

THE AUSTRALIAN GOVERNMENT  
AND NORFOLK ISLAND GOVERNANCE:  
CHICANERY, FOLLY

AN ASSESSMENT AND AN APPEAL

by

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Norfolk Island  
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*“[The] truth is incontrovertible. Panic may resent it,  
ignorance may deride it, malice may distort it, but there it is.”*

Winston Churchill, Speech in the House of Commons, 17 May 1916

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## Contents

Preface

Executive Summary

### PART I. Process

1.1 Historical Prelude

1.2 Inquiries, Inquiries

1.3 NIGC, NIGC(CR), and *Working Together*

1.4 Commonwealth Actions and Community Responses

### PART II. Commentary

2.1 Chicanery, Folly

2.2 When will they ever learn?

2.3 Summary

### PART III. An Appeal

3.1 Appeal to Hon Anthony Albanese MP, Prime Minister of Australia

References

Abbreviations

Appendices

A. JSCNCET 2023 Terms of Reference

B. JSCNCET2023 Recommendations

C. NIGC Terms of Reference

D. Minister McBain Media Release (13 November 2024)

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## Preface

This essay records the history of governance issues on Norfolk Island in recent years, in terms of the interactions between the Norfolk Island community and the Australian Government.

The essay has two purposes. The first is to emphasise the factual content of its subject, in the belief that wise judgements about the future should be founded on a clear understanding of the past. Thus, references to the sources of information are stressed. Any reader finding factual errors in the text is invited to contact the author. The second purpose is, on the evidence, to point to policy choices that need to be made, some urgently.

While the primary purpose is to record the facts about what has transpired, it is impossible to write history without adopting a moral, say political, perspective to the facts as they reveal themselves. In this regard, I write as a Norfolk Islander born in the year prior to the Second World War, who has spent most of his life in Australasia and in Europe, before returning to Norfolk Island some ten years ago. It seems to me to be a fair and reasonable proposition that future governance of Norfolk Island should include a modern democracy at island level, substantial autonomy, and support from the Commonwealth of Australia.

Norfolk Island constitutionally is an External Territory of Australia: it is not an integral part of the Commonwealth, according to all informed legal opinion. The detail of this issue will not be pursued here, apart from the importance of recognising the existence of difference of Norfolk Island from the Commonwealth. As a consequence of this, we are able to explore the extent of difference that is appropriate for the Island. Norfolk Island is also deemed to be a Non-Self-Governing Territory within the meaning of Article 73 of the Charter of the United Nations (Lowe & Ward, 2016, ref. 41), and, as Norfolk Islanders claim, they have explicit rights in determining their own future.

The core issue of this essay relates to the extent of the autonomy that Norfolk Island can rightfully claim and expect to enjoy. I trust that my own views are visibly distinct from the story being told. The essay provides few prescriptions for specific actions, but rather points towards a much more fruitful future path for Norfolk Island development than the narrow ideology currently being pursued by the Commonwealth.

This essay does not dispute the significance of the money spent by the Commonwealth on Norfolk Island in recent years. Ongoing Commonwealth expenditures on Island health, education, and transport, have, evidently, been extremely valuable for the island, and this is here acknowledged. Current projects, for example, include the upgrade of the Cascade pier, the construction of a science laboratory at the Norfolk Island Central School, and assistance with the development of a Norfolk Island Tourism Industry Strategy. (It needs to be noted however that figures for the total annual expenditure by the Commonwealth on Norfolk Island are not available publicly, and that such figures disaggregated by department and function may not even be available outside the individual departments themselves.) It also needs to be noted that some Commonwealth expenditures on Norfolk Island are made for Commonwealth purposes, and that some investments deemed vital by the Island have been declined by the Commonwealth.

An alternative perspective on Commonwealth expenditures on Norfolk Island would be by economic benefit-cost analysis, which would attempt to estimate the nett present monetary value to the Commonwealth of the benefits and costs of all its interventions on the Island over time: including not only direct costs to the Commonwealth but also the indirect benefits to the Commonwealth of the Island's Exclusive Economic Zone (EEZ), aviation rights, and the value of the Island as a strategic asset. It would not be surprising if such a study showed a substantial overall annual net benefit to the Commonwealth from its presence on the Island.

However this essay is not so much about finance, but about politics. There is a deeper response needed to the question about the Commonwealth contribution to Norfolk Island from a political perspective. This is in terms of the laws imposed on Norfolk Island by the Commonwealth, the influence of which is disguised when only matters of finance are considered. It is law which determines capacity to govern, and it is this which lies at the heart of Norfolk Island's democracy (or lack of it).

And as we shall see, the basic issue here is not primarily a dispute between the descendants of the Pitcairn Island settlers and more recent arrivals, however important that may be. The basic question is how best should a small isolated Pacific Island make its way, economically and socially, sustainably and democratically, in the world, with metropolitan assistance. In this regard, it is important to note that no statement made in this essay knowingly contradicts or is incompatible with most recent independent constitutional legal opinion regarding the status of Norfolk Island.

A word on terminology. For readers of this essay it needs be noted that the Norfolk Island Governance Committee as a whole will be referred to as NIGC, and the community representatives at that committee will be referred to as NIGC(CR). Inquiries by the Joint Standing Committee on the National Capital and External Territories (JSCNCET) are referred to individually as JSCNCET(15) and JSCNCET(23) depending on their date of 2015 or 2023, and where necessary. In the Australian Government, Norfolk Island is administered from the Territories Branch within the behemoth Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (DITRDCA). In this essay, this Branch, Department, and ancillary departments dealing with aspects of Norfolk Island affairs (e.g. Department of Agriculture, Fisheries and Forestry), and their reportage to the Minister for Territories, together with other Commonwealth appointees to Norfolk Island, will be collectively referred to as "the Commonwealth".

The following essay is essentially about the history of politics and political choices on Norfolk Island in recent years. The question of whether the current approach of the Australian Government towards Norfolk Island is a phenomenon of recent years alone, or whether it should be seen as systemic over at least the last fifty years, is not addressed in this essay. And there are other important issues which constellate around the essay's subject, and which have not been adequately addressed here. These include the international legal and constitutional relationship between Norfolk Island and the Commonwealth of Australia, and the role of colonialism in the Commonwealth's ideology and practice in relation to Norfolk Island.

In passing, I note that copies of the books containing my articles referenced in the present text are available from The Trading Post, Norfolk Island, and from Amazon Australia. The majority of these articles were initially published in *The Norfolk Islander* and on *Norfolk Online News*.

Finally, I wish to record that I have benefitted greatly from discussions of the matters explored in this paper with a wide variety of opinion on Norfolk Island, and I here acknowledge and thank all my interlocutors.

Chris Nobbs  
Norfolk Island

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## Executive Summary

In 2014 the Commonwealth Government under PM Tony Abbott set up a parliamentary inquiry into the economic development of Norfolk Island. As a consequence of this inquiry the Norfolk Island Legislative Assembly and the Norfolk Island Public Service were disbanded, with the Legislative Assembly replaced by a “regional council”, constructed under Commonwealth legislation, modelled on a New South Wales local authority template, and with substantially reduced powers.

This ushered in a period of significant turmoil for the island. As a result of a public inquiry in 2021, the councillors were dismissed and the council run by fiat by a Commonwealth appointed administrator.

In 2023 the Commonwealth responsible Minister, Hon. Kristy McBain, called a further parliamentary inquiry, with the purpose of developing a new governance structure for Norfolk Island. Following this inquiry’s report, and to aid the ongoing process, a Norfolk Island Governance Committee (NIGC) was formed to advise the Commonwealth on relevant matters. Membership of this committee consisted of three Norfolk Island community members elected by public vote, and three public servants: one from Commonwealth department responsible for Norfolk Island, one from the Queensland government (as the provider of health and education services to the island), together with the Commonwealth-appointed Administrator of Norfolk Island.

The present essay attempts to describe the interactions between “government” (dominated by the Commonwealth Government) on the one hand, and the Norfolk Island community and its representatives in the Norfolk Island Governance Committee on the other, played out against the background provided by the 2023 JSCNCET parliamentary report.

A key issue for this essay has been to provide a factual account of what came to pass during this process, from 2023 to the present time. However of equal importance has been to examine what has transpired over this time from a political and ethical perspective.

Based on the evidence that has been adduced here, the view is taken that the Australian Government has been deceptive in its actions and deficient in its responsibilities to the people of Norfolk Island. The feeling is widespread on the Island that the good faith of the Norfolk Island community in its consultations and deliberations with the Australian Government have not been reciprocated. There has been from the Australian Government substantial injustice in both process and outcomes.

In terms of *process*, and as identified in this present paper, the Commonwealth’s approach has been characterised by:

- (i) The continual narrowing of the field of options for the community to the minimum, for example in limiting future options to those circumscribed by an Australian local government format; proposing regulatory change to law rather than legislative change; the continuing extension of all Commonwealth law to Norfolk Island without review; ignoring what other small islands, particularly small Pacific Islands, may have been able to contribute to the quality of Norfolk Island’s future governance;
- (ii) Maintenance of a substantial imbalance in resources and process management available to itself on the one hand, and the Community Representatives of the NIGC on the other, which put the latter at a perpetual disadvantage;
- (iii) Refusal to engage directly with the Norfolk Island community in discussion or debate, choosing instead to interact only with three representatives of the community, and to keep discussions and decisions out of sight; while providing to the public merely bland, meretricious statements about outcomes and intentions.

