

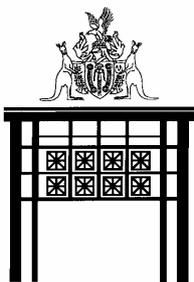
LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Standing Committee on Legal and Constitutional Affairs

Annual Report

1 July 2007 — 30 June 2008

Report deemed as
a Tabled Paper in
the Legislative
Assembly, on
27 November 2008



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Standing Committee on Legal and Constitutional Affairs

Annual Report

1 July 2007 — 30 June 2008

Members of the Committee

Membership of the Committee as at 30 June 2008

Ms Malarndirri McCarthy, MLA, Member for Arnhem - Chair

Mrs Loraine Braham, MLA, Member for Braitling

Mr James Burke, MLA, Member for Brennan

Mr Karl Hampton, MLA, Member for Stuart (from 12 February 2008)

Mrs Fay Miller, MLA, Member for Katherine

Mr Terry Mills, MLA, Member for Blain

Previous Membership

The Hon Len Kiely, MLA, Member for Sanderson (to 12 February 2008)

Committee Staff

Ms Pat Hancock - Secretary

Ms Jan Whitehead - Research Officer

Mrs Kellie Trout - Administration Officer

Ms Kim Cowcher - Committee Support Assistant

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CHAIR'S STATEMENT

In accordance with Standing Order 21B of the Legislative Assembly's Standing Orders, I have pleasure in reporting to the Assembly the activities of the Standing Committee on Legal and Constitutional Affairs for the financial year ended 30 June 2008.



During the year the Committee has focussed on the ongoing work of the Statehood Steering Committee as well as an investigation into the background to and implications of the recognition of Aboriginal Customary Law as a source of law in the Northern Territory. An inquiry into this had been commenced by an earlier Standing Committee but had lapsed upon prorogation. On 30 January 2007 the then Attorney-General, Hon Syd Stirling, MLA, wrote to the Committee requesting that it again take on board this issue.

As few of the Members were part of the Standing Committee during the earlier inquiry, the initial process was to look into the background and evidence previously taken. There was also valuable work undertaken on Customary Law by the Sessional Committee on Constitutional Development which operated from 1989 to 1997, culminating in a discussion paper on recognition of Customary Law which was released in 1992. The issue was debated at length during the 1998 Constitutional Convention. Of relevance also was the discussions at the 1998 Kalkaringi and Bachelor Indigenous Constitutional Conventions which developed, then subsequently endorsed, the Kalkaringi Statement. In 2006 the Law Reform Commission of Western Australia released a report of its inquiry into customary law and this also is relevant to this Committee's inquiry. In short the Committee considered that it was essential, as a first step, to look at all the background material.

It is intended that the collation of all these papers and evidence received will be tabled in the Legislative Assembly next year.

In January the Executive Officer to the Statehood Steering Committee resigned, followed soon after by the Co-Chair of the body, which meant that I needed to focus my efforts, and those of the other Standing Committee appointees to the Steering Committee, to ensure the valuable work of that body did not stall. I am most appreciative of my fellow Members to the Steering Committee, Mr Terry Mills, MLA, Mrs Loraine Braham, MLA (until 18 February) and Mr Karl Hampton (from 18 February), as well as the other Standing Committee Members, Mr James Burke, MLA, Mr Len Kiely, MLA and Mrs Fay Miller, MLA for their assistance in this matter.

As a result we were able to undertake the necessary strategic planning to ensure the Steering Committee was well placed to proceed with the next phase of its work once the new Co-Chair and staffing were in place.

Finally I extend my thanks to all Members and staff of the Standing Committee who have worked so well as a team during the past twelve months. I appreciate your support.

Malarndirri McCarthy
Chair

1. INTRODUCTION

Establishment of Committee

On 20 August 1998 the Legislative Assembly of the Northern Territory, by resolution, established the Standing Committee of Legal and Constitutional Affairs under Standing Order 21B to inquire, report and make recommendations upon such constitutional and legal matters as may be referred to it by the Attorney-General; or by resolution of the Assembly.

Following the general election held in August 2001, the Legislative Assembly reconstituted the Standing Committee on 16 October 2001 and again on 29 June 2005 at the commencement of the 10th Assembly.

Additional Terms of Reference

On 29 June 2005 the Legislative Assembly resolved to enhance the Standing Committee's role and function in providing the following additional Terms of Reference:

The Standing Committee on Legal and Constitutional Affairs shall:

1. Inquire, consider, make recommendations and report to the Assembly from time to time on:
 - a) any matter concerned with legal or constitutional issues, including law reform, parliamentary reform, administrative law, legislative review and intergovernmental relations;
 - b) the legal or constitutional relationship between the Northern Territory and Commonwealth;
 - c) any proposed changes to that legal or constitutional relationship, including the admission of the Northern Territory as a new state of the Commonwealth; or
 - d) any proposed changes to the Commonwealth Constitution that may affect the Northern Territory and/or its residents.
2. With the approval of the Attorney-General, any other matter concerning the relationship between the Northern Territory and the Commonwealth and/or the states in the Australian Federation.
3. Meets with any other state or Commonwealth parliamentary committees to inquire into matters of mutual concern; and
4. The Northern Territory Statehood Steering Committee continues in existence with the same membership and terms of reference adopted by the 9th Assembly on 17 August 2004 and as amended on 24 March 2005.
5. Resolutions or business transacted by the previous Legal and Constitutional Affairs Committee are taken to be the resolutions of this committee unless otherwise amended; and
6. The Committee shall report to the Assembly as soon as possible after 30 June each year on its activities during the preceding financial year.

Statehood Steering Committee Terms of Reference

As well as the responsibilities and authorities given to the Standing Committee by the above Terms of Reference, the establishment of the Statehood Steering Committee on 17 August 2004 provided the Standing Committee with additional responsibilities in relation to the work of that body. The role of the Statehood Steering Committee is that of an advisory body to the Standing Committee, while undertaking the additional role of “promoting the awareness of Statehood and constitutional development to the Northern Territory Community”¹.

A copy of the Terms of Reference of the Steering Committee is at Appendix 1.

