

**Submission to Australian National Audit Office (ANAO) In-Progress Performance Audit:
“The design, implementation and monitoring of services reform on Norfolk Island.”**

ANAO statement of purpose: *The objective of this audit is to assess whether the Department of Infrastructure, Regional Development and Cities has designed and implemented appropriate governance and administration arrangements for the transition and delivery of sustainable reforms to services on Norfolk Island.*

Introduction: Inconsistency of purpose with the original political decision

While it is recognised that ANAO has no role in commenting on the merits of government policy, in the case of Norfolk Island the relevant policy decisions have set in place the largely unworkable and complex “governance and administrative arrangements” resulting in less than optimal outcomes in Norfolk Island. It is thus necessary to outline the background to the current issues in Norfolk Island governance and administration.

Many of the issues and problems with delivery of public programmes and services which have become apparent in Norfolk Island have their roots in the nature of the unilateral decision to terminate self-government after more than 30 years of largely successful local autonomy. As it is apparent that the Commonwealth Government has no intention of changing that decision and is unrepentant for the many serious flaws in the processes leading to it, a substantial proportion of Norfolk Islanders will continue to regard the federal takeover as illegitimate and will be highly critical of flaws in the governance model and the methods and outcomes of delivery of services.

Underlying this reality is what amounts to the false “spin” that the decision to revoke self-government was based on the need to ensure economic sustainability for Norfolk Island, when in fact it was at all times a *political* - rather than an *economic* - decision informed by Canberra-based partisan positions and pressure from bureaucrats to “normalise” Norfolk Island to a governance model similar to that in the Indian Ocean Territories.

The Commonwealth Parliament chose to revoke the *Norfolk Island Act 1979* in large part because of a recommendation from the Joint Standing Committee on the National Capital and External Territories (JSCNCET) in 2014 following its inquiry into “Economic development on Norfolk Island.” It was not asked to look into governance, and in fact seems to have been heavily influenced by a single final witness, without giving the right of reply to the then Norfolk Island Government or other significant Island bodies and individuals who had different perspectives.

The JSCNCET was tasked to investigate and report on:

The economic development of Norfolk Island with particular reference to:

- *redressing barriers to tourism, with particular regard to air services, facilities for cruise ships, roads and other infrastructure;*
- *complements to tourism, such as agriculture, other industry or small-medium enterprises;*
and
- *proposals and opportunities for niche industries.*

Moving well beyond its terms of reference, the Committee’s first and most far-reaching recommendation was:

Recommendation 1: The Committee recommends that, as soon as practicable, the Commonwealth Government repeal the Norfolk Island Act 1979 (Cth) and establish an interim administration, to assist the transition to a local government type body, determined in line with the community's needs and aspirations. This will require the development of a new legislative framework.

The JSCNCET report failed to make a conclusive argument as to why this major disruption of the Norfolk Island governance model was justified within its terms of reference as leading to improvements in the *economic development* of Norfolk Island. Nor did it adequately consider alternative governance models suited to small, remote islands which have been extensively researched and detailed by relevant governance experts, including Prof Roger Wettenhall and Emeritus Professor Peter Mühlhäusler. It also failed to consider the successful governance models implemented by New Zealand in relation to entities such as Niue and Cook Islands.

The subsequent Commonwealth decisions to remove self-government, which discriminate against many long-term legally recognised permanent residents of Norfolk Island and impose a hybrid service delivery model, have placed the Department of Infrastructure, Regional Development and Cities (DIRDC) in an invidious position. This was further compromised by inadequate and selective consultation with the Norfolk Island community and willful disregard of the results of the 2014 referendum (held under Norfolk Island law approved by the Commonwealth), which indicated that at least two thirds of the Island community was opposed to the takeover. A formal Remonstrance served on the Senate and House of Representatives by the Norfolk Island Government was also ignored.

As a result, there is an ongoing campaign in Norfolk Island to attempt to oblige the Commonwealth to conduct an act of self-determination, because of the perceived illegitimacy of the abolition of self-government. For as long as that position is held by a substantial proportion (probably a majority) of Norfolk Islanders, any external public or private service delivery agency will meet with resistance and even hostility from the local community. That is compounded because neither DIRDC nor any single service delivery body has the necessary local knowledge or expertise to effectively deliver all of the services required.