In terms of *outcomes and consequences* – also identified in the present paper – the Commonwealth has:

- (i) (Almost) completely ignored the expressed wishes of the Norfolk Island community, and proceeded headlong with its own agenda;
- (ii) Emasculated law making and democratic ambition on the island, with all major decisions to be made off-island;
- (iii) Adopted a head-in-sand approach to the reality of Norfolk Island as an isolated island in the Pacific Ocean – and as such an individual and unique ecosystem – and the imperative nature of Norfolk Island having its own policy and decisional input into the control and management of immigration, biosecurity, environmental, and climate change matters, together with recognition of its social and cultural mores, in the building of a sustainable economy into the future.

The overall consequence of the Commonwealth's conduct on Norfolk Island in these matters appears that rather than assisting Norfolk Island towards a democratic and self-capable future in harmony with the Commonwealth, its purpose has been to discount Norfolk Island wishes, reduce its capacities to those of a local council, and extend its own (Commonwealth) control.

It is both surprising and remarkable that in the twenty-first century, the Commonwealth is prepared to act in relation to an external territory in such colonialist terms. This recognition should hold significant meaning for other islands and countries in the Pacific region. Furthermore the Commonwealth's approach repudiates its responsibilities under the United Nations prescriptions for Non-Self-Governing Territories.

From the standpoint of the Norfolk Island community, these are very dismaying circumstances. However they are circumstances that the Commonwealth has the power to redeem. In consequence we make the following courteous appeal to the Australian Prime Minister Hon. Anthony Albanese MP for a change in Commonwealth approach. (This appeal has been presented directly to the Prime Minister, prior to its wider publication.)

### **Appeal to the Prime Minister of Australia, Hon. Anthony Albanese MP**

In view of the conduct of the Commonwealth Government and Department in its recent dealings with the External Territory of Norfolk Island in relation its governance processes – as recorded in this paper – we respectfully appeal to Australian Prime Minister Hon. Anthony Albanese MP:

- (1) To halt the current colonialist governance review process, which limits Norfolk Island's governance interests to those of an Australian local authority; and
- (2) To engage with Norfolk Island anew and cooperatively to develop a governance and partnership model for Norfolk Island which gives genuine power to the Island over its life and economy.

It is considered that specific and immediate issues requiring attention in such a more balanced approach to the Island's development, include:

- (a) Urgent reform of the Commonwealth's policy of unrestricted immigration to Norfolk Island, giving a primary and essential policy role in this matter to Norfolk Island representatives;

- (b) Change of current Commonwealth biosecurity measures to introduce fit-for-purpose policies, practices and regulations tailored for Norfolk Island’s sensitive environmental and ecological circumstances, and in which determinations Norfolk Island representatives have a primary essential policy role;
- (c) Implementation of truly cooperative and respectful working arrangements between the Commonwealth and Norfolk Island in the same spirit in which the Commonwealth is currently doing in building bridges with other Pacific family members. This would be an arrangement that would not be confined artificially to “local council” matters, and would be an arrangement that could be proudly celebrated in the long term by both the Commonwealth and Norfolk Island.

And in this regard it is requested that consideration be given to the moving of ministerial responsibility for Norfolk Island to a Commonwealth portfolio that has responsibilities for the Pacific, thereby reflecting Norfolk Island’s true remote geographic location, strategic importance, and its deep historical and cultural ties to that region.

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## **PART I: PROCESS**

### **1.1 Historical Prelude**

Norfolk Island was, in 1856 – and following its use as a penal colony by the British Government – made the homeland of the descendants of the HMS *Bounty* mutineers of Pitcairn Island, as a result of an Order in Council made by Queen Victoria. The implications of that directive continue to be disputed.

In 1914, under the United Kingdom’s *Norfolk Island Act 1913*, Norfolk Island became an External Territory under the authority of the Commonwealth of Australia.

#### **The Norfolk Island Council (pre-1979)**

As the Annual Report on Norfolk Island 1970-71 states<sup>1</sup>, the Norfolk Island Council was established pursuant to the *Norfolk Island Act 1957 (Cth)*. The head of government on the island was the Administrator, appointed by the Governor-General of Australia. The Act was administered by the Minister of State for External Territories, with the assistance of the Department of External Affairs.

The Council consisted of the Administrator, as *ex officio* chair, and eight members elected biennially. The Council elected a President of Committees and included standing committees on finance and economic affairs, works, social affairs, tourism and other industries, and council affairs. The Administrator was a member of all these committees. The Council could consider and tender advice to the Administrator on any matter affecting the peace, order and good government of Norfolk Island, and must be consulted on certain legislative and financial matters. Enrolment for the Council elections was open to British subjects 18 years of age or older, who also held a Norfolk Island residency qualification.

## **The Nimmo Royal Commission (1976)**

The Royal Commission into Matters Relating to Norfolk Island, under Justice John Nimmo, was set up by the Commonwealth Government in 1975. Following its report in 1976<sup>2</sup>, the Fraser Coalition Government under the aegis of the Minister responsible for Norfolk Island, Hon Bob Ellicott QC, brought forward to the Parliament a Bill, subsequently passed as the *Norfolk Island Act 1979*, granting Norfolk Island a limited degree of self-government.

The Act set out the capacity for Norfolk Island residents to be elected to a Norfolk Island Legislative Assembly (consisting of nine members, elected every 3 years), a Norfolk Island government to be drawn from the elected members, and the government so formed to take executive action and be responsible and accountable. The Preamble to the Act explicitly recognised the Pitcairn Island settlers' special relationship with Norfolk Island. The allocation of powers under the Act was set out formally in a series of Schedules to the Act:

Schedule 2: A list of powers transferred to Norfolk Island, with Assent to legislation by the Administrator upon the advice of his (or her) Norfolk Island ministers (e.g. raising of revenues, surface transport, water supply, electricity supply, drainage and sewerage, garbage and trade waste, etc.).

Schedule 3: A short list of items associated with the Commonwealth tier of government. The Legislative Assembly could pass laws in this category, but final Assent was at the discretion of the Commonwealth Minister (e.g. fishing, customs, immigration, education).

'Reserved': Assent to any law made by the Legislative Assembly dealing with matters outside Schedules 2 and 3 was reserved for the Governor-General's pleasure (e.g. foreign affairs).

(Due to subsequent changes to the Act, these schedules are no longer current.)

Over the next three and a half decades from 1979, Norfolk Island was a relatively tranquil island, with a gradually expanding economy underpinned by tourism and the Island's unique environment.<sup>3,4</sup> That is not to say the Island was without its financial challenges, particularly in relation to revenue raising and the funding of longer-term infrastructural investment.

All this governmental architecture changed following the Australian Federal election of 2014 won by the Coalition parties under leader Hon. Tony Abbott MP, widely considered an advocate for neoliberal policies. The Assistant Minister responsible for Norfolk Island, Hon Jamie Briggs, launched an inquiry into the economic development of Norfolk Island to be pursued by the Joint Standing Committee on the National Capital and External Territories (JSCNCET).

## **1.2 Inquiries, Inquiries**

### **JSCNCET Inquiry (2014)**

This Inquiry may have set something of an Australian record both in terms of ignoring its terms of reference, the silencing of the Norfolk Island Government representatives, and in discounting much of the evidence presented to it in favour of the views expressed by the preceding Australian Administrator of the Island.<sup>5,6</sup> The recommendations of the Standing Committee were almost wholly accepted by the Australian Government and Parliament, and resulted in the passage of the *Norfolk Island Legislation Amendment Act 2015*. This Act saw the abolition of the Norfolk Island Legislative Assembly and the disbanding of the Norfolk Island Government and Public Service, and the

absorption of Norfolk Island into the Australian taxation and welfare systems. The Legislative Assembly was replaced by a "regional council", constructed under Commonwealth legislation, modelled on a New South Wales local authority template, and with substantially reduced powers.

### **Public Inquiry (2021)**

Four years on, in 2020, it was becoming clear that the Norfolk Island Regional Council (NIRC) was running out of money to pay its day-to-day bills. On 4 February 2021 the Assistant Minister responsible for Norfolk Island, Hon. Nola Marino, suspended the Council and appointed Mr Michael Colreavy as interim council administrator. (At the time of writing – February 2026 – the Norfolk Island community remains without representation at this level.) The Minister followed that up on 10 February by commissioning a public inquiry into the NIRC, the terms of reference of which focused on whether, and to what extent, the NIRC and its governing body (i.e. councillors) had shown effective financial and asset management in the carrying out of their obligations under the *Local Government Act 1993* (NSW)(NI).

Commissioner Carolyn McNally provided her report to the Minister on 4 November 2021.<sup>7</sup> The report did not make recommendations, but in conclusion drew attention to serious deficiencies exposed by the governing body's actions (and inactions), relating particularly to the failure to invest in maintenance of the asset base, failure to establish a rates target, and deficiencies in forward planning.

### **JSCNCET Inquiry (2023)**

On 7 February 2023, the then-Minister responsible for Norfolk Island, Hon. Kristy McBain of the Labor Government (elected May 2022), put out a media release announcing the referral of another inquiry to the JSCNCET, this one on the broader issue of governance on Norfolk Island, to be chaired by Alicia Payne, Labor MP for Canberra. The terms of reference of the committee are given at Appendix A. The final report of the inquiry was tabled on 27 November 2023.<sup>8</sup>

At this point it may reasonably be asked whether this procession of inquiries by the Commonwealth was motivated by trying to do the best for Norfolk Island, or by economic curiosity on the part of the Commonwealth, or whether it represented a purposeful strategy by the Commonwealth to diminish the Island and suffocate any independent democratic tendencies it may have, or perhaps by all three.