Membership of the Committee

Committee Membership as at 30 June 2008



Ms Malarndirri McCarthy, MLA - Chair

Australian Labor Party
Member for Arnhem
First elected: 18 June 2005

Parliamentary Position: Deputy Chairman of Committees

Committee Membership:

Appointed 16 August 2005
Appointed Chairperson - 10 October 2006



Mrs Loraine Braham, MLA

Independent
Member for Braiiling
First Elected: 4 June 1994

Parliamentary Position: ---

Committee Membership:

Appointed 29 June 2005



Mr James Burke, MLA

Australian Labor Party
Member for Brennan
First elected: 18 June 2005

Parliamentary Position: Deputy Chairman of Committees

Committee Membership:

Appointed 16 August 2005



Mr Karl Hampton, MLA

Australian Labor Party
Member for Stuart
First Elected: 23 September 2006

Parliamentary Position: ---

Committee Membership:

Appointed 18 February 2008

¹ Clause 3(d) of the Statehood Steering Committee’s Terms of Reference



Mrs Fay Miller, MLA
Country Liberal Party
Member for Katherine
First elected: 4 October 2003

Parliamentary Position: Deputy Leader of the Opposition

Committee Membership:
Appointed 29 June 2005



Mr Terry K Mills, MLA
Country Liberal Party
Member for Blain
First Elected: 31 July 1999

Parliamentary Position: Leader of the Opposition

Committee Membership:
Appointed 10 August 1999

Functions of the Committee

The Committee derives its authority from the *Northern Territory (Self Government) Act 1978 (Cth)*, the *Legislative Assembly (Powers and Privileges) Act* and the *Standing Orders* of the Legislative Assembly.

Under its Terms of Reference the Committee has power to appoint sub-committees and to refer to any such sub-committee any matter that it is empowered to examine. Three members constitute a quorum of the Committee and three members constitute a quorum of a sub-committee.

The Committee or any sub-committee also has the power to:

- (a) send for persons, papers and records;
- (b) to adjourn from place to place;
- (c) to meet and transact business in public or private session;
- (d) to sit during any adjournment of the Assembly;
- (e) print from day to day such papers and evidence as may be ordered by it; and
- (f) unless otherwise ordered by the Committee, a daily *Hansard* shall be published of such proceedings of the Committee as they take place in public.

Sub-Committees

The Committee has the power to establish sub-committees, although to date none have been established.

Hearings and Meetings

Meetings of the Committee usually follow one of the following formats:

Public Hearings

Hearings are open to the public, including the media. The media may report any public session of the Committee, unless otherwise ordered by the Committee. Submissions to the Committee can be in written form or presented orally.

The Committee may also authorise the televising of the hearings under such rules as the Speaker of the Legislative Assembly may consider. Transcripts of the proceedings are produced by *Hansard*.

Deliberative Meetings

Deliberative meetings are private meetings of the Committee where confidential matters and the proceedings of the Committee may be discussed, together with general administrative business. Deliberative meetings are minuted but are not transcribed by *Hansard* and made public.

Official Briefings

Briefings are generally not open to the public and are usually of a confidential nature. These may go before, during or after a public hearing and are used in gathering general background information and established policy and programs by the Committee. These are recorded and it is the prerogative of the Committee to decide if the transcripts of these are made public or not, based upon the nature of the material discussed,.

Taking of Evidence

Like all parliamentary committees, the Committee's effectiveness is largely reliant on the type and quality of information developed, gathered or submitted during its deliberations.

The source and content of information received by the Committee, in written and oral submissions, can be of a professional and specialist nature on specific subjects, or the promotion and presentation of particular attitudes, trends and ideas. Generally, evidence taken from written submissions or at oral hearings will be made public in support of the Committee's findings. However evidence may be deemed to be *in camera* if it is of a sensitive, personal or confidential manner.

2. COMMITTEE PROGRAM

General Overview

The work of the Committee has centred around its references arising from first, the Terms of Reference establishing the Statehood Steering Committee and second, from the Attorney-General in relation to the recognition of Aboriginal Customary Law as a source of law in the Northern Territory.

Reference on a Grant of Statehood

On 18 June 2003 the then Chief Minister referred to the Standing Committee the Northern Territory Government's recommitment to the achievement of statehood under certain conditions, including that the process would be community driven. In February 2004 the Standing Committee resolved that a committee be established consisting of members of the Standing Committee as well as representatives of major stakeholders and others from around the Northern Territory, to advise and assist the Standing Committee in the

achievement of a grant of Statehood. In August 2004 the Legislative Assembly endorsed the Terms of Reference developed by the Standing Committee for such a body and authorised that it appoint members to the body.

While the Statehood Steering Committee operates as an independent body to the Standing Committee, its purpose is to provide an advisory role to the Standing Committee on constitutional development and related matters, as well as promoting knowledge and awareness of Statehood in the community. As such the work of the Standing Committee during the year has been closely linked to the program of development identified by the Steering Committee and in overseeing the operations of that body.

Customary Law Reference

The Committee continued with its inquiry on the recognition of customary law as a source of law in the Northern Territory, as provided by a reference from the Attorney-General during the previous year. This matter arose from a recommendation by the 2003 Northern Territory Law Reform Committee's inquiry into Aboriginal Customary Law.

Late in the year a researcher was engaged to research and review the body of evidence provided to previous committees in relation to constitutional development, with a view to the Committee reporting on this to the Legislative Assembly early in 2008-09. It is envisaged that this report will also identify options for further addressing the issue of recognition of customary law.

Both of these programs are continuing as at the end of the financial year.

Meetings of the Committee

During the year the Committee met a total of seven times. Of these, two were Official Briefings and five were Deliberative Meetings. All meetings were held in Darwin.

A summary of Deliberative Meetings held during the year is at Appendix 2.

Administration And Staffing

The Committee Secretariat is staffed by:

- 1 x Secretary (AO8) – permanent fulltime
- 1 x Research/Administrative Assistant (AO4) – permanent
- 1 x Committee Support Assistant (AO1) – permanent part-time (shared resource with other committees)

The Secretary also has responsibility for two other fulltime committees and therefore is required to allocate time and resources to each of the three committees on the basis of relative priorities.

