

SUBMISSION NO. 2

Joint Standing Committee on the National Capital and External Territories: Inquiry into local governance on Norfolk Island

Submission to Joint Standing Committee from Ms Robin Adams JP, former Mayor of the Inaugural Norfolk Island Regional Council

The Joint Standing Committee (the JSC) is to 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.

The Terms of Reference for the current Inquiry - whilst offering the opportunity to comment on alternative approaches and improvements to local government and local representation - would seem to presuppose **that a local government model for Norfolk Island will continue into the future.**

Councillors have attempted to achieve the best outcome for Norfolk Island within the limitations of the NIRC governance model by encouraging collaboration, co-operation and partnership with the community and the Commonwealth. Councillors appreciate similar reciprocal efforts on the part of the Commonwealth Government and agree that there are certain components of the current governance models being applied to Norfolk Island that have served this community well.

However by July 2020, notwithstanding the efforts of the Council and the Commonwealth over the previous four years, many of the shortcomings inherent within this new model were becoming self-evident, and Council instructed a comprehensive independent governance and financial audit of NIRC operations.

It is argued that the broader governance arrangements that were applied to Norfolk Island are neither acceptable nor appropriate to ensure unity within the people of Norfolk Island, nor deliver a satisfactory outcome for the Norfolk Island People and the Australian Government. It was the lack of unity and community unrest that led me to bring by Mayoral Minute to the Ordinary Meeting of Council on 18 August 2020 the following motion:

ROYAL COMMISSION: NORFOLK ISLAND AND THE COMMONWEALTH "BRIDGING THE DIVIDE"

"Recognising, the need to ensure absolute independence and to maximise community confidence and trust in the outcomes of the process,

COUNCIL CALLS ON THE ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES THE HON NOLA MARINO M.P., TO ADVOCATE TO THE AUSTRALIAN GOVERNMENT THAT A ROYAL COMMISSION FUNDED BY THE COMMONWEALTH BE FORMALLY ESTABLISHED BY THE GOVERNOR-GENERAL TO INQUIRE INTO AND TO REPORT AND MAKE RECOMMENDATIONS ON:

Options to provide for the most appropriate form of government for the non-self-governing territory of Norfolk Island that can achieve the majority support of the Norfolk Island People; and build a pathway to peace.

The full text of the 18 August 2020 Mayoral Minute which is provided at **ATTACHMENT A** clarifies what the inquiry and recommendations should extend to and consider.

Further discussion on the possibility of a Royal Commission was deferred to an Extraordinary Council meeting to be held no later than 9 September 2020 to allow for further discussion and community input. An Extraordinary Meeting of Council was convened on 3 September 2020.

SEE ATTACHMENT B FOR THE FULL TEXT OF THE MOTION THAT WAS AGREED.

IN LIEU OF ADVOCACY TO THE AUSTRALIAN GOVERNMENT FOR A ROYAL COMMISSION THE FOLLOWING ACTIONS OCCURRED:

- 1) **12 November 2020** – Ministerial response to Mayor's letters of 13 August 2020, 2 September 2020 and 1 October 2020 and accompanying documentation regarding a Royal Commission for Norfolk Island;
- 2) Undated ministerial invitation to Councillors (governing body) **received 15 December 2020** to make a submission within 28 days in respect of the proposed suspension of NIRC for 3 months;
- 3) **8 January 2021** – Mayor's submission in respect of proposed suspension forwarded to Minister;

SEE ATTACHMENT C

- 4) **3 February 2021** – governing body of the Norfolk Island Regional Council (NIRC) temporarily suspended for 3 months and interim Administrator appointed;
- 5) **5 February 2021** - a Public Inquiry was commissioned to principally examine the financial and asset management of the Council established in July 2016;
- 6) **14 April 2021** - ministerial advice to interim Administrator of Minister's intention to extend suspension of governing body for three months;
- 7) **16 June 2021** – ministerial notice of intention to suspend governing body 'until public inquiry finalised and reported'. Fourteen days' notice for governing body to make a submission;
- 8) **29 July 2021** – ministerial decision taken to suspend governing body until Public Inquiry finalised and reported;
- 9) **4 November 2021** - Commissioner submitted to the Minister her final Report on the *Public Inquiry into the Norfolk Island Regional Council*;
- 10) **18 November 2021** – Minister advises governing body she is contemplating declaring all civic offices in the Norfolk Island Regional Council vacant and appointing an Administrator. Confidential copy of the Report provided to Councillors. Minister invites Councillors to make a written submission by 5 pm Thursday 2 December 2021 on her proposed decision to declare all civic offices vacant and appoint an Administrator;

- 11) **1 December 2021** – Councillor Adams responds to ministerial invitation to make a written submission on Minister’s proposed decision to declare all civic offices vacant and appoint an Administrator. **SEE ATTACHMENT D**
- 12) **6 December 2021** – Councillors advised that Minister on 6 December 2021 signed an Order ***‘declaring all civic offices of Norfolk Island vacant and appointing Mr Michael Colreavy as Administrator of Norfolk Island for a period of three years’.***

Attachments A through to and including Attachment D address issues raised in the Terms of Reference.

ECONOMIC POTENTIAL FOR NORFOLK ISLAND

The resilience and sustainability of **alternative revenue approaches** is mentioned in Terms of Reference 5 and 10. As a Minister in the Norfolk Island Government (2013 to 2015) I made a submission at the 2014 JSC Inquiry that the key to rebuilding the economy is diversifying and broadening the island’s economic base; proposing that – ***“The answer lies in thinking outside the square – to think globally, to interact regionally and to act locally – in partnership with the Commonwealth.”***. My 2014 submission posed that there was economic potential for Norfolk Island –

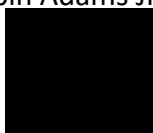
- as an Offshore Finance Centre/Offshore Banking Unit/Cyber centre; and
- as a Special Economic Zone.

I invite the Committee’s consideration of this suggestion notwithstanding the Inquiry is primarily to focus on local government services.

SEE ATTACHMENT E

(Note: attachments referred to in Attachment E are not included with this document)

Contributed by Robin Adams JP on 21 March 2023



[Redacted text block]

<i>Robin Adams JP profile:</i>	
I am Australian born and educated, a Norfolk Islander and a direct descendent of Fletcher Christian of HMAV <i>Bounty</i> . I have lived continuously on Norfolk Island since December 1966.	
July 2016	Elected Mayor inaugural Norfolk Island Regional Council
2013 - 2015	Minister for Cultural Heritage and Community Services in the Norfolk Island Government, Vice President Norfolk Island CPA Branch
2010 - 2013	Speaker of the Norfolk Island Parliament, Branch President Norfolk Island CPA Branch
1984 - 2010	Clerk to the Norfolk Island Parliament & Secretary/Treasurer to the Norfolk Island Branch of the Commonwealth Parliamentary Association (the CPA)
1967 – 1984	Held various senior positions in the Norfolk Island Public Service
1964 – 1966	Science Teacher, NSW Department of Education

ATTACHMENT A

7.2 ROYAL COMMISSION: NORFOLK ISLAND AND THE COMMONWEALTH

RESOLUTION 2020/123

Moved: Cr Robin Adams

Seconded: Cr David Porter

Cr Robin Adams :

ROYAL COMMISSION: NORFOLK ISLAND AND THE COMMONWEALTH

"BRIDGING THE DIVIDE

INTRODUCTION

In addition to meeting its usual responsibilities Council has also directed a lot of effort toward the recovery and renewal of Norfolk Island post 2020.

Although Norfolk Island's participation in Commonwealth taxation and social welfare systems has greatly assisted in mitigating against the full financial impacts of the COVID-19 pandemic, it is our strong view that a full recovery for Norfolk Island will not be possible without substantial amendments to the current legislative and financial arrangements it currently shares with the Commonwealth. Council has already taken the first small step toward achieving this outcome by commissioning a full independent governance and financial audit of all operations of the Norfolk Island Regional Council (NIRC).

With respect to our Islands capacity for renewal, and in an effort to maximise our community's chance at enjoying the future they deserve, it is necessary to acknowledge and confront some of the key matters which have historically fostered division between Norfolk Island and the Commonwealth. The Motion below proposes a mechanism to address these matters by requesting, amongst other things, that the Australian Government establish a ROYAL COMMISSION to inquire into, and make recommendations on, the most appropriate form of government for Norfolk Island, and provide options for how Norfolk Island and the Commonwealth Government can better co-operate, collaborate and partner to build a bridge toward a better and more unified future for all.

BACKGROUND

Norfolk Island's complex legal status is unique within the Australian context.

- It is a separate and distinct settlement to Australia;
- It is a non-self-governing territory; and
- It is an external territory administered under the authority of the Commonwealth of Australia.

- 1) In 1979, Norfolk Island was granted a limited form of self-government. This governance arrangement was a jointly developed partnership between Norfolk Island and the Commonwealth - consistent with the wishes of the Norfolk Island People.

