

## NIGC workshop agenda – Day 1

DATE	LOCATION
12 June 2024	Online and 1 William St, Brisbane
TIME	WEB LINK
9:00am – 5:00pm	<a href="#">Teams link</a>

### Committee Member attendees

ATTENDEES	
Alma Davidson, Community Representative	George Plant, Administrator (Chair)
Chelsea Evans, Community Representative	Sarah Vandebroek, DITRDCA
Chris Magri, Community Representative	Rachel Welch, DPC

### Invited guests

ATTENDEES
David Mackay, Deputy Secretary, DITRDCA

### Secretariat

ATTENDEES	
§22(1)(a)(ii), DITRDCA	§22(1)(a)(ii), DITRDCA
§22(1)(a)(ii), DITRDCA	

### Observers

OBSERVERS	
§22(1)(a), Office of the Administrator	Anita French, Proxy Community Representative
§22(1)(a)(ii), DITRDCA	§22(1)(a)(ii), A/g Director, Territories Legislation Section, DITRDCA

### Purpose of the workshop:

Outcomes sought:
To reach consensus on a proposal for a new model of governance for Norfolk Island. These recommendations will be provided to the Minister for her consideration in making a submission to Cabinet, to establish a new, bespoke model of local governance for Norfolk Island in accordance with the Government's in-principle agreement to Recommendation 2 in the Joint Standing Committee on the National Capital and External Territories' (JSCNCET) report <i>Restoring Democracy</i> .

**Deliverables**

1. A statement about the NIGC's proposed governance model to be shared with the Norfolk Island community via communique
2. A proposal that meets the Minister's expectations, to be provided to the Minister on **28 June 2024**.

**Agenda**

AGENDA ITEM	ATTACHMENTS	LEAD	TIME
1. Welcome and apologies	The Prayer of John Adams	The Chair	9:00am – 9:05am
2. Minutes from previous meetings 2.a – 17 April 2024 2.b – 30 April 2024 2.c – 9 May 2024		The Chair	9:05am – 9:15am
3. Scope and limitations of recommendations a) What would be included in primary legislation? b) What would be a recommendation for the new governing body to implement? c) What would be a recommendation for the revenue model? d) What would be the recommendation associated with transition?		The Chair	9:15am – 9:30am
4. Department's overarching policy and program objectives for Norfolk Island		David McKay	9:30am – 10:00am
5. Considerations for the primary legislation-Local Assembly 5.1. Preamble 5.2. Name 5.3. Constitution and Membership of Local Assembly	Draft itinerary	The Chair	10:00am – 11:00am
<b>Morning tea</b>			11:00am – 11:30am
5.4. Responsibilities (including shared) & powers 5.5. Dissolution of Local Assembly 5.6. Integrity and oversight arrangements	Draft itinerary	The Chair	11:30am – 1:00pm
<b>Lunch</b>			1:00pm – 1:45pm
5.7. The Public service 5.8. The Public Account & Funding arrangements 5.9. Crown land	Draft itinerary Draft governance model from Community	The Chair	1:45pm – 3:30pm
<b>Afternoon tea</b>			3:30pm – 3:45pm
6. Recap of key decisions and confirming NIGC resolutions		The Chair	3:45pm – 5:00pm

AGENDA ITEM	ATTACHMENTS	LEAD	TIME
7. Close		The Chair	5:00pm

#### Additional documents

1. Norfolk Island Governance Committee Terms of Reference, as amended
2. Australian Government Response to the Joint Standing Committee on the National Capital and External Territories report into its inquiry into local governance on Norfolk Island.
3. Joint Media Release, Hon Kristy McBain, MP, Minister for Regional Development, Local Government and Territories, and David Smith, MP, Federal Member for Bean, 9 August 2023
4. Media Release, Minister McBain, 10 May 2024
5. Media Release, George Plant, Administrator of Norfolk Island, 16 May 2024
6. Overview of current service delivery on Norfolk Island (DITRDCA)
7. Draft Governance Model prepared by the Community Representatives dated 2 May 2024
8. Feedback on Draft Model by Chair - email dated 16 May 2024
9. Feedback on Draft Model by Rachel Welch, Queensland representative -email dated 20 May 2024
10. Feedback on Draft Model by Sarah Vandenbroek, DITRDCA e-mail dated 20 May 2024

## The role of the NIGC

The role of the Norfolk Island Governance Committee (NIGC) is to provide decisions, advice and recommendations on the governance of Norfolk Island.

⇒ The NIGC's considerations will include the legislative framework and laws applying to Norfolk Island, the delivery of government services, and other governance-related matters of importance to the Norfolk Island community.

⇒ The NIGC will work with the Norfolk Island community to deliver a plan, methodology and timeline to modernise Norfolk Island's governance, consistent with the needs and aspirations of its people, and establish:

- a new governing body with the appropriate legislative authority and financial and administrative capacity to efficiently, effectively and sustainably administer its responsibilities, and
- a new governance model that is clear, fair and effective, and ensures a secure and genuinely democratic future for Norfolk Island and its people.

⇒ The NIGC will oversee and assist Norfolk Island's transition to the new governance model, and facilitate continued collaboration, cooperation and communication between Norfolk Island's new governing body, the Australian Government, and any service-delivery partners on Norfolk Island or in Australia.

⇒ The NIGC will recognise the continued heritage, culture and traditions of the island's culturally distinct people and preserve their enduring connections with and to their homeland, its important sites, and surrounding sea.

## NIGC

### NIGC JUNE WORKSHOP: 12 – 13 June 2024

#### 1. Goal:

Reach consensus on a proposal for a new model of governance for Norfolk Island to be provided to the Minister for her consideration in making a submission to Cabinet. This submission will cover the following areas:

- a. The enactment of new Commonwealth legislation for Norfolk Island, establishing a new Local Assembly that provides democratic participation and representation in the governance of Norfolk Island by its people.
- b. Restructuring Commonwealth and Norfolk Island revenue arrangements to enhance efficiency and financial sustainability, and
- c. Restructuring the delivery of local government services to enhance local decision-making and management.

#### 2. Policy priorities, objectives, and desired outcomes:

- a. Australian Government and DIRTDC - To be delivered by David Mackay.
- How will other Departments with responsibility for Norfolk Island governance be engaged in the process?
- b. Queensland Government - To be delivered by Rachel or David.
- c. Norfolk Island - (see 'Role of NIGC', Terms of Reference).

### 3. AGS Principles for clearer laws:

Laws that are clear and easy to understand are an essential part of an accessible justice system. Clearly written laws can be better understood, complied with and administered. Policymakers and instructing agencies and drafters should apply the following general principles when developing Commonwealth legislation:

- When developing policy, reducing complexity should be a core consideration.
- Laws should be no more complex than is necessary to give effect to policy.
- Legislation should enable those affected to understand how the law applies to them.
- The clarity of a proposed law should be continually assessed, from policy development through to consideration by Parliament (for Acts) and consideration by the rule-maker (for legislative instruments).

### 4. Consensus discussion

The enactment of new Commonwealth legislation for Norfolk Island		
Item 1	Preamble	
Item 2	Territory definition	
Item 3	Constitution and Membership of Local Assembly	
Item 4	Responsibilities and powers	
Item 5	The power to make laws	Agreed
Item 6	Dissolution of Local Assembly	
Item 7	Fundamental rights and freedoms	
Item 8	Integrity and oversight arrangements	
Item 9	Judicial system	Agreed
Item 10	Treatment of land	
Item 11	Public Account	
Item 12	Application of Commonwealth Acts	
Item 13	Formal Communication and Cooperation Arrangements	
Item 14	Delegation of powers of Minister/Local Assembly	
Item 15	Name (Current suggestion, <i>Norfolk Island Local Assembly</i> )	
Restructuring Commonwealth and Norfolk Island revenue arrangements		
Item 16	Funding arrangements	
Delivery of local government services		
Item 17	Joint management of KAVHA	Agreed
Item 18	Administrative arrangements	
Development of a transition plan and timeline following consensus agreement to the above		
Item 19	Summary and next steps	

**Yellow: Further discussion required****Item 1: Preamble**

*WHEREAS* by an Act of the Parliament of the United Kingdom, made and passed in the sixth and seventh years of the reign of Her Majesty Queen Victoria entitled “An Act to amend so much of an Act of the last Session, for the Government of New South Wales and Van Diemen’s Land, as relates to Norfolk Island,” it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to sever Norfolk Island from the Government of New South Wales and to annex it to the Government and Colony of Van Diemen’s Land:

*AND WHEREAS* Her Majesty Queen Victoria, in exercise of the powers vested in Her by the said Act, by a Commission under the Great Seal of the United Kingdom bearing date the twenty-fourth day of October, 1843, appointed that from and after the twenty-ninth day of September, 1844, Norfolk Island should be severed from the Government of New South Wales and annexed to the Government and Colony of Van Diemen’s Land:

*AND WHEREAS* by an Act of the Parliament of the United Kingdom, called the Australian Waste Lands Act 1855, it was, amongst other things, provided that it should be lawful for Her Majesty at any time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen’s Land and to make such provision for the Government of Norfolk Island as might seem expedient:

*AND WHEREAS* on 8 June 1856 [the entire community of Pitcairn Island, an ethnically, culturally and linguistically distinct people, settled Norfolk Island **on the understanding that the Island was gifted to them by Her Majesty Queen Victoria**

*AND WHEREAS* by an Order in Council dated the twenty-fourth day of June, 1856, made by Her Majesty in pursuance of the last-mentioned Act, it was ordered and declared, amongst other things, that from and after the date of the proclamation of the Order in New South Wales Norfolk Island should be thereby separated from the said Colony of Van Diemen’s Land (now called Tasmania) and that from that date all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania over Norfolk Island should cease and determine, and that from the said date Norfolk Island should be a distinct and separate Settlement, the affairs of which should until further Order in that behalf by Her Majesty be administered by a Governor to be for that purpose appointed by Her Majesty with the advice and consent of Her Privy Council: and it was thereby further ordered that the Governor and Commander-in-Chief for the time being of the Colony of New South Wales should be, and he thereby was, constituted Governor of Norfolk Island, with the powers and authorities in the said Order mentioned:

*AND WHEREAS* the said Order in Council was proclaimed in New South Wales on 1 November 1856:

*AND WHEREAS* by an Order in Council dated the fifteenth day of January, 1897, made in pursuance of the said last-mentioned Act, Her Majesty, after reciting that it was expedient that other provision should be made for the government of Norfolk Island, and that, in prospect of the future annexation of Norfolk Island to the Colony of New South Wales or to any Federal body of which that Colony might thereafter form part, in the meantime the affairs of Norfolk Island should be administered by the Governor of New South Wales as therein provided, was pleased to revoke the said Order in Council of the twenty-fourth day of June, One thousand eight hundred and fifty-six, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor and Commander-in-Chief for the time being of the Colony of New South Wales and its Dependencies:

*AND WHEREAS* the said Order in Council was published in the New South Wales *Government Gazette* on 19 March 1897, and took effect at that date:

*AND WHEREAS* by an Order in Council dated the eighteenth day of October, One thousand nine hundred, made in pursuance of the said last mentioned Act, Her Majesty was pleased to revoke the said Order in Council of the fifteenth day of January, One thousand eight hundred and ninety-seven, and to order that the affairs of Norfolk Island should

thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor for the time being of the State of New South Wales and its Dependencies:

AND WHEREAS the said Order in Council was published in the *New South Wales Government Gazette* on 1 January 1901, and took effect at that date:

AND WHEREAS by an Order in Council dated the 30th day of March, 1914, His Majesty King George V, by virtue and in exercise of the power in that behalf by the said last-mentioned Act or otherwise in His Majesty vested, after reciting that the Parliament had passed an Act No. 15 of 1913, entitled "An Act to provide for the acceptance of Norfolk Island as a territory under the authority of the Commonwealth, and for the government thereof" and that it was expedient that the said Order in Council of 18th of October, 1900, should be revoked and that Norfolk Island should be placed under the authority of the Commonwealth of Australia, was pleased to revoke the said Order in Council of 18th of October, 1900, and to order that Norfolk Island be placed under the authority of the Commonwealth of Australia:

AND WHEREAS the said Order in Council was published in the *Gazette* on 17 June 1914, and took effect from 1 July 1914, being the date of commencement of the *Norfolk Island Act 1913*:

AND WHEREAS Norfolk Island was, by the *Norfolk Island Act 1913*, declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth:

AND WHEREAS Norfolk Island has been governed by the Commonwealth initially under the provisions of the *Norfolk Island Act 1913*, the *Norfolk Island Act 1957*, and subsequently under the provisions of the *Norfolk Island Act 1979*:

AND WHEREAS the Parliament recognises the residents of Norfolk Island include the descendants of the settlers from Pitcairn Island, and the many other people who have made Norfolk Island their home since 1856:

AND WHEREAS the Parliament recognises the said descendants aspire to preserve their continued heritage, culture and traditions and their enduring connections with and to their homeland, its important sites, and surrounding sea:

AND WHEREAS the Parliament recognises the mutual benefit to both Norfolk Island and Australia in fostering good relations and respecting each other's needs, interests, and obligations:

AND WHEREAS the Parliament recognises Norfolk Island as a Non-Self-Governing Territory within the meaning of the Charter of the United Nations:

AND WHEREAS the Parliament recognises the shared aspiration to position Norfolk Island as a model of good-governance and excellence in its relationship with Australia and the Pacific:

AND WHEREAS the Parliament considers it to be desirable and to be the wish of the people of Norfolk Island that Norfolk Island achieve internal government as a distinct and separate Territory under the authority of the Commonwealth and, to that end, to provide, among other things, for the establishment of separate territory and administrative institutions on Norfolk Island:

BE IT THEREFORE ENACTED by the King, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

NOTE: A copy of the Ward and Lowe joint opinion provided and Australian Government legal opinion sought on the following questions:

1. Is Norfolk Island a non-self-governing territory within the meaning of Article 73 of the Charter of the United Nations?
2. Is United Nations General Assembly Resolution 1514 of 14 December 1960 applicable to Norfolk Island, having regard to the principles expressed in Resolution 1514?

Defining the 'nature of the relationship between Norfolk Island and Australia' in the Preamble is an obligation in the amended NIGC Terms of Reference and JSCNCET Recommendation 1 agreed by the Australian Government.

## Item 2: Territory definition

The Distinct and Separate Territory of Norfolk Island: Norfolk Island and all the other islands and rocks lying around Norfolk Island, and the waters extending 200 nautical miles from the baselines established in accordance with the United Nations Convention on the Law of the Sea, including the seabed and subsoil beneath.

NOTE: Current (and future) Norfolk Island laws, regulations, policies, and MOU's require jurisdictional boundaries and recognition that include the waters surrounding Norfolk Island. E.g. *Marine Safety Act (NI)*, *Norfolk Island Fisheries Management Policy 2009*, etc.

## Item 3: Constitution and Membership of Local Assembly

**Eligibility to nominate for Local Assembly for election:** A person is eligible to be a member of the Local Assembly only if the person:

1. Is an adult Australian or New Zealand citizen
2. Ordinarily resident on Norfolk Island (define period).
3. Is properly enrolled to vote on the Norfolk Island Electoral Roll

NOTE: Eligibility of Electors, to be determined by separate NI enactment/ordinance

4. Is not disqualified from being a member because of:
  - a. A conviction for certain offenses such as:
    - i. Treason (unless pardoned of the treason offence)
    - ii. Serious electoral or integrity offence (e.g. fraud, extortion, forgery, false statements, computer hacking and misuse).
  - b. Is serving a prison sentence at the time of nomination and election
  - c. Is a bankrupt
5. Undertakes mandatory training for accountable and ethical decision making for the Local Assembly

**Members of the Local Assembly:** The Local Assembly of Norfolk Island will comprise 7 elected members.

One member is identified as the Local Assembly Chair, chosen through vote of the seven members after election.

Only the Chair and deputy Chair are appointed full time. Members are elected as part time members of the Local Assembly. Discuss roles and responsibilities prior to making decision

The Local Assembly Chair is responsible for appointing and overseeing the Chief Executive Officer of the Norfolk Island Administration/public service (however named) on the advice and with the agreement of the Local Assembly.

**Fixed or maximum Term:** Four Years?



## Item 4: Local Assembly and Administration (Responsibilities and powers)

NOTE: Differentiate which of the following matters belongs in the Primary Legislation, and which matters relate to matters requiring separate NI enactment/ordinance.

NI Local Assembly responsibilities (modified from section 8 Qld LGA 2009):

1. The NI Local Assembly is an elected body that is responsible for the peace, order, and good government of Norfolk Island.

NI Local Assembly delegated general powers (modified from sections 9, 10 Qld LGA 2009)

1. The Local Assembly has the power to do anything that is necessary or convenient for the peace, order, and good government of Norfolk Island.
2. However, the Local Assembly can only do something that it is empowered to do under the Act.
3. When exercising a power, the Local Assembly **must** take into account Norfolk Island traditions and custom.
4. The Local Assembly may exercise its powers by cooperating with one or more State or Commonwealth governments to conduct a joint government activity (including providing a service, operating a facility or expending funds).

To ensure the system of governance on Norfolk Island is accountable, effective, efficient and sustainable, it is required that:

1. Anyone who is performing a responsibility in the NI Local Assembly, must do so in accordance with the governance principles.
2. Any action taken under this Act must be:
  - (a) Consistent with the governance principles
  - (b) Provide results that are consistent with the governance principles in as far as the results are within the control of the person who is taking the action.