One of the key elements of both these JSCNCET inquiries of 2021 and 2023, clearly stated in their terms of reference, was the assumption that all responsibility for failure lay with the Island, and none with the Commonwealth. (In regard to the dubiety of which assumption we might mention difficulties experienced by the island due to the "lack of a state" problem (which juxtaposes the Island directly with the Commonwealth, without state-level facilitation), failure to recognise the overarching phenomenon of deficits in all small isolated community finances in Australia, inadequate on-island training, and a failure to recognise the inadequacy of free market economics for the well-being of isolated islands.) A consequence of the Commonwealth's approach was that in all matters these inquiries were conducted in such a manner as to oppose the Island to the Commonwealth, and in consequence to hold the Island up to mockery and disdain.

But let us take a step back. From the pre-1979 situation, in which a small elected council of Norfolk Islanders, with no powers beyond advising the Commonwealth's Administrator, to the post-1979 situation in which a Norfolk Island Legislative Assembly (NILA) was inaugurated and overnight became responsible for overseeing the island's taxation and spending, population and migration, policy development, statistics collection, telecommunications, energy, school, hospital, port operations, superannuation, industrial relations, and minimum wages, with no training or introduction provided. The promised five-year review of NILA progress did not occur. Little support was forthcoming from Canberra. Thus one reading of the evidence would be that the inabilities of the Legislative Assembly members to perform better than they did was at least in part the outcome of the Commonwealth's own negligent conduct.

The JSCNCET(23) committee, in its report *Restoring Democracy* took, from an Island perspective, a reasonably broad approach to its terms of reference. In brief we may emphasise that the report recommended that any legislative changes be introduced by primary, Commonwealth, legislation rather than by delegated legislation (Rec 2). It also emphasised: the importance of a legislative Preamble recognising the culture, traditions, heritage and history of Norfolk Island (Rec 1); the importance of capacity building on the Island (Rec 3); thoroughness of community consultation (Rec 4); the need for a binding, compulsory community vote to approve the final model as determined by the Norfolk Island Governance Committee (Rec 4); that any legislation contain provisions for periodic review (Rec 6); and the clear specification of relations between local community and Commonwealth and State responsibilities (Rec 7). (For the recommendations in detail, see Appendix B.) In recommending so, two members of the JSCNCET committee felt constrained to enter additional comments to the overall report, attesting (in summary):

Senator McLachlan (Liberal, SA): *Norfolk Island is a distinct and separate territory and entitled to determine its own future in accordance with the aspirations of its people.*

Senator Pocock (Independent, ACT): *The people of Norfolk Island are a distinct and separate community with very different needs and aspirations to those of the Australian community. Norfolk Islanders, and particularly Norfolk Islanders of Pitcairn descent, are a culturally, linguistically and ethnically distinct group.*

The Commonwealth, having received the report of the Committee in November 2023, provided its five-page response in February 2024.<sup>9</sup> Apart from Recommendation 1 of the Committee, which was agreed to, response by the Commonwealth was one of equivocation, with the remainder of the recommendations either merely being ‘noted’ or ‘agreed in principle’.

### **1.3 NIGC, NIGC(CR), and *Working Together***

#### **The NIGC**

On 29 March 2022, the two organisations the Norfolk Island People for Democracy (NIPD) and the Norfolk Island Council of Elders (NICOE), proposed to the Commonwealth the setting up of a committee comprising elected representatives of the Norfolk Island community and the Commonwealth government, to explore how to “Modernise Norfolk Island’s governance consistent with the needs and aspirations of its people; and establish a mutually agreed and sustainable funding model for Norfolk Island”.<sup>10</sup> This idea was embraced by the Commonwealth and became in due course the Norfolk Island Governance Committee (NIGC).

The lengthy terms of reference for the NIGC developed by the Commonwealth and the NIGC were eventually published in draft form eight months later, in August 2023 (and in updated form on 6 February 2024). The terms set out that the NIGC be comprised of six members, three from the Norfolk Island community, and three from government: with one from DITRDCSA, one from the Queensland Department of Premier and Cabinet (QDPC)(as a major provider of services to the Island), together with the Commonwealth’s Norfolk Island Administrator.<sup>11</sup> (C.f. summary in Appendix C.)

The election of community members of the NIGC was held on 11 October 2023 under the supervision of the Australian Election Company. Voting required voters to be age 18 and over, living on the island for at least one month, and voting could be done either in person, or online. Voting was non-compulsory. Based on ABS census data for 2021, the 1129 formal ballots cast represented 65 percent of electors, with the three elected candidates receiving 64 percent, 50 percent and 44 percent of the

cast ballots respectively. Those candidates who supported substantial powers for a Norfolk Island government were overwhelmingly endorsed (Mr Chris Magri, Ms Alma Davidson, Ms Chelsea Evans). The Community Representatives of the Governance Committee (NIGC(CR)) as elected met for the first time on 18 October 2023.

The terms of reference for the group did not appear to be particularly limiting: the introductory statement of the role of the NIGC read: “to provide decisions, advice and recommendations on the governance of Norfolk Island.” This aspect was reinforced in statements by the DITRDCSA and QDPC representatives at the NIGC meeting with the public held in Rawson Hall Supper Room on 7 March 2024, that “Everything is on the table”. The evolving facts would test the limits of both these propositions.

Some on-island critics pointed out, with regard to the NIGC, the great disproportion in access to resources that characterised the community’s representatives on the one hand and those of the government side on the other. Although the former received a modest individual emolument from the Commonwealth for their participation, when the community representatives asked for funds to provide for their own secretariat, this was refused by contrary vote of government representatives, and no funds were made available to the community representatives for expert subject matter research, or travel, or legal representation. Whereas on the government side, there seemed to be no apparent limit to the resources that could be brought to hand as needed. Voting by consensus and the strict confidentiality provisions imposed on NIGC meetings were likely also to disadvantage the community’s representatives. Decisions made in NIGC meetings were to be by consensus.

Meetings of the NIGC were held either physically on Norfolk Island, or by Zoom, and media releases were often made available. The NIGC(CR) developed a programme whereby they made themselves available to anyone on Norfolk Island on a Wednesday afternoon in the Rawson Hall supper room to discuss any issues of interest or concern, and at other times for individuals or groups to have private confidential meetings with the community representatives. Written submissions were also invited: of which 20 were received.<sup>12</sup> At the date of this current writing (February 2026), the NIGC(CR) continue to offer meetings with the community in this format.

### **The NIGC(CR) and the *Working Together* Report**

As a result of the interactions with the community over a period of several months, on 1 May 2024 the NIGC(CR) published a major draft report entitled *Working Together to Design Norfolk Island’s Future Governance Model*<sup>13</sup>, for community discussion and review. This represented the distillation of the views of the Island community as to what the Island desired in terms of governance, as expressed to the community members of the NIGC(CR). In the views of many in the community (including the present writer), this paper was a thoughtful and relatively modest set of proposals for discussion and negotiation with the Commonwealth. Let us explore the content of this document further.

In introducing the document the authors wrote as follows, inviting review and feedback from the community:

#### **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, Chelsea Evans, or Chris Magri [telephone numbers excised] or via email at: nigccommunityreps@gmail.com*

In summarising the months of consultations with the Norfolk Island community, the report identified the following as of importance for the new governance model:

### **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.*

Other aspects of the proposed governance model prefigured in the *Working Together* document of May 2025 identified: the need for future detailed considerations of the governing constitution; formal communication and cooperation arrangements; the revenue model; the division of administrative and funding responsibilities; development of a Preamble; timelines; and consideration of the recommendations of the ‘Restoring Democracy’ report by the JSCNCET(23). These issues are, it is believed, to be worked through over time with the whole NIGC membership.

## 1.4 Commonwealth Actions and Community Responses

Following the publication of the “*Working Together*” draft report on 1 May 2024, the Commonwealth’s Norfolk Island Administrator Mr George Plant, announced in the local media on 18 May<sup>14</sup>:

*It is important residents understand many of the included [in the summary of items from the Community consultations: above] are beyond the scope of what is being considered in developing the new governing model.*

continuing:

*The Government is committed to restoring community-led democracy on Norfolk Island as soon as possible.... Commonwealth laws will continue to apply on Norfolk Island. The power of the new governing body to make laws will be limited to local government-type laws.*

It appeared that the Australian Government had already decided much of what the Norfolk Island community could expect from it.

### A wave of rejection

The community’s response to the Norfolk Island Administrator’s intervention was widespread rejection. It was rejected by almost all the identifiable politically and economically oriented groupings on Norfolk Island, including: the Norfolk Island People for Democracy, the Norfolk Island Council of Elders, by the United Kingdom Parliament Norfolk Island All-Party Parliamentary Group, and by Geoffrey Robertson AO KC together with international advisor on global governance Dr Carlyle Corbin (former Minister of State for External Affairs of the U.S. Virgin Islands Government, and current advisor on Norfolk Island to the NIPD).<sup>15</sup> Calls were made for the resignation of all NIGC(CR) members.

Latterly, on 9 October 2024, the NIPD in riposte to the Commonwealth’s announced straitjacket, published a document “Seeking Justice and Democracy”, advocating for Norfolk Island self-government in free association with Australia<sup>16</sup>:

*The Norfolk Island People for Democracy are committed to Self-Government in Free Association with the Commonwealth of Australia in the spirit of peace, freedom and cooperation, democracy and human rights, and respect for the universal principles of international law mandated by the United Nations.*

It perhaps needs to be noted here that the expression “Free Association” has a specific meaning within the United Nations system, relating to the choice that should be open to non-self-governing territories in democratically choosing their future.<sup>17</sup> The Government of Tokelau, for example, understands by free association “that a state manages its own laws and also has a special relationship with an

independent state that will share its citizenship and provide economic assistance and defence”.<sup>18</sup> (For further on UN matters, see below.)