- 2) In 2010/11, both Norfolk Island and the Commonwealth recognised a need to modernise the 1979 arrangement and committed to jointly develop a '**mutually acceptable and appropriate form of modified self-government**' for Norfolk Island. These commitments were formalised through the '*Norfolk Island Roadmap 2 March 2011*' (See Attachment 'B')
- 3) By 2012, Norfolk Island had met its obligations under the above agreement; had agreed to participate in the Commonwealth taxation and social welfare systems – See Attachment 'A'; and, provided the Commonwealth with a comprehensive proposal for their preferred 'modified form of self-government' – namely 'a territory model of government'. However, by early 2015, the Commonwealth still had not met their obligations under the 'Roadmap' agreements, and unbeknown to the Norfolk Island Government, were actually working in isolation to develop a new governance model for Norfolk Island.
- 4) In May of 2015, the Commonwealth announced their plans for Norfolk Island and, only weeks later, passed the enabling legislation which, amongst other things, removed the constitutional autonomy Norfolk Island had previously enjoyed; reassigned all legislative responsibility for the Government of Norfolk Island to the Commonwealth; and facilitated the commencement of the Norfolk Island Regional Council (NIRC), which now operates under a Commonwealth applied version of NSW legislation - the *Local Government Act 1993 (NSW)(NI)* (the applied NSW Act).
- 5) There are serious difficulties and shortcomings with the NIRC model and broader arrangements under which Norfolk Island is now governed. These include, amongst other things, that:
 - The Norfolk Island People did not choose nor vote for this model of Government nor is there evidence that this model was ever or is now supported by the majority of the Norfolk Island People;
 - Legislation is applied to Norfolk Island by Commonwealth Ordinance and Regulation without satisfactory democratic or Parliamentary scrutiny or oversight;
 - Norfolk Island is not a part of NSW, the Norfolk Island People are not able to vote in NSW, and, there are financial deficiencies relating to the 'State disconnect' between Norfolk Island and NSW; and
 - There is insufficient recognition of the special relationship the descendants of settlers from Pitcairn Island have with Norfolk Island, or their desire to preserve their traditions and culture and to govern themselves by laws and usages adapted to their own state of society.
- 6) The Mission Statement in the Community Strategic Plan 2016-2026 adopted under the applied NSW Act by the Norfolk Island Regional Council on 21 September 2016 states:
 - *The Norfolk Island Regional Council will provide local civic leadership and governance through good decision making, accountability and transparency.*
 - *We will protect and enhance our unique culture, heritage, traditions and environment for the Norfolk Island People. We will do this through promoting a healthy and sustainable lifestyle, by looking after our community assets, and by fostering a prosperous economy.*

- 7) Councillors have attempted to achieve the best outcome for Norfolk Island within the limitations of the NIRC governance model by encouraging collaboration, co-operation and partnership with the community and the Commonwealth. Councillors appreciate similar reciprocal efforts on the part of the Commonwealth Government and agree that there are certain components of the current governance models being applied to Norfolk Island that have served this community well.
- 8) By July 2020, notwithstanding the efforts of the Council and the Commonwealth over the previous four years, many of the shortcomings inherent within this new model were becoming self-evident, and Council instructed a comprehensive independent governance and financial audit of NIRC operations.
- 9) In acknowledging the above, it can be argued that the broader governance arrangements that were applied to Norfolk Island are neither acceptable nor appropriate to ensure unity within the people of Norfolk Island, nor deliver a satisfactory outcome for the Norfolk Island People and the Australian Government.

MOTION

Recognising, the need to ensure absolute independence and to maximise community confidence and trust in the outcomes of the process,

COUNCIL CALLS ON -

THE ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES THE HON NOLA MARINO M.P., TO ADVOCATE TO THE AUSTRALIAN GOVERNMENT THAT A ROYAL COMMISSION FUNDED BY THE COMMONWEALTH BE FORMALLY ESTABLISHED BY THE GOVERNOR-GENERAL TO INQUIRE INTO AND TO REPORT AND MAKE RECOMMENDATIONS ON:

Options to provide for the most appropriate form of government for the non-self-governing territory of Norfolk Island that can achieve the majority support of the Norfolk Island People; and build a pathway to peace.

THE INQUIRY AND RECOMMENDATIONS TO EXTEND TO AND CONSIDER:

- a) Commonwealth commitments made to the Norfolk Island Government through the 'Norfolk Island Roadmap 2 March 2011'.
- b) The view of the Norfolk Island Government expressed in 2015 that the Commonwealth Parliament was misled during the passage of the Norfolk Island Legislation Amendment Bill 2015 (Clth), having particular regard to the incorrect claim that: *'the overwhelming view of the community is the Norfolk Island Legislative Assembly should now be abolished and replaced, after a transitional period to effect changes to the governance structures for service delivery, by a local government type body'*.
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1415a/15bd102#_Toc419279002.

- c) Democratic deficits; the 'State disconnect'; and other shortcomings of the current governance model for Norfolk Island arising from the passage of the Norfolk Island Legislation Amendment Act 2015 (Clth);
- d) The interests of all Norfolk Island residents. This includes the desire of the descendants of the Pitcairn settlers to protect their language, culture, traditions, and historical rights arising from their settlement of Norfolk Island in 1856;
- e) Options to assist in Norfolk Island's future economic and financial sustainability, with particular regard to the provision of large-scale infrastructure;
- f) The findings of the Independent Governance and Financial Audit of NIRC operations commissioned by NIRC in partnership with the Commonwealth in July 2020;
- g) The findings of the community survey and consultancy commissioned by the Commonwealth to develop the '*Norfolk Island 2030: Sustaining Our Future*' Plan;
- h) Eligibility to vote at Norfolk Island elections to be determined by the Norfolk Island People;
- i) Options to promote co-operation and collaboration through the joint development of mutually beneficial partnerships between the Australian Government and Norfolk Island that properly consider and respect the interests and obligations of both places.

AMENDMENT

Moved: Cr Robin Adams

Seconded: Cr Lisle Snell

That Councillor Adams formally calls on Council to call an Extraordinary Council meeting at a date yet to be determined, but no later than 9 September to allow for further discussions and community input.

CARRIED

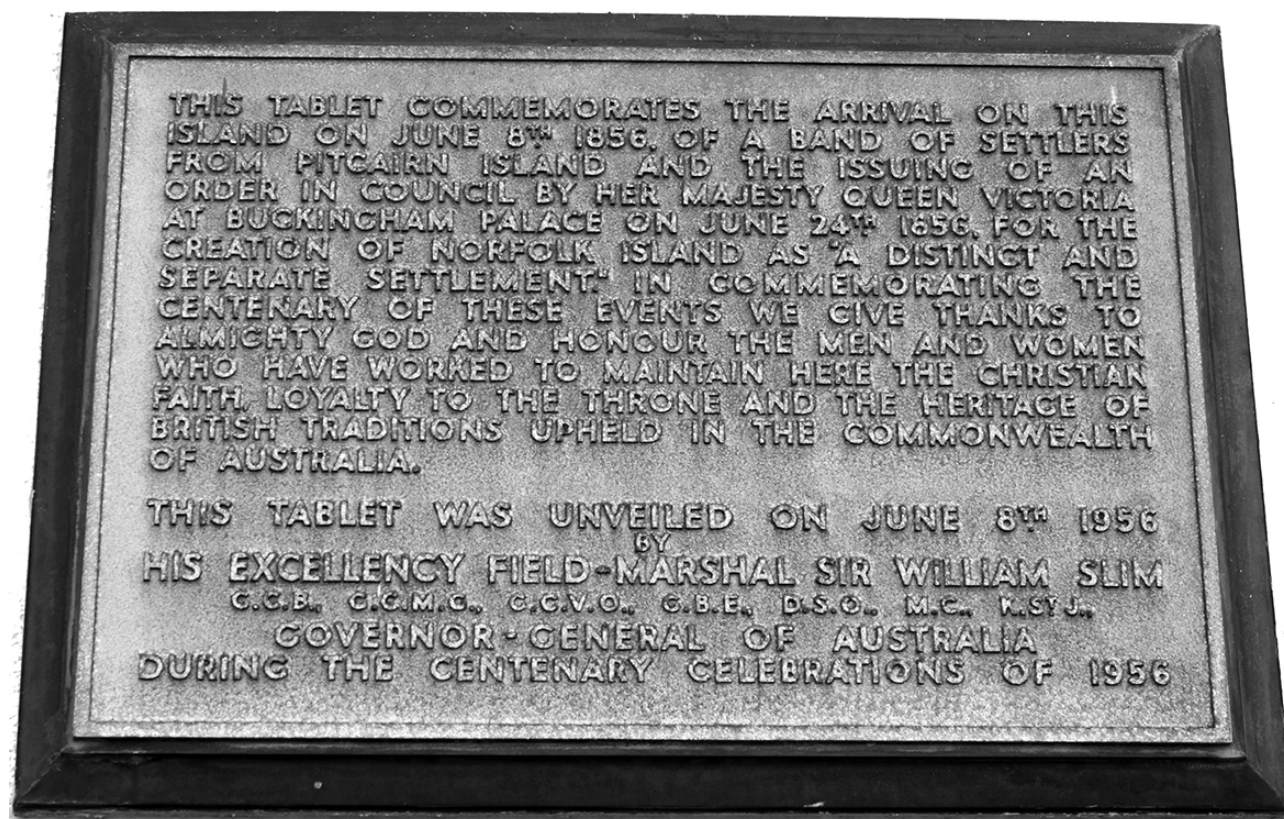
In Favour: Crs Robin Adams, John McCoy and Lisle Snell

Against: Crs Rod Buffett and David Porter

Attachments

- 1 Kingston Pier Plaque
- 2 Attachment A: Territory Model of Governance
- 3 Attachment B: Road Map for Norfolk Island 2 March 2011

Attachment 1. Kingston Pier Plaque



Attachment 2. Territory Model of Governance

Attachment A

NORFOLK ISLAND
FOURTEENTH LEGISLATIVE ASSEMBLY
MINUTES OF PROCEEDINGS
WEDNESDAY 8/15/22 MAY 2013

NORF'K AILEN
DIISEM MENETS LARNEN WATHING HAEPN
INAA
FORTIINTH LEJESLIETEW 'SEMBLE
WEDNESDAY 8/15/22 MIEH 2013

PREFERRED MODEL OF SELF GOVERNANCE AND TAXATION FOR NORFOLK ISLAND
The following motion was agreed, all Members being present and one abstention recorded.

