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Committee on Legal and Constitutional Affairs
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Committee.**

Legislative Assembly Northern Territory

**Progress Report – Reference to the Standing
Committee on Legal and Constitutional Affairs on the
Advancement of Statehood for the Northern Territory**

21 June 2007

Madam Speaker, I rise today to make a progress statement in relation to the reference to the Standing Committee on Legal and Constitutional Affairs on the advancement of statehood for the Northern Territory.

Madam Speaker, on Monday 28 May 2007 the Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs, the Honourable Peter Slipper, MP, tabled in the Commonwealth parliament that Committee's report into the Federal Implications of Northern Territory Statehood. I hereby table that report entitled *The Long Road to Statehood* for the information of Members.

The Statehood Steering Committee was pleased to immediately welcome the Commonwealth Committee's Report and the Standing Committee will convene during these sittings to consider the Report further.

The House of Representatives Committee Report contains a single recommendation:

The Committee recommends that the Australian Government update and refine its position on Northern Territory Statehood and re-commence work on unresolved federal issues.

Madam Speaker

The recommendation is a sound starting position for renewed discussions between the Northern Territory and the Commonwealth about Northern Territory Statehood.

The clear message from the Commonwealth Report is firstly that the people of the Northern Territory will have to eventually decide to support or not to support Statehood

And

The Commonwealth has to examine its own policy position on Northern Territory Statehood and recommence working on resolving the federal issues.

These are issues such as our future levels of Senate representation and the power a new State Government has over issues such as mining of uranium, Aboriginal Land Rights, national parks and any other State like power the existing Australian States have.

Members of the Legislative Assembly Standing Committee and members of the Statehood Steering Committee participated in the House of Representatives Committee's Seminars in both Alice Springs and Darwin during November 2006.

Madam Speaker

As Chairman of both Committees I made it clear to the Commonwealth Committee that we need the Commonwealth to be part of the Territory's moves toward Statehood.

That we cannot move toward Statehood alone and in a vacuum.

The Statehood Steering Committee welcomes the Commonwealth Report as a step forward in bringing the Commonwealth Government to the table to consider its role in Northern Territory Statehood.

Madam Speaker we are all well aware that 2007 is a federal election year. The Commonwealth is not going to let Territory Statehood be part of an election campaign and nor would we want it to be.

But the Northern Territory Statehood Steering Committee will ask the Territory Assembly through the Minister and Shadow Minister for Statehood to put the Commonwealth on notice that whoever forms government after the next federal election, the Territory will be seeking action from the incoming Government on that

recommendation put forward by the House of Representatives Committee last month.

The Commonwealth's Report is 144 pages long and discusses a range of issues and puts forward a range of views.

The Statehood Steering Committee notes with some satisfaction that the recommendation reflects its own public position on the various roles of government that it has taken since 2006.

Madam Speaker

The main thrust of the Statehood Steering Committee's position has been that until the Commonwealth's intentions are known we won't come to a point of being able to ask Territorians to decide on Statehood.

While the Statehood Steering Committee welcomed the Commonwealth Committee's Report, during the week in which the Report was released, there was some media comment indicating the Report was inconclusive or that it said nothing. The Katherine Times just last week echoed this comment about the Commonwealth Report.

The wording of the recommendation is fairly cautious but it is significant nonetheless.

No matter how you read it, the recommendation says the Commonwealth Government has more work to do to inform the people of the Northern Territory of its intentions.

The Report recognises we have a long way to go, but it certainly does not say we should do nothing.

Quite the opposite.

By reflecting on the submissions of the Statehood Steering Committee as advanced by the Co-Chair Sue Bradley and by me during the seminars, the Report says (on page 35) that the Commonwealth Government should not let the Territory engage in a consultation exercise that would be futile if the Commonwealth Government does not reveal its policy positions on Statehood issues.

The Report (on page 36) also acknowledges the Commonwealth Government has a role to play in assisting the Northern Territory work through some of the unresolved issues of Statehood.

It is my understanding that this is the first time that a Commonwealth body has officially acknowledged the people of the Northern Territory require the Commonwealth Government to develop policy positions in order to inform our decision making about Statehood.

Madam Speaker

As I have indicated, the Report's recommendation directly reflects the Statehood Steering Committee's submissions to the Commonwealth Committee.

As Chair of the Statehood Steering Committee I wish to make it clear that all Statehood Steering Committee members recognise our work is not yet done and appreciates the acknowledgment that the Commonwealth's own work needs to be restarted after a ten year gap.

