
The Parliament of the Commonwealth of Australia

Report of the visit to Norfolk Island

29–30 April 2013

Joint Standing Committee on the National Capital and External Territories

May 2013
Canberra

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Contents

Membership of the Committee	v
List of abbreviations	vii
List of recommendations	viii
1 Report of the visit to Norfolk Island	1
Introduction	1
The Norfolk Island Road Map	1
Territories Law Reform Act 2010	1
The Norfolk Island Road Map	2
Norfolk Island Funding Agreements	5
Progress under the Road Map	6
Recent Developments	9
Visit to Norfolk Island	11
The 2013–14 Budget	12
Committee Conclusions	13



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Ms Gai Brodtmann MP	Senator Trish Crossin
Ms Anna Burke MP (until 9/10/12)	Senator Gary Humphries
The Hon Simon Crean (from 22/4/13)	Senator Stephen Parry
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Committee Secretariat

Secretary Mr Peter Banson

Inquiry Secretary Dr Bill Pender



List of abbreviations

AAT	Administrative Appeals Tribunal
AQIS	Australian Quarantine and Inspection Service
GST	Goods and Services Tax
KAVHA	Kingston and Arthur's Vale Historic Area
MOU	Memorandum of Understanding



List of recommendations

1 Report of the visit to Norfolk Island

Recommendation 1

The Committee recommends that the commitment of the Norfolk Island Government and the Australian Government to reform should be documented in a joint statement and timetable. This timetable should document the legislative changes required of both the Norfolk Island and Australian Governments to improve governance and administration and integrate Norfolk Island into the Australian taxation and welfare system. Any timetable should be predicated on the Norfolk Island Government introducing its own revenue streams (such as municipal rates), immigration reforms and divestiture of their Government Business Enterprises.

Report of the visit to Norfolk Island

Introduction

- 1.1 On 29–30 April 2013, the Joint Standing Committee on the National Capital and External Territories conducted a visit to Norfolk Island. The purpose of the visit was to examine recent progress under the Norfolk Island Roadmap, expectations of further progress going forward, and the current state of Norfolk Island's economy and government finances.
- 1.2 The Committee held discussions with the Administrator and Commonwealth Finance Officer and Chief Secretary, the Norfolk Island Government and Members of the Norfolk Island Legislative Assembly, the CEO of the Norfolk Island Administration, and representatives of the Norfolk Island Chamber of Commerce, Norfolk Island Government Tourist Bureau, Norfolk Island Accommodation and Tourism Association, and representatives of a variety of women's and social welfare groups.
- 1.3 The Committee found its brief stay on Norfolk Island worthwhile and thanks all those who met with the committee, provided documents and contributed to the success of the visit, in particular the Administrator, the Hon Neil Pope, and his staff.

The Norfolk Island Road Map

Territories Law Reform Act 2010

- 1.4 The Norfolk Island Road Map is an agreement for the reform of the governance and finances of Norfolk Island, made between the Australian Government and the Norfolk Island Government, following the passage of the *Territories Law Reform Act 2010*.
- 1.5 The Act, which came into effect in December 2010,

- Reforms the electoral system for the Norfolk Island Legislative Assembly
 - Prescribes the process for election of Ministers, including the Chief Minister
 - Provides the Administrator with additional avenues for seeking advice in regard to Bills for assent
 - Provides a mechanism for the Governor-General and Territories Minister to participate more actively in regard to Norfolk Island legislation
 - Provides for the implementation of a customised and proportional financial management framework
 - Extends the jurisdiction of the Commonwealth Auditor-General to Norfolk Island and allows for the appointment of a Commonwealth Financial Officer for Norfolk Island
 - Applies the *Administrative Appeals Tribunal Act 1975* to Norfolk Island
 - Extends the *Freedom of Information Act 1982* to Norfolk Island agencies
 - Will allow for the Commonwealth Ombudsmen to be given jurisdiction in Norfolk Island
 - Applies the *Privacy Act 1988* to Norfolk Island.
- 1.6 The Act provides for regulations to be made in regard to changes to Norfolk Island's financial framework, the electoral system, and other aspects of administration. Regulations relating to specific provision of the Act are to be developed through consultation with various Commonwealth agencies and Norfolk Island stakeholders.¹

The Norfolk Island Road Map

- 1.7 The Road Map is designed to describe the reforms needed to strengthen Norfolk Island's:
- economic diversity to provide a sustainable and growing economy
 - social cohesion and resilience
 - unique heritage and environment.
- 1.8 The Road Map acknowledges Norfolk Island's declining revenue, particularly from its principal industry, tourism, and the decline in the Island's infrastructure. Improvement and replacement of critical infrastructure, including ports, roads and essential services, cannot be

¹ *Territories Law Reform Act 2010.*

funded without reform and development of the Island's economy and government finances.

