

**A Shocking Project:
The Joint Standing Committee*
and the Construction of the
*Norfolk Island Legislation Amendment Act 2015***

A Record and Commentary
provided to
The Hon Michael McCormack MP
Minister for Infrastructure, Transport and Regional Development
The Hon Sussan Ley MP
Assistant Minister for Regional Development and Territories
and to
The Norfolk Island Community

by

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* The Australian Parliament Joint Standing Committee on the National Capital and External Territories (JSCNCET)

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Table of Contents

<i>Title</i>	<i>Page</i>
Overview and Recommendation	4
1. JSCNCET Inquiry into Economic Development of Norfolk Island	6
1.1 Terms of Reference	6
1.2 Submissions and hearings	6
1.3 Inquiry Report	7
2. Commentary on the JSCNCET Report (Recommendations 1 & 2)	8
2.1 General remarks	8
(i) non-adherence to the Terms of Reference	8
(ii) equation of economics with democracy	9
(iii) problem mis-diagnosed, solution a <i>non sequitur</i>	9
2.2 "Chapter 2: Economy and governance"	10
(i) economy	10
(ii) tourism	12
(iii) deficit and its supposed consequences	14
2.3 Report's "central proposition" a <i>non sequitur</i>	16
(i) local authorities within Australia	16
(ii) small island possibilities	16
2.4 Issues ignored in the Report	18
(i) island social and cultural issues	18
(ii) consequences, losses	18
2.5 JSCNCET Report: A summary	18
3. Commentary on Some Individual Submissions.....	19
3.1 The Pope/Yates submissions	19
(i) submissions by Mr Pope	19
(ii) submissions by Mr Yates	20
(iii) summary	21
3.2 The DIRD submissions	22
(i) general commentary	22
(ii) a major error	23
3.3 The Norfolk Island Government submissions & statements	23
4. Australian Government Response to the JSCNCET Report.....	25
4.1 Australian Government's response	25
4.2 "Consultation with the Norfolk Island Community"	26
(i) Administrator's consultations with the community	26
(ii) Norfolk Island Advisory Council	27
4.3 Passage of the <i>Norfolk Island Legislation Amendment Act 2015</i>	28
4.4 Envoi	28
5. Overall Summary.....	29
Notes / References	30
Appendices	
I. Members of the JSCNCET (2014)	33
II. Submissions to and witnesses before the JSCNCET Inquiry	33
III. Recommendations of the JSCNCET Report	35
IV. Norfolk Island Government's preferred model of territory self-governance	36
V. Norfolk Island: GTP Estimates and the so-called "severe economic downturn"	37

Overview and Recommendation

In March 2014 the Australian Assistant Minister of Infrastructure and Regional Development, Hon Jamie Briggs, referred an inquiry into the economic development of Norfolk Island to the Joint Standing Committee on the National Capital and External Territories (JSCNCET). However in its Report to Parliament the Committee did not feel constrained by its Terms of Reference and recommended a wholesale change of the island's governance arrangements.

The recommendations of the Committee were almost wholly accepted by the Australian Government and Parliament, and resulted in the passage of the *Norfolk Island Legislation Amendment Act 2015*. This Act saw the abolition of the Norfolk Island Legislative Assembly and the disbanding of the Norfolk Island Government and Public Service, and the absorption of Norfolk Island into the Australian taxation and welfare systems. The Legislative Assembly was replaced by a "regional council", constructed under Commonwealth legislation, modelled on a New South Wales local authority template, and with substantially reduced powers.

This present record and commentary explores the events involved in the Joint Standing Committee's inquiry, the content of its Report, whether its recommendations were appropriate, and whether more fruitful approaches may have been available. The focus will be on the core issues of economy and governance.

What emerges from these considerations is evidence of a deeply flawed and fragile process. In particular it will be contended that the four major foundations of the JSCNCET Report and later legislation were without substance. Specifically it is determined that:

- (1) the JSCNCET's claim that the Norfolk Island economy from 1979 to 2014 had been a "failure" was – by any reasonable standard – false;
- (2) the JSCNCET's belief that the Norfolk Island Government's difficulty with financial sustainability was a matter of governance – rather than small size and isolation – was a mis-diagnosis;
- (3) that the JSCNCET's claim that the remedy outlined by them and contained in the *Norfolk Island Legislation Amendment Act 2015* was necessary, was – in any event – a *non sequitur*; and furthermore
- (4) that the Australian Government's claim that a majority of Norfolk Islanders welcomed the proposed changes and the loss of self-government was also – on all the available evidence – false.

These determinations, in contradistinction to many of the claims made in the JSCNCET Report, are based on evidence rather than hearsay.

False assumptions and faulty deductions lead to policies and actions that are likely to be both inappropriate and incoherent. Particularly is this so in the present case in which no adequate consideration was given to the consequences of the policies being promoted by the JSCNCET (and subsequently adopted by the Australian Government). Many on Norfolk Island would argue that that is what they are now experiencing. [Note 1]

It is difficult to avoid the conclusion that in this Inquiry and its consequent legislation the Norfolk Island community has been subject to gross injustice by the Australian parliamentary system.

This injustice, bad as it is, is compounded by the removal in legislation of democratic rights from the citizens of Norfolk Island without either their representatives or the citizenry themselves being given the right to say a word in their own defence.

The JSCNCET Report and its consequences have been immensely divisive and strenuously opposed by many on Norfolk Island. These factors have led to a Petition to the United Nations for the island's inscription on the list of non-self-governing territories, and a Petition to the United Nations Human Rights Commission under the Optional Protocol to the International Covenant on Civil and Political Rights, to which Australia is a signatory.

The purpose of this present record and commentary then is threefold:

- (a) to provide an accessible history of the processes and considerations that led to the passage of the *Norfolk Island Legislation Amendment Act 2015* in the Australian Parliament;
- (b) to provide a basis for an understanding of the shock, disappointment and indeed anger felt by many on Norfolk Island following the publication of the JSCNCET Report and the passage of the legislation based upon it; and
- (c) to provide a foundational element for more adequate consideration of Norfolk Island's position and legitimate needs in the future.

The analysis provided here strongly suggests that the Australian Parliament should review the adequacy of the processes by which it comes to decisions on matters such as those at issue here.

There is a need for the Australian Government to recognise clearly the specific needs of small marine-isolated islands as a starting point for planning a brighter future for Norfolk Island. The present commentary and report provide some signposts as to directions in which such policies might lie.

There is a need for the Australian Government to rebuild the trust of the Norfolk Island community which has been severely damaged in recent years. This requires genuine partnership and the sharing of power, transparency, and close engagement with the island community.

While making the present critique, the importance of the Australian Government's on-going support and interest in Norfolk Island is acknowledged: indeed it is likely to be vital for the island's well-being at least in the short to medium term. The Australian Government's substantial investment in infrastructure projects on the island in the last few years is also acknowledged. What is at issue here in the present record and commentary is a matter of processes as much as of outcomes.

In consequence of the foregoing considerations:

It is recommended that the Minister for Infrastructure, Transport and Regional Development, and the Assistant Minister for Regional Development and Territories, in noting the irrevocably flawed nature of the JSCNCET 2014 Inquiry relating to Norfolk Island and the inappropriate and incoherent policies and practices consequent upon it:

- (i) reconsider, as a matter of urgency, the critical issues currently facing Norfolk Island as a result of the recent major Australian Government intervention on the island and in the light of this record and commentary; and*
 - (ii) engage actively with the Norfolk Island community and its representatives in developing more rational and considered governance arrangements for Norfolk Island, and an adequate development strategy for the island, taking cognisance of its size and marine isolation in the Pacific Region.*
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1. JSCNCET Inquiry into the Economic Development of Norfolk Island

*What we do see depends mainly on what we look for. ... In the same field the farmer will notice the crop, the geologists the fossils, botanists the flowers, artists the colouring, sportsmen the cover for the game. Though we may all look at the same things, it does not all follow that we should see them. (Sir John Lubbock, **The Beauties of Nature and the Wonders of the World We Live In**, London & NY: Macmillan, 1892, p.3)*

1.1 Terms of Reference

In the Australian Federal Election of September 2013 the Liberal/National Coalition regained the government benches from the Labor Party. In the new government Jamie Briggs MP was appointed Assistant Minister for Infrastructure and Regional Development, with responsibilities for Norfolk Island.

In March 2014 Assistant Minister Briggs referred an inquiry into economic development on Norfolk Island to the Joint Standing Committee on the National Capital and External Territories (JSCNCET), asking the Committee to focus on positive action to encourage diversification and broaden the island's economic base. [Note 2] The Terms of Reference for the inquiry were:

To inquire into and report on:

- ◆ *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. (JSCNCET, 2014, p.xi)*

1.2 Submissions and hearings

Membership of the JSCNCET at the time of the Inquiry is given in Appendix I. Submissions were called for by the Committee and a total of 34 written submissions received. Twenty-five individuals and groups – the majority of whom made written submissions – presented their views in person before the Committee. (See Appendix II)

On 28 April 2014, seven members of the 12-member Joint Standing Committee arrived on Norfolk Island, held hearings on 29th and departed on the 30th after a tour of inspection of some of the island's facilities.

At the Norfolk Island hearing, following an introduction from the Chair of the Committee, presentations were given by the Norfolk Island Government (NIG), the Norfolk Island Government Tourist Bureau (NIGTB) and the Norfolk Island Chamber of Commerce. "Community statements" from a number of individuals and organisations were then made: each given a maximum of five minutes to address the Committee members. Finally a set of more extended presentations were made by other Norfolk Island parties.

Subsequent hearings were held in Canberra during June and July 2014. Table 1 provides a list of hearings conducted by the Committee, with additional detail given in Appendix II.

Table 1. Hearings conducted by the JSCNCET Inquiry

Date (2014)	Place	Presenter	Time scheduled
29 April	Paradise Hotel, Norfolk Island	Norfolk Island Government	55 mins
		NI Government Tourist Board	45 mins
		NI Chamber of Commerce	45 mins
		Community statements (20 individuals)	5 min each
		Transam Argosy, NI Airlines, EcoNorfolk Foundation, Tourism Action Group, Mr Dick Massicks	60 mins (total)
6 June	Parliament House, Canberra	Carnival Australia, Tourism & Transport Forum	45 min (total)
		Mr Julian Yates	40 min
19 June	ditto	Department of Infrastructure and Regional Development (DIRD)(*)	55 min
26 June	ditto	Tourism, Austrade	45 min (total)
18 July	ditto	Worley Parsons P/L	10 min
		The Hon Neil Pope	60 min.

Ref: JSCNCET website, Public Hearings – programmes.

(*): From 20/12/2017 the Department of Infrastructure, Regional Development and Cities (DIRDC)

1.3 The Inquiry Report

Three months after its final hearings the Committee provided its Report, entitled *Same Country: Different World. The Future of Norfolk Island* to the Commonwealth Parliament in October 2014. [Note 3] At the heart of the Report were eight recommendations to the Australian Parliament:

- ◆ two Recommendation on matters of governance (Recs 1-2);
- ◆ three Recommendations on infrastructure investment (Recs 3-5); and
- ◆ three Recommendations on a "framework for new economic opportunities" (Recs 6-8).

The full text of the eight Recommendations is provided in Appendix III.

With regard to infrastructure investment (Recs 3-5) the Committee recommended: upgrade and improvements associated with the Cascade and Kingston piers; the purchase of multi-purpose barges for use in conjunction with the upgraded piers; and an assessment of, and upgrade to, the island's public roads.

With regard to the framework for new economic opportunities (Recs 6-8) the Committee recommended: appointment of officers to strengthen the island's economic and human resource capacity during a period of "transitional administration"; the provision of a dedicated officer to assist cottage industries on the island; and that responsibility for quarantine control be transferred to the Commonwealth Department of Agriculture, Fisheries and Forestry (now Department of Agriculture and Water Resources).

The most contentious recommendations of the Committee were Recommendations 1 and 2 in relation to governance:

Governance: a new model***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.

Recommendation 2

The Committee recommends that formal mechanisms for community consultation be established which allow for regular and ongoing communication between any transitional administration and the community about the reform process and new governance arrangements.