Public services

The table below details the range of services provided by the Norfolk Island Government (NIG) prior to its abolition in 2015, excluding powers reserved under the Norfolk Island Act 1979 to the Commonwealth:

Government services required in Norfolk Island (excluding Commonwealth functions)

- Airport operation, maintenance and safety (to international standards)
- Ambulance
- Animal welfare
- Arts and culture
- Border control
- Botanic gardens
- Company and business name registration
- Construction and maintenance of roads, bridges, fencing etc.
- Coronial services

- Education - preschool, primary and secondary and school
- Electricity generation and distribution
- Fire and emergency services
- Fishing regulation
- Forestry
- Funerals
- Gaming control and regulation
- Health and hospital/clinic
- Health inspections, sale of food etc.
- Health insurance*
- Heritage protection
- Law and order – police, courts
- Lighterage
- Liquor licensing and supply
- Museums
- National parks
- Occupational Health and Safety
- Pasturage
- Postal services*
- Promotion and use of *Norfolk* language
- Public health and health education
- Public reserves and playgrounds
- Public works and building maintenance
- Quarantine and biosecurity services
- Radio station and broadcasting
- Rates and local taxes
- Real estate regulation
- Registration of births, marriages and deaths
- Regulations (overall)
- Showgrounds and Royal Show
- Social security*
- Telecommunications, television and radio transmissions etc.
- Tourism promotion
- Vaccinations
- Vehicle registration and driver licensing
- Waste management
- Wills and estates; probate etc.

* Alternative programs now supplied by Commonwealth but with limited franchise and less comprehensive coverage than under NIG.

This table has been compiled without access to the records of the previous Norfolk Island Government or Administration and so may not be complete. However, it indicates the vast range of services required to be delivered in the Island. Many of these were previously tailored to local

needs based on expertise built up over some 36 years. In my view, it strengthens the argument put forward by economist Dr Chris Nobbs (*Restoring Order to Norfolk Island*, The Norfolk Islander and Norfolk Online News, 1 December 2018), who asserted that the most economic and efficient model for service delivery was to treat Norfolk Island as an integrated system and to base service delivery on local management.

The required services are delivered on the mainland by federal, state, local and privatised bodies, although some (such as lighterage and pasturage) probably have no mainland equivalents. I understand that Norfolk Islanders are having difficulty in having to deal with a multiplicity of agencies (mostly located remotely) compared with the virtual one-stop-shop available from Administration in Kingston under the previous governance model. As well, many services are now delivered under complex legislation by huge bureaucracies (such as Centrelink) with complicated documentation requirements and a plethora of programmes compared with the much less complex previous local schemes.

Examples of this abound, with four major ones comprising social welfare; occupational health and safety; taxation; and healthcare/health insurance. All of these areas were comprehensively covered by NIG in a much less bureaucratic and uncomplicated manner, with service delivery and scheme requirements/benefits tailored to meet the needs of the local community and economy.

It should be noted that the legislation establishing Norfolk Island service delivery in the areas detailed above was all assented to by the Commonwealth, which had the power to disallow bills and/or to withhold assent. Islanders are justifiably distressed that these powers were used to block the Island from widening its economic base and improving long-term sustainability in a wide range of areas over many years. These included many schemes where states or territories were subsequently permitted to proceed such as:

- Online university courses (to South Australia, and later other states)
- Online gaming (to Northern Territory)
- Production of medicinal cannabis (to Tasmania)
- Norfolk Island commercial fishery (states have a defined coastal fishing zone)
- Access to under-sea resources in the Norfolk Island Exclusive Economic Zone
- Blocking of a multi-million dollar private bequest for a feasibility study into construction of a breakwater at Cascade
- Access to under-sea optical fibre communication and internet links.

When teamed with Commonwealth restrictions on public borrowing and prohibitions on Norfolk Island raising infrastructure funds (for instance, through bond issues), the governance model in the period 1917-2015 would have been unworkable in every Australian state and territory and indeed in the Commonwealth itself. All would have been technically insolvent for all or most of that period.

