

2021 Public Inquiry into the NIRC: An Alternative Perspective

by

Chris Nobbs

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1. The McNally Report

In mid-2020 it appeared that the Norfolk Island Regional Council (NIRC) was running out of money to sustain its day-to-day operations. Subsequent to appeals by councillors themselves for analyses of the deteriorating situation, on 5 February 2021 Assistant Minister Nola Marino suspended the Council and appointed an Interim Administrator (Mr Michael Colreavy) to replace the suspended elected councillors for a period of three months: a period subsequently extended. Five days later the Assistant Minister commissioned a Public Inquiry into the NIRC, under the commissionership of Ms Carolyn McNally. Following an initial visit to Norfolk Island, and public hearings in both Norfolk Island and Sydney, the Commissioner provided her Report to the Assistant Minister on 4 November 2021. (1)

The Report examines, in successive chapters: the historical and geographic context of Norfolk Island (briefly); the structure of NIRC; its legislative framework; its financial and performance management and reporting, including cost recovery; its asset management; the Council's cash crisis - focussing in particular on the airport pavement and repair and resurfacing project and the Boral roads contract; and proceeding to the Report's final conclusions. On 7 December 2021, having regard to the conclusions of the Report, the Assistant Minister dismissed the elected councillors and appointed Mr Colreavy as Administrator for three years viz. until 2024. (2)

The McNally Report in some 195 pages, examines in forensic detail and within the terms of reference, the facts and processes leading up to NIRC's cash crisis, including both acts of omission and of commission. The Report itself is supported by over 850 individual references to documents and testimony. There is little reason to doubt its conclusions within its narrowly defined ambit (see below). In the following text, references to the Report itself are made by paragraph number e.g. P. 24.

The Report points the finger where it considers appropriate, in a very bland and circumspect manner. Many things are noted as "not done" but without anchoring responsibility. At another level the report is pedagogic, in detailing precisely what a Council and its officers are required to do under the *NSW Local Government Act 1993* (NSW)(NI). In this regard its content is salutary. It makes clear that both the councillors and Council staff were responsible for some failures and errors of judgement, which indeed will need to be corrected for the future. Thus in some ways this is a very useful report and guide for the future.

However in other ways the Report is a very limited and unsatisfactory one, even within the context of its focus on "financial management". Furthermore it should be noted that while it provided a set of conclusions the Report was advisory only, and provided no recommendations. Thus any actions taken consequent upon the Report were those chosen by the Assistant Minister and her advisors. While the Report makes clear that there were failings on the part of councillors and Council staff, failings by the Assistant Minister and the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) were not included within the Inquiry's remit. It is the purpose of this article to make good this omission.

2. The Commonwealth's disappearing act

2.1 *The terms of reference*

The terms of reference of the Inquiry are extremely narrow, focussing as they do on the financial and asset management sectors of the NIRC (together with the responsibilities of councillors and staff). However spill-overs from financial management into other areas of Council responsibility are inevitable, and vice versa. This is a matter not of opinion but of logic, which will be explored more closely below. To ignore such spill-overs and focus purely on financial matters is to give the Report a short-term bias without context. The terms of reference of the Inquiry are given in the Appendix.

This asphyxiation of the Inquiry by its terms of reference was recognised indirectly by the Commissioner in an introductory public meeting held on Norfolk Island (14 April 2021), when it was acknowledged that material on a wide range of contingent issues important to the community could not be part of her report to the Minister. In the Introduction and Overview to the final Report, the Commissioner noted such matters as providing "important matters of context" (P. 4). However given the stringency of the terms of reference, this charitable concern can be little more than hand waving.

One issue resulting from the narrowness of the terms of reference and worthy of note is that whereas there was an attempt by the Inquiry to determine what happened financially and why it happened in a *financial* sense there is no apparent interest in why what happened financially might have happened in any *broader* sense. This is bizarre, as any competent remedial policy should look at causes, in order to ensure that the circumstances do not arise again. Street understanding on the Island suggested that working conditions in the NIRC were "toxic". However this matter, and its consequences for financial management, were not examined by the Inquiry.