THAT this House reaffirms the motion dated 11th July 2012 proposed and agreed by the 13th Legislative Assembly which stated – THAT consequent upon the following examinations, studies and other measures undertaken in accordance with the Roadmap and respective inter-governmental agreements:-

- a) the Deloitte Access Economics Wellbeing Report –Norfolk Island dated 27th April 2011
- b) the Commonwealth Grants Commission Update of the Financial Capacity of Norfolk Island 2011, dated 2nd December 2011
- c) the Australian Continuous Improvement Group Norfolk Island Public Service Review
- d) the ACIL-Tasman Norfolk Island Economic Development Report
- e) the Revenue Measure Options for the Norfolk Island Government discussion paper
- f) the Policies to Promote Competition and Investment in Norfolk Island policy paper
- g) the Norfolk Island Government's Preferred Model for Territory Self Governance

And having regard to their respective outcomes, this House resolves to:

- a) Endorse the Norfolk Island Government's commitment to participation in the Australian taxation and social security systems to deliver a net benefit to its community and to express a preference for the earliest introduction of those systems, and
- b) Affirms the inclusion of the island into the Australian GST and transfer payment system
- c) Reaffirm a preferred model for future self-governance as set out in the motion of the Legislative Assembly dated 3rd August 2011, and
- d) Commit to return core functions of Government through staged divestment of commercial enterprises using the Competition Principles Agreement 1995 as a policy framework
- e) Prepare and commit to an itemised timetable for the reduction and/or removal of barriers to investment and competition, reflecting a reasonable and balanced approach to individual areas, and

- f) Commit to supporting amendments to the Norfolk Island Act 1979 necessary to achieve the outcomes set out in this motion.

The following motion was unanimously agreed on the same day:

THAT this House resolves—

1. That the Norfolk Island Government seeks to establish a positive partnership with the Commonwealth Government and the Norfolk Island community in a spirit of co-operation and willingness to find joint solutions to the community's needs to result in a sustainable future for Norfolk Island; and
2. That agreed structural reform and implementation of the Island's governance arrangements and financial management framework results in a net benefit for Norfolk Island and its community having due regard to local circumstances to ensure Norfolk Island residents are not displaced;

Attachment 3. NORFOLK ISLAND ROADMAP – 2 MARCH 2011

NORFOLK ISLAND ROAD MAP

2 March 2011

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Introduction

Norfolk Island was first settled in March 1788, some 6 weeks after the settlement of Sydney by the First Fleet, to exploit the Island's natural resources. The first settlement was abandoned in 1814; reoccupied as a penal settlement in 1825, and abandoned again in May 1855. On 8 June 1856 it was occupied by 194 settlers from the Pitcairn Islands (including one child born on the voyage from the Pitcairn Islands).

From 19 March 1897, Norfolk Island was administered by the Governor of the New South Wales, and from 1 July 1914 was placed under the authority of the Commonwealth of Australia. Since 1914, Norfolk Island has been governed by the Commonwealth initially under the Norfolk Island Act 1913, subsequently under the Norfolk Island Act 1957 (Cth), and currently under the Norfolk Island Act 1979 (Cth). In 1979, Norfolk Island was granted self-government through the Norfolk Island Act 1979.

The Parliament of the Commonwealth of Australia has recognized the special relationship of the descendants of the original 1856 settlers with Norfolk Island and their desire to preserve their traditions and culture. The Australian Government supports the goals of the Norfolk Island community through a mutually acceptable and appropriate modified form of self-government.

A Roadmap for Change

This Roadmap has been developed in partnership between the two Governments and is subject to budget outcomes from both the Commonwealth and Norfolk Island. Its purpose is to describe the reforms needed to strengthen:

- The Island's economic diversity to provide a sustainable and growing economy.
- The Island's social cohesion and resilience.
- The Island's heritage and environment.

Tourism has been the Island's primary industry for many years, but the number of tourists has been in steady decline for the past decade. A direct consequence is that the Island's economy is no longer sustainable in its current form. The Norfolk Island Government has been unable to operate without cash injections from the Commonwealth and without governance reform and economic development, this is unlikely to change.

The Island's infrastructure is also declining and the Island's economy, without reform and development, will not be able to fund much needed replacement and improvement of critical infrastructure including the ports, roads and essential services.

This roadmap describes the changes needed to Norfolk Island's circumstances. It requires local input, leadership and commitment to change from the Norfolk Island community, the Norfolk Island Government and the Australian Government.

The reforms in the roadmap cover:

- Governance through providing a stronger, more open and transparent form of government, building on the reforms in the Territories Law Reform Act 2010.
- Economic development through quick action to address barriers to tourism, particularly reform of air services, access to the Island, and facilities for cruise ships.

- Enabling the Norfolk Island Public Service to provide good financial and policy advice and effective services to the Norfolk Island Government and community.
- Social services including immigration, health, welfare and education through removing barriers to business investment, access to adequate health care, support for vulnerable citizens and providing educational opportunities to all, but particularly for young people.
- Access to the benefits provided by the Australian tax system and a fair contribution to the tax system in return for the benefits.
- Preserving and enhancing the environment and heritage attributes of the Island including the Kingston and Arthur's Vale Historic Area and the other natural areas of Norfolk Island and recognizing their contribution to the economy and community.
- Extend Commonwealth laws to the Island to promote improved economic growth and diversification.

This roadmap outlines the steps to reform for Norfolk Island. It represents the partnership between the Norfolk Island Government and the Australian Government to work together, to seek input from the community, and to embrace change to enable Norfolk Island to be strong and resilient.

1. Governance Reform

Aspirational goal

- Norfolk Island has a form of government that is affordable, sustainable and meets contemporary standards for transparency, accountability and efficiency;
- A model for the Norfolk Island Government that meets the needs of the community through a mutually acceptable and appropriate form of modified self government and is consistent with contemporary models for state, territory and local governments, but is modified to take into account the unique circumstances of Norfolk Island.

Why is this Important?

To provide a sustainable future for Norfolk Island.

Actions

Immediate:

- (a) consult with the Norfolk Island community on the roadmap;
- (b) inform the community on the need for change and for local leadership to drive the changes; and
- (c) demonstrate to the community the need for cooperative partnerships between the Norfolk Island and Australian Governments.

In 2011-12:

- (d) consult with the Norfolk Island community on the preferred model of self-government;
- (e) develop the legislative changes necessary to implement the agreed governance changes;
- (f) consult with the Joint Standing Committee on the National Capital and External Territories; and

- (g) implement an appropriate structure for the operation of the Kingston and Arthur's Vale Historic Area.

In 2012-13:

- (h) make the necessary amendments to the Norfolk Island Act to implement the agreed modified self-government model.

2. Economic Development

Aspirational goal

- The private sector economy is diverse, vibrant and robust, driving growth and prosperity;
- Tourism is focused on delivering a high quality and high value offer to attract tourists, with the removal of barriers to this as the highest priority;
- Norfolk Island is a domestic destination for Australian tourists;
- Norfolk Island's culture and heritage is valued, preserved, enhanced and recognized for its value to social and economic outcomes; and
- Positive action to encourage diversification and broaden the Island's economic base.

Why is this important?

Tourism is the Island's principal industry and both Governments will pursue objectives to remove barriers to it.

Actions

Immediate:

- (a) The Commonwealth will provide resources to enable advice to be sourced by the Norfolk Island Government on the provision of air services;
- (b) Both Governments to identify and remove barriers to tourism with particular reference to reducing costs of travel;
- (c) Implement changes to the immigration, customs and quarantine regimes to reduce barriers to tourism and other investment; and
- (d) The Australian Government to consider waivers for the loans for the airport runway improvement and Cascade Cliffs.

In 2011-12, both Governments to work together to:

- (e) identify, cost and plan the major capital works needed to strengthen the Island's economy and services, with particular reference to port facilities, the hospital and the school and develop business cases for consideration by both Governments;
- (f) examine opportunities to improve the tourism experience on Norfolk Island such as sealing selected roads, access to coast, walking trails and modest tourist facilities;
- (g) update and implement the Tourism Strategy for Norfolk Island;
- (h) develop and implement a land use plan and town planning strategy; and (i) undertake a socio-economic study for Norfolk Island.

In 2011-15, both Governments to work together to:

- (j) review the National Park Threatened Species Recovery Plan for Norfolk Island;

- (k) implement the highest priority recommendations from the development studies for major capital works on Norfolk Island; and
- (l) facilitate opportunities to diversify the economy.

In 2012-15, continue approved minor capital works and initiate any approved major capital works.

3. Public Sector Management

Aspirational goal

- An efficient public service that meets the needs of the Norfolk Island Government and the community.

Why is this Important?

To ensure the Public Service is well positioned to deliver services and facilities that meet the needs of the community while working efficiently and at a consistently high standard.

Actions

Immediate:

- (a) The Commonwealth to fund an external review of the financial performance and financial sustainability of Norfolk Island and to provide advice on effective systems of financial management to the Norfolk Island Government;
- (b) The Commonwealth to fund an external review of the Norfolk Island public service to provide recommendations for reform and restructure; and
- (c) The Commonwealth to introduce Finance Minister's Orders.

In 2011-12, both Governments to work together to:

- (d) introduce the outcomes of the external review of the financial performance and financial sustainability; and
- (e) introduce the outcomes of the external review of the Norfolk Island Public Service.

From 2011-12, both Governments to work together to:

- (f) build capacity within the Norfolk Island Public Service, including succession planning and training.

4. Immigration, health, welfare and educations

Aspirational goal

- A sustainable population with access to health, social welfare and education services comparable with the broader Australian community.

Why is this important?

To encourage economic development and sustainability for Norfolk Island.

Actions

Immediate actions to promote economic development will be taken by both Governments as detailed in Item 2 — Economic development.