Norfolk Island was also unique in that time because its Commonwealth-approved immigration laws permitted the classification of many inhabitants as “permanent residents.” This status was essentially equivalent to citizenship and did not require that holders be citizens of Australia. Some of these people, who had been resident in Norfolk Island for 50 years or even longer, were effectively disenfranchised from receipt of public services through the removal of self-government. Ironically, they did not fall outside the Commonwealth taxation net!

Economic cost

While it would have been readily possible for NIG to continue to function effectively and at reasonable cost to Commonwealth taxpayers had the federal government agreed to modest fiscal contributions to the annual Norfolk Island budget, the revised arrangements since 2015 have clearly resulted in enormous costs to the Commonwealth. The following table, compiled from documentation released by DIDRC under Freedom of Information legislation, illustrates the astronomical increase in Commonwealth spending from the period when removal of self-government was first flagged in 2012/13 compared with the five years prior to that.

In the five year period 2007/08 to 2011/12, Commonwealth contracts for expenditure in Norfolk Island averaged less than \$250,000 per annum. In the eight years since, the average has surged to over \$26 million a year. It should be noted that these figures are only for contract expenditure and do not take account of heavy recent costs within large government departments and agencies for staff and services delivered in Norfolk Island, which is mostly not separately quantified in publicly available documentation.

Summary of Norfolk Island contracts entered into by the Commonwealth			
Year	Number of new contracts signed	Value of new contracts (\$A)	Contracted expenditure for year (\$A)
2019-20 onwards			39,145,860
2018-19	18	25,746,892	43,650,264
2017-18	43	59,169,587	33,022,757
2016-17	66	45,819,707	39,743,224
2015-16	68	23,264,426	17,442,482
2014-15	25	6,476,008	14,453,593
2013-14	22	2,059,347	11,416,948
2012-13	24	47,208,050	10,868,889
Subtotals	266	209,744,017	209,744,017
2011-12	10	625,623	625,623
2010-11	10	210,414	210,414
2009-10	6	121,953	121,953
2008-09	5	102,793	102,793
2007-08	6	130,777	130,777
Totals	303	210,935,577	210,935,577
Notes on contracts and expenditure 2012-13 to 2018-19 (contracts less than \$100,000 excluded):			
<ul style="list-style-type: none"> • More than \$56m contracted to Air NZ for services 2012-21. • Many services contracted to various arms of NSW Government, including over \$43m to Premier's Department for "services" and \$9m for education services. • \$30m allocated to NI Hospital/NI Health and Residential Services; multiple smaller contracts for medical equipment, supplies and ancillary services. • Five major contracts for "business administration services" to NI Regional Council, totalling more than \$12m • 12 major contracts for "capital works" awarded to Manteena Security totalling over \$9m. 			

Other areas which could be of interest to ANAO:

- There are a large number of contracts awarded to a wide range of private sector consultants where the costs and necessity of projects could be examined.
- Large amounts of funding have been allocated for services from other Commonwealth agencies, including legal, audit, policing, recruitment and management advice.
- \$4.7m to Birdon Pty Ltd in 2017 for “vessel procurement.”
- There are multiple contracts to two private sector companies, most of which appear to be related to works on Kingston and Cascade Piers. Those companies are Waterway Constructions (pier work) and Worley Parsons (design and engineering).

Norfolk Island is not a remote country town

At a recent meeting in Canberra, DIRDC officials expressed the views that Norfolk Island “is not unique”, that it is “similar to other remote Australian towns” and that services delivered there should be “the same as for other parts of Australia.” These statements are palpably inaccurate and insensitive and typify why Norfolk Islanders have little trust in a far distant bureaucracy to understand their specific issues and needs and thus to deliver appropriate, timely and relevant services.

It should not be necessary to spell out why these departmental attitudes cause concern to Norfolk Island residents, but a few examples may illustrate the problems.

The dramatic reduction in health services in Norfolk Island has caused disquiet and anger in that community. The service delivery model in New South Wales has been to close or downgrade many hospitals in country towns and to expect residents to travel to regional centres for surgical, orthopaedic, maternity, pathology and specialist services. (An example is the closure of the Kiama Hospital, with patients redirected to Nowra or Wollongong.) While this may be inconvenient and even expensive, in most cases patients can drive to the nearest major hospital to obtain such services. This is clearly not an option for Norfolk Island residents in their “country town”, which is separated from the mainland by some 1,300km of Pacific Ocean. The promise made by the Commonwealth at the granting of self-government in 1979 to upgrade and expand the Norfolk has never been delivered.