In 2005 in relation to the rationale for supporting an expanded committee system, it was agreed that additional staff would be engaged on a contractual or secondment basis when a specific need was identified.

On this basis a Research Officer was employed at the AO7 level in May to undertake the groundwork for the customary law inquiry. The initial tenure was for 3 months; however the intention at the end of the financial year was to extend this to allow for the completion of the project.

Unit Objective

The Unit's objective is to provide a high level of secretariat support to the Standing Committee to allow it to fully engage with the community and to fulfil the Terms of Reference as provided by the Legislative Assembly.

It is required to provide timely and accurate research, as well as administrative and procedural support so that the Committee can effectively meet its statutory and other obligations.

Employee and Administrative Expenditure 2007- 08

<u>CATEGORY OF COST</u>	\$
Personnel Costs	
Salary and Related Expenses	56,004
Payroll Tax	3,666
Fringe Benefits Tax (FBT)	-
Superannuation Expenses	4,011
Workers Compensation	-
Total Personnel Costs	63,681
Operational Costs	
Total Property Management	31
Property Maintenance	31
Total Purchases for Goods and Services	20,154
Accommodation	204
Agent Service Arrangements	28
Bank Charges	10
Communications	2,623
Consumables/General Expenses	81
Document Production	19
Entertainment/Hospitality	354
Freight	12
Information Technology Charges	9,752
Information Technology Consultants	3
Information Technology Hardware and Software	13
Library Services	192
Marketing and Promotion	3,318
Medical/Dental Supplies and Services	5
Membership & Subscriptions	123
Motor Vehicle Expenses	207

Office Requisites and Stationery	783
Official Duty Fares	335
Other Equipment Expenses	385
Reg/Advisory Boards/Committees	428
Training and Study Expenses	1,303
Travelling Allowance	87
Unallocated CCC Expenses	(111)
Total Asset Expenses	489
Asset Expenses (Depreciation)	489
Total Operational Costs	20,674
TOTAL EXPENDITURE	20,674



APPENDICES



Appendix 1

Terms of Reference - Northern Territory Statehood Steering Committee



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Preamble

THAT, WHEREAS on 18 June 2003, the Chief Minister of the Northern Territory, referred to the Standing Committee on Legal and Constitutional Affairs (the Standing Committee) the Northern Territory Government's recommitment to the achievement of Statehood for the Northern Territory and that the Standing Committee in its deliberations would take into account and be guided by the following:

- (a) *The process would be community based, not imposed upon the community.*
- (b) *The Standing Committee would facilitate and provide resources to this community based process.*
- (c) *The Government's aim to achieve Statehood by 1 July 2008, which would include:*
 - (i) *the drafting of a new constitution;*
 - (ii) *the holding of an elected Constitutional Convention; and*
 - (iii) *the holding of a referendum.*
- (d) *A central principle for the Northern Territory to achieve Statehood is the respect for and proper recognition of the Indigenous people of the Territory and that the Indigenous people are to be involved in all stages of the process;*

AND, WHEREAS

- (a) On 28 August 1985, Northern Territory Legislative Assembly established a bi-partisan parliamentary Committee on Constitutional Development to report and make recommendations on a Constitution for the new state and the principles upon which it should be drawn; the method to be adopted to have a draft new State Constitution approved by or on behalf of the people of the Northern Territory; and the issues, conditions and procedures pertinent to the entry of the Northern Territory into the Federation as a new State. That Committee tabled its final report including a draft constitution in the Legislative Assembly on 26 November 1996;
- (b) During the period 26 March to 9 April 1998 a Constitutional Convention (called the Statehood Convention) was convened and subsequently recommended the form of a 'Statehood Constitution' to the Legislative Assembly and urged Statehood for the Northern Territory 'as soon as possible';
- (c) On 3 October 1998, the Northern Territory community rejected Statehood in a Territory wide indicative referendum thus halting the Northern Territory's push in becoming Australia's Seventh State by 2001;
- (d) In the wake of the Referendum's 'No' vote, the Legislative Assembly, on 7 October 1998, resolved that the Standing Committee on Legal and Constitutional Affairs (the Standing Committee) conduct an inquiry into and report on reasons for the failure of the Northern Territory Referendum and to ascertain support for the Northern Territory gaining Statehood by 2001. The Committee was also required to recommend to the Assembly appropriate means whereby community support for Statehood could be achieved;
- (e) On 30 April 1999, The Standing Committee tabled its *Report into Appropriate Measures to Facilitate Statehood* in the Legislative Assembly recommending, among other things:

That there be a public education program to inform Territorians about what Statehood means and about the process of constitutional development, presented in a dispassionate, balanced and informative manner. It is essential that the education program not be presented in a 'political propaganda' manner and it should be validated by independent sources. It is recommended that the Standing Committee on Legal and Constitutional Affairs be directly involved in the broad development of the education program and the engagement of an independent consultant to devise and implement the program. Specific strategies should be developed for effective consultations and education in Aboriginal communities.

This should commence as soon as possible to take advantage of the enhanced awareness of the issue, which currently exists in the community (Recommendation 3);

- (f) On 25 October 2001, the Legislative Assembly resolved to enhance the Standing Committee's primary terms of reference to inquire into and report on such constitutional and legal matters that are referred to it by the Legislative Assembly or the Attorney General, by providing additional terms of reference to the Committee the power upon its own motion to address matters concerning:
- (i) Legal or constitutional issues, including law reform, parliamentary reform, administrative law, legislative review and inter-governmental relations.
 - (ii) The Northern Territory's ongoing constitutional development that may also be tied to a future grant of Statehood.
 - (iii) Other specific inter-governmental relationships that the Attorney-General may wish the Committee to address or investigate;

AND WHEREAS on 13 February 2004 the Standing Committee resolved, pursuant to its additional terms of reference of 25 October 2001 to address matters concerning the Northern Territory's ongoing constitutional development that may also be tied to a future grant of Statehood, that terms of reference be prepared relating to the establishment of an advisory committee to the Standing Committee on Northern Territory Statehood and constitutional development, with a membership comprising the Standing Committee and representatives from major stakeholders and others within the Northern Territory, to advise and assist the Standing Committee in its deliberations in respect of this matter;