- 1.9 The Road Map 'describes the changes needed to Norfolk Island's circumstances. It requires local input, leadership and commitment to change from the Norfolk Island community, the Norfolk Island Government and the Australian Government.'²
- 1.10 The reforms in the Road Map cover:
- Governance through providing a stronger, more open and transparent form of government, building on the reforms in the Territories Law Reform Act 2010
 - Economic development through quick action to address barriers to tourism, particularly reform of air services, access to the Island, and facilities for cruise ships
 - Enabling the Norfolk Island Public Service to provide good financial and policy advice and effective to the Norfolk Island Government and community
 - Social services including immigration, health, welfare and education through removing barriers to business investment, access to adequate health care, support for vulnerable citizens and providing educational opportunities to all, but particularly for young people
 - Access to the benefits provided by the Australian tax system and a fair contribution to the tax system in return for the benefits
 - Preserving and enhancing the environmental and heritage attributes of the Island including the Kingston and Arthur's Vale Historic Area and the other natural areas of Norfolk Island and recognizing their contribution to the economy and community
 - Extending Commonwealth laws to the Island to promote improved economic growth and diversification.³
- 1.11 The Road Map outlines the steps to reform for Norfolk Island. 'It represents the partnership between the Norfolk Island Government and the Australian Government to work together, to seek input from the community, and to embrace change to enable Norfolk Island to be strong and resilient.'⁴
- 1.12 In terms of governance, the goal is to provide Norfolk Island with a form of governance that is affordable, sustainable and meets contemporary standards for transparency, accountability and efficiency, which meets the
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2 Norfolk Island Road Map, 2 March 2011, p. 3.

3 Norfolk Island Road Map, 2 March 2011, p. 4.

4 Norfolk Island Road Map, 2 March 2011, p. 4.

needs of the community and is consistent with contemporary models of governance. This will require consultation with the community, cooperation between the Australian and Norfolk Island Governments, community understanding of the need for change and local leadership to drive change, and the development of legislative changes necessary to implement agreed governance outcomes.

1.13 In terms of economic development, the goal is to create a diverse, vibrant and robust private sector economy, driving growth and prosperity; a tourism sector delivering high quality and high value services to attract tourists; remove barriers to Norfolk Island as a *domestic* destination for Australian tourists; and ensure Norfolk Island's culture and heritage is valued, preserved, enhanced and recognised for its social and economic value. This will require action and resources on the provision of air services, identifying and removing barriers to tourism, changing the immigration, customs and quarantine regimes, planning and costing infrastructure improvements, updating and implementing the tourism strategy, developing and implementing a land use plan and town planning strategy, and undertaking a socio-economic study of Norfolk Island.

1.14 The Road Map also sets out the creation of an efficient public service that meets the needs of the government and community on Norfolk Island. The Commonwealth will fund an external review of financial performance and sustainability and provide advice on effective systems of financial management, fund an external review of the Norfolk Island public service, and introduce Finance Minister's Orders. Both Governments will work together to implement the findings of the reviews and build the capacity of the Norfolk Island public service.

1.15 In terms of immigration, health, welfare and education, the goal is to create a sustainable population with access to health, social welfare and education services comparable with the broader Australian community. To achieve this, both governments will work together to:

- Remove barriers to business investment on Norfolk Island, including allowing Australian citizens to operate new businesses on Norfolk Island
- Consider ways to provide facilities to ensure access by the community to contemporary health services
- Consider ways to improve education outcomes
- Develop a land use plan that builds a sustainable economy and environment for Norfolk Island
- Apply the *Migration Act 1958* to Norfolk Island