In 2011-12, both Governments to work together to:

- (a) remove barriers to business investment on Norfolk Island, including allowing Australian citizens to operate new businesses on Norfolk Island;
- (b) consider ways to provide facilities to ensure access by the community to contemporary health services;
- (c) consider ways to provide facilities and opportunities to provide excellent education outcomes on the island for future employment;
- (d) design a model that provides a full transition of Social Security and Medicare over the period from 2012-2013 through to 2013-14;
- (e) investigate the expansion of educational opportunities for tertiary and vocational education;
- (f) develop a land use plan that builds a sustainable economy and environment for Norfolk Island; and
- (g) review application of the Migration Act 1958 (Cth) to Norfolk Island in order to enable its full application to the Island.

From 2012-13, both Governments to work together to:

- (a) extend Social Security Act 1991 (Cth) to Norfolk Island. Social security arrangements to discourage non-resident unemployed moving to Norfolk Island;
- (b) extend Commonwealth health funding to Norfolk Island (eg. Medicare and PBS); and
- (c) jointly develop an aged care strategy for Norfolk Island.

5. Taxation

Aspirational goal

- Participation by Norfolk Island community in the Australian taxation system.

Why is this important?

To allow the Norfolk Island people to enjoy equal benefits to that of the wider Australian community.

Actions

Immediate:

- (a) both Governments to include discussion of the transition to full participation in the Australian tax system in community consultations.

After June 2011 , facilitate applications for tax file numbers by residents of Norfolk Island and for the years 2011-12 and 2012-13 years provide dry run returns.

In 2011-13, both Governments to work together to:

- (a) community education provided in relation to Australian income tax arrangements, including making e-tax available at selected public places (eg. the library and administration buildings); and
- (b) Develop and communicate a transitional model for the introduction of the Australian Taxation system.

In 2012-13, Commonwealth to develop measures to assist with the introduction of the Australian tax system.

From 2013-14, the Australian tax system to apply on Norfolk Island, subject to implementing transitional arrangements addressing the wage and price impacts of imposing income tax.

Commonwealth GST will not apply to Norfolk Island and the Norfolk Island Government will have its own tax regime.

6. Environment

Why is this Important?

To ensure that the Island's environment and heritage is protected and improved to provide the key component of the tourism industry and is a healthy and attractive place to live.

Aspirational goal

- Norfolk Island's environment is protected, enhanced and assured by effective management, community consultation and participation.

Actions

Immediate: both Governments to agree the management arrangements for the Kingston and Arthur's Vale Historic Area.

In 2011-12, both Governments to work together to:

- (a) Develop a waste management strategy; and
- (b) Complete a AQIS pest and disease survey.

In 2012-2013, both Governments to work together to implement the waste management strategy.

7. Extension of Commonwealth Laws to Norfolk island

Aspirational goal

- Participation by the Norfolk Island community in the rights and obligations of members of the Australian community.

Why is this Important?

To promote economic and environmental consistency through legislation.

Actions

In 2011-14, consider extending the following Commonwealth laws to Norfolk Island:

- a) *Australian Bureau of Statistics Act 1975*;
- b) *Bankruptcy Act 1966*;
- c) *Corporations Act 2001*;
- d) *Insurance Act 1973*;
- e) *Insurance Contracts Act 1984*;
- f) *National Consumer Protection Act 2009*;

- g) *Private Health Insurance Act 2007*; and
- h) *Trade Practices Act 1974*.

In 2011-15, progressively extend appropriate Commonwealth laws and the associated support agencies, to Norfolk Island on a portfolio by portfolio basis, including full community consultation and education programs.

In 2012-2013, to develop a program for both Governments to work in partnership to further the extension of agreed Commonwealth laws to the island.

Agreement

This agreement is made on 2 March 2011 between

Hon Simon Crean)
**Minister for Regional Australia,
Regional Development and Local Government**

Name of Witness

Witness sign here

And

The Hon David E. Buffett)
**Chief Minister
Norfolk Island Government**

Name of Witness

Witness sign here

ATTACHMENT B



MINUTES

Extraordinary Council Meeting

Menets

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orn 3 Septemba 2020

3 September 2020

**MINUTES OF NORFOLK ISLAND REGIONAL COUNCIL
EXTRAORDINARY COUNCIL MEETING
HELD AT THE NORFOLK ISLAND REGIONAL COUNCIL CHAMBERS
ON THURSDAY, 3 SEPTEMBER 2020 AT 2:00PM**

PRESENT: Cr Robin Adams (Mayor), Cr John McCoy (Deputy Mayor), Cr Rod Buffett (Councillor), Cr David Porter (Councillor), Cr Lisle Snell (Councillor)

IN ATTENDANCE: Andrew Roach (General Manager), Meliame Plant (Media & Executive Assistant)

1 WELCOME

The Mayor welcomed Councillors, Officers and the community to the meeting of the Norfolk Island Regional Council.

2 STATEMENT OF RESPECT

The Norfolk Island Regional Council promotes a climate of respect for all. We will endeavour to inspire in our community shared civic pride by valuing and protecting our unique culture and environment, both natural and built, for the current and future generations. We, the elected members and staff of the Norfolk Island Regional Council undertake to act with honesty and integrity, to conduct ourselves in a way that engenders trust and confidence in the decisions we make, and the actions we take on behalf of the Norfolk Island community. We acknowledge the Norfolk Island people, the traditional custodians of this Island.

3 APOLOGIES

Nil

CONDOLENCES

Cr Adams recorded the passing of:

- Moira Robinson – 30 August 2020

As a mark of respect to the memory of the deceased all Councillors stood in silence.

4 DISCLOSURE OF INTEREST

NIL

5 MAYORAL MINUTE

6.1 MAYORAL MINUTE - ROYAL COMMISSION: NORFOLK ISLAND AND THE COMMONWEALTH BRIDGING THE DIVIDE

RESOLUTION 2020/143

Moved: Cr Robin Adams

Seconded: Cr Lisle Snell

That Recognising, the need to ensure absolute independence and to maximise community confidence and trust in the outcomes of the process,

COUNCIL CALLS ON -

THE ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES THE HON NOLA MARINO M.P., TO ADVOCATE TO THE AUSTRALIAN GOVERNMENT THAT A ROYAL COMMISSION FUNDED BY THE COMMONWEALTH BE FORMALLY ESTABLISHED BY THE GOVERNOR-GENERAL TO INQUIRE INTO AND TO REPORT AND MAKE RECOMMENDATIONS ON:

Options to provide for the most appropriate form of government for the non-self-governing territory of Norfolk Island that can achieve the majority support of the Norfolk Island People; and build a pathway to peace.

THE INQUIRY AND RECOMMENDATIONS TO EXTEND TO AND CONSIDER:

- a) Commonwealth commitments made to the Norfolk Island Government through the 'Norfolk Island Roadmap 2 March 2011'.
- b) The view of the Norfolk Island Government expressed in 2015 that the Commonwealth Parliament was misled during the passage of the Norfolk Island Legislation Amendment Bill 2015 (Clth), having particular regard to the incorrect claim that: 'the overwhelming view of the community is the Norfolk Island Legislative Assembly should now be abolished and replaced, after a transitional period to effect changes to the governance structures for service delivery, by a local government type body'.
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1415a/15bd102#_Toc419279002.
- c) Democratic deficits; the 'State disconnect'; and other shortcomings of the current governance model for Norfolk Island arising from the passage of the Norfolk Island Legislation Amendment Act 2015 (Clth);
- d) The interests of all Norfolk Island residents. This includes the desire of the descendants of the Pitcairn settlers to protect their language, culture, traditions, and historical rights arising from their settlement of Norfolk Island in 1856;
- e) Options to assist in Norfolk Island's future economic and financial sustainability, with particular regard to the provision of large-scale infrastructure;
- f) The findings of the Independent Governance and Financial Audit of NIRC operations commissioned by NIRC in partnership with the Commonwealth in July 2020;
- g) The findings of the community survey and consultancy commissioned by the Commonwealth to develop the 'Norfolk Island 2030: Sustaining Our Future' Plan;
- h) Eligibility to vote at Norfolk Island elections to be determined by the Norfolk Island People;

- i) Options to promote co-operation and collaboration through the joint development of mutually beneficial partnerships between the Australian Government and Norfolk Island that properly consider and respect the interests and obligations of both places.

AMENDMENT

Moved: Cr Robin Adams

Seconded: Cr Lisle Snell

That Recognising, the need to ensure absolute independence of process and to maximise community confidence and trust in the outcomes of that process,

COUNCIL CALLS ON –

THE ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES THE HON NOLA MARINO M.P., TO ADVOCATE TO THE AUSTRALIAN GOVERNMENT THAT A ROYAL COMMISSION FUNDED BY THE COMMONWEALTH BE FORMALLY ESTABLISHED BY THE GOVERNOR-GENERAL TO INQUIRE INTO AND TO REPORT AND MAKE RECOMMENDATIONS ON:

Options to provide for the most appropriate form of government for the non-self-governing territory of Norfolk Island that can achieve the majority support of the Norfolk Island People; and build a pathway to peace.