There seems to be scant understanding by DIRDC of the history, culture and indigenous language of Norfolk Island. Up until 2015, legislation and public information was provided in the two official languages of Norfolk Island, Norfolk and English. Norfolk is recognised by UNESCO as a distinct and viable language and is spoken on an everyday basis by a significant minority of Islanders. Yet its use seems to have disappeared completely from official service provision since the 2015 Commonwealth takeover. This includes Radio Norfolk, which was effectively seized from local control in 2015, with local and community input severely restricted since that time. Islanders also report that Commonwealth interest in history and heritage issues has waned in the past three years, with KAVHA administration regarded as a burden and limited promotion of the World Heritage values of the Kingston precinct.

Despite Norfolk Island being treated effectively as a colonial possession since 2015, locals still experience lesser levels of service delivery than all Australian citizens on the mainland. Three obvious examples are in telecommunications, postal services and transport.

Telephone calls to and from Norfolk Island to other parts of Australia are still charged at international rates and are excluded from call packages by Australian-based ISPs. This means, for example, that a resident of Sydney can telephone the Pilbara (approx. 3,500 km away) for the cost of a local call, while a call to Norfolk Island, less than half as far away (approx. 1,670km) is charged at international rates of a minimum of \$1.20 per minute.

Despite complaints to Australia Post and the Commonwealth Ombudsman for at least the last 15 years, Australia Post continues to inaccurately advise mainland customers that all mail to Norfolk Island is carried by air and that relevant charges apply. In fact, most “airmail” packages are carried by surface freight or at best as low priority airmail. This can result in transit times of three months or more, way beyond those on the mainland.

Finally, the treatment of Norfolk Island as an international airport, rather than a domestic one, results in added costs and delay for travellers having to comply with international conditions, not to mention the huge added cost burden to the Norfolk Island community of supporting an “international” airport requiring higher levels of safety, fire service, radio and radar communications and much higher specifications for tarmac and apron construction and maintenance.

Conclusion – some overall issues

There does not appear to be an overall DIRDC plan for overall governance and service delivery in Norfolk Island, nor a co-ordinated approach between Commonwealth agencies, New South Wales, Norfolk Island Regional Council (NIRC) and contracted private agencies/individuals. There is a need for the coordinated system-wide approach proposed by Dr Chris Nobbs, perhaps along the lines of the comprehensive Island Plan operated under the previous governance model.

There is considerable scope for NIRC to deliver a much wider range of local services, probably using the personnel and expertise already available in Norfolk Island. However, this should not be a typical cost-shifting arrangement but rather a comprehensive two-way agreement between the Commonwealth and NIRC. Any arrangement should be totally transparent and not hidden from public scrutiny by the current prohibitive confidentiality and “operational matters” restrictions.

The Australian Capital Territory – a much larger entity than Norfolk Island – has operated for more than three decades without the need for the post of Administrator. The largely ceremonial quasi vice-regal role of Administrator of Norfolk Island has become a post of political patronage and could be abolished with minimal (if any) effect on Norfolk Island governance. Apart from the obvious cost savings of supporting a “Government House”, this would free up the prestigious buildings and surrounds to become the “jewel in the crown” of the World Heritage KAVHA area. It could be used jointly as a museum of colonial history and the appropriate headquarters and administrative centre of KAVHA. As such, it would generate visitor revenue to add to the substantial savings detailed above.

NIRC could be upgraded to become a truly representative body, perhaps with powers similar to or greater than the elected Advisory Council of the previous colonial period up to 1979. It would be appropriate for an elected official to hold delegated Commonwealth ministerial powers, not the unelected General Manager, as at present.

I would be happy to provide any additional information in relation to this submission and have provided relevant contact details through the ANAO webpage.

Peter Maywald
28 December 2018

-----oOo-----

A note on the author

Peter Maywald MA, BA (Economics, History, Political Science) was Secretary to Government (Chief of Staff) to the Norfolk Island Government from 2003 to 2010. He had previously worked in the Kingdom of Tonga as Business Manager for four years. He was Deputy Commissioner for Equal Opportunity in South Australia for eight years and Director of Investigations for the Commonwealth Ombudsman for nine years.