- Apply the *Social Security Act 1991* and Medicare and the Pharmaceutical Benefits Scheme to Norfolk Island.
- 1.16 The Road Map also sets out the participation of the Norfolk Island community in the Australian taxation system, providing transitional arrangements for eventual full participation. Norfolk Island will remain exempt from the GST, with separate arrangements to apply.
- 1.17 With regard to environmental management, the goal is to ensure that Norfolk Island's environment is protected, enhanced and assured by effective management, community consultation and participation. Actions include agreement on the management arrangements for KAVHA (Kingston and Arthur's Vale Historic Area), development of a waste management strategy and completion of an AQIS pest and disease survey.
- 1.18 The Road Map also provides for the extension of Commonwealth Laws to Norfolk Island, with the progressive extension of appropriate Commonwealth laws and the associated support agencies to Norfolk Island, with full community consultation and education programs. Specific laws highlighted for consideration are:
- *Australian Bureau of Statistics Act 1975*
 - *Bankruptcy Act 1966*
 - *Corporations Act 2001*
 - *Insurance Act 1973*
 - *Insurance Contracts Act 1984*
 - *National Consumer Protection Act 2009*
 - *Private Health Insurance Act 2007*
 - *Trade Practices Act 1974*⁵

Norfolk Island Funding Agreements

- 1.19 Since the passage of the *Territories Law Reform Act 2010*, four funding agreements have been made between the Australian and Norfolk Island Governments. These agreements have seen the Commonwealth grant specified funds for specified purposes to the Norfolk Island Government in order to allow the Norfolk Island Government to continue to provide essential services to the community. \$3.829m was granted in December 2010, \$5.629m in April 2011, \$2.9m in September 2011 and \$4.5 million in December 2012. In each case, the funding was tied to stipulated conditions for the reform of governance or finances under the *Territories Law Reform Act 2010* or the Norfolk Island Road Map.

5 Norfolk Island Road Map, 2 March 2011.

- 1.20 The conditions set out in the September 2011 funding agreement included:
- Norfolk Island's cooperation with 'all Australian Government funded reviews, including but not limited to the Public Service Review and an Economic Development Strategy and Action Plan'
 - implementation of the recommendations of those reviews
 - Norfolk Island providing 'all information required by the staff of the Commonwealth grants Commission to update its 2006 review of the financial capacity of Norfolk Island'
 - Norfolk Island progressively removing immigration restrictions on Australian citizens
 - and Norfolk Island supporting or implementing other reforms, such as:
 - ⇒ the application of the *Competition and Consumer Act 2010*
 - ⇒ allowing for competition in the telecommunications sector
 - ⇒ lifting restrictions on Australians establishing new businesses on Norfolk Island
 - ⇒ extending the jurisdiction of the Australian Administrative Appeals Tribunal to Norfolk Island
 - ⇒ and the passage of legislation providing for a Norfolk Island Ombudsman.⁶
- 1.21 The December 2012 funding agreement provides the Norfolk Island Government with \$4.5 million to enable it to carry out its responsibilities for the remainder of the financial year. The funding will be paid in instalments and is conditional upon the Norfolk Island Government undertaking specified improvements, including:
- Deregulation of the accommodation industry
 - Changes to immigration
 - Passage of a Land Valuation Bill
 - Changes to hospital administration
 - Changes to public administration, including a new act covering public sector employees and redundancies
 - Deregulation of telecommunications.⁷

Progress under the Road Map

- 1.22 A number of significant developments have occurred and milestones passed under the roll-out of the Road Map:
-

