

Governance: a new model

- 3.1 There was more discussion on the need for reform than detail provided about what the new governance arrangements could or would look like, and how they might actually function. That said, some fundamental principles emerged as critical considerations for any new governance model.

Repeal the *Norfolk Island Act 1979* (Cth) and appoint a transitional administration

- 3.2 Witnesses argued for repealing the *Norfolk Island Act 1979*¹ (the Act) which established self-governance. Former Norfolk Island Administrator, Mr Neil Pope said:

The removal of self-government should be a prerequisite, not at the time of bringing in the Australian taxation and social security net but before we go down the track of bringing in Australian taxation and social security.²

- 3.3 Mr Pope advised:

Repeal the *Norfolk Island Act of 1979*, abolish the Norfolk Island Assembly, eventually establishing a local government body.³

- 3.4 Local businessman, Mr Dick Massicks, agreed that the Act should be repealed, and administrators appointed:

... remove the Norfolk Island Act, sack the NIG, and appoint an independent commissioner/administrator to take over implementation of changes.

1 *Norfolk Island Act 1979* (Cth), <http://www.comlaw.gov.au/Details/C2013C00674>.

2 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 3.

3 Mr Neil Pope, *Submission 34*, p. 1.

... I believe that under that Act you have the ability to do this where finance problems are an issue.⁴

- 3.5 Mr Pope argued that an independent administration should be installed at the outset of the process, with experts from state governments put in place to sort out Norfolk Island's finances, administration and service delivery:

Initially having an administration team of four or five for a few years before establishing a far more appropriate governance arrangement.⁵

Initially what is required is dissolution of the Norfolk Island Assembly and to bring in a team of professionals which would include the following skill sets: finance, economic development, legal, contract management, health/community services and project management. Preferably they would come from state government ranks.⁶

I think that you need to have some transitional period where you bring in these experts in these various areas ...

... state governments know how to deliver on these issues far better.⁷ [than the federal government]

They would work to the Administrator and the Administration of Norfolk Island would in turn report to this team.⁸

- 3.6 Mr Pope suggested that experts would need to be in place for a few years, in order to try and turn the place around, including reform of the Government Business Enterprises (GBEs).⁹ The Department of Infrastructure and Regional Development (DIRD) commissioned Deloitte consulting to review the GBEs on Norfolk Island. That report is not yet publicly available. On that subject, Mr Pope said:

I think that Norfolk Island could be turned around, before going into the Australian taxation and social security net, with the

4 Mr Dick Massicks, *Submission 17*, pp. 2-5.

5 Mr Neil Pope, *Submission 34*, p. 1.

6 Mr Neil Pope, *Submission 34*, p. 2.

7 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 5.

8 Mr Neil Pope, *Submission 34*, p. 2.

9 The Norfolk Island Government operates a number of Government Business Enterprises to provide a range of utilities and services that are wholly or partially provided by the private sector on the mainland, including liquor supply, electricity, telecommunications and lighterage. The Norfolk Island Government operates these are unregulated monopolies. The revenue from these GBEs pooled in a consolidated revenue fund are then used to cross-subsidise other government activities, including loss-making GBEs (see DIRD *Submission 30*, p. 5).

proper management, and by looking at those government business enterprises or business units, as I would call them, and looking at how you might bring in management contracts. I think the Deloitte work was excellent.¹⁰

3.7 On the findings of the Deloitte review, DIRD said:

Early indications from an Australian funded review of the GBEs indicates that they are highly integrated with the Norfolk Island public service and have rundown assets, meaning they are not in a position to be privatised at this stage. However, there is potential for a process of restructuring of GBEs to improve efficiency and services with a view to preparing some GBEs for privatisation in the medium term.¹¹

3.8 Witnesses emphasised the importance of the transition period, that one system cannot be turned into another overnight¹², and that the appointment of commissioners is an integral component.¹³ This might take time:

... you are looking at maybe three to five years of having an administration team in there to actually turn the economy around and, during that period, hopefully formulate exactly what sort of government you want for the future.¹⁴

Options

Traditional local government

3.9 Mr Julian Yates, a retired public servant with years of experience of territory issues at the first assistant secretary level, including on development and implementation of the Road Map, spoke to the alternative to self-government. He proposed that:

The government on Norfolk Island should become a local government with some enhanced responsibilities given its remote location, but it ought not to provide services beyond its financial and technical competence.¹⁵

10 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 5.