Although all eight Recommendations can be seen as a package, the Recommendations in relation to governance were (and remain) the most fundamental and the most contentious, and the present report and commentary focusses upon them.

2. Commentary on the JSCNCET Report (Recommendations 1 & 2)

2.1 General remarks

The JSCNCET Inquiry was called in order to enhance the economic development of Norfolk Island. That there was a need to address such issues was a widely acknowledged sentiment on the island at the time.

Chapter 1 of the Report was introductory and referred to the many reports and studies that had been carried out of Norfolk Island in the past, and in particular to the Norfolk Island "Road Map" jointly agreed by the Commonwealth and the Norfolk Island Government in March 2011. The chapter expressed some impatience at the slow rate of progress on changes deemed important by the Australian Government.

(i) non-adherence to the Terms of Reference

The Terms of Reference of the inquiry referred to opportunities for economic growth. The Chair of the Committee Mr Luke Simpkins confirmed his understanding of this in an email alert service message from the House of Representatives on 24 March 2014:

The Committee does not wish to replicate the work of prior reviews or complementary processes like the Norfolk Island Roadmap. We are interested in exploring innovative ideas for tourism and opportunities to establish or grow other industries with a promising future.

The Chair repeated this understanding in his opening remarks at the hearings conducted on Norfolk Island on 29 April 2014:

The committee is not seeking with this inquiry to replicate the work of previous reviews or complementary processes which look into wider governance issues. Rather, this inquiry focuses on one of the aspirational goals of the Norfolk Island road map—namely, positive action to encourage diversification and a broadening of the island's economic base.

However in its Report the Committee did not feel constrained by its Terms of Reference. The primary and over-riding recommendations of the Committee concerned the removal of self-government from the island. The Committee justified this transgression with the glib comment:

"Whilst the Committee's original intention was to focus on economic development and leave governance matters aside — not least because they were not spelled out in the terms of reference — it soon became apparent that sound governance underpins any discussion of economic development." (JSCNCET, 2014, p.7)

As far as is known no such understanding was communicated by the Committee to any party prior to the publication of the Committee's report. In particular – and as we have just seen – parties on Norfolk Island were specifically inhibited from addressing matters of governance in their submissions to the Committee. This conduct by the Committee was as appalling as it is indefensible. If the purpose of the exercise was to take away the declared and recognised rights of the citizens of an external territory, then the accused should at the very least have the opportunity to make a statement in their own defence. If the Committee's thoughts were tending towards the inclusion of governance issues in their Report then as a bare minimum additional hearings should have been held and an opportunity given parties to explore the merits and demerits of the removal of democratic rights.

(ii) equation of economics with democracy

The JSCNCET Report contains no discussion of the political or democratic ramifications of the Committee's extending its Terms of Reference to such matters. The implicit assumption made is that the democratic forms established on the island since 1979 and the community values inherent in them can be reduced to decisions about economic development. This is a substantial intellectual failure on the Committee's part. "One dollar one vote" is not the same thing as "one person one vote". No government in Australia acting on behalf of its citizens would countenance such an equation.

Robert Dahl, American doyen of twentieth-century scholars of democracy, noted that democracy provides opportunities for: (1) effective participation; (2) equality in voting; (3) gaining enlightened understanding; (4) exercising final control over the agenda; (5) inclusion of adults. (Dahl, 2015) In these terms the governance changes promoted by the JSCNCET – and subsequently implemented by the Australian Parliament – must weigh as a profound loss to the island in any assessment of the Australian Government's recent intervention on Norfolk Island. As was noted by internationally regarded human rights lawyer Geoffrey Robertson QC in regard to Norfolk Island: "Well it has got financial problems and there are different ways of dealing with them, but you can deal with them without ending democracy." (Robertson, 2016a). Robertson was elsewhere to characterise the Australian Government's actions as: "the recolonization of Norfolk Island is a heavy-handed act of regression". (Robertson, 2016b)

The tragedy involved in this loss is exacerbated by the Committee's mis-diagnosis of Norfolk Island's problem as will now be described.

(iii) problem mis-diagnosed, solution a *non sequitur*

The Committee in its Report took the view that over the years 1979-2014 the economy of Norfolk Island had been a "failure", and *therefore* the form of government on the island needed to be changed. (We will refer to this as the Committee's "central proposition".) What the Committee took as "success" appears to have been that the Norfolk Island Government needed to have a balanced budget and adequate provision for infrastructural improvements. This criterion is so high that few if any governments in Australia would meet it, and for reasons that will be set out below it is totally inadmissible to hold Norfolk Island to that standard. However what the Committee failed to appreciate was – and as will be demonstrated below (Section 2.3(i)) – that balancing the Norfolk Island budget and providing adequately for infrastructure has much to do with economic scale and marine isolation and very little to do with governance. The problem was mis-diagnosed by the JSCNCET: as it was by its interlocutors Mr Pope and Mr Yates (see Section 3.1).

Furthermore, *even if* it were true that the Norfolk Island economy over the years 1979-2014 had been a "failure" (which on the evidence presented here is untrue), the idea that the solution proposed by the Committee is a necessary consequence for future economic improvement is a *non sequitur* i.e. it does not follow necessarily from the premises. In fact the remedy proposed was merely one of a number of possible remedies, no others of which were considered or even mentioned by the Committee (see Section 2.3(ii)).

Before taking up these matters however it is necessary to describe the manner in which the Committee arrived at its position.

2.2 "Chapter 2: Economy and governance"

Chapter 2 of the Report, entitled "Economy and governance: time to end the stalemate", dealt with matters relating to: the economy; tourism and its growth; and the budget deficit and insolvency. We will deal with these issues in that order.

(i) economy

This section of the JSCNCET Report opened with the following general statement on the Norfolk Island economy:

The previous Committee visited Norfolk Island in April 2013 and reported that the economic situation there has continued to deteriorate. Specifically:

- ◆ *Economic activity was down 24% on the previous year;*
 - ◆ *Approximately 40% of shops had closed;*
 - ◆ *Approximately 25% of the male population aged 25-50 had left the island since August 2011;*
 - ◆ *Overall population had dropped by 9.4% since August 2011; and*
 - ◆ *Tourism trends were variable; March better than the previous year, July worse.*
- (JSCNCET, 2014, p.9)

This is an accurate restatement of what the earlier JSCNCET reported after its visit to Norfolk Island in April 2013. However the basis for the original 2013 statement is merely "In September 2012 the Committee was advised that..." (JSCNCET, 2013, p.9), nothing more: no source, no reference, no justification.

In fact the statements made in this quoted "advice" are at least equivocal if not false, in almost every particular. First, there is no evidence in any official document available in mid-2014 that such severe change in the economy over the course of a year (2012-13 to 2013-14) actually occurred. Measured economic activity in any jurisdiction does not decline 24 per cent in a year except in wars or famines; and the idea that 40 per cent of the shops closed is absurd according to people living on the island at the time.

As for the proposition that overall population dropped 9.4 per cent over the year August 2011 to September 2012, we have some clear figures to assist. In those times *The Norfolk Islander* published weekly figures of persons on the island derived from Norfolk Island Government immigration data. Although the data time series is incomplete, Table 2 provides relevant information. It shows that there is no evidence in the population figures *whatsoever* that there was a 9.4 per cent annual drop in population.

Table 2. Norfolk Island population at specific dates

Week ending	Residents	*GEPs	*TEPs	Other	Tourists	Total
4 Feb 2011	1,411	160	296	33	261	2,161
1 July 2011	1,352	152	295	18	397	2,214
27 Jan 2012	1,333	174	284	17	450	2,258
7 Feb 2013	1,289	162	283	9	529	2,272

* GEP = General Entry Permit holders; TEP = Temporary Entry Permit holders

Table 3 contains figures from well-sourced statistics which describe aspects of the Norfolk Island economy over the years in question. They provide no evidence for the contention that economic activity on the island dropped 24 per cent in any one year.

Table 3: Some economic statistics for Norfolk Island FY 2009-10 to FY 2014-15

Item	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Number tourists	26,339	24,268	25,133	22,684	24,731	26,660
Change from prev. yr.	--	-8%	+4%	-10%	+9%	+8%
Customs duty paid (\$k)	1,296	1,010	1,051	1,204	1,117	1,256
Change from prev. yr.	--	-22%	+4%	+15%	-7%	+12%
GST collected (\$k)	7,946	7,535	7,586	6,813	6,395	6,070
Change from prev. yr.	--	-5%	+1%	-10%	-6%	-5%
Liquor bond revenue (\$k)	4,111	3,499	3,726	3,436	3,604	3,316
Change from prev. yr.	--	-15%	+6%	-8%	+5%	-8%

Source: NI Annual Reports (current dollars)

The claims retailed to the JSCNCET in April 2013 and included by them in their report of June 2013, and repeated verbatim by the JSCNCET in their Report of October 2014 would, in the vernacular, be described simply as "rubbish". We do not know who the source was for the quoted numbers, or what their motives may have been for promoting them. What is of most concern however is that whether they were true or false appears to have been of little or no concern of the earlier Committee which merely accepted them, nor of the later one which merely repeated them. This is doubly remarkable as the above quotation is the major general statement about the Norfolk Island economy at that time contained in the 2014 Committee's Report.

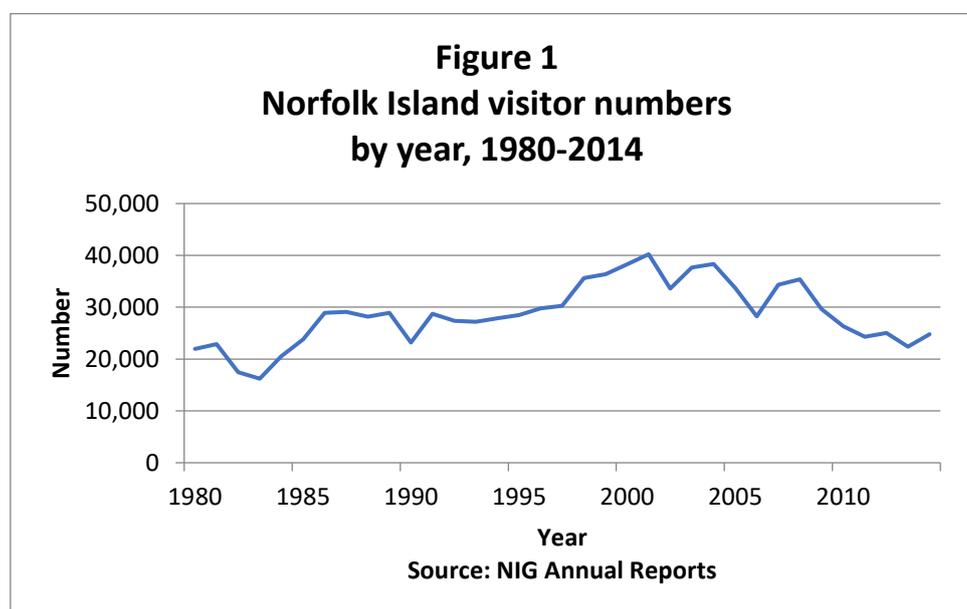
Given their importance to what followed, these claims should have been investigated before they were used by the JSCNCET in 2014, and corrected. It is this sort of shoddy compilation which bedevils and belittles this Report and its findings (and on this matter see further, variously, below). And further detail on the performance of the Norfolk Island economy over time which contradicts the quoted "advice" (above) is presented in Appendix V.

Such negative but unreferenced figures set the tone for the remainder of the Report's Chapter 2. In regard to the island's economy, one businessman is reported having "painted a grim picture", a visitor to have observed "a noticeable decline", with the Committee emphasising "people doing it tough" and headlines the propositions of "declining population and family dispersal" and a "decline in tourism", even to the extent of quoting one witness' concern for the lack of range in quality shoe sizes in the

island's shops. The section provides a remorseless catalogue of failures on the part of the Norfolk Island Government and Administration: almost nothing, it seems, is worthy of note as an improvement or of value. However as we have seen, and will see repeatedly below, the criticisms are not what they seem.