6 Funding Agreement for the Norfolk Island Territory, 2011/12, pp. 18–20.

7 Funding Agreement for the Norfolk Island Territory, December 2012.

- In April 2011, Deloitte Access Economics completed a Wellbeing Report on Norfolk Island for the Department of Regional Australia
 - The Department of Regional Australia, Regional Development and Local Government established a Norfolk Island Reform Taskforce
 - The Australian Government tendered for the provision of air services to Norfolk Island. The tender has been awarded to Air New Zealand, which has now commenced air services between Norfolk Island and the Australian mainland
 - In November 2011, the Norfolk Island Public Service Review was completed for the Department of Regional Australia
 - In December 2011, the Commonwealth Grants Commission handed down its review of Norfolk Island's financial capacity
 - In December 2011, the Norfolk Island Government introduced amendments to the Norfolk Island Immigration Act in line with commitments under the Road Map. The amendments seek to remove immigration restrictions on Australian citizens and permanent residents arriving as tourists on Norfolk Island. The requirement for travel with passports will be lifted, although photographic ID will still be required on arrival, and visitors will be able to stay on Norfolk for longer, up to 45 days for tourists and up to 1 year for those fulfilling certain requirements regarding travel insurance and means of support
 - A Review has commenced of Child and Family Support on Norfolk Island
 - The Administrative Appeals Tribunal was due to commence operation on Norfolk Island on 1 March 2012. In February, the Island was visited by representatives of the AAT, the Australian Information Commissioner and the Commonwealth Ombudsman
 - In March 2012, ACIL-Tasman handed down the Norfolk Island Economic Development Report. The report's eight recommendations were focussed on microeconomic reform, principally around the privatisation of Government Business Enterprises
 - The Norfolk Island Government released a discussion paper on revenue raising options for Norfolk Island. The Norfolk Island Government's position with regard to most options is to seek integration with the rest of Australia.
- 1.23 In April 2012, the Norfolk Island Government released a policy paper on policies to promote competition and investment in Norfolk Island. It canvassed change in several areas, including:
- Tourist accommodation

- Liquor importation
 - Lighterage
 - Postal services.
- 1.24 The Australian Government has provided additional support to Norfolk Island, including:
- A Community Liaison Officer
 - A new Kingston and Arthur's Vale Historic Area Site Manager
 - A Commonwealth Financial Officer to provide high level advice on aspects relating to the allocation and management of the Administration and Territories finances
 - A capacity building team consisting of subject matter experts from Australian Government agencies, to assist with enhancing and implementing best practice public sector operations, from the delivery of policy advice to the delivery of essential services to the community.
- 1.25 In July, the Norfolk Island Government announced its preferred model of Island government. The preferred model retains the current Territory institutions such as:
- Territory Executive comprising an Administrator and Ministry elected from a Territory Parliament
 - Territory Legislative Assembly
 - Territory public service or Administration
 - Territory Courts and Tribunals.
- 1.26 In considering the various Territory functions and responsibilities, the preferred model considers the following proposals:
- Norfolk Island Government to transfer to the Commonwealth any federal functions in accordance with the process outlined in the Road Map
 - Norfolk Island Government to retain State and Local Government type functions
 - Funding for Norfolk Island Government's delivery of public infrastructure and State and Local Government type functions to be shared with the Commonwealth, similar to other self-governing jurisdictions within the federal taxation system
 - Retention of the existing Territory Institutions.
- 1.27 In July 2012, the Norfolk Island Assembly reaffirmed its commitment to the Road Map, passing a motion resolving to:
- Endorse the Norfolk Island Government's commitment to participation in the Australian taxation and social security systems to deliver a net

benefit to its community and to express a preference for the earliest introduction of those systems

- Affirm the inclusion of the island in the Australian GST and transfer payment system
- Reaffirm a preferred model for future self-governance as set out in the motion of the Legislative Assembly dated 3 August 2011
- Commit to return to core functions of Government through staged divestment of commercial enterprises using the *Competition Principles Agreement 1995* as a policy framework
- Prepare and commit to an itemised timetable for the reduction and /or removal of barriers to investment and competition, reflecting a reasonable and balanced approach to individual areas
- Commit to supporting amendments to the *Norfolk Island Act 1979* necessary to achieve the outcomes set out in this motion.

1.28 This motion passed 6-2, with one abstention.

1.29 In July, the Norfolk Island Chamber of Commerce and Accommodation and Tourism Association conducted a business survey which revealed a further significant decline in business conditions, employment and confidence since 2008.

Recent Developments

1.30 The overall situation on Norfolk Island has continued to deteriorate. In September 2012 the Committee was advised that:

- Economic activity was down 24% on the previous year
- Approximately 40% of shops had closed
- Approximately 25% of the male population aged 25-50 had left the Island since August 2011
- Overall population had dropped by 9.4% since August 2011
- Tourism trends were variable; March better than the previous year, July worse.

1.31 Barriers to progress included:

- Norfolk Island's own immigration regime working against individuals, families and businesses seeking to move on island
- Norfolk Island running deficits while not having a well-developed and diverse tax base comparable to that applied on mainland Australia, including income taxes and municipal rates.

