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Chair’s Preface

The Legal and Constitutional Affairs Committee has played a vital role in progressing issues associated with Statehood in a nonpartisan forum since receiving its initial reference to inquire into appropriate measures to facilitate Statehood in the days following the failed 1998 Statehood referendum.

In November 2011 the Assembly deferred further implementation of the Statehood program until a time to be decided by the Government during the 12th Assembly. Following the 2012 election, Attorney-General, the Hon John Elferink MLA, referred to the Committee the options for the Northern Territory to become a State. This report provides an overview of the work undertaken by the Committee to progress this reference during the 12th Assembly.

Mr Willem Westra van Holthe MLA
Chair
Committee Members

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<td>Mr Gerry McCARTHY MLA: Member for Barkly</td>
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1. On 17 March 2016, the Hon Nathan Barrett MLA was discharged from the Committee following his appointment to the Ministry and was replaced by Mr Willem Westra van Holthe MLA who was appointed as Chair of the Committee.
Committee Secretariat

Committee Secretary: Julia Knight
Administration/Research Officer: Lauren Copley-Orrock
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Terms of Reference

Standing Order 178

(1) A Legal and Constitutional Affairs Committee will be appointed at the commencement of each Assembly to inquire into and report on such constitutional and legal matters as may be referred to it by:

(a) the Attorney-General, or
(b) a resolution of the Assembly.

(2) The committee will consist of five Members.
1 The Statehood Story

Introduction

1.1 Building on the work of its predecessor, the sessional Committee on Constitutional Development, the Legal and Constitutional Affairs Committee (LCAC) has played an integral role in progressing Statehood since receiving its initial reference to inquire into appropriate measures to facilitate Statehood in the days following the failed 1998 Statehood referendum.¹

1.2 While this report is primarily concerned to provide an overview of the Committee’s work in relation to Statehood during the 12th Assembly, from October 2012 to May 2016, this chapter seeks to provide the historical context for such.

Recommitment to the achievement of Statehood

1.3 The Committee’s review of the 1998 Statehood referendum found that the ‘No’ vote had more to do with deficiencies in the process than opposition to Statehood per se.² As detailed in the Committee’s subsequent report, the primary reasons cited for the ‘No’ vote included:

- a lack of information and understanding about Statehood, concern about the Statehood convention process and the events surrounding it, a lack of trust in those responsible for [the] process, inadequate consultation, the role and approach of the Chief Minister, and a protest against the then Chief Minister and “the arrogance of politicians.”³

1.4 In the case of Aboriginal people, who voted very much as a block ‘No’ vote, the Committee found that similar concerns had given rise to a:

- fear that Statehood would increase the power of the NT Government [and] led to serious concerns in respect of losing existing rights, especially land rights, and concern about the impact of Statehood on law, culture and language.⁴

1.5 In May 2003 the government of the day announced that it would work with the community on a new Statehood campaign⁵ and subsequently referred to the LCAC its “recommitment to the achievement of Statehood for the Northern Territory”.⁶ Acknowledging that any move towards Statehood must have popular support and be shaped by the people of the Territory, in August 2004 the Assembly resolved to

¹ Standing Committee on Legal and Constitutional Affairs, Report into appropriate measures to facilitate Statehood, Legislative Assembly of the Northern Territory, Darwin NT, 27 April 1999, p.1
² Standing Committee on Legal and Constitutional Affairs, Report into appropriate measures to facilitate Statehood, pp.2-3
³ Standing Committee on Legal and Constitutional Affairs, Report into appropriate measures to facilitate Statehood, p. 2
⁴ Standing Committee on Legal and Constitutional Affairs, Report into appropriate measures to facilitate Statehood, pp.2-3
⁵ Clare Martin (then Chief Minister), cited in Northern Territory Statehood Steering Committee, Final Report and Recommendations To the Legislative Assembly Standing Committee on Legal and Constitutional Affairs, Legislative Assembly of the Northern Territory, Darwin NT, 6 December 2010, p. 1
⁶ Northern Territory Statehood Steering Committee, Constitutional Paths to Statehood, Community Discussion Paper, Legislative Assembly of the Northern Territory, Darwin NT, May 2007, p.73
establish the Statehood Steering Committee (SSC) with majority community membership.\textsuperscript{7}

1.6 Appointed by and reporting to the LCAC, the SSC’s primary purpose was to provide advice and assistance on “matters concerning the Northern Territory’s ongoing constitutional development that may also be tied to a future grant of Statehood”\textsuperscript{8} Commenting on the SSC’s role, Sue Bradley AM (Co-Chair 2005-2008) noted that it had:

been charged with the advancement of statehood in three interlinked ways – education of and consultation with Territorians; defining and developing issues around constitutional development; and provision of advice to the LCAC regarding process and other emerging matters of significance.\textsuperscript{9}

1.7 Following a submission from the Statehood Steering Committee to the NT Government regarding the importance of engaging with the Commonwealth on the terms and conditions of Statehood, the Government established the portfolio of Minister for Statehood. On 1 September 2006 the Hon Syd Sterling MLA was appointed to the role to:

provide a focal point for the Statehood Steering Committee and the Standing Committee on Legal and Constitutional affairs to have Statehood policy matters considered by the Northern Territory Government.\textsuperscript{10}

**House of Representatives Committee**

1.8 Following a request from the LCAC’s federal counterpart, in May 2005 then Attorney-General, the Hon Philip Ruddock MP, referred the question of Northern Territory Statehood to the House of Representatives Standing Committee on Legal and Constitutional Affairs (HRSC). As the HRSC pointed out:

Establishing the first new State since federation is a complex matter that raises a broad range of constitutional, policy and administrative issues, not just for the Northern Territory, but for existing states and for the Commonwealth itself…As it is now ten years since the broader implications of statehood were last examined and statehood is again on the agenda of the Northern Territory Government, the Committee thought it timely to revisit the issue of statehood; both its development and its federal implications.\textsuperscript{11}

1.9 On behalf of the LCAC, in September 2006 the SSC submitted a position statement to the federal inquiry which identified the following issues of concern:

- the legislative power of the Commonwealth over the Northern Territory;
- the need for eventual equality with existing states;

\textsuperscript{7} Legal and Constitutional Affairs Committee, *Report on Statehood Program*, Legislative Assembly of the Northern Territory, Darwin NT, February 2012, pp.1-2

\textsuperscript{8} Northern Territory Statehood Steering Committee, *Constitutional Paths to Statehood*, p. 76


\textsuperscript{10} House of Representatives Standing Committee on Legal and Constitutional Affairs, *The Long Road to Statehood*, p. 13

\textsuperscript{11} House of Representatives Standing Committee on Legal and Constitutional Affairs, *The Long Road to Statehood*, pp.2-3
• the need for an agreed and transparent process to determine any terms and conditions relating to the achievement of statehood; and

• clarity regarding the Commonwealth’s intentions for Northern Territory statehood.\(^\text{12}\)

1.10 On 28 May 2007, the HRSC tabled its inquiry report, *The Long Road to Statehood*, which identified and highlighted some of the main issues relating to statehood and the associated federal implications. Arguing that the Commonwealth has a role to play in “assisting the Northern Territory work through the range of issues related to statehood, without driving the agenda”,\(^\text{13}\) the report recommended that:

the Australian Government update and refine its position on Northern Territory statehood and re-commence work on unresolved federal issues.\(^\text{14}\)

1.11 Disappointingly, it was not until October 2009 that a response to the report was forthcoming from the Commonwealth Government. Apart from agreeing with the Committee’s recommendation, the response affirmed the Commonwealth Government’s support in principle for the granting of statehood to the Northern Territory subject to:

the resolution of outstanding policy and constitutional issues by the Commonwealth and Northern Territory governments, and the Commonwealth Parliament’s consideration of any proposed terms and conditions of statehood.\(^\text{15}\)

1.12 Importantly, it was further noted that it was expected that the Northern Territory Government would continue to drive the process of constitutional change and that it remained responsible for presenting the Commonwealth Government with:

a clear and detailed proposal, based on a sound financial, legal and social foundation, supporting their aim to become a State of the Commonwealth of Australia. The proposal must also demonstrate that it is based on broad consultation with, and support from, Northern Territory residents.

This case should present the Northern Territory Government’s preferred approach to the unresolved policy issues for Northern Territory statehood raised in the report, including the:

• future management and control of Commonwealth land, national parks and world heritage areas within the Territory;

• future management of indigenous issues;

• future management and control of uranium and mining within the Territory; and

• future management of other matters currently reserved to the Commonwealth under existing self-government arrangements.\(^\text{16}\)

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\(^{12}\) Northern Territory Statehood Steering Committee, *Submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs concerning the Federal Implications of Northern Territory Statehood*, Legislative Assembly of the Northern Territory, Darwin NT, 8 September 2006, pp. 2-3

\(^{13}\) House of Representatives Standing Committee on Legal and Constitutional Affairs, *The Long Road to Statehood*, p. 36

\(^{14}\) House of Representatives Standing Committee on Legal and Constitutional Affairs, *The Long Road to Statehood*, p. 37


Work of the Statehood Steering Committee

1.13 Between 2005 and 2010 the SCC undertook a comprehensive, Territory wide program of consultation, education and awareness raising, and produced a number of associated resources, information and discussion papers.\(^\text{17}\) During this period the SSC was supported by an Office of Statehood located within the Department of the Legislative Assembly. As of 2010 the office was comprised of an Executive Officer, Community Engagement Officer, Project Officer and Administration/Research Officer. In addition, a protocol was put in place whereby the Minister for Statehood, the Shadow Minister for Statehood and any other member of the Assembly could request briefings and information about the Statehood program through the Office of the Clerk.\(^\text{18}\)

1.14 The SSC’s final report to the LCAC in December 2010 included ten recommendations to achieve statehood which included the election of delegates who would attend two constitutional conventions in Darwin and Alice Springs to develop a consensus within the Territory on key issues for statehood, and for the Territory Government to engage with the Commonwealth Government on the terms and conditions of Statehood.\(^\text{19}\) The SSC’s recommendations received bipartisan support and the Assembly subsequently amended the LCAC’s reference to allow the Committee to:

- appoint a Northern Territory Constitutional Convention Committee (NTCCC) to report to the Standing Committee from time to time to assist with the implementation of the Statehood Program as determined by the Standing Committee leading up to and including a Constitutional Convention.\(^\text{20}\)

Having laid the foundations for the next stage of the Northern Territory Statehood Program, the SSC was dissolved at the end of 2010.

