



## Australian Government

### 1. What will the new governance body look like?

The new body will be called the Norfolk Island Assembly

- There will be 5 members, including a full-time Presiding Officer.
- It will operate on fixed four-year terms.
- It will be empowered to make local laws, however where there are inconsistencies between local laws and Commonwealth law, Commonwealth laws prevail.
- It will have additional functions as well as local government responsibilities. These are still to be settled.
- The governance model will be based on the Queensland local government model, with modifications to reflect the unique needs and context of Norfolk Island.
- The model will be implemented by an Ordinance made by the Governor-General under s19A of the *Norfolk Island Act 1979* (Cth).

### 2. What did the NIGC recommend?

The proposed key elements of the model are broadly consistent with the recommendations from the Norfolk Island Governance Committee (the Committee). These include the remedial actions available to the Minister to address any emerging issues and support the Assembly to continue delivering local representation for the community.

Points where the Government's decision has varied from the Committee's recommendations are:

- The Norfolk Island Governance Committee proposed the Norfolk Island Assembly be made up of 7 members. The Norfolk Island Assembly will be comprised of 5 members, as appropriate for a local governing body for a community of this size.
- The Norfolk Island Governance Committee sought consideration of allowing New Zealand Citizens to vote in and stand for election to the Assembly. Australian Citizens only will be able to vote in and stand for elections, consistent with arrangements for governments in Australian jurisdictions that have similar remits to the Norfolk Island Assembly.
- The Norfolk Island Governance Committee proposed the new model be implemented by changing or remaking the *Norfolk Island Act 1979* (Cth) (primary legislation). The Norfolk Island Assembly will be implemented via Ordinance, due to timing requirements.
- Review mechanisms to assess the performance of the model and inform future planning have been introduced at 2 and 5 years after the Assembly commences. Review mechanisms were not part of the Committee's proposal, however it is important to ensure this model is working for the Norfolk Island community and refine it as needed.

### 3. How will the Norfolk Island Assembly be established in law?

The Norfolk Island Assembly will be implemented by an Ordinance made under s19A of the *Norfolk Island Act 1979* (Cth).

This is the fastest pathway to return local representation back to Norfolk Island under a new, bespoke model. Once the legislation is settled, it will be made by the Governor-General, rather than needing to be scheduled for debate in Parliament. Australian Government resources for creating legislation are limited, and must be balanced across the whole of the Government's responsibilities. This approach will reinstate local democracy to Norfolk Island as soon as possible.

Using an Ordinance will also provide opportunity for flexibility in adjusting the model as the new body matures. For example, recommendations for further changes to better meet the community's needs may come out of the 2 and 5-year evaluations.

Changes to the primary legislation (the Norfolk Island Act) to include the arrangements for the governing model and Norfolk Island Assembly may be considered in the future.

### 4. Will the Preamble be reinstated?

Yes, the Government is committed to reinstating a Preamble.

The Norfolk Island Governance Committee has submitted a draft Preamble to the Hon Kristy McBain MP, Minister for Regional Development, Local Government and Territories. Minister McBain recognises the diverse views the community expressed during the consultation period, and is considering the proposed draft Preamble. There may be further changes to the wording, as the Government will seek legal advice and will also consult internally.

Once the wording of the new Preamble is settled, the *Norfolk Island Act 1979* will need to be amended to reinstate it. Further changes might be proposed and debated after the proposed preamble is introduced to Parliament.

### 5. Will the Norfolk Island Assembly make laws?

Yes, the Norfolk Island Assembly will be able to make local laws.

Once established, the Norfolk Island Assembly may also make laws in relation to some matters covered by the current body of Norfolk Island Continued laws. (These are laws that were previously in operation prior to 2015, and have been continued as Commonwealth legislation under the Norfolk Island Continued Laws Ordinance 2015.) Limits may apply to the areas of Continued Law the Assembly may change. Within those limits, which laws are considered for remaking will be a decision for the elected members of the Assembly and the process will be undertaken in consultation with the Australian Government.

The Assembly will not have the power to make changes to the way Commonwealth laws apply on Norfolk Island. Any limits that may apply to the Assembly's remit to make new Norfolk Island laws are still under consideration.

If there is an inconsistency between a Norfolk Island Assembly law and Commonwealth law (including continued laws and applied state laws), the Commonwealth law prevails over the Norfolk Island Assembly law to the extent of the inconsistency.

## 6. What is the law-making process for the Norfolk Island Assembly?

It is proposed that the Norfolk Island Assembly may make and enforce laws necessary or convenient for the peace, order, and good government of Norfolk Island on those subject matters ordinarily within the responsibilities of local governments. Subject to the requirements of the *Legislation Act 2003*, it is proposed the Norfolk Island Assembly would decide its own process for making a law

The Norfolk Island Assembly must also meet the following requirements:

- If a new law is made by the Norfolk Island Assembly and there is an existing law previously made by the Norfolk Island Assembly about the same matter that would be inconsistent with the new law, the Norfolk Island Assembly must amend or repeal the existing law so there is no inconsistency.
- The Norfolk Island Assembly must ensure its laws are drafted in compliance with the guidelines issued by the Office of Parliamentary Counsel.
- The Norfolk Island Assembly must undertake public consultation before making a new law or amending or repealing an existing law.
- The Norfolk Island 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 Norfolk Island Assembly's website.
- Provision of public notification of and access to Norfolk Island Assembly laws will be in accordance with the *Legislation Act 2003*.