- Very generous redundancy provisions (with payouts equal to up to two years' salary) making it difficult to restructure the Norfolk Island Administration in a time of budgetary constraint.
- 1.32 Recent progress on these and other issues has included:
- The Norfolk Island Assembly has passed legislation dealing with a range of issues, including the Land Valuation Bill, Tourist Accommodation (Amendment no.2) Bill, Immigration (Amendment no.2) Bill and Public Sector Management (Amendment) Bill
 - The Norfolk Island Administration submitted an application under the Regional Development Australia Fund for funding for improvements to the port facilities and waste management facilities
 - Norfolk Island Hospital signed an MOU with South East Sydney Local Health Services.
- 1.33 In discussions with the Department of Regional Australia, the Committee was advised that:
- Reforms will require the agreement of government
 - Some reforms will require legislative change, both in the Australian Parliament and the Norfolk Island Legislative Assembly
 - People newly participating in the tax and benefit system will require education on their entitlements and obligations. Business in particular will need time and help preparing.
- 1.34 The Department identified further steps that it would take, including:
- Undertake further work with the Capacity Building Team
 - Continue to work with the Commonwealth Financial Officer on Island to fully understand the financial position
 - Continue to work across government on possible solutions
 - Work with the Norfolk Island Administration on possible models going forward.
- 1.35 In discussions with the Committee, the Department highlighted the need for a new governance model to provide the platform for further reform. The Department stated that the next steps for the Norfolk Island Government were to make a commitment on rates, land valuation, efficiencies and lifting immigration restrictions. The Department anticipated the need for a further financial assistance package.
- 1.36 The Department noted that changed governance arrangements could see Norfolk Island giving up national responsibilities and powers. These could include customs, immigration and social security. Similarly changed taxation arrangements would see a range of federal taxes applying on island, replacing Norfolk Island's existing national type taxes. The

Department stated that Norfolk Island currently has a low level of taxation and heavy reliance on sales taxes.

Visit to Norfolk Island

- 1.37 Prior to the Norfolk Island election in March 2013, the Committee resolved to visit the Island following the election to hold discussions with the incoming Norfolk Island Government and Legislative Assembly, and with other groups representing the community.
- 1.38 As part of the Norfolk Island election campaign, the Road Map was widely debated with a variety of supportive and opposing views put forward by candidates. A new Norfolk Island Government was formed, led by the Hon Lisle Snell as Chief Minister, replacing the Hon David Buffett. A number of the new Ministers and Members of the Legislative Assembly were on record as having been opposed to, or ambivalent about, parts of the Road Map. This was a matter of concern for the Australian Government, which required a clear commitment to the principles and process of the Road Map from the new Norfolk Island Government.
- 1.39 The Committee notes that the Commonwealth's granting of funds to allow the Norfolk Island Government to continue to provide essential services to the community has been based on stipulated milestones with the Road Map being met.
- 1.40 At its appearance before the Committee the Norfolk Island Government reaffirmed its support for the Road Map, a position endorsed by other Members of the Assembly. The Norfolk Island Government noted that since signing the Road Map it had systematically undertaken those reforms available to it to fulfil its side of the agreement and would continue to do so. The Government had undertaken reform of immigration, making it easier for people to move to and invest in Norfolk Island. Likewise, the Norfolk Island Legislative Assembly had passed laws which will enable the evaluation of land for tax/municipal rating purposes, with a view to implementing a land tax or rates from July 2014. The Norfolk Island Government indicated that it would prefer a system of municipal rates to a land tax, but that the final decision will await the land valuations undertaken under the Land Valuation Bill. This bill also awaits Commonwealth assent.
- 1.41 Other measures being supported or undertaken by the Norfolk Island Government include the Norfolk Island Divestment Strategy – aimed at the divestment of Government Business Enterprises; and public service reforms, with a bill due to come before the Assembly in May.

- 1.42 The Norfolk Island Government is also awaiting the opportunity to see Norfolk Island incorporated into the Australian taxation and transfer systems. The Norfolk Island Government regards the adoption of the Australian taxation system – including the GST – in place of the current inefficient local taxation measures as urgent.
- 1.43 The Norfolk Island Government acknowledges that the current financial and economic situation is unsustainable, characterised as it is by chronic shortfalls in government revenue and a serious decline in private sector activity. With the Government unable to meet its own needs, it is unable to support the private sector – principally tourism, which is suffering from a significant and prolonged decline in visitor numbers. The decline in the private sector is in turn impacting government revenue.
- 1.44 Members of the Assembly also highlighted the loss of population, some ten per cent, as people moved to the mainland looking for work, and the increase in residents seeking counselling services and/or food vouchers.
- 1.45 The Norfolk Island Government and Assembly were united in acknowledging the economic problems facing the Island and the need for governance reform. They urged the adoption of a new governance model as a matter of urgency, the staged extension of the Australian taxation and welfare systems to Norfolk Island, and an explicit timetable for both.