2.2 Blaming the victim

"Blaming the victim" is a common and pernicious phenomenon in which victims of crimes or tragedies are held accountable for what happened to them. In the Public Inquiry the terms of reference are so narrow that only NIRC and its governing body can be in the frame for blame, and responsible for all the ills that are to be considered by the Inquiry. The terms of reference sidestep any consideration of responsibility that might lie with the Commonwealth Minister and the Department (DITRDC) itself. This is an illegitimate stance. The following are a number of matters, the responsibility for which lies with the Commonwealth, and which weighed directly upon the NIRC's perilous financial situation.

(a) failure to adequately evaluate the costs that NIRC would face. The McNally Report notes:

Upon transfer to the NIRC in 2016, assets critical to maintaining quality of life on Norfolk Island – its roads, the airport, sewerage and waste management, electricity and telecommunications – were in a poor state. (P. 264)

And that:

Many of the asset management decisions made by the NIRC are explained, at least in part, by the poor state of assets it inherited upon commencement. Almost all assets were nearing the end of their life. The NIRC was aware of the state of those assets and of the need for urgent spending, but did not have the necessary cash reserves nor secure funding sources to do anything more than maintain their existing state. (P. 338)

The independent governance and financial audit of the NIRC by Grassroots Connections in 2020 also drew attention to the fact that "significant legacy issues were inherited by NIRC upon its establishment". (3)

(b) failure to appropriately estimate the capacities of the NIRC to sustain itself financially. The initial annual Financial Assistance Grants (FAG) received by NIRC under the Commonwealth programme for such grants for local authorities, was calculated on the basis of modelling for Brewarrina Shire in NSW. After two years and on the basis further study (by KPMG) and lobbying by the Norfolk Island Mayor and General Manager (GM), the FAG was eventually increased by over 100 per cent. (P. 229, 259).

It should also be noted that the Commonwealth Grants Commission, in advising the Department, overestimated the ability of Norfolk Island to raise revenue by neglecting the much higher prices on Norfolk Island due in particular to substantial freight costs. (4)

(c) absence of a state partner. As recorded by the Report:

... unlike most other regional councils, the NIRC has no 'state partner', meaning the NIRC was not eligible for other grants funded through a state government that would be available, in the ordinary course, to a council in the state context. This situation was described by Ms Adams and Grassroots as 'the state disconnect'. Mr Porter's evidence was that in one year there was around \$4.8 million in state-type grants that Council could not access. In its report, Grassroots estimated that with a state partner, NIRC had the potential to access around \$2 million in grants each year. (P. 224)

This "state disconnect" was recorded by the Council as one of its major burdens. (5)

2.3 The rushed transition

There is strong evidence from the Inquiry that the transition process was rushed and carried through without adequate forethought.

As identified by the Auditor-General in his 2019 report on the design and implementation of the "reforms" on Norfolk Island:

3.77 The department advised the Minister in January 2016 that: The priority is for the establishment of a functioning Council on 1 July 2016. The complexity and diversity of the activities of the former Assembly and Administration are such that a thorough analysis and assessment of the most appropriate method of future service delivery will be compromised by adherence to the 1 July deadline. (6)

(a) financial matters. Mr Peter Gesling, in his then role as Executive Director of the interim Administration of Norfolk Island (ANI) 2015-16, gave evidence to the Inquiry that a draft operational plan and budget were developed during the transition period but that "some of the information used to develop the draft budget was not 'clear'". (P. 108) He also gave evidence that "Although it was originally intended that a sustainable funding model would be developed in the course of that transition year ... there was not enough time available to complete that task." (P. 109) Regarding assets Mr Gesling pointed specifically to a lack of data about the water assurance scheme, and that "the people developing the draft budget were required to make judgements about the allowance for assets, which 'had to be firmed up over time'. (P. 110).