Constitutional Convention Model

1.15 Following the establishment of the NTCCC in mid-December 2010 work commenced on the development of a convention process “that would truly belong to Territorians but could effectively develop an agreed constitution.”\(^\text{21}\) In accordance with the SSC’s recommendations the process was designed to ensure maximum participation and communication over a period of approximately 18 months.\(^\text{22}\) As


\(^{19}\) Northern Territory Statehood Steering Committee, Final Report and Recommendations To the Legislative Assembly Standing Committee on Legal and Constitutional Affairs, Legislative Assembly of the Northern Territory, Darwin NT, 6 December 2010, pp. 3-4


\(^{21}\) Legal and Constitutional Affairs Committee, *Report on Statehood Program*, p. 5

\(^{22}\) Legal and Constitutional Affairs Committee, *Report on Statehood Program*, pp. 5-13
summarised by constitutional law expert and NTCCC member Professor George Williams AO, the convention model provided for a:

75-member, fully elected popular convention that will draft the Territory’s new constitution. In an Australian first, sitting politicians will be ineligible. Political leaders may attend the convention to put their view and to listen to the people, but may not vote.

The Darwin convention [in 2012] will draft a new constitution to be sent to the broader community for discussion. Convention delegates will then reconvene in 2013 in Alice Springs to ratify a final draft. If all goes well, this will be put to the people of the Territory at a referendum soon after. If passed, it will be presented to the Commonwealth as the basis upon which the Northern Territory should be transformed into a state.23

1.16 On 17 June 2011 a joint press conference was held with the Chief Minister and Leader of the Opposition to announce the timetable for the election of convention delegates and the conventions.24 As indicated in the State 7 Constitutional Convention Factsheet (Appendix 1), election of convention delegates was scheduled to occur in conjunction with the March 2012 Local Government elections, with the Darwin convention taking place shortly after from 21-29 April 2012. As detailed in the LCAC’s 2012 Report on Statehood Program, with convention dates established a proactive media campaign advising of the convention process and inviting Territorians to nominate for election as convention delegates was implemented and work commenced on the legislation required to underpin the election process.25

Statehood Program Deferred

1.17 On 30 November 2011 the Legislative Assembly passed the Constitutional Convention (Election) Bill, and agreed to defer further implementation of the Statehood program until a time to be decided by the Government during the 12th Assembly. Although there was no question regarding support for Statehood or the constitutional convention process, concerns were raised about the timing of the next phase of the Statehood program.26

1.18 While it was acknowledged that holding the election of convention delegates in conjunction with the local government elections represented a significant cost saving, the Electoral Commissioner noted that it did raise logistical issues given the different electoral boundaries. Given that the Territory General Election was also scheduled for 2012, it was further suggested that the convention process ran the risk of being politicised and may confuse electors.27

1.19 As the then Leader of the Opposition stated at the time:

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23 George Williams, ‘A state of confidence up north as NT moves towards adulthood’, p.1
24 Northern Territory Office of Statehood, Media Release: Next Step towards Becoming State 7: Election of Delegates and Convention Dates, Legislative Assembly of the Northern Territory, Darwin NT, 17 June 2011, p.1
25 Legal and Constitutional Affairs Committee, Report on Statehood Program, pp. 5-18
27 Michael Tatham, ‘Northern Territory Statehood: The Lasseter’s Reef of Constitutional Development?’, p.10
There is bipartisan support for statehood and the Constitutional Convention, but such is our conviction over the need to preserve and protect this process from any potential for political interference of any kind, to give this process the cleanest possible air, then it was our view – my view, and the view of my party – that this election should occur after the next Territory election …

Once the air is clear and the two issues have been settled – local government and Territory Parliament – then it is the position for the Twelfth Assembly of the Territory Parliament to permit, with as much space as possible and as early as possible, the next phase to occur without delay. It is of the highest priority. 28

1.20 Following the decision to postpone the Statehood program, in February 2012 the LCAC tabled its Report on Statehood Program. As noted in the report’s introduction, apart from providing an overview of the work completed by the LCAC and NTCCC during 2011,

this document serves as a template for future consideration of the next steps, including organisation of the convention, election of delegates, reporting processes and planning for outcomes. 29

28 Legislative Assembly of the Northern Territory, Hansard Debate: ‘Constitutional Convention (Election) Bill’
29 Legal and Constitutional Affairs Committee, Report on Statehood Program, p.1
2 Progressing Statehood in the 12th Assembly

Statehood Reference

2.1 Following the August 2012 Territory election, the newly appointed LCAC held its first meeting on 31 October and was briefed on the history of Statehood by Mr Michael Tatham, then Deputy Clerk of the Legislative Assembly and former Executive Officer to the Statehood Steering Committee. Following discussion, the Committee agreed that the Chair would brief the Attorney-General on what was required to resume implementation of the Statehood program and seek a reference accordingly.30

2.2 While supporting continuation of the Statehood program as previously agreed to by the 11th Assembly, the Committee noted that the governance, planning and implementation model could be improved. The 11th Assembly’s model comprised:

- the Assembly delegating to the LCAC responsibility for planning a constitutional convention with the advice of the NTCCC, to be appointed by the LCAC;
- a budget provided to the Department of the Legislative Assembly (DLA) for the Office of Statehood to support the LCAC and NTCCC with convention planning and implementation; and
- the Chief Minister (as the Minister for Statehood), on advice of the Speaker and Chair of the LCAC, taking proposals for funding and legislation to Cabinet for consideration.

2.3 This model enabled the LCAC to develop detailed advice on the constitutional convention with the assistance of expert and community advisors and at arm’s length from Government. It also provided the LCAC with support staff to implement the program, subject where appropriate to budget allocations and approvals from Government. However, the lack of officers in a government agency with responsibility for Statehood issues created problems when the Minister required support in progressing the program – for example, providing advice to the Opposition on behalf of the Government, drafting ministerial speeches, providing advice to the Minister on the passage of a bill, and ensuring on-going liaison with the federal government.31 As such, the Committee recommended that the Government also designate particular officers in an agency with responsibility for advising the Minister on Statehood issues.32

2.4 In early December 2012 the Committee was advised that Cabinet had approved a funding commitment of $315,000 for the creation of an NTCCC and the preparation

31 Michael Tatham, ‘Northern Territory Statehood: The Lasseter’s Reef of Constitutional Development?’, p.6 & p.10
32 Legal and Constitutional Affairs Committee Secretariat, ‘Options for the Statehood Program’, briefing note provided to the Legal and Constitutional Affairs Committee, 1 November 2012, p.3
of a full Budget Cabinet submission for February/March 2013. The Attorney-General, Hon John Elferink MLA, subsequently referred to the LCAC the options for the Northern Territory to become a State, including implementation of the Statehood program as previously agreed to by the 11th Assembly (Appendix 2). At its meeting of 6 December 2012, the Committee resolved to accept the reference and authorised its publication on the Assembly’s website.

Statehood Program Proposal

2.5 While the Attorney-General’s reference delegated administration of the Statehood program to the LCAC, including planning and implementing constitutional conventions and the election of delegates, the Committee was not authorised to appoint an NTCCC. Given Cabinet’s funding commitment, it was expected that the Assembly would empower the Committee to establish a NTCCC during the February 2013 sittings. As such, the Committee endorsed use of the previous NTCCC terms of reference (Appendix 3), and wrote to Professor George Williams AO (Appendix 4) noting the Committee’s reference and indicating its intention to request his continued participation on the anticipated formation of a new NTCCC in March 2013.

2.6 Following a review of the various components of the Statehood program the Committee agreed that the existing NT State 7 branding and advertising materials should be re-used. Apart from confirming the continued participation of current Statehood champions, members noted that additional champions were required to better reflect certain sectors of the community. It was further agreed that the program would need to include strategies to re-invigorate community interest with a focus on promoting Statehood through the show circuit, major cultural events, schools and social media such as Facebook and Twitter. Members also noted that MLA’s should be briefed on the Statehood program and provided with promotional materials and information kits with all electorate offices to incorporate static Statehood displays.

2.7 Based on the budget and program timeframes previously determined by the LCAC on the advice of the NTCCC in the 11th Assembly, at its meeting of 13 February 2013 the Committee endorsed the following Statehood Program Timetable for inclusion in the full Budget Cabinet submission.
### Table 1: Statehood Program Timetable as of 13 February 2013

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2.8 As detailed in the Speaker’s letter to the Committee of 23 April 2013 (Appendix 5), while Cabinet’s subsequent decision approved additional funding of $0.6 million per annum for three years from 2013-14 to support the Statehood Office, it did not include a funding commitment for implementation of the Statehood program.
Rather, the Department of the Legislative Assembly (DLA) was directed to consult with the Department of the Attorney-General and Justice (DAGJ) to develop lower cost options for the selection of constitutional convention delegates for Cabinet's consideration. In accordance with the previously noted Statehood governance model, and to maintain the DLA's role as an agency of the Assembly rather than the Government, the Speaker therefore sought direction from the LCAC.

2.9 It is further noted that Cabinet’s decision coincided with a reshuffle of ministerial portfolios with responsibility for Statehood moving from the Chief Minister to the Attorney-General as of 20 March 2013. However, while the Administrative Arrangements Order clearly identified the DLA as the agency responsible for constitutional conventions, including administrative responsibility for the Constitutional Convention (Election) Act, it did not specify any agency as having responsibility for ‘Statehood’ or ‘Constitutional Development’.

**Lower Cost Options for Selection of Constitutional Convention Delegates**

2.10 At its meeting of 15 May 2013 the Committee resolved to write to the Chief Minister to advise that members were strongly of the view that appointment of constitutional convention delegates by any means other than by election posed a very high risk of failure of the Statehood process. Analysis of the 1998 referendum highlighted that appointment of convention delegates by the Government of the day was a major contributing factor in the ‘No’ vote, leading the LCAC at the time to recommend that all, or at least the majority, of delegates to any future constitutional convention should be popularly elected. Nevertheless, the Committee acknowledged the need to minimise expenditure and further resolved to request a full breakdown of costs associated with the recent (2012) NT General Election to more adequately consider lower cost options for the election of delegates.

2.11 Advice received from the NT Electoral Commissioner (Appendix 6) indicated that while there was little scope to reduce the costs associated with the election of convention delegates, considerable cost savings could be achieved by conducting the referendum in conjunction with another Territory-wide poll; it being noted that the next Federal, NT Local Government and NT Legislative Assembly elections were all scheduled to take place in 2016.

2.12 The pros and cons associated with holding the referendum conjointly with another Territory-wide poll are summarised in the three options presented below:

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40 Standing Committee on Legal and Constitutional Affairs, *Report into appropriate measures to facilitate Statehood*, pp.9,17-18 and 31-37
Option 1: Local Government Election – March 2016

Although generally considered to be a Territory-wide poll, those living in areas which are not incorporated under the Local Government Act and those living in Local Government wards where there is only one candidate standing do not vote at local government elections. There would therefore be no cost savings for a referendum in these areas. Also, since costs for local government elections are borne by each Local Government Authority on a fee for service basis, any cost savings would be dependent on negotiating funding agreements for a combined poll. Significantly reduced cost savings make holding the referendum with a local government election a less attractive option.