(ii) tourism

the decline in tourism. Numbers provided by the general manager of the Norfolk Island Government Tourist Bureau (NIGTB), provided statistical background to the matter of tourist numbers as described in the Report. These numbers demonstrated that, following some years of decline there had been a nine per cent increase in visitors from 2012/13 to 2013/14. The general manager is reported as noting at the hearings: "...I cannot see any reason why that growth will not continue, albeit at a slower rate...". The manager of Pinetree Tours supported those sentiments. On the other hand the representative of TTF (an industry advocacy group based in Sydney) is recorded in the Report as noting the decline in tourist numbers from 2003 to 2013-14, as did others witnesses. Figure 1 provides a graph of the numbers at issue.



The Committee in its Report made much play of the "decline in tourism" but nowhere is there any consideration – by either the witnesses or the Committee – of the possible causes of the decline in numbers and whether they were or were not causally related to the conduct of the Norfolk Island Government. We will therefore provide some evidence here.

The first issue that needs to be noted is the introduction in Australia of the 10 per cent GST on 1 July 2000. This replaced an earlier wholesale sales tax system. Under this latter system and as a duty-free territory, Norfolk Island was able to benefit by offering duty-free shopping (on some goods) as one of the opportunities for tourist visitors. The introduction of the GST in Australia removed this opportunity. It is not fortuitous that the secular decline in tourist numbers to the island commenced at this time.

The second issue that needs consideration is the working out of the aftermath of the global financial crisis of 2007-09, the worst global recession since the Great Depression of the 1930s. Although Australia escaped relatively unscathed, in 2008 Australian household savings as a percentage of household disposable income jumped from two to over seven per cent (OECD, 2018), taking around \$8bn annually out of the discretionary household spending in the eastern states (Trading Economics, 2018), and this household savings rate remained above seven per cent until 2015. There can be no doubt that this had a major negative effect on tourism spending by households in the eastern states of Australia.

Third, in Australia in the early years of the twenty-first century cruise ship tourism experienced spectacular growth, with the sector growing sixfold in the decade 2002-12 to a total of almost 700,000 cruise passengers. There had been eight consecutive years of double-digit growth in cruise tourism and this was expected to continue. (House of Representatives, 2013) Between 2008 and 2017 cruise passenger numbers for Australia grew at an average of 18.5 per cent per year. (CLIA, 2018)

Fourth, tourist losses may have occurred as a result of the failure of Norfolk Island Airlines in 2011, although any such would have been very minor in comparison to the aforementioned reasons.

Of any of these matters no consideration is to be found in the Report as to how they might relate to the key issue of Norfolk Island governance.

barriers to growth in tourism. The Report records that Austrade in its verbal submission did note some external factors that were beyond the ability of the Norfolk Island Government to control, namely the global financial crisis and island resource constraints.

The Report goes on to quote from DIRD's submission which purported to identify "*a number of internal factors which have accelerated [sic] the decline of the tourism industry and hampered a recovery*". In the context of the Report the list is a strange one, to be considered more fully in Section 3.2. Here, the major point is to record that once again neither the witness nor the Committee appeared to have been interested in establishing the limitations, or the veracity, of the information being provided.

The JSCNCET Report text then provides a dot point list of a score of issues raised by island tourism stakeholders to the general manager of the NIGTB as matters of concern. The list contains items ranging from current concerns of relevance to blue sky and aspirational issues, and was reproduced in the Report without comment. This list was augmented with a further list of 11 points raised in submissions to the inquiry: once again without comment.

These two lists were scattershot. Some of the issues noted were clearly the responsibility of the Australian Government (longer term air service stability, restricted Commonwealth tourism grant access, limited engagement with Tourism Australia and exclusion from the Australian Tourism Data Warehouse (ATDW)); other issues would have responsibility shared between the Australian and Norfolk Island Governments (uncertainty on taxation regime, lack of clarity on future governance); other issues had no obvious solution at all for the island (high air and sea freight costs, insurance costs, expensive electricity and telecommunications). For those issues which might reasonably fall to the responsibility of the Norfolk Island Government alone, some were routine issues that might occur in any town or province (waste management practices, lack of appropriate roads maintenance and adequate footpaths, lack of a suitable convention, entertainment or sports centres); others were complex socio-economic issues which in any society cannot be determined purely on the basis of the needs of tourism ("planning requirements and zoning that makes it difficult to change residential dwelling to registered tourist accommodation", "outdated legislative regulations", restrictions on and opposition to immigration, and high Norfolk Island import duty). Remarkably even this level of discrimination between issues and responsibilities appeared to have been beyond the Committee's capacity or interest.

Amongst the misdirected complaints in the list of points was the proposition: "*... Government Business Enterprises (GBEs) — charging higher than desirable fees as a general revenue measure to cross-subsidise other activities, rather than charging on a cost-recovery/fee for service basis.*" As an argument against then-current Norfolk Island Government practice, this is nonsense. There is no reason why as a matter of policy a government such as that of Norfolk Island should not cross-subsidise activities. Without here setting out the details of the matter, the observation might usefully be made that private enterprises (vertically integrated and horizontally networked) regularly cross-subsidise their activities, as do governments. The relevant issue is merely one of transparency in policy and accounting.

Another specious claim made in the list was of "*an old sewerage system, which only serves part of the Island*". Norfolk Island's sewerage system is not old: it was commissioned in 1990 which in comparison with many sewerage systems would make it relatively new. A City of Sydney report found that more than 50 per cent of the water infrastructure in the city (water mains, sewage pipes, drainage pipes) was more than 70 years old. (ABC, 2015) The PVC piping in the Norfolk Island system, which constitutes around 95 per cent of total piping, typically has a lifetime of over 100 years. Furthermore the proposition that the system should be extended across the island is ridiculous in its presumption, because of the low population density and consequent cost.

Such gratuitous and negative comments by witnesses, left unverified and repeated by the Committee, bedevil the Committee's report and render it grossly compromised. It is hard to resist the impression that the report was designed to throw failure at the Norfolk Island Government. The report contains no justification for the Committee comment that followed:

Committee comment

2.23 Many of the barriers to growth in tourism will only be satisfied by a change in governance arrangements.

2.24 Taking just one of the significant barriers — limited engagement with Tourism Australia — illustrates how the self-governance model does not serve the best interests of Norfolk Island's tourist sector and economy.

The first comment (2.23) is bizarre, as in the catalogue of issues given (above) there is no discussion as to why these might require a change of governance for their solution – or indeed whether the individual issues were the responsibility of the Norfolk Island Government or some other body. The statement is founded almost wholly on personal supposition rather than evidence (and on this see further Section 3.1). With no analysis of *reasons*, the prescription is incoherent.

Regarding the second comment (2.24), the Report spent three pages in discussing (mainly by quotation) Norfolk Island's lack of engagement with Tourism Australia (TA), and in particular access to the Australian Tourism Data Warehouse (ATDW). Comment 2.24 implies this to have been the Norfolk Island Government's failure. The facts of the matter were that the NIGTB had on a number of occasions approached TA with the aim of seeking assistance, particularly with tourism promotion and access to the ATDW, but this was never achieved. A formal proposal was made to TA for Norfolk Island's inclusion in the ATDW in the latter part of 2013, but six months later TA had not responded. (NIGTB, 2014) In its written submission to the JSCNCET inquiry Tourism Australia stated:

There is no part of the Tourism Australia Act 2004 which would prevent Norfolk Island being included in TA programs, however administrative measures, such as a ministerial directive, would be required to facilitate this. Inclusion in marketing programs would be subject to negotiation between the Norfolk Island Government and Tourism Australia.

So a simple start could have been made by ministerial directive. It is not clear why, as the Committee believed, a change in governance was required to facilitate access to TA services. (In fact the situation with regard to Norfolk Island's access to TA facilities remains unchanged to this day – November 2018).

(iii) deficit and its supposed consequences

revenue, expenditure, insolvency. The Report records that the Minister of Finance in the Norfolk Island Government in his verbal submission to the hearings on Norfolk Island, stated that the Government showed a deficit for the year of \$7.5m, and identified the fact that while having the ability to fund recurrent expenditure it was unable to cover investment.

The Report follows this with text concerning: insolvency; transparency, accountability and tax practices; and lack of on-island expertise. On the matter of insolvency the Report quotes from the DIRD submission made on behalf of the Australian Government that "the condition of infrastructure on the island is not far from critical failure" and that "without Australian Government emergency funding Norfolk Island would be bankrupt", and follows this by quoting verbatim over one page of text from the DIRD submission itself along similar lines. The first part of this quotation refers to what DIRD took to be a "severe economic downturn" on the island between 1997 and 2011. For reasons set out in Appendix V this claim by DIRD must be considered false, but was repeated uncritically by the Committee in its Report. [Note 4].

The core of Norfolk Island's solvency problem according to DIRD was that *"The Island's ability to diversify economically and to attract new investment has been limited by the closed culture and monopolistic role of the Norfolk Island Government in the economy and the associated protectionist legislation that supports this role"*. This statement repeats a view expressed in a 2012 consultancy report by ACIL Tasman. [Note 5] This particular consultant report, imbued with the principles of the Australian microeconomic reform programme, did not however pause to consider the extent to which such principles might or might not have relevance to a small, marine isolated economy: whether the reduction in economic protective barriers, privatisations and deregulation were appropriate; whether a conservative economic culture and a strong role for government might contribute positively to the economy of an isolated island; nor did it provide any calculations as to how its own prescriptions were actually going to balance the books. (For a critique see Maywald (2012)). Nor did such matters apparently bother DIRD in making its submission to the Inquiry. (For which see further Section 3.2)

In summary the Committee in its Report commented as follows:

Committee comment

2.53 The Commonwealth Government and NIG are in an unenviable situation of having to negotiate annual 'emergency funding arrangements' in order to stave off bankruptcy. Having compliance and co-contribution conditions put on that agreement that the NIA is ever hard-pressed to meet is nonsensical.

2.54 The unfortunate economic reality is that Norfolk Island is now dependent on the Commonwealth for survival.

Hyperbole apart, these Comments fail to distinguish between operative budget (mainly covered) and long-term budget including investment (which was not). The deduction made by the Committee was the following:

"self-government is just not working". The proposition made was that because Norfolk Island was not generating a surplus overall, therefore there was need for a major change in governance (the "central proposition" of the JSCNCET Report). This logic was promoted in evidence by Mr Yates, quoted approvingly by Mr Pope in his written testimony, and repeated in the JSCNCET Report:

"The expectation for a community of around 2,000 people to have the governance, the financial, and the skills to run a semi-sovereign state, more or less, just not practical. It cannot be done. They probably have not been financially viable from day one... I do not see how a community of that size will ever be remotely self-sufficient in a funding sense, which is what the current governance model requires."

In the following section we point to the practical irrelevance of this statement, and some directions in which a more constructive analysis may be found.

2.3 Report's "central proposition" a *non sequitur*

The JSCNCET Report's central proposition is that because Norfolk Island is not financially self-sufficient in a long-term sense, therefore they should have to undergo the Yates/Pope prescriptions for governance change (as later enshrined in the *Norfolk Island Legislation Amendment Act 2015*). This is a *non sequitur* – that is, the conclusion does not follow from the premises. The identified problem that needs to be solved is the approach to the deficit, not the mode of governance.

(i) local authorities within Australia

In Australia there are around 540 local government bodies covering a diverse range of metropolitan, regional, rural, and Indigenous communities. Of these, about 60-70 per cent are classed as regional or rural. It has been well known in Australia for many years that the financial sustainability of local governments is a serious problem, and this subject has been the focus of many enquiries. All of them show that there has been a secular decline in local infrastructure, with "own-source" revenue unable to cover necessary investment. State-based surveys suggest that between 25 per cent and 40 per cent of Australian councils are probably financially unviable, while a sample-based national survey by Price Waterhouse Cooper indicated a figure of between 10 and 30 per cent. Those local governments considered the least financially viable are accumulated in the categories of "rural agricultural" and "rural remote". (Access Economics, 2006; Price Waterhouse Cooper, 2006; Dollery et al., 2006). The situation appears to have changed little in these respects over the last two decades (Dollery et al., 2013). An analysis by the NSW Treasury Corporation (2013) found that in 2012 only one third of NSW councils reported an operating surplus, and that the financial sustainability position was expected to deteriorate for nearly 50 per cent of all NSW councils.