Governance principles:

1. Transparent and effective processes, and decision-making in the public interest;
2. Sustainable development and management of assets and infrastructure, and delivery of effective services;
3. Democratic representation, social inclusion and meaningful community engagement;
4. Good governance of, and by, NI Local Assembly; and
5. Ethical and legal behaviour of elected members, governance employees and elected members' advisors.

Responsibilities of elected members (modified section 12 Qld LGA 2009):

1. represent the current and future interests of all the residents of Norfolk Island
2. ensure the Local Assembly discharges its responsibilities under the Act
3. ensure the public service achieves its corporate plan
4. comply with all the laws that apply to Norfolk Island
5. provide high quality leadership to the NI government, and to the community
6. participate in Local Assembly meetings, policy development and decision making for the benefit of Norfolk Island
7. be accountable to the community of Norfolk Island for the Norfolk Island government's performance.

8. be accountable under any SDAs or MOUs with State or Commonwealth governments

Responsibilities of Local Assembly Chair (modified section 12 Qld LGA 2009):

1. leading and managing meetings of the Local Assembly, including managing the conduct of the participants (members, and staff of the Assembly at the meetings)
2. leading, managing, and providing strategic direction to, the CEO in order to achieve the high-quality administration of Norfolk Island
3. directing the CEO as appropriate
4. conducting a performance appraisal of the CEO at least annually
5. representing the Local Assembly at ceremonial or civic functions

#### Administration (Public service)

The **Norfolk Island Administration (Public Service)** is a body politic with perpetual succession, has a common seal; and is capable in that name of:

- (a) suing and being sued;
- (b) making contracts;
- (c) acquiring, holding and disposing of real and personal property; and
- (d) doing and suffering all other matters and things a body corporate may do or suffer.

Responsibilities of the CEO (modified section 13 Qld LGA 2009):

1. managing the **Administration** (public service) of Norfolk Island in a way that promotes the effective, efficient and economical management of public resources
2. managing the **Administration** (public service) to provide excellence in service delivery and a culture of continual improvement
3. manage the public service to promote equal employment opportunities and in a way to be responsive to the Local Assembly's policies and priorities
4. the safe custody of all documents owned or held by the public service
5. complying with lawful requests from the **Local Assembly** for advice to assist them carrying out their role or for information that the public service has access to relating to the public service.

### Item 5: The power to make laws (AGREED – See Table below – Page 15)

### Item 6: Dissolution of Norfolk Island Local Assembly

**Suspension or dissolution of the Local Assembly:** The Minister may suspend or dissolve the Local Assembly only:

1. if other remedial actions have been tried, or are considered insufficient due to the level of concern (e.g. criminal or corrupt conduct by the Local Assembly). **(Define)**

2. if the dissolution is in the public interest, with specific consideration of the public interest of Norfolk Island residents (Define Norfolk Island residents)

**Interim administrator:** The Minister may appoint an interim administrator to act in place of the Local Assembly until the conclusion of a fresh election of members to be held on a stated date.

A new election must be initiated, not earlier than 36 days, nor later than 90 days, as soon as practicable but within 6 months of the dissolution of the Local Assembly.

**The powers and responsibilities of the interim administrator:**

1. the interim administrator is appointed to act in place of the members of the Local Assembly and has all the responsibilities of the Local Assembly and the Chair.
2. The Minister may limit the responsibilities and powers of the interim administrator.

## Item 7: Fundamental rights and freedoms

(a) All peoples have the right to self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit and international law; and

(b) The realisation of the right of self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations.

## Item 8: Integrity and oversight arrangements

NOTE: The Commonwealth Legislation should provision for Integrity measures; however, the detail below should be agreed and included in separate enactment/ordinance/applied law. This section requires further consideration, perhaps in consultation with the QLD Integrity Commissioner. If Queensland are to be involved it may be better to use words from their Laws?

**Members' conduct, breaches, misconduct and corrupt conduct:** A conduct breach means conduct that contravenes:

1. A behavioural standard (as defined ....)
2. A policy, procedure or resolution of the Local Assembly
3. An order of the chairperson of the Local Assembly meeting for the member to leave and stay away from the place at which the meeting is being held.

**Misconduct means conduct that:**

1. Adversely affects, directly or indirectly, the honest and impartial performance of the member's functions, or the exercise of the member's powers (as determined by ....)
2. Is or involves:
  - a. Proven non-compliance with an Act by the member (The presumption of innocence must apply)
  - b. Misuse of information or material acquired in, or in connection with, the performance of the member's functions, whether the misuse is for the benefit of the member, or for the benefit, or to the detriment of, another person (as determined by ....)

3. Contravenes any of the following:
  - a. An order of the Local Assembly
  - b. A policy of the Local Assembly about the reimbursement of expenses
  - c. Other legislated or policy requirements as specified (to be determined).

**Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that:**

1. adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of:
  - a. the Local Assembly or public service; or
  - b. a person holding an appointment; and
2. results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—
  - a. is not honest or is not impartial; or
  - b. involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
  - c. involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
3. would, if proved, be—
  - a. a criminal offence; or (The presumption of innocence must apply)
  - b. a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.

**Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—**

1. impairs, or could impair, public confidence in public administration; and
2. involves, or could involve, any of the following—
  - a. collusive tendering
  - b. fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—
    - i. protecting health or safety of persons
    - ii. protecting the environment
    - iii. protecting or managing the use of Norfolk Island's natural, cultural, mining or energy resources
  - c. dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of Norfolk Island assets
  - d. evading a Norfolk Island tax, levy or duty or otherwise fraudulently causing a loss of Norfolk Island revenue
  - e. fraudulently obtaining or retaining an appointment and
3. would, if proved, be—
  - a. a criminal offence; or
  - b. a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.

**Members' conflicts of interest**

If a member has a personal interest in a matter, the Local Assembly must deal with the matter in an accountable and transparent way that meets community expectations.

A personal interest is not a conflict of interest that requires management if the matter of the interest is solely or relates solely to:

- a. the making or levying of rates and charges, or fixing of a cost-recovery fee that will apply general to Norfolk Island

- b. making or amending a planning scheme that applies to the whole of Norfolk Island
- c. the preparation or adoption of a budget for the Norfolk Island Local Assembly
- d. the remuneration or reimbursement of expenses of members of the Local Assembly
- e. the provision of superannuation entitlements or insurance for members
- f. other matters as identified during creation of the Local Assembly appropriate to Norfolk Island.

**The management of a member's personal interest in a matter should include:**

1. a declaration process with a publicly available register
2. a mechanism to remove the member from decisions related to the matter
3. a descriptive list of declarable conflicts of interest
4. process for review and re-consideration of matters for which a personal interest was not declared but later identified.

**Complaints about conduct**

An appropriate agency/office will need to be established or identified to take, assess and investigate complaints about conduct breaches, misconduct and corrupt conduct.

Examples might include:

- application of the Commonwealth Ombudsman legislation and framework
- establishment of a bespoke Norfolk Island Corruption, Integrity or Ethics Assessor or commissioner
- application of Queensland legal framework but substituting a Norfolk Island appointee.

Process for investigating, powers for requiring access to sites and information and relationships with the AFP will need to be designed.

A structure and sanctions to manage vexatious and frivolous complaints will also be needed.

The *Local Government Act (Qld) 2009* has one framework that may be used as an example.

## Item 9: Judicial system (AGREED – See Table below – Page 15)

## Item 10: Treatment of Land

NOTE: Although this will be a matter for the Local Assembly and Australian Government, the new Commonwealth legislation will need to include specific provisions outlining the treatment of land in Norfolk Island.

To make an informed recommendation, the NIGC must know if Australian Government acquisitions made since 2015 made on 'Just Terms', and be provided with evidence that the Commonwealth own the land in KAVHA?

Norfolk Island's governing body may, in accordance with law, make grants or other dispositions of Crown land in the Territory.

## Item 11: Public Account

Public monies shall be available for the purposes of the government of the Territory: The monies of the Public Account of Norfolk Island shall not be issued or expended except as authorised by enactment. The Commonwealth Finance Minister may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend money to the

Territory or to a Territory authority at such rates of interest and on such other terms and conditions as they determine. The accounts of the Territory shall, notwithstanding any enactment, be subject to inspection and audit by the Auditor-General for the Commonwealth.

## Item 12: Application of Commonwealth Acts:

NOTE: See agreed Item 6, part (3a)

An Act or a provision of an Act, passed after the date of commencement, is not, except as otherwise provided by that Act or by any other Act, in force as such in the Territory, unless expressed to extend to the Territory.

## Item 13: Formal Communication and Cooperation Arrangements

Note: Sarah and Rachels paper, 'Matters to be developed' - 'Engagement structure and relationship with Cth Minister and department'.

Formation of a joint advisory committee with 2 elected representatives selected from Norfolk Island's governing body and 2 representatives selected by the Australian Government. The committee's operational charter will require it to, amongst other things:

- ▶ Develop a mutually respectful and enduring alliance between Norfolk Island and Australia, advance the shared aspirations and future direction of the relationship, and maintain a shared commitment to the ongoing success of the new governance model.
- ▶ Promote local capacity building, financial sustainability, cost-efficiency, and mutually beneficial outcomes.
- ▶ Periodically review the island's legislative and administrative responsibilities and associated funding arrangements to ensure relevance and efficacy.
- ▶ Provide local input into federal responsibilities, ensuring the efficacy of federal laws and services on Norfolk Island. Commonwealth laws will not automatically apply to Norfolk Island and will only apply following consultation with Norfolk Island's governing body and the community to ensure legislation is fit for purpose.

A subcommittee of the joint advisory committee will be formed to support economic diversification and financial resilience.

## Item 14: Delegation of powers of Minister/Local Assembly

### Item 15: Name

Current suggestion, *Norfolk Island Local Assembly*

## Item 16: Taxation and Funding arrangements

NOTE: Rachel's and Sarah's paper – **Allocating Commonwealth funding to Local Assembly** - The Local Government Grants Commission established by the *Local Government (Financial Assistance) Act 1995* (Cth) will determine and recommend the quantum of funding to be provided by the Commonwealth to the Norfolk Island Local Assembly.

Confirm Norfolk Island's grant can be determined in writing by the Treasurer and paid directly into the Norfolk Island public account (e.g. A.C.T.)

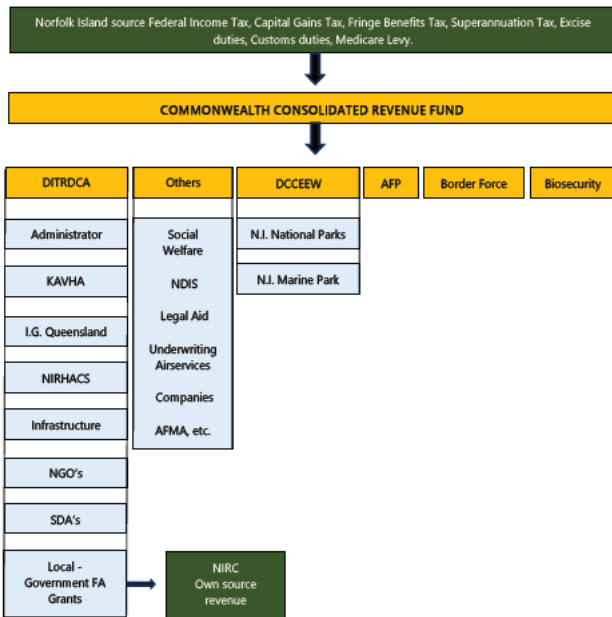
The Australian Government will support the island's long-term aspiration to be as self-sufficient as possible, and will assist and support economic prosperity and diversification initiatives to achieve this outcome.

The agreed revenue model will need to be adaptive to economic circumstances, capacity, and community needs and aspirations.

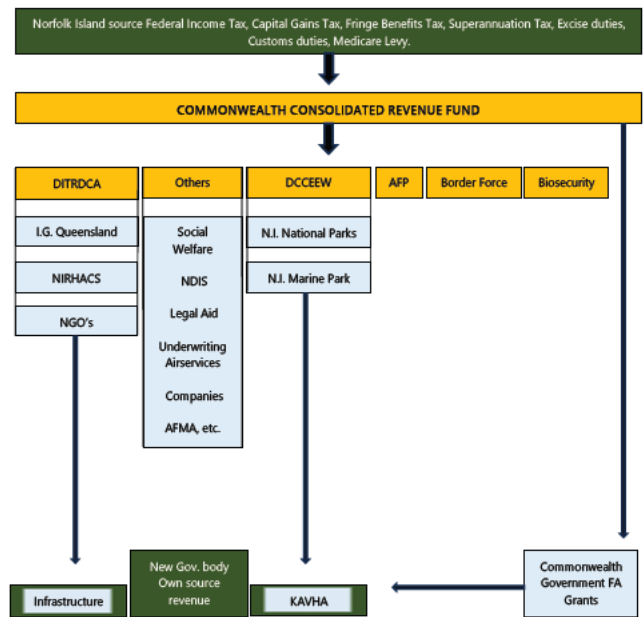
For present purposes:

1. **The Australian Government will fund federal responsibilities and agreed state services, including health and education.**
2. **Norfolk Island's governing body and the Australian Government will co-fund agreed shared responsibilities.**  
Large-scale infrastructure and common-use assets to be funded as a shared responsibility, given the island's limited taxpayer base.
3. **Norfolk Island's governing body will fund the remaining responsibilities through local taxes, duties, fees, charges, levies, business income, miscellaneous income, and Financial Assistance Grants.**
4. **Public Service - Local management and provision of services:** Outsourcing public services to external service providers will only be considered under circumstances where there is significant community support and a clear benefit that cannot be achieved through local provision.
5. **Horizontal Fiscal Equalization:** Traditionally, Financial Assistance Grants (FAG's) have supported states and territories with untied revenue for discretionary use, promoting equal service standards across regions. Norfolk Island will achieve fiscal equalization through tailored FAGs to assist in the provision of state and local-type services, determined on the advice of the Commonwealth Grants Commission. Norfolk Island will receive FAG's funds directly into its public account. This ensures the island's governance can make independent financial decisions.
6. **Fair and Sustainable Revenue Model:** Contributions from the residents of Norfolk Island towards governance, services, and infrastructure will be assessed to ensure affordability, fairness, and equity.

Current Taxation and Funding Arrangements



Proposed Taxation and Funding Arrangements



Structural and Cost Efficiencies

- Improved Departmental Focus.** Promote local democratic decision-making and reduce cost-inefficient Federal remote-control administration and management of state services. Increase departmental focus to resolve the numerous difficulties associated with the current provision, application, and compliance of Commonwealth laws and responsibilities.
- Local Taxation Powers.** Enhance local decision-making and taxation powers to facilitate the establishment of a more equitable, appropriate, and potentially expanded local revenue base (if needed).
- Local Service Provision and management.** Limit the use of cost-inefficient external service providers and ensure all senior public service management reside on Norfolk Island (other than in exceptional circumstances).
- Sustainable joint infrastructure funding.** Shared funding for Airport, Ball Bay, Cascade and Kingston Piers, the Airport and community fire services, EMNI, Norfolk Fuel, Roads, Quarrying, Waste management, and Water assurance services.