With regard to the NIRC's asset base the McNally Report states:

The NIRC also inherited a large asset base from the Administration, the majority of which did not comply with the relevant standards for asset management that were current at the time (PAS 55), and were either at or well past their end-of-life functionality. (P. 122)

In its conclusions on the matters of financial and performance management, the Report states:

The challenges faced by the incoming Council on 1 July 2016 were substantial. The inherited cash position was, in effect, limited to the cash that was left over following the closure of the former Administration's books. This starting cash position did not reflect, nor was it based upon, any considered assessment of the capital base required to constitute a council with the breadth of responsibilities of the NIRC. (P. 246).

(b) inadequate preparation of councillors and staff. Continuing on from financial matters, the Report identified that: "In response to a summons issued by Solicitors Assisting the Inquiry, the NIRC stated it had no documented policies or procedures for performance management and reporting, other than an acknowledgment of the reporting requirements as set out in the applied LG Act itself." (P. 113) So why was this not sorted out by the Commonwealth prior to the handover to the NIRC?

In the financial area the Report also notes that "One notable omission from the investment policy (and the NIRC's policies and processes more generally) was the absence of guidance as to the minimum available working capital which should be maintained by the NIRC." (P. 114); and that:

In the absence of a formal policy, in their evidence, Councillors demonstrated an inconsistent understanding of what the minimum available working capital should have been. The record of Council meetings, on the other hand, does not indicate that this issue was ever discussed prior to the cash flow crisis, which became apparent in April 2020. (P. 115)

Why was such a critical consideration not determined for the benefit of councillors and staff alike prior to, or immediately following, the handover on 1 July 2016? This matter was to become a critical issue in the NIRC cash crisis.

More generally the McNally Report states:

The decisions of the governing body and NIRC during the Defined Period [23 September 2016 to 5 February 2021] further suggest an incomplete understanding of their obligations and entitlements relevant to asset management. This was mainly reflected in inadequate asset management plans and policies; in particular the lack of detail in the updated 2019 plans that were prepared by Council staff and then adopted by the NIRC. (P. 341)

Why was such a critical consideration not determined for the benefit of councillors and staff alike prior to, or immediately following, the handover on 1 July 2016? This matter also was to become a critical issue in the NIRC cash crisis.

3. The NIRC cash crisis

3.1 Basic facts

The financial crisis at NIRC came to a head in 2019 as a consequence of two major expenditure decisions, one relating to the airport pavement resurfacing project carried out by Boral, and the second involving a collateral road maintenance programme also agreed by the Council with Boral. The following description of events is a summary of information contained in the McNally Report.

With regard to the airport project, the initial tender documents were prepared by Regional Procurement on behalf of NIRC and advertised in September 2018. These documents provided for two options: Option 1 which assumed sourcing of the necessary crushed aggregate from Norfolk Island; and Option 2 which assumed the need for the importation of the crushed aggregate. When it became clear that insufficient aggregate was available on the island, and/or that the regulatory time delays required in winning and providing the rock on the island would be prohibitive, in November 2018 Option 1 was withdrawn.

Three tenders were received. The eventual winner, Boral, priced Option 2 at \$44,898,007. The tender, submitted on 17 December 2018, made it clear that this did not include any required biosecurity treatment of the imported aggregate. Without necessary biosecurity advice from the Department of Agriculture and Water Resources, Boral estimated the treatment cost at around \$4.2m. On 13 February 2019 the Commonwealth Department of Industry, Innovation and Science (DIIS) announced the availability of a grant to NIRC for the airport resurfacing project, of up to a maximum of \$43m and under certain conditions.