Option 2: Federal Election

Should the Federal Government be agreeable, it is anticipated that holding the referendum in conjunction with a Federal election could achieve cost savings in the region of $1.5m. However, the lack of notice of the timing of Federal elections was acknowledged as problematic. It is further noted that the analysis of the 1998 Statehood referendum indicated that it was due, in part, to it being held in conjunction with the Federal election which caused a degree of confusion on the part of voters; particularly those in remote communities who perceived it as a Federal Government initiative that had the potential to adversely impact on Aboriginal interests and rights should a ‘Yes’ vote be returned.

Option 3: Legislative Assembly General Election – August 2016

As with option 2, holding the referendum with the Legislative Assembly General Election will achieve cost savings of approximately $1.5m since it would merely involve the cost of printing and counting an additional ballot paper and associated information campaigns. Given the bipartisan support for Statehood, it is not anticipated that the referendum would not unduly impact on the General Election and its candidates.  

Given the above, holding the referendum in conjunction with the next Legislative Assembly General Election was considered to be the most practicable and cost effective option.

2.13 At its meeting of 21 August 2013 the Committee considered and endorsed a Revised Statehood Program Timetable (see Table 2 below) for referral to Cabinet and resolved to advise the Chief Minister accordingly (Appendix 7). Taking into account the funding allocated for the Office of Statehood, amended cost estimates for the election of convention delegates and anticipated costs associated with holding the referendum conjointly with the 2016 Legislative Assembly General Election, the revised program met the directions of the LCAC with regards to the election of convention delegates and achieved an overall cost saving of $2.065m over the original budget detailed in Table 1 above.

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42 Legal and Constitutional Affairs Committee Secretariat, ‘Revised Statehood Program’, briefing note provided to the Legal and Constitutional Affairs Committee, 21 August 2013, p.2

43 Legal and Constitutional Affairs Committee, Minutes of Proceedings: Meeting No.8, 21 August 2013, p.1; see also Appendix 7.
Table 2: Revised Statehood Program Timetable as of 21 August 2013

<table>
<thead>
<tr>
<th>YEAR</th>
<th>KEY TASKS/EVENTS</th>
<th>COMMUNITY ENGAGEMENT</th>
<th>FINANCIAL YEAR</th>
<th>BUDGET</th>
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<tbody>
<tr>
<td>S</td>
<td>Cabinet endorsement revised Statehood Program.</td>
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<td>O</td>
<td>Assembly to endorse reference for LCAC to convene NTCCC</td>
<td>Recruit to Office of Statehood and Convene NTCCC</td>
<td>2013-14</td>
<td>Allocated: Office of Statehood $600k</td>
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<tr>
<td>N</td>
<td>Seek amendment to Commonwealth Electoral &amp; Referendum Regulations</td>
<td>Promotion and Community Engagement re Statehood Convention Process</td>
<td></td>
<td>Required: • Promotion and Community Engagement $500k</td>
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<td>J</td>
<td>Close of Nominations (Thursday 24 July)</td>
<td>Vote for your Candidate Campaign</td>
<td></td>
<td>Allocated: Office of Statehood $600k</td>
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<td>M</td>
<td>Notice inviting Nominations (By Friday 20 June)</td>
<td>Nominate Now Campaign</td>
<td>2013-14</td>
<td>Required: $500k</td>
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<tr>
<td>A</td>
<td>Convention Election (Saturday 16 August)</td>
<td>Declaration of Poll Results (Monday 25 August)</td>
<td>2014-15</td>
<td>Allocated: Office of Statehood $600k</td>
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<tr>
<td>2014</td>
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<td>Required: • Delegate Election $2.7m • Darwin Convention $600k • Promotion and Community Engagement $400k</td>
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<td>N</td>
<td>Darwin Convention (8 to 15 November)</td>
<td>Preparation of Convention Delegates</td>
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<td>Alice Springs Convention (5 to 9 September)</td>
<td>Information on Convention Outcomes and Consultation on Draft Constitution</td>
<td>2014-15</td>
<td>Allocated: Office of Statehood $600k</td>
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<td>O</td>
<td>Finalisation of proposed Constitution</td>
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<td>Required: • A/Springs Convention $600k • Promotion and Community Engagement $100k • Referendum $850k</td>
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<td>Assembly to endorse proposed Constitution</td>
<td>Referendum Awareness Campaign</td>
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<td>Referendum (To be held in conjunction with NT General Election)</td>
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<td>Required: $1.55m</td>
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<td>2016-17</td>
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<td>Required: $5.75m</td>
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<td>Total Cost: $7.55m</td>
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**Expiry of Constitutional Convention (Election) Act**

2.15 In addition to presenting the revised Statehood program proposal for Cabinet’s consideration, the DLA’s Cabinet submission of 30 September 2013 sought approval to introduce amendments to the *Constitutional Convention (Election) Act*. Providing the machinery for the election of delegates to a Constitutional Convention the provisions of the bill passed in the Eleventh Assembly presumed the conventions would be held in 2012 and 2013 and provided for the expiry of the act at the end of 2013.

2.16 Following Cabinet’s approval, the Constitutional Convention (Election) Amendment Bill (Serial 47) was introduced in the Assembly on 8 October 2013. To facilitate implementation of the Statehood program within a more flexible timeframe, the bill amended the definition of ‘Constitutional Convention’ to mean the Statehood Constitutional Convention for the Territory and removed the reference to dates. The bill also sought to repeal Part 9 Expiry of the Act.

2.17 In presenting the bill, the Minister for Statehood noted that:

> The government remains committed to achieving statehood and has already allocated funding for the re-establishment of an Office of Statehood within the Department of the Legislative Assembly. In keeping with the long-standing bipartisan approach on this important issue, the government is considering a revised timetable from the Legal and Constitutional Affairs Committee for the path to statehood.\(^{44}\)

However, while the amendment bill was duly passed on 5 December 2013, the last day of sittings for the year, no decision was forthcoming regarding the revised Statehood program proposal and associated budget.\(^{45}\)

**Clarification of LCAC’s role in relation to Statehood**

2.18 At the LCAC meeting of 12 February 2014 members expressed their concern regarding whether it was still the Government’s intention to proceed with the recommendations of the Statehood Steering Committee and fund the election of delegates and the holding of constitutional conventions. Apart from the absence of agreement to proceed with the revised Statehood program proposal, the Chief Minister had made a number of comments in the latter part of 2013 regarding the timing and process for progressing Statehood which were at odds with the LCAC’s Statehood Reference.

2.19 For example, during the October debate on the Succession to the Crown (Request) (National Uniform Legislation) Bill, the Chief Minister noted that achieving


Statehood “is something that could be done with much ease, rather than constitutional conventions and at much less expense that what has been proposed in the past.”\textsuperscript{46} In the October 2013 edition of \textit{Territory Q} the Chief Minister was quoted as saying:

For me, the exciting things are around the advancement of the Northern Territory and getting it to a position where we can compete with the rest of Australia in terms of jurisdiction. At that point in time we’ll push for statehood. There’ll be a trigger point where we can say, right, we’re up to the job now; we’re going for statehood. And that point in time will be a very good one.\textsuperscript{47}

In a media release relating to the Chief Minister’s attendance at the Council of Australian Governments (COAG) meeting of 13 December 2013, it was noted that:

Mr Giles raised the prospect of a future move towards Statehood for the Northern Territory during discussions. A more detailed proposal will be discussed at future COAG meetings. “I now look forward to engaging in a conversation with the Territory community about this significant and important advancement in the development of the Northern Territory.”\textsuperscript{48}

2.20 Given the above, the Committee resolved to write to the Chief Minister and seek clarification of its role.\textsuperscript{49} As per the correspondence attached at Appendix 8, on 9 March 2014 the Chief Minister advised that while the program for progressing Statehood was under review it was due to be discussed at the COAG meeting scheduled for May 2014. In response, the Committee’s letter of 20 March 2014 sought to determine:

- which department was conducting the review and the process for such;
- whether the review was going to take into consideration the work previously completed by the LCAC, the Statehood Steering Committee and the NTCCC; and
- the role of COAG in the Statehood process.

2.21 While the Chief Minister’s reply of 14 July 2014 noted that the Department of the Attorney-General and Justice was conducting the review and would be taking into consideration work undertaken by relevant parties, there was no indication as to the timeframe for the review or COAG’s role in the Statehood process. Noting that Statehood was “a matter still under consideration by Government”, the Chief Minister advised that the Committee would be informed accordingly once deliberations were finalised (see Appendix 8).

2.22 In the absence of the funding required to implement the Statehood program, and pending advice from the Government on how it wished to advance the Statehood

\textsuperscript{46} Legislative Assembly of the Northern Territory, Hansard Debate: ‘Succession to the Crown (Request) (National Uniform Legislation) Bill (Serial 39) - second reading in continuation; third reading, Parliamentary Record No. 8, 8 October 2013,\texttt{http://notes.nt.gov.au/lant/hansard/hansard12.nsf/WebbySubject/F894D53077175DE469257C77001DDCD?opendocument}

\textsuperscript{47} Adam Giles (Chief Minister), ‘Open for Business’ in \textit{Territory Q}, Issues One, October 2013, p.13

\textsuperscript{48} Department of the Chief Minister, \textit{Statehood, Green Tape, Roads and Education in COAG Spotlight}, Media Release, Northern Territory Government, Darwin NT, 13 October 2013, p.1

\textsuperscript{49} Legal and Constitutional Affairs Committee, \textit{Minutes of Proceedings: Meeting No.11, 12 February 2014}, pp.1-2; see also Appendix 8.
agenda, the LCAC had previously advised the DLA to defer establishment of the Statehood Office. To assist with forward planning, on 21 August 2014 the Committee again wrote to the Chief Minister to ascertain whether it was the Government’s intention to include the Statehood Program in the 2015-16 budget (Appendix 9). The Committee did not receive a response.