Item 17: Joint management of KAVHA

Agreed decision-making process and structure

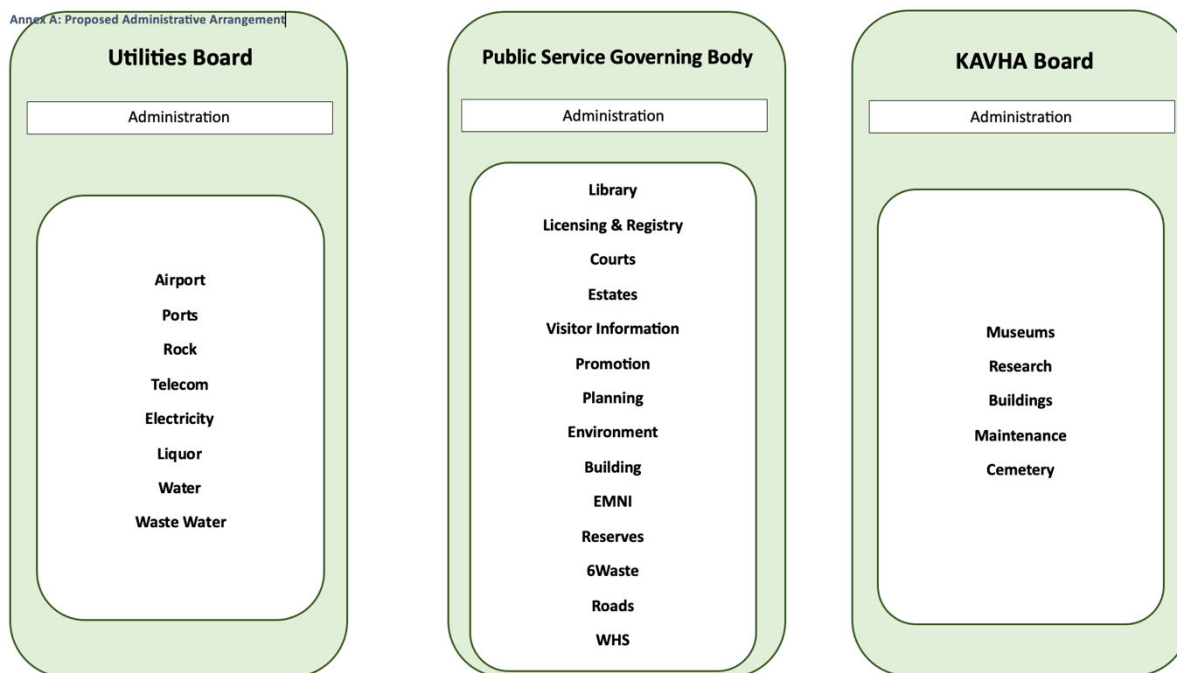
NOTE: Discussion - transfer Australian Gov. responsibility to DCCEEW

Item 18: Division of Administrative Responsibilities

NOTE: See community preferred governance model - Division of Administrative and Funding Responsibilities – Pages 10 - 15

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## Item 19: Summary and next steps

Outcome of workshop, including:

19.1 Summary of matters to be included in the new Commonwealth Legislation – and agreed outcomes (See below)

19.2 Summary of matters still to be considered, including:

- Detailed administrative arrangements and funding model - based on agreed division of responsibilities (Financial expert assistance)
- Development of a new Local Assembly Act, Public service Act, Electoral Act, and Integrity Act (Separate NI enactment/ordinance).
- Community engagement on consensus model,
- Population control mechanism,
- Transitional Plan, and
- Communique

Agreed elements to be included in new Commonwealth Legislation	
Item 1: Preamble:	
Item 2: Territory definition	
Item 3: Constitution and Membership of Local Assembly	
Item 4: Local Assembly and Administration (Responsibilities and powers)	
Item 5: Law-making power	<p>The law-making authority will be provided under primary Legislation, and there will only be three (3) types of laws (Acts or Ordinance):</p> <ol style="list-style-type: none"> <li>1. Commonwealth law (Primary Legislation), which includes the Norfolk Island Act Subordinate law, which includes:</li> <li>2. Applied laws (laws of another State or Territory)</li> <li>3. Norfolk Island laws:               <ol style="list-style-type: none"> <li>a. Interaction with Commonwealth laws: If there is an inconsistency between a Norfolk Island law and a law made by the Commonwealth, the law made by the Commonwealth prevails to the extent of the inconsistency.</li> <li>b. Power to make laws: The Local Assembly may make and enforce any law that is necessary or convenient for the peace, order, and good government of Norfolk Island.</li> <li>c. The Local Assembly must not make a law that purports to stop a Norfolk Island law being amended or repealed in the future or, about a subject that is prohibited in the Act.</li> <li>d. Law making process:                   <ul style="list-style-type: none"> <li>- The Local Assembly may decide its own process for making a law to the extent that it is not inconsistent with the requirements below. Norfolk Island laws are made by Ordinance by the Governor-General.</li> <li>- The Local Assembly makes a law by passing a resolution to make the law</li> <li>- If a new law is made by the Local Assembly and there is an existing law previously made by the Local Assembly about the same matter that would be inconsistent with the new law, the Local Assembly must amend or repeal the existing law so there is no inconsistency.</li> <li>- The Local Assembly must ensure its laws are drafted in compliance with the guidelines issued by the Parliamentary Counsel (Cth)</li> <li>- The Local Assembly must undertake public consultation before making a new law or amending or repealing an existing law</li> <li>- The Local Assembly must advise the public that a local law has been made or amended or repealed by publishing a notice of making, repealing or amending the law, in the gazette and on the Local Assembly's website</li> <li>- The notice must be published within 1 month after the day the law is made/repealed/amended.</li> <li>- As soon as practicable after the notice is published, the Local Assembly must ensure a copy of the law may be inspected and purchased by the public at the Local Assembly's public office.</li> </ul> </li> </ol> </li> </ol>

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	<ul style="list-style-type: none"> <li>- It must cost no more than the cost to the Local Assembly of making the copy available for purchase (i.e. not a revenue stream).</li> <li>- A register of laws must be kept in a way to be prescribed by regulation and must be available for the public to inspect at the Local Assembly's public office</li> </ul> <p>e. Laws that cannot be made: The Local Assembly must not make a law that contains an anti-competitive provision unless the Local Assembly has complied with the procedures prescribed by regulation for the review of anti-competitive provisions.</p> <p>f. Revocation and suspension of laws: The Minister may suspend or revoke a law if they reasonably believe the law is contrary to any other Norfolk Island or Commonwealth Law, or inconsistent with the governance principles. Revocation/suspension is by way of gazette notice.</p> <p>Disallowance of laws: The Commonwealth Parliament of Australia may disallow any Norfolk Island law for any other reason.</p>
Item 6: Dissolution of Norfolk Island Local Assembly	
Item 7: Fundamental rights and freedoms	
Continuance of existing laws/ordinances	OPC
Item 8: Integrity and oversight arrangements	
Item 9: Judicial system	No change - The Supreme Court of Norfolk Island continues in existence as the Superior Court of Record of the Territory. The Supreme Court is to have all original and appellate jurisdiction that is necessary for the administration of justice in the Territory.
Item 10: Treatment of land	
Item 11: Public Account	
Item 12: Application of Commonwealth Acts	
Item 13: Formal Communication and Cooperation Arrangements	
Item 14: Delegation of powers of Minister/Local Assembly	
Item 15: Name	
Procedures of Local Assembly (rules, guidelines and orders):	OPC
Borrowings:	Treasurer

Remuneration and allowances:	TBD
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### For discussion: Other matters in Rachel's and Sarah's paper not included above

#### Control of roads (modified section 60 Qld LGA 2009)

The NI Local Assembly has control of some roads on Norfolk Island, which includes being able to: [consideration needed of how this section works with roads not controlled by the NI Local Assembly]

- a. Survey and resurvey roads
- b. Construct, maintain and improve roads
- c. Approve the naming and numbering of private roads
- d. Name and number of public (other) roads
- e. Make a local law to regulate the use of roads including:
  - i. Movement of traffic on roads
  - ii. Parking of vehicles on roads, including the maximum time a vehicle may be parked in a designated rest area that adjoins a road
  - iii. Imposing obligations of the owner of land that adjoins a road (e.g. obligation to fence)
- f. Make a local law to regulate the construction, maintenance and use of:
  - i. Public utilities along, in, over or under roads
  - ii. Ancillary works and encroachments along, in, over or under roads
- g. Realign a road in order to widen the road
- h. Acquire land for use as a road (subject to appropriate conditions and requirements to be articulated in the Act)

#### Other areas of authority

Other areas of authority that the Act may need to spell out include:

- Stormwater drains and installations on public and private land – including what they may be connected to, what may be drained into them (e.g. no prohibited substances), and dealing with interferences with stormwater path.
- Rates and charges on land, services, facilities or activities undertaken by the Local Assembly, including utility charges for waste management/power/ sewerage/water
- Cost recovery fees (e.g. planning applications)

#### Engaging with the community (modified section 87 Qld LGA 2009)

The Local Assembly may establish a community forum for the Local Assembly. The community forum is a body established to be responsible for meeting with the local community to discuss issues relating to:

1. Planning
2. Delivery of services
3. Culture
4. Tourism
5. Economic development

#### The community forum comprises:

1. A chairperson who is a Local Assembly member

2. At least 3 but not more than 5 appointed members

Procedures:

1. The name and members of the community forum must be published
2. The Local Assembly decides all meeting matters necessary for the operation of the community forum
3. Members of a community forum:
  - a. Are to be appointed by resolution of the Local Assembly
  - b. Selected through a merits based selection process
  - c. Must be residents of Norfolk Island, may include non-Australian citizens
  - d. Cannot be the mayor/chair
  - e. Must include:
    - i. A female member
    - ii. A youth/young member
    - iii. A community elder
  - f. Are not paid but reasonable expenses may be reimbursed

Financial planning and accountability (modified Part 3, Qld LGA 2009)

The Local Assembly must establish a system of financial management to ensure it is financial sustainable.

The Local Assembly is financial sustainable if the Local Assembly is able to maintain its financial capital and infrastructure capital over the long term.

The system of financial management must have regard to the sound contracting principles of:

- a. Value for money
- b. Open and effective competition
- c. Development of competitive local business and industry
- d. Environmental protection
- e. Ethical behaviour and fair dealing.

The system of financial management established by the Local Assembly must include:

1. The following financial planning documents:
  - a. A corporate plan that incorporates community engagement
  - b. A long-term asset management plan
  - c. A long-term financial forecast
  - d. An annual budget including revenue statement
  - e. An annual operational plan
2. The following financial accountability documents:
  - a. General purpose financial statements
  - b. Asset registers
  - c. An annual report
  - d. A report on the results of an annual review of the implementation of the annual operational plan
3. The following financial policies:

- a. Investment policy
- b. Debt policy
- c. Revenue policy

#### Auditing

The Local Assembly must establish an efficient and effective internal audit function and an audit committee.

The audit committee will monitor and review:

- a. The integrity of financial documents
- b. The internal audit function
- c. The effectiveness and objectives of the Local Assembly's internal auditors

The members of the audit committee will be independent and will include:

- a) At least one member with professional accounting qualifications and experience;
- b) At least one member with ICT qualifications and experience; and
- c) A representative of the Minister with responsibility for Territories.

The audit committee will make recommendations to the Local Assembly about any matters that the audit committee considers need action or improvement.

#### Insurance

The Local Assembly must maintain public liability and professional indemnity insurances.

#### Members' financial accountability

Individual and collective members must abide by specified financial accountability measures including with respect to:

- 1. Discretionary funds
- 2. Disbursements – and are prohibited from making improper disbursements
- 3. Loans to individuals
- 4. Borrowings – and must not make improper borrowings

#### Remedial action

The commonwealth minister may take remedial action if the Minister believes:

- a. The Local Assembly or an individual member is not performing their responsibilities properly or
- b. The Local Assembly or individual member is not complying with laws applying to the Local Assembly or individual member or
- c. It is otherwise in the public interest for the Minister to take remedial action.

Before taking remedial action, the Minister must give the Local Assembly or member in question, a notice of the proposal to exercise the power and must give sufficient time for the Local Assembly or member to provide a submission about the reason and the remedial action proposed.

Remedial action may include:

- a. Appointment of an advisor or advisors to:
  - a. Help the Local Assembly build its capacity to:
    - i. Perform its responsibilities properly
    - ii. Comply with laws applicable to the Local Assembly and members
  - b. Perform other related duties as directed by the Minister

- b. Appointment of a Financial controller/s to:
  - a. Implement financial controls as directed by the Minister
  - b. Countersigning and authorising payments from any account kept by the Local Assembly
  - c. Perform other related duties as directed by the Minister
- c. Suspension or removal of the individual member/s (last action, must be in public interest)
- d. Recommend suspension or dissolution of the Local Assembly (last action, must be in the public interest) to the Governor General.

The Local Assembly must fully cooperate with the advisor/s and controller/s.

The Financial Controller/s must refuse to authorise a payment, and must advise the Minister, if they reasonably believe a decision, resolution or order to make a payment by the Local Assembly is financial unsound – meaning:

- a. it may cause the Local Assembly to become insolvent
- b. it will result in unlawful expenditure by the Local Assembly
- c. it will result in a disbursement from a fund that is not provided for in the Local Assembly's budget or
- d. it will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given.

#### Matters to be developed

- offences against the Local Assembly, investigation, management and penalties
- offences by members of the Local Assembly, investigation, management penalties
- conducting of elections
- delegation of powers of Minister, Local Assembly Chair/Mayor and Local Assembly
- Superannuation and remuneration of Local Assembly members
- Criminal history checking and decisions
- Process for making laws/by-laws – e.g. who can propose, drafting, voting rules
- Engagement structure and relationship with Cth Minister and department

## WORKING TOGETHER TO DESIGN NORFOLK ISLAND'S FUTURE GOVERNANCE MODEL

This paper outlines a proposed governance model that reflects the collective insights of the elected community members on the Norfolk Island Governance Committee (NIGC), information gathered from community consultations, and the recommendations from the 'Restoring Democracy' Report by the Joint Standing Committee on the National Capital and External Territories (JSCNCET).

The feedback we have received to date is both clear and unequivocal. The community seek a supported and mutually respectful relationship with Australia, aspiring to establish a bespoke new governing body that operates as a unicameral Parliament, in line with the democratic principles of the Westminster Parliamentary system.

The proposed governance model draws parallels with the model used in the Australian Capital Territory, incorporating several unique features to ensure its sustainability and suitability to Norfolk Island's distinctive circumstances. This approach includes preserving or reinstating beneficial aspects of the *Norfolk Island Act 1979 (CTH)*, along with integrating two distinct elements from the Falkland Islands model: collective decision-making and the recognition of individual rights and freedoms.

We believe that this proposed governance model will lay the foundation for addressing the immediate needs and concerns of our community while ensuring a democratic, prosperous, and sustainable future for Norfolk Island.

As your representatives on the NIGC, we remain dedicated to faithfully representing the community's preferred governance model in our discussions.

We invite you to carefully review the draft and share your feedback directly with Alma Davidson (H. 23898 M. 50486), Chelsea Evans (50432), or Chris Magri (50367), or via email at [nigccommunityreps@gmail.com](mailto:nigccommunityreps@gmail.com)

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**Once finalised, this draft will be used to inform our discussions with the Australian and Queensland Government representatives on the NIGC.**



## Framework for the NIGC to restore democracy and implement the JSCNCET recommendations by December, 2024

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The Foundational Elements of the new governance model (Page 3)

The Governing Constitution (Pages 4 - 6)

Formal Communication and Cooperation arrangements (Page 8)

Revenue Model (Page 9)

Division of administrative and funding responsibilities (Pages 10 - 15)

Timeline (Page 16)

The Preamble (Pages 17 - 19)

Summary of community consultations on the new governance model (Page 20)

Recommendations of the 'Restoring Democracy' report by the JSCNCET (Page 21 - 22)

## The Foundational Elements of the new governance model

1. **Norfolk Island is recognised as a distinct and separate Territory administered under the authority of the Commonwealth of Australia.** This core foundational element defines Norfolk Island's unique status and the framework under which it is administered.
2. **The future relationship between Norfolk Island and Australia will be founded on the principles of democracy, preservation of the island's history and cultural identity, formal cooperation, and mutual respect for each other's needs and interests.** This principle will guide the nature of interactions, aiming to ensure respect for both Norfolk Island's unique status and its association with Australia.
3. **Recognition of the unique heritage, culture and traditions of the island's culturally distinct people and their desire to preserve their enduring connections with and to their homeland, its important sites, and surrounding sea.**
4. **Acknowledgement of Norfolk Island's position within the Pacific region.** This acknowledgment balances formal recognition of the island's deep historical, cultural, political, sporting, and artistic connections with the Pacific region.
5. **A modern, democratic governing constitution, that includes:**
  - **A Preamble that reinstates the original wording from the Norfolk Island Act 1979 (Cth), with additions reflecting Norfolk Island's culture, traditions, heritage and history, the nature of the relationship between Norfolk Island and Australia, and the shared aspirations for the future direction of the relationship.**
  - **An elected governing body with authority to make laws for Norfolk Island.** This principle ensures the island's governing body is accountable to the community, and that the decisions of the governing body are properly informed and made by people with a direct interest in the future wellbeing and sustainability of the island.

**Genuine self-determination is fundamental to fostering the well-being and trust of the people of Norfolk Island**

## The Governing Constitution **Refer Recommendations 2 and 3 – JSCNCET Report, 'Restoring Democracy'.**

An act to provide for the government of Norfolk Island, that acknowledges:

### **THE DISTINCT AND SEPARATE TERRITORY OF NORFOLK ISLAND:**

The Territory: Norfolk Island and all the other islands and rocks lying around Norfolk Island, and the waters extending 200 nautical miles from the baselines established in accordance with the United Nations Convention on the Law of the Sea, including the seabed and subsoil beneath.

### **THE FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL:**<sup>1</sup>

- (a) All peoples have the right to self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit and international law; and
- (b) The realisation of the right of self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations.

### **THE CONSTITUTION AND MEMBERSHIP OF NORFOLK ISLAND'S GOVERNING BODY, EXECUTIVE, AND EXECUTIVE COUNCIL:**

Norfolk Island's governing body shall consist of such number of members as is provided by enactment, or until provisions are made, will consist of 7 elected members. All 7 elected members will serve the community on a full-time basis, hold or share portfolio responsibility, and be collectively accountable for making decisions.

Each calendar year (or as soon as practicable thereafter) members of the governing body will select 3 members to be members of the executive branch of government. The Executive Council has the responsibility of executing and maintaining enactments and subordinate laws, and exercising such other powers as

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<sup>1</sup> See Falklands Island Constitution Order 2008 (Chapter 1)

are vested in the Executive by or under a law in force in the Territory or an agreement or arrangement between the Territory and the Commonwealth, a State or another Territory.

The period from the first meeting of Norfolk Island's governing body to the date of the next succeeding general election shall not be more than four years.

#### **THE MEETING PROCEDURES AND PRESIDING OFFICER OF NORFOLK ISLAND'S GOVERNING BODY:**

Norfolk Island's governing body will elect one of their number to be the Presiding Officer, and another of their number to be Deputy Presiding Officer. The Presiding Officer presides over the meetings but does not have a vote except a casting vote in the case of an equality of votes. At a meeting of Norfolk Island's governing body, unless otherwise provided by enactment, 5 members constitute a quorum. Legislative matters and general questions arising at a meeting of Norfolk Island's governing body shall be decided by a majority of the votes of the members present and voting.