11 DIRD, *Submission 30*, p. 5.

12 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 10; and Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 9.

13 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 5.

14 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 9.

15 Mr Julian Yates, *Submission 3*, p. 3.

3.10 Mr Yates expanded on the benefits of a traditional local government model. He said it will:

... enable the government to focus on those local government things that are important, like rates and typically the roads. A lot of local governments also do power and sewerage so they can deliver those things fairly effectively. I think the style of government needs to be very closely linked to how you fund it; most local governments in small communities in Australia have a rate base, but it is not sufficient to fund all of their activities and they receive a significant Commonwealth funding as well as some state stuff, through a local governments grants scheme. One model to normalise Norfolk Island which would have an economic benefit would be to have that government operate a lot like a normal local government in most of Australia and receive similar benefits to those a normal local government receives.¹⁶

Local government— type authority — no template

3.11 Australia's other external territories have local government models that are unique to each territory. Lord Howe has an advisory body¹⁷ and Christmas and Cocos Keeling Islands have shire councils.¹⁸ Another non-traditional governance model that might be instructive is the Torres Strait Regional Authority.¹⁹

3.12 Mr Yates spoke to the variety of local government models across Australia and said 'it is not a case of one-size fits-all.' He suggested that Norfolk Island:

... is a local government that could do more than some of the others that really only relate to purely municipal matters.²⁰

3.13 Mr Pope proposes the establishment of what he calls 'a local government-type authority.'²¹ This might look like a regional authority, which could give residents more of a say beyond just local government issues:

16 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 10.

17 Lord Howe Island Board website, <http://www.lhib.nsw.gov.au/>.

18 Shire of Christmas Island website, <http://www.shire.gov.cx/>; and Shire of Cocos Keeling Islands website, <http://www.shire.cc/en/>.

19 Torres Strait Regional Authority website, <http://www.tsra.gov.au/the-tsra>.

20 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 10.

21 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 5.

So, yes, I think that some sort of regional authority would be probably appropriate. But I think it is a few years down the track.²²

3.14 Mr Pope said he was open about the form the new government might take:

... whether it is a regional authority-type government that Mr Snowden was talking about, whether it is a local government authority per se or whether it is indeed merely an advisory board. But there needs to be some democratically elected body on that island and looking after the sort of local government issues that we all appreciate back on the mainland.²³

State-level services — under New South Wales or Queensland jurisdiction

3.15 Under its self-governing Act, the Norfolk Island Government (NIG) replicates federal, state and local government responsibilities.

3.16 This is a completely unique arrangement. No other community in Australia, including its other external territories, attempts all these functions on its own. Lord Howe Island is part of the state of New South Wales (NSW) and NSW law applies. The Indian Ocean Territories has state-type services provided through contractual arrangements with the Western Australian Government (WA) and covered by WA jurisdiction.

3.17 Norfolk Island will need to be aligned to, and an agreement made with, one of the states for state-level services. Mr Yates suggested that NSW was the most appropriate state to develop a similar arrangement to that of the IOTs with WA:

Most state-level services ought to be provided from a competent state government, most probably NSW or possibly Queensland, on a contracted fee for service basis funded by the Commonwealth, but with local participation in determining the service level and performance. This model has delivered appropriate state-level government services to the Indian Ocean Territories at an affordable cost to residents.²⁴

22 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 5.

23 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 9.