**NT State 7 Website rebuild**

2.23 The stability and functionality of the NT State 7 website became increasingly problematic towards the end of 2014 to the point where it became inaccessible. Since the software used to build the site was now quite outdated, the Committee was advised that if it wished to maintain a web presence the site would need to be rebuilt. While the Statehood Program was effectively ‘on hold’, until such time as the Committee was advised otherwise it was deemed prudent to ensure the wealth of data contained on the website was maintained, accessible and in a format that could be readily updated.\(^5\)

2.24 Having resolved to rebuild the site, the Committee took the opportunity to review the content which had not been updated since the Statehood program was deferred in November 2011. Committee members agreed that outdated information such as Statehood Champion biographies and associated video clips should be removed along with references to constitutional conventions that suggested the Statehood process was currently active. Following the Committee’s approval, a pared down version of the original website went live on 7 July 2015.\(^6\)

**Statehood by 1 July 2018**

2.25 On 23 July 2015, the Department of the Chief Minister issued a media release which noted that:

Statehood for Territorians is a step closer following the Australian Leaders’ Retreat in Sydney. The Prime Minister, together with state and territory leaders, supported the Northern Territory’s resolve to become a state by 1 July 2018.\(^7\)

The Chief Minister, Hon Adam Giles MLA, was cited as saying that:

It’s great to see engagement among Australia’s political leadership for the move and it comes after extensive lobbying by the Territory since the Country Liberals entered government in 2012 … Today’s decision will see the Territory report back to the leaders on progress towards Statehood at the next COAG meeting. Now we start the journey ensuring it is inclusive of all Territorians and that we agree on the mechanics of being recognised as a state. There is much work to be undertaken in the next three years … the Northern Territory Government will consider what shape an inclusive process towards Statehood might take.\(^8\)

2.26 Four days later the NT News published a follow-up article under the heading “Bill of Rights debate high on agenda” which indicated that in the coming weeks the

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\(^6\) Legal and Constitutional Affairs Committee, *Minutes of Proceedings: Meeting No.20, 27 August 2015*, p.1

\(^7\) Department of the Chief Minister, *Statehood on the agenda following historic Leaders’ Retreat*, Media Release, Northern Territory Government, Darwin NT, 23 July 2015, p.1

\(^8\) Department of the Chief Minister, *Statehood on the agenda following historic Leaders’ Retreat*, pp.1-2
Government would be announcing how people could have their say on whether or not the Territory needed a Bill of Rights and, if so, what it should include. The article further noted that “the Government would also soon begin the consultation process about who should sit on a nonpartisan committee that would be advising government.”\(^{54}\) Acknowledging that statehood was for Territorians and was not about politics, the Chief Minister was quoted as saying:

> there is now three years to find consensus and prepare a constitution … consultations would likely involve town hall meetings, web forums, social media and expert panels … we’ll be making sure we bring everyone along for the journey.\(^{55}\)

2.27 On 25 August 2015, the Chief Minister informed the Committee that he had briefed the Leader of the Opposition on his discussions regarding Statehood at the Leaders’ Retreat and would advise as to the outcome of their deliberations once he had received Mr Gunner’s comments. However, in the absence of any communication regarding the outcome of the Statehood program review, as promised in the Chief Minister’s letter of 14 July 2014, members registered their concern at the lack of communication with the LCAC regarding the process for achieving Statehood.\(^{56}\)

2.28 At the LCAC meeting of 27 August 2015, the Hon Kezia Purick MLA tabled a copy of her letter to the Chief Minister (Appendix 10) which outlined the vital role of the Committee in advancing Statehood issues in a nonpartisan forum and encouraged the Chief Minister and the Minister for Statehood to meet with the LCAC to discuss the path to Statehood. Somewhat disappointingly, neither the Chief Minister nor the Minister for Statehood responded to the invitation to meet with the Committee.

2.29 Following advice that the Leader of the Opposition had provided his comments on the Leaders’ Retreat Statehood briefing, on 17 September the LCAC resolved to write to the Chief Minister regarding the outcome of their deliberations and to ascertain whether the role of the LCAC in progressing Statehood had been discussed.\(^{57}\) As detailed at Appendix 11, there was some confusion regarding receipt of Mr Gunner’s comments with the Chief Minister concluding in his letter of 10 November 2015 that:

> In light of what I can only assume is a lack of bi-partisan support by Labor for this issue of vital importance to the Territory I have decided to refer the issue of Statehood to the Legal and Constitutional Affairs Committee for the committee to progress.

2.30 At its meeting of 19 November the Committee agreed to accept the Chief Minister’s offer of a briefing on the background work his department had completed to date regarding Statehood.\(^{58}\) The Department of the Chief Minister’s Deputy Chief Executive, Executive Director Strategic and Federal Policy, and a Senior Policy Officer subsequently briefed the Committee at its meeting of 3 December 2015.

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\(^{54}\) Zach Hope, ‘Bill of Rights debate high on agenda’, in NT News, Monday 27 July 2015, p.6

\(^{55}\) Zach Hope, ‘Bill of Rights debate high on agenda’, p.6

\(^{56}\) Legal and Constitutional Affairs Committee, Minutes of Proceedings: Meeting No.20, 27 August 2015, p.1

\(^{57}\) Legal and Constitutional Affairs Committee, Minutes of Proceedings: Meeting No.21, 17 September 2015, p.1; see also Appendix 11

\(^{58}\) Legal and Constitutional Affairs Committee, Minutes of Proceedings: Meeting No.22, 19 November 2015, p.1
2.31 Noting that the political climate had shifted since the Attorney-General referred the options for Statehood to the LCAC in 2012, the Committee heard that DCM’s recommended pathway to Statehood incorporates the following broad steps:

1. Entering negotiations and reaching agreement on key terms and conditions with the Commonwealth. Negotiations would be initially focussed on developing a joint discussion paper, with the Department of the Prime Minister and Cabinet, on the main issues surrounding Statehood.

2. Community consultation on the proposed statehood model, including a draft Northern Territory Constitution. Community consultation could be led by the LCAC and informed by the joint discussion paper.

3. Northern Territory and Commonwealth Cabinet approval of the proposed statehood model, which would be incorporated into a Heads of Agreement until statehood is granted by an Act of the Commonwealth Parliament under Section 121 of the Australian Constitution.

4. Passage of an Act by the Commonwealth Parliament to grant statehood and adoption by the Northern Territory Parliament of a Northern Territory Constitution to replace the *Northern Territory (Self-Government) Act 1978*.\(^59\)

2.32 The Committee was further advised that the Chief Minister had already written to the Prime Minister recommending development of the joint discussion paper for use in community consultation as a first step. It being noted that:

The Discussion Paper could build on previous work on the possible terms and conditions of statehood, and would allow both governments to test ideas with the public first before establishing official positions.\(^60\)

It was further suggested that:

Allowing the public to respond to the Discussion Paper and make submissions could be a good way of drawing out the key issues required to build public support.\(^61\)

2.33 While noting that the current bid for Statehood could include constitutional conventions and a referendum as recommended by the Statehood Steering Committee, the Department argued that experience to date served to highlight the following risks:

- unless people have a good understanding of statehood and a concrete model to consider, they may be reluctant to support it.

- the appointment and/or election of Constitutional Convention delegates can politicise the process.

- the timing of referendums and Constitutional Conventions is important – past attempts to link them with Northern Territory or local government elections have failed.

- referenda and Constitutional Conventions are costly and time-consuming.\(^62\)

2.34 Apart from playing an important role in leading community engagement, DCM noted that the LCAC could also “consider the most effective governance structure and

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\(^59\) Department of the Chief Minister, *Background Briefing on Statehood*, Tabled Paper, Northern Territory Government, Darwin NT, 2 December 2015, pp.1-2

\(^60\) Department of the Chief Minister, *Background Briefing on Statehood*, p.3

\(^61\) Department of the Chief Minister, *Background Briefing on Statehood*, p.4

\(^62\) Department of the Chief Minister, *Background Briefing on Statehood*, p.3
process to facilitate this engagement. DCM’s draft governance structure (Figure 1 below) makes no mention of the LCAC and has the Office of Statehood located within the Department of the Chief Minister.

**Figure 1:** Pathway to Statehood – Draft Governance Structure

2.35 Taking into consideration the aim of achieving Statehood by 1 July 2018, the 40th anniversary of Self Government, DCM’s indicative timeline for the pathway to Statehood is provided at Table 3 below. However, given that at the time of the briefing the Commonwealth had yet to agree to DCM’s approach, the timeframes for developing and consulting on the joint discussion paper appear to be somewhat optimistic. Based on DCM’s proposed step 2 (see 2.31 above), it is also unclear why the timeline for community consultation and ‘LCAC consideration’ commences prior to finalisation of the joint discussion paper.

2.36 The Committee understands that ‘LCAC consideration’ refers to a potential inquiry process where the public is invited to make submissions on the joint discussion paper with the Committee reporting to the Assembly on potential options for dealing with the key issues associated with Statehood. As DCM pointed out, based on work previously undertaken, it was anticipated that the joint discussion paper would consider the following issues:

- Legal and constitutional affairs
- Political representation
- the Aboriginal Land Rights Act
- Recognition for Indigenous people in an NT Constitution
- Commonwealth Land
- National Parks
- Uranium

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63 Department of the Chief Minister, *Background Briefing on Statehood*, p.3
64 Department of the Chief Minister, *Background Briefing on Statehood*, Attachment D
- Industrial relations.  

**Table 3: Pathway to Statehood – Indicative Timeline**

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<thead>
<tr>
<th>Year</th>
<th>Month</th>
<th>January</th>
<th>February</th>
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<tr>
<td>2016</td>
<td>Jan</td>
<td>Prepare Discussion Paper with Commonwealth</td>
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2.37 While DCM acknowledged the proposed timeline was extremely tight given the time required to draft associated legislation, Committee members also pointed out that it failed to take into account the NT Legislative Assembly General Election scheduled for August 2016. It was further noted that the LCAC’s capacity to embark on a Territory wide community engagement and inquiry process would be contingent upon the availability of the necessary resources. Nevertheless, Committee members welcomed DCM’s role in initiating bilateral negotiations with the Commonwealth. As recommended by the Statehood Steering Committee:

> The Territory Government must continue to engage the Commonwealth Government and Parliamentarians on the terms and conditions of Statehood under s.121 of the Australian Constitution (as described in the SSC Information Paper: What Might the Terms and Conditions of Northern Territory Statehood Be?…) prior to undertaking any referendum on the question of Statehood for the Northern Territory.  

**New Statehood Reference**

2.38 At its meeting of 17 March 2016 the Committee considered correspondence from the Attorney-General, the Hon John Elferink MLA, which sought to revoke the Committee’s existing Statehood reference and, instead, refer to the LCAC the following:

---

65 Department of the Chief Minister, *Background Briefing on Statehood*, p.4
66 Department of the Chief Minister, *Background Briefing on Statehood*, Attachment C
67 Northern Territory Statehood Steering Committee, Final Report and Recommendations, p.4
(a) Advise on options for a robust community engagement strategy to build and demonstrate popular support of Territorians for statehood, giving consideration for all options for consultation, including but not limited to:

i. Northern Territory referendum;
ii. Constitutional Convention;
iii. survey/mock referendum;
iv. community engagement sessions/roadshows;
v. community governance structures eg. statehood champions and advisory panels;
vi. community involvement in the development of a contemporary Constitution for the new state of the Northern Territory;
vii. creative and interactive campaigns, events and competitions e.g. name and flag for the new state, commemoration events or concerts etc;
viii. school-based engagement and youth engagement;
ix. digital engagement through interactive website and social media;
x. public awareness campaign – narrative and myth busting; and
xi. targeted Indigenous engagement strategy – land rights and constitutional recognition.

(b) Develop implementation stages and timeframes for the community engagement strategy, having regard to the legislative pathway to statehood and the aim of achieving statehood by 1 July 2018.

