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Auditor-General for Australia



20 March 2023

Senator Alicia Payne  
Chair  
Joint Standing Committee on the National Capital and External Territories  
By email: [jscncet@aph.gov.au](mailto:jscncet@aph.gov.au)

Dear Senator Alicia Payne

### **Inquiry into local governance on Norfolk Island**

The Australian National Audit Office (ANAO) published the following performance audit report that you may find relevant to the Senate Standing Committees on Environment and Communications Inquiry into the National Cultural Policy.

- Report No. 43 (2018-19) [\*Design, Implementation and Monitoring of Reforms to Services on Norfolk Island\*](#)

Information about what the audit assessed, concluded and recommended is attached. The audit reports are available online at [www.anao.gov.au](http://www.anao.gov.au).

The ANAO does not perform the financial statements audit of the Norfolk Island Regional Council as it is not the appointed auditor, however the ANAO undertakes the financial statements audit of the Norfolk Island Health and Residential Aged Care Service's (NIHRACS). Auditor-General Report No. 8 (2022–23) [\*Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2022\*](#), paragraph 2.4, notes:

The Norfolk Island Health and Residential Aged Care Service (NIHRACS) is deemed to be a Commonwealth controlled entity. NIHRACS is a body corporate with perpetual succession under the *Norfolk Island Health and Residential Aged Care Act 1985*, a Norfolk Island continued law under section 16A of the *Norfolk Island Act 1979* (Cth). The *Public Governance, Performance and Accountability Act 2013* does not apply to NIHRACS and as a result the Auditor-General is not appointed as the auditor under the NIHRACS enabling legislation. The ANAO undertakes the audit as an audit arising from a request by the Secretary of Infrastructure made under section 20 of the *Auditor-General Act 1997*. The NIHRACS financial statements audit has not been completed for 2019–20 due to delays in the finalisation of the financial statements by NIHRACS. The financial statements for 2020–21 and 2021–22 have not been presented for audit.

Should the Committee require further information in relation to these matters, my office would be pleased to provide you with a briefing at a time convenient to you or appear as a witness at a hearing.

To arrange a briefing, please contact our External Relations area at [external.relations@anao.gov.au](mailto:external.relations@anao.gov.au).

Yours sincerely

A black rectangular box redacting the signature of Grant Hehir.

Grant Hehir

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## Auditor-General Report No. 43 (2018-19) *Design, Implementation and Monitoring of Reforms to Services on Norfolk Island*

### Background

1. Norfolk Island is an external territory of the Commonwealth of Australia located 1676 kilometres northeast of Sydney, and had a population of 1748 in 2016.<sup>1</sup> The Australian Government administers Norfolk Island through the Department of Infrastructure, Regional Development and Cities (department).<sup>2</sup>
2. Norfolk Island's main industry is tourism, with 58 per cent of economic activity relating to the tourism trade.<sup>3</sup> A key tourist attraction is the Kingston and Arthur's Vale Historic Area (KAVHA), which was the site of two separate British convict settlements between 1788 and 1855. KAVHA is a UNESCO world heritage site.
3. The *Norfolk Island Act 1979* (Cth) established a level of self-government on Norfolk Island, providing for a Legislative Assembly, Executive Council, and the Administration of Norfolk Island. Until 2016, the Norfolk Island Government had responsibility for delivering services across the local, state and federal tiers of government. The Norfolk Island Act provided for an Administrator appointed by the Governor-General and reporting to the responsible Australian Government Minister.<sup>4</sup> While Norfolk Island legislation required the Administrator's assent, the Australian Government's direct influence over the Norfolk Island Government was limited during the self-government period.<sup>5</sup>
4. In March 2015, the Australian Government announced comprehensive reforms<sup>6</sup> to governance and service delivery on Norfolk Island.<sup>7</sup> The reforms included the:
  - abolition of the Norfolk Island Legislative Assembly and Executive Council and the creation of a Norfolk Island Regional Council, which would be responsible for local and municipal matters;
  - creation of an interim Advisory Council to offer advice to the Administrator in the period between the abolition of the Legislative Assembly and the creation of the Regional Council;
  - application of New South Wales state law to Norfolk Island as Commonwealth law and the extension of Commonwealth laws to Norfolk Island, including laws relating to immigration, biosecurity, the superannuation guarantee and employment; and
  - integration of Norfolk Island into the Australian taxation system and the extension of the mainland social security system and health arrangements.