AND THAT on 17 August 2004, the Legislative Assembly;

- (a) endorsed following the Terms of Reference of the Northern Territory Statehood Steering Committee, tabled on 25 June 2004; and
- (b) authorised the Standing Committee on Legal and Constitutional Affairs to appoint the membership of the Northern Territory Statehood Steering Committee in accordance with the terms of reference tabled on that day;
subject to -
the Speaker tabling in the Assembly for its adoption –
 - (i) the membership of the Northern Territory Statehood Steering Committee; and
 - (ii) a Speaker's Determination authorising the level and terms and conditions of payment of meeting/sitting fees and travel allowances paid to Northern Territory Statehood Steering Committee members, pursuant to paragraphs 48 to 50 of the terms of reference above; and
- (c) notwithstanding paragraph 4 of the Terms of Reference, may by resolution dissolve the Northern Territory Statehood Steering Committee.

Northern Territory Statehood Steering Committee **Terms of Reference**

Definitions

1. In these terms of reference, unless the contrary intention appears:

Alternate member means a person who is nominated, under clauses 30, 31 and 32, by a member of the Statehood Steering Committee to attend and participate in a meeting of the Statehood Steering Committee or its committees, in his or her stead for the period of that meeting;

Chair means the person who has been:

- (a) deemed to be Chair of the Steering Committee Executive Group under clause 22 to act as Chair of the Steering Committee Executive Group; or
- (b) appointed as a Chair of a Select Working Committee under clause 52 to act as Chair of a Select Working Committee; or
- (c) appointed as a Chair of a committee or subcommittee established under these terms of reference to act as Chair of a committee or subcommittee;

Chairman means the person who has been elected as Chairman of the Standing Committee on Legal and Constitutional Affairs, pursuant to the Standing and Sessional Orders to act as Chairman of the Northern Territory Statehood Steering Committee under clause 6 (a).

Co-Chair means the person who has been appointed as Co-Chair of the Statehood Steering Committee by the Standing Committee under clause 6 (b) to act as Co-Chair of the Northern Territory Statehood Steering Committee;

Committee or subcommittee means a committee or subcommittee of the Northern Territory Statehood Steering Committee, including the Steering Committee Executive Group established under clause 20 and a Select Working Committee established by the Statehood Steering Committee under clause 51;

Committee member means a member of a committee or subcommittee of the Statehood Steering Committee or the Steering Committee Executive Group or a Select Working Committee established by the Statehood Steering Committee;

Constitutional/Legal Advisor means the person who has been nominated, from time to time, by the Solicitor General of the Northern Territory as Constitutional/Legal advisor under clause 11 to act as Constitutional/Legal advisor to the Statehood Steering Committee;

Executive Group means the Steering Committee Executive Group established under clause 21.

Executive Officer or Executive Officer of the Statehood Steering Committee means the person who is the Executive Officer of the Statehood Steering Committee, appointed by the Standing Committee, to act as the Executive Officer of the Statehood Steering Committee under clause 11 and the Executive Group established under clause 21;

Executive Officer of the Standing Committee on Legal and Constitutional Affairs means the person who is the Executive Officer of the Standing Committee on Legal and Constitutional Affairs;

Legislative Assembly means the Legislative Assembly of the Northern Territory;

Member of the Legislative Assembly means a member of the Legislative Assembly of the Northern Territory;

Northern Territory Statehood Steering Committee or Statehood Steering Committee means the body established under clause 2;

Office of the Chairman means the body established under clause 8;

Select Working Committee means a committee established by the Statehood Steering Committee under clause 51;

Senior chair means the Chairman for the purpose of these terms of reference to act as the senior chair over the Co-Chair in the conduct of the business and proceedings of the Statehood Steering Committee.

Speaker means the Speaker of the Legislative Assembly of the Northern Territory;

Standing Committee means the Standing Committee on Legal and Constitutional Affairs established under the Standing Orders;

Standing Orders or Sessional Orders means the Standing Orders and Sessional Orders of the Legislative Assembly of the Northern Territory;

Statehood Steering Committee member means the person holding the office of the Chairman or the Co-Chair or a person who has been appointed to be a member of the Northern Territory Statehood Steering Committee under clause 6;

Statehood Steering Committee Program means the program prepared by the Statehood Steering Committee under clause 26; and

Steering Committee Executive Group or Executive Group means the Steering Committee Executive Group established under clause 20.

Establishment of a Northern Territory Statehood Steering Committee

2. Pursuant to the resolution of the Standing Committee of 25 June 2004, an advisory committee to the Standing Committee called the Northern Territory Statehood Steering Committee (the Statehood Steering Committee) is hereby established.

Purpose of the Northern Territory Statehood Steering Committee

3. The purpose of the Northern Territory Statehood Steering Committee is to provide advice and assistance to the Standing Committee on matters concerning the Northern Territory's ongoing constitutional development that may also be tied to a future grant of Statehood and in particular:
 - (a) provide advice to the Standing Committee in reviewing the process of constitution-making in the Northern Territory to date, for the purpose of developing recommendations on a Constitution for the new State and the principles upon which it should be drawn and the method to be adopted to have a draft new State Constitution approved by or on behalf of the people of the Northern Territory;
 - (b) in reviewing the process of constitution-making in the Northern Territory to date, the Statehood Steering Committee may, as it considers appropriate, have regard to:
 - (i) the form and content of the draft constitution in the Report that was prepared by the former parliamentary Committee on Constitutional Development and was tabled in the Legislative Assembly on 27 November 1996 and the draft constitution that was the outcome of the Constitutional Convention held during the period 26 March to 9 April 1998 that was tabled in the Legislative Assembly on 13 August 1998;
 - (ii) such reports and papers that have been tabled in the Legislative Assembly (including those from the former parliamentary Committee on Constitutional Development) from time to time relating to the matter of Northern Territory Statehood and the debates in the Assembly on those reports and papers; and
 - (iii) any other reports, submissions, papers and documents relating to the matter of Northern Territory Statehood and constitutional development, whether or not they have been tabled in the Legislative Assembly;

-
- (c) provide advice to the Standing Committee in identifying and developing strategies and programs in educating the Northern Territory community on Statehood and constitutional development; and
 - (d) provide assistance to the Standing Committee in undertaking a role in promoting the awareness of Statehood and constitutional development to the Northern Territory community.