(c) Hold an inquiry into the issue of federal political representation for the Northern Territory upon becoming a state and develop options for an appropriate mechanism to increase representation over time, with the ultimate goal of equal representation with the original states.68

2.39 In light of the briefing provided by DCM in December 2015 and the work previously completed by the Statehood Steering Committee and the LCAC, members were understandably somewhat confused by the timing, nature and validity of the reference. With regards to the latter, it is noted that while the Attorney-General purports to revoke his previous referral to the LCAC, the House of Representatives Practice states that:

When a matter is referred to a committee, the committee normally formally resolves to accept the reference. It has been considered that, although a Minister may refer a matter to a committee, a Minister is not able to withdraw a reference from a committee.69

2.40 In determining not to accept the Attorney-General’s new reference,70 the Committee took into consideration the following factors. As highlighted previously in this report, following five years of consultation around the Territory the SSC’s final report of December 2010 provided advice on options for a comprehensive community engagement strategy. With bipartisan support from the Legislative Assembly, the February 2012 report of the previous LCAC provided a detailed plan for the

68 see Appendix 12
70 Legal and Constitutional Affairs Committee, Minutes of Proceedings: Meeting No.25, 17 March 2015, p.1; see also Appendix 12
implementation of this strategy. The Committee has since provided further advice on adapted timeframes and options for the implementation of an updated strategy which recognises the need to re-engage and re-invigorate the community.

2.41 As indicated in Tables 1 and 2 above, the staged community engagement strategy developed for the previously agreed to Statehood program (including constitutional conventions and an NT referendum) is based on a two year implementation timeframe. To achieve Statehood by 1 July 2018, it would therefore be necessary to recommence the Statehood program by July 2016. However, assuming the necessary resources were forthcoming, attempting to recommence the Statehood process immediately prior to an NT Legislative Assembly General election was not considered to be a desirable or viable option.

2.42 The Committee was also of the view that there is insufficient time remaining in the current term of the Legislative Assembly for a robust inquiry process into the issue of federal political representation. Moreover, given that determining federal representation does not fall within the NT’s jurisdiction the validity of the inquiry is questionable. It is further noted that the SSC’s January 2011 report, *What Might the Terms and Conditions of Northern Territory Statehood be?*, considered this matter and put forward options for determining an appropriate transitional mechanism to increase representation over time.71

2.43 Acknowledging the Committee’s limited ability to address the new terms of reference within the current term of the Assembly, on 11 April 2015 the Chief Minister suggested that it may be useful for his department to provide a further briefing on current statehood activity, noting that:

> This will give you some context on the new terms of reference and could assist in shaping the Committee’s report to the Legislative Assembly in May 2016. The Committee’s report can play a role in ensuring we maintain momentum for the statehood bid.72

At its meeting of 21 April 2015, the Committee resolved to seek a written update which is attached at Appendix 13.73

71 Northern Territory Statehood Steering Committee, 2005-2010, *What Might the Terms and Conditions of Northern Territory Statehood be?* Information Paper, Legislative Assembly of the Northern Territory, Darwin NT, January 2011, pp.27-9
72 see Appendix 12
3 The Future of Statehood

Concluding Comments

3.1 With regards to the future of Statehood, DCM’s update on current activity notes that:

- LCAC has an important role to play in both the short and long-term in building, demonstrating and maintaining bipartisan support.
  - in the short-term, in-principle support from LCAC members for the statehood bid will help maintain public momentum on statehood and keep the option open for the next Northern Territory Government to pursue statehood at the next COAG meeting, regardless of the outcome of the 2016 Northern Territory General Election.
  - in the longer term, the LCAC has an important role to play in planning and executing community engagement on statehood.

The Chief Minister’s letter referring statehood to the LCAC in November 2015 was intended to depoliticise statehood and assist in building bipartisan support.74

3.2 Statehood remains the expressed ambition of both the Government and the Opposition. Despite the Chief Minister’s stated assumption that there has been a lack of bipartisan support,75 the Committee believes that there continues to be a strong commitment to Statehood from both sides of politics. Where commitment and bipartisanship has not been strong is to a process for achieving Statehood.76 This is a significant issue as it was the process that was seen to have defeated the 1998 referendum, and it is vital that the process towards Statehood brings Territorians together.

3.3 The process for achieving Statehood was the main subject of the Statehood Steering Committee’s final report following its five years of community consultation. Through the then LCAC, bipartisan support was expressed for that process. There is significant risk in committing to a process, as was demonstrated in 1998, but without such commitment Statehood cannot occur. Despite the bipartisan support for the process recommended by the Statehood Steering Committee in 2010, there was not a bipartisan commitment to implementing the process until the joint press release of 17 June 2011.77 However, this commitment to implementing the process was deferred in November 2011 until after the 2012 election.78 As outlined in this report, LCAC’s proposals to the Government for implementing the Statehood Steering Committee’s recommended process during the 12th Assembly have not received any commitment.

74 see Appendix 13, p.2
75 see Appendices 11 and 13
76 Appendix 14 provides a ‘Summary of Communication on Statehood’ which highlights this issue.
77 Northern Territory Office of Statehood, Media Release: Next Step towards Becoming State 7: Election of Delegates and Convention Dates, Legislative Assembly of the Northern Territory, Darwin NT, 17 June 2011, p.1
3.4 The process to Statehood will undoubtedly affect the form of the new State. Constitutional power to establish a new State and set its terms and conditions is entirely with the Commonwealth. Consent of the people of the Northern Territory, or the Northern Territory Legislative Assembly, is not a constitutional requirement. The political power to define the Territory, however, is with Territorians. Moreover, the consistent message from the Commonwealth has been that it is for the Territory to make the case for establishing a State and its terms and it will respond. Irrespective of the preferred pathway, it is the Committee’s view that progressing Statehood in the 13th Assembly will be largely dependent upon the Government of the day’s preparedness to commit to resourcing and implementing a process that facilitates community involvement in the development of the Territory’s case for Statehood.
Appendix 1: State 7 Constitutional Convention Fact Sheet

State 7 Constitutional Convention Fact Sheet

A Constitutional Convention is needed to write a Constitution for a new State

The NT State 7 Constitutional Convention will be held in two parts

The First Convention will take place on the 21st to 29th of April 2012 at Parliament House in Darwin and at the Darwin Convention Centre

The First Convention will be followed by a community Consultation Period (about twelve months) to consider a First Draft Constitution

The Second Convention will convene in Alice Springs during 2013 to consider the Consultation Period outcomes and ratify a Final Draft Constitution for presentation to the Legislative Assembly

Delegates will be elected to represent Territorians at the Convention

The election of Delegates will take place on 24 March 2012 in conjunction with the Local Government elections

Elected Delegates will attend both Conventions

There will be a total of 75 elected delegates and 50 will have voting rights at any one time

The 50 Voting Delegates will be the first two from each Northern Territory electorate having obtained the most votes. The third Delegate from each electorate will be a Reserve Delegate who will participate during the Conventions but only vote where a Voting Delegate is absent

Appointed Panelists will also attend and advise Delegates at the Conventions. Panelists will participate in all discussions but have no ability to vote

There will be rules about the conduct of the election campaign for people wishing to nominate as delegates. These rules will be underpinned by legislation.

Voting will be compulsory; there will be limits on promotion and advertising

Sitting members of the Legislative Assembly, Senators and Members of the House of Representatives will be ineligible to nominate to be elected as a Delegate

A full set of the rules will be published during 2011

Convention Facts #1 June 2011

www.ntstate7.com.au
Northern Territory Office of Statehood
Toll free: 1800 237 909 Email: statehood@nt.gov.au
Phone: (08) 8946 1437 Fax: (08) 8946 1419
GPO Box 3721, Darwin NT 0801
Appendix 2: Statehood Reference December 2012

Ms. Lia Finocchiaro MLA
Chair
Legal and Constitutional Affairs Committee

Dear Ms. Finocchiaro

In accordance with Standing Order 21B, I refer to the Legal and Constitutional Affairs Committee the options for the Northern Territory to become a State, including:

(a) implementing the recommendations of the former Statehood Steering Committee in its Final Report and Recommendations tabled on 6 December 2010
(b) planning and implementing constitutional conventions and the election of delegates
(c) promoting public understanding of, and participation in, the development of proposals for a constitution for the Northern Territory.

Yours sincerely

JOHN ELFERINK
6/12/2012 11:46
Appendix 3: NTCCC Terms of Reference

On 10 December 2010 the LCAC resolved that:

1. The procedure for calling of meetings of the NTCCC and the conduct of its meetings shall, subject to any direction from the LCAC, be determined by the NTCCC.

2. The NTCCC shall provide minutes of its meetings to the LCAC and provide such other reports and recommendations to the LCAC as it sees fit.

3. The functions of the NTCCC are to provide advice to the LCAC on the implementation of the Statehood program, including:
   a) the issues to be considered at a constitutional convention;
   b) the process for conducting a constitutional convention, including:
      i. the format for sessions and means of deliberation;
      ii. decision making mechanisms;
      iii. the intended outcome of the convention;
      iv. procedural rules;
      v. dispute resolution processes;
   c) The preparation of delegates, including information to be provided prior to the convention.
   d) Any other issues deemed by the NTCCC to be important for the implementation of the Statehood Program.

4. The Chair is the official spokesperson of the NTCCC.
Appendix 4: Letter to Professor George Williams AO

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
12th Assembly
Legal and Constitutional Affairs Committee

Professor George Williams AO
Faculty of Law
University of New South Wales
Sydney NSW 2052

Dear Professor Williams,

Re: NT Constitutional Convention Committee

I am writing to inform you of the referral of the Statehood program to the 12th Assembly’s Legal and Constitutional Affairs Committee and of the Committee’s intention to again invite you to assist it on the establishment of a new NT Constitutional Convention Committee.

On 6 December 2012, the Attorney-General referred to the Legal and Constitutional Affairs Committee the options for the Northern Territory to become a State, including:

a) implementing the recommendations of the former Statehood Steering Committee in its Final Report and Recommendations tabled on 6 December 2010

b) planning and implementing constitutional conventions and the election of delegates

c) promoting public understanding of, and participation in, the development of proposals for a constitution for the Northern Territory.

The Committee is making recommendations to Government regarding dates and funding and it is anticipated that a new NTCCC will be established and convened to meet by the end of March 2013.

Given your involvement on the previous NTCCC and considerable expertise and experience in both constitutional matters and the planning of conventions, the Committee asked that I foreshadow its intention to again seek your assistance.

I trust that you will be able to continue your participation in this important process and will contact you again when the Committee’s reference is extended to allow the establishment of the NTCCC.

Yours sincerely,

Ms Lia Finocchiaro MLA
Chair
14 December 2012

GPO Box 3721, DARWIN NT 0801
Telephone: 08 8946 1485 Facsimile: 08 8941 2567 e-mail: lasco@nt.gov.au
Appendix 5: Cabinet Decision Statehood Program

Mrs Bess Price  
Chair  
Legal and Constitutional Affairs Committee  
GPO Box 3721  
DARWIN NT 0801

Dear Madam Chair

Re: Statehood Program

I am writing to inform you of Cabinet’s decision of 20 March 2013 regarding the Statehood Program which:

a) approved additional funding of $9.6 million per annum for three years from 2013-14 to support the Statehood Office; and

b) directed the Department of the Legislative Assembly to consult with the Department of the Attorney-General and Justice to develop lower cost options for the selection of delegates to Constitutional Conventions, for Cabinet’s consideration.