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<sup>1</sup> Australian Bureau of Statistics, 2016 Census QuickStats [Internet], ABS, available from [http://quickstats.censusdata.abs.gov.au/census\\_services/getproduct/census/2016/quickstat/SSC90004?opendocument](http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/SSC90004?opendocument) [accessed 22 November 2018].

<sup>2</sup> The department also administers the internal non self-governing Jervis Bay Territory in addition to the external territories of Ashmore and Cartier Islands, Christmas Island, Cocos (Keeling) Islands and the Coral Sea Islands. Other external territories, which includes the Australian Antarctic Territory and Heard and McDonald Islands, are administered by the Department of the Environment and Energy.

<sup>3</sup> Centre for International Economics, KAVHA Economic Feasibility Study, 2017.

<sup>4</sup> The first Administrator was sworn in on Norfolk Island in 1896. The Administrator's legislative powers were removed on 1 July 2015.

<sup>5</sup> Prior to 2010, the responsible Australian Government Minister could only provide instructions to the Administrator in relation to a small range of matters listed in schedule 3 of the Norfolk Island Act. The Administrator had to act in accordance with advice from the Norfolk Island Executive Council in relation to most other matters. Changes introduced under the *Territories Law Reform Act 2010* increased the level of Australian Government oversight of the Norfolk Island Government, particularly in relation to financial management and also extended the jurisdiction of the Commonwealth Auditor-General, Ombudsman and Administrative Appeals Tribunal to include Norfolk Island.

<sup>6</sup> The reforms were codified in the *Norfolk Island Legislative Amendment Act 2015*, which received royal assent on 26 May 2015.

<sup>7</sup> Australian Government response to the Joint Standing Committee on the National Capital and External Territories report *Same country: different world - The future of Norfolk Island*, 2015.

### **Rationale for undertaking the audit**

5. There were significant risks involved with the Australian Government taking on additional responsibilities in a remote location where, similar to the Indian Ocean Territories, service delivery is complex and expensive. ANAO reporting for the 2015–16 financial statements audit reported two significant audit findings in relation to the Administration of Norfolk Island, indicating that ‘At the conclusion of the 2015–16 audit, the finalisation of key governance processes and policies by the Administration remained outstanding.’ As Norfolk Island’s new governance and service delivery arrangements began on 1 July 2016, it was timely to undertake an audit focusing on the design, implementation and monitoring of reforms to services on Norfolk Island.

### **Audit objective and criteria**

6. The audit assessed whether the department had designed and implemented appropriate governance and administration arrangements for the transition and delivery of sustainable reforms to services on Norfolk Island.

7. To form a conclusion against the objective, the audit examined whether:

- sound evidence informed the design of reforms for the delivery of services on Norfolk Island;
- appropriate arrangements were implemented to support the transition and delivery of reforms to services on Norfolk Island; and
- the arrangements in place for the delivery of services on Norfolk Island were subject to appropriate ongoing performance monitoring processes.

### **Conclusion**

8. While the department’s design of governance and administration arrangements for the reforms to services on Norfolk Island was largely appropriate, its implementation of those arrangements was partly effective.

9. The department’s advice to the Australian Government presented a range of reform options, which was based on an assessment of Norfolk Island’s self-governance arrangements and input from a community consultation process. Elements of the reform design relating to state and local government services could have benefited from more detailed analysis.

10. The department’s governance framework and arrangements for the transition and implementation of reforms to services on Norfolk Island were partly effective. Roles and responsibilities for the implementation of the reforms were clearly outlined, but the department’s prioritisation plans lacked appropriate detail. Governance arrangements to coordinate the implementation of Australian Government and state services were appropriate, but arrangements established for the oversight of the Norfolk Island Health Residential Aged Care Service (NIHRACS) were inappropriate and the department’s approach to secure a partner to deliver all state-type services was not fully effective. The arrangements established for the delivery of local government services were largely effective. Risk management arrangements for the reforms were not developed until September 2017 and were not fully articulated or reviewed in the subsequent period.

11. The department monitored the progress of the implementation of Australian Government services, although there were weaknesses in the department’s monitoring of the performance of state services and an evaluation of the impact of reforms has not been undertaken. The department regularly reported on the progress of the reforms to the responsible Minister although it did not report in a timely manner on options for a state service provider.

### **Supporting findings**

## **Reform design**

12. The department's advice to the Australian Government on the need for comprehensive reform was informed by a body of evidence showing the existing arrangements on Norfolk Island were not sustainable. There was an appropriate community consultation process. Advice on the extension of Australian Government arrangements to Norfolk Island was informed by economic analysis and input from relevant Australian Government entities. Advice relating to the delivery of state-type services was not informed by appropriate engagement with the State Government of NSW (NSW Government) on the development, implementation and monitoring of service delivery. Advice relating to local government services was appropriate but could have benefited from more detailed analysis in relation to the estimated cost of service delivery.

## **Governance framework and arrangements**

13. The department established a governance framework for the overall management of the reform program which was largely effective. The department clearly articulated roles and responsibilities in its reform plan but business plans for the management of the reforms lacked appropriate detail on milestones and timelines, particularly on the identified priority to secure an alternative jurisdiction for the delivery of state-type services. The department implemented a number of approaches for communicating with stakeholders although did not have an overarching communications strategy in place until January 2018.

14. The department's governance arrangements for the implementation of Australian Government and state-type services on Norfolk Island were partly effective. Governance groups were established to provide oversight and coordination for the Australian Government service reforms, although the department did not continue regular interdepartmental committee meetings after the end of the 2015–16 transition year despite ongoing legislative reform requirements. There were adequate governance arrangements in place with the NSW Government for the continuation of core state-type services, but the department was not able to obtain a fully engaged state partner to deliver all state-type services. The NIHRACS was inappropriately established outside of the Australian Government accountability framework.

15. The arrangements put in place for the delivery of local government services and the establishment of the Norfolk Island Regional Council (NIRC) were largely effective. The department facilitated and managed the Administration of Norfolk Island over the transition period and established arrangements for the election of local government representatives. The department undertook to identify a more efficient structure for the future delivery of services by the NIRC, and there is ongoing work to reform the number of NIRC operated business enterprises. The baseline used for the calculation of Financial Assistance Grants to support the NIRC's delivery of local government services was not adequate, but was revised to a more appropriate level in 2018–19. There was no formal channel established by the department for the NIRC to apply for additional grant funding normally provided by states and territories.

16. The department identified risks to the achievement of the Norfolk Island reforms in its advice to the Australian Government in February 2015 but did not develop a risk management plan until September 2017. Risk owners or risk managers were not identified, and some controls to mitigate risks, particularly in regard to the risk of not securing a fully-engaged partner for the delivery of state-type services, were inadequate.

## **Performance monitoring, evaluation and reporting**

17. The department had appropriate arrangements in place to monitor the progress of the reforms to Australian Government services on Norfolk Island, but there were weaknesses in the department's monitoring of the performance of state-type and local government services. State-type services delivered by the NSW Government were monitored through an oversight committee, and performance indicators for key

services such as education were identified in a Service Delivery Schedule. There were no performance standards or key performance indicators (KPIs) identified for health services provided by the NSW Government although activities were regularly reported. There are opportunities to improve performance reporting by the NIRC under the Service Delivery Agreement.

18. The department established an evaluation framework for the reforms with broad timelines but there was no action taken to commence an evaluation process or gather baseline data.

19. The department regularly reported on the progress of the Norfolk Island reforms to the responsible Minister, although there were delays in the provision of advice on options for the delivery of state-type services.

## **Recommendations**

### *Recommendation No.1*

The Department of Infrastructure, Regional Development and Cities establish suitable arrangements for the ongoing review and update of business plans and priorities, and establish milestones and timelines for the future delivery of reforms on Norfolk Island, including securing a state-type services provider.

**Department of Infrastructure, Regional Development and Cities response:** *Agreed.*

### *Recommendation No.2*

The Department of Infrastructure, Regional Development and Cities undertake legislative reform to apply the *Public Governance, Performance and Accountability Act 2013* to the Norfolk Island Health and Residential Aged Care Service.

**Department of Infrastructure, Regional Development and Cities response:** *Noted.*

### *Recommendation No.3*

The Department of Infrastructure, Regional Development and Cities establish a process to actively manage risks and integrate risk management into its ongoing reform activities.

**Department of Infrastructure, Regional Development and Cities response:** *Agreed.*

### *Recommendation No.4*

The Department of Infrastructure, Regional Development and Cities develop