On 19 February 2019 the NIRC General Manager prepared a briefing note (with several attachments) for the Council meeting the following day, proposing that the Council approve the successful tender – Boral – chosen by a tender evaluation panel (P. 394). At meetings on 20 and 22 February, the Council resolved to approve the Boral tender. Part of the resolution stated that any Council shortfall in funding not covered by NIRC's cash reserves, or provided by a loan from the Commonwealth, was to be covered by a loan from the Norfolk Island International Airport GBE. (P. 401)

The Council's financial position at this juncture regarding the airport project can be summarised as follows:

Boral: tender (excluding any biosecurity treatment of aggregate)	\$44,898,007
cost of biosecurity treatment (estimate)	\$ 4,200,000
Implied total cost (awareness at that time)	\$49, 098,007
Commonwealth: grant (maximum)	\$43,000,000
NIRC: unrestricted cash reserves (see P. 403)	\$10,014,000

It is evident that given the necessity of a minimal cash reserve to fund NIRC's daily operations, and if the Commonwealth was not prepared to increase its stake in the project, then a loan of some sort would in all likelihood be necessary. (cf. P. 427) (For further detail on cash reserves recorded in the McNally Report see: P. 409-418 and P. 482-493).

The financial situation of NIRC was further complicated by the fact that in May 2019 Boral wrote to NIRC proposing that some of their heavy equipment which would be on-island and idle for some time, might be employed to the advantage of NIRC by using it for a road maintenance project. Following discussions with Council staff, Boral on 2 July 2019 submitted a formal quotation of \$5,571,907 to undertake the designated work. At its ordinary meeting 17 July 2019 Council resolved to approve this project. (P. 478)

3.2 *Basic background*

The *NSW Local Government Act 1993* (NSW)(NI) was imposed on Norfolk Island on 1 July 2016. This Act contains the simplistic view of the stringent separation of "operational matters" (defined as the exclusive province of the GM and Council staff) from "policy matters" (defined as the exclusive province of the councillors. The idea of such a sharp and dichotomous separation would be laughable if it were not so serious in practice. Indeed the NSW Office of Local Government Handbook provides a caveat:

*The general manager provides the link between the elected council and its employees. While all council staff have a duty to carry out council decisions, they are responsible to the general manager, not the councillors. Individual councillors cannot direct staff in their day-to-day activities. **However, this is counterbalanced by the responsibility of general managers to provide information, guidance and support to councillors to make good decisions.** (7) [emphasis added]*

In Norfolk Island's case, the admonition contained in the last sentence seems to have quite escaped notice.

As I have described previously (8), I attended a number of monthly Council meetings back in 2017. In response to questions posed by councillors to Council's senior management, I have heard the response given such as: "I'm sorry, I can't answer that, it's an operational matter." On Norfolk Island this appeared to have been a fairly regular response by senior managers both in and out of council meetings, as others have also noted. The dangers of any such an approach, particularly in the situation of Norfolk Island (see below), are several: first, it deprives councillors of knowledge that could be useful in their policy decision-making; second, it allows senior managers to hide behind a veil of secrecy that is the opposite of the "communication" and "accountability" under which councils claim to operate; and third, it can

disguise the fact that important/policy-relevant decisions are being taken by the management but for which, in the longer run, it is the councillors who will be held to account. It is an approach that has the potential for establishing a separate management fiefdom quite unresponsive to the wishes of the community.

However the critical reason why the distinction cannot be so simply drawn is that there is no sharp dividing line between the two categories of policy and operations: much of the time, particularly in relation to major matters, they overlap. And this is doubly so in Norfolk's case where the NIRC is responsible for a wide range of services such a power generation, lighterage, liquor sales and so on. Consider for example the airport project itself. Decisions taken in relation to it involved matters of natural resources on Norfolk, employment, economy, social wellbeing, biosecurity, finance, and their interactions, and for which reasonable council-adopted policies may well have been either overlapping, or contradictory or even non-existent.

How this dogmatic and dichotomous approach played out in the Council's cash crisis we will now see.

3.3 *The crisis unfolds*

In considering the unfolding of the NIRC cash crisis it is of importance to consider the relationships between councillors and Council staff and what each group brought or did not bring, to the decision-making process.