Life of the Northern Territory Statehood Steering Committee

- 4. The Statehood Steering Committee shall come into existence on the day that these terms of reference are endorsed by resolution of the Standing Committee and shall continue to exist until:
 - (a) the Administrator prorogues the Legislative Assembly, pursuant to section 22 (1) of the *Northern Territory (Self-Government) Act 1978*; or
 - (b) the Standing Committee and the Statehood Steering Committee have mutually agreed to dissolve the Statehood Steering Committee, which will take effect upon the date fixed by resolution of the Standing Committee.
- 5. If the Statehood Steering Committee ceases to exist under clause 4 (a) and upon the Administrator giving notice of the holding of a session of the Legislative Assembly, pursuant to section 22 (2) of the *Northern Territory (Self-Government) Act 1978* and subject to the Standing Orders and Sessional Orders of the Legislative Assembly, the Standing Committee may resolve to re-establish the Statehood Steering Committee on such terms and conditions as it thinks fit.

5 (A) CONTINUANCE OF ADMINISTRATIVE FUNCTION

Despite clauses 4 and 5, Members of the Statehood Steering Committee who are not members of the Legislative Assembly continue in office until the Assembly first meets following prorogation of the Assembly.

The Members who continue in office under subclause (1) may carry out the administrative functions of the Statehood Steering Committee and any other activities of the Statehood Steering Committee previously authorised by the Legal and Constitutional Affairs Committee but must not carry out any other functions or activities.

Composition of the Statehood Steering Committee

- 6. The Statehood Steering Committee shall comprise the following membership:
 - (a) the Member of the Legislative Assembly of the Northern Territory, appointed for the time being to the Standing Committee and who has been elected as Chairman of the Standing Committee, pursuant to the Standing and Sessional Orders, to hold the office of Chairman;
 - (b) a person residing in the Northern Territory who, in the Standing Committee's opinion, has a strong commitment in the matters concerning the Northern Territory's ongoing constitutional development that is tied to a future grant of Statehood, being a person not being a member of the Statehood Steering Committee under clauses 6 (a), (c), (d) or (f) and appointed by the Standing Committee to hold the office of Co-Chair;
 - (c) 2 Members of the Legislative Assembly of the Northern Territory appointed for the time being to the Standing Committee and chosen from time to time by the Standing Committee;
 - (d) such other persons, the number to be determined by the Standing Committee, residing in the Northern Territory who have a strong commitment in the matters concerning the Northern Territory's ongoing constitutional development that is tied to a future grant of Statehood, being a person appointed by the Standing Committee from among applicants following public advertisement in the media as the Standing Committee thinks fit;

-
- (e) the Standing Committee, when considering appointments to the Statehood Steering Committee under the preceding clause may take into account the following stake-holder groups:
- (i) Northern Territory Indigenous groups/organisations;
 - (ii) Northern Territory municipal, local and community governments;
 - (iii) Business and pastoral groups/organisations;
 - (iv) Trade Unions and Industry groups/organisations;
 - (v) Ethnic community groups/organisations;
 - (vi) Educational or marketing institutions, groups or organisations;
 - (vii) Women's organisations;
 - (viii) Northern Territory Council of Churches and the Ministers Fraternal and other religious groups;
 - (ix) Specific pressure, lobby or interest groups, that have a commitment to the achievement of Statehood for the Northern Territory;
 - (xii) Young Territorians; and
 - (xiii) Senior Territorians.
- (f) notwithstanding clause 6 (e) the Standing Committee may also appoint other persons residing in the Northern Territory who, in its opinion, have a strong commitment in the matters concerning the Northern Territory's ongoing constitutional development that is tied to a future grant of Statehood; and
- (g) Statehood Steering Committee members, other than members of the Standing Committee, are appointed for the life of the Statehood Steering Committee, but in any case may be discharged from office at any time by the Standing Committee after consultation with the Statehood Steering Committee.

Duties and responsibilities of Members of the Statehood Steering Committee

7. The duties and responsibilities of the members of the Statehood Steering Committee are as follows:
- (a) to attend all Statehood Steering Committee meetings and functions unless they tender an apology;
 - (b) to keep informed about the Statehood Steering Committee purpose, policies, and programs;
 - (c) to review agenda and supporting materials prior to Statehood Steering Committee meetings;
 - (d) to serve on Select Work Committees and other committees, where appropriate, and to take on special assignments as required;
 - (e) to contribute to the work of the Statehood Steering Committee; and
 - (f) to keep up-to-date on Northern Territory Statehood and constitutional development generally.

Officers of the Statehood Steering Committee

8. There shall be an Office of the Chairman of the Statehood Steering Committee comprising a Chairman and a Co-Chair.
9. The Office of the Chairman shall be supported by the Executive Officer of the Statehood Steering Committee, the Constitutional/Legal Advisor nominated from time to time by the Solicitor-General of the

Northern Territory, the Executive Officer of the Standing Committee on Legal and Constitutional Affairs and such other administrative and specialist persons as approved by the Standing Committee and the Speaker.

10. The initial voting Officers of the Statehood Steering Committee are identified in Column 1 and hold office in the following manner in Column 2:

Column 1	Column 2
Chairman	The person elected as Chairman of the Standing Committee, from time to time, pursuant to the Standing and Sessional Orders of the Legislative Assembly of the Northern Territory
Co-Chair	The person who has been appointed by the Standing Committee to hold the office of Co-Chair under clause 6 (b)

11. The initial non-voting Officers of the Statehood Steering Committee are identified in Column 1 and hold office in the following manner in Column 2:

Column 1	Column 2
Executive Officer of the Statehood Steering Committee	The person who has been appointed by the Standing Committee to hold the position of Executive Officer of the Statehood Steering Committee under clause 13
Executive Officer of the Standing Committee on Legal and Constitutional Affairs	The person who holds the position of Executive Officer of the Standing Committee on Legal and Constitutional Affairs
Constitutional/Legal Advisor	The person nominated, from time to time, by the Solicitor-General of the Northern Territory

12. The Statehood Steering Committee shall be provided with all necessary staff, facilities and resources by the Legislative Assembly of the Northern Territory and shall be empowered, with the prior written approval of the Standing Committee and the Speaker, to appoint other persons with specialist knowledge including secretarial and administrative support for the purposes of the Statehood Steering Committee.