#### **THE QUALIFICATION OF CANDIDATES AND ELECTORS:**

A person is qualified to be a candidate for election as a member of Norfolk Island's governing body if, at the date of nomination, they are an Australian or New Zealand citizen; have attained the age of 18 years; and, have been ordinarily resident within the Territory for a period of five years immediately preceding the date of nomination. A person shall be qualified to be registered as an elector for the purpose of an election if they are an Australian or New Zealand citizen; have attained the age of 18 years; and, have been ordinarily resident within the Territory for a period of one year immediately preceding the date of the election.

#### **THE POWER TO MAKE LAWS:**

Norfolk Island's governing body has power to make laws for the peace, order and good government of the Territory. The power to make laws extends to the exercise of powers by the Executive. The power of the governing body to make laws will not extend to:

- (a) authorizing the acquisition of property otherwise than on just terms;
- (b) authorizing the raising or maintaining of any naval, military or air force; or
- (c) authorizing the coining of money.

**A PERSON SHALL BE APPOINTED BY THE GOVERNOR-GENERAL BY COMMISSION (GOVERNOR-GENERAL'S APPOINTEE):**

The Governor-General's appointee shall be appointed by the Governor-General by Commission and shall hold office during the pleasure of the Governor-General.<sup>2</sup> The Governor-General's appointee will preside over meetings of the Executive Council. Every proposed law passed by the governing body shall be presented to the Governor-General's appointee for assent. The power to disallow laws after they have been enacted is vested in the Australian Parliament.

**APPLICATION OF COMMONWEALTH ACTS:**

A Commonwealth Act or a provision of an Act (passed after the date of commencement of this Act) is not, except as otherwise provided by this Act or by any other Act, in force as such in the Territory, unless expressed to extend to the Territory.

**DISSOLUTION OF THE GOVERNING BODY:**

If, in the opinion of the Governor-Generals appointee, the governing body is incapable of effectively performing its functions; or is conducting its affairs in a grossly improper manner, the Governor-General's appointee may dissolve the governing body.

If the governing body is dissolved, the Governor-General's appointee shall appoint a Commissioner, and may, at any time give directions to the Commissioner about the exercise of the powers of the Executive. The Commissioner shall exercise all the powers of the Executive, and if it is necessary to issue or spend public monies of the Territory when not authorised to do so by or under enactment, may do so with the authority of the Governor-Generals appointee.

The Governor-General's appointee must call a general election to be held not earlier than 36 days, nor later than 90 days, after the dissolution of the governing body.

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<sup>2</sup> The Governor-General's appointee should be selected via a competitive tender process, in consultation with Norfolk Island's governing body. Additionally, the current role of the Office of the Administrator, as well as the future use of Government House, should be reviewed.

**JUDICIAL SYSTEM:**

The Supreme Court of Norfolk Island continues in existence as the Superior Court of Record of the Territory. The Supreme Court is to have all original and appellate jurisdiction that is necessary for the administration of justice in the Territory.

**THE TERRITORY SHALL FORM A FUND TO BE CALLED THE PUBLIC ACCOUNT OF NORFOLK ISLAND:**

Public monies shall be available for the purposes of the government of the Territory: The monies of the Public Account of Norfolk Island shall not be issued or expended except as authorised by enactment. The Commonwealth Finance Minister may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend money to the Territory or to a Territory authority at such rates of interest and on such other terms and conditions as they determine. The accounts of the Territory shall, notwithstanding any enactment, be subject to inspection and audit by the Auditor-General for the Commonwealth.

**MISCELLANEOUS:**

Norfolk Island's governing body may, in accordance with law, make grants or other dispositions of Crown land in the Territory.

Norfolk Island shall appoint an independent Integrity Commissioner to investigate alleged corrupt conduct or maladministration or conduct that poses a substantial and specific risk to the effective administration of the island by members of the governing body, executive, or the Norfolk Island Public Service.

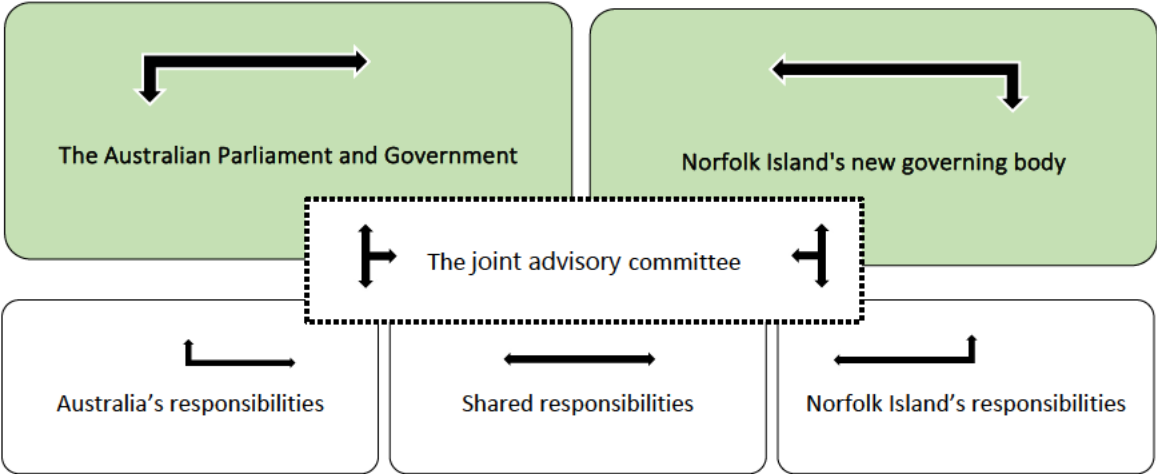
Norfolk Island shall appoint an independent Ombudsman to investigate complaints against the Public Service, Territory Authorities and Agencies.

**Formal Communication and Cooperation Arrangements** Refer Recommendations 3, 6 and 7 – JSCNCET Report, 'Restoring Democracy'.

Formation of a joint advisory committee with 2 elected representatives selected from Norfolk Island’s governing body and 2 representatives selected by the Australian Government. The committee’s operational charter will require it to, amongst other things:

- ▶ Develop a mutually respectful and enduring alliance between Norfolk Island and Australia, advance the shared aspirations and future direction of the relationship, and maintain a shared commitment to the ongoing success of the new governance model.
- ▶ Promote local capacity building, financial sustainability, cost-efficiency, and mutually beneficial outcomes.
- ▶ Periodically review the island’s legislative and administrative responsibilities and associated funding arrangements to ensure relevance and efficacy.
- ▶ Provide local input into federal responsibilities, ensuring the efficacy of federal laws and services on Norfolk Island. Commonwealth laws will not automatically apply to Norfolk Island and will only apply following consultation with Norfolk Island’s governing body and the community to ensure legislation is fit for purpose.

A subcommittee of the joint advisory committee will be formed to support economic diversification and financial resilience.



## Revenue model – Key Features

The Australian Government will support the island's long-term aspiration to be as self-sufficient as possible, and will assist and support economic prosperity and diversification initiatives to achieve this outcome.

The agreed revenue model will need to be adaptive to economic circumstances, capacity, and community needs and aspirations.

For present purposes:

1. **The Australian Government will fund federal responsibilities and agreed state services, including health and education.**
2. **Norfolk Island's governing body and the Australian Government will co-fund agreed shared responsibilities.** Large-scale infrastructure and common use assets to be funded as a shared responsibility, given the island's limited taxpayer base.
3. **Norfolk Island's governing body will fund the remaining responsibilities through local taxes, duties, fees, charges, levies, business income, miscellaneous income, and Financial Assistance Grants.**
4. **Public Service - Local management and provision of services:** Outsourcing public services to external service providers will only be considered under circumstances where there is significant community support and a clear benefit that cannot be achieved through local provision.
5. **Horizontal Fiscal Equalization:** Traditionally, Financial Assistance Grants (FAG's) have supported states and territories with untied revenue for discretionary use, promoting equal service standards across regions. Norfolk Island will achieve fiscal equalization through tailored FAGs to assist in the provision of state and local-type services, determined on the advice of the Commonwealth Grants Commission. Norfolk Island will receive FAG's funds directly into its public account. This ensures the island's governance can make independent financial decisions.
6. **Fair and Sustainable Revenue Model:** Contributions from the residents of Norfolk Island towards governance, services, and infrastructure will be assessed to ensure affordability, fairness, and equity.



**Division of Administrative and Funding Responsibilities** Refer Recommendations 2,3,6 and 7 – JSCNCET Report, 'Restoring Democracy'.

The following table outlines a practical and sustainable framework for the effective delivery of services on Norfolk Island. This framework is integral to the overarching vision for Norfolk Island's future governance model, aligning with the recommendations from the JSCNCET Report, 'Restoring Democracy'. It delineates a clear path forward, requiring a comprehensive, long-term strategic plan developed by the newly elected governing body.

A transitional plan, formulated by the NIGC, will specify service responsibilities and identify sustainable funding sources. This plan anticipates a gradual transition of services to new providers over a three-year period, emphasising the enhancement of local capacity through targeted training programs. These programs, facilitated by the joint advisory committee, will be accessible to both public service personnel and members of the new governing body.

<b>NORFOLK ISLAND'S RESPONSIBILITIES</b>	
<p>Progressively transition to new public service arrangements over a three-year period, focusing on:</p> <ul style="list-style-type: none"> <li>▸ <b>Long-term Plan and Vision:</b> As a priority, the new governing body should establish a long-term strategic plan and vision for the future of Norfolk Island.</li> <li>▸ <b>Financial sustainability:</b> Establish a transparent financial administration framework to improve accountability and efficient use of resources.</li> <li>▸ <b>Risk management:</b> Implement a risk management framework and effective reporting mechanisms.</li> <li>▸ <b>Training and capacity-building:</b> Enhance skills and competencies according to modern public service standards.</li> <li>▸ <b>Digital technologies:</b> Support the use of appropriate modern digital technologies.</li> <li>▸ <b>Ethics and integrity:</b> Enhance transparency, ethics, and integrity within the public service through definitive codes of conduct and procedures for handling misconduct.</li> </ul> <p>These steps are aimed at preparing Norfolk Island's new governing body and public service to effectively address both current and future challenges, ensuring the delivery of high-quality services that meet the community's needs and expectations.</p>	
<p>Norfolk Island Public Service</p>	<p>Accounts, Archives, Customer Care, Finance, Human resources, Information Technology, Internal Auditor, Land use, Spatial policy, Planning and building, Library, Liquor licensing, Pensioner rebates, Philatelic, Public Health, Public Works, Records, Stock Inspector (and Public Pounds), Tanalith, and Tourism Accommodation.</p>

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Governing body	Meeting rooms and offices for the governing body and its secretariat will be established in Kingston, Norfolk Island.
Government Business Enterprises	Electricity, Liquor Bond, Lighterage, and Telecom.
Legal services	There will be a Norfolk Island Legal Services Unit established to provide advice to the new governing body and public service, assist in drafting legislation, and assist the courts in the provision of an electoral roll for court jury purposes, and for election purposes.
Ombudsman and Integrity Commissioner	Norfolk Island's governing body will appoint an independent (part-time) Ombudsman and an independent Integrity Commissioner's to oversight the actions and decisions of the public service and governing body.
Radio Station	Establish an independent agency to manage the community Radio Station – VL2NI.
Registry Department	Motor vehicle registration, Licensing, Birth, Deaths, and Marriages, Land titles registration, and Associations.
Crown land, Reserves, forestry, and public lands	Ownership of Norfolk Island's public lands to be vested in Norfolk Island.
Statutory Authorities	See 'Shared Responsibilities' below.

#### SHARED RESPONSIBILITIES

**Cooperative relationships:** Build cooperative relationships and maintain open and transparent lines of communication with the Australian Government at a ministerial level through the joint advisory committee.

**Statutory authorities:** Establish locally managed statutory authorities under Norfolk Island legislation. These authorities will administer services considered to be mutually important or common-use infrastructure assets. Until such time as appropriate service delivery standards and financial sustainability are achieved, the related services will be jointly funded and delivered as a shared responsibility, and revenue contributions required from the Norfolk Island community will reflect the Islands capacity to fund.

**Tailored Commonwealth laws and services:** The joint advisory committee will advocate to ensure Commonwealth laws and services, as currently applied to or provided on Norfolk Island, are fit for purpose and appropriately tailored to Norfolk Island's unique circumstances.

Economic Development Authority	<p>Tourism promotion (in both the Australian and New Zealand markets), Primary industry, and Industry development and diversification.</p> <p>Funding for the Economic Development Authority will be provided by Norfolk Island's governing body. The Economic Development Authority will be supported by a subcommittee of the joint advisory committee to ensure the economy and local industry benefit from the assistance and expertise of the Australian Government and the Queensland Government.</p>
Ports and Roads Authority	<p>Airport, Ball Bay, Cascade and Kingston Piers, the Airport and community fire services, EMNI, Norfolk Fuel, Roads, Quarrying, Waste management, and Water assurance services.</p> <p>Funding for the Ports and Roads Authority will be provided by Norfolk Island's governing body and the Australian Government. Norfolk Island's governing body will be mandated to contribute, at a minimum, all fuel levy income, all fuel sales, all rock royalties and sales, all water assurance charges, all waste management charges applied to the importation of goods, and any other income generated through the identified assets/services. Norfolk Island's governing body will assume sole management control of the Ports and Roads Authority once it can demonstrate financial sustainability.</p>
KAVHA Authority	<p>KAVHA, Cemetery, Museums, and other heritage sites.</p> <p>Funding for the KAVHA Authority will be provided by Norfolk Island's governing body and the Australian Government in line with their capacity, and respective budgetary policies, processes and priorities.</p>
NIRHACS Authority	<p>NI Health services, NI Aged care services, and Dental services.</p> <p>Funding for the NIRHACS Authority will be provided by the Australian Government.</p>
Auditor	<p>The Australian Government will assist the new governing body in implementing any agreed recommendations of the auditor.</p>

Biosecurity	Review efficacy and relevance of Commonwealth law. Include provisions for local quarantine, biosecurity, eradication and pest management.
Border Protection	Review efficacy and relevance of Commonwealth law. Remove Norfolk Island from the Australian migration zone, and develop options to ensure Norfolk Island's governing body has the information, authority, and capacity to introduce appropriate and effective population, immigration, and border controls.
Census and Statistics	Identify and provide options for the provision of more appropriate and timely statistics and economic indicators.
Child welfare	Review efficacy and relevance of Norfolk Island and Commonwealth laws.
Crime and misconduct	Consider the efficacy and relevance of Norfolk Island adopting Queensland's Public Disclosure Act 2010 and Crime and Corruption Act 2001.
Environmental management and protection	National Parks, NIEEZ and Marine Park, NIFA, Fishing, marine safety, boat registration (Norfolk Island), AFMA (Australia), and other relevant Norfolk Island and Australian authorities and arrangements. Ensure an arrangement is in place that coordinates the actions and decisions of Norfolk Island and Australian management authorities to ensure effective management, good-governance, and mutual benefits for Norfolk Island and its surrounding waters.
Police	Update the 1995 Memorandum of Understanding (MOU) between Norfolk Island's governing body and the Australian Government, including provisions for the enforcement of motor vehicle registration and licensing. Norfolk Island's governing body and the Australian Government should prioritise the establishment and funding of a Nominal Defendant Scheme for Norfolk Island.
Queensland Government	Capacity building and training, Health Support Services (clinical governance and corporate governance support, quality and safety advice, coordination of clinical pathway), Education (NICS, TAFE, Early Childhood learning, and Apprentice and traineeships), Corrections (accommodation of NI prisoners in QCS facilities in Queensland).