(i) Councillors and the airport tenders received. According to the Inquiry Report: "Councillors Adams, Snell and McCoy were afforded an opportunity to review the tenders in the office of [GM at the time] Ms Jackson." (P. 393) The transcript of proceedings records the following exchange between Mr Snell and Counsel Assisting, Mr Bolster (9):

Snell: We could view the contracts in her office for a period of one and a half hours without legal representation and not taking any notes, just to have a look at the basis of these contracts.

Bolster: What did you glean from the reading of the tenders, ... , in substance?

Snell: It was totally beyond our expertise to understand the contractual arrangements or tender arrangements

Later in the day the following exchange took place between ex-Mayor Ms Adams, Mr Bolster, and Commissioner McNally (10):

Bolster: Mr Snell gave some evidence this morning that before council came to consider the tenders, the general manager afforded council an opportunity to go through each of the tenders in a one and a half hour session in her office. Do you remember that?

Adams: I sure do.

Bolster: And it was Ms Jackson that did that –

Adams: Yes.

.....

Bolster: ... and you went through the tender?

Adams: As much as one can.

Bolster: What did you glean from it? What stood out from reading it when you had the opportunity to do so?

Adams: Not much the wiser. We weren't allowed to take notes, weren't allowed to discuss it, I couldn't discuss it with Councillor Snell.

.....

McNally: So, Ms Adams, when you're in that meeting with the then general manager, was the process that you just sort of sat there with the documents and you had to wade your way through?

Adams: Uh-huh.

McNally: Or did she take you through and guide you?

Adams: No, you summed it up. We had to take those documents in –

McNally: So she just sat in the room while you looked at them –

Adams: Yes.

McNally: - without answering any questions?

Adams: At her desk, yes.

(ii) Councillors and the Boral contract. It is understood that councillors, including the Mayor, were repeatedly refused permission by the GM to view the Boral contract. (11)

(iii) The covering loan. In response to questioning about the suggested loan, the Report notes that in evidence Mr McCoy recalled "Senior staff proposed that the NIRC could meet the shortfall with a loan from the airport operations, although he did not know how such an arrangement would operate." (P. 415)

On the same topic Mr Porter said in evidence (12): (P. 419)

... at the end of the day we had a process, we had advice from our Council, from our chief financial officer and from the CEO, we could meet our share of the funding, we could activate that airport loan. I know there's lots of technical issues around that, but we're not accountants. We were told by our chief financial officer and by our General Manager that we had a mechanism to fund the shortfall ...

The intentions of GM Jackson in regard to the proposed loan are recounted in the Report as follows:

Ms Jackson said there had been no approach to the Commonwealth as at February 2019 about such a loan. She went on to say that although the Council had not previously taken out a loan, she had experience of 'commercial loans in other councils.' She said that it was, 'reasonable ... and financially responsible to take out a loan for such a thing rather than use cash reserves.' (P. 422)

And:

Whilst there is no reason to doubt that Ms Jackson may have believed that a loan was possible or even assumed that one would be achieved, nothing was done to bring it about, either whilst she was the General Manager, whilst Mr Taylor was the interim General Manager or when Mr Roach took up that role. Further, although Ms Jackson may have genuinely believed that such a loan was achievable, since no loan was applied for, the actual likelihood of securing a loan was purely speculative. (P. 431)

Given the risks associated with the hypothesised loan and the likely substantial call on cash reserves, the Commissioner expressed her views in the Report as follows:

In my opinion, the Council's Risk Management Procedures and the Capital Expenditure Guidelines required Council to identify the risk of Council not being able to secure a loan and the consequences if that were not the case. Where Council was being asked to fund the shortfall by taking out a loan, particularly where no commercial loan had been taken out before and where the Commonwealth was already contributing \$43 million to the project, the Council needed to understand the risk to its finances and ultimate cash position, if no such loan was in fact secured.