Meantimes, on 12-13 June 2024 a two-day workshop of all NIGC members was organised by the Commonwealth Government, and held in Brisbane, attended also by at least one other Commonwealth official. According to the workshop agenda<sup>19</sup> the outcomes sought from the meeting were:

*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 Standing Committee on the National Capital and External Territories’ (JSCNCET) report Restoring Democracy.*

(We may recall here the content of JSCNCET(23) 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.”)

The meeting was to be an important one. A cynic might have suggested that the meeting was held in Brisbane in order to move the NIGC(CR) representatives off their familiar ground and consequently be more biddable. I am informed that as the meeting proceeded through the items on its agenda, the Community Representatives’ advocacy was based on the content of the *Working Together* report. That report itself, although listed in the documents for the meeting, was not otherwise acknowledged or discussed at the meeting.

We might at this point reflect on the fact that in the years of the Norfolk Island Legislative Assembly (until around 2010) the *Norfolk Island Act of 1979* required that Commonwealth legislation extended to Norfolk Island if and only if the legislation specified that to be the case. This provided some protection for the island against legislation thoughtlessly applied to small islands. The Brisbane workshop confirmed the existing legal position that all Commonwealth legislation when passed would apply to Norfolk Island, unless counter-indicated by the text itself. Arguments put forward by NIGC(CR), for a relevance review prior to such determination were rejected by NIGC.

We might also wish to reflect on the fact that access to the agenda of the Brisbane workshop was claimed as privileged to the Commonwealth until it was finally made public following a Freedom of Information application (FOI 24-509). It is currently available on the DITRDCSA website.

Following this workshop, a deathly silence descended on the Commonwealth-NIGC(CR) airwaves, It appeared that whatever the Commonwealth had got from the June meeting, it had no further interest in discussing it.

### **Minister’s Announcement (13 November 2024)**

The five-month consultation drought from June 2024 was broken on 13 November 2024 when Minister Kristy McBain, together with Mr David Smith, MP for the Bean electorate in the ACT (in which Norfolk Island is included), put out a media release entitled “New local governance for Norfolk Island”. Key elements announced included the following<sup>20</sup>:

*The Australian Government has decided on a new bespoke local governance model for Norfolk Island, delivering on its commitment to restore local democracy.*

*The Norfolk Island Assembly will operate on four-year terms and comprise five elected members, including a full-time presiding officer.*

*It will be empowered to make local laws that support local service delivery.*

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

This edict is so far from the aspirations of the *Working Together* document that one is forced to wonder if the Commonwealth had in fact read it.

The media release was accompanied by two documents from the Australian Government, a three-page fact sheet on the proposed Norfolk Island Assembly, and a six-page FAQ. (The Commonwealth may have been silent in the previous months, but they appear to have been busy.)

### **A second wave of rejection**

This announcement precipitated a second wave of rejection on the Island. Prefiguring it, the NIGC(CR) writing in *The Norfolk Islander* of 9 November, said<sup>21</sup>:

*During Senate Estimates on 4 November, Senator David Pocock questioned the Department on why the NIGC and the community have not been informed on the recommended overarching framework for Norfolk Island’s new governance model currently under consideration by the Australian Government.*

*In its response, the Department stated that the Minister had been fully briefed on the outcomes of the NIGC’s June workshop but indicated that its recommendations to government were based around the following: (i) a model of local governance established within a local government framework; (ii) responsibilities beyond those of local government would remain the responsibility of the Commonwealth.*

*The Department’s statements do not align with the consensus decisions of the NIGC ...*

The NIGC(CR) followed this up the next week with another article in *The Norfolk Islander* on 16 November<sup>22</sup>, “Restoring Democracy not part of Australia’s Agenda”. This article pointed to the fact that the Minister’s announcement was the first time that the Community Representatives had seen the Commonwealth’s proposal, that “instead of addressing the significant deficiencies in Norfolk Island’s governance, the Government has chosen to retain the current ‘local government’ model”, and that “This decision is inconsistent with the NIGC’s Terms of Reference and its recommendations, and does not reflect the will of the people of Norfolk Island”.

One member of the NIGC(CR), Alma Davidson, resigned, stating<sup>23</sup> that “it is clear that the Australian Government has its own plans for Norfolk Island and has no intention of listening to or respecting the wishes of those in the community who willingly engaged in the NIGC process.”

The Norfolk Island Accommodation and Tourism Association (NIATA) President wrote<sup>24</sup> stating that the “local government model is inconsistent with the will and needs of the Norfolk Island community”, and that “The Minister has ignored the will of the people”. The NICOE rejected the model<sup>25</sup> as “unsuitable, unsatisfactory and unacceptable”, and the NIPD<sup>26</sup> condemned the Minister’s announcement, attesting “The announcement of the same system with another name doesn’t fool us and adds to the anger and disappointment already prevalent in the community”. Both these latter organisations transmitted their sentiments directly to the Minister and to a range of Australian parliamentarians. Other challenges to the Commonwealth’s edict were made by Jon Stanhope, former Administrator of Norfolk Island and latterly Chief Minister of the ACT<sup>27, 28</sup>, and by Peter Maywald, a former Chief of Staff to Government of Norfolk Island (2003-2010).<sup>29</sup> A few questioned the legitimacy of Australia’s presence on Norfolk Island *in toto*. One anonymous group, known as the OMNI Collective, made a published contribution on the side of the Minister: the only group identifiable as having done so.<sup>30</sup>

On 22 May 2025, the presidents of the NIPD and NICOE wrote to Australian Prime Minister Albanese expressing 12 points of grievance over the processes involved in the unilateral decisions being made by the Commonwealth in the Norfolk Island governance review process.<sup>31</sup> These grievances concerned:

- (1) A pre-determined governance outcome, whereby only Australian local government models could be discussed;
- (2) Lack of mandate from the Norfolk Island community for the imposition of an Australian local government model. Elected NIGC(CR) representatives all stood on a platform including self-government, a modernised constitution, reinstatement of the Norfolk Island Act Preamble, and (some) legislative autonomy;
- (3) Disregard of the community-driven governance model, based on community consultation, denying thereby Norfolk Islanders the opportunity to genuinely shape their governance future;
- (4) The position taken at the Brisbane 2024 workshop, counter to the positions expressed prior to their election by the community's elected representatives, and unauthorised by the community, regarding the application of Commonwealth laws to Norfolk Island;
- (5) Lack of transparency regarding and oversight by the community and the community's elected representatives, of the NIGC recommendations put to the Minister prior to submission to Cabinet;
- (6) No binding, compulsory community vote on the Minister's proposed governance model, as explicitly recommended by JSCNCET(23);
- (7) An imposed undemocratic outcome: the NIGC process has not restored democracy but instead reinforced federal control;
- (8) the community is overwhelmingly opposed to both Australian local government and board models;
- (9) the Community Representatives on the NIGC have expressed publicly their opposition to the Australian local government framework proposed by the Australian Government;
- (10) failure of Commonwealth to restore the Norfolk Island Preamble, as recommended by JSCNCET(23), and which cannot be adequately done within ordinance-based legislation;
- (11) failure of the Commonwealth to recognise Norfolk Island's constitutional status as "distinct and separate" which, established by Imperial Order in Council (1856), can be altered only by Imperial Act; and
- (12) The NIGC process does not constitute an act of self-determination within the context of United Nations principles. There is a risk that an imposed Australian local government model will be misrepresented internationally by Australia as Norfolk Islanders' consent to integration with Australia.

On the evidence available, these grievances appear reasonable and fairly put.

The NIPD-NICOE letter to the PM was acknowledged, but not engaged with.

## PART II: COMMENTARY

### 2.1 Chicanery, Folly

#### The Commonwealth and the Community

Looking at the Commonwealth's conduct following the June 2024 Brisbane Workshop, what appears to have taken place is that the Commonwealth took whatever it decided it wanted from that meeting and disappeared into the Canberra hills, ignoring what it didn't like, and in particular what the Norfolk Island community had requested. Furthermore the Commonwealth appeared to have turned its back on several of the recommendations, and the spirit, of its own JSCNCET(23) report, placing its own narrower interpretation on the meaning of "restoring democracy".

The NIGC(CR) document *Working Together*, put together as a result of extended community consultation over several months, and at the behest of the Commonwealth, seems to have been scrupulously ignored by them. This modest document seems to the present author, a completely adequate foundational document for negotiation regarding Norfolk Island's future.

The 13 November 2024 media release by the Minister (as above) also included the following quotes attributable to Minister:

*Norfolk Islanders told us they wanted local representation and local decision-making restored, which is why we're delivering on our commitment to implement a new bespoke model of local governance.*

*The Norfolk Island Assembly is something that's been developed for the community, by the community, and I thank the elected NIGC representatives and locals for working with us to establish this model.*

The media release also claimed that:

*The new model was informed by the recommendations of the Norfolk Island Governance Committee (NIGC) which followed extensive community consultation.*

Based on the evidence available and outlined above, these are cynical mis-statements.