Workplace safety and workers compensation	Review efficacy and relevance of Norfolk Island and Commonwealth laws.
<b>AUSTRALIA'S RESPONSIBILITIES</b>	
Australia Post	Ensure efficient postal services to Norfolk Island.
Australian Taxation Office, Income Tax, and superannuation	Review the island's 'Zone Tax Offset' and 'Special Area' status to better address the extraordinarily high-cost of living on Norfolk Island.
Commonwealth Grants Commission	Assessment and advice to the Australian Government re. funding for Norfolk Island's governing body to provide state and local type services.
Companies (ASIC)	
Defence	
Employment	Comcare, Employment and Workplace Relations (Fair work), and Employment support services Review efficacy and relevance of Norfolk Island and Commonwealth employment laws.
Foreign Affairs	
Health Support	Medicare, Home Support, Aged Care Services, Hearing Services, Primary Health, and immunisations.
Legal Aid	Review the eligibility requirements so that there is access to legal aid for those persons who require assistance.
Meteorological services	
Passports	
Pollution remediation (including PFAS)	

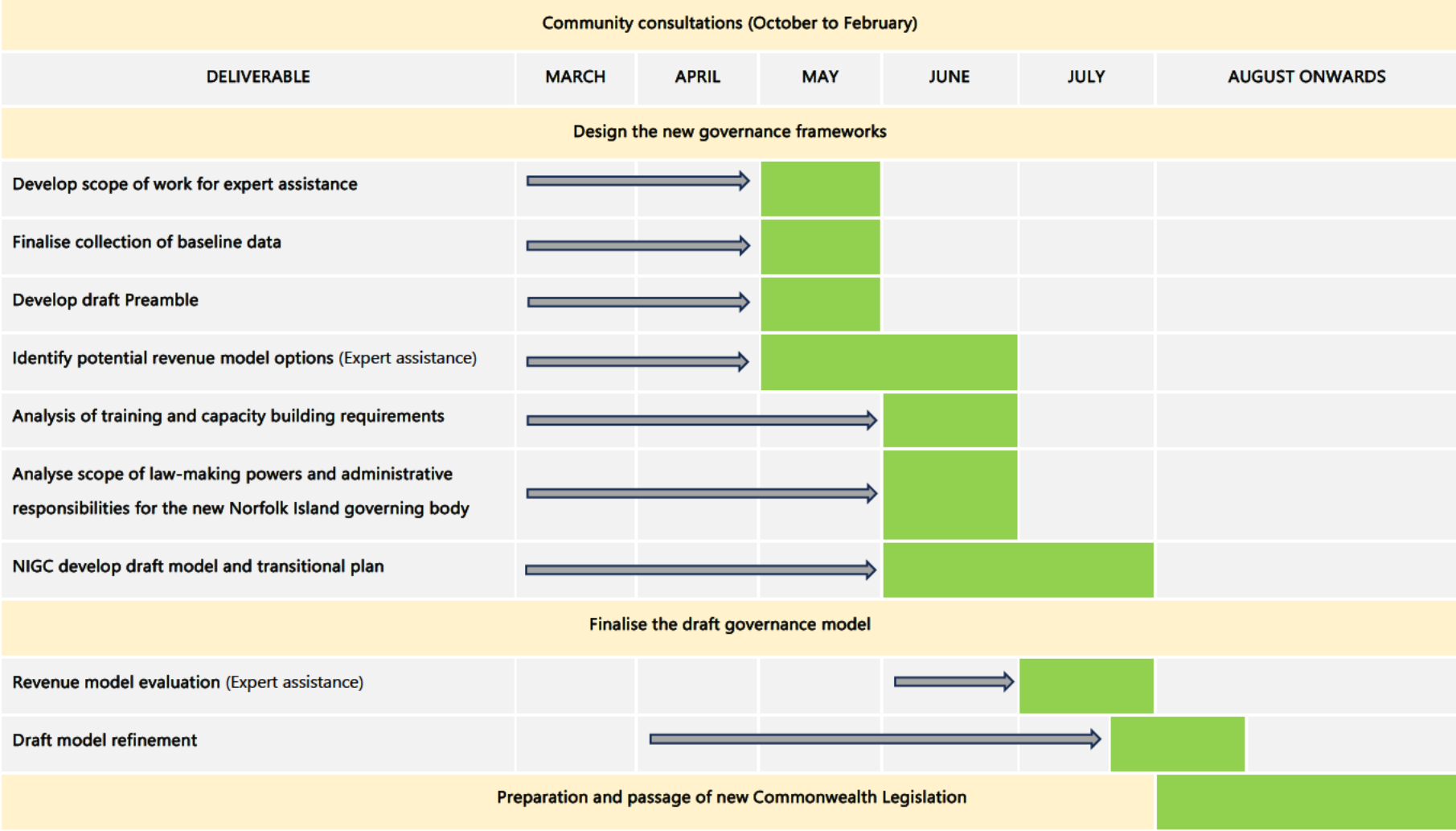
Social Welfare	NDIS, Family support, Social Security, Medicare, PBS, and DVA.
Telecommunications	
Underwriting air Services	
Veterans' entitlements	

**COURTS AND TRIBUNALS**

<p>Coroners Court (Norfolk Island)</p> <p>Supreme Court (Norfolk Island)</p> <p>Court of Petty Sessions (Norfolk Island)</p> <p>Administrative Appeal Tribunal (Norfolk Island)</p> <p>Administrative Review Tribunal (Norfolk Island)</p> <p>Employment Tribunal (Norfolk Island)</p> <p>Family Court (Australia)</p> <p>Federal Court (Australia)</p> <p>High Court (Australia)</p>	<p>The Chief Magistrate appointed under the Court of Petty Sessions Act 1960 (NI) shall be the Coroner.</p> <p>Judicial review is an essential part of the democratic process. This is particularly relevant to Norfolk Island given its ambiguous constitutional relationship with Australia. Identify and provide options to ensure the island has affordable dispute resolution procedures, legal aid, and clear legal pathways to ensure contested actions and decisions can be reviewed by the judiciary.</p>
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Released under the Freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

**Timeline** Refer Recommendation 5 – JSCNCET Report, ‘Restoring Democracy’.



Released under the Freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

## The Preamble Refer Recommendations 1 and 6 – JSCNCET Report, 'Restoring Democracy'.

### PREAMBLE (Additions to the 1979 Preamble are highlighted in yellow)

*WHEREAS* by an Act of the Parliament of the United Kingdom, made and passed in the sixth and seventh years of the reign of Her Majesty Queen Victoria entitled "An Act to amend so much of an Act of the last Session, for the Government of New South Wales and Van Diemen's Land, as relates to Norfolk Island," it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to sever Norfolk Island from the Government of New South Wales and to annex it to the Government and Colony of Van Diemen's Land:

*AND WHEREAS* Her Majesty Queen Victoria, in exercise of the powers vested in Her by the said Act, by a Commission under the Great Seal of the United Kingdom bearing date the twenty-fourth day of October, 1843, appointed that from and after the twenty-ninth day of September, 1844, Norfolk Island should be severed from the Government of New South Wales and annexed to the Government and Colony of Van Diemen's Land:

*AND WHEREAS* by an Act of the Parliament of the United Kingdom, called the Australian Waste Lands Act 1855, it was, amongst other things, provided that it should be lawful for Her Majesty at any time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen's Land and to make such provision for the Government of Norfolk Island as might seem expedient:

***AND WHEREAS* on 8 June 1856 the entire community of Pitcairn Island, an ethnically, culturally and linguistically distinct people, settled Norfolk Island on the understanding that the Island was gifted to them by Her Majesty Queen Victoria:**

*AND WHEREAS* by an Order in Council dated the twenty-fourth day of June, 1856, made by Her Majesty in pursuance of the last-mentioned Act, it was ordered and declared, amongst other things, that from and after the date of the proclamation of the Order in New South Wales Norfolk Island should be thereby separated from the said Colony of Van Diemen's Land (now called Tasmania) and that from that date all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania over Norfolk Island should cease and determine, and that from the said date Norfolk Island should be a distinct and separate Settlement, the affairs of which should until further Order in that behalf by Her Majesty be administered by a Governor to be for that purpose appointed by Her Majesty with the advice and consent of Her Privy Council: and it was thereby further ordered that the Governor and Commander-in-



Chief for the time being of the Colony of New South Wales should be, and he thereby was, constituted Governor of Norfolk Island, with the powers and authorities in the said Order mentioned:

*AND WHEREAS* the said Order in Council was proclaimed in New South Wales on 1 November 1856:

*AND WHEREAS* by an Order in Council dated the fifteenth day of January, 1897, made in pursuance of the said last-mentioned Act, Her Majesty, after reciting that it was expedient that other provision should be made for the government of Norfolk Island, and that, in prospect of the future annexation of Norfolk Island to the Colony of New South Wales or to any Federal body of which that Colony might thereafter form part, in the meantime the affairs of Norfolk Island should be administered by the Governor of New South Wales as therein provided, was pleased to revoke the said Order in Council of the twenty-fourth day of June, One thousand eight hundred and fifty-six, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor and Commander-in-Chief for the time being of the Colony of New South Wales and its Dependencies:

*AND WHEREAS* the said Order in Council was published in the New South Wales *Government Gazette* on 19 March 1897, and took effect at that date:

*AND WHEREAS* by an Order in Council dated the eighteenth day of October, One thousand nine hundred, made in pursuance of the said last mentioned Act, Her Majesty was pleased to revoke the said Order in Council of the fifteenth day of January, One thousand eight hundred and ninety-seven, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor for the time being of the State of New South Wales and its Dependencies:

*AND WHEREAS* the said Order in Council was published in the New South Wales *Government Gazette* on 1 January 1901, and took effect at that date:

*AND WHEREAS* by an Order in Council dated the 30th day of March, 1914, His Majesty King George V, by virtue and in exercise of the power in that behalf by the said last-mentioned Act or otherwise in His Majesty vested, after reciting that the Parliament had passed an Act No. 15 of 1913, entitled "An Act to provide for the acceptance of Norfolk Island as a territory under the authority of the Commonwealth, and for the government thereof" and that it was expedient that the said Order in Council of 18th of October, 1900, should be revoked and that Norfolk Island should be placed under the authority of the Commonwealth of Australia, was pleased to revoke the said Order in Council of 18th of October, 1900, and to order that Norfolk Island be placed under the authority of the Commonwealth of Australia:

*AND WHEREAS* the said Order in Council was published in the *Gazette* on 17 June 1914, and took effect from 1 July 1914, being the date of commencement of the *Norfolk Island Act 1913*:

*AND WHEREAS* Norfolk Island was, by the *Norfolk Island Act 1913*, declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth:

*AND WHEREAS* Norfolk Island has been governed by the Commonwealth initially under the provisions of the *Norfolk Island Act 1913*, the *Norfolk Island Act 1957*, and subsequently under the provisions of the *Norfolk Island Act 1979*:

*AND WHEREAS* the Parliament recognises the residents of Norfolk Island include the descendants of the settlers from Pitcairn Island, and the many other people who have made Norfolk Island their home since 1856:

*AND WHEREAS* the Parliament recognises the said descendants aspire to determine their own future, and considers it to be desirable to preserve their continued heritage, culture and traditions and their enduring connections with and to their homeland, its important sites, and surrounding sea:

*AND WHEREAS* the Parliament recognises Norfolk Island as a Non-Self-Governing Territory within the meaning of the Charter of the United Nations.

*AND WHEREAS* the Parliament recognises the mutual benefit to both Norfolk Island and Australia in fostering good relations and respecting each other's needs, interests, and obligations:

*AND WHEREAS* the Parliament recognises the shared aspiration to position Norfolk Island as a model of good-governance and excellence in its relationship with Australia and the Pacific:

*AND WHEREAS* the Parliament considers it to be desirable and to be the wish of the people of Norfolk Island that Norfolk Island achieve internal government as a distinct and separate Territory under the authority of the Commonwealth and, to that end, to provide, among other things, for the establishment of separate territory representative and administrative institutions on Norfolk Island:

*BE IT THEREFORE ENACTED* by the *Sovereign*, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

## Summary of community consultations on the new governance model (October 2023 – April 2024)

This summary has been developed by the elected representatives. Please take the time to review the written submissions at <https://www.norfolkislandgovernance.com/>

1. Restore and preserve genuine democracy on Norfolk Island.
2. Recognise Norfolk Island as a distinct and separate Territory under the authority of the Commonwealth of Australia.
3. Affirm the right to self-determination.
4. Reinstate tailored immigration/population controls that reflect needs of the Norfolk Island community.
5. Reinstate the right to hold referendums, including citizen-initiated referendums.
6. Reinstate local decision-making and joint management of the Kingston and Arthur's Vale Historic Area (KAVHA).
7. Ensure Commonwealth laws applied to Norfolk Island are fit-for-purpose, and ensure Norfolk Island's right to create its own laws.
8. Protect and preserve our Island's cultural identity.
9. Protect and preserve the rights and obligations of all peoples who reside on Norfolk Island irrespective of their heritage.
10. Protect and preserve our Island's unique natural environment.
11. Manage, use, control, and benefit from our island's public land and marine resources.
12. Create an equitable, affordable, and economically sustainable governance model.
13. That there is local ownership of assets and local management and provision of services.
14. Enjoy a mutually respectful and supported relationship with Australia.
15. Support economic diversification and financial resilience.

## Recommendations of the 'Restoring Democracy' report by the JSCNCET

### Recommendation 1

The Committee recommends that the Norfolk Island Governance Committee incorporate into its terms of reference consideration of the development of a preamble for the establishing legislation that:

- recognises the culture, traditions, heritage and history of Norfolk Island;
- defines the nature of the relationship between Norfolk Island and Australia; and
- sets out the shared aspirations for the future direction of the relationship.

### Recommendation 2

The Committee recommends a new bespoke model of local governance for Norfolk Island, to be enacted through Commonwealth legislation after thorough community consultation to define some key aspects of the model.

### Recommendation 3

The Committee recommends that the new governing body include both democratically elected and appointed members with specific expertise in public administration, and that:

- the governing body consist of at least six members;
- a majority of members be elected, with elected members holding the balance of power on the body;
- the appointed positions be reserved for individuals with expertise in relevant matters of public administration, selected via a merit-based process that preferences qualified local community members where possible; and
- capacity building be a key responsibility of the governing body to ensure that more Norfolk Islanders are qualified to hold future governance positions either in the governing body or local administration, and in the procurement of goods and services by the administration.

### Recommendation 4

The Committee recommends that the Norfolk Island community have a say in the governing body, including that:

- the recommendations contained in this report be referred to the Norfolk Island Governance Committee for further consultation and refinement;
- this consultation and refinement result in a model that includes a clearly defined preamble for the establishing legislation, the size of the governing body, the specific expertise required by this governing body, and

the revenue models to be incorporated into the establishing legislation; and • a binding, compulsory vote of registered voters on Norfolk Island is required to approve the final model determined by the Norfolk Island Governance Committee.

#### **Recommendation 5**

The Committee recommends that the first elections for the new governing body should be held prior to December 2024.

#### **Recommendation 6**

The Committee recommends that the governing body be adaptive and supportive of the unique local history and identity of Norfolk Island, and that: • the new Commonwealth legislation contain the form of the preamble developed by the Norfolk Island Governance Committee; and • the legislation contain provisions for periodic review to ensure that the governing body is adaptable and can meet the future needs and interests of both Norfolk Island and Australia.

#### **Recommendation 7**

The Committee recommends that the responsibilities of the new governing body and the mechanism for local input into Commonwealth and State responsibilities be clearly defined following the restoration of local democracy on Norfolk Island, including that: • to ensure Commonwealth and State services meet local needs—the governing body should have a formal advisory role in relation to education, health, population strategy, heritage management, biosecurity, sea-freight and tourism; xvii • the management of key historical sites of cultural importance to the local community be subject to joint management between the Commonwealth and the local community; and • these matters be incorporated into the terms of reference of the Norfolk Island Governance Committee for further local consultation and refinement.

# Overview of current service delivery on Norfolk Island

## Commonwealth government functions

### Australian Government agencies (select functions only)

Biosecurity (border only)  
**Department of Agriculture, Fisheries and Forestry**

Business name registration  
**Australian Securities and Investment Commission**

Customs and border protection  
**Australian Border Force**

Disability payments  
**National Disability Insurance Agency**

Early childhood education  
**Department of Education**

Elections (Federal)  
**Australian Electoral Commission**

Employment services  
**Department of Employment and Workplace Relations**

Family, social security and other payments; family support services  
**Services Australia**

Home support aged care services  
**Department of Health**

Immigration  
**Department of Home Affairs**

Medicare payments  
**Services Australia**

Postal services  
**Australia Post**

Taxation and superannuation  
**Australian Taxation Office**

Airport Rescue and Fire Services regulation  
**Civil Aviation Safety Authority**

### Administrator of Norfolk Island

Civic & ceremonial events

Hosting visitors

Statutory responsibilities

Community engagement and advocacy

Chair – Kingston and Arthur’s Value Historic Area Advisory Committee

## State government functions

### Australian Government

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts**

Infrastructure management including hospital, school, ports

Kingston & Arthur’s Vale Historic Area (KAVHA) management

Local government regulation and oversight

Pollution remediation (PFAS)

Underwritten freight and passenger flights

*Makeshift service delivery arrangements to fill gaps, e.g. on pest and disease management*

**Australian Federal Police**

Community policing

Child Protection Register

**Commonwealth Director of Public Prosecutions**

Prosecutions under Norfolk Island continued laws

**Parks Australia**

Norfolk Island National Park and Marine Park management

**Federal Court of Australia**

Provides judiciary/facilities for Norfolk Island Supreme Court

### Other Providers

Ambulance services  
**St. John Ambulance NSW**

Child welfare  
**Key Assets (NGO)**

Emergency management  
**Community-led**

Health and aged care  
**Norfolk Island Health and Residential Aged Care Service**

### Norfolk Island Regional Council

Registration of Associations

Courts and legal services (Clerk and Registrar of the courts, Legal aid)

Deceased estates and probates

Driver licences

Electricity Network

Emergency Management

External Audit Findings

Fire services – Community Fire Services and Airport Rescue and Fire Services

Gaming and lottery commissions

Land use and environment

Land titles registration

Liquor licenses

Motor vehicle registration

Pensioner rates rebates

Pest, disease and noxious weed control

Ports management

Public health (sale of food, tobacco, environmental)

Queensland Professionals’ Accommodation

Registrar of births, deaths and marriages

Records Management

Regulation, monitoring, and enforcement (e.g. for animal welfare, slaughtering, and registrar of livestock brands and marks)

Reserve Management

SDA Management

Spatial policy and planning

Tourism promotion

Waste and Wastewater Services

Workplace safety advisor

### Queensland Government

Apprentice and traineeship regulation

School-based education

Health support services

Corrections (from 1 July 2024)

Ad-hoc advice on state-level service provision in other areas

Subject to NI community consultation and Queensland’s agreement, further services will be added over time, such as local government capacity-building support, childcare regulation.