The facts of the matter are that many of the Australian local governments – particularly those that are regional or remote – have had the same problem as Norfolk Island, and for similar reasons; and in the case of Norfolk Island, by removing the island's general revenue-raising powers the Commonwealth may well have made the position worse. The idea that by changing governance arrangements the economic situation on Norfolk Island would magically be restored, was fanciful. Not the Australian states nor even the Commonwealth itself fulfil the JSCNCET central criterion for "success". (In Australia, Commonwealth and state governments and others have put much effort into trying to resolve this issue of financial sustainability in local governments, and some proposals have been forthcoming. However in a longer-term sense the issue remains essentially unresolved.)

(ii) small island possibilities

It needs to be emphasised too that the issue just described is not just an Australian issue but is global, and common for a wide range of small island economies across the world, irrespective of their style of government. (UN-DESA, 2013).

Let us therefore consider responses to the isolated island deficit problem from a more open and less dogmatic perspective. Around the world these islands exhibit different forms of government, often determined by a superior Power, and their financial needs are covered by different means. Here we note some policy possibilities of relevance to the Norfolk Island situation (the list provides *examples only* and is not intended to be exhaustive):

- ◆ The island of Niue has the status of free association with New Zealand, and is acknowledged as a recipient of aid;
- ◆ the Åland Islands (part of Finland) has some governmental autonomy including receipt of a fixed percentage of annual Finnish Government revenue per year (and the Finnish Constitution refers specifically to the "Constitution of Åland");

- ◆ Niue, Cook Islands, Samoa, do not use land rates as a revenue-raising measure (a measure that has caused particular anguish on Norfolk Island);
- ◆ In Canada the Province of Newfoundland and Labrador keeps 100 per cent of its offshore oil and gas revenue without endangering its equalisation payments from central government;
- ◆ Instead of fixating on the measurement of Gross Territory Product (GTP), Norfolk Island might follow the lead of the Government of Bhutan and give greater attention to the measurement of Gross National Happiness (GNH) (Royal Government of Bhutan, 2018);
- ◆ Falkland Islands is a British Overseas Territory with internal self-governance, economically self-sufficient, an economy based on sustainable fisheries, sheep farming, as well as ship supply and eco-tourism, could supply useful insights;
- ◆ Rather than see Norfolk Island as a so-called "part of New South Wales" the Australian Government could envision it as a semi-autonomous model system of 21st-century sustainable living, and a showpiece for Australia's commitment to the Pacific Region and its values.

The Norfolk Island Government has itself produced alternative ideas for its own future, including the Norfolk Island "Road Map" document of 2011 (in association with the Commonwealth); the Norfolk Island Government's "Preferred Model of Self-Governance" (NIG, 2014a)(reproduced as Appendix IV), and the proposed Economic Development Model (NIG, 2014b). The Norfolk Island People for Democracy together with the Norfolk Island Council of Elders are also engaged in developing a vision for the island's future wellbeing alternative to that of the present regime.

It is also appropriate to note here the metronomic consistency with which the Australian Government has rejected innovative proposals for economic development put forward over the years by the Norfolk Island Government. These include:

- ◆ The minting of Norfolk Island coinage, exchangeable at full value for Australian currency (1993-94);
- ◆ Establishment of an offshore financial/banking centre on Norfolk Island under the aegis of the Australian Government (1997, 2010);
- ◆ Establishment and location on Norfolk Island of an appropriately structured Australian International Shipping Register (2013-14);
- ◆ Proposal to develop a small-scale offshore commercial fishery in the Norfolk Island exclusive economic zone (2010-14);
- ◆ The cultivation of medicinal cannabis (twice, 2014 and 2015);
- ◆ Connexion of Norfolk Island to the Hawaiiki undersea trans-Pacific cable (2016).

There is a growing body of academic literature bearing on the economy, governance and culture of small islands and sub-national territories, both in general journals and in such specialist journals as *Island Studies Journal* and *Shima*. Seminal books include Baldacchino (2010). It is not evident that any of this literature had been accessed by the Committee before writing its Report. It highlights the poverty of effort given to such considerations by the Committee in their construction of Norfolk Island's future.

What the foregoing considerations show is that:

- (i) the issue of financial deficit is not something unique to Norfolk Island but shared with many other small territorial jurisdictions in Australia and around the world; and that
- (ii) adequate dealing with the deficit in Norfolk Island's case will require greater innovative and imaginative approaches than have been observed from the Australian Government so far.

2.4 Issues ignored in the Report

(i) island social and cultural issues

In the JSCNCET Report the word "community" occurs over 70 times. However the Report contains no attempt to clarify what the Committee thinks "community" on a small island consists in, how it functions, or how governmental actions might impinge upon it. (For its relation to governance in Australian in-shore islands, see Sinnewe et al. (2015).)

Discussion of "culture" in the Report is restricted to the second-last paragraph of the whole Report under "Concluding Comments". Here it is proposed that: "ultimately, the only way to have a strong culture is to have a strong economy" a supposition made by one witness without evidence and repeated verbatim in the Report. The rationale given in the Report is that " the reforms have the potential to bring people together and to keep Norfolk's special and unique culture alive and vibrant for centuries to come." On the contrary, the evidence from Australian Aboriginal experience over the years would contradict the Committee, and as for Norfolk Island the strong belief would be that the unrestrained immigration now in place will undermine the island's social institutions and symbols, delegitimising its existing culture and contribute significantly to the dilution of Norfolk Island's identified "special and unique culture": as has happened in similar circumstances on many Pacific islands.

(ii) consequences, losses

The Report contains no thoughtful weighing of the consequences of its own recommendations: what might be referred to broadly as benefit-cost analysis. It is a remarkable aspect of the JSCNCET's Report that almost everything mentioned in relation to Norfolk Island governance is bad or in error while everything that is proposed is good and should be counted as a blessing. In reality the policy that has only upside and no downside is yet to be discovered. (A list of losses experienced on the island following the recent Australian Government intervention was given by Nobbs (2016a).)

The lack of consideration of consequences is a specific example of a more general characteristic of the Report, namely the lack of any sense of balance in its assessment of the issues.

2.5 JSCNCET Report: A Summary

The JSCNCET inquiry and Report failed to do justice to the nature and complexities of the issues they were meant to have examined in their original brief. The Report failed to provide any manner of balanced view of the matters it considered, or adequate rationales for its decisions.

The Committee appears to have surrendered any interest in establishing the veracity of what it was told by witnesses: it appears to have proceeded largely by "trial by anecdote".

We shall now examine the contribution of major submissions to this circumstance.

3. Commentary on Some Individual Submissions

Table 4 provides counts of the number of citations made in the Report originating with the various written submitters and verbal presenters. Numbers given are for the whole Report, and for Chapter 2 on "Economy and Governance".

Table 4. Citations in the JSCNCET Report

Source	Number of citations (n)	
	All chapters (n > 10)	Chapter 2 (n > 5)
Mr Neil Pope	39	13
Mr Julian Yates	34	11
DIRD	32	6
NIG	26	6
NIGTB	20	6
Carnival Australia	19	—
Mr Dick Massicks	18	10
Austrade	14	(3)
Transam Argosy	12	—
Tourism Advisory Group	11	7

The Table shows that the most numerous citations overall were from Mr Pope and Mr Yates, ahead of DIRD, NIG and NIGTB. This ordering is also reflected in the number of citations in Chapter 2, with the addition of those from Mr Massicks.

3.1 The Pope/Yates submissions

Messrs Neil Pope and Julian Yates provided submissions to the inquiry as private citizens although both in the past had been involved professionally in aspects of Norfolk Island affairs. In their written submissions and verbal presentations both emphasised the issue of governance almost exclusively; both equated Norfolk Island's "failure" with its inability to turn a profit; and both jumped to the conclusion that a change in governance was needed. The threadbare nature of this logic has already been exposed.

(i) submissions by Mr Pope

Mr Neil Pope – Victorian businessman, former state politician and former Administrator of Norfolk Island (1 April 2012 to 30 June 2014) – provided a written submission to the Committee on 11 July 2014 and spoke to this submission with the Committee on the final day of hearings, 18 July 2014, in Canberra.

Opening his written submission Mr Pope opined that: "There is little point in merely bringing in the Australian taxation and benefit scheme, without a change in the governance arrangements, as this in itself will not make Norfolk sustainable." He then gave his recommendations as a list commencing with: repealing the *Norfolk Island Act 1979*, abolishing the Norfolk Island Assembly and eventually establishing a local government body; a transitional administration; and the introduction of the Australian taxation and welfare system. His major point was that Norfolk Island "self-government in 1979 was ill conceived." In concurrence with Mr Yates he believed this to be so because Norfolk Island did not appear to have the necessary capacities to run a "semi sovereign state". He went on to criticise the "intellectual capacity" on this island and "the gullibility of many of the residents" adding that "possibly the most gullible were some of the politicians and ex-politicians". (Other people with knowledge of the situation might well refer to that as "trust".)

In his appearance before the Committee Mr Pope expressed his view that "the community on Norfolk Island is not that different from any other small community throughout Australia" (for an alternative view see Nobbs, 2016b); objected to government cross-subsidisation (but see page 13 above); and once again referred to the Island's lack of "intellectual capacity". Others were criticised as having "vested interests" (which seemed to mean anyone he found who disagreed with him: after all, every resident of Norfolk Island had a legitimate vested interest in the outcome of the inquiry process); and the 14th Norfolk Island Government was criticised as "a moribund group and needs to be removed" (a sentiment that might be held by around fifty percent of federal Australian electors of their own government). Finally Mr Pope declared that in relation to the form of any post-reformed government: "I have a very open mind about the actual form of that. I have a very closed mind on the present government".

Mr Pope's rhetoric, naïve hypotheses, and lack of supportive evidence, were evidently delivered with elan and appeared to have impressed the Committee, as their final Report incorporated almost all of his proposals.

(ii) submissions by Mr Yates

Mr Julian Yates, retired senior Commonwealth public servant with sometime responsibilities including Australia's external territories, provided a thoughtful submission. He recognised the uniqueness of Norfolk Island and its problems; the funding problem experienced by Australian local authorities; the importance of culture; that if a transition were to happen then benefits should be introduced before taxes. He appears to have been the only witness before the Committee with courage enough to admit that some people would be hurt by any major transformation. He made it explicit that the need for new governance was based on the assumption that Norfolk Island should be independently financially viable. His was also a submission based on false logic and relatively circumscribed purview.

Mr Yates' reasoning appears to go along the following lines: (a) there is a general feeling that there needs to be change; (b) the experiment in self-government has failed because of lack of "governance, financials, and skills", and because the island is not financially viable; (c) as a net beneficiary Norfolk Island needs to pay tax; (4) There needs to be a whole new governance structure for the long term; (e) Some people will go broke and need support. Specific reasons given by Mr Yates for the need for a new governance structure were that:

- (1) the state of infrastructure was inhibiting private investment;
- (2) islanders have to go offshore to find work;
- (3) it would improve prosperity and hence means of enhancing the island's "unique culture";
- (4) there were barriers to immigration and entry into business;
- (5) the island was being used as a tax haven.

We would make the following comments in relation to these points:

(1) It is not clear that "the state of infrastructure is inhibiting private investment" has been the case in the past: witness the larger-style hotels and resorts currently in place. And there is no reason given why private enterprise should not invest in the infrastructure *per se* under favourable terms – as many private investment firms have done in Australia and elsewhere in the twenty-first century. (It would seem clear to some that such lack of investment in Norfolk Island has much more to do with economic scale than governance structure.)

(2) Young Norfolk Islanders have always been encouraged to go offshore – for reasons of work specialisation, education, family, or just to explore the world. Often these same people return – and with specialist skills and capital – later in life. From the early 2000s some young Islanders have participated in the Australian mining boom (as those in Australian rural towns have): that would seem to be without consequence.