On the first point attributed to the Minister we note the manoeuvre of using the word "local" to refer not to local representation for a broad decision-making capacity for government (which was asked for), but to decision-making restricted to local government issues alone (which was not). Having excluded the main issues of significance for the island, the Minister's statement appears to be claiming virtue for providing a residue. On the second point, and based on earlier discussion (above), this inflation of the role of the Norfolk Island community is not borne out by the evidence. What the Minister has presented as her "plan" was accepted neither by the NIGC as a whole (there was no discussion), nor by the Norfolk Island community at large (they were not asked).

The oceans that separate what the Norfolk Island community asked for and what the Commonwealth appears willing to concede, can be gauged by a comparison of the *Working Together* document (above) and the Minister's announcements. There is here a charade being playing out by the Commonwealth at the Island's expense. (Such grievances have already been brought to the attention of the Prime Minister by the NIPD and NICOE.<sup>32</sup>)

And in consequence, the further claim released to the media regarding future work that:

*The NIGC is now working on the detailed design of the revenue structure and integrity framework to support the Assembly, which will include ongoing community consultation*

can give the Norfolk Island community no confidence whatsoever that their wishes are even heard, let alone attended to. The Commonwealth's notion of a "bespoke" model, while being bespoke in the sense of being put together for a particular circumstance, does not preclude the possibility that it will be empty of meaningful content.

Reflecting on these matters, we might believe that the two Community Representatives remaining on the NIGC, while rebuffed at almost every step, are continuing so purely to try to limit the damage that Norfolk Island will suffer from the Commonwealth's engineering. Whether this is so or not we cannot tell, however the evidence available suggests that any success that they may achieve is likely to be marginal. In such a circumstance and on account of the Commonwealth's conduct, it is widely recognised in the Norfolk Island community that the two remaining Community Representatives no longer represent the community's aspirations. That is to say that on account of the Commonwealth's conduct, the remaining Community Representatives have almost wholly lost their legitimacy in the eyes of the community.

### **Some Island-critical issues debarred from the Norfolk Island Community**

The NIGC (either in part or in whole) never supported a local government model as proposed by the Commonwealth - characterised as it is by the ultimate narrowing of meaning, the giving of the minimum, and ignoring community input almost entirely. The gravity of the matter resides in the fact that laws made for large metropolitan countries can be totally inappropriate for the circumstances of small isolated islands, which need the ability to tailor laws for themselves (see further below). Furthermore, in the view of much informed opinion on the Island, the DITRDCSA bureaucracy has not, over time, demonstrated an adequate capacity for an understanding of isolated island living or its management, or developed the cultural awareness to deal adequately with that community.

Let us consider some of the Island-critical issues being debarred to the Island by the Commonwealth, taking our lead from the statement by NIGC(CR) of 16 November 2024.

#### ***(i) specific issues for the Norfolk Island economy and society***

There are a number of economic and social issues that are critical for Norfolk Island and should be under its control, at least to a substantial degree. Control from desks in Canberra is grossly inefficient and even in the short term likely to be detrimental. Administrative control spread around various departments in Canberra, has not been for the island's overall advantage, and the requirement that the Island deal directly only with DITRDCSA representatives exacerbates this problem (see further below). Key issues include the inability to control immigration, and biosecurity. The urgency of these issues, as matters of policy, has often been put to the Commonwealth by Island representatives, but without response. The Commonwealth acts in such matters, as has become increasingly clear, in its own interests (or, alternatively, thoughtlessly).

The opening up of unrestrained immigration to Norfolk Island in 2016 destroyed a well-respected, stable and competent system of controlled immigration, and one which was (and remains) characteristic of almost all Pacific Islands, and indeed of Australia itself.<sup>33</sup>

This should be emphasised: that all small Pacific islands had and still have immigration policies of similar structure to that destroyed by the Commonwealth on Norfolk Island in 2015. In this there are criteria for permanent residency, which is not immediately granted, and commonly include long-term residence or descent (direct or by marriage), proof of means of support, and medical and police checks. The reasoning is apparent: unrestrained immigration produces uncontrolled pressures on all

small-island resources, including housing, health services, telecommunications, power generation, roads, food, provision of on-island services for old-aged residents, and the environment, together with the dilution and disruption of island culture. Such have been cause for alarm on Norfolk Island, to which the Commonwealth has remained unmoved.

Likewise, biosecurity control to Norfolk Island has become less stringent – one might say casual – since 2016, and appears to be more related to Australian bureaucratic choices rather than keeping the recognised very high phytosanitary standard of Norfolk Island in place.<sup>34</sup> The Commonwealth Department of Agriculture appears totally reluctant to engage with Norfolk Island interests at the level of policy. Indeed Norfolk Island has recently (December 2024) witnessed a serious incident involving the freighter *MV Norfolk's* arrival from Australia. A container discharged from the vessel and onto the Cascade pier was found to have carpenter ants escaping onto the pier, which precipitated a major cleaning operation involving ship, pier, trucks, and already delivered cargo locations, over a number of days. The primary cause of this particular biosecurity failure is the refusal of Commonwealth customs officers to examine freight on board ship, a procedure that was routine when biosecurity inspection was under the control of the Norfolk Island Government.

Another example is provided by the winding back of the fruit fly monitoring programme. The Queensland fruit fly poses a serious biosecurity risk to fruit and vegetable production in eastern Australia, and is potentially Norfolk Island's most critical biosecurity risk. As was confirmed in the 2014 Norfolk Island quarantine survey, the fly was not present on Norfolk Island at that time. Its presence on the island would be exceedingly damaging, even devastating, to island fruit – including apples, bananas, mangoes, tomatoes, avocados, capsicums, nectarines, passionfruit, pears, peaches, custard apples. (A level of risk recently increased with the commencement of importation of fruit from Australia.) This fly can only be controlled by heavy pesticide use or physical exclusion. And on Norfolk, the ubiquitous red guava provides an infinite reservoir for the pest from which it would never be removed. Commencing in the 1990s the Norfolk Island Government implemented a fruit fly monitoring programme, set up in accordance with internationally recognised (IPPC) protocols. Since 2016 this programme has been degraded, and may now be merely at token status. Other examples could be cited.

### ***(ii) laws and lawmaking***

We all have a notion of how laws are made in the Australian parliament through the preparation of a Bill (a draft Act), which is then discussed, perhaps modified, and voted on in the House of Representatives and the Senate. The Bill only becomes law if it has been voted on and passed with identical content, by both Houses, and assented to by the Governor-General. This is the manner in which the *Norfolk Island Act 1979* became law.

Acts are what are called “primary” legislation. Lawmaking by ordinance on the other hand is what is referred to as “delegated” or “subordinate” legislation: namely is legislation enabled or authorised under some primary legislation (generally an Act of Parliament). In Norfolk Island's case, the *Norfolk Island Act 1979* is primary legislation, which permits under its umbrella, changes made by ordinance. All new and amended legislation applied on Norfolk Island has, in recent years, been made by ordinance under this Act. Minister McBain's current proposals for the legislative future of Norfolk Island – if they proceed – will be made in this manner. The Minister has said that she will not introduce primary legislation in the matter of Norfolk Island's future governance.

For the Island this raises a number of serious issues. First, proposed ordinances are much less carefully scrutinised in their passage through the Parliament than is primary legislation. Although tabled in the Parliament, an ordinance is not subject to debate and basically becomes law if parliamentarians do not object to it. Furthermore, the Minister's power to create laws by ordinance for Norfolk Island is limited only by the *Norfolk Island Act 1979* and these powers can be delegated by the Minister to a variety of unelected persons, who may include the Norfolk Island Administrator, or

some public servant in Canberra. This is to be a foundation of the “restored democracy” that the Commonwealth intends to impose on Norfolk Island.

There are other law-making problems too. Because so many changes have been made to the *Norfolk Island Act* since 1979 – including all the changes made during the upheaval of 2015-16 and subsequently – Norfolk Island legislation is currently labyrinthine in the extreme, to the extent that few persons, including Norfolk Island lawyers, can wholly interpret it. It would be a shameful circumstance if upcoming legislation relating to the envisaged so-called “bespoke governance model” was just dumped into the complexities of the legislation that currently exists. A re-established and *bona fide* “clean” Norfolk Island Act is urgently required.

And then there is the issue of the Preamble to any new Norfolk Island legislation, and which embodies the historical and spiritual bedrock of the Norfolk Island community’s roots in Pitcairn Island. Although the Norfolk Island community and the Commonwealth have both recognised the importance of a Preamble for Norfolk Island, its appropriate place is in a Norfolk Island Act: which the Commonwealth has said it will not change.

### ***(iii) minimising democracy***

Democracy describes a means by which a community makes its binding collective decisions. It is based on two key principles: popular control and political equality:

*a system of collective decision-making can be said to be democratic to the extent that it is subject to control by all members of the relevant association, or all those under its authority, considered as equals.*<sup>35</sup>

Democracy is not a simple concept. There are many means by which control and equality can be orchestrated, and so there will be many sets of arrangements that can be considered as less, or more, democratic. What the Commonwealth is currently proposing is to wring the term to its minimum by reducing the Island’s areas of responsibility, its power to control, its ability to make change motivated by local need, and its ability to get fair play from the Australian Parliament. (In this we may note the JSCNCET(23) recommendations as to the need for primary law for Norfolk Island (Rec 2), and for a binding compulsory vote of acceptance of proposed laws (Rec 4): both rejected by the Commonwealth; and the joint management of the historic sites (Rec 7), postponed “for future discussion”.) The idea that in the twenty-first century the change from a regional council in suspension to one which merely elects councillors with such a shrunken mandate, can be described as a “return to democracy” as the Commonwealth appears to believe, is farcical.