### Services currently not delivered, or delivered on ad hoc basis (selected)

Adoption

Boat registration

Childcare regulation

Community housing

Complaints for health care, mental health and disability services

Environmental regulation

Post-border pest and disease management

Professional licensing

Residential tenancy regulation

Trades licensing

Small business grants (some)

Workplace safety

## Local government functions

### Norfolk Island Regional Council

Cemetery

Customer Care

Library

Local tourism

Planning

Public works

Radio

Rates (land)

Waste water system and regulation

Waste management

Tourism accommodation registration and licensing

### Norfolk Island business activities

Airport operation

Liquor Bond

Electricity

Telecommunications services

**Comments on the draft Governance model 20240501 [SEC=OFFICIAL]**

PLANT, George &lt;George.PLANT@infrastructure.gov.au&gt;

Thu, May 16, 2024 at  
12:24 PM

To: "alma.buffett@s47F" <alma.buffett@s47F>, "Anita. French" <Anita.French@infrastructure.gov.au>, Chelsea Evans s47F <Chelsea.Evans@s47F>, Chris Magri s47F <Chris.Magri@s47F>, s22(1)(a)(ii) <s22(1)(a)(ii)@infrastructure.gov.au>, Rachel Welch <Rachel.Welch@premiers.qld.gov.au>, "VANDENBROEK, Sarah" <Sarah.Vandenbroek@infrastructure.gov.au>  
Cc: s22(1)(a)(ii) <s22(1)(a)(ii)@infrastructure.gov.au>

**OFFICIAL**

Dear Committee Members,

These comments are for guidance in our discussions and reflect what I think the Minister's view would be given what she has said to us.

I took away the following parameters:-

- There is comfort with a bespoke model that fits the island's governance requirements, and there are a range of models available
- Initial concerns that the draft model appears to identify a large bureaucracy, she would rather spending on infrastructure
- Reinstatement of a revised preamble
- Do not traverse old ground (e.g. legislative assembly style self-government and application of Commonwealth laws)
- Immigration is acknowledged as an issue to be handled by land planning

In her recent meeting she has given us general guidance with respect to her expectations and what she has the capability to potentially deliver.

Importantly she emphasised that for the Cabinet paper she requires by early July:-

- The broad strategy of the model
- How it would work
- The macro financial sustainability -with budget able and bankable revenue streams

These are my comments on the collective community input draft Governance model of May 1<sup>st</sup>, they are identified according to the page number where they occur.

1. Page 1. The references on this page aligning the model to unicameral Westminster systems (such as the ACT) should be deleted. I think it would be better to leave it as a bespoke model unique to the island and avoid drawing parallels.
2. Page 3. Point 4 (Acknowledgement of Pacific region) removal of political connections in the Pacific. Political connections in the Pacific are outside of the Minister's portfolio.
3. Page 3. Remove the reference to self-determination at the bottom of the page. Self-determination has specific meaning beyond the scope of what we are doing.
4. Page 4. The Territory of Norfolk Island is already defined in Schedule 1 to the Act. It is my understanding that UNCLOS does not allow a country to claim the waters around an island such as Norfolk as "territory" rather it confers the Exclusive Economic rights. In our case the zone intersects with the Vanuatu EEZ to our north. This area is complex and I recommend it being deleted.
5. Page 4. References to self-determination need to be deleted as discussed above.
6. Page 4. I would recommend us considering different terms to "Executive" and "Executive Council".
7. Page 5. I understand that New Zealand citizens are not eligible to vote in Australian elections. If so this will need to be removed.
8. Page 5. The powers to make laws, as written, is broader than I believe the Minister would be comfortable with. Making local laws consistent with what we need for the proposed model to work would be a better approach.
9. Page 6. Re Governor-General Appointee, is this the Administrator? See comment 6 re Executive Council. The footnote is recommending appointment by competitive tender, do you mean merit selection? Changes here would require amending the current Ordinance. I don't think that the Minister would consider this unless the reason for doing this was clearer.
10. Page 6. We have been advised that this change to the current arrangement would not be considered.
11. Page 7. Allowing the Governing body to make grants, dispositions of Crown land is an area outside what the Minister is considering for the Governing body.
12. Page 7. Designing-in integrity and ombudsman facilities into the model is a good aspect, however in recognition of the Minister's concerns associated with creating bureaucracy this, if included, should be clearly in the area wherein an already established entity (Commonwealth or Qld State) is appointed to undertake the functions for the new Governing body.
13. Page 8. See comment 10 re Commonwealth laws. This aspect needs to be worked on to dispel the misunderstanding that the proposed "joint advisory committee" is a continuation of the NIGC. Whilst a good idea to ensure that there is a good mechanism for regular discussion between the new governing body and the Australian Government, there has been resistance to establishing a formal mechanism in the model.
14. Page 11. In respect to Legal services. The wording should be changed from "drafting legislation" to "drafting local laws". In respect to the electoral roll the existing arrangement applies the Commonwealth electoral Act. I believe that the Minister would be reluctant to consider changing this.
15. Page 11. Re Crown land, Reserves, Forestry and public lands. See comment 11.
16. Page 12. The Economic Development Authority needs further explanation. It is in the area of recommended shared responsibility but locally funded and supported by a sub-committee of the "joint advisory committee" (See comments 12 & 13). As currently described the "joint advisory committee" is at a political level (i.e. Minister to locally elected representative(s)). What is the proposed sub-committee? Are they officials? What would the proposed authority actually do?
17. Page 12. Re Ports & Roads Authority; In the revised Administrative arrangements document Sarah's change is to bring the roads out of the statutory authority and back in under the Public Service Governing body. Given the poor state of the roads and recognised investment required to reconstruct them we need to think through how financially the Public



- Service Governing body could afford to undertake this. Also see comment 12. I think our recommendation should include a single authority engaged in fee-for-service delivery.
18. Page 13. Re Border protection; See comment 10 in respect to changing Commonwealth laws also see my earlier comment from the Minister regarding immigration.
  19. Page 14. Re ATO, Income Tax and Superannuation; the Minister has said that this is beyond her ability to deliver.
  20. Page 17. Re suggested addition to preamble this is unlikely to be agreed to in respect to gifting (in understanding or otherwise) the island to the community from Pitcairn.
  21. Page 19. Re "aspire to determine their own future" See comment 5.
  22. Page 19. Re " Non-self-governing Territory" See comment 5.

I hope these comments are useful in the context of the Minister's recent visit and happy to discuss next week.

Kind regards

George Plant

Administrator for Norfolk Island

Office of the Administrator,

Officer's Mess, New Military Barracks

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Community proposal for governance model for Norfolk Island

Version – provided for NIGC meeting on 9 May 2024

Queensland Representative Comments

### **Page 3**

Point 2 – The future relationship between Norfolk Island **governance body** and Australian **Government** will be founded on the principles of democracy, preservation of the island's history and cultural identity, formal cooperation, and mutual respect for each other's needs and interests.

*Note:* Norfolk Island and the relationship between Australian people, states and other territories cannot be defined in this document. The key relationship parameters need to be between the Norfolk Island governing body and the Commonwealth government.

Point 5 – paragraph on preamble – same change

### **Page 4**

The distinct and separate territory of Norfolk Island

And

The fundamental rights and freedoms of the individual

*Note:* Queensland's view is that these should be worded to be consistent with the rights, freedoms and descriptions of separation that apply to other states and territories. Australian citizens, wherever they live, should have consistent rights and freedoms.

The constitution and membership of Norfolk Island's governing body, executive and executive council

*Note:* For further discussion/information:

1. What is the thinking behind the number of elected members being 7? Is it based on population? A work program?
2. Has a full time basis been costed? Will there be sufficient work to fully engage 7 people on a full time basis to warrant a full time salary?
3. If 3 members are nominated to the executive with the functions they will have, what extra work will the remaining 4 have to justify a full time position?
4. A calendar year turn around of executive leadership doesn't allow much time to progress/complete a program of work or a 'vision'. What are the pros and cons of 12 months over (e.g.) 24 months.
5. Has consideration been given to a fixed 4 year term? In Queensland local councils are elected for a fixed 4 year term. It means the population and the councillors know exactly when an election is to be held, removes any ambiguity.

### **Page 5**

### The qualification of candidates and electors

Note: Queensland's view is that the rights and eligibilities of Australian citizens to participate in the democratic process should be the same for all Australians, regardless of their place of residence. This means:

1. Only Australian citizens to be eligible to stand and to vote (not New Zealand citizens unless they also hold dual Australian citizenship)
2. There should be no time parameters for living on Norfolk Island. An Australian citizen who has moved to, and is resident in location should have the same democratic rights as all other Australian citizens living in that location, irrespective of period of residency (acknowledging the desire of Norfolk Islanders to have a governance body that understands the unique cultural and needs of the Island)
3. The same or similar eligibility requirements should also apply as apply elsewhere such as consideration of certain criminal offences, bankruptcy etc
4. The same conflict management should apply – relationships, business contracts, contracts with council etc – not necessary to rule out but to be fully declared.

For further discussion:

1. In Queensland all candidates for local government elections must undertake a mandatory online training program (legislated obligation and approximately 90 minute program) and show the certificate of completion to the electoral commissioner. The program is intended to educate on integrity, financial management, legal requirements and community expectations that apply to governing bodies. Would something similar be suitable for Norfolk Island?

### The power to make laws

Norfolk Island's governing body has power to make laws for the 'peace, order and good government' of the Territory.

*Note:* This is quite a complex and challenging descriptor and could cover:

1. Criminal laws – will NI government will responsible for the criminal laws?
2. Police powers and procedures – how does this relate to the AFP function?
3. Ombudsman, Auditor-General, Integrity oversight – with such as small representative body there is significant risk of corruption and conflicting interests if the laws for these are set locally
4. Where would local services like rubbish collection and waste management, road upkeep, potable water etc fit into this description? For discussion – maybe a more targeted description of the law making powers?

The power to make laws extends to the exercise of powers by the Executive.

*Note:* As the Executive will comprise three of the seven elected members, who will rotate through the role, this could be a significant corruption and maladministration risk, resulting in self-serving laws being implemented. The broader power for the Executive should be in the initializing legislation with only minor procedural changes able to be made by the governing body.

The power of the governing body to make laws will not extend to .....

*Note:* As a principle this is fine as an expression of an intention. However when it comes to drafting the underlying legislation, exclusionary lists like this can be fraught in an Act, can cause ambiguity. Better to be very clear about the relationship with the Commonwealth Acts and the functions/powers of the NI governing body rather than try to identify all the things that the body cannot make laws about.

## Page 6

A person shall be appointed by the Governor-General by commission (Governor-General's appointee)

Foot note: The Governor-General's appointee should be selected via a **competitive tender process**.

*Note:* This is not the approach in other jurisdictions. For further discussion:

1. Who and how would criteria for the role be set? And who would judge?
2. The appointee will have significant constitutional and legal burden, so the expertise needed would be very specific and of a strong legal and/or academic level.
3. Is the idea that an Islander would be appointed or could someone from the mainland hold the role?

Foot note: the current role of the Office of the Administrator, as well as the future use of Government House, should be reviewed.

*Note:* I believe this may be beyond the purview of the NIGC to consider or make recommendations about.

The power to disallow laws after they have been enacted is vested in **the Australian Parliament**.

*Note:* For discussion:

1. What is the rationale for the Australian Parliament being able to disallow?
2. Has thought been given to the time and process that would be needed for the Australian Parliament to disallow?
3. How does it work for ACT or NT laws?
4. Could it just be the House of Representatives perhaps?
5. In Queensland, local government by-laws can be overridden by the relevant Minister. This is probably not palatable for NI, but perhaps the PM?

## Application of Commonwealth Acts

A Commonwealth Act.... **is not, ..., in force as such in the Territory, unless expressed to extend to the Territory.**

*Note:* This would, I think, be unworkable both for NI and the Commonwealth, and incredibly resource/labour intensive resulting in an increased administrative burden and a very real risk of a law being missed that might otherwise benefit NI.

It is also not how it applies to the rest of the states and territories – whereby the law applies to all Australians unless it is unconstitutional.

For discussion – a much more appropriate course may be to have formal and robust consultation mechanisms in place for policy developers to be consulting with Norfolk Island governing body on legislative proposals, and for NI governing body to have a regular consideration of the Commonwealth legislative program (to be able to make timely submissions to HoR and Senate Inquiries on Bills).

### Dissolution of the governing body

*Note:* For further discussion:

1. Is 'grossly improper' too high a test? Would only moderately improper be okay?
2. Alternative tests/language may be – misconduct, maladministration, corruption, conflict of interests. There are existing understandings and definitions of these in law in Australia, and if Qld's CCC or Ombudsman have a role as previously suggested, these are the terms that would be applied.
3. Is there a middle step before dissolution? For example, if there are financial anomalies or maladministration, could a financial controller type role be appointed by the GG appointee/Cth to provide financial approval to expenditure?
4. The proposal for dissolution considers maladministration or 'gross improper' behaviour of the governing body – but what if it is just one or two? Should there be availability of an individual dismissal and a 'by-election' type arrangement?

## **Page 7**

### Judicial system

*Note:* Suggest constitutional legal advice might be needed. How will the NI court structure fit with:

1. The federal court system
2. The High Court

On the basis that Australian citizens should have the same justice rights as each other, Qld recommends that the High Court be the highest court of appeal.

The federal court system would, assumably, be the relevant court for matters arising under Cth laws that apply to NI.

### Miscellaneous

*Note:* for discussion:

1. Might need further legal advice on dispositions of 'Crown Land', this could only apply to land owned by the governing body – unless the Commonwealth relinquishes ownership over Cth owned crown land.
2. An Integrity Commissioner might not be the right type of role to be investigating corruption or maladministration. In Queensland this function belongs to the Crime and Corruption Commission. The Integrity Commissioner is responsible for providing advice on ethical decision making and matters of integrity. An investigatory function will be expensive. Consider having an Integrity Commissioner for advice, but coming in under the jurisdiction of an existing Crime and Corruption investigatory body.
3. How and by whom, should the appointments be made? GG's appointee? The Commonwealth?
4. Having the Norfolk Island governing body appoint oversight bodies raises significant risks of self-serving appointments.
5. Has consideration been given to an Auditor-General? Performance and financial audits?

## Page 8

### Formal Communications and Cooperation Arrangements

*Note:* For discussion:

1. Does this proposed arrangement need to be embedded in legislation? What are the pros and cons of an administrative agreed approach rather than a legal structure?
2. Some of this would appear on the face if it to be functions of the Cth Department.

## Page 9

Fair and Sustainable Revenue Model: Contributions from the residents of Norfolk Island towards governance, services, and infrastructure will be assessed to ensure affordability, fairness and equity.

*Note:* Parity with mainland contributions as well. Cth funding is essentially taxes of various natures from other Australians. There needs to be a demonstration of parity with those contributions otherwise NI will be perceived as taking more than it's fair share.

*Note:* Queensland suggests a 7<sup>th</sup> point being – Performance and Financial Audits. Who would undertake these is still open for discussion but could include the Cth Auditor-General, or an independent auditor appointed by the AG or the GG/Appointee.

This mechanism would help to hold the governing body to account on how it is spending NI residents' contributions.

## Page 10

### Division of administrative and funding responsibilities

Norfolk Island's responsibilities - Norfolk Island Public Service:

1. Why Philatelic? How do stamp designs come about now? Do other states and territories have their own stamps?
2. Why Tanalith by itself? Wouldn't this be part of general poisons regulation?
3. Has thought been given to Domestic and Family Violence services? Social housing?

#### Shared responsibilities

1. There are a lot of Authorities. For each of these there will need to be 'secretariat' that at a minimum looks after meetings, minutes, agendas etc. but I would expect there would need to be employees to do the work directed by the Authority. This makes for a relatively large bureaucracy.
2. Under Ports and Roads Authority – the suggestion that the NI governing body would assume sole responsibility upon 'financial sustainability' – does this mean financial independence from the Cth?
3. Auditor – more detail would be helpful here. Is this the internal auditor mentioned earlier in the document, or an external auditor with performance and financial auditing authority?

#### Page 13

##### Border Protection

*Note:* Queensland does not agree to NI being removed from the Australian migration zone. This implies a different status and different rights for one group of Australian citizens over another. While the Commonwealth (i.e. Australians) are providing funding and services to NI it should be open for all citizens like any other part of Australia.

##### Queensland Government

*Note:* Early Childhood learning is not yet subject to a service agreement and should not yet be included on this list.

#### Page 14

*Note:* Please provide data that shows the cost of living on NI is higher/more challenging than other parts of Australia. Cost of living is a major issue across all of Australia at the moment, and many regional/rural areas in most states and territories are experiencing the same supply and cost challenges as seen on NI (some are even worse).

#### Page 16

##### Timeline

*Note:* Suggest separating out 'Transitional planning' into it's own deliverable and that work can proceed after the governance model is provided to the Minister in July.

## **Preamble**

### *Notes:*

1. Remove 'on the understanding that the Island was gifted to them by Her Majesty Queen Victoria' – as previously discussed, it is difficult to validate the beliefs of all the Pitcairn Islanders at the time, also subsequent Orders suggest Queen Victoria's intention was not necessarily to gift the island.
2. 'Connections with and to their homeland' – could be misinterpreted to mean Pitcairn Island.
3. 'Mutual benefit' – If this term is used it immediately begs the question – what is the benefit to the rest of Australia and Australians? These might need to be explored further in some way, otherwise it seems like a very one sided deal (which may be fine, but shouldn't be misrepresented).