13. There shall be an Executive Officer of the Statehood Steering Committee, appointed by the Standing Committee, and who shall serve under the direction and supervision of the Executive Group as the principal Executive Officer of the Statehood Steering Committee.

- 13 (A) The Minister for Statehood and the Shadow Minister for Statehood may from time to time seek advice or information on Statehood issues from the Office of the Clerk of the Legislative Assembly. A copy of any advice or information where prepared by the Office of the Chairman, Statehood Steering Committee, will be tabled at the next Executive Group meeting following the date of its submission to the Clerk.

14. The Constitutional/Legal Advisor shall be the principal constitutional and legal advisor to the Statehood Steering Committee and the Executive Group.

Duties and responsibilities of Chairman and Co-Chair

15. The Chairman and the Co-Chair shall take the chair at the beginning of the deliberations of the Statehood Steering Committee and shall proceed to the business in the manner prescribed by these terms of reference.

16. The Chairman and the Co-Chair shall jointly have the powers and perform the duties as follows, unless the contrary intention appears:

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- (a) they shall preside over meetings of the Statehood Steering Committee when present;
 - (b) they shall preserve order and decorum within Statehood Steering Committee meetings, and shall prevent personal reflection, abuse and offensive language and confine Statehood Steering Committee members to the issues under discussion; and
 - (c) they shall exercise such other powers and perform such other duties as are provided by these terms of reference or as incidental thereto or as are in their opinion, necessary or convenient for enabling the Statehood Steering Committee to function effectively.
 17. The Chairman shall have the powers and perform the duties as follows, unless the contrary intention appears:
 - (a) notwithstanding the joint powers of the Chairman and the Co-Chair under the preceding clause, the Chairman for the purpose of these Terms of Reference shall be regarded as the senior chair and shall have the final say in case of any disagreement with the Co-Chair;
 - (b) as the senior chair, he or she shall announce a consensus or result or declare the vote according to the fact on all questions before the Statehood Steering Committee and the Statehood Steering Committee Executive Group; and
 - (c) when necessary or required, he or she shall certify all official acts and all vouchers for payment of the expenditures of the Statehood Steering Committee.;
 18. In the temporary absence of:
 - (a) the Chairman to preside over a meeting of the Statehood Steering Committee, or in event of his or her temporary inability to preside, his or her powers and duties shall be exercised and performed by a member of the Standing Committee who is a member of the Statehood Steering Committee and who has been elected by the Standing Committee members of the Statehood Steering Committee present to act as Chairman for that meeting; or
 - (b) the Co-Chair to preside over a meeting of the Statehood Steering Committee, or in event of his or her temporary inability to preside, his or her powers and duties shall be exercised and performed by a member of Statehood Steering Committee who is not a member of the Standing Committee and who has been elected by the Statehood Steering Committee members who are not members of the Standing Committee present to act as Co-Chair for that meeting.
 19. In the event of a permanent vacancy in the office of the Co-Chair through death, resignation or otherwise, the Co-Chair shall be appointed pursuant to clause 6 (b), to fill such vacancy.

Steering Committee Executive Group

20. There shall be a Steering Committee Executive Group of the Statehood Steering Committee (the Executive Group) which shall comprise:
 - (a) the Chairman and the Co-Chair;
 - (b) 2 members of the Standing Committee chosen by the Standing Committee under clause 6 (c); and
 - (c) 2 members of the Statehood Steering Committee (other than a member of the Standing Committee) elected by the members of the Statehood Steering Committee for the time being of the Statehood Steering Committee under clause 6 (d) or (f).
21. Vacancies in respect of the membership of the Executive Group shall be filled in the same manner as required by these terms of reference for the appointment in respect of which there is a vacancy.

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22. The Chairman shall be Chair of the Executive Group.
 23. In the temporary absence of the Chair to preside over a meeting of the Executive Group, or in event of his or her temporary inability to preside, his or her powers and duties shall be exercised and performed by a member of the Standing Committee who is a member of Executive Group and who has been elected by the Standing Committee members of the Executive Group to act as chair for that meeting.
 24. Meetings of the Executive Group shall not be open to the public unless otherwise ordered by the Executive Group.
 25. The Executive Group shall have the following duties and functions, in addition to any other duties and functions in these terms of reference:
 - (a) to consider and report to the Standing Committee upon such changes to the terms of reference of the Statehood Steering Committee and changes in organisation of the Statehood Steering Committee as shall be referred to it by the Statehood Steering Committee;
 - (b) to oversee the administration and conduct of the Statehood Steering Committee, including the planning for finances, personnel, printing and physical arrangements of the Statehood Steering Committee and its Officers and staff and related matters, including the scheduling of dates and times for meetings of the Statehood Steering Committee and the designation of locations for any meetings, including any of its Select Working Committees and other committees;
 - (c) to examine and consider all proposals for inclusion or otherwise to the Statehood Steering Committee Program;
 - (d) to meet on such dates and at such times and at such places as the Chair determines from time to time;
 - (e) to assist the Statehood Steering Committee in determining the matter, membership, powers and procedures of committees established by the Statehood Steering Committee;
 - (f) to assist the Statehood Steering Committee in examining and considering all proposals and all other matters not germane to the work of committees established by the Statehood Steering Committee and make recommendations to the Statehood Steering Committee for action thereon;
 - (g) to organise the call for and receive submissions from the public on any matter relevant to the work of the Statehood Steering Committee;
 - (h) to organise the holding of public sessions of the Statehood Steering Committee;
 - (i) to consider and report to the Statehood Steering Committee upon any other matters referred to it by the Statehood Steering Committee; and
 - (j) to report from time to time to the Statehood Steering Committee on the matters undertaken by the Executive Group in pursuance of these terms of reference.