The foregoing refers to democracy and the notion of popular control. We need also to consider equality of participation: an issue which has been of concern on Norfolk Island. It is acknowledged that there has been an issue on Norfolk Island of discrimination between Pitcairn descendants and recent arrivals on the island, in particular from Australia, and this issue has been referred to in the various inquiries held on the Island. At its basis would appear to be – on the Island side – the notion that newcomers to a society should give respect to the etiquette and cultural norms of the society in which they have come to live. There is currently however no reliable indicator of the extent of this discrimination (in either direction), and to the point there is nothing that the NIGC or NIGC(CR) has written or proposed that makes acceptable any discrimination amongst the groups making up Norfolk Island society.

In any event, discrimination in Norfolk Island, however regrettable, needs to be kept in perspective. If a democratic audit (c.f. Beetham, Ref. 35, Ch8) were to be carried out comparing Norfolk Island with Australia, it is not at all clear that Australia would be able to demonstrate superior virtue regarding discrimination on the basis of national, ethnic or religion origin, either in its cities and suburbs or in its regional towns, and either for migrants to Australia or for Australia’s First Nations people.

Furthermore we should not forget the confrontational and antagonistic attitude to Norfolk Islanders adopted by Australia's Norfolk Island Administrator Hon. Gary Hardgrave over his tenure and beyond, as a trend-setter for others so-inclined. Hon Gary Hardgrave, a former talk-back radio host on Brisbane radio and Minister in the Howard Government, was Administrator of Norfolk Island from 1 July 2014 to 31 March 2017, covering the most tumultuous time of change in Norfolk Island's political life. In December 2014 in his report to Minister Briggs, Administrator Hardgrave reported in relation to the JSCNCET(15) report that recommended the dissolution of the Norfolk Island Legislative Assembly, that "the change in governance arrangements is **supported** [sic] by a substantial majority of Norfolk Island residents". This was despite the fact that no evidence in the public domain supported that proposition, and that all evidence available supported the opposite.<sup>36</sup>

Following a public event to mourn the dissolution of the Legislative Assembly the night before, on 18 June 2015 about 100 demonstrators gathered to hear speeches and subsequently walked to Government House, and hoisted the Australian flag upside-down. The next day on Radio Norfolk the Administrator referred to a "school breakout day kind of activity [which] went very sadly pear-shaped", which "could give cover to people who damage property, who stole things...". He went on to describe those who walked to Government House as a "mob", of which "I would be hesitant in guaranteeing that things didn't happen". The more detailed truth of the incident has been recorded elsewhere.<sup>37</sup>

In July of the same year Administrator Hardgrave expressed his view of his accommodation in Government House, in the middle of the KAVHA World Heritage area at Kingston, to a UK journalist thus: "I don't drink the water - in government house we drink bottled water because there's fecal in the water here it's not very pleasant but the water is full of poo." This despite the fact that the Government House water supply was and is from a roof rainwater tank.<sup>38</sup>

These vignettes involving Mr Hardgrave were, we might recall, conducted by an Administrator appointed by the Australian Governor-General on advice from the Commonwealth Government, as the Queen's representative on Norfolk Island. Several calls were made for the removal of Administrator Hardgrave, including a petition to the Governor-General, but without success.<sup>39</sup>

This approach to Island affairs was continued by Mr Hardgrave even after his time as Administrator had come to an end. In a radio interview on 14 March 2018 with host Michael McLaren on 4BC Newstalk, the former-Administrator opined: "We got over there, over half the people were at or below the poverty line.... It was at the very least a small 'c' corrupt situation where you know, if they didn't like you they didn't feed you", going on to compare the Norfolk Island community to William Golding's *Lord of the Flies*.<sup>40</sup>

Such events raise the question – given the disparity of power and influence between the Norfolk Island Administrator and the Norfolk Island community – as to the extent to which these statements should be considered as coercion of the community by the Commonwealth Government. And this raises the further question as to the extent to which the activities by the Commonwealth more generally over recent years in relation to Norfolk Island governance should also be seen as coercive: that is to say, anti-democratic bullying.

But this is not the only court in which the Commonwealth's approach to democracy and human rights in Norfolk Island is, and should be, challenged. A legal opinion on the status of Norfolk Island in international law was provided in 2016 to NIPD by Professor Vaughan Lowe KC and Dr Christopher Ward SC: Professor Lowe of Essex Court Chambers, London, being perhaps the world's most eminent barrister in the field of international law, and Dr Christopher Ward of Sydney being an internationally recognised expert in public and private international law with particular expertise in boundary disputes, law of the sea, resources and investor-state disputes.<sup>41</sup> These eminent barristers advised that:

*(1) Norfolk Island is a Non-Self-Governing territory within the meaning of Article 73 of the Charter of the United Nations; and that*

*(2) United Nations Resolution 1514 of 14 December 1960 applicable to Norfolk Island having regard to the Principles expressed in Resolution 1541.*

We note that Article 73 of the Charter of the United Nations relates to the responsibilities of countries for the administration of territories under their control and whose peoples have not yet attained a full measure of self-government. United Nations Resolution 1514 relates to the right of all peoples to self-determination and to freely choose their political status; and Resolution 1541 sets out (*inter alia*) that a non-self-governing territory can be said to have reached a full measure of self-government by itself choosing democratically amongst becoming either: (i) a sovereign independent State, or (ii) in free association with an independent State, or (iii) integrated with an independent State. This approach to Norfolk Island democracy through the United Nations continues to be pursued by NIPD.

Furthermore we need to point to the obligations of states under the International Covenant of Economic, Social and Cultural Rights, of which Australia is a signatory.<sup>42</sup> In this context there is an obligation on states parties not only to respect such rights, but to undertake specific obligations including their progressive realisation, as well as core obligations of immediate obligation: including the prohibition of discrimination (see above) and the prohibition of retrogression – namely backward steps that weaken or eliminate existing rights or protections – of which Norfolk Island’s experience since 2015 would be in strong contention.

## **2.2 When will they ever learn?**

We may recall from the foregoing that in 2015 the JSCNCET(15) and the Commonwealth made their decisions on the basis of ignoring local opinion and accepting that of a person very close to the Commonwealth government itself, namely their immediately preceding Norfolk Island Administrator. This precipitated, as the Island subsequently experienced, a many-faceted tragedy, the cleanup from which is still continuing.

In 2024, in ignoring the advice of the JSCNCET(23) and the NIGC, the Minister has repeated the error of her predecessors – in this case deferring unwisely to the views of the organisation closest to the Commonwealth itself, namely the much-criticised NIRC, whose then-administrator Mr Colreavy was appointed by the Commonwealth and worked in lock-step with it.

*NIRC (2023) Recommendations*<sup>43</sup>

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*1. That, at the end of the current period of Administration:*

- (a) a new Board Structure be established, replacing NIRC’s councillor framework, as detailed in this submission, or*
- (b) If a Board Structure is not supported by the Joint Standing Committee:*
  - i. NIRC continue to operate as a local government authority under applied ‘State’ legislation with provision for a governing body of ‘councillors’; and*
  - ii. The applied local government legislation for Norfolk Island be amended to align with the Local Government Act 2009 (QLD), to allow for a transition to regulation by the Queensland State Government.*

*2. That to continue raising equitable contributions to local services from residents, NIRC's present revenue framework including property-based rates and charges, and other fees for service, be retained in line with remote councils across Australia.*

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The tabulation below gives the recommendations provided by the NIRC in its formal submission to JSCNCET(23) on Norfolk Island's future governance, for comparison with the Minister's 2024 proposals (as recorded above). A discussion of the JSCNCET (23) report and the NIRC submission to this inquiry is available elsewhere.<sup>44</sup>

It was Albert Einstein who is reported to have observed that "Insanity is doing the same thing over and over again and expecting different results". While the Australian Government may not have reached that position, the warning is there, and it will be the Norfolk Island community that will be left to suffer the consequences.

But there are deeper currents of incapacity in the Australian Government's dealing with Norfolk Island.

### **Colonialism**

Many definitions of colonialism have been given, and many of which are relevant to the Commonwealth Government's conduct of its affairs, both in Australia and on Norfolk Island. The Macquarie Dictionary for example defines colonialism as: "the policy of a nation seeking to extend or retain its authority over other peoples or territories."

In 1994, academic David Roberts pointed to the history of Australian Aboriginal-European relations that government policies and practices had imposed<sup>45</sup>:

*"They have been characterised by a lack of consultation with the indigenous population. It has been governments, together with their bureaucracies and advisers, that have controlled the situation for Aborigines and Torres Strait Islanders. They have imposed their will in a manner that serves to emphasise not only the powerlessness of Aborigines and Torres Strait Islanders in Australian society but also the failure to recognise the legitimacy of their ideas, views and aspirations."*

The Hon. Fred Chaney AO, former politician, Liberal Government Minister and sometime Senator, engaged with Aboriginal issues over a lifetime: including as Deputy President of the National Native Title Tribunal and as co-chair of Reconciliation Australia. In 2018 he delivered the Cranlana Centre's Governor's Oration on the subject of "First Australians and dysfunctional government". Chaney declared<sup>46</sup>:

*Government rhetoric is replete with references to empowerment, regional and place-based approaches, direct negotiation with Indigenous communities, partnerships and a host of emerging techniques that recognise the importance of the community and the primary driver of change.*

*What we actually have, however, is ever increasing centralisation of top down command and control type decision making rather than a decentralised and regional approach which provides for place-based decision making in partnership with local communities.*

Professor Larissa Behrendt, a specialist in Australian First Nations studies, in her 2025 Boyer Lecture "Justice, Ideas, Inclusion" attested that Australian law "has never been neutral, it is a tool of the colonial project" and that "the law is shaped by power, it reflects who has a voice and who does not".<sup>47</sup> (And see further.<sup>48</sup>)

While the Australian government appears to remain dominated by this policy approach to its First Nations peoples, it remains a damaging influence from the point of view of those subjected to it. And while the specific circumstances show some differences, these policies and practices find a mirror in the Commonwealth's policies and practices towards Norfolk Island citizenry, as has been described above. Many Norfolk Islanders will recognise this similarity.