(3) There are two hypotheses here: (a) that the proposed new governance structure would improve prosperity – a claim unproven by any economic modelling (see Common, 2015) or by experience to date; and (b) a stronger economy leads to a stronger island culture – a claim indubitably false as the island's cultural base is continually diluted by unrestrained immigration (see Section 2.4(i)).

(4) With regard to barriers to immigration and entry into business, Mr Yates wrote that: "The key factor was the requirement to buy an existing business, with new businesses being discouraged or prevented" and "You could not open a new business. You had to buy an existing business". This was never true. It is true that immigration control to Norfolk Island was exercised by the Norfolk Island Government in order to keep some sort of balance between employment supply and demand, and try to ensure that newcomers would fit into the island community. However it was never true that a prospective immigrant wishing to start a business had to buy an existing one: the *Norfolk Island Immigration Act 1980* clearly set out that applicants with something to offer the island would be privileged in access (as Australia does with its own immigration policy).

(5) Following on from point (4) Mr Yates contended that high net worth individuals were using Norfolk Island as a tax haven (no dates specified). Such an indiscriminated claim needs to be put in context. Final appeal on Norfolk Island immigration matters always rested with the Commonwealth Minister, and some of the persons referred to took this route to immigration approval. And on the other hand Norfolk Island has over many years benefitted greatly from benefactions given by private individuals to the hospital, dental surgery, the aged care facility, education, and community well-being. Furthermore it is unclear why in the twenty-first century individuals would use Norfolk Island as a tax haven rather than the much more advantageous global opportunities currently available. No evidence was presented beyond anecdote to support the contention.

On examination, Mr Yates' bucket does not hold much water. There were other deficiencies in Mr Yates' views too e.g. relating to government business enterprise cross-subsidisation (above, p. 13); the island's sewerage system (above, p. 14); and the claim that Norfolk Island had "virtually no social security" (a common claim, regularly made, regularly refuted, and regularly repeated: see for example (Nobbs, 2018, p.16)).

(iii) summary

These two major witnesses who strongly advocated the new governance arrangements did so on the basis of opinions and untested hypotheses rather than on clear analysis of cause and consequence, or data. At their core was the failure to consider adequately the financial consequences of small size when combined with marine isolation.

Both witnesses may be said to have come from an Australian political/bureaucratic background which informed their views. There is no reason why evidence from Committee witnesses should not be biased in such ways, as opinions and ideologies will vary amongst all witnesses. However for the Committee itself it is unconscionable that it did not attempt to validate the opinions of two individuals so closely aligned to purposes of the Commonwealth, or give opportunity to alternative views to be heard. Why these two witnesses were provided privileged access to the Committee on these matters has not been explained.

One aspect of these two contributions which could obtain general agreement would be Norfolk Island's need for additional expertise and assistance in matters of administration and policy advice. That is not uncommon however, as all governments buy in technical skills and advice as needed. A revolution is not required to provide it.

3.2 The DIRD submissions

(i) general commentary

DIRD in its written submission on behalf of the Australian Government appeared keen to stress the negative aspects of Norfolk Island's economic experience, espouse the virtues of strong intervention, and advocate a broadly free market approach to the Island's future. DIRD pointing to: what it believed to be the "severe economic downturn" between 1997 and 2011 (see Section 3.2(ii) below); attested that "Norfolk Island's revenue base is presently too small to fund the breadth of its responsibilities"; and referred to "a closed culture", "unregulated monopolies", and its own support for privatisation.

The submission went on to consider the financial position of the Norfolk Island Government, and to discuss the Australian Government's priorities, stated as:

- (1) improving the deficit position of the Norfolk Island Government;
- (2) implementing measures to open markets and remove barriers to investment;
- (3) directly supporting efficient and reliable air services;
- (4) supporting the delivery of the waste management and Cascade Jetty projects, and addressing critical infrastructure gaps; and
- (5) maximising the economic impact of Australian Government assets through cultural tourism and improving Governance and increasing Capital and Strategic Funding.

DIRD seemed to take the view that the cause of the economic downturn was essentially a matter of governance and the "closed culture and monopolistic role of the Norfolk Island Government", with high prices of electricity and freight standing as accusations against the Norfolk Island Government rather than on-going and inevitable consequences of severe isolation.

DIRD's view of Norfolk Island's legislation and regulations was that "The majority of its own legislation and regulations are antiquated and need modernising, streamlining and aligning with mainland legislation." This is a travesty of the facts. The Norfolk Island's legislative regime reflected the priorities, needs, and circumstances of Norfolk Island as determined by local democratic processes. The legislation was accessible and there was an on-going law reform process. With regard to island legislation relating to child and family protection, a recent review by a former NSW Supreme Court judge found it of high quality and in need of only minor modification. It is not clear on what evidence DIRD's opinion was based.

With regard to tourism, DIRD's submission also purported to identify *"a number of internal factors which have accelerated [sic] the decline of the tourism industry and hampered a recovery"*. The list is a strange one, including: *high accommodation and event costs when compared to other overseas holiday locations close to the mainland i.e. South-East Asia.* (Comment: There was an oversupply of accommodation dating from 2006 and costs were comparatively low in 2014; Norfolk Island's competitive market was never SE Asia.); *Difficulty in identifying as a destination of choice for the masses of Grey-Nomad groups travelling in Regional Australia in mobile homes and caravans.* (Comment: As the profile of NI tourists shows, these were precisely the groups commonly attracted to Norfolk Island); *attracting new visitors and providing an ongoing variety of activity and entertainment to generate repeat visitation.* (Comment: Norfolk Island has always had high repeat visitation based on its permanent and static qualities; the attraction of new visitors is an important issue nonetheless.)

The submission went on to say: *"the Norfolk Island tourism product will need to change to creating new growth opportunities and continually varied activities cruise ships, niche markets, cultural tourism, events, festivals and eco-tourism."* All of which were being pursued at the time, as the annual reports of the NIGTB show.

Limitations based on severe isolation, small size, and the relevance of "microeconomic reforms" were not considered; nor it seems, any alert to the possibility of their own error.

(ii) a major error

The headline statement of the DIRD submission to JSCNCET inquiry was as follows:

Norfolk Island is currently experiencing a severe economic downturn with the Gross Territory Product of Norfolk Island falling by approximately \$20-30 million (in 2011 dollars) between 1997 and 2011. The economic output of Norfolk Island reduced by more than 10 per cent between 2009 and 2010 thus putting the Norfolk Island economy well behind the economic baseline set in 1995-96 in both real and nominal terms.

The text was repeated unchanged in the Committee's Report in relation to "insolvency". Appendix V to the present report provides a detailed examination of these claims and shows that they are both false and should not have been made. The falsity derives from the inadequate examination of the evidence by DIRD. The damage done to the reputation of the Norfolk Island Government consequent upon DIRD's false claims – no doubt repeated in other forums – is inestimable.

3.3 The Norfolk Island Government submissions and subsequent statements

The written Norfolk Island Government submission to the Committee was a much longer and more detailed submission, as might have been expected given their stake in proceedings (and being understood as to be about economic development).

With regard to economic development the submission acknowledged the recurring theme: "the need for major infrastructure works to improve tourism, and encourage diversification and broaden the island's economic base". The submission noted that the Government did not have the financial capacity to fund capital works or provide financial incentives to business investment. It sought Commonwealth agreement to a number of proposals, some innovative. One of the agreements sought was to the Norfolk Island Government's preferred model of territory self-government, originally promulgated in 2011, but in the Committee's Report this received one mention but no discussion as to its merits beyond quoted opinions. The model is included here as Appendix IV. The Norfolk Island Government submission also noted that they had produced a plan for economic revival (Norfolk Island Government, 2014b) and were seeking approval from the Commonwealth for the appointment of an economic development officer.

When DIRD's written submission became available, the Norfolk Island Government responded in a supplementary submission claiming that DIRD did not address the terms of the inquiry: "*The Norfolk Island Government is disappointed that the Department's submission does not address the Terms of Reference of the Inquiry. The submission focusses on the economic situation of Norfolk Island which, as the Committee Chair, Mr Luke Simpkins, MP, acknowledged, in announcing the Inquiry, is already well-documented.*" The Government was not to know at that point the content of the JSCNCET's final Report. The Norfolk Island Government's supplementary submission also took exception to DIRD's claims regarding 15 specific matters, claiming variously: inaccuracy, untruth, statements unsupported by evidence, failure to provide information, and failure of the Commonwealth to assent to legislation. In response DIRD defended its position on all points, in textbook bureaucratise.

The final Report of the JSCNCET was tabled in the Australian Parliament on 20 October 2014. On 13 November the Norfolk Island Government responded with a public statement signed by all Ministers, giving their response to the Report. (Norfolk Island Government, 2014c) The Government stated its view that it was not appropriate for the Committee unilaterally to broaden the Terms of Reference given to it, but rather "should have sought a review of the terms of reference from the Minister to include governance issues and the Norfolk Island Government and the community of Norfolk Island given an opportunity to provide submissions on governance". The response followed with a brief review of agreements between the Norfolk Island Government and the Commonwealth prior to the JSCNCET

Inquiry, including the Memorandum of Understanding (2010) and the Road Map (2011), and then turned to the individual recommendations of the Report.

The Norfolk Island Government "unreservedly rejected" Recommendation 1. Its arguments were, *inter alia*, that the Committee exceeded its terms of reference, and that power would shift from Norfolk Island to Canberra. It pointed to:

the signing of an Agreement in 2010 [the so-called "Memorandum of Understanding"] with the Commonwealth for the extension of Commonwealth legislation to Norfolk Island to enable Norfolk Island residents to contribute to the Australian taxation system in exchange for Australian services such as social welfare, Medicare, and pharmaceutical benefits does not justify the abolition of a Parliament nor does it justify the removal of self-government"

It drew attention to the resolution passed by the Norfolk Island Legislative Assembly on 15 October 2014 (and delivered to the Speaker of the Commonwealth House of Representatives on 28 October):

THAT this House:

- (1) Values the relationship that Norfolk Island has with the Commonwealth of Australia;*
- (2) Reaffirms its commitment to the Norfolk Island Government's Preferred Model for Territory Self-Governance;*
- (3) Calls on the Parliament of the Commonwealth of Australia that before voting on any Bill to change the governance arrangements for Norfolk Island established by the Norfolk Island Act 1979 of the Commonwealth, that the residents of Norfolk Island,*
 - (a) be provided with details and facts as to the proposed changes; and*
 - (b) be consulted to ensure a democratic, open and transparent say on the future model of governance for Norfolk Island.*

With regard to Recommendation 2, the Norfolk Island Government rejected this, stating:

In order for any meaningful community consultation to take place it is essential that the community of Norfolk Island be provided with information, facts and costs of any proposed changed model of governance so that they can have meaningful debate and knowledge to compare the current model of self-governance against any proposed changed model of governance. To do otherwise is irresponsible.

There should be a full cost benefit analysis of the Norfolk Island Government's preferred Territory Model of Self Governance.

The Government's statement then went on to respond to the other six recommendations of the Committee.

4. Australian Government Response to the JSCNCET Report

4.1 Australian Government's Response

In February 2015 the Australian Government provided its formal response to the Committee's report and recommendations. The Government agreed in whole to five of the Recommendation (including Recommendations 1 and 2 relating to governance), and agreed in principle to the other three. (Australian Government, 2015):

"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.

Agreed.

The Australian Government supports the Committee's recommendation to change the current governance arrangements and proposes to transition the current Legislative Assembly to a Regional Council. The Australian Government notes through the consultation process undertaken by the Committee and subsequently by the Administrator, there is broad support from the community to alter the current arrangements for self-government. However, to maintain current service delivery and administrative infrastructure while the transition takes place, the Australian Government will amend rather than repeal the *Norfolk Island Act 1979 (Cth)*. This will allow the Norfolk Island Administration and associated entities, including the Norfolk Island Government Business Enterprises to continue to provide services to the community during this transitional phase. The Assistant Minister will hold delegations for Norfolk Island during the transition period and ensure an interim Advisory Council is established, drawn from the community, to advise him on decisions during that period.

