accept submissions up to the finalisation of the draft report. The Committee has received 48 written submissions, taken oral evidence from 28 witnesses, held four days of hearings (two in public and two in-camera), received several private briefings, and held a number of private meetings with individuals and community groups from Norfolk Island.

- 1.14 As part of the Inquiry process, the Committee attempted to visit the Island in May 2003 to conduct on-Island hearings. Unfortunately, extreme weather conditions on the Island meant the visit had to be cancelled. A subsequent visit was arranged for July 2003. Four Committee members, the Inquiry Secretary and research officer visited the Island for four days, holding public and in-camera hearings, and meetings with the Norfolk Island Legislative Assembly Select Committee on Electoral and Constitutional Matters, community leaders and local organisations, the local media, the Administrator and the Official Secretary.