### **A (Pacific) island ecosystem**

In scientific parlance Norfolk Island can be accurately described as a system: "a functional unity with recognisable boundaries and an internal homogeneity in relation to its exterior". (The idea of a system does not preclude influences from beyond its boundaries.) More specifically this can be called an ecosystem. It is a geographic and environmental ecosystem – as it is isolated by hundreds of miles of ocean in all directions, and with its own unique flora and fauna; it is an economic ecosystem – because it is a small isolated region with an economy based almost wholly on tourism, without economies of scale, and with a unique exposure to risk; and it is a social ecosystem – with its own language, customs and mores (however battered by recent events). Ocean isolation has quite different implications from land isolation: in relation to food security and accessibility of services, for example. Appreciation of the fact that Norfolk Island is an isolated ecosystem is the only true foundation for the consideration of its population and biosecurity needs.

Because Norfolk Island is an ocean-isolated ecosystem, for optimal functioning it needs to be able to self-regulate to a substantial degree, economically and socially. Fitness, adaptive capacity and resilience happen on-island: that's where the majority of the relevant understanding resides. Small isolated islands thus require law based on daily common sense, law at appropriate scale, and law that permits flexibility in response and transparency in process – and that means the ability of those on the ground to make the real decisions that affect their lives.

That is what the future – and indeed the future under impending climate change – will require of people on Norfolk Island, and that is what the Commonwealth has been dismembering in its recent actions. A coherent strategy for Norfolk Island would start with the question: "What are the needs of a small isolated island in order to create an environmentally stable and successful community?", rather than the dogmatic approach that Norfolk Island appears currently to be getting: "How is Norfolk Island to be shoehorned into the local government structure of continental Australia?".<sup>49</sup> It is this unimaginative and pedestrian approach that makes the Commonwealth's current perspectives on immigration, biosecurity and Norfolk Island law so problematic.

In the alternative ecological approach there are many guiding lights, both theoretical and practical, for Norfolk Island. One of these is provided by Wendell Berry (b. 1934), a modern American Thoreau, novelist, poet, environmentalist, cultural critic and farmer, who has emphasised conservation, local economy and the importance of community, all of which will be of the utmost importance as the world moves into the era characterised by climate change.<sup>50</sup>

Another guiding light is provided by the work of the Pacific Community (formerly the South Pacific Commission) much of whose practical undertakings regarding sustainable economic and social development, agriculture, fisheries and the marine environment, energy, and climate change and so on, are directly relevant to the small-island quality of Norfolk Island, but to which expertise and experience the Australian Government has excluded Norfolk Island since the 1980s.<sup>51</sup>

There are also a number of universities around the world whose programmes focus on or include specific studies of islands and their needs, as well as academic associations such as the international Small Islands Studies Association (ISISA), and other government-backed institutions such as the South Pacific Regional Environment Programme (SPREP), that do likewise.

The United Nations Millenium Ecosystem Assessment provides a foundation for economic, social and environmental policy globally. It looks to the benefits that people obtain from ecosystems, referred to as ecosystem services as: “including provision of services such as food and water; regulation of floods, droughts, land degradation and disease; supporting services such as soil formation and nutrient cycling; and cultural services such as recreational, spiritual, religious and other nonmaterial benefits”.<sup>52</sup> Norfolk Island could well attend to such analyses.

With a different perspective to that which the Commonwealth is currently demonstrating, Norfolk Island, given its natural assets, could be set on a course of democratic development as a model for the Pacific region, demonstrating the Commonwealth’s understanding and long-term commitment to Pacific communities and the region.

We might also reflect on the fact that the Office of the Pacific was established within the Commonwealth Department of Foreign Affairs and Trade (DFAT) in 2019 to support Australia’s deepening engagement in the Pacific, and “to enhance whole-of-government coordination and to drive implementation of our regional activities, consistent with the priorities of Pacific Countries”; meanwhile referring to “already deep relationships across our region” and “innovative initiatives in the Pacific”.<sup>53</sup> Following a tour of the Pacific region the Head of Office of the Pacific could report: “As I travel around the region, I hear an overwhelming message of pride from Pacific countries in their sovereignty and a determination to set their own priorities and realise their own ambitions.”<sup>54</sup> In these regards it appears that Norfolk Island has been placed amongst the discards.

### **The British Atlantic island of St Helena: A Parallel Initiative**

It must be emphasised that the propositions put forward by, say, NIGC(CR) in its *Working Together* document, are not merely those of abstract fancy, but of an available reality. In this regard we can consider briefly the approach of the United Kingdom Government to the governance of St Helena, an island of similar scale to Norfolk Island.<sup>55</sup> St Helena is a small, isolated island in the South Atlantic Ocean, a dependent territory of the United Kingdom, with a population of around four and a half thousand people, ethnically being roughly 25 percent European, 50 percent African, and 25 percent Chinese. The island has a population to around 4,400, double that of Norfolk Island, and is around 121 sq.km. in area (three and a half times Norfolk Island), volcanic, rugged, and with small scattered plateaus and plains which permit pasturage and cultivation. Although the median age is about the same, Norfolk Island’s GDP per capita is more than double that of St Helena, and educational attainment is likewise substantially higher. This evidence suggests that Norfolk Island retains levels of capability in public affairs at least the equal of those on St Helena.

Like Norfolk Island, St Helena is seeing an increasing percentage of older age groups in its population. With the opening of the airport in 2016, the island is expanding its tourism sector. There is a weekly air service to and from Johannesburg via Windhoek (Namibia). Like Norfolk Island, St Helena also has a unique historical association: in this instance as the place of final exile of Napoleon Bonaparte.

The Saint Helena Constitution took effect in 1989, and provided that the island would be governed by a governor, as commander-in-chief, and an elected executive and legislative council. In 2021, following a popular vote, a ministerial system was introduced in Saint Helena after UK’s approval of a constitution amendment. At the centre is a Legislature which makes laws for the peace, order and good government of St Helena. The Legislature of St Helena now consists of the British Sovereign, represented in St Helena by the Governor, and its own Legislative Council.

We do not need to pursue the details here (available on the St Helena Government website), except to say that the governance model provides for elected representatives, ability to pass its own laws over a wide field, ministerial responsibility and accountability to the Legislative Council and the public; support from a public service; and final authority resting with the UK government. This reality, we

observe, is far beyond what Australia is currently prepared to contemplate for Norfolk Island. It is one that bears similarities to the regime in place on Norfolk Island over the period 1979-2015.

The UK Government's approach to the governance of St Helena in a nutshell emphasises the regressive nature of the Australian Government actions in relation to governance issues on the Pacific Island of Norfolk Island (and its contradiction of established United Nations human rights protocols as referred to above). Apropos Norfolk Island's situation, in evidence to the JSCNCET(23) Professor Gerard Prinsen, a global specialist in island studies, explained:

*I think the Norfolk Island experience is a bit unique because it's the only example in the world where islanders have not managed to continuously expand their autonomy. The setback that they suffered in 2015 is exceptional. There is no comparable example in the world whereby a metropole cut back the autonomy of an island community.*<sup>56</sup>

## 2.3 Summary

We recall the opening ambition of this essay to be that future governance of Norfolk Island include: a modern democracy at island level; substantial autonomy; and support from the Commonwealth of Australia. This is not at all an anti-Australian attitude, and we may also recall that no distinction is made here in relation to democratic rights on Norfolk Island between Norfolk Islanders and recently arrived Australians.

The view promoted here is that a coherent and enlightened strategy for Norfolk Island's future would start with the question: "What are the needs of a small isolated island in order to create an environmentally stable, democratic and successful community?" rather than the head-in-sand approach that the Commonwealth is currently promoting of: "How is Norfolk Island to be shoehorned into the local government structure of continental Australia?"

The present essay attempts to describe the interactions between "government" (dominated by the Commonwealth Government) on the one hand, and the Norfolk Island community and its representatives in the Norfolk Island Governance Committee on the other, played out against the background provided by the 2023 JSCNCET parliamentary report.

A key issue for this essay has been to provide a factual account of what came to pass during this process, from 2023 to the present time. However of equal importance has been to examine what has transpired over this time, from a political and ethical perspective.

Based on the evidence that has been adduced here, the view is taken that the Australian Government has been deceptive in its actions and deficient in its responsibilities to the people of Norfolk Island. The feeling is widespread on the Island that the good faith of the Norfolk Island community in its consultations and deliberations with the Australian Government have not been reciprocated. There has been from the Australian Government substantial injustice in both process and outcomes.

In terms of *process*, and as identified in this present paper, the Commonwealth's approach has been characterised by:

- (i) the continual narrowing of the field of options for the community to the minimum, for example in limiting future options to those circumscribed by an Australian local government format;
- (ii) proposing regulatory change to law rather than legislative change;
- (iii) the continuing extension of all Commonwealth law to Norfolk Island without review; ignoring what other small islands, particularly small Pacific Islands, may have been able to contribute to the quality of Norfolk Island's future governance;

- iv. maintenance of a substantial imbalance in resources and process management available to itself on the one hand, and the Community Representatives of the NIGC on the other, which put the latter at a perpetual disadvantage;
- v. refusal to engage directly with the Norfolk Island community in discussion or debate, choosing instead to interact only with three representatives of the community, and to keep discussions and decisions out of sight; while providing to the public merely bland, meretricious statements about outcomes and intentions.