The Department of the Legislative Assembly’s (DLA) role in relation to the Statehood Program arises from the Attorney-General’s reference to the Legal and Constitutional Affairs Committee. To maintain the DLA’s role as an agency of the Assembly rather than the Government, it is appropriate that the DLA seek direction from the Legal and Constitutional Affairs Committee regarding options to present to the Department of the Attorney-General and Justice.

I therefore ask that, under its reference on Statehood, the Committee consider and advise me on low cost options for the selection of delegates to Constitutional Conventions.

Yours sincerely

KEZIA PURICK
23.4.2013

Legislative Assembly of the Northern Territory  
Parliament House, State Square (GPO Box 3721) Darwin NT 0801  
T (08) 8946 1433  F (08) 8961 3284  la.speaker@nt.gov.au  www.nt.gov.au/lanw/
Appendix 6: Constitutional Convention Delegates

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
12th Assembly
Legal and Constitutional Affairs Committee

The Hon Adam Giles, MLA
Chief Minister
GPO Box 3148
DARWIN NT 0801

Dear Chief Minister

Re: Low Cost Options for Delegates to Constitutional Conventions

At the request of the Speaker, the Legal and Constitutional Affairs Committee is considering lower cost options for the appointment of delegates to constitutional conventions to inform the discussions Cabinet has asked the Department of the Legislative Assembly to enter into with the Department of Attorney-General and Justice.

The Committee is strongly of the view that any mechanism for the appointment of delegates to conventions other than elections would pose a very high risk of failure of the Statehood process. The Committee would therefore like to more closely examine options for lower cost election of delegates. To assist with this process, the Committee would be grateful if you could provide it with a full breakdown of costs associated with the recent General Election.

Yours sincerely

Mrs Bess Price, MLA
Chair
21 May 2013
Cc Minister for Statehood
Speaker
Mrs Bess Price MLA  
Chair  
Legal and Constitutional Affairs Committee  
GPO Box 3721  
DARWIN NT 0801

Dear Chair,

I refer to your letter dated 21 May 2013 requesting a breakdown of costs of the 2012 Legislative Assembly General Election for the purpose of assisting your Committee in the exploration of lower cost options for a Constitutional Convention Election.

Please find attached the requested information as supplied by the Northern Territory Electoral Commission. In supplying this information, however, please also note that the Electoral Commissioner has advised that it may not prove especially instructive in your deliberations due to the numerous and significant legislative and operational differences associated with the two polls. In particular, he has highlighted that each of the polls has its own unique set of service delivery features and the election periods that apply differ greatly.

Bearing this in mind, the Electoral Commissioner has offered to liaise directly on the subject with you or your Committee if you so desire. I would therefore encourage you to take up his offer by either contacting him bill.shepheard@nt.gov.au or by telephone 8999 5000.

I look forward to hearing further from the Committee regarding progress on these matters.

Yours sincerely,

ADAM GILES

26 JUN 2013
### 2012 LEGISLATIVE ASSEMBLY ELECTION COSTS

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Northern Territory Government
MEMORANDUM

TO: Chief Minister
FROM: Electoral Commissioner
DATE: 21 June 2013
CM REF: 
NTEC REF: EX0009

RE: LOW COST OPTIONS FOR DELEGATES TO CONSTITUTIONAL CONVENTIONS

PURPOSE

To provide a brief and letter of response on the abovementioned subject to the Legal and Constitutional Affairs Committee (LCAC).

BACKGROUND

The LCAC is considering lower cost options for the appointment of delegates to constitutional conventions following a Cabinet direction for the Department of the Legislative Assembly to enter into discussions with the Department of Attorney-General and Justice on the subject.

The Committee now wishes to more closely examine options for lower cost elections of delegates and has requested provision of a full breakdown of costs associated with the Legislative Assembly General Election (LAGE) to assist it in this task.

CURRENT SITUATION

The total cost of the LAGE was $2.7m and a breakdown is included as part of the attached response.

The Northern Territory Electoral Commission (NTEC) believes the requested costs alone are unlikely to prove very instructive in the search for low cost options for the Constitutional Convention Election (CCE).

Whilst the LAGE and CCE have some obvious similarities, the events also have numerous legislative and operational differences that need to be fully appreciated for the purposes of the exercise that is about to be undertaken. Of particular note are the substantial variations in the election periods of both events and the unique service delivery features that characterise each of the polls.
Under current legislation, the NTEC estimates that a CCE conducted in the foreseeable future would now cost between $2.5 and $3m, depending on the actual timing of the event.

In this context, the timing of the CCE would also need to be cognisant of the anticipated timing of the subsequent Referendum, as a Referendum does present an opportunity to provide considerable savings, if it could be conducted in conjunction with another Territory-wide poll.

The NTEC believes significant reduction in the cost of holding an election are unlikely to be found by LCAC by employing other options, certainly without massive changes to the current legislation or by holding the CCE in conjunction with the next LAGE (which coincidently is conducted on the same boundaries as the CCE).

The NTEC would advise against the conduct of a conjoint LAGE and CCE because of the number of practical and operational difficulties such a poll would present for election managers, stakeholders and the general public.

The NTEC remains willing and able to assist LCAC in interpreting the requested election costs information or in providing any other relevant assistance that might enhance upcoming discussions and deliberations.

**RECOMMENDATION:**

That you sign and forward the attached letter to the Chair of LCAC.

BILL SHEPHEARD

SIGNED/NOT SIGNED

ADAM GILES
Appendix 7: Revised Statehood Timetable

Dear Chief Minister,

Re: Statehood Program

Thank you for your letter of 26 June and the accompanying advice from the NT Electoral Commissioner regarding lower cost options for the election of convention delegates.

As noted previously, the Committee is firmly of the view that the election of convention delegates as per the recommendations of the Statshood Steering Committee, which were subsequently adopted by the former LCAC and endorsed by the Assembly, is the most appropriate way to progress the Statehood process. The Committee notes that analysis of the 1995 referendum highlighted the appointment of convention delegates by the Government of the day as a major contributing factor in the failure of that process. Given the extensive community consultation that has occurred since, the Committee believes that it would be counterproductive to ignore public sentiment regarding this issue.

Nevertheless, the Committee concurs with the need to minimise costs. The advice from the Electoral Commissioner indicates that whilst there is little scope to reduce the costs associated with the election of convention delegates, considerable cost savings could be achieved by holding the Referendum conjointly with another Territory-wide poll. The Committee considers that the most convenient and cost effective means of implementing the Statehood Program recommended by the Statehood Steering Committee would be by holding the referendum conjointly with 2018 Legislative Assembly General Election. A proposed timetable to do this is at Attachment A.

The Committee recommends that the Government adopt the attached timetable for the Statehood Program and moves that the Assembly empower the Committee to establish a constitutional convention committee on similar terms to that given in the previous Assembly to assist with the implementation. The Committee understands that the Department of the Legislative Assembly is in discussions with the Department of the Attorney-General and Justice regarding presenting the details of this approach to Cabinet.

Yours sincerely,

Mrs Bess Price
Chair
23 August 2013
Cc Minister for Statehood
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<td>Assembly to endorse proposed Constitution</td>
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<td>Referendum (To be held in conjunction with NT General Election)</td>
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Appendix 8: Clarification of LCAC’s Role re Statehood

Appendix 8: Clarification of LCAC’s Role re Statehood

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
12th Assembly
Legal and Constitutional Affairs Committee

Hon Adam Giles, MLA
Chief Minister
GPO Box 5146
DARWIN NT 0801

REF: COMM2012/00015.47

Dear Chief Minister

Re: Statehood

The Legal and Constitutional Affairs Committee today resolved that I write to you to seek clarification of the Government’s intentions for progressing Statehood and the Committee’s role under its Statehood reference.

Under the reference from the Attorney-General of 6 December 2012, the Committee was charged with:

(a) implementing the recommendations of the former Statehood Steering Committee in its Final Report and Recommendations tabled on 6 December 2010;

(b) planning and implementing constitutional conventions and the election of delegates; and

(c) promoting public understanding of, and participation in, the development of proposals for a constitution for the Northern Territory.

As noted in the then Chair’s letter of 23 August 2013, the Committee remains of the view that public participation is key to the success of any Statehood program and that this is best achieved through the implementation of the Statehood Steering Committee’s recommendations. The Committee is also of the view that this should be done cost effectively, so has agreed to delay the establishment of the Office of Statehood to assist it in this role until funding to implement the program has been approved.

The Committee therefore seeks your advice regarding whether it is the Government’s intention to proceed with the recommendations of the Statehood Steering Committee and fund the holding of an election and conventions accordingly, or what other role the Government envisages for the Committee to progress Statehood for the Territory.

Yours sincerely

[Signature]

Ms Larisa Lee
Chair
13 February 2014

Cc: Minister for Statehood

GPO Box 3721, DARWIN NT 0801
Telephone: 08 8946 1495  Facsimile: 08 8941 2567  e-mail: lcac@nt.gov.au
Ms Larisa Lee MLA
Chair
Legal and Constitutional Affairs Committee
Legislative Assembly of the Northern Territory
GPO Box 3721
DARWIN NT 0801

Dear Ms Lee,

Thank you for your letter dated 13 February 2014 concerning Statehood.

The program for moving toward Statehood is currently under review noting that Statehood is proposed to be discussed at the next meeting of the Council of Australian Governments. That meeting is now expected to occur in May 2014.

The respective statehood roles of the Statehood Steering Committee and government agencies are being re-assessed as part of this review. I should be in a position to provide more detailed information about both roles and the program to the Legal and Constitutional Affairs Committee after Government’s consideration, in the coming months, of the various issues.

In the meantime I note that the Committee has published a draft Constitution. This document will also be considered by the Government. Please pass on to the Committee my appreciation for this document.

Yours sincerely,

ADAM GILES
- 9 MAR 2014
Appendix 8: Clarification of LCAC’s Role re Statehood

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
12th Assembly
Legal and Constitutional Affairs Committee

The Hon. Adam Giles, MLA
Chief Minister
GPO Box 3146
DARWIN NT 0801

Dear Chief Minister,

Re: Statehood

Thank you for your letter of 9 March 2014 regarding the program for moving toward Statehood.

At its meeting of 19 March, the Legal and Constitutional Affairs Committee considered your response and resolved that I write to you to seek clarification regarding:

- which department is undertaking the review of Statehood and the process for this review;
- whether this review is taking into consideration the work previously completed by the Legal and Constitutional Affairs Committee, the Statehood Steering Committee and the NT Constitutional Convention Committee; and
- the role of the Council of Australian Governments in the Statehood Process.

Please feel free to contact me to discuss further if necessary.