Statehood Steering Committee Program

26. The Statehood Steering Committee in pursuance of these terms of reference shall be responsible for the establishment of a program of work (the Steering Committee Program) in respect of the purposes that are assigned to the Statehood Steering Committee under clause 3, including but not limited to the development of strategies, programs, operational guidelines, work plans and budgets and other related matters for the efficient operation of the Statehood Steering Committee and its committees.
27. The preparation of and the carrying out of the Steering Committee Program and Statehood Steering Committee decisions and recommendations shall be the responsibility of the Steering Committee Executive Group.
28. Statehood Steering Committee business shall proceed in line with the Steering Committee Program. To ensure flexibility, the Chairman and Co-Chair, after consulting the Steering Committee Executive

Group, may amend the Steering Committee Program, if in their opinion, they consider it necessary for the effective conduct of business.

Statehood Steering Committee Outcomes

29. When the Statehood Steering Committee has agreed upon the form and content of a report or any other documented outcome, the original thereof shall be signed by the Chairman and the Co-Chair and shall be submitted to the Standing Committee. Copies shall then be prepared and certified by the Executive Officer and one copy delivered to each Statehood Steering Committee member.

Alternates

30. Where a member of the Statehood Steering Committee (other than the Chairman or Co-Chair or a member of the Standing Committee) is unable to attend a meeting of the Statehood Steering Committee or its committees he or she shall be able to nominate a person who is not a member of the Statehood Steering Committee to be his or her alternate to attend and participate in a meeting of the Statehood Steering Committee or its committees, for the period of that meeting.
31. Where the Co-Chair is unable to attend a meeting of the Statehood Steering Committee Executive Group he or she shall be able to nominate a member of the Statehood Steering Committee, not being a member of the Standing Committee, to be his or her alternate to attend and participate in a meeting of the Executive Group, for the period of that meeting.
32. Where a member of the Standing Committee who is a member of the Statehood Steering Committee, pursuant to clause 6 (c), is unable to attend a meeting of the Statehood Steering Committee or its committees, that member may nominate either another member of the Standing Committee who is not a member of the Statehood Steering Committee, to be his or her alternate to attend and participate in a meeting of the Statehood Steering Committee or its committees for the period of that meeting.
33. An alternate member so nominated by a member of the Statehood Steering Committee under clauses 30, 31 and 32 may participate in a meeting of the Statehood Steering Committee or its committees as if he or she were a full member of the Statehood Steering Committee.
34. All nominations from members of the Statehood Steering Committee and appointments in respect of alternates attending and participating in meetings of the Statehood Steering Committee and its committees shall be provided in writing to the Executive Officer of the Statehood Steering Committee at least 24 hours prior to a meeting.

Quorum

35. One third of the Statehood Steering Committee membership shall constitute a quorum for the transaction of business of the Statehood Steering Committee and 3 members of the Executive Group shall constitute a quorum for the transaction of business of the Executive Group unless the Statehood Steering Committee or the Executive Group (as the case may be) otherwise decides.
36. Notwithstanding clause 36, there is no requirement for a quorum of other committees of the Statehood Steering Committee for the transaction of committee business unless the Statehood Steering Committee otherwise decides.

Motions and Voting

37. Any resolution or motion or the taking of any action by the Statehood Steering Committee or its committees in any of their respective deliberations will be determined if possible by consensus of the members present.
38. In the event that a consensus cannot be reached in pursuance of clause 37, a majority of members present and voting shall be sufficient for the adoption of any motion or resolution or the taking of any action by the Statehood Steering Committee or its committees in any of their respective deliberations.

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39. The decision of the Chairman or the Chair of a committee on a show of hands shall be final.
 40. When a member of the Statehood Steering Committee or its committees moves a motion, the Chairman or a Chair of a committee shall state it or, if in writing, it shall be read aloud before discussion. Motions shall be moved by a member of the Statehood Steering Committee or its committees and seconded by another such member of the Statehood Steering Committee or its committees.
 41. The mover with consent of the seconder may withdraw a motion at any time before amendment or announcement of the decision.
 42. Resolutions relating to the business of the Statehood Steering Committee or its committees may be introduced as provided by these terms of reference and their consideration shall follow the same procedure as is provided by these terms of reference for motions.
 43. The Chairman and the Co-Chair in any of the deliberations of the Statehood Steering Committee or the Executive Group shall in all cases be entitled to vote on all matters before the Statehood Steering Committee or the Executive Group and where there is an equality of votes on any question the Chairman, as the senior chair, shall have a casting vote.
 44. Subject to clause 43, a member of the Statehood Steering Committee or any of its committees shall have one vote only on any matter before the Statehood Steering Committee or its committees as the case may be.

Responsibility for Statements made by Statehood Steering Committee Members

45. Deliberations of the Statehood Steering Committee or any of its committees do not attract parliamentary privilege or immunity. Members of the Statehood Steering Committee are responsible for their own statements and actions whether in the Statehood Steering Committee or outside. No responsibility will be assumed by the Legislative Assembly or the Northern Territory Government for assistance to Statehood Steering Committee Members in response to defamation proceedings or other action relating to their statements or actions.

Documents of the Statehood Steering Committee

46. With the leave of the Statehood Steering Committee, a member of the Statehood Steering Committee may table documents relevant to the issue under discussion by handing them to the Chairman. During the deliberations of the Statehood Steering Committee, tabled documents will be held in the Standing Committee secretariat and made available to Statehood Steering Committee members on request.
47. Unless otherwise ordered by the Statehood Steering Committee, all documents received by the Statehood Steering Committee during its life shall remain in the custody of the Standing Committee, provided that on the application of a department, agency or person, any document, if not likely to be further required, may in the Speaker's discretion, be returned to the department, agency or person from whom it was obtained.