24 Mr Julian Yates, *Submission 3*, p. 3.

Transitional issues

Impact of taxation and introduction of Australian standards

- 3.18 The NIG reiterated its commitment to the introduction of Australian taxation and social security on Norfolk Island, but as part of its preferred model for territory self-governance. See Appendix D for a copy of the NIG's preferred model for territory self-governance.
- 3.19 The Hon Robin Adams MLA, Minister for Cultural Heritage and Community Affairs, Norfolk Island Legislative Assembly, stated:
- The government's position is quite clear. The motion passed both in the previous parliament and in this parliament is the territory model of self-government's entry into the Australian taxation system and social welfare system.²⁵
- 3.20 The Norfolk Island Finance Minister said:
- The intent of this government – as it was the last government's intent – is that we would still like to participate in the Australian taxation system as well as the social services system.²⁶
- 3.21 Mr Pope said he was not sure that this was actually the government's intent:
- I think there is a lot of hot air at the moment in saying that we really want the Australian taxation system and social security net and I think a number of people who are voicing that think exactly the opposite and are doing things to ensure it does not occur. I think that the lack of working with the federal government in looking at ways of reform is not a matter of saying 'we don't have the capacity'. I think it is because they don't want to.²⁷
- 3.22 Mr Ron Nobbs indicated that he wishes to see the introduction of taxes delayed:
- I have given a nine page submission on a plan ... For the next seven years there would a moratorium on introduction of all taxation, Australian regulations and the like.²⁸

25 The Hon Robin Adams MLA, Minister for Cultural Heritage and Community Affairs, Norfolk Island Legislative Assembly, *Committee Hansard*, Canberra, 29 April 2014, p. 5.

26 The Hon Timothy Sheridan MLA, Minister for Finance, Norfolk Island Legislative Assembly, *Committee Hansard*, Norfolk Island, 29 April 2014, p. 6.

27 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 6.

28 Mr Ron Nobbs, *Committee Hansard*, Norfolk Island, 29 April 2014, p. 25.

3.23 Residents and business owners expressed their concerns about the additional burden of the introduction of Australian taxation on already struggling individuals, families and businesses. Mr Brett Sanderson said:

And, while we are talking about the introduction of municipal rates and federal taxes we need to look at the ability of the community to pay it.²⁹

3.24 An anonymous submitter summarised fears:

Changes to the current governance model will have consequential changes to the local tax regime, creating another layer of taxes to be met by businesses and individuals. The additional taxes will cause a period of hyper-inflation within the Norfolk Island economy, reinforcing and accelerating the current downward spiral, an example of 'the cure being worse than the disease.'

Norfolk's current tourism industry will become less competitive due to a combination of income tax, compliance costs, higher wages (plus the superannuation surcharge), OH & S regulations, and the cumulative costs of goods and services.³⁰

3.25 Ms Sue Draper, owner of Gallery Guava and Fletcher's Mutiny Cyclorama said that income tax would impact heavily on her business and she may have to lay off staff. She also worries about an increase in the cost of living:

Income tax will mean we need to find the additional money to pay increased wages to cover staff taxes so that they can maintain their current living standard. Alternatively we would have to make them take tax out of their current pay and reduce their living standards and consequently they may earn more money on the dole.

Taxation will no doubt increase the cost of living for everyone as it did when local GST was introduced making it more challenging all round.³¹

Taxing multiple income sources as one

3.26 Local resident, Ms Mera Martin, alluded to the concern islanders have about the impact of taxation on those with several income streams - a common scenario on a small island with limited employment avenues. She said:

29 Mr Brett Sanderson, *Committee Hansard*, Norfolk Island, 29 April 2014, p. 23.

30 Name withheld, *Submission 10*, p. 1.

31 Ms Sue Draper, Gallery Guava and Fletcher's Mutiny Cyclorama, *Submission 12*, p. 4.

At present people can supply their income from many different sources. They will complicate their returns by having several sources of income. Labour is such that there are no other options on a small island.³²