THE INQUIRY AND RECOMMENDATIONS TO EXTEND TO AND CONSIDER:

- a) Commonwealth commitments made to the Norfolk Island Government through the 'Norfolk Island Roadmap 2 March 2011'.
- b) The view of the Norfolk Island government expressed in 2015 that the Commonwealth Parliament was misled during the passage of the Norfolk Island Legislation Amendment Bill 2015 (Clth), having particular regard to the incorrect claim that: *'the overwhelming view of the community is the Norfolk Island Legislative Assembly should now be abolished and replaced, after a transitional period to effect changes to the governance structures for service delivery, by a local government type body'*.
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1415a/15bd102#_Toc419279002
- c) Democratic deficits; the 'State disconnect'; and other shortcomings of the current governance model for Norfolk Island arising from the passage of the Norfolk Island legislation Amendment Act 2015 (Clth);
 - cc) The basis for the removal of the Preamble to the Norfolk Island Act 1979.
- d) The interests of all Norfolk Island residents. This includes the desire of the descendants of the Pitcairn settlers to protect their language, culture, traditions, and historical rights arising from their settlement of Norfolk Island in 1856;
- e) Options to assist in Norfolk island's future economic and financial sustainability, with particular regard to the provision of large-scale infrastructure;
- f) The findings of the Independent Governance and Financial Audit of NIRC operations commissioned by NIRC in partnership with Commonwealth in July 202;

- g) The findings of the community survey and consultancy commissioned by the Commonwealth to develop the *'Norfolk Island 2030: Sustaining our Future' Plan*;
- h) Eligibility to vote at Norfolk Island elections to be determined by the Norfolk Island People;
- i) Options to promote co-operation and collaboration through the joint development of mutually beneficial partnership between the Australian Government and Norfolk Island that properly consider and respect the interests and obligations of both places.

CARRIED

**IN FAVOR – CR. ADAMS, CR. MCCOY, CR SNELL
AGAINST – CR. PORTER, CR. BUFFETT**

During the discussions Mayor Adams tabled the attached letter of support from the Norfolk island Council of Elders and the Norfolk Island People for Democracy.

Attachment I

ATTACHMENT I



To the Mayor,

We write to offer you our unqualified support for your proposal to request a Royal Commission to inquire into matters relating to the government of Norfolk Island. Your request presents the Commonwealth and Norfolk Island with an historic opportunity to work together in a true spirit of partnership to develop a *'more considerate, well-planned, collaborative and democratic approach to the government of Norfolk Island'*. (Please see our joint press release below).

We commend and thank you for your community leadership in this matter.

Albert Buffett,
President – Norfolk Island Council of Elders

Chris Magri
President – Norfolk Island People for Democracy

ROYAL COMMISSION

The Council of Elders (CoE) and the Norfolk Island People for Democracy (NIPD) would like to applaud the leadership of Mayor, Robin Adams in bringing forward a Motion for Council to call upon:

THE ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES THE HON NOLA MARINO M.P., TO ADVOCATE TO THE AUSTRALIAN GOVERNMENT THAT A ROYAL COMMISSION FUNDED BY THE COMMONWEALTH BE FORMALLY ESTABLISHED BY THE GOVERNOR-GENERAL TO INQUIRE INTO AND TO REPORT AND MAKE RECOMMENDATIONS ON:

Options to provide for the most appropriate form of government for the non-self- governing territory of Norfolk Island that can achieve the majority support of the Norfolk Island People; and build a pathway to peace.

Through this Motion, Mayor Adams has joined an orchestra of other Norfolk Island voices calling on the Commonwealth Government to take a more considerate, well-planned, collaborative and democratic approach to the government of Norfolk Island.

There is no doubt that the Mayor's Royal Commission initiative has the potential to positively re-shape Norfolk's relationship with the Commonwealth and re-unify our community.

We trust that the Mayor's fellow Councillors and the Commonwealth will embrace this opportunity and it will be received and considered with the same genuine intent in which it has been requested. (A full transcript of the Royal Commission Motion can be viewed at nipdpeoplefordemocracy.com/news)

6 CLOSE OF COUNCIL MEETING

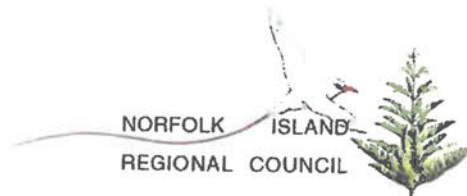
There being no further business the Mayor declared the meeting closed at 2:46pm.

.....

Councillor Robin Adams

Mayor

Dated: 3 September 2020



8 January 2021

The Hon Nola Marino
Assistant Minister for Regional Development and Territories
Federal Member for Forrest
PO Box 2028
BUNBURY WA 6231

Dear Assistant Minister | Nola,

NOTICE OF INTENTION TO SUSPEND NORFOLK ISLAND REGIONAL COUNCIL

I refer to your (undated) letter received by me on Tuesday 15 December 2020, in which you give notice of your intention to suspend the Norfolk Island Regional Council (NIRC) under section 439I (stet) for a period of three months. I provide the following submission for your consideration and to give context to this issue prior to any decision you make. Attached is a letter of support from the Council of Elders and the Norfolk Island People for Democracy.

I believe the following submission provides you with information and evidence to keep the Council in place.

I preface the following remarks by saying Council continues to commit towards an environment of cooperation, collaboration, and partnership with the Commonwealth; and that our actions to date are always focussed on our vision - to be "the Best Small Island in the World".

Regulation 413E Suspension criteria: section 438J Local Government (General) Regulation 2005

1. *Suspension criteria (a) - whether the council has failed to comply with its legislative responsibilities, standards or guidelines*

Assistant Minister, to give context to where we find ourselves today and to address suspension criteria (a) let us first consider the genesis of the Audit Reports on which you have relied to make your Notice of Intention to suspend the Council for three months. Accordingly, I invite your attention to the Mayoral Minute 2020/84 unanimously agreed 24 June 2020 detailed in full below; and the attached terms of reference for the audits prepared by the General Manager and agreed by Council. This initiative clearly demonstrates Council's awareness of issues and our determination to obtain the reports to create a blueprint to address these issues promptly and become a strong regional council.

I reiterate – it was the Norfolk Island Regional Council that requested the two audits with the firm intention to address and action the findings.

Mayoral Minute 2020/84 unanimously agreed by Council 24 June 2020

Background

"Council for some months now has been addressing financial challenges in developing the 2020/21 Operational Plan primarily resulting from decisions by previous management and which have been further magnified by the effects of the COVID-19 pandemic. Whilst the Council is still receiving community submissions on the Operational Plan, recently highlighted financial exigencies now require Council to take decisive action to ensure Council is able to continue to deliver services; and to adopt a 'reduced business as usual' plan on 30 June. Whilst this will allow Council to continue in a reduced capacity during these times of austerity, I believe it is imperative that this elected Council provide a newly elected Council with a list of recommendations to allow them to start their term on the best possible footing.

"To recap. This, the first Norfolk Island Regional Council, has had to address many challenges throughout its term, and in particular the following challenges in the past 6 months:

- Council has been provided poor information in many of their decision making processes by previous management.
- The 'State Disconnect' and the resulting systemic and structural deficiencies in the arrangements between NIRC and the Commonwealth as our "State".
- Existing contractual obligations will exhaust NIRC's entire cash position and our financial position for 30 June 2021 will be zero cash in reserve.
- NIRC's revenue streams are so reliant on the Tourism economy; and a review must be undertaken to improve resilience and sustainability.
- Existing NIRC governance systems are inadequate, and financially unsustainable.
- NIRC employees require training and support to make sure our systems are operationally efficient.

"Unless substantial change is achieved in our operational program, and the Islands economy recovers sufficiently, NIRC's future remains uncertain. Councillors and I as Mayor believe it is now time to act, and to provide an incoming Council with a clear pathway to success, allowing them an opportunity to either drive change or accept what we have.'

"With that in mind I now propose the following:

'THAT –

1. Council instructs the General Manager as a matter of priority to bring to Council for its endorsement terms of reference (**see attached**) for the engagement of an appropriate consultant to conduct a full independent governance and financial audit of NIRC operations; and that the General Manager requests the Commonwealth Government to meet the audit cost.
2. The terms of reference include legislative, regulatory and policy framework amendments to improve the operation of NIRC, with an underlying principle of reduction of service delivery cost and red tape.
3. In calling for this review/audit, Council acknowledges that these actions have been taken to ensure a stronger future for the Island through sustainable revenue sources, expenditure management and a pathway towards less reliance on Commonwealth funding.
4. Council lead the communication locally as this must be an Island driven initiative.'

"Notwithstanding Council resolution 2020/56 of 20 May 2020 Council now requests the election be delayed by two months or to a later date if deemed necessary by the Commonwealth to allow for the review/audit to be undertaken and a report received and adopted by the existing Council to allow the newly elected Council to enter their term unburdened by this process."

Clearly Assistant Minister, the terms of reference endorsed by Council at its Extraordinary Council meeting on 3 July 2020 demonstrate – at the very least - Council's awareness of the need for the performance audit to 'determine whether the Council is carrying out its activities effectively, economically and efficiently and in compliance with all relevant laws.'

It is disappointing Assistant Minister that blame is being levelled solely at Council in Suspension Criteria (a) - for perceived short comings in compliance with legislative responsibilities - when in fact it is the Council, and not the 'Regulator or the State Partner', that recognised and called for the independent External Audits completed by Grassroots Connections and Nexia Australia; and brought the Commonwealth's attention to the significant flaws and short comings in the governance model for NIRC imposed on Norfolk Island in 2016.

Council acknowledges the dire financial position it is facing. However, it needs to be acknowledged that the Council has always been open and transparent with the community and the Commonwealth around this issue, reporting regularly at its monthly meeting, and through its media channels. It is regrettable that the external audit highlights many faults on the Departments interactions with Council, its guidance, regulation, and lack of coordination for service delivery, asset renewal and transfer. Council's financial position was exposed through the pandemic in part due to this lack of leadership from our 'state partner'.

2. Suspension criteria (b) - whether there are significant risks facing the council that are not being addressed

I invite your attention Assistant Minister to the following comments by Grassroots at page 8 of their final report which I brought to your attention in my letter to you of 23 November 2020 and to your Departmental Officers on 4 December 2020:

"The analysis undertaken for this Audit Report has highlighted that significant legacy issues were inherited by NIRC upon its establishment. It is recommended that these issues (as detailed in this Audit) be addressed as a matter of urgency as significant financial challenges and environmental non-compliances continue to exist.