Sitting fees and travel expenses

48. The Co-Chair and other members of the Statehood Steering Committee (other than Members of the Legislative Assembly, full-time employees or officers of the Government of the Northern Territory, which shall include officers of the Legislative Assembly of the Northern Territory, or any other person employed in the Northern Territory Public Sector) shall receive a meeting fee per day, the amount to be determined by the Standing Committee from time to time and subject to approval by the Speaker.
49. The term "meeting fee per day" means any one period of 24 hours in which the Statehood Steering Committee or its committees meets, whether in one meeting or in successive meetings.

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50. Subject to the discretion and prior approval of the Speaker, members of the Statehood Steering Committee (other than those categories of persons excluded under clause 48, may be entitled to the payment of reasonable travel expenses and allowances where necessary to attend meetings of the Statehood Steering Committee or its committees whether they are held in Darwin or elsewhere.

Select Working Committees

51. The Statehood Steering Committee may establish Select Working Committees to assist the Statehood Steering Committee in its deliberation in examining and reporting of specific subjects and issues relating to Northern Territory Statehood and constitutional development such as, but not limited to:
- (a) Legislative and Executive matters.
 - (b) Legal/judicial system.
 - (c) Electoral matters.
 - (d) Local government.
 - (e) Indigenous rights and other matters.
 - (f) Entrenchment of rights.
 - (g) Promotion and education of Statehood and constitutional development.
 - (h) Terms and conditions of Statehood.
52. The Statehood Steering Committee shall appoint a member of the Statehood Steering Committee to be Chair of a Select Working Committee. The Statehood Steering Committee may fill any vacancies of Chairs of Select Working Committee in the same manner.
53. The Chair of a Select Working Committee shall have a deliberative vote only.
54. The Statehood Steering Committee, in its opinion, shall determine the number and membership and appointment criteria of a Select Working Committee from either the Statehood Steering Committee membership and/or other persons who are not members of the Statehood Steering Committee. The Statehood Steering Committee may fill any vacancies on a Select Working Committee, other than the appointment of a Chair of a Select Working Committee, in the same manner.
55. In the event when the Chair of a Select Working Committee is not present at a meeting of a Select Working Committee the members present shall elect another Select Working Committee member to act as chair at that meeting.
56. The Chairman and the Co-Chair shall be ex-officio members of all Select Working Committees, shall be informed of and may attend all meetings of a Select Working Committee and may participate in its deliberations, but shall not vote.
57. A Select Working Committee shall consider such proposals as are determined by the Statehood Steering Committee and shall draft and submit to the Statehood Steering Committee for its consideration, any final report or paper including recommendations pertaining to the business of the committee. Any member of a Select Working Committee may submit a minority report to the Statehood Steering Committee.
58. No Select Working Committee may hold meetings during the meetings of the Statehood Steering Committee or the Executive Group without permission of the Statehood Steering Committee or the Executive Group (as the case may be) or meet outside of Darwin without the prior written approval of the Chairman.
59. Subject to clause 58, a Select Working Committee shall give at least 5 days written notice to the Executive Officer of the proposed time and place of meetings and the Executive Officer shall make such notice public.

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60. Subject to the provisions of these terms of reference, the Statehood Steering Committee may determine the powers and procedures of a Select Working Committee and in the absence thereof, each Select Working Committee shall determine same.

General Provisions

61. A record shall be kept in the Minutes of Proceedings of the Statehood Steering Committee and its committees of the names of members attending each meeting and of every motion or resolution or amendment moved, together with the name of the mover and seconder thereof.
62. Members of the public and representatives of the news media may attend and report any public sessions of the Statehood Steering Committee or a Select Working Committee, unless otherwise ordered by the Statehood Steering Committee or a Select Working Committee.
63. The Statehood Steering Committee may authorise the televising of the Statehood Steering Committee or Select Working Committee meetings in public sessions under such arrangements as the Chairman in consultation with the Speaker considers appropriate.
64. Subject to these terms of reference, the powers and procedures of the Statehood Steering Committee and its committees shall be as determined by the Standing Committee from time to time.
65. The foregoing provisions of these terms of reference, so far as they are inconsistent with the Standing Orders or Sessional Orders of the Legislative Assembly, have effect.
66. Nothing contained in the foregoing provisions of these terms of reference, shall prohibit or impede the lawful conduct by the Standing Committee of its business as a committee of the Legislative Assembly pursuant to the provisions of its terms of reference, the Standing Orders or Sessional Orders of the Legislative Assembly.
67. These terms of reference shall take effect on the date hereof.



APPENDIX 2

SUMMARY OF DELIBERATIVE MEETINGS 2007- 08



SUMMARY OF DELIBERATIVE MEETINGS

Meeting No.	Date	Key Agenda Items
17A	11 October 2007	<ul style="list-style-type: none"> • Official Briefing <ul style="list-style-type: none"> - Mr Stephen Herne, Department of Justice
17B	11 October 2007	<ul style="list-style-type: none"> • Draft paper – Timelines for Statehood • Statehood Steering Committee funding • Acceptance of Submission – Mr Daniel Edgar
18A	18 February 2008	<ul style="list-style-type: none"> • Change of Membership: resignation of Mr Kiely and appointment of Mr Hampton • Resignation of Mrs Braham as delegate to the Statehood Steering Committee • Statehood Steering Committee workshop • Staffing requirements of the Statehood Steering Committee
18B	18 February 2008	<ul style="list-style-type: none"> • Official briefing <ul style="list-style-type: none"> - Rev Djinyini Gondarra, Chairman and Mr Richard Trudgen, Aboriginal Resource and Development Services Inc.
19	28 April 2008	<p>Research and collation of material in relation to the Customary Law reference</p> <ul style="list-style-type: none"> • Resignation of Co-Chair, Statehood Steering Committee and the representative of the NT Cattlemen's Association • Staffing and work program, Statehood Steering Committee
20	14 May 2008	<ul style="list-style-type: none"> • Selection of appointee to the Co-Chair, Statehood Steering Committee position
21	24 June 2008	<ul style="list-style-type: none"> • Appointments to the Statehood Steering Committee • Walking Together Program launch • Meeting with Statehood Steering Committee, 30 June 2008