Yours sincerely,

Ms Larisa Lee
Chair
20 March 2014
Cc Minister for Statehood
Mr Nathan Barratt MLA  
Chair  
Legal and Constitutional Affairs Committee  
Legislative Assembly of the Northern Territory  
GPO Box 3721  
DARWIN NT 0801

Dear Mr Barratt

The previous Chair of the Legal and Constitutional Affairs Committee wrote on 20 March 2014 requesting clarification on my letter of 9 March 2014 regarding the program for moving towards statehood.

Statehood is a matter still under consideration by Government and I will advise the Committee accordingly once deliberations are finalised. The advice, which has drawn from the previous work of the Committee and other involved parties, has been prepared by the Department of the Attorney-General and Justice in consultation with the Department of the Chief Minister and officers in the Department of the Legislative Assembly and the Northern Territory Electoral Commission.

Yours sincerely,

ADAM GILES

cc The Hon Bess Price MLA, Minister for Statehood

14 JUL 2014
Appendix 9: Statehood Budget 2015-16

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
12th Assembly
Legal and Constitutional Affairs Committee
REF: COMM2012/00015.62

Hon Adam Giles, MLA
Chief Minister
GPO Box 3146
DARWIN NT 0801

Dear Chief Minister

Re: Statehood

Thank you for your letter of 14 July 2014 regarding Government’s consideration of the Statehood Program.

Since the Committee is currently considering its work program for 2015, at its meeting of 20 August the Committee resolved that I write to you to determine whether or not the Statehood Program will be included in the 2015-16 budget. This will guide us as to the issues we would address in this committee.

Please feel free to contact me to discuss further if necessary.

Yours sincerely

Mr Nathan Barrett MLA
Chair
21 August 2014
Cc Minister for Statehood
Appendix 10: Achieving Statehood

Dear Chief Minister

Re: Achieving Statehood

I welcome the Council of Australian Governments’ expression of support for your target of achieving Statehood by July 2018. I also concur with your reported views that it is important to talk with all parties and Territorians on the way forward with this crucial step.

As you are aware, the Assembly’s Legal and Constitutional Affairs Committee (LCAC) has a current reference from the Attorney-General on “the options for the Northern Territory to become a State,” and the Department of the Legislative Assembly has funding for an Office of Statehood. The LCAC had advised the Department to defer the establishment of that office pending advice from the Government on how it wished to advance the Statehood agenda.

The LCAC has long provided a vital role in advancing Statehood issues in a non-partisan forum. The LCAC has previously guided the Statehood Steering Committee in exploring community views on the way forward with Statehood and then managed the Northern Territory Constitutional Convention Committee in implementing the then agreed plans for constitutional conventions with elected delegates.

I understand from your public statements that the path to achieving Statehood by 2018 is under review. The 1999 report on Appropriate Measures to Facilitate Statehood and the 2011 Final Report of the Statehood Steering Committee note the centrality of public engagement to effectively achieve Statehood. I consider that the LCAC remains best placed to facilitate cross party support and public participation in shaping Statehood for the Northern Territory.
I therefore encourage you and the Minister for Statehood to meet with the Legal and Constitutional Affairs Committee to discuss the path to Statehood.

Yours sincerely

Hon Kezia Purick MLA
Speaker

// August 2015

Cc Chair of LCAC
Minister for Statehood

ENDORSED / NOT ENDORSED

ADAM GILES
Chief Minister
24 AUG 2015
The Honourable Kezia Purick MLA  
Speaker of the Legislative Assembly  
GPO Box 3721  
DARWIN NT 0801

Dear Madam Speaker,

I was very pleased to receive your recent letter titled “Achieving Statehood” and the very detailed information you provided on the role of the Assembly’s Legal and Constitutional Affairs Committee (LCAC).

At this stage, I have several process matters to deal with but would be very happy to have a telephone chat and keep you updated as there is much work to be done over the next three years commencing with a participation process that includes all Territorians.

To enable us to chat at the earliest available opportunity, Leanne Lewis in my office can be contacted on 8928 6501 and a suitable time arranged.

Yours sincerely,

ADAM GILES
24 AUG 2015
Appendix 11: Progressing Statehood

Mr Nathan Barrett MLA
Chair
Legal and Constitutional Affairs Committee
GPO Box 3721
DARWIN NT 0801

Dear Mr Barrett,

You may be aware that Statehood was discussed at the recent Leader’s Retreat in Sydney on 22 July 2015. At the meeting Leaders supported my resolve for the Northern Territory to become Australia’s seventh state by 1 July 2018.

I subsequently met with the Leader of the Opposition on 13th of August and briefed him on the meeting. I am now awaiting comment back from Mr Gunner.

I will let you know the outcome of our deliberations.

Yours sincerely,

ADAM GILES

25 AUG 2015
Hon Adam Giles, MLA
Chief Minister
Legislative Assembly of the Northern Territory
GPO Box 3146
Darwin NT 0801

Dear Chief Minister

Re: Progressing Statehood

Thank you for your letter of 25 August 2015 regarding your briefing of the Leader of the Opposition on progressing Statehood as discussed at the recent Leader’s Retreat in Sydney on 22 July 2015.

At its meeting of 17 September 2015 the Committee was advised that the Leader of the Opposition has since provided you his comments on the briefing. As such, the Committee resolved that I write to you to ascertain the outcomes of your deliberations and whether or not the role of the LCAC in progressing Statehood was discussed.

Please feel free to contact me to discuss further if necessary.

Yours sincerely

[Signature]

Mr Nathan Barrett MLA
Chair
17 September 2015
Cc Minister for Statehood

GPO Box 3721, Darwin NT 0801
Telephone: 08 8946 1466  Facsimile: 08 8941 2567  e-mail: lcac@nt.gov.au
Appendix 11: Progressing Statehood

CHIEF MINISTER

Parliament House
Smith Square
Darwin NT 0800
c.m Minister@nt.gov.au

GPO Box 3146
Darwin NT 0801
Telephone: 08 8928 6500
Facsimile: 08 8928 6577

Mr Nathan Barrett MLA
Chair
Legal and Constitutional Affairs Committee
GPO Box 3721
DARWIN NT 0801

Dear Mr Barrett,

Thank you for your letter dated 17 September 2015 in which you advise the Committee was advised that the Leader of the Opposition has provided his comments to me on a Statehood briefing that I provided to him on 13 August 2015.

Regrettfully you are ill-informed. I have received no comments from Mr Gunner, either in writing or verbally and I can only assume that the Leader of the Opposition doesn’t care about this issue of importance to the Northern Territory.

Rest assured that this Country Liberals Government will progress Statehood, with or without the support of the Opposition.

Yours sincerely,

ADAM GILES

I don’t believe Labor care about Statehood.

14 OCT 2015

Received Committee.

53
Mr Nathan Barrett MLA  
Chair  
Legal and Constitutional Affairs Committee  
GPO Box 3721  
DARWIN NT

Dear Mr Barrett,

You will recall I wrote to you recently advising that the Leader of the Opposition had not provided me with his comments on a Statehood briefing that I had provided to him on 13 August 2015. This was to correct misinformation that had been provided to your committee.

Mr Gunner has still not provided me with any comment in relation to his support for the Statehood agenda. In light of what I can only assume is a lack of bi-partisan support by Labor for this issue of vital importance to the Territory I have decided to refer the issue of Statehood to the Legal and Constitutional Affairs Committee for the committee to progress.

As I stated in my previous letter, this Country Liberals Government will progress Statehood, with or without the support of the Opposition and to this end I will continue to seek the support of the Prime Minister and other members of COAG.

My department had undertaken quite a bit of work in the background in the event bi-partisan support was gained and are ready to brief your committee should you so desire.

Yours sincerely,

ADAM GILES

10 NOV 2015
Mr Adam Giles MLA
Chief Minister of the Northern Territory
GPO Box 3146
Darwin NT 0801

Dear Chief Minister

At our meeting on 13 August 2015 I provided my comments on Statehood, and my thoughts on how we needed to proceed - that a pathway needed to be devised that saw this driven by the community and not politicians.

The Labor Party supports Statehood for the Northern Territory. Our concerns remain that the decision to recommence the drive for Statehood was driven by a political agenda.

It is critical that politics are taken out of Statehood, it must be driven by a community owned process and I am awaiting your advice on how the Government intends to proceed following our conversation.

Yours sincerely

Michael Gunner
Appendix 12: New Statehood Reference

The Hon Nathan Barrett MLA
Chair
Legal and Constitutional Affairs Committee
Parliament House
GPO Box 3721
DARWIN NT 0801

Dear Mr Barrett

In accordance with Standing Order 178(1)(a), I:

1. revoke my referral dated 6 December 2014 concerning options for the Northern Territory of Australia becoming a state; and

2. refer to the Legal and Constitutional Affairs Committee the following:

   (a) Advise on options for a robust community engagement strategy to build and demonstrate popular support of Territorians for statehood, giving consideration for all options for consultation, including but not limited to:

      i. Northern Territory referendum;

      ii. Constitutional Convention;

      iii. survey/mock referendum;

      iv. community engagement sessions/roadshows;

      v. community governance structures e.g. statehood champions and advisory panels;

      vi. community involvement in the development of a contemporary Constitution for the new state of the Northern Territory;

      vii. creative and interactive campaigns, events and competitions e.g. name and flag for the new state, commemoration events or concerts etc;

      viii. school-based engagement and youth engagement;

Northern Territory Government
ix. digital engagement through and interactive website and social media;
x. public awareness campaign – narrative and myth busting; and
xi. targeted Indigenous engagement strategy – land rights and constitutional recognition.

(b) Develop implementation stages and timeframes for the community engagement strategy, having regard to the legislative pathway to statehood and the aim of achieving statehood by 1 July 2018.

(c) Hold an inquiry into the issue of federal political representation for the Northern Territory upon becoming a state and develop options for an appropriate mechanism to increase representation over time, with the ultimate goal of equal representation with the original states.

Yours sincerely

[Signature]

JOHN ELFERINK

23/10

23/11
The Hon John Efferink MLA  
Attorney-General  
Legislative Assembly of the Northern Territory  
GPO Box 3146  
DARWIN NT 0801  

Dear Attorney  

Re: Statehood Reference  

Thank you for your letter of 3 March 2016 regarding the Committee’s Statehood Reference.  

The Committee considered your letter at its meeting of 17 March 2016 and welcomes any opportunity to assist in progress towards Statehood for the Northern Territory.  

The Committee was guided in its consideration by the House of Representatives Practice, which states that  

When a matter is referred to a committee, the committee normally formally resolves to accept the reference. It has been considered that, although a Minister may refer a matter to a committee, a Minister is not able to withdraw a reference from a committee. (6th edn 2012, p.635)  

The Committee is of the view that there is insufficient time for a robust inquiry process to report to the Assembly by the last full sitting week of the Legislative Assembly in May 2016.  

The December 2010 report of the Statehood Steering Committee, following five years of consultation around the Northern Territory advised on options for a robust community engagement strategy. This strategy received bi-partisan support from the Legislative Assembly. The February 2012 report of the then Legal and Constitutional Affairs Committee provided a detailed plan for the implementation of the strategy. The Committee has since provided further advice on adapted timeframes and options for the implementation of that strategy.
The Committee has therefore resolved that, in reporting on your earlier reference, it will have regard to the issues raised in your letter as far as practicable.