One part of the Report that reflects this dual responsibility says:

The people of the Northern Territory would be in a better position to come to a view on Statehood if they had a clearer understanding of the associated terms and conditions.

(Page 36 paragraph 36.2)

Madam Speaker, it is the Commonwealth who have the constitutional responsibility for deciding on the terms and conditions of any new State.

Let the Commonwealth work together with the Northern Territory to decide their positions on these terms and conditions of Statehood.

As we move toward Statehood, Territorians will increasingly demand to know the Commonwealth's views on terms and conditions.

Indeed Madam Speaker, people are starting to ask the Committee about these matters already.

One very important issue in the Statehood context is the future of Aboriginal Land administration in a new State.

The Report says the Land Councils in the Northern Territory have a pivotal role to play. (Page 54)

The Statehood Steering Committee understands this and takes the view that all Aboriginal people living in the Territory have to be engaged in the Statehood discussion or it will not go forward.

Both the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Native Title Act 1993* apply to land in the Northern Territory.

Approximately 50% of the Northern Territory is Aboriginal Land.

To date, the Land Councils to which the Statehood Steering Committee has spoken have indicated the *Land Rights Act* should remain administered by the Commonwealth, even upon Statehood.

It is very clear to the Statehood Steering Committee there is a position the *Land Rights Act* should not become Northern Territory law.

The Statehood Steering Committee does not see its role as attempting to convince the Land Councils to change this position.

However, the Statehood Steering Committee does have an important role to explore all options including examining any options for the patriation of the *Land Rights Act* to the Northern Territory upon Statehood, even if, in the end, patriation is not pursued.

Looking at and discussing these issues will allow Aboriginal Territorians to make an informed decision about the administration of Aboriginal Land into the future.

The Northern Territory's member of the Commonwealth Committee, the Member for Solomon Mr David Tollner MP, has expressed a view that we could remove the *Land Rights Act* from the Statehood debate by patriating it to the Northern Territory now, ahead of any vote on the Statehood issue.

On behalf of the Statehood Steering Committee I acknowledge the commitment the Federal Member for Solomon has to Territory Statehood and thank him for his work on the Commonwealth Committee.

This is one particular issue however, the Federal Member for Solomon may wish to give some further thought to.

On ABC radio on the 30th of May, the Member for Solomon said the patriation of the *Aboriginal Land Rights Act* to the Northern Territory should occur "as soon as possible" because "the removal of this issue from the Statehood debate altogether is essential."

Madam Speaker

Such an approach would **not** remove the issue from the Statehood debate. It may in fact hinder the advancement of Statehood.

BECAUSE,

Even if the Land Rights Act was patriated to the Northern Territory immediately, the Commonwealth would retain its existing superior power over a Territory.

The Commonwealth would be able to override any Territory law made concerning Land Rights and the Land Councils who do not support Territory administration of the *Aboriginal Land Rights Act* would constantly seek Commonwealth intervention.

And when this power to override Territory law would be removed, the Land Councils, if they still took the view that the *Aboriginal Land Rights Act* must be Commonwealth Law, would be unlikely to support Statehood.

Also, Aboriginal People who oppose the patriation of the *Land Rights Act* to the Northern Territory may vote NO to Statehood in the future to show their displeasure at any unilateral decision made now to change its status.

Aboriginal Land Rights is a Statehood issue, the Statehood Steering Committee understands it is not possible to try to separate the issue from Statehood.

There will be a need for an agreement at some stage in the move toward Statehood to either patriate the *Land Rights Act* or to leave it as Commonwealth law.

The Act remaining with the Commonwealth may be either by special arrangement under the Terms and Conditions of Statehood or by immediate referral back to the Commonwealth upon Statehood.

It is important for the Statehood process that we do not cling to an agenda that insists the *Land Rights Act* must move to the Northern Territory and stop the process there.

This will be a decision for the people of the Northern Territory, most importantly for the Traditional Land Owners.

It is not something that politicians or Committee members should continually focus on at the expense of the broader goal of Statehood.

Madam Speaker, as Committee Chair, I am confident that by walking together, we can provide all Territory people the opportunity to be part of a genuinely inclusive process.

Important decisions such as the future of the *Land Rights Act* must be part of that walking together.

At the Statehood Steering Committee's last meeting, held in Alice Springs on the 25th of May, the Steering Committee started to hear some organisations saying they see Statehood as an opportunity.

An opportunity for our future constitutional development and for their children to be part of an inclusive Australian federation

As members of this Assembly we are often aware that people are sometimes suspicious of political change.