**RE: Comments on the draft Governance model 20240501  
[SEC=OFFICIAL]**

VANDENBROEK, Sarah <Sarah.Vandenbroek@infrastructure.gov.au>

Mon, May 20, 2024 at 10:01 AM

To: "PLANT, George" <George.PLANT@infrastructure.gov.au>, "alma.buffett" <[REDACTED]@infrastructure.gov.au>, "Anita. French" <[REDACTED]@infrastructure.gov.au>, "s22(1)(a)(ii)" <[REDACTED]@infrastructure.gov.au>, Chelsea Evans <[REDACTED]@infrastructure.gov.au>, Chris Magri <[REDACTED]@infrastructure.gov.au>, Rachel Welch <Rachel.Welch@premiers.qld.gov.au>  
Cc: "s22(1)(a)(ii)" <[REDACTED]@infrastructure.gov.au>

OFFICIAL

Good morning all,

George's feedback below covers the Australian Government's position so I have nothing further to add.

Regards,

Sarah

OFFICIAL

Released under the Freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

## Norfolk Island Governance Committee

### Agreement log

#### Workshop 12-13 June 2024

Proposed model	Comments/rationale	NIGC member	Y/N
<p><b>The law-making authority will be provided under primary Legislation, and there will only be three types of laws (Acts or Ordinance):</b></p> <ol style="list-style-type: none"> <li>1. Commonwealth law (Primary Legislation), which includes the Norfolk Island Act. Subordinate law, which includes:</li> <li>2. Applied laws (laws of another State or Territory, applied as Commonwealth law, as made since 2015):</li> <li>3. Norfolk Island laws:               <ol style="list-style-type: none"> <li>a. Interaction with Commonwealth laws (modified section 27 Qld LGA 2009): If there is an inconsistency between a Norfolk Island law and a law made by the Commonwealth, the law made by the Commonwealth prevails to the extent of the inconsistency.</li> <li>b. Power to make laws (modified section 28 Qld LGA 2009): The NI Assembly may make and enforce any law that is necessary or convenient for the peace, order, and good government of Norfolk Island.</li> <li>c. The NI Assembly must not make a law that purports to stop a Norfolk Island law being amended or repealed in the future or, about a subject that is prohibited in the Act.</li> <li>d. Law making process (modified sections 29 and 29B Qld LGA 2009):                   <ul style="list-style-type: none"> <li>- The NI Assembly may decide its own process for making a law to the extent that it is not inconsistent with the requirements below. Norfolk Island laws are made by Ordinance by the Governor-General.</li> <li>- The NI Assembly makes a law by passing a resolution to make the law</li> <li>- If a new law is made by the NI Assembly and there is an existing law previously made by the NI Assembly about the same matter that would be inconsistent with the new law, the NI Assembly must amend or repeal the existing law so there is no inconsistency.</li> <li>- The NI Assembly must ensure its laws are drafted in compliance with the guidelines issued by the Parliamentary Counsel (Cth)</li> <li>- The NI Assembly must undertake public consultation before making a new law or amending or repealing an existing law</li> <li>- The NI Assembly must advise the public that a local law has been made or amended or repealed by publishing a notice of making, repealing or amending the law, in the gazette and on the NI Assembly's website</li> <li>- The notice must be published within 1 month after the day the law is made/repealed/amended.</li> <li>- As soon as practicable after the notice is published, the NI Assembly must ensure a copy of the law may be inspected and purchased by the public at the NI Assembly's public office.</li> <li>- It must cost no more than the cost to the NI Assembly of making the copy available for purchase (i.e. not a revenue stream).</li> <li>- A register of laws must be kept in a way to be prescribed by regulation and must be available for the public to inspect at the NI Assembly's public office</li> </ul> </li> <li>e. Laws that cannot be made: (to be populated once document on laws is completed). The NI Assembly must not make a law that contains an anti-competitive provision unless the NI Assembly has complied with the procedures prescribed by regulation for the review of anti-competitive provisions.</li> <li>f. Revocation and suspension of laws (modified section 38AB Qld LGA 2009). The Minister may suspend or revoke a law if they reasonably believe the law is contrary to any other Norfolk Island or Commonwealth Law, or inconsistent with the governance principles. Revocation/suspension is by way of gazette notice.</li> <li>g. Disallowance of laws: The Commonwealth Parliament of Australia may disallow any Norfolk Island law for any other reason.</li> </ol> </li> </ol>	<p>As provided by Chris via email on Wed 5/6/24 and agreed by all NIGC meetings out of session by email</p> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. No executive (i.e. Cabinet structure) to be established from within the seven elected members of the Assembly.</li> <li>2. Where an elected member of the Assembly has authority or role under an Act, that member will be the Presiding Member (e.g. the responsible member for approving/signing/deciding when required under an NI Act ).</li> <li>3. The Presiding Member is to be the responsible member on behalf of the whole NI Assembly and may only approve/sign/decide in accordance with the policy determinations (and in accordance with the NI law) of the NI Assembly collectively.</li> </ol> <p>Not needed to be in the primary Act, may be administratively organised and included in new laws as made.</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p style="text-align: center;">Draft Preamble</p> <p>PREAMBLE</p>	<p>Statement of Reservation from Alma Davidson at Addendum 1.</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p>	<p></p> <p></p> <p>(reserved)</p> <p></p> <p></p>

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Proposed model	Comments/rationale	NIGC member	Y/N
<p>WHEREAS by an Act of the Parliament of the United Kingdom, made and passed in the sixth and seventh years of the reign of Her Majesty Queen Victoria entitled "An Act to amend so much of an Act of the last Session, for the Government of New South Wales and Van Diemen's Land, as relates to Norfolk Island," it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to sever Norfolk Island from the Government of New South Wales and to annex it to the Government and Colony of Van Diemen's Land:</p> <p>AND WHEREAS Her Majesty Queen Victoria, in exercise of the powers vested in Her by the said Act, by a Commission under the Great Seal of the United Kingdom bearing date the twenty-fourth day of October, 1843, appointed that from and after the twenty-ninth day of September, 1844, Norfolk Island should be severed from the Government of New South Wales and annexed to the Government and Colony of Van Diemen's Land:</p> <p>AND WHEREAS by an Act of the Parliament of the United Kingdom, called the Australian Waste Lands Act 1855, it was, amongst other things, provided that it should be lawful for Her Majesty at any time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen's Land and to make such provision for the Government of Norfolk Island as might seem expedient:</p> <p>AND WHEREAS on 8 June 1856 the entire community of Pitcairn Island, an ethnically, culturally and linguistically distinct people, settled Norfolk Island:</p> <p>AND WHEREAS by an Order in Council dated the twenty-fourth day of June, 1856, made by Her Majesty in pursuance of the last-mentioned Act, it was ordered and declared, amongst other things, that from and after the date of the proclamation of the Order in New South Wales Norfolk Island should be thereby separated from the said Colony of Van Diemen's Land (now called Tasmania) and that from that date all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania over Norfolk Island should cease and determine, and that from the said date Norfolk Island should be a distinct and separate Settlement, the affairs of which should until further Order in that behalf by Her Majesty be administered by a Governor to be for that purpose appointed by Her Majesty with the advice and consent of Her Privy Council: and it was thereby further ordered that the Governor and Commander-in-Chief for the time being of the Colony of New South Wales should be, and he thereby was, constituted Governor of Norfolk Island, with the powers and authorities in the said Order mentioned:</p> <p>AND WHEREAS the said Order in Council was proclaimed in New South Wales on 1 November 1856:</p> <p>AND WHEREAS by an Order in Council dated the fifteenth day of January, 1897, made in pursuance of the said last-mentioned Act, Her Majesty, after reciting that it was expedient that other provision should be made for the government of Norfolk Island, and that, in prospect of the future annexation of Norfolk Island to the Colony of New South Wales or to any Federal body of which that Colony might thereafter form part, in the meantime the affairs of Norfolk Island should be administered by the Governor of New South Wales as therein provided, was pleased to revoke the said Order in Council of the twenty-fourth day of June, One thousand eight hundred and fifty-six, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor and Commander-in-Chief for the time being of the Colony of New South Wales and its Dependencies:</p> <p>AND WHEREAS the said Order in Council was published in the New South Wales <i>Government Gazette</i> on 19 March 1897, and took effect at that date:</p> <p>AND WHEREAS by an Order in Council dated the eighteenth day of October, One thousand nine hundred, made in pursuance of the said last mentioned Act, Her Majesty was pleased to revoke the said Order in Council of the fifteenth day of January, One thousand eight hundred and ninety-seven, and to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor for the time being of the State of New South Wales and its Dependencies:</p> <p>AND WHEREAS the said Order in Council was published in the New South Wales <i>Government Gazette</i> on 1 January 1901, and took effect at that date:</p> <p>AND WHEREAS by an Order in Council dated the 30th day of March, 1914, His Majesty King George V, by virtue and in exercise of the power in that behalf by the said last-mentioned Act or otherwise in His Majesty vested, after reciting that the Parliament had passed an Act No. 15 of 1913, entitled "An Act to provide for the acceptance of Norfolk Island as a territory under the authority of the Commonwealth, and for the government thereof" and that it was expedient that the said Order in Council of 18th of October, 1900, should be revoked and that Norfolk Island should be</p>	<p>on the understanding that the Island was gifted to them by Her Majesty Queen Victoria is legally challenging language to be included in an Act. Does not negate the belief by the Norfolk Island Community, nor are there concerns from the NIGC with using the language in other documentation.</p>	<p>Rachel</p>	

Proposed model	Comments/rationale	NIGC member	Y/N
<p>placed under the authority of the Commonwealth of Australia, was pleased to revoke the said Order in Council of 18th of October, 1900, and to order that Norfolk Island be placed under the authority of the Commonwealth of Australia:</p> <p>AND WHEREAS the said Order in Council was published in the <i>Gazette</i> on 17 June 1914, and took effect from 1 July 1914, being the date of commencement of the <i>Norfolk Island Act 1913</i>:</p> <p>AND WHEREAS Norfolk Island was, by the <i>Norfolk Island Act 1913</i>, declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth:</p> <p>AND WHEREAS Norfolk Island has been governed by the Commonwealth initially under the provisions of the <i>Norfolk Island Act 1913</i>, the <i>Norfolk Island Act 1957</i>, and subsequently under the provisions of the <i>Norfolk Island Act 1979</i>:</p> <p>AND WHEREAS the Parliament recognises the residents of Norfolk Island include the descendants of the settlers from Pitcairn Island, and the many other people who have made Norfolk Island their home since 1856:</p> <p>AND WHEREAS the Parliament recognises (Place Holder for alternate words about adopting principles of representative democracy and sovereignty of the people) the said descendants' desire to preserve their continued heritage, culture and traditions and their enduring connections with and to their homeland of Norfolk Island, its important sites, and surrounding sea:</p> <p>AND WHEREAS the Parliament recognises the mutual benefit to both [name of new NI government body] and the Australian Government in fostering good relations and respecting each other's needs, interests, and obligations:</p> <p>[AND WHEREAS the Parliament recognises Norfolk Island as a Non-Self-Governing Territory within the meaning of the Charter of the United Nations:] [NIGC Community Reps, DITRDCA oppose]</p> <p>[AND WHEREAS the Parliament recognises the shared aspiration to position Norfolk Island as a model of good-governance and excellence] [NIGC Community Reps propose, DITRDCA agrees] [in its relationship with Australia and the Pacific:] [NIGC Community Reps propose, DITRDCA oppose]</p> <p>[AND WHEREAS the Parliament considers it to be desirable and to be the wish of the people of Norfolk Island that Norfolk Island achieve internal government as a distinct and separate Territory under the authority of the Commonwealth and, to that end, to provide, among other things, for the establishment of separate territory and administrative institutions on Norfolk Island:] [NIGC Community Reps propose, DITRDCA oppose]</p> <p>BE IT THEREFORE ENACTED by the Sovereign, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:</p>	<p>aspire to determine their own future Again, may be legally challenging to be included in an Act. Needs testing with Minister and community.</p> <p>Rachel to come back with alternative language options.</p> <p>Parked</p> <p>Parked</p> <p>Parked</p>		
<p>Name of governing body</p> <p>Norfolk Island Assembly</p>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p>Constitution and membership of NI Assembly</p> <ol style="list-style-type: none"> <li>1. Seven (7) elected members</li> <li>2. To nominate and be elected:             <ol style="list-style-type: none"> <li>a. Over 18 years of age</li> <li>b. Enrolled to vote on Norfolk Island - 'Ordinarily' resident – what does 'ordinarily' mean.</li> <li>c. Australian Citizen (New Zealand citizenship to be tested with Minister)</li> <li>d. Not disqualified because of:                 <ol style="list-style-type: none"> <li>i. A conviction for certain offenses such as:                     <ol style="list-style-type: none"> <li>1. Treason (unless pardoned of the treason offence)</li> <li>2. Serious electoral or integrity offence (e.g. fraud, extortion, forgery, false statements, computer hacking and misuse).</li> </ol> </li> <li>ii. Is serving a prison sentence at the time of nomination and election</li> </ol> </li> </ol> </li> </ol>	<p>Further consideration on types of offences – Greg to advise</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>

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Proposed model	Comments/rationale	NIGC member	Y/N
<p>iii. Is an undischarged bankrupt</p> <p>3. NI Assembly to elect the Presiding Member at first formal meeting</p> <p>4. Term of Government – Fixed 4 year term</p>			
<p><b>Assembly and Administration (Responsibilities and powers)</b></p> <p>NI Assembly responsibilities:                      1. The NI Assembly is an elected body that is responsible for the peace, order, and good government of Norfolk Island.</p> <p>NI Assembly delegated general powers                      1. The NI Assembly has the power to do anything that is necessary or convenient for the peace, order, and good government of Norfolk Island.</p> <p>2. The NI Assembly can only do something that it is empowered to do under the Act.</p> <p>3. When exercising a power, the NI Assembly will have regard to Norfolk Island traditions and custom.</p> <p>4. The NI Assembly may exercise its powers by cooperating with one or more State, Territory or Commonwealth governments to conduct a joint government activity (including providing a service, operating a facility or expending funds).</p> <p>The NI Assembly must exercise its powers in a manner that is accountable, effective, efficient and sustainable.</p> <p>To ensure the system of governance on Norfolk Island is accountable, effective, efficient and sustainable, it is required that:                      1. Anyone who is performing a responsibility in the NI Assembly, must do so in accordance with the governance principles.</p> <p>Any action taken under this Act must be:                      (a) Consistent with the governance principles                      (b) Provide results that are consistent with the governance principles in as far as the results are within the control of the person who is taking the action.</p> <p><b>Governance principles:</b>                      1. Transparent and effective processes, and decision-making in the interests of the Norfolk Island community;                      2. Sustainable development and management of assets and infrastructure, and delivery of effective services;                      3. Democratic representation, social inclusion, and inclusive and meaningful community engagement;                      4. Good governance of, and by, NI Assembly; and                      5. Ethical and legal behaviour of elected members, governance employees and elected members' advisors.</p> <p>Responsibilities of elected members:                      1. represent the current and future interests of all the residents of Norfolk Island                      2. ensure the NI Assembly discharges its responsibilities under the Act                      3. comply with all the laws that apply to Norfolk Island                      5. provide high quality leadership to the administration of Norfolk Island, and to the community                      6. participate in NI Assembly meetings, policy development and decision making for the benefit of Norfolk Island                      7. be accountable to the community of Norfolk Island for the Administration of Norfolk Island's performance.</p> <p>Responsibilities of NI Assembly Presiding Member:                      1. leading and managing meetings of the NI Assembly, including managing the conduct of the participants (members, and staff of the Assembly at the meetings)                      2. conducting a performance appraisal of the CEO at least annually                      3. Unless otherwise specified in a NI Act, the Presiding member is the authorised member to make operational decisions/sign/act under an Act that requires the NI Assembly or (unspecified) member of the NI Assembly to make a decision/sign or act.                      4. When exercising 3. the Presiding member must act in accordance with the principles and policies of the NI Assembly on the matter.</p> <p>Responsibilities of the NI Assembly (collectively):                      1. Select and appoint the CEO                      2. leading, managing, and providing strategic direction to, the CEO in order to achieve the high-quality administration of Norfolk Island</p>	<p>For consideration in the integrity/good governance framework (e.g. Ombudsman, Integrity etc):</p> <p>Agreed – Principles location to be determined – principal Act or Integrity Framework?</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>