In terms of *outcomes and consequences* – also identified in the present paper – the Commonwealth has:

- (i) (almost) completely ignored the expressed wishes of the Norfolk Island community, and proceeded headlong with its own agenda;
- (ii) emasculated law making and democratic ambition on the island, with all major decisions to be made off-island;
- (iii) adopted a head-in-sand approach to the reality of Norfolk Island as an isolated island in the Pacific Ocean – and as such an individual and unique ecosystem – and the imperative nature of Norfolk Island having its own policy and decisional input into the control and management of immigration, biosecurity, environmental, and climate change matters, together with recognition of its social and cultural mores, in the building of a sustainable Norfolk Island economy into the future.

The overall consequence of the Commonwealth's conduct on Norfolk Island in these matters appears that rather than assisting Norfolk Island towards a democratic and self-capable future in harmony with the Commonwealth, its purpose has been to discount Norfolk Island wishes, reduce its capacities to those of a local council, and extend its own (Commonwealth) control.

It is both surprising and remarkable that in the twenty-first century, the Commonwealth is prepared to act in relation to an external territory in such colonialist terms. This recognition should hold significant meaning for other islands and countries in the Pacific region. Furthermore the Commonwealth's approach repudiates its responsibilities under the United Nations prescriptions for Non-Self-Governing Territories.

From the standpoint of the Norfolk Island community, these are very dismaying circumstances. However they are circumstances that the Commonwealth has the power to redeem. In consequence we make the following courteous appeal to the Australian Prime Minister Hon. Anthony Albanese MP for a change in Commonwealth approach. (This appeal has been presented directly to the Prime Minister, prior to its wider publication).

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## **PART III: An Appeal**

### **3.1 Appeal to Hon. Anthony Albanese MP, Prime Minister of Australia**

In view of the conduct of the Commonwealth Government and Department in its recent dealings with the External Territory of Norfolk Island in relation its governance processes – as recorded in this paper – we respectfully appeal to Australian Prime Minister Hon. Anthony Albanese MP:

- (1) To halt the current colonialist governance review process, which limits Norfolk Island's governance interests to those of an Australian local authority; and
- (2) To engage with Norfolk Island anew and cooperatively to evolve a governance and partnership model for Norfolk Island which gives genuine powers to the Island over its life and economy.

It is considered that specific and immediate issues requiring attention in such a more balanced approach to the Island's development, include:

- (a) Urgent reform of the Commonwealth's policy of unrestricted immigration to Norfolk Island, giving a primary and essential policy role in this matter to Norfolk Island representatives;
- (b) Change of current Commonwealth biosecurity measures to introduce fit-for-purpose policies, practices and regulations, tailored for Norfolk Island's sensitive environmental and ecological circumstances, and in which determinations Norfolk Island representatives have a primary and essential policy role;
- (c) Implementation of truly cooperative and respectful working arrangements between the Commonwealth and Norfolk Island in the same spirit in which the Commonwealth is currently doing in building bridges with other Pacific family members. This would be an arrangement that would not be confined artificially to "local council" matters, and would be an arrangement that could be proudly celebrated in the long term by the Commonwealth, Norfolk Island, and other Pacific nations and territories.

And in this regard it is requested that consideration be given to the moving of ministerial responsibility for Norfolk Island to a Commonwealth portfolio that has responsibilities for the Pacific, thereby reflecting Norfolk Island's true remote geographic location, strategic importance, and its deep historical and cultural ties to that region.

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## Abbreviations

ABS	Australian Bureau of Statistics
DFAT	Department of Foreign Affairs and Trade
DITRDCSA	Department of Infrastructure, Transport, Regional Development, Communication, Sports and the Arts
ISISA	International Small Islands Studies Association
JSCNCET	Joint Standing Committee on the National Capital and External Territories
JSCNCET(15)	JSCNCET Norfolk Island Inquiry of 2015
JSCNCET(23)	JSCNCET Norfolk Island Inquiry of 2023
NIATA	Norfolk Island Accommodation and Tourism Association
NICOE	Norfolk Island Council of Elders
NIGC	Norfolk Island Governance Committee
NIGC(CR)	NIGC Community Representatives
NILA	Norfolk Island Legislative Assembly (1979-2015)
NOL	<i>Norfolk Online News</i>
QDPC	Queensland Department of Premier and Cabinet
SPREP	South Pacific Regional Environment Programme
TNI	<i>The Norfolk Islander</i>

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## **Appendix A: JSCNCET 2023 Terms of Reference**

The Joint Standing Committee will inquire into and report on equitable revenue sources to support the economic viability of the Norfolk Island Regional Council and the operation and governance of local government, with specific reference to:

- a. alternative approaches to property-based taxation revenue collection ('land rates') that are appropriate and equitable for the Norfolk Island community;
  - b. whether the categorisation of the Norfolk Island Regional Council as a 'Rural Council', for the purposes of the Local Government Act 1993 (NSW)(NI) results in an appropriate quantum of funding given the geographical remoteness and population density of Norfolk Island;
  - c. the impact of limiting access to state-partnership grants on the financial sustainability of the Norfolk Island Regional Council;
  - d. the relationship between property-based taxation and the delivery of commensurate local government services;
  - e. the resilience and sustainability of current and alternative revenue approaches, noting the impact of COVID-19 on Norfolk Island's economy;
  - f. the current governance model that supports the Norfolk Island Regional Council under the Local Government Act 1993 (NSW)(NI);
  - g. alternative approaches to local government and local representation utilised across Australia;
  - h. whether alternative approaches sustainably achieve the key outcomes of local government;
  - i. whether alternative approaches equitably increase local representation and decision-making;
  - &
  - j. whether alternative approaches would appropriately support the additional functions the Norfolk Island Regional Council provide on behalf of the Commonwealth.
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## **Appendix B: JSCNCET(23) Recommendations**

### **Recommendation 1**

6.112 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**

6.121 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**

6.127 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**

6.132 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**

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

#### **Recommendation 6**

6.138 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**

6.145 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;
- 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.

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## **Appendix C: NIGC Terms of Reference - Role**

The Norfolk Island Governance Committee (NIGC) establishes a formal mechanism for collaboration, cooperation and communication between the External Territory of Norfolk Island and the Australian Government and the Queensland Government. Within the overall Terms of Reference of the NIGC, its Role was defined as follows.

### **Role of the NIGC**

- o 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.

- o Consistent with the recommendations from the Joint Standing Committee on the National Capital and External Territories (JSCNCET), the NIGC will consider 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;
  - sets out the shared aspirations for the future directions of the relationship.
- o 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 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.
- o The NIGC will oversee and assist Norfolk Island's transition to the new government 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.
- o 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.

The role of the NIGC will conclude once the new Norfolk Island governance body is operational and the committee will terminate.

For the full NIGC Terms of Reference see:

<https://www.infrastructure.gov.au/sites/default/files/documents/nigc-terms-of-reference.pdf>

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## **Appendix D: Minister's Media Release on New Local Governance for Norfolk Island**

(13 November 2024)

This Media Release was made public on 13 November 2025 by the Minister Hon Kristy McBain, with David Smith, MP, Federal Member for the Bean electorate as joint signatory. The following text is a selection from that Media Release. The full text is available at: <https://minister.infrastructure.gov.au/mcbain/media-release/new-local-governance-norfolk-island>

### **New Local Governance for Norfolk Island**

The Australian Government has decided on a new bespoke local government model for Norfolk Island, delivering on its commitment to restore local democracy.

The Norfolk Island Assembly will operate on four-year terms and comprise five elected members, including a full-time presiding officer.

It will be empowered to make local laws that support local service delivery.

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

The Queensland Government will continue to deliver health support services, education, apprenticeships, traineeships, and correctional services.

The new model will come into effect by the end of 2025 or sooner, with the Norfolk Island Regional Council to continue to provide services until the Assembly is established.

To support this transition, the government will extend the Norfolk Island Regional Council's period of administration under the leadership of a new administration team.

[Here: Details of new administration team]

The new model was informed by the recommendations of the Norfolk Island Governance committee (NIGC), which followed extensive community consultation.

The NIGC is now working on the detailed design of the revenue structure and integrity framework to support the Assembly, which will include ongoing community consultation.

Details on the election process will be outlined next year, with the Government also considering the proposed Preamble put forward by the NIGC.

The Assembly will be implemented through an ordinance under the Norfolk Island Act 1979, with planning for the draft legislation to support the new model also underway, with the opportunity for public comment in mid-2025.

[Here: Reference to DITRDCA website re NIGC and the new model]

[Here: Quotes attributable to Federal Minister for Territories, Kristy McBain MP, and Federal Member for Bean, David Smith MP]

**Note.**

On 9 July 2025 Minister McBain provided a further Media Release entitled "Community Update: Progressing bespoke governance for Norfolk Island" and on 10 July one entitled "Norfolk Island Governance Committee: Work Plan", which include projections for the months forthcoming. The releases were printed in *The Norfolk Islander* on 12 July 2025. See also: <https://www.infrastructure.gov.au/territories-regions/territories/norfolk-island/norfolk-island-governance-administration/norfolk-island-governance-committee>

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