Recommendation 2

The Committee recommends that formal mechanisms for community consultation be established which allow for regular and ongoing communication between any transitional administration and the community about the reform process and new governance arrangements.

Agreed.

The Australian Government agrees the Norfolk Island community must have an ongoing voice in governance and in government. This will be achieved through the establishment of a locally elected Regional Council. The Council will be established as soon as practicable, but in the interim, the Australian Government will establish an Advisory Council with community representation to guide the transition process. Formal mechanisms will be established for the Administrator and the Advisory Council to consult with the community on key issues, including those related to the introduction of taxation, healthcare and social security arrangements and on the establishment of a Regional Council. A Taskforce has been established within the Department of Infrastructure and Regional Development with representatives from key Australian government agencies including the Treasury, the Department of Social Services, the Department of Human Services, the Department of Health, the Department of Agriculture, the Department of Immigration, the Australian Customs and Border Protection Service and the Australian Taxation Office to support the transition process and the ongoing process of community consultation on reforms."

At the core of the Commonwealth's acceptance of these two Recommendations was the replacement of the Norfolk Island Legislative Assembly by a regional council with much reduced powers, and a process to be put in place to implement the transition. With the establishment of the interdepartmental Taskforce, the juggernaut of implementation of the Committee's recommendations had clearly commenced its roll.

Two community consultation processes are however referred to: the first in relation to Recommendation 1 and involving the Administrator; and the second in relation to Recommendation 2 and involving a to-be-established Advisory Council. With regard to the former: "The Australian Government notes through the consultation process undertaken by the Committee and subsequently by the Administrator, there is broad support from the community to alter the current arrangements for self-government."; and with regard to the latter: "the Australian Government will establish an Advisory Council with community representation to guide the transition process." We examine these two processes.

4.2 "Consultation with the Norfolk Island Community"

(i) Administrator's consultations with the community

In late 2014 the then Administrator of Norfolk Island, Hon Gary Hardgrave, engaged Twyford Australia & New Zealand, an international company specialising in collaborative work, to conduct a community forum on Norfolk Island to enable the community to comment on the JSCNCET Recommendations 1 and 2. A second and later forum to consider the remainder of the recommendations was facilitated by the Administrator himself.

The first forum was held in Rawson Hall on 21 November 2014 commencing at 4:00pm, chaired by the Administrator and facilitated by Ms Vivien Twyford. Over 300 people attended the meeting and at times emotions ran high. By the time the Administrator closed the meeting at 7:00pm over 40 verbal comments had been made, and those who had not taken the opportunity to speak were invited to make their views known by other means. Eleven participants provided written notes at the end of the meeting.

Ms Twyford in her report to the Administrator (Twyfords, 2014) summarised the forum as follows:

Summary of participant spoken input:

- ◆ *Rejection of the first recommendation to repeal the Norfolk Island Act 1979;*
- ◆ *A clear community need for better understanding of the implications of potential governance options before being asked to comment;*
- ◆ *A request to consider modifying or amending the Act rather than repealing it;*
- ◆ *Surprise and frustration that the JSC report had two governance recommendations at its head when the JSC's Terms of Reference focussed only on ways to improve the island's economy;*

[five other points were also noted here in the Twyford report]

Summary of participant written input

The main theme contained in those notes was that many people at the forum who supported Recommendations 1 and 2 were afraid to speak out publicly as they feared reprisals in the form of attacks on property or businesses on the island.

(One thing that this process did not uncover however was that a number of public servants also felt they had been intimidated by the Transitional Administration into not participating at all in the community meetings for fear of retribution and loss of their jobs. (Personal attestation to the present author))

The second forum held one week later, was chaired and facilitated by the Administrator himself. In the Administrator's final report to Minister Briggs dated 20 December 2014 on the results of the two community consultations, the first item in the Summary of Findings stated:

With regard to the recommendations of the JSC Report, the views of the community are clear:

Recommendation 1: *The repeal of the current Act and the introduction of a new Norfolk Island Act to effect change of governance arrangements is supported by a substantial majority of Norfolk Island residents. The vast majority of residents believe the 14th Assembly has not acted in the best interests of the people of Norfolk Island. 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 government structures for service delivery, by a local government type body. (Hardgrave, 2014)*

This came as a surprise as many on the island were of the opinion that majority support leaned the other way. As the report listed the different consultations engaged in by the Administrator in reaching this conclusion, an analysis of these was carried out. The conclusion of this analysis stated: "There is ... no information in the public arena that could justify this statement [by the Administrator]; that on the information we do have and on the balance of probabilities the statement is extremely unlikely to be true; and therefore for all practical purposes it should be regarded as false." (Nobbs, 2016c). Ms Twyford was later to comment that the "overall findings around Recommendation 1 did not reflect what I heard at the one community forum I facilitated..." (personal communication).

Furthermore, on Friday 8 May 2015 the Norfolk Island Government held a referendum of electors who were asked for their opinions on the question: *Should the people of Norfolk Island have the right to freely determine their political status, their economic, social and cultural development, and be consulted at referendum or plebiscite on the future model of governance for Norfolk Island before such changes are acted upon by the Australian parliament.* We know the result was that 624 voted "Yes" (68% of votes cast, 64% of the electoral roll), 266 voted "No" (29% of votes cast, 27% of enrolled electors), with 22 "unsure" (2% of votes cast, 2% of enrolled electors). There were 912 votes cast from an electoral roll of 975, a remarkable turnout of over 92 per cent of the electorate. (Norfolk Island Government, 2015a)

As the Australian National Audit Office is currently carrying out an audit on the recent performance of DIRD on Norfolk Island (ANAO, 2018), it is hoped that the ANAO may be able to shed further light on this issue.

(ii) Norfolk Island Advisory Council

The establishment of the Norfolk Island Advisory Council (NIAC) was contentious and provoked some criticism at the time. A matter of particular concern was the manner of selection of members. This was done by self-nomination and the selection of members by the Minister in a secret process, rather than by open election from the community. (Former Chief Minister and former Speaker in the Norfolk Island Legislative Assembly, Mr David Buffett, having initially been selected as a member, was sacked by Minister Briggs for 'disruption' for presenting a Remonstrance to the Commonwealth Parliament which he was obliged to do as Speaker on instruction of the Legislative Assembly.)

Other claims of bias were made in relation to the use of DIRD members as the Council's secretariat, the information provided by the Council to the community, the manner in which community members were required to participate in the Council's processes, and the secrecy of some submissions to the Council. It was broadly considered that the NIAC did not represent the views of the majority of Norfolk Island citizens. (Nobbs, 2016d).

4.3 Passage of the *Norfolk Island Legislation Amendment Act 2015*

The Bill for this Act will have been drafted by the Office of Parliamentary Counsel in accordance with detailed instructions given to it by DIRD (and possibly other departments). The Norfolk Island Legislation Amendment Bill was introduced into the House of Representatives by Assistant Minister Briggs, on 25 March 2015. At this point copies the Bill became available to members of the House, together with the Explanatory Memorandum setting out the reasons for the Bill and giving an outline of its content. (Parliament of the Commonwealth of Australia, 2015) In the case of this Bill there were seven cognate pieces of legislation involved, and these were considered by Parliament along with the major bill. [Note 6] The Assistant Minister then moved that the bill be read a second time, and delivered his speech in favour of its proposals. Given what has gone before in the present record and commentary, it will be no surprise to observe that the Minister's speech lost the thread of truth at a number of points. (Norfolk Island Government, 2015b)

Second reading debate followed on 12 May 2015. In the second reading debate, in which matters of principle in a bill are commonly debated, on this occasion four representatives spoke in an almost empty House [Note 7]:

Mr Briggs (Mayo, SA – Liberal, Assistant Minister) introduced the Bills
 Mr Snowdon (Lingiari, NT - Labor),
 Mr Simpkins (Cowan, WA - Liberal),
 Ms Brodtmann (Canberra, ACT - Labor),
 Mr Albanese (Grayndler, NSW - Labor).
 (Messrs Snowdon, Simpkins and Brodtmann being members of the JSCNCET Inquiry)

Minister Briggs then moved the second reading of the bill and it passed on the voices. As the Bill had bi-partisan support, the numbers in the House voting on the motion was not recorded. Following the reading of a message from the Governor-General recommending appropriations for the Bill, Minister Briggs immediately moved the third reading of the Bill, which was agreed.

The eight bills having passed in the House of Representatives, were transmitted to the Senate. On 13 May the bills were introduced to the Senate and read twice. Second reading speeches were given in the Senate on 14 May by Senators Brown (Tas) and Back (WA), both members of the JSCNCET Inquiry, and Senator Cash (WA) (Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women), and the bills read a second and third time immediately following.

Having been agreed without modification in both House of Representatives and Senate, the Norfolk Island Legislation Amendment Bill became law under the signature of the Governor-General on 26 May 2015.

Whereas the *Norfolk Island Act 1979* in its Preamble made clear that the Australian Parliament "recognises the special relationship of the said descendants [of the Pitcairn Island settlers] with Norfolk Island and their desire to preserve their traditions and culture...", no such magnanimity characterised the 2015 Act, in which all mention of the Pitcairn settlers, their traditions and culture, was erased. This was a gratuitous, and to many, a mean-spirited and hurtful act, as the existence of the Preamble made no substantive difference to the legal or constitutional status of the island.

4.4 Envoi

And so it was that a small group of backbenchers in the Australian Parliament constructed Norfolk Island's fate – at least, that is, until wiser and more thoughtful counsels can prevail.

5. Overall Summary

The foregoing record and commentary has considered the Australian Parliament's Joint Standing Committee on the National Capital and External Territories (JSCNCET) 2014 inquiry into the economic development of Norfolk Island, concentrating on the twin matters of economy and governance.

The Committee's Report tendered to the Parliament in October 2014 is so littered with errors of fact, analysis, omission, and judgement, as to completely undermine its legitimacy – at least legitimacy based on rationality and logical argument – and that of the *Norfolk Island Legislation Amendment Act 2015* passed in the wake of the Committee's Report by the Australian Parliament.

The evidence for these claims has been set out in the preceding pages. The judgement is that the Committee in its Report failed both the Australian Parliament and the Norfolk Island community.

While it is the case that individual witnesses to the inquiry legitimately express their own arguments, interests and biases, there is no case for the Committee to accept without question or analysis what it is told by witnesses. Indeed a critical and discriminating approach would seem imperative.

However as witness there can be no justification for a Government department – in this case the Department of Infrastructure and Regional Development – presenting data of major significance and claimed to be fact when, based on the evidence available, it is not.

Beyond these concerns perhaps the most shocking failure of the Committee in its Report was the apparent incapacity to discriminate between matters of economy and matters of democracy and representation.

The events described in this record and commentary, however shocking, are now part of the past. It behoves the Australian Government to take cognisance of the true situation of Norfolk Island and to engage with that community to develop a more coherent and equitable strategy for the future. The present record and commentary has provided some indication as to directions in which such might lie.

Notes

Note 1. Earlier reports on aspects of the current situation on Norfolk Island include: Nobbs, C., 2017. *On the Brink of Disaster: The Impact of Australian Government Reforms on Norfolk Island Businesses*. Report provided to the Norfolk Island Community and The Hon Darren Chester MP, Acting Minister for Regional Development, Acting Minister for Local Government and Territories, November. Available at: <http://www.norfolkonlinenews.com/impact-of-the-reforms-on-norfolk-island-businesses.html>; and Nobbs, C., 2018. *Norfolk Island's Major Problem is DIRDC*. Report provided to The Hon Dr John McVeigh MP, Minister for Regional Development, Territories and Local Government, and to the Norfolk Island Community, June. Available at: <http://www.norfolkonlinenews.com/norfolk-islands-major-problem-is-dirdc.html>

Note 2. All official documents relating to the Inquiry, including Terms of Reference, submissions, media releases, public hearings (Hansards), Report, Australian Government response, and Committee membership, are available from the Joint Standing Committee's "Economic Development of Norfolk Island" webpage: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Capital_and_External_Territories/Norfolk_Island

Note 3. All references to the JSCNCET Report of October 2014 are capitalised "Report" for clarity.