'Whilst it appears it was the expectation of the Commonwealth for NIRC to take responsibility for these issues, NIRC does not have sufficient funding capacity for the issues to be addressed in a timely manner. Consequently, there is an urgent need for a long-term funded strategic and financial plan to be developed in a collaborative manner between NIRC and the Commonwealth.

'This will help deliver –

- a more robust financial outcome;
- ensure greater compliance with established environmental and public health standards; and
- prioritise infrastructure and service projects to meet identified community needs.

'To be effective, the plan must include the allocation of responsibilities, actions and delivery timeframes'."

With respect Assistant Minister the conclusion you have drawn in your letter re suspension criteria (b) would seem to have overlooked the fact made clear by Grassroots that Council does not have sufficient funding capacity for the issues to be addressed in a timely manner and that there is an urgent need for a long-term funded strategic and financial plan to be developed in a collaborative manner between NIRC and the Commonwealth. I pose to you Minister that this is just further evidence of **the significant flaws and short comings in the governance model for NIRC imposed on Norfolk Island in 2016.**

3. Suspension criteria (c) – previous intervention attempts

It is noted that you are placing little weight on this criterion.

4. Suspension criteria (d) - whether council business is being disrupted and the council failing to exercise its functions

- During the pandemic Council has been proactive, taking several steps to ensure operationally we continue to deliver services to our community. This included making 23 positions redundant in June 2020 which generated annual savings of \$2M.
- Council thanks the Department of Infrastructure, Transport, Regional Development and Communication for its short-term emergency funding provided during the month of December 2020 to secure payment of its employees' salaries.
- Council's 9-point action plan adopted in February 2020, as stated in the external reports, is the basis of a strong strategic plan delivery for important services for water security, freight, renewable energy, and environmental management. The short-term funding provided by the Department will see Council through the short-term financial stress, and Council can make the necessary decisions to cut expenditure and raise additional revenue to deliver these projects.
- To address the financial matters raised in your letter, Council in November developed a program that will cut approximately \$8M from its operational budgets. This is approximately one third of its current work force and programs. Whilst it could be argued that these cuts have the potential to place Council back on a sustainable path over a period of 3 years Council acknowledges that this is an extreme measure which will have a serious negative impact on the community and the economy. You have acknowledged in your letter of 3 December, that this 'requires careful consideration, in particular the impact on the Norfolk Island community, and needs to be assessed against other options for improving the financial situation of the Council'. We too support that view.

5. Suspension criteria (e) - whether the appointment of an interim administrator is necessary in the opinion of the Minister, to restore the proper or effective functioning of the council

- Councillors have developed an extremely good working relationship with the General Manager who only commenced in January 2020. During this time, we have developed a much-needed open communication platform that did not previously exist, and Councillors can now make more informed decisions. This has been highlighted in the external audit reports and should not be undone by suspending the Council.
- Furthermore, the Grassroots Report (p.40) notes that leadership at the Mayor and Councillor level is fundamental to enabling the elected and organisational arms to unite and develop a culture focussed on the future.
- Council fails to see what an administrator can provide that an elected Council cannot provide its community during these times of austerity, and believes it has the ability and commitment to make the decisions necessary to deliver change required to develop the model of governance that has been imposed.
- Removing local representation to deliver the blueprint of change identified from the external audits would be detrimental to the Islands long term support of this governance model.
- Removing local representation does not provide the ability for the governance model to mature, as each step of the process provides experience, learnings, and opportunities for Councillors.

6. *Suspension criteria (f) – whether there is a pattern of poor or inappropriate behaviour by one or more councillors that has not been rectified.*

I agree with your assessment that there is no evidence or proof of poor or inappropriate behaviour by Councillors and note your intention to not propose to place any weight on this consideration.

7. *Suspension criteria (g) – whether an ordinary election of councillors occurs within 3 months after the making of the order*

I do not agree with your proposal to not place any weight on this consideration. Council has worked closely with you to determine the new election date of 13 March 2021, with the main reason for this date being picked to allow NIRC to receive the findings of the two audit reports and provide the incoming Council with a clear pathway forward. Council has every confidence in the plan to proceed with the election on 13 March 2021; for the community to maintain local representation; and the ability for Norfolk Islanders to make changes for the betterment of our community.

8. *Suspension criteria (h) - any other matter that, in the opinion of the Minister, is relevant to the suspension of the council*

- Most recently the Council resolved to call for a Royal Commission into finding a better governance model for Norfolk Island. This request has been dismissed by you Minister.
- It needs to be acknowledged that the external audit highlights many faults on the Departments interactions with Council, its guidance, regulation, and lack of coordination for service delivery, asset renewal and transfer. Council's financial position was exposed through the pandemic in part due to this lack of leadership from our "Regulator".
- I invite your attention to the request from myself to your senior departmental officers at our meeting on 4 December 2020 that – in addition to addressing the legacy issues inherited by the Council in 2016 - it would be helpful if the following disabilities that are 'peculiar' to the Norfolk Island Regional Council were addressed, namely –
 - Financial Assistance Grant – the inability for the NSW Local Government Grants Commission "to make a comparative financial assistance grant assessment for Norfolk Island on the same basis as NSW Local Government bodies". KPMG were engaged as consultants to find a solution
 - Land Transfer Ordinance 2016 (Cth). Who is responsible for funding upgrading the roads to 'an acceptable standard' under the Commonwealth commitment that there be no disadvantage to the Norfolk Island Regional Council from the transfer of the roads from the Commonwealth to Council.
 - The 'State Disconnect' where Norfolk Island is not eligible for any NSW State Government competitive grant funding
 - Land rates – "Council has a relatively small ratepayer base and the capacity to generate significant revenue through rates is implausible" (Rates consultant Lucas Scarpin)
 - The 'democratic deficiency' where laws of another State, in particular NSW, are applied as Commonwealth law without representation by Norfolk Island into the making and subsequent amendment of those laws by the State or Territory law making body.

To conclude

Notwithstanding your invitation for NIRC to make a submission is a legislative requirement under the Act, as the author of the submission I wish to make a few concluding remarks. My time in government is coming to a close and it has been an honour to serve the Norfolk Island People as their Mayor in the first Norfolk Island Regional Council.

The last four plus years, whilst rewarding for me personally, have been challenging for NIRC – and particularly for the governing body – as it dealt with – and continues to deal with - the significant flaws and short comings – not of NIRC's making - in the governance model for NIRC imposed on Norfolk Island in 2016.

I am confident Nola that in arriving at your decision on whether or not to suspend the Council that your decision will align with the oft quoted aphorism - ***Not only must Justice be done; it must also be seen to be done.***"

I look forward to your favourable response.

Yours faithfully,



Robin Adams

MAYOR

Norfolk Island Regional Council

Cc: Mr Eric Hutchinson, Administrator
Councillors
Mr Andrew Roach, General Manager

Attachments: 2

ATTACHMENT I

Norfolk Island Regional Council
Terms of Reference: Independent Governance and Financial Audit of
NIRC Operations

1. Introduction

The Norfolk Island Regional Council (Council) commenced on 1 July 2016 and consists of five Councillors who are elected for a four-year term. The Council is unique in that it provides local government services, runs several business enterprises and is contracted to provide Commonwealth funded state services such as: land titles registration, motor vehicle and drivers licensing, courts and legal services, companies registration and ports management.

The Council operates under the imposed NSW local government framework, comprising the *Local Government Act 1993 (NSW) (NI)* (applied Local Government Act) and the *Local Government (General) Regulation 2005 (NSW)(NI)*, as well Norfolk Island continued laws.

The day to day management of Council is the responsibility of the General Manager who reports to the Councillors. The General Manager is supported by seven managers. The current General Manager commenced in January 2020, and through a series of internal reviews, and addressing challenges that have arisen due to the Covid-19 pandemic, Council's financial position has exposed a number of flaws in the operation of the Council.

On 24 June 2020, Council resolved that there should be a full audit of the finances and governance of the Council's operations (**Attachment A**). The relevant audit powers under the applied Local Government Act sit with the Commonwealth Minister responsible for Norfolk Island and her delegates.

2. Consultancy Engagement

A suitably qualified consultant is sought to conduct a performance audit, under Division 2A and Division 3 of Part 3 of Chapter 13 of the applied Local Government Act to cover governance, financial and operational matters as set out below under Scope of Audit, and where appropriate provide advice on possible improvements to Council arrangements. The findings of the audit will be presented in a draft and final report as set out under Deliverables.

Under the applied Local Government Act, a performance audit is to determine whether the Council is carrying out its activities effectively, economically and efficiently and in compliance with all relevant laws.

The Contract Manager is Ms Nicole Pearson, Assistant Secretary, Norfolk Island and ACT/NT Branch in the Department of Infrastructure, Transport, Regional Development and Communications (Department). The key contact officer for the Council is the General Manager, Mr Andrew Roach.

NIRC will provide open access to all Council sites, records, computer systems, and access to NIRC staff during onsite visits. Arrangements for conducting the audit and accessing information may also be set out in the contract. A reference list is included at **Attachment B**.