The 2013–14 Budget

- 1.46 In the 2013–14 Budget, the Australian Government reaffirmed its commitment to the reform process on Norfolk Island by committing \$5.4 million in funding to ensure the future sustainability of Norfolk Island and ensure that residents have access to essential services.
- 1.47 \$4.4 million of this has been allocated to meet the operating deficit of the Norfolk Island Government. This money will be contingent on sustained efforts by the Norfolk Island Government to continue to implement meaningful reform under the funding agreements.
- 1.48 The remaining \$1 million has been committed to programs to improve governance and services on Norfolk Island. This includes \$500 000 for ombudsman services and business enterprise audits into the Norfolk Island Administration and Government Business Enterprises. Another \$500 000 has been allocated to additional short-term measures for family

support, child protection, aged care assessments and an apprenticeship program.⁸

Committee Conclusions

- 1.49 It is quite clear to the Committee that the economy of Norfolk Island and the finances of the Norfolk Island Government will remain in a state of crisis and decline without fundamental reform to the governance and economy of Norfolk Island. This is acknowledged by both Governments and most of the residents of Norfolk Island.
- 1.50 The evidence received by the Committee suggests that a significant number of Norfolk Islanders have had to move to the mainland in search of work – removing an important portion of people of working age from the island; and that, in the absence of an effective social welfare safety net dozens of individuals and families have become dependent on charity. This is clear evidence of a community under enormous strain.
- 1.51 It is imperative that the Norfolk Island Government maintain its commitment to the Road Map. The fulfilment of obligations under the Road Map is an essential precondition of Norfolk Island’s progress. To this end, the Committee is of the view that a joint commitment should be made by both the Norfolk Island Government and the Australian Government to a future governance model and a timetable for comprehensive reform. This timetable should lock in the legislative changes required to open up the economy of Norfolk Island, improve governance and administration, integrate Norfolk Island into the Australian taxation and welfare system, and ensure that the two Governments are working in step with each other at each stage of the process.
- 1.52 It was noted that in order for Norfolk Island to enter the Australian taxation and benefits system, effort would be required to ensure that Norfolk Island was raising sources of revenue reasonably available to it.
- 1.53 The Committee notes the relevance of the Horizontal Fiscal Equalisation Principles that apply to other State and Territory jurisdictions. That is that:
- ...governments should receive funding from the pool of goods and services tax revenue such that, after allowing for material factors affecting revenues and expenditures, each would have the fiscal capacity to provide services and the associated infrastructure at

8 Hon Catherine King MP, Minister for Regional Services, Local Communities and Territories, Media Release, 14 May 2013.

the same standard, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency.⁹

- 1.54 The Committee believes that given these principles it is indeed reasonable that Norfolk Island take its own steps to collect revenue similar to those collected by State and Local Governments including not only GST but also municipal rates applied for the funding of local services such as rubbish collection and local infrastructure maintenance.
- 1.55 Furthermore, if open immigration is to succeed in rejuvenating the economy on Norfolk Island, then one of the incentives for other Australians to settle on Norfolk Island must be access to the same services and benefits as are available to them on the mainland. This in turn requires the extension of Australian family, education, health and welfare benefits to Norfolk Island.
- 1.56 The Norfolk Island Road Map, to which both the Australian and Norfolk Island Governments have made public commitments, remains the best way forward for the community on Norfolk Island.

Recommendation 1

- 1.57 **The Committee recommends that the commitment of the Norfolk Island Government and the Australian Government to reform should be documented in a joint statement and timetable. This timetable should document the legislative changes required of both the Norfolk Island and Australian Governments to improve governance and administration and integrate Norfolk Island into the Australian taxation and welfare system. Any timetable should be predicated on the Norfolk Island Government introducing its own revenue streams (such as municipal rates), immigration reforms and divestiture of their Government Business Enterprises.**

Senator Louise Pratt

Chair

29 May 2013

9 Commonwealth Grants Commission, *Report on GST Revenue Sharing Relativities*, 2010 Review, vol. 1, p. 34.