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Proposed model	Comments/rationale	NIGC member	Y/N
3. directing the CEO as appropriate			
<p><b>Administration (Public service)</b></p> <p>The Administration of Norfolk Island (Public Service): is a body politic with perpetual succession, has a common seal; and is capable in that name of:</p> <p>(a) suing and being sued;</p> <p>(b) making contracts;</p> <p>(c) acquiring, holding and disposing of real and personal property; and</p> <p>(d) doing and suffering all other matters and things a body corporate may do or suffer.</p> <p>Responsibilities of the CEO:</p> <p>1. managing the Administration of Norfolk Island in a way that promotes the effective, efficient and economical management of public resources</p> <p>2. managing the Administration to provide excellence in service delivery and a culture of continual improvement</p> <p>3. manage the public service to promote equal employment opportunities and in a way to be responsive to the NI Assembly's policies and priorities</p> <p>4. the safe custody of all documents owned or held by the public service</p> <p>5. complying with lawful requests from the NI Assembly for advice to assist them carrying out their role or for information that the public service has access to relating to the public service.</p>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p><b>Item 6: Dissolution of Norfolk Island Assembly</b></p> <p><b>Dissolution of the NI Assembly:</b> The Minister may dissolve the NI Assembly only:</p> <p>1. if other remedial actions have been tried, or are considered insufficient due to the level of concern e.g. criminal or corrupt conduct by the NI Assembly. (Define) <u>OR</u></p> <p>2. if the dissolution is in the public interest, with specific consideration of the public interest of Norfolk Island residents (Define Norfolk Island residents)</p> <p><b>Interim administrator:</b> If the Minister dissolves the NI Assembly, the Minister may appoint an interim administrator to act in place of the NI Assembly until the conclusion of a fresh election of members to be held on a stated date.</p> <p>A new election must be initiated, not earlier than 36 days, nor later than 90 days, of the dissolution of the NI Assembly (automatic triggering).</p> <p>A new elected body then has the full term of 4 years (clock restarted)</p> <p><b>The powers and responsibilities of the interim administrator:</b></p> <p>1. the interim administrator is appointed to act in place of the members of the NI Assembly and has all the responsibilities of the NI Assembly and the Presiding Member.</p> <p>2. The Minister may limit the responsibilities and powers of the interim administrator.</p>	<p>Look at other states powers under local government Acts. (DONE)</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p><b>Item 8 - Integrity and oversight arrangements</b></p> <p><i>NOTE: The Commonwealth Legislation should provision for Integrity measures; however, the detail below should be agreed and included in separate enactment/ordinance/applied law. This section requires further consideration, perhaps in consultation with the QLD Integrity Commissioner. If Queensland are to be involved it may be better to use words from their Laws?</i></p> <p>For primary Act: There will be:</p> <ol style="list-style-type: none"> <li>An ombudsman – who initially is the Cth Ombudsman</li> <li>A corruption investigator – who initially is the National Anti-Corruption Commission</li> <li>An integrity advisor</li> </ol> <p><b>Members' conduct, breaches, misconduct and corrupt conduct:</b> A conduct breach means conduct that contravenes:</p> <ol style="list-style-type: none"> <li>A behavioural standard (as defined ...)</li> <li>A policy, procedure or resolution of the NI Assembly</li> <li>An order of the chairperson of the NI Assembly meeting for the member to leave and stay away from the place</li> </ol>	<p>Not for primary Act – but for consideration for the Assembly to include</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>

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Proposed model	Comments/rationale	NIGC member	Y/N
<p>at which the meeting is being held.</p> <p><b>Misconduct means conduct that:</b></p> <ol style="list-style-type: none"> <li>1. Adversely affects, directly or indirectly, the honest and impartial performance of the member's functions, or the exercise of the member's powers (as determined by ....)</li> <li>2. Is or involves:               <ol style="list-style-type: none"> <li>a. Proven non-compliance with an Act by the member (The presumption of innocence must apply)</li> <li>b. Misuse of information or material acquired in, or in connection with, the performance of the member's functions, whether the misuse is for the benefit of the member, or for the benefit, or to the detriment of, another person (as determined by ....)</li> </ol> </li> <li>3. Contravenes any of the following:               <ol style="list-style-type: none"> <li>a. An order of the NI Assembly</li> <li>b. A policy of the NI Assembly about the reimbursement of expenses</li> <li>c. Other legislated or policy requirements as specified (to be determined).</li> </ol> </li> </ol> <p><b>Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that:</b></p> <ol style="list-style-type: none"> <li>1. adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of:               <ol style="list-style-type: none"> <li>a. the NI Assembly or public service; or</li> <li>b. a person holding an appointment; and</li> </ol> </li> <li>2. results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—               <ol style="list-style-type: none"> <li>a. is not honest or is not impartial; or</li> <li>b. involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</li> <li>c. involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and</li> </ol> </li> <li>3. would, if proved, be—               <ol style="list-style-type: none"> <li>a. a criminal offence; or (The presumption of innocence must apply)</li> <li>b. a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.</li> </ol> </li> </ol> <p><b>Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—</b></p> <ol style="list-style-type: none"> <li>1. impairs, or could impair, public confidence in public administration; and</li> <li>2. involves, or could involve, any of the following—               <ol style="list-style-type: none"> <li>a. collusive tendering</li> <li>b. fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—                   <ol style="list-style-type: none"> <li>i. protecting health or safety of persons</li> <li>ii. protecting the environment</li> <li>iii. protecting or managing the use of Norfolk Island's natural, cultural, mining or energy resources</li> </ol> </li> <li>c. dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of Norfolk Island assets</li> <li>d. evading a Norfolk Island tax, levy or duty or otherwise fraudulently causing a loss of Norfolk Island revenue</li> <li>e. fraudulently obtaining or retaining an appointment and</li> </ol> </li> <li>3. would, if proved, be—               <ol style="list-style-type: none"> <li>a. a criminal offence; or</li> <li>b. a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.</li> </ol> </li> </ol> <p><b>Members' conflicts of interest</b></p> <p>if a member has a personal interest in a matter, the NI Assembly must deal with the matter in an accountable and transparent way that meets community expectations.</p> <p>A personal interest is not a conflict of interest that requires management if the matter of the interest is solely or relates solely to:</p> <ol style="list-style-type: none"> <li>a. the making or levying of rates and charges, or fixing of a cost-recovery fee that will apply general to Norfolk Island</li> <li>b. making or amending a planning scheme that applies to the whole of Norfolk Island</li> </ol>			

Proposed model	Comments/rationale	NIGC member	Y/N
<p>c. the preparation or adoption of a budget for the Norfolk Island NI Assembly  d. the remuneration or reimbursement of expenses of members of the NI Assembly  e. the provision of superannuation entitlements or insurance for members  f. other matters as identified during creation of the NI Assembly appropriate to Norfolk Island.</p> <p><b>The management of a member's personal interest in a matter should include:</b></p> <ol style="list-style-type: none"> <li>1. a declaration process with a publicly available register</li> <li>2. a mechanism to remove the member from decisions related to the matter</li> <li>3. a descriptive list of declarable conflicts of interest</li> <li>4. process for review and re-consideration of matters for which a personal interest was not declared but later identified.</li> </ol> <p><b>Complaints about conduct</b>  An appropriate agency/office will need to be established or identified to take, assess and investigate complaints about conduct breaches, misconduct and corrupt conduct.  Examples might include:  - application of the Commonwealth Ombudsman legislation and framework  - establishment of a bespoke Norfolk Island Corruption, Integrity or Ethics Assessor or commissioner  - application of Queensland legal framework but substituting a Norfolk Island appointee.</p> <p>Process for investigating, powers for requiring access to sites and information and relationships with the AFP will need to be designed.  A structure and sanctions to manage vexatious and frivolous complaints will also be needed.  The NI Government Act (Qld) 2009 has one framework that may be used as an example.</p>			
<p><b>Judiciary</b>  No changes to existing framework and functions</p>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p><b>Crown Land</b>  What words to go in the Primary Legislation – Place holder</p>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	
<p><b>Public Account</b>  Public monies shall be available for the purposes of the government of the Territory: The monies of the Public Account of Norfolk Island shall not be issued or expended except as authorised by enactment. The Commonwealth Finance Minister may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend money to the Territory or to a Territory authority at such rates of interest and on such other terms and conditions as they determine.</p> <p>The accounts of the Territory shall, notwithstanding any enactment, be subject to inspection and audit by the Auditor-General for the Commonwealth (subject to agreement of the AG Cth).</p> <p>Made public as part of annual report, and audit report provided to Cth and NI Assembly.</p>	<p>Cth to check with Cth A-G</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p><b>Proposed model – Own source revenue</b></p> <ol style="list-style-type: none"> <li>1. Replace rates model with household/business premises levy – equitable, level playing field and not scaled on different sizes of properties, broader collection base and lower than the high rates</li> <li>2. Considerations: <ol style="list-style-type: none"> <li>a. No double dipping – i.e. business run out of a home is not charged twice</li> <li>b. Do apartments/flats/granny flats/duplexes have a different levy rate</li> <li>c. Multi-use premises may need a different calculation to maintain equitability</li> <li>d. Levy paid by landlord/property owner not renter</li> <li>e. How does tourist accommodation get charged</li> </ol> </li> </ol>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>

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Proposed model	Comments/rationale	NIGC member	Y/N
<p>3. Fee/bond/rate placed on alcohol and cigarettes – to cover shortfall from 1. above, and to replace loss from opening competition in alcohol from previous Liquor Bond</p> <p>4. Examine bases of waste management fees</p>	<p>George – will write this up into a scope that can be calculated to confirm sufficiency and sustainability</p> <p>Sarah – options for modeling the numbers once scope done</p>		
<p><b>Item 12: Application of Commonwealth Acts:</b> NOTE: See agreed Item 6, part (3a)</p> <p>Status Quo – Duplicate section 18 of current Norfolk Act – NI Assembly can't terminate or override a Cth law from applying</p>	<p>Cth needs to consider how the Cth/Governor General/Parliament can alter or stop a law from applying to Norfolk Island – eg. Elements of the Broadcasting Act not to apply to the community owned radio station.</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p><b>Item 2: Territory definition</b></p> <p>The Distinct and Separate Territory of Norfolk Island: Norfolk Island and all the other islands and rocks lying around Norfolk Island and the waters extending x nautical miles from the baselines established in accordance with the United Nations Convention on the Law of the Sea, including the seabed and subsoil beneath.</p>	<p>Cth in partnership with NIGC to look at Territorial Waters Act (NI Continuing law)</p> <p>What would be a suitable nautical miles distance? (approx. 12 nm for other states)</p> <p>NOTE: Current (and future) Norfolk Island laws, regulations, policies, and MOU's require jurisdictional boundaries and recognition that include the waters surrounding Norfolk Island. E.g. <i>Marine Safety Act (NI)</i>. <i>Norfolk Island Fisheries Management Policy 2009</i>, etc.</p> <p>And – an effective, formal mechanism to regularly bring the Cth, NI and community stakeholders together to better manage, enforce, coordinate activity in the waters around NI. (Transition)</p>	<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
<p><b>Administrative functions – Utilities, Public Service, KAVHA</b></p> <ol style="list-style-type: none"> <li>The NI Assembly may establish an instrumentality for any function of the NI Assembly.</li> <li>Instrumentality may include -a board, an authority, a company (limited or unlimited), agency.....</li> <li>The NI Assembly has authority to determine all terms of reference, remunerations, power, functions of the instrumentality (within it's own authority)</li> </ol> <p>NOT FOR PRINCIPAL ACT</p> <ol style="list-style-type: none"> <li>The NI Assembly may establish an entity to oversee and make decisions for the management of (e.g.):             <ol style="list-style-type: none"> <li>NI Utilities</li> <li>KAVHA</li> </ol> </li> <li>The Assembly may provide authority for the entity to make decisions for investment, divestment, revenue and expenditure within the requirements of (the Public Moneys Act) with respect to the matter vested in the entity by the NI Assembly.</li> </ol>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	<p>y</p> <p>(reserve)</p> <p>y</p> <p>y</p> <p>y</p> <p>y</p>
		George	

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Proposed model	Comments/rationale	NIGC member	Y/N
		Chris	
		Alma	
		Chelsea	
		Sarah	
		Rachel	
		George	
		Chris	
		Alma	
		Chelsea	
		Sarah	
		Rachel	
		George	
		Chris	
		Alma	
		Chelsea	
		Sarah	
		Rachel	
		George	
		Chris	
		Alma	
		Chelsea	
		Sarah	
		Rachel	
		George	
		Chris	
		Alma	
		Chelsea	
		Sarah	
		Rachel	
<b>Revenue model</b> <ol style="list-style-type: none"> <li>NI Assembly members – salaries, FT/PT,</li> <li>Secretariat support for NI Assembly</li> <li>Cost associated with policy development, drafting of new laws, publication of laws</li> <li>Financials and taxation</li> </ol>	<b>Item 16: Taxation and Funding arrangements</b> The Australian Government will support the island’s long-term aspiration to be as self-sufficient as possible, and will assist and support economic prosperity and diversification initiatives to achieve this outcome. The agreed revenue model will need to be adaptive to economic circumstances, capacity, and community needs and aspirations.  For present purposes:  1. The Australian Government will fund federal responsibilities and agreed state services, including health and education.  2. Norfolk Island Assembly and the Australian Government will co-fund agreed shared responsibilities. Large-scale infrastructure and common-use assets to be funded as a shared responsibility, given the island’s limited taxpayer base.  3. Norfolk Island Assembly will fund the remaining responsibilities through local taxes, duties, fees, charges, levies, business income, miscellaneous income, and Financial Assistance Grants.	George Chris Alma Chelsea Sarah Rachel	

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Proposed model	Comments/rationale	NIGC member	Y/N
	<p>4. Public Service - Local management and provision of services: Outsourcing public services to external service providers will only be considered under circumstances where there is significant community support and a clear benefit that cannot be achieved through local provision.</p> <p>5. Horizontal Fiscal Equalization: Traditionally, Financial Assistance Grants (FAG's) have supported states and territories with untied revenue for discretionary use, promoting equal service standards across regions. Norfolk Island will achieve fiscal equalization through tailored FAGs to assist in the provision of state and local-type services, determined on the advice of the Commonwealth Grants Commission. Norfolk Island will receive FAG's funds directly into its public account. This ensures the island's governance can make independent financial decisions.</p> <p>6. Fair and Sustainable Revenue Model: Contributions from the residents of Norfolk Island towards governance, services, and infrastructure will be assessed to ensure affordability, fairness, and equity.</p>		
<p>Transitional</p> <ol style="list-style-type: none"> <li>1. Finalise preamble – including Item 13 re principles on cooperation, consultation etc for Cth and NI</li> <li>2. Establish electoral role law</li> <li>3. Define 'resident'</li> <li>4. Fit for purpose Public Moneys Act – by ordinance for the new Assembly to work to</li> <li>5. Integrity and corruption framework Act</li> <li>6. Separate Public Service Act or Policy</li> <li>7. Formation of formal engagement/consultative mechanism between NI, Cth and Qld (as service provider) (see Item 13)</li> <li>8. an effective, formal mechanism to regularly bring the Cth, NI and community stakeholders together to better manage, enforce, coordinate activity in the waters around NI.</li> <li>9. Taxation and financials</li> <li>10. Sustainable population strategy to be a priority for NI assembly. To assist, NIGC will gather data, expert advice and research from other Australian and international jurisdictions to inform the NI assembly when established.</li> </ol>		<p>George</p> <p>Chris</p> <p>Alma</p> <p>Chelsea</p> <p>Sarah</p> <p>Rachel</p>	

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## NIGC meeting agenda – Day 2

DATE	LOCATION
13 June 2024	Online and 1 William St, Brisbane
TIME	WEB LINK
9:00am – 3:00pm	<a href="#">Teams link</a>

### Committee Member attendees

ATTENDEES	
Alma Davidson, Community Representative	George Plant, Administrator (Chair)
Chelsea Evans, Community Representative	Sarah Vandebroek, DITRDCA
Chris Magri, Community Representative	Rachel Welch, DPC

### Secretariat

ATTENDEES	
s22(1)(a)(ii) DITRDCA	s22(1)(a)(ii) DITRDCA

### Observers

OBSERVERS	
s22(1)(a) Office of the Administrator	Anita French, Proxy Community Representative
s22(1)(a)(ii) DITRDCA	s22(1)(a)(ii) Director, Territories Communications, DITRDCA
s22(1)(a)(ii) A/g Director, Territories Legislation Section, DITRDCA	

### Agenda

AGENDA ITEM	ATTACHMENTS	LEAD	TIME
1. Welcome and apologies	The Prayer of John Adams	The Chair	9:00am – 9:05am
2. Recap of Day 1		The Chair	9:05am – 9:35am
3. Recommendation(s) that would be for the new governing body to implement 3.1. Functions and Services to be delivered 3.2. Accountability of authorities	Administrative arrangements worksheet	The Chair	9:35am – 10:30am
<b>Morning tea</b>			10:30am – 10:45am

AGENDA ITEM	ATTACHMENTS	LEAD	TIME
4. Revenue model recommendation: 4.1. Overview of current key revenue sources for NIRC functions and services. 4.2. What is working well? What does the NIGC propose doing differently?		The Chair	10:45am – 12:00pm
<b>Lunch break</b>			12:00pm – 12:45pm
4.3. What alternative proposals should the NIGC explore in more depth?		The Chair	12:45pm – 1:30pm
5. Recommendation associated with transition 5.1. Timeframe 5.2. Change management considerations		The Chair s47F s47F	1:30pm – 2:30pm
6. Recap of key decisions and confirming NIGC resolutions		The Chair	2:30pm – 3:00pm
7. Communique		s22(1)(a)(ii)	3:00pm – 3:30pm
8. Close		The Chair	3:30pm
<b>Afternoon tea</b>			3:30pm – 4:00pm

Who sits on the utilities board?  
What reporting will the utilities board need to do?

### Utilities Board

Administration

- Airport
- Ports
- Rock
- Telecom
- Electricity
- Liquor
- Water
- Waste Water

How is this funded?

- Commonwealth funding contributions
- User pay elements

Accountability sits with the new NI governing body

### Public Service Governing Body

Administration

- Library
- Licensing & Registry
- Courts
- Estates
- Visitor Information
- Promotion
- Planning
- Environment
- Building
- EMNI
- Reserves
- Waste
- Roads
- WHS

How is this funded?

- Local Government to fund most services and functions
- Financial assistance grants
- Fees and charges
- Land rates
- Other revenue collection

Who sits on the KAVHA board?  
What reporting will the KAVHA board need to do?

### KAVHA Board

Administration

- Museums
- Research
- Buildings
- Maintenance
- Cemetery

How is this funded?

- Commonwealth funding contributions
- Other revenue collection e.g. museum entry fees

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