3. Scope of Audit

The provider is to consider and advise on the matters set out below in its report.

a. Council Governance and Operations

- Areas where the Council is encountering challenges administering continued laws, such as planning laws, and the priority areas for reform.
- Council's policies and procedures, in particular the extent to which they align with the requirements of the applied NSW local government framework
- The optimal efficient staffing structure to meet Council's business delivery requirements.
- Council reporting arrangements, including the optimal arrangements for:

- meeting the requirements of the applied local government framework;
- reporting against performance indicators set by the Department under the Service Delivery Agreement with the Council;
- ensuring open and transparent reporting to provide better community access to information.
- Suitability of Council IT systems for meeting legislative requirements.
- Effectiveness of communication arrangements between Council and the Department regarding the Service Delivery Agreement and other Department initiatives.
- Record keeping of statutory appointments and arrangements for delegations to staff and statutory office holders.

b. Financial Performance

- The financial performance of the Council for the following financial years: 2016-17; 2017-18; 2018-19; 2019-20, with consideration of the 2015 – 2016 final Administration Audit.
- Council's cash position, considering contractual commitments, overruns, legal disputes and Covid-19 impacts.
- The minimum level of working capital the Council should maintain.
- Current asset management plans and identification of any financial gap in the minimum accepted standard of assets (road, water, wastewater, buildings, footpaths, ancillary road assets, stormwater).
- Council's ledger structure and its effectiveness, including the use of work orders.
- Moving the budgeting process from spreadsheets to a web-based solution.
- Possible improvements to the Civica Local Government System and the use of the following models to optimise the efficiency of the Council's operations, being the Plant Asset system, the distribution of overheads, Stores system, Online Ordering, Purchase Cards, Operation of external trust accounts held by Council, Payroll System, and Asset Management

c. Financial Sustainability

- Council's revenue raising abilities, including the role of user charges and land-based rating systems.
- How revenue raising could be structured to provide a sustainable revenue base, including providing the ability to minimise the effects of catastrophic events.
- The financial position of Council's government business enterprises, including electricity provision, telecommunications and liquor bond, and optimal ownership, management and service delivery arrangements of these enterprises.
- The current fire service arrangement to the community and airport, including the relative cost to Council.
- Consideration given to the challenge of "State disconnect" for matters like, not being able to access the Small Grants, and other economic stimulus opportunities that existed in recent months during the pandemic

4. Deliverables and Proposed Timeline

The provider will produce a draft report and a final report. The draft report will be available to NIRC and DITRDC for comment, with comments to be taken into account in producing a final report.

The report/s will include the findings on the matters outlined in the Scope of audit, and where appropriate recommendations. The report should also identify particular areas or matters that would benefit from further work or analysis.

The following indicative timeline is proposed:

- Terms of Reference agreed by Council – by 4 July 2020
- Consultant/s engaged – by 11 July 2020
- Consultant/s commence – No later than 20 July.

- Draft report due – No later than 11 September
- Final Report due – No later than 21 September
- Council consider report recommendations (Extraordinary meeting) – 30 September

Attachment A

**MAYORAL MINUTE FOR 24 JUNE 2020
INDEPENDENT GOVERNANCE AND FINANCIAL AUDIT OF NIRC OPERATIONS**

BACKGROUND

Council for some months now has been addressing financial challenges in developing the 2020/21 Operational Plan primarily resulting from decisions by previous management and which have been further magnified by the effects of the COVID-19 pandemic. Whilst the Council is still receiving community submissions on the Operational Plan, recently highlighted financial exigencies now require Council to take decisive action to ensure Council is able to continue to deliver services; and to adopt a “reduced business as usual” plan on 30 June. Whilst this will allow Council to continue in a reduced capacity during these times of austerity, I believe it is imperative that this elected Council provide a newly elected Council with a list of recommendations to allow them to start their term on the best possible footing.

To recap. This, the first Norfolk Island Regional Council, has had to address many challenges throughout its term, and in particular the following challenges in the past 6 months:

- Council has been provided poor information in many of their decision making processes by previous management.
- The ‘State Disconnect’ and the resulting systemic and structural deficiencies in the arrangements between NIRC and the Commonwealth as our “State”.
- Existing contractual obligations will exhaust NIRC’s entire cash position and our financial position for 30 June 2021 will be zero cash in reserve.
- NIRC’s revenue streams are so reliant on the Tourism economy; and a review must be undertaken to improve resilience and sustainability.
- Existing NIRC governance systems are inadequate, and financially unsustainable.
- NIRC employees require training and support to make sure our systems are operationally efficient.

Unless substantial change is achieved in our operational program, and the Islands economy recovers sufficiently, NIRC’s future remains uncertain.

Councillors and I as Mayor believe it is now time to act, and to provide an incoming Council with a clear pathway to success, allowing them an opportunity to either drive change or accept what we have.

With that in mind, I now propose the following:

THAT –

- i. Council instructs the General Manager as a matter of priority to bring to Council for its endorsement terms of reference for the engagement of an appropriate consultant to conduct a full independent governance and financial audit of NIRC operations; and that the General Manager request the Commonwealth Government to meet the audit cost.
- ii. The terms of reference include legislative, regulatory and policy framework amendments to improve the operation of NIRC, with an underlying principle of reduction of service delivery cost and red tape.
- iii. In calling for this review/audit, Council acknowledges that these actions have been taken to ensure a stronger future for the Island through sustainable revenue sources, expenditure management and a pathway towards less reliance on Commonwealth funding.
- iv. Council lead the communication locally as this must be an Island driven initiative.

Notwithstanding Council resolution 2020/56 of 20 May 2020 Council now requests the election be delayed by two months or to a later date if deemed necessary by the Commonwealth to allow for the review/audit to be undertaken and a report received and adopted by the existing Council to allow the newly elected Council to enter their term unburdened by this process

Reference Material

- NIRC Operational Plan 2020/21
- NIRC Strategic Community Plan and other NIRC plans
- NIRC Policies and Procedures
- Australian National Audit Office report 2018
- Submission from Mayor of NIRC to ANAO report 2018 – Ms Robin Adams
- IT Report on Network – February 2020
- Balmoral Report into Wastewater improvements
- 2019 CGC and KPMG reports and others on the department's website: <https://www.regional.gov.au/territories/publications/index.aspx>.
- Norfolk Island Advisory Council 2015/16
<https://webarchive.nla.gov.au/awa/20160629170839/http://pandora.nla.gov.au/pan/156846/20160630-0255/www.norfolkislandadvisorycouncil.nf/2016/06/20/niac-final-report/index.html>

Robin Adams JP

1 December 2021

The Hon. Nola Marino MP
Assistant Minister for Regional Development and Territories
Minister.marino@infrastructure.gov.au

Dear Assistant Minister,

FINAL REPORT OF THE PUBLIC INQUIRY INTO THE NORFOLK ISLAND REGIONAL COUNCIL

By letter of 18 November 2021 you provided Councillors with a confidential copy of the final Public Inquiry Report dated 4 November 2021 submitted to you by Commissioner Carolyn McNally (the Commissioner). Your letter states that you are:

“of the initial view that the current governing body of the NIRC is unlikely to be willing and/or able to take necessary steps which will ultimately be required to achieve financial sustainability and effective local government for the community. And your, “preliminary view is that it would be in the interests of the community and the NIRC for all civic offices to be declared vacant and an Administrator appointed”.

You have also invited Councillors to, and I quote:

“make a written submission by 5 pm Thursday 2 December 2021 on my proposed decision to declare all civic offices vacant and appoint an Administrator”.

Assistant Minister, with regards to your proposed decision to declare all civic offices vacant and appoint an interim administrator, the history of my previous engagements with you suggest that little, if anything I say will change your decision. With this in mind, I will use my reply to record the factual and historical context of this report.

As you are aware, Norfolk Island’s political institutions have developed in isolation to those in Australia, and have always taken account of the island’s unique circumstances, geography, culture and heritage. However, six years ago, in 2015, the Commonwealth Parliament, against the expressed wishes of the Norfolk Island People; and without adequate prior planning as evidenced in the 2018-2019 Australian National Audit Report, decided that Norfolk Island will have a local Council; that all NSW laws would be applied; and that Commonwealth laws would be extended to Norfolk Island.

While this decision has delivered benefit to some on the Island, most of the imposed governance arrangements were not able to be implemented. For example instead of applying all NSW laws to Norfolk Island as originally intended, only a few of any consequence have actually been applied namely those relating to Health and Education services and the imposition of the NSW Local Government Act 1993.

Since that time NSW has made it clear that it wants no role in the administration of Norfolk Island (the exact reasons for this decision are unknown); an approach to the A.C.T. has been rejected; and it has only been in the last few months that Queensland has agreed to assist in the administration of Health and Education services to Norfolk Island (although the full details of this agreement remain unknown to the Norfolk Island People).

Meanwhile the remainder of state-type services to Norfolk Island continue to be administered by your Department, in the almost complete absence of democracy.

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And, while it was the NSW Local Government Act which provided the statutory framework for the new Norfolk Island Regional Council (NIRC), no prior consultation or appropriate consideration as to the financial sustainability or capacity of imposing such an arrangement was ever adequately considered by the Commonwealth.

Following my election to the inaugural Council, I made a personal commitment to work with the Commonwealth in a spirit of collaboration, co-operation and partnership to address the inherent deficiencies within the imposed arrangements.

However, what I did not foresee was the inertia of the Commonwealth to act in a manner conducive to resolving these matters in a timely and responsible manner. Over time, it became evident that it was not a question of IF the NIRC would fail – but when – a point made in my submission of 16 September 2021 to the Public Inquiry in response to *Counsel Assisting's Written Submissions dated 6 August 2021*.