Note 4. The Report actually misquotes the DIRDC's submission, stating that there was a fall in NI-GTP of approximately \$20-30m "between 2009 and 2010".

Note 5. Once again the Report misquotes the DIRDC submission, referring to the "monopolistic role of the Norfolk Island economy".

Note 6. These cognate bills were:

Norfolk Island Legislation Amendment Bill 2015—

Tax and Superannuation Laws Amendment (Norfolk Island Reforms) Bill 2015—

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Amendment Bill 2015—

Health and Other Services (Compensation) Care Charges Amendment (Norfolk Island) Bill 2015—

Health Insurance (Approved Pathology Specimen Collection Centres) Tax Amendment (Norfolk Island) Bill 2015—

Health Insurance (Pathology) (Fees) Amendment (Norfolk Island) Bill 2015—

Aged Care (Accommodation Payment Security) Levy Amendment (Norfolk Island) Bill 2015—

Private Health Insurance (Risk Equalisation Levy) Amendment (Norfolk Island) Bill

Note 7. See: http://parlview.aph.gov.au/mediaPlayer.php?videoID=261302&operation_mode=parlview

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Appendix I: Membership of the JSCNCET (2014)

Chair	Mr Luke Simpkins MP
Deputy Chair	Senator Carol Brown
Members	Senator Chris Back Ms Gai Brodtmann MP Mrs Natasha Griggs MP Senator Sarah Hanson-Young Senator the Hon Kate Lundy Senator Stephen Parry (to 7/7/14) The Hon Bruce Scott MP Senator Zed Seselja The Hon Warren Snowdon MP Mr Ross Vasta MP Senator Gavin Marshall (from 7/7/14)

Appendix II: Submissions to and witnesses before the JSCNCET Inquiry (2014)

1. Written submissions (sub. no./submitter)

Governmental

- 21 Government of Norfolk Island
 - 21.1 Supplementary to 21
 - 21.2 Supplementary to 21
- 30 DIRD
 - 30.1 Supplementary to 30

Other Organisational

- 1 Parkland Estate Villas
- 2 Tourism and Transport Forum
- 4 NI Convention, Entertainment and Sports Centre (NICESC)
- 6 NI Government Tourist Bureau
 - 6.1 Supplementary to 6
- 8 Australian Airports Association
- 9 Transam Argosy
- 12 Gallery Guava & Fletcher's Mutiny Cyclorama
- 13 Christmas Island Tourism Assn
- 15 Norfolk Liberals
- 16 Econorfolk Foundation Inc. Ltd.
- 19 Tourism Action Group
- 22 Destination Norfolk Island Inc.
- 24 Carnival Australia
- 26 Kallawar

- 27 Norfolk Industries
- 31 Norfolk Island Airlines
 - 31.1 Supplementary to 31
- 33 Tourism Australia

Individual

- 3 Mr Julian Yates
- 5 Mr John Christian-Bailey
- 7 Ms Elva Leaming
- 14 Mr Andre Nobbs
- 17 Mr Dick Massicks
- 20 Mr Dave Porter MLA
- 23 Mr Brett Sanderson
 - 23.1 Supplementary to 23
 - 23.2 Supplementary to 23
- 25 Mr Ron Nobbs
- 28 Mr Brad Forrester
- 29 Mr & Mrs Bruce & Ann Walker
- 32 Mr John Brown
- 34 Mr Neil Pope

Unavailable information

- 10 Name withheld
- 11 Name withheld
- 18 Confidential

2. Norfolk Island Residents' written submissions and personal appearances before the Committee (numbers in brackets show written submission no.)

On behalf of the Norfolk Island Government (21)

Adams, The Hon. Robin, Minister for Cultural Heritage and Community Services,
Norfolk Island Legislative Assembly
Sheridan, The Hon. Timothy, Minister for Finance, Norfolk Island Legislative
Assembly
Snell, The Hon. Lisle, Chief Minister, Minister for Tourism, Norfolk Island
Legislative Assembly
Ward, The Hon. Ronald, Minister for the Environment, Norfolk Island Legislative
Assembly

On behalf of the NIGTB (6)

Buffett, Mr Glen Albert, General Manager, Norfolk Island Tourism

Other

Anderson, Mr Ian, Vice President, Chamber of Commerce
Blucher, Mr Bill, Private capacity
Brooks, Mr Steven, Member, Tourism Action Group (19)
Brooks, Mr Steve & Mrs Kerry-Ann, Private capacity (22)
Brown, Mr John, Private capacity (32)
Christian-Bailey, Mr John, Private capacity (5)
Clarke, Ms Charisse, Secretary, Norfolk Island Liberals (15)
Draper, Ms Sue, Gallery Guava & Fletcher's Mutiny Cyclorama (12)
Evans, Mr Duncan, Manager, Transam Argosy Pty Ltd (9)
Forrester, Mr Brad, Cascade Soft Drinks P/L etc.(28)
Griffiths, Ms Rhonda Evelyn, Private capacity
Kleiner, Mr Richard, Private capacity
Leaming, Ms Elva, Private capacity (7)
McCoy, Mr Alan John, Chairman, Cascade Port and Marina Development Inc.
Martin, Mrs Mera, Private capacity
Massicks, Mr Richard (Dick), Private capacity (17)
Nobbs, Mr Andre, Private capacity (14)
Nobbs, Mr Ronald, Private capacity (25)
Porter, Mr David Raymond, MLA, Private capacity (20)
Prechelt, Mr Gregg, Director, Norfolk Island Airlines Pty Ltd (31)
Prentice, Mr Michael (Boo), Managing Director, Pinetree Tours
Quintal, Ms Denise Marie, Administrator & Founder, EcoNorfolk Foundation (16)
Resler, Ms Megan, EcoNorfolk Foundation Inc. Ltd (16)
Richards, Mr Gary & Mrs Lynne, Private capacity (1)
Sanderson, Mr Brett, Private capacity (23)
Tavener, Mr Jim, Private capacity (27)
Tavener, Mrs Louise, Private capacity (4)
Walker, Mr Bruce & Mrs Ann, Private capacity (29)
Wilson, Mr Peter, Private capacity.

Appendix III: Recommendations from the JSCNCET Report

Governance: a new model

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.

Recommendation 2

The Committee recommends that formal mechanisms for community consultation be established which allow for regular and ongoing communication between any transitional administration and the community about the reform process and new governance arrangements.

Infrastructure: investment required

Recommendation 3

The Committee recommends that the Commonwealth Government assume responsibility for the Cascade and Kingston Pier upgrades and that the Commonwealth Government expedite the works in line with Australian standards and occupational health and safety requirements, as soon as practicable.

Recommendation 4

The Committee recommends that the Commonwealth Government purchase multi-purpose barges for use on Norfolk Island in conjunction with upgrades made to Cascade and Kingston Piers. Barge use must be integrated into the design and functionality of the upgrades.

Recommendation 5

The Committee recommends that the Commonwealth Government ensure that, as part of the new governance arrangements, the public road infrastructure on Norfolk Island is assessed against current Australia-wide design, building and engineering standards and, where needed, work is undertaken to remedy deficiencies.

Framework for new economic opportunities

Recommendation 6

The Committee recommends that the Commonwealth Government appoint officers in the transitional administration to strengthen Norfolk Island's economic and human resource capacity. Officers from Commonwealth agencies like Tourism Australia and Austrade should be tasked to provide advice and support to define the tourist market, develop the tourist product and promote and market tourist and other products and services, including new ones.

Recommendation 7

The Committee recommends that the Commonwealth Government provide a dedicated officer to assist Norfolk Island cottage industry owners and operators to brand their products, set up a cooperative shopfront, and look at ways to market and export their products.

Recommendation 8

The Committee recommends that the Commonwealth Government take charge of the psyllid eradication effort on Norfolk Island, and that responsibility for quarantine control matters be transferred to the Commonwealth Department of Agriculture, Fisheries and Forestry. _____

**Appendix IV:
NI Government's preferred model of Territory Self Governance**

The Government of Norfolk Island

MEDIA RELEASE

PREFERRED MODEL OF SELF-GOVERNMENT

The Chief Minister is pleased to again provide to the Norfolk Island community the Norfolk Island Government's preferred model for Territory Self Governance which was last submitted to the Commonwealth Government by the 13th Legislative Assembly in July 2011 and re-affirmed by Motion of the 14th Legislative Assembly on 9 May 2013.

The Chief Minister advised, "The following is the Norfolk Island Government's preferred model for Territory Self-Governance which was presented to the community of Norfolk Island at a public meeting on 11 July 2011."

Minister Briggs, during his visit to Norfolk Island in February, undertook to consult the Norfolk Island Government on the governance options prior to them being presented to Federal Cabinet and the Norfolk Island Government has requested Minister Briggs to include this model in the options to be considered.

**NORFOLK ISLAND GOVERNMENT'S PREFERRED MODEL FOR TERRITORY
SELF GOVERNANCE**

1. Territory Institutions

Current Territory institutions to remain.

Territory Executive comprising an Administrator and Ministry elected from a
Territory Parliament;
Territory Legislative Assembly;
Territory public service or Administration;
Territory Courts and Tribunals:

2. Territory Government responsibilities and functions

A. Norfolk Island Government to transfer to the Commonwealth any federal functions in accordance with the process outlined in the Road Map.

Noting the Norfolk Island Government's preference is to defer removal of local permit controls on residents pending review of the efficacy of land and planning controls in achieving the same population management outcomes in the Territory context. A local permit regime can coexist with the federal immigration regime when extended to Norfolk Island.

B. Norfolk Island Government to retain State and Local Government type functions.

C. Funding for Norfolk Island Government's delivery of public infrastructure and State and Local Government type functions to be shared with the Commonwealth, similar to other self governing jurisdictions within the federal taxation system."

[sgd] Lisle Snell

Chief Minister and Minister for Tourism

20 March 2014

Appendix V

Norfolk Island: GTP Estimates and the so-called "severe economic downturn"

1. The DIRD claims

The headline statement of the DIRD submission to JSCNCET Inquiry was as follows:

Norfolk Island is currently experiencing a severe economic downturn with the Gross Territory Product of Norfolk Island falling by approximately \$20-30 million (in 2011 dollars) between 1997 and 2011. The economic output of Norfolk Island reduced by more than 10 per cent between 2009 and 2010 thus putting the Norfolk Island economy well behind the economic baseline set in 1995-96 in both real and nominal terms.
(DIRD, 2014)

This statement makes two claims:

- (i) that the change in Norfolk Island Gross Territory Product (NI-GTP) [Note 1] between 1996-97 and 2010-11 was a downturn of the order of \$20-30 million; and that
- (ii) between 2008-09 and 2009-10 the NI-GTP fell by more than 10 per cent.

On the evidence, both claims were false.

2. The evidence

(i) some estimates of NI-GTP

The sources of the data on which these DIRD claims are based are not identified, however they appear to have their origin in estimates of NI-GTP made by the Commonwealth Grants Commission (CGC) in 1997, 2006 and 2011, and by ACIL Tasman in 2012. These were assembled and given as a table in a consultancy report to DIRD by CIE (CIE, 2014). That table is reproduced here (Table A1).

Table A1: Estimates of Norfolk Island GTP at current prices (CIE, 2014, pp. 6-7)

Fiscal Year	Est. GTP (\$m)	Pop'n. (no.)	GTP/cap. (\$)	Source
1995-96	80.3	1,772	45,343	CGC (1997)
2004-05	62.1	1,915	32,425	CGC (2006)
2009-10	89.5 (by prod'n)	1,815	49,300	CGC (2011)
2009-10	82.0 (by income)	1,815	45,169	CGC (2011)
2010-11	87.9	1,795	48,969	ACIL Tas (2012)

Table A2 (below) is derived from Table A1, and provides estimates of NI-GTP at current prices (as in Table A1) together with equivalent NI-GTP figures at inflation-corrected, 2010-11 prices.