Should you wish to discuss the matter further, please do not hesitate to contact me.

Yours sincerely

Mr Willem Westra van Holthe, MLA
Chair

17 March 2016

cc  Minister for Statehood, Hon Bess Price MLA
    Chief Minister, Hon Adam Giles MLA
Mr Willem Westra Van Holthe MLA
Chair
Legal and Constitutional Affairs Committee
Northern Territory Legislative Assembly
GPO Box 3721
DARWIN NT 0801

Dear Mr Westra Van Holthe,

I refer to your letter to the Attorney-General, the Hon John Elferink MLA, on 17 March 2016 regarding his latest statehood reference for the Legal and Constitutional Affairs Committee.

As you would be aware, the Northern Territory has been pursuing action on statehood through the Council of Australian Governments and bilaterally with the Commonwealth. Because of the importance of the intergovernmental relations aspect, I am taking an active role in driving the statehood bid alongside the Minister for Statehood.

However, the Committee also has a very important role to play in building bipartisan support for statehood in the Northern Territory, which has always been an important issue for many successive governments.

I can appreciate that the Committee is limited in its ability to address the new terms of reference provided by the Attorney-General in this term of the Legislative Assembly. However, it may be useful if my Department provides you, in your capacity as Chair of the Committee, with a briefing on current statehood activity. This will give you some context on the new terms of reference and could assist in shaping the Committee’s report to the Legislative Assembly in May 2016. The Committee’s report can play a role in ensuring we maintain momentum for the statehood bid.

If you would like to be briefed by my Department, Mr John Coleman, Chief Executive Officer, can work with you to arrange a suitable time.

Yours sincerely,

ADAM GILES
11 APR 2016
Appendix 13: Briefing on Northern Territory Statehood

Legal and Constitutional Affairs Committee
Northern Territory General Assembly
GPO BOX 3721
DARWIN NT 0801

Dear Committee Members

RE: BRIEFING ON NORTHERN TERRITORY STATEHOOD

The Chief Minister wrote to the current Chair of the Legal and Constitutional Affairs Committee, Mr Willem Westra van Holthe MLA, on 11 April 2016, offering a briefing on statehood from the Department of the Chief Minister.

The intention of this briefing was to provide some context around the revised terms of reference provided to the Committee by the Attorney-General, the Hon John Elferink MLA, on 3 March 2016 and address some of the concerns raised by the Chair in his response to the Attorney-General on 17 March 2016.

Given the tight constraints before the Committee is due to report to the Legislative Assembly and the logistics in bringing the Committee members together, I am providing a written briefing to all Committee members instead, which I have attached. I trust this briefing will be helpful to the Committee in finalising its report to the Legislative Assembly.

Should you require any further information about this briefing, Ms Sibylle Brautigam, Executive Director, Strategic and Federal Policy will be able to assist your secretariat. She can be contacted on (08) 8999 6390 or sibylle.brautigam@nt.gov.au.

Yours sincerely

[Signature]

John Coleman

† May 2016
MEMORANDUM

TO: LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE
FROM: CHIEF EXECUTIVE OFFICER
RE: BRIEFING NOTES ON CURRENT STATEHOOD ACTIVITY

- Since the update DCM provided to the Legal and Constitutional Affairs Committee (LCAC) in December 2015, the majority of statehood activity has been focused on negotiation through the Council of Australian Governments (COAG) and bilaterally with the Commonwealth Government.

- Because of the intergovernmental relations aspect and the Chief Minister’s interest in the issue, DCM is taking an active role in driving the statehood bid, working with the Department of the Attorney-General and Justice.

Recent COAG activity
- At the COAG Leaders’ Retreat in July 2015 all leaders supported the Northern Territory’s resolve to become Australia’s seventh state by 1 July 2016.

- Statehood was not discussed in any detail at the 11 December 2015 COAG meeting. COAG requested a joint report from the NT and the Commonwealth at its next meeting.

- At the 1 April 2016 COAG meeting, leaders welcomed the Chief Minister’s update on statehood and noted the Northern Territory would bring forward a proposal to the next COAG meeting.

- The other states and territories support the process the Northern Territory is undertaking.

Commonwealth Engagement
- There is currently no outright support from the Commonwealth for the statehood bid, and it is reluctant to engage on the issue until:
  - there is popular and bipartisan support from Territorians for statehood
  - the Northern Territory can present a firm case for its preferred statehood model.

- This is consistent with the Commonwealth’s historical approach to statehood.

- The Northern Territory is in a bit of a “catch-22” situation, because it needs to present a statehood model that both Territorians and the Commonwealth can support.

- It will be difficult to engage with Territorians on a statehood model without some initial discussions with the Commonwealth to develop a shared understanding of the key issues and options surrounding a grant of statehood.

- The Northern Territory needs to work unilaterally to build its case in the lead-up to the next COAG meeting.

- Both the Northern Territory and the Commonwealth will be in a better position to engage more fully with statehood following our respective elections.

Need for bipartisan support
- Demonstrating bipartisan support is a critical success factor for the statehood bid overall, and helping to unlock the Commonwealth’s resistance to engage.
Appendix 13: Briefing on Northern Territory Statehood

- LCAC has an important role to play in both the short and long-term in building, demonstrating and maintaining bipartisan support.
  - In the short-term, in-principle support from LCAC members for the statehood bid will help maintain public momentum on statehood and keep the option open for the next Northern Territory Government to pursue statehood at the next COAG meeting, regardless of the outcome of the 2016 Northern Territory General Elections.
  - In the longer term, the LCAC has an important role to play in planning and executing community engagement on statehood.

- The Chief Minister’s letter referring statehood to the LCAC in November 2015 was intended to depoliticise statehood and assist in building bipartisan support. (Attachment A) (see Appendix 11)
- Since then the Leader of the Opposition has confirmed his support for statehood, on the condition that the issue is depoliticised and is driven by a community-owned process. (Attachment B). (see Appendix 11)

New Terms of Reference for the LCAC

- Following the Chief Minister’s letter in November 2015, the Attorney-General formally referred new terms of reference on statehood to the LCAC on 3 March 2016 (Attachment C). (see Appendix 12)

- In his letter on 17 March 2016, the Chair of the LCAC, Mr Willem Westra van Holthe MLA, expressed some concerns about the new terms of reference (Attachment D), including: (see Appendix 12)
  - the previous terms of reference from 2012 cannot be revoked
  - there is not enough time for the LCAC to hold a robust inquiry into political representation before the last full sitting week of the Legislative Assembly in May 2016
  - the LCAC previously developed a detailed community engagement strategy as part of its broader work holding a Constitutional Convention, which received bipartisan support.

- DCM acknowledges these concerns and the challenges in the timing of the referral. It does not consider LCAC’s inability to address the new terms of reference fully in this term of the Legislative Assembly to be a risk to the statehood bid.

- DCM recognises the extensive work LCAC has previously undertaken on Constitutional Conventions and community engagement in 2012.

- There is an opportunity to build on this work, and the rationale behind the new terms of reference was:
  - to supplement the previous terms of reference and provide some context and scope for the LCAC to work with that reflects changes in the political context of statehood over the past four years
  - there has been a particular focus in COAG discussions on statehood on federal political representation. Advice from the LCAC would support negotiation with the Commonwealth and the states and territories through early engagement with this difficult issue.
  - the terms of reference would provide an opportunity for a fresh look at broad community engagement options since the aborted Constitutional Convention in 2012.

- Some important reasons for revisiting broad options for community engagement include:
  - the current statehood bid is at a different stage of maturity to the previous bid. Some of the initial groundwork in raising community awareness may need to be repeated, and implementation planning for that awareness raising will be required.
  - There is an opportunity to take advantage of significant changes in mainstream and social media usage patterns, digital technologies and engagement strategies since 2012.
  - Constitutional Conventions present significant costs and risks, including politicisation and logistical challenges in coordinating with other electoral activities within limited windows of opportunity. These costs and risks need to be managed appropriately, particularly when all governments are now operating in an environment of greater budget restraint.
Possible next steps

- LCAC's final report in this term of the Legislative Assembly can play a role in maintaining momentum for statehood. This might include:
  - demonstrating in-principle bipartisan support for statehood
  - identifying next steps for any statehood activity undertaken by LCAC in the next term of the legislative assembly, including:
    - identifying the time and resources required for any future inquiry into political representation and work on a community engagement strategy
    - providing a reference point for previous work that should be reconsidered in terms of community engagement.
- If statehood remains on the agenda for the NT Government following the Northern Territory General Elections, it is likely that LCAC will resume this work on community engagement, and an inquiry into political representation.

JOHN COLEMAN
CHIEF EXECUTIVE
13 MAY 2016
# Appendix 14: Summary of Communication on Statehood

<table>
<thead>
<tr>
<th>Year</th>
<th>Month</th>
<th>Committee</th>
<th>Government</th>
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<tbody>
<tr>
<td>2012</td>
<td>D</td>
<td>DLA</td>
<td>DLA advised of funding for NTCCC and requested to submit Cabinet Submission in Feb</td>
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<td>Provision of Statehood Reference to LCAC</td>
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<td>J</td>
<td>DLA (LCAC endorsed)</td>
<td>Budget Cabinet Submission</td>
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<td>DLA (LCAC endorsed)</td>
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<td>M</td>
<td>DLA (LCAC endorsed)</td>
<td>Cabinet Submission on revised Statehood Program</td>
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<td>2013</td>
<td>A</td>
<td>Advised funding approved for Statehood Office, DLA to liaise with DAGJ on lower cost options for selection of constitutional convention delegates</td>
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<td></td>
<td>M</td>
<td>Sought details of 2012 NT General Election costs</td>
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<td></td>
<td>J</td>
<td>Details of 2012 NT Election costs and advice from NT Electoral Commissioner</td>
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<td>Recommended Gov’t adopt revised Statehood Program with cost saving measures and empower LCAC to appoint NTCCC</td>
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<td>DLA (LCAC endorsed)</td>
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<td>2014</td>
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<td>Clarification sought re LCAC’s role given lack of response on revised Statehood program</td>
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<td>Advised Statehood program under review and to be discussed at May COAG meeting</td>
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<td>Advised DAGJ undertaking review. LCAC to be advised once deliberations finalised</td>
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<td>Advice sought re inclusion of Statehood Program in 2015-16 Budget</td>
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<td>Advised of COAG support for Gov’t resolve to achieve Statehood by 1 July 2018. LCAC to be advised after feedback from Opposition</td>
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<td>Update requested following advice Leader of the Opposition had provided feedback to Gov’t</td>
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<td>Advised feedback not yet received</td>
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<td>Advised of decision to refer Statehood to LCAC to progress. Offer of briefing from DCM</td>
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<td>LCAC briefed by DCM</td>
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<td>Provision of written update from DCM</td>
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