Many people have expressed their views over the process leading up to the 1998 Statehood referendum.

It has taken us some time to win back some trust and we still have to convince many more people that we are genuine about inclusiveness and walking together.

This is continuing.

Since meeting with the Commonwealth Committee in November last year, the Statehood Steering Committee has undertaken more than 30 community presentations and briefings on Statehood with a range of Territory organisations and individuals.

The activities have included a professional development workshop in February for teachers to discuss how the Statehood materials fit into the civics and citizenship aspects of the school curriculum and provide advice on the resources the Committee has developed to assist teachers.

The Committee has this year also travelled to Hermansburg, Santa Theresa, Amoonguna, Alice Springs, Tennant Creek, Wallace Rock Hole, Katherine, Barunga, Manyallaluk, Gullin Gullin, Beswick, Angurugu, Umbakumba, Milyakburra and Allyungoola as well as met with other communities and their representatives in Darwin.

Discussions have taken place with the Anindilyakwa, Central and Northern Land Councils to focus on opportunities for participation in constitutional development in the context of the 1998 Indigenous Constitutional Strategy Document. We plan to meet the Tiwi Land Council as soon as possible to continue our open discussions on Statehood with more Territorians.

On 8 May this year the Statehood Steering Committee released its landmark Discussion Paper entitled *Constitutional Paths to Statehood*.

The Paper has been developed as a result of preliminary discussions the Committee has undertaken with the Northern Territory community about what a Northern Territory Constitution may look like and draws together the work of previous Legislative Assembly Committees and the Land Councils.

The Paper was released for detailed consultation with all Territorians for a period of 32 weeks.

Submissions will close on 31 December 2007.

Already we have provided over 400 hard copies of the Discussion Paper to interested parties.

The Paper asks Territorians to examine a range of issues such as:

- How do we ensure we create a long-lasting constitution for future generations?
- Do we need electoral reform or an upper house?
- Should a Constitution have a Bill of Rights?
- What is the role of a Constitutional Convention?
- How does the Territory deal with Land Rights on Statehood?

It is anticipated a detailed report on the matters raised will be considered by the Statehood Steering Committee and submitted to the Legislative Assembly early in 2008.

The findings will enable the Statehood Steering Committee and the Standing Committee to discuss and develop a strategy for a future Constitutional Convention prior to any referendum on the Statehood issue.

An Executive Summary Paper will also be released next month to assist awareness and understanding of the issues contained in the major publication.

This Discussion Paper is the first in a series of two vital issues papers for the Northern Territory.

The second paper: *Commonwealth Terms and Conditions of Northern Territory Statehood* will be released by the Statehood Steering Committee in early 2008.

The second paper will hopefully be the platform for Territory and Commonwealth discussions on the terms and conditions and will cover issues such as Senate representation upon Statehood.

The Statehood Steering Committee notes the Commonwealth Report says that it may not be appropriate for the Territory to be given 10 additional Senators straight away.

The Statehood Steering Committee has formed a preliminary view that equal Senate representation should be an eventual goal of Statehood, but it is probably not realistic as an immediate goal.

The Statehood Steering Committee has been discussing this with Territorians over the past year.

Last year 50% of 1012 people we surveyed said they would not accept Statehood with less than equal representation in the Senate

The Commonwealth Committee takes a view in their Report that the Territory should achieve an additional two Senators upon Statehood with a formula for a gradual increase over time. (Page 70)

This may be a reasonable approach – we have more work to do on this and it becomes one of those terms and conditions issues the Commonwealth Government needs to consider as well.

In the Meantime Madam Speaker, the Statehood Steering Committee continues its work with Territorians.

As I have advised the Assembly, the Statehood Steering Committee's Discussion Paper is now out for consideration and available for download on our website at: [statehood dot nt dot gov dot au](http://statehood.nt.gov.au).

The Statehood Steering Committee will also have a presence on the Territory Show Circuit again this year where it has teamed up with the Electoral Commission to conduct a mock referendum on Statehood.

The Electoral Commission had about 100 voters at Fred's Pass during May and nearly 20 more at Barunga and we expect plenty more at the other shows.

Madam Speaker, The Commonwealth Committee's Report and its recommendation that the Commonwealth Government must engage the Northern Territory on the terms and conditions of Statehood is welcomed by the Statehood Steering Committee and no doubt this will also be endorsed by the Standing Committee when it meets. I look forward to that engagement unfolding over the coming few years as we move together towards Statehood.

**[MINISTER HENDERSON MOVED THAT THE ASSEMBLY TAKE NOTE OF THE
REPORT]**