Table A2: Estimates of Norfolk Island GTP at current and 2011 prices

Year	\$m (current prices)	\$m (2010-11 prices*)	Source
1995-96	80.3	118.7	CGC (1997)
2004-05	62.1	74.2	CGC (2006)
2009-10	89.5 (by prod'n)	88.5 (ave)	CGC (2011)
2009-10	82.0 (by income)		
2010-11	87.9	87.9	ACIL Tas (2012)

* Inflation correction using RBA Inflation Calculator:

<https://www.rba.gov.au/calculator/financialYearDecimal.html>

According to Table 2 there was – in 2010-11 prices – a decline in NI-GTP between 1995-96 and 2010-11 of around \$30.82m. This is as suggested in the first part of the DIRD submission quoted above.

However the figures as they stand in Table 2 suggest extreme fluctuations in NI-GTP over time and therefore need to be approached with considerable caution. The figures suggest that – once again in 2010-11 prices – there was a 37 per cent contraction in NI-GTP in the nine years between 1995-96 and 2004-05, followed by an 18 per cent expansion in the six years from 2004-05 to 2010-11; or alternatively – expressed in current prices – a 21 percent contraction followed by a 38 per cent expansion over these two periods. These huge swings in economic activity are such as might be experienced in wars or famines. There is no evidence available supporting these propositions in the case of Norfolk Island (see below). We must therefore consider the possibility of either the CGC 1995-96 figure or the CGC 2004-05 figure (or perhaps both) being seriously in error (upwards and downwards respectively). Before doing so however we can point to the evidence of Table 2 as demonstrating that the second part of the DIRD proposition is evidently untrue, as the 2009-10 to 2010-11 NI-GTP contraction is roughly 0.68 per cent according to the NI-GTP figures given (not 10 per cent as proposed by DIRD).

(ii) Treadgold's intervention

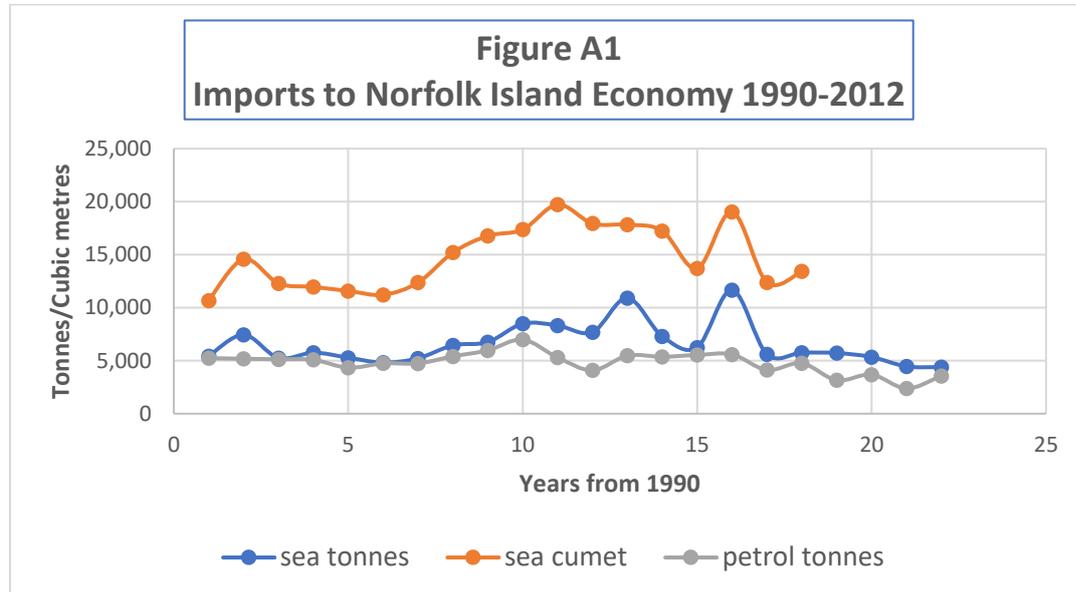
In response to the publication by the CGC in 1997 of its estimate for NI-GTP for 1995-96 of \$80.3m (as in the tables above), Professor Treadgold, a long-time researcher and author on the Norfolk Island economy (Treadgold, 1979, 1988), pointed out (Treadgold, 1998) that if NI-GTP was \$80.3m in 1995-96 then NI per capita income would be \$45,343 or 70 per cent higher than the equivalent figure in Australia. He considered this to be highly unlikely. He gave a series of reasons why this CGC result, and the methodology used to produce it, were open to question. He made an alternative estimate of NI-GTP for 1995-96 based on an expenditure method, which he estimated to be around \$53.4m at current prices (giving a per capita income of \$30,131). A response to Treadgold was made by a senior officer of the CGC on her own responsibility, reasserting confidence in the CGC's estimate. (Hull, 1998)

(iii) Evidence from directly measurable data over time

There is no evidence of dramatic swings in the island's economic experience, as suggested by the CGC estimates of NI-GTP, over the time period in question in *any* readily available indicators of performance including: number of tourists; customs duties received; freight volumes received on-island by sea and air; petroleum imports; and government deficit on current account. Other trends can be seen in some of these data sets, but none provide evidence of the changes in question.

Figure A1 provides some examples of physical measures of major elements of overall imports which support the Norfolk Island economy: sea cargo (shipped as weight: tonnes), sea cargo (shipped as volume: cubic metres), and petroleum products (shipped as tonnes). (Spikes in the data for 2002-03 and 2005-06 correspond to major construction works on the Kingston Pier and the airport runway respectively.) These series provide no evidence to suggest a contraction in the economy from 1995-96 to 2004-05 followed by an expansion from 2004-05 to 2010-11: if anything they suggest the opposite.

Given that there is likely to have been substantial improvement in the data available on the Norfolk Island economy in the nine years between 1995-96 and 2004-05, and Treadgold's critique of the earlier estimate, we are led to consider that it is this earlier CGC estimate that is in error.



Note: All data from Norfolk Island Government Annual Reports; a few missing records from the earlier years have been interpolated.

3. The best fit with the data

In the 1970s Treadgold (1979) developed a set of economic and social accounts for Norfolk Island using data sources that included an economic census [*sic*] of business enterprises on the island, the 1978 Norfolk Island census of population and housing, and a survey of tourist and visitor expenditures. His estimate for the NI-GTP for 1977-78 was \$10.9m at current prices. We can therefore write an augmented form of Table 2, including Treadgold's 1979 and 1998 estimates of NI-GTP, as Table A3.

Table A3: Estimates of Norfolk Island Gross Territory Product - Augmented

Year	\$m (current prices)	\$m (2010-11 prices*)	Source
1977-78	10.9	50.42	Treadgold (1979)
1995-96	53.4	78.9	Treadgold (1998)
[1995-96	80.3	118.7	CGC (1997)]
2004-05	62.1	74.2	CGC (2006)
2009-10	89.5 (by prod'n)	88.5 (ave)	CGC (2011)
2009-10	82.0 (by income)		
2010-11	87.9	87.9	ACIL-Tas (2012)

* Inflation correction using RBA Inflation Calculator:
<https://www.rba.gov.au/calculator/financialYearDecimal.html>

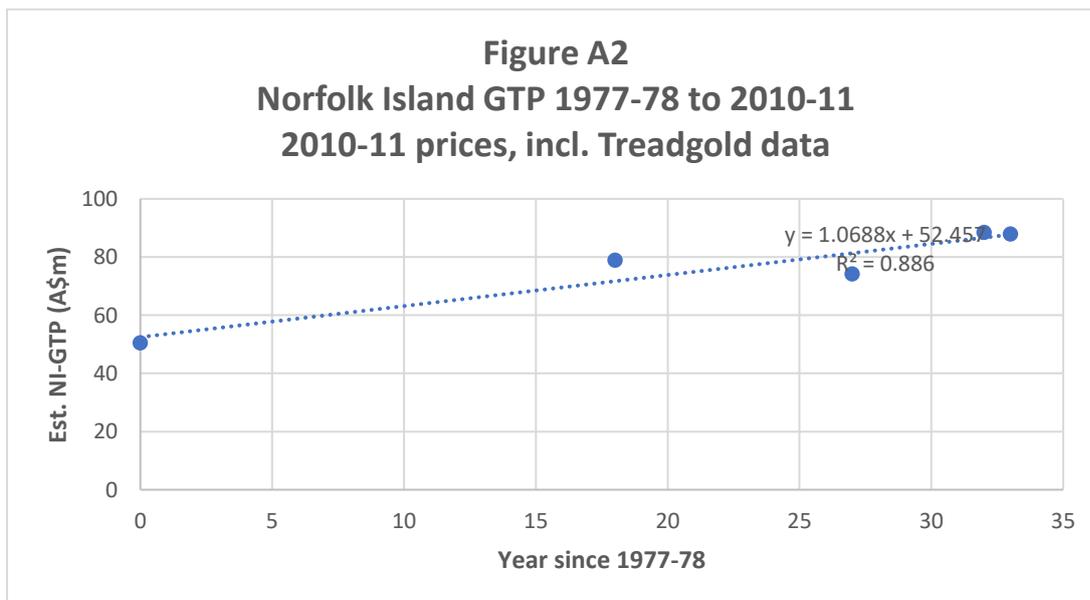
Using these data in different combinations it is possible to calculate a number of different linear regression equations to describe the change in NI-GTP over time. These are described in Table A4 together with the R^2 values for each regression. [Note 2]

Table A4: Linear regressions of NI-GTP estimates over time (1977-78 to 2010-11)

Regression No.	Data points included						R ²
	Tread 1977-78	Tread 1995-96	CGC 1995-96	CGC 2004-05	CGC 2009-10	ACIL 2010-11	
1. Current prices							
1(a)	x	x		x	x	x	0.972
1(b)		x		x	x	x	0.877
1(c)	x		x	x	x	x	0.805
1(d)			x	x	x	x	0.098
2. 2010-11 prices							
2(a)	x	x		x	x	x	0.866
2(b)		x		x	x	x	0.222
2(c)	x		x	x	x	x	0.436
2(d)			x	x	x	x	-0.538

As can be seen from this Table, superior R² values are obtained using the Treadgold 1995-96 datum rather than the CGC 1995-96 datum, and the R² values are further enhanced with the inclusion of the Treadgold 1977-78 datum. The regression line for the period 1977-78 to 2010-11 using the Treadgold data points and expressed in 2010-11 prices (regression 2(a)) is given in Figure 2.

High R² values in regression do not prove that the Treadgold estimate for 1995-96 is "correct" but show a consistency in the Norfolk Island economy which is compatible with other data (whereas the CGC 1995-96 datum is not). Nonetheless the results described here should be taken as an indication only as the RBA inflation calculator is derived on the basis of the Australian economy as a whole rather than that of Norfolk Island. The regression in Figure A2, using the Treadgold data, is also compatible with lived experience on the ground on Norfolk Island: namely that the island economy has, despite its ups and downs, continued over the long term in a gentle if unspectacular positive manner in real terms.



4. Consequences

Whatever credibility might have been given by DIRD to the CGC estimate of NI-GTP for 1995-96 at the time it was made, there can be none in accepting it any later than 2011, when all the above information was available. The claim made by DIRD in its submission to the JSCNCET inquiry – and no doubt canvassed widely in other forums and on other occasions – that the Norfolk Island economy experienced a precipitate decline over the years 1996-97 to 2010-11 is, on the evidence, false. The damage done to the reputation of the Norfolk Island Government consequent upon DIRD's false claim, is inestimable.

Notes

Note 1: Gross Territory Product (GTP) is a money measure of the market value of final goods and services produced within a territory i.e. "domestically". This includes exports but excludes imports. (It is analogous to GDP for a country).

Note 2. An R^2 value of 1.00 indicates the 100 per cent positive correlation between the two variables (year and NI-GTP) while a value of 0.00 indicates a zero correlation between the two variables.

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Biographical Note

Dr Chris Nobbs is a graduate of the universities of Auckland, London and Cambridge, in natural science, economics and economic development respectively. He has had a career in both the private sector as a consultant and as a public servant, at local, state, national and international levels.