3.27 Mr Pope acknowledged that this is a real issue:

We are talking about some people who have got more than three jobs. It is either because they are the only person who has the expertise to do those jobs, or within a limited number of people, or they have to do it to make ends meet—because the average wage over there ... around \$35,000 tax-free. There is no way you could use the marginal tax rate when you bring in the taxation system, unless you had an island with a lot more people and you were paying them a lot more money for the single job that they may do. This is not going to occur in the short-term.³³

Mitigate worst of the impacts of taxation through the introduction of social benefits first and other supports

3.28 Mr Yates said the impact of taxing the low income base on Norfolk Island was something he considered during his time working on the Road Map. The introduction of the social security system ahead of taxation is one way forward:

One of the things we looked at was that, as you transition from their very low wage system with virtually no social security, you would lead with the Australian social security system so that people start getting the normal benefits that all Australian citizens receive through the Commonwealth social security system, and have some of the tax side of things lag by a year or two so that there is that period of adjustment.³⁴

3.29 Mr Yates said an unfortunate reality is that some businesses may not endure once Australian taxation is brought in:

There would have to be significant support provided to the community, because some businesses will go broke, as they do in all communities. This is part of the renewal process.

... sadly, some go broke and are replaced with new ones. That is the innovation-creation side of things – which is very important.³⁵

32 Ms Mera Martin, *Committee Hansard*, Norfolk Island, 29 April 2014, p. 30.

33 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 8.

34 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 10.

35 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, pp. 10-11.

3.30 That said, Mr Yates reminded the Committee that there is no social security at present:

Norfolk does not have that side pretty much at all at the moment, other than by delivering food and vegies to people's front doors, which in 2014, is probably not a way I would find acceptable as a social security network.³⁶

3.31 Mr Pope argued that social security is a necessity:

Bringing in the social security system is also complex. But there is such a need.³⁷

3.32 Mr Yates agreed. He said 'get the social security in so that the individuals who are in a bad state ... start getting proper support':

Benefits and taxation are two sides of the same coin. You have to have both.³⁸

3.33 Mr Pope mentioned the cohort of retirement-aged people who are continuing to work out of economic necessity on Norfolk Island and the potential to better assist them with benefit entitlements:

Introducing the Australian pension system on the island may actually increase the number of people who should not be working because they may be in their mid-70s and have all their lives, and worked pretty hard, to retire and get a pension benefit and allow employment for more people on the island.³⁹

Welfare dependency

3.34 There is a concern by some, that Norfolk Island could become a welfare dependency once social security benefits are introduced.

3.35 Mr Ron Nobbs compared Norfolk Island with other remote parts of Australia and cautioned against welfare dependency:

The Roadmap has the potential to make Norfolk Island yet another member of the scrap heap of welfare dependents.⁴⁰

3.36 Mr Andre' Nobbs said:

Ultimately the Norfolk Island community would seek a productive future, rather than a welfare dependency or contingent liability on the Australian system.⁴¹

36 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 11.

37 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 6.

38 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 12.

39 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 9.

40 Mr Ron Nobbs, *Committee Hansard*, Norfolk Island, 29 April 2014, p. 25.

41 Mr Andre' Nobbs, *Submission 14*, p. 7.

3.37 Mr Pope said that he thought it an unlikely scenario that Norfolk Island would become a haven for dole recipients:

I think also a majority of people are hard working on [Norfolk Island]. Some of the vested interests will use the issue of unemployment benefits ... that it is going to bring, in their words, 'surfie bums' to the island. ... It is not going to be a haven for people to go and expect to have an easy life, because it is an expensive place to live with respect to everyday life. That is usually the line that the vested interests, who do not want a taxation system, say, 'You get social security and you are going to get all these people coming to the island. We'll get the druggies, etc.' It is a nonsense argument.⁴²

3.38 Mr Yates added that the Australian social welfare system has its own guards against welfare dependency.⁴³

Australian government to take the lead

3.39 Mr Yates reiterated Mr Massicks' call for the Commonwealth Government to take charge of the situation, to make a decision and to commit long-term to supporting change:

I think the Australian government needs to be saying that this is the direction. Norfolk Island is a subordinate part of Australia—they might not like it. In the end the government has to take the lead on this because I am not sure you can get a complete lead from the community.⁴⁴

... start getting the right services and environment on the island for business activity.