With regard to your erroneous assertion *'that the current governing body of the NIRC is unlikely to be willing and/or able to take necessary steps which will ultimately be required to achieve financial sustainability and effective local government for the community'*, I again remind you Assistant Minister, that in September 2020, Council called on yourself as the federal minister for Norfolk Island to advocate to the Australian Government that a Royal Commission be formally established by the Governor-General to inquire into, amongst other things:

'the shortcomings of the current governance model for Norfolk Island arising from the passage of the Norfolk Island Legislation Amendment Act 2015 (Clth) such as the State disconnect, the democratic deficits; and to report and make recommendations on: Options to provide for the most appropriate form of government for the non-self-governing territory of Norfolk Island that can achieve the majority support of the Norfolk Island People; and build a pathway to peace'

Regrettably, you chose not to act upon Council's motion requesting a Royal Commission; instead you suspended the governing body of the NIRC; and decided to instruct a Public Inquiry be held with Terms of Reference that specifically prevented comments or findings relating to *'how Norfolk Island should be governed, or whether service arrangements for the island are appropriate'*.

It is important to record Councils resolution 2017/224 on 20 December 2017 where it was unanimously agreed the Mayor and General Manager enter into conversation with the Commonwealth re the engagement of the Australian Productivity Commission to carry out research and conduct a public inquiry to determine: the current financial capacity of the island; and how to grow Norfolk Island economically, socially, culturally and environmentally, including building a diverse and vibrant business environment. The engagement of the Australian Productivity Commission unfortunately was not agreed by the Commonwealth.

In addition, and more critical to the ongoing financial success of the island, no satisfactory understanding as to how the arrangements between Local, State and Federal institutions can operate effectively on Norfolk Island have ever been provided.

The Commissioner has recognised that despite the challenges facing the NIRC they always maintained a strong interest in improving the economic sustainability of Norfolk Island while also preserving the islands unique culture and heritage. That said, my concluding views of the Commonwealth's actions on Norfolk Island over the last six years are one of a government that is indifferent to the ideals of democracy and natural justice, out of touch, and negligent in its obligation to provide good government to Norfolk Island.

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Assistant Minister, despite it being your inclination to declare all civic offices vacant; to appoint an administrator; to continue to deny the Norfolk Island People the only semblance of democracy remaining to them; and, to continue to hope that this failed arrangement can be fixed without addressing its core structural deficiencies - the fact that the NIRC has been deemed to have "failed" within its first term is a sad indictment, NOT on the NIRC as you might prefer readers of the Public Inquiry Report to believe, but on the Commonwealth as the architects of its deficient planning, financial frameworks and its failed implementation.

With respect Assistant Minister, attempting to treat the symptoms WILL NOT achieve an outcome that is in the best interests of the Commonwealth or Norfolk Island. You must treat the cause. This can only be achieved when the Commonwealth agrees to work with the Norfolk Island People in a spirit of collaboration, co-operation and partnership to find the most appropriate form of government for the non-self-governing territory of Norfolk Island.

As foreshadowed in my letter to the Norfolk Island People published in the local press on 27 November 2021 I now formally invite you Assistant Minister to come to the Island in person to meet with Councillors before making any decision to discuss a framework for steps and funding to enable statutory objectives to be met by anyone who may be elected to Council in the future.

Yours faithfully,



Robin Adams JP

Mayor

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Joint Standing Committee visit to Norfolk Island
April 2014

Minister Adams:

Minister Jamie Briggs in his visit to the Island on 14/15 February this year on a number of occasions made the following comment –

“Taxation and Social Welfare are not silver bullets; it’s all about building the economy”.

This statement supports the philosophy that a government cannot tax an already depressed economy into prosperity; a philosophy that aligns with Prime Minister Abbot’s speech at the World Economic Forum earlier this year where he is quoted as saying - "No country has ever taxed or subsidised its way to prosperity. You don't address debt and deficit with yet more debt and deficit." This of course begs the question – what options are available to Norfolk Island to rebuild its economy to a sustainable level where Norfolk Island can cease being a contingent liability on the Commonwealth of Australia.

Whilst it is acknowledged that the ACIL Tasman Report speaks of Norfolk Island being tourism path dependent, the fact remains that to stay totally fixated on that one pathway is to put all our eggs in the one basket and we have since the global financial crisis seen the results of doing just that. That is not to say that we should not continue to focus on rebuilding the tourism industry – of course we should - and the General Manager of the Norfolk Island Government Tourist Bureau will talk to you this morning on work being done to achieve that outcome.

However, the key to rebuilding the economy is diversifying and broadening the island’s economic base. The question is – where to start. The answer lies in thinking outside the square – to think globally, to interact regionally and to act locally – in partnership with the Commonwealth.

The Norfolk Island government at clauses 14 and 15 of its submission puts forward a number of proposals to encourage diversification and broaden the Island’s economic base.

I wish to speak briefly to two of the proposals. Clause 14.4 – Offshore Finance Centre/Offshore Banking Unit/Cyber centre and Clause 15.5 – a Special Economic Zone for Norfolk Island.

Clause 14.4 - Offshore Finance Centre/Offshore Banking Unit/Cyber centre

The following comments relate specifically to Offshore Banking Units and I table into the record the November 2009 Report by the Australian Financial Centre Forum titled “Australia as a Financial Centre – Building on our Strengths”. This report is commonly referred to as “The Johnson Report”.

The Johnson Report strongly supports positive reforms to Australian financial structures and procedures, including conclusions that –

Economic research demonstrates a well-established causal link from financial sector development to economic growth. Having an open, well regulated and competitive financial sector is thus in the interests of all Australians.....

Australia is situated close to the fastest growing region in the world, where the need for ongoing development and liberalisation of financial markets in many countries is opening up enormous opportunities.

A key element of the Johnson Report related to Offshore Banking Unit (OBU) activities. The report states that – an effective OBU regime is a key element in ensuring that Australia’s financial sector takes full advantage of opportunities to participate in international transactions.

The Australian Government of the day indicated “...in principle or indirect support for nearly all of the Forum’s 19 recommendations” and stated that “...these are important reforms that will enhance Australia’s status as a financial services centre and help expand exports and imports of financial services”;

This support was re-enforced as recently as July 2013 when the then Treasurer Chris Bowen stated at the National Press Club in Canberra that the objective to position Australia as a global financial services centre, as detailed by the Johnson Report, is a key plank of the Treasurer’s plan for the Australian economy.

We note the support in this same Press Club article of the then shadow minister for financial services and superannuation, Mr Matthias Cormann and now Minister for Finance in the Coalition Government, who was quoted as having said earlier in that month –

“.....acting on the recommendations of the Johnson Report and turning Australia into a global “financial services hub” was a top Coalition priority.”

The following comments are equally relevant -

“The report – named after former Macquarie Bank deputy chairman Mark Johnson who heads up the government’s Australian Financial Centre Taskforce – found that while “Australia has arguably the most efficient and competitive financial sector in the Asia Pacific region”, a greater focus on import and export is required in order to transform the country into a “financial services hub”.

“There is a great opportunity for the financial services industry to become more outwardly focused,” the treasurer said. “We know positioning Australia as a financial services centre in the region means that we would be able to offer increased job opportunities for a range of skilled workers in the financial sector.”

I table a copy of the Press Club speech.

The Johnson Report and the Australian Government’s response to that report both in the former and the current government create a window of opportunity for Norfolk Island in partnership with the Commonwealth of Australia, and whilst establishment of an OBU on Norfolk Island would by necessity require in depth discussion between the Australian and Norfolk Island Governments, the concept of an OBU on Norfolk Island deserves that discussion taking place as a matter of priority.

The following are just some of the current advantages of Norfolk Island (NI) as a location for OBU activities taking into account that most of the preconditions, structures and legislation currently exist:

- NI has low levels of local taxation and straightforward regulatory procedures;
- No taxes on income, capital gains, fringe benefits, property or payrolls;
- Low costs – labour, regulatory compliance, government charges;
- NI is in a unique time zone;

- Excellent levels of telecommunication services, with fibre connectivity from satellite soon to be operational giving high speed broadband with sound redundancy back up;
- Stable democratic system including an elected Parliament and professional, well managed public sector.

In conclusion Members –

- Norfolk Island is perfectly positioned to be one of Australia's Financial Services hubs, particularly in the Pacific. This statement aligns with the comment back in 2012 of the now Minister for Finance Senator Mathias Cormann "that the Coalition actively supports and encourages measures that would help achieve the vision of Australia as a financial services hub";
- The major function of the OBU would be to allow Australian banks to domicile major fundraisings and other international financial transactions in Norfolk Island. An Offshore Banking Unit could potentially by itself provide the Norfolk Island Government with additional income to achieve full self sufficiency. At the very least, it would greatly reduce, and probably obviate, the need for the Commonwealth to provide annual financial support payments to the Norfolk Island Government. On a very conservative estimate of \$1 billion of transactions per annum, 0.5% commission would raise \$5 million yearly for the Norfolk Island Government with minimal costs for collection, monitoring and regulation.

Accordingly -

- The Norfolk Island Government seeks the Committee's support in securing the Commonwealth Government's agreement in principle to the development in partnership with the Commonwealth Government, of Norfolk Island as a Financial Services hub in the Pacific, including the establishment of an Offshore Banking Unit in Norfolk Island, registered and regulated in accordance with Australian legislation, as an industry for Norfolk Island that –
 - Is not dependent on tourism;
 - Is capable of providing employment;
 - Would generate a new stable revenue source; and
 - Is environmentally friendly.

Clause 15.5 – a Special Economic Zone for Norfolk Island.

I table an extract dated 16 August 2013 published on Business Spectator titled "Rudd flags special economic zone for the Northern Territory.

The report quotes Mr Rudd as saying that the "constitution allowed for the NT to have a different tax regime to other states and territories.", thereby allowing the Northern Territory to have a company tax rate one third lower than the rest of the country.

The Norfolk Island Government seeks the Committee's support in securing the Commonwealth Government's agreement to Norfolk Island remaining as a Special Economic Zone regulated by Australia and conducted on best practice consistent with Australia's international obligations.

Robin Adams
Minister for Cultural Heritage and Community Services