The Norfolk Island Assembly must not make a law that contains an anti-competitive provision unless the Norfolk Island Assembly has complied with the procedures prescribed by regulation for the review of anti-competitive provisions.

Norfolk Island Assembly laws will be tabled in the Federal Parliament as legislative instruments, and would be subject to disallowance under the *Legislation Act 2003*.

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.

## 7. Will Norfolk Island return to self-government?

The Australian Government has not agreed to return Norfolk Island to self-government – this was not the commitment, or in line with recommendations in the November 2023 report from the Joint Standing Committee on the National Capital and External Territories.

What the new model does support is the restoration of local, elected representation and local decision-making.

8. Is there a change to how Commonwealth law applies to Norfolk Island?

**There will be no changes to the application of Commonwealth laws to Norfolk Island, or the existing judiciary framework and its functions.**

9. What safeguards are in place to support the Norfolk Island Assembly ? Can the Minister still dismiss this governing body?

**A range of safeguards will apply to the Norfolk Island Assembly to ensure it performs its duties and functions as required and allow the Minister to initiate early action to address the kinds of issues previously experienced by Norfolk Island governments.**

**The Minister will be able to take remedial action, such as appointing an advisor or financial controller, or suspending or removing individual members. In the event remedial actions are insufficient to address the issue of concern, the Minister will have the power to dissolve the Norfolk Island Assembly and appoint an interim administrator.**

**These safeguards are consistent with the Norfolk Island Governance Committee's proposal.**

**The new model will be subject to planned evaluations 2 years and 5 years after commencement.**

10. Will there still be any applied state laws in Norfolk Island?

**Yes. Some applied state laws are needed to support the delivery of state-type services by state government partners or in some cases, the Commonwealth. Queensland will continue to deliver health support services, education, apprenticeships and traineeships and correctional services. Queensland laws are applied in Norfolk Island to enable the delivery of these services.**

**In the event Queensland agrees to deliver other state services to Norfolk Island in the future, other Queensland state laws may need to be applied to enable those services to be delivered.**

**As the legislative framework to support the Norfolk Island Assembly is settled, there may be other state laws that need to be applied in Norfolk Island to support the new model.**

11. Does the community get a say about how state services are delivered in the future?

**Yes, the Norfolk Island community will continue to be consulted on how state services are shaped.**

**Until the Norfolk Island Assembly is established, the Norfolk Island Governance Committee will continue its role in shaping any additional state services proposed for Norfolk Island.**

**Once the Norfolk Island Assembly is established, processes will be implemented to enable its participation in considering and shaping the delivery of additional state services for Norfolk Island. This includes local delivery, as well as delivery of services by a state partner.**

## 12. Why do you have to be an Australian citizen to nominate and vote?

**This is consistent with arrangements for governments in Australian jurisdictions that have similar remits to the Norfolk Island Assembly.**

## 13. When will the new body commence?

**Minister McBain proposes the Norfolk Island Assembly be established by the end of 2025 or sooner. The community will be kept updated if there are any changes to this timeline.**

**The Norfolk Island Regional Council will continue to provide services until the new Norfolk Island Assembly is established.**

**Detailed transitional planning and arrangements will be developed to support the establishment of the Assembly.**

## 14. What transitional arrangements are in place for the Norfolk Island Regional Council?

**The Government is extending the Norfolk Island Regional Council's (NIRC) period of administration until 31 December 2025. This will allow time to implement the new local governance model for Norfolk Island.**

**Minister McBain has appointed a new Administration team to lead NIRC through the transition to the new governance model. Minister McBain has appointed two Administrators: Scott Mason as Lead Administrator, alongside Gary Mottau as the Financial Administrator. Mr Mason and Mr Mottau will commence on 6 December 2024, following the conclusion of the current Administrator Mike Colreavy's term.**

## 15. How will the new model be funded?

**The NIA will need to self-fund all local government-type services, as the NIRC currently does. The Australian Government will continue to provide assistance in form of funding similar to the Financial Assistance Grants available to other local governments.**

**The Australian Government will also continue to provide funding for Commonwealth services to Norfolk Island, and state-type services – as it does now with NIRC through service delivery arrangements for functions such as motor vehicle registration and ports management.**

## 16. What happens now?

**The department will work with the NIGC to develop a revenue model, an integrity framework and a detailed model of how the Norfolk Island Assembly will deliver local government functions, to ensure the Norfolk Island community continues to receive these essential services. This work will inform drafting the new legislation (Ordinance) that will implement the new model. The NIGC Community Representatives will continue to consult the community as they do this work.**

**The NIGC will also continue to work through the state-type functions the NIA will take on.**

**Once the new legislation is drafted, it will be made available for public comment before being settled and the Ordinance submitted to the Governor-General to be enacted.**

**17. How will the community have input as the details of the new model are designed? The Norfolk Island Governance Committee will continue to be the key channel to provide input into the process going forward. This includes designing the revenue model, the integrity and accountability frameworks, and ensuring the delivery of local services is suited to Norfolk Island's specific needs.**

**As the new legislation (Ordinance) is developed, the community will have the opportunity to provide comment on the draft before it is finalised and the Ordinance is enacted by the Governor-General.**

For latest information on the new model and the NIGC processes, go to:

**<https://www.infrastructure.gov.au/territories-regions-cities/territories/norfolk-island/norfolk-island-governance-administration/norfolk-island-governance-committee>**