Furthermore, the governing body itself needed to turn its mind to and engage with this issue.

Further, once Council resolved to proceed with funding the shortfall by way of a loan, steps were required to implement that resolution, even if only to confirm that a loan could be achieved. In my opinion, and whilst I have no doubt that Ms Jackson intended

to implement that resolution, it would not appear that anything had been done to advance the matter. This was critical because subsequent decisions, and in particular the roads project, were predicated on the airport project being funded by a loan and not directly drawing upon Council's cash reserves. (P. 435-437)

In her overall conclusions, the Commissioner described this situation as follows:

As events transpired, contrary to the governing body's resolution, no loan was even sought, let alone obtained. The result was that the balance due under the contract was met from Council's cash reserves. (P. 610)

What we may say in summary in relation to the signing of the Boral contracts is that it involved a process that the councillors did not fully understand, were not encouraged to do so, and were not provided with adequate tools to enable them to do so. In the particular this invites reflection as to the extent to which better information flow would have avoided the misunderstandings some councillors apparently experienced in relation to who was to pay for the biosecurity treatment costs.

3.4 Councillors and staff

Along with criticisms of the councillors and their ultimate sacking by the Assistant Minister, the Report at many points identifies failures by the GM and staff: and none of whom are known to have been sanctioned as a result of the Inquiry. It would seem that as custodians of local government expertise and information, it should have been the staff's initiative to bring to councillors' attention the requirements of the Capital Expenditure Guidelines and the need for risk assessment, for example. Nor, it is understood, was the Council's Audit Committee called upon to consider any aspect of the airport project (P. 359) or the roads project (P. 466).

More generally, with regard to 2019 asset management plans, the McNally Report notes:

Critically, the 2019 plans continued to lack detail on the actual assets to be replaced or major renewal works to be undertaken over the next 10 years. They also lacked detailed cost projections for such capital projects. For example, whilst the 2019 plans included an analysis of the trend in buildings capital expenditure, there was no information indicating the estimated cost over time ... (S. 311)

And:

The failure to progress such matters over the previous three years is unexplained and, together with the continued lack of detail in the asset management plans, suggests that the NIRC still does not know the full extent of the expenditure required to maintain its assets. The continued lack of information indicates a failure on NIRC's part to act in accordance with the asset management and performance management principles espoused in the applied LG Act and OLG integrated planning and reporting framework. (S. 315)

As we have seen, one explanation of these failures is clear: namely the failure of the Commonwealth to give adequate time and thought to the needs of such a major transition on the Island which they initiated in such cavalier fashion on 1 July 2016.

4. Summary and Conclusions

With regard to the NIRC's cash crisis, the McNally Report identified failings by both councillors and staff. What the alternative perspective set out above demonstrates – based as it is consistently on evidence from the Commissioner McNally's Report and the testimony heard at the Inquiry – is that a major contributor to the NIRC financial crisis was the Commonwealth itself. It did so: in bequeathing to the NIRC a degraded asset base; in its apparent haste to implementation; and in its lack of care and

forethought for the transition as a whole: including the inadequate assessment of standard financial needs, and the inadequate training of councillors – and indeed staff – in roles which for them under the new regime were new and unfamiliar. One could almost say that the Regional Council was set up to fail. And standing behind these failures remains the grossly inappropriate Commonwealth-sponsored *NSW Local Government Act 1993* (NSW)(NI).

Otherwise said, it appears that the Commonwealth has thrown the NIRC under the metaphorical bus, avoiding its own share of responsibility for the crisis, and for which the Norfolk Island community has been left to carry the can alone.

In response to the Inquiry's Report the Assistant Minister and her advisors had two options: either to assist in building up over time the capacity of staff and councillors to understand and deal with the Island's current issues and prepare them for future challenges, or to trample down the existing edifice and import "experts" from elsewhere. Very unwisely in my view, they chose the latter path. And presumably the loss of democratic representation on the island for the next three years has merely been counted as collateral damage. (And here it might be pointed out that the "financial crisis" and the sackings by the Assistant Minister were precipitated over an amount of money that was less than one year's earnings of the Norfolk Island GST, terminated by the Commonwealth in 2016. (13))

In a subsequent article I propose to examine the aftermath of the Assistant Minister's decisions of sacking the councillors and installing an Administrator, and their effects on Norfolk Island.

- Chris Nobbs

Note: If anyone would like to discuss the content of this article, or identify errors, they are invited to contact me at: nobbs298@gmail.com

References

- (1) McNally, C., 2021. *Public Inquiry into the Norfolk Island Regional Council: Final Report*. 4 November. Transcripts and other details from the inquiry are available at: <https://www.infrastructure.gov.au/territories-regions-cities/territories/norfolk-island/governance-administration/public-inquiry>
- (2) Marino, Hon Nola, 2021. Media release: "Administrator appointed to Norfolk Island Regional Council", 7 December.
- (3) Grassroots Connections, 2020. *Norfolk Island Regional Council Independent Governance and Financial Audit. Report for DITRDC*, 15 November, p. 8.
- (4) Nobbs, C., 2020. "The capacity of Norfolk Island to raise revenue", in Nobbs, C., 2021. *Australia's Assault on Norfolk Island 2019-20: Procrustes Ascendant*, p. 32. <https://www.amazon.com.au>
- (5) Adams, R., 2020. "Mayoral Minute – Independent governance and financial audit of NIRC operations", Minutes, Ordinary Council Meeting, 24 June.
- (6) Auditor-General, 2019. *Performance Audit - Design, Implementation and Monitoring of Reforms to Services on Norfolk Island*. Report No.43 2018–19. Canberra: ANAO.
- (7) NSW Office of Local Government, 2016. *Councillor Handbook*. Nowra, NSW, p. 12. (The 2021 edition contains identical text)
- (8) Nobbs, C., 2017. "Norfolk Island Regional Council process is flawed and must be fixed", *The Norfolk Islander and Norfolk Online News*, 23 September.
- (9) NIRC Public Inquiry, Transcript 03/06/2021(4) p. 265.
- (10) NIRC Public Inquiry, Transcript 03/06/2021(4) p.328-9.
- (11) Adams, R.E., 2022. Pers. comm.
- (12) NIRC Public Inquiry, Transcript, 02/06/2021 (3), p. 230.
- (13) In financial year 2009-10 for example, Norfolk Island GST receipts totally \$7,872,916 (*Norfolk Island Annual Report 2009-2010*, p. 35).

Appendix

2021 Public inquiry into the Norfolk Island Regional Council Terms of Reference

To inquire and report to the Assistant Minister for Regional Development and Territories (Minister) with respect to whether, in exercising its functions pursuant to sections 21, 22, 23 and 24 of the *Local Government Act 1993* (NSW) (NI) (Act):

- ◆ the NIRC and its governing body, since 2016, have managed, and are managing, the finances of the NIRC in accordance with the guiding principle in section 8B(c) of the Act to have effective financial and asset management, including sound policies and processes for the following:
 - o performance management and reporting, as they relate to effective financial and asset management;
 - o asset maintenance and enhancement, as they relate to effective financial and asset management;
 - o funding decisions, as they relate to effective financial and asset management;
 - o risk management practices, as they relate to effective financial and asset management.

- ◆ the governing body of the NIRC has, since 2016, complied with its obligations under sections 223(1)(d) and (l), to:
 - (1)(d) ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council, as they relate to effective financial and asset management; and
 - (1)(l) be responsible for ensuring that the council acts honestly, efficiently and appropriately, in relation to effective financial and asset management.

The Commissioner may make findings as the Commissioner sees fit having regard to the terms of reference.

Ref: <https://www.infrastructure.gov.au/territories-regions-cities/territories/norfolk-island/governance-administration/public-inquiry>