Timing of introduction of new arrangements

3.40 Mr Andrew Wilson, Deputy Secretary, DIRD advised changing the administrative arrangements of Norfolk Island 'as quickly as you possibly could':

My experience with all of the territories is that the longer time frame you get, the more uncertainty you create. If you were to try to do it, you would do it over a six to 12 month period of transition. It would require significant investment by my department in regards to changing administrative arrangements and going through the books, but my advice would be to do it as

42 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 8.

43 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 11.

44 Mr Julian Yates, *Committee Hansard*, Canberra, 6 June 2014, p. 14.

quickly as you could. Long transition periods create higher degrees of uncertainty and create tension and stress for the individuals involved in it. There is a touch of that uncertainty that then feeds upon itself. I would think six to 12 months.⁴⁵

3.41 Mr Pope agreed. In his view, dissolving the present Norfolk Island Government should happen soon:

Absolutely – and it should occur this year.⁴⁶

Cabinet submission on reform

3.42 Minister Briggs confirmed in a letter to the Chief Minister published in the *Norfolk Islander* in July 2014 that ‘the Cabinet will be considering reforms on Norfolk Island in the coming months.’ He emphasised that this is something that the community-at-large endorses:

A majority of responses received [to his letter seeking the community’s views earlier in the year] supported governance reform as an important step in securing the island’s future.⁴⁷

Committee comment

3.43 The Committee appreciates the complexity, nuances and to-some extent enormity of the task ahead for the Commonwealth Government to transition Norfolk Island from a self-governing territory to a modern local government type authority. One that is fiscally responsible and accountable to its elected representatives, and delivers services of a suitable standard. However, the alternative of continuing to prop up the NIG budget and NIA or ‘business as usual’ approach is not an option that ultimately serves Norfolk Island residents well.

3.44 The NIG may wish to retain state and local government level responsibilities. However, the reality is they are in the red and have long-struggled to maintain infrastructure and deliver services to mainland standard.

3.45 Whilst consultation with the NIG and community is important, the Committee recognises that there has already been extensive consultation.

45 Mr Andrew Wilson, Deputy Secretary, DIRD, *Committee Hansard*, Canberra, 19 June 2014, p. 4.

46 Mr Neil Pope, *Committee Hansard*, Canberra, 18 July 2014, p. 9.

47 Correspondence from The Hon Jamie Briggs MP, Assistant Minister for Infrastructure and Regional Development, undated, published in *The Norfolk Islander*, vol.49, no. 21, Saturday 5 July 2014.

- At this point there can be no resile from the difficult decisions that need to be made for Norfolk Island’s future.
- 3.46 The Committee cautions against merely adopting another external territories model, be it the IOTs or Lord Howe’s and applying it to Norfolk Island. That said, and at this critical juncture, the next ten years cannot be spent working out the perfect model.
- 3.47 The Commonwealth, supported by the resources and expertise of DIRD, can work out the best model to proceed with, in accordance with the community’s needs and aspirations. The community must be brought on board throughout a transition process to a new governance model. Community support is integral to its success.
- 3.48 The Committee did not receive sufficient evidence to determine the ideal timeframe for the transition period, nor the introduction or exact form that the new model should take. These are details to be worked out carefully. However, it is clear that a transitional team with the appropriate expertise and resources behind it needs to be put in place, as soon as practicable, to effect reform.
- 3.49 It is important that mechanisms for community consultation be established from the outset that allows for regular and ongoing communication between the transitional administration and the community about the reform process and new governance arrangements. The consultation might take the form of an elected consultative body, community meetings or other, but it should encourage and facilitate input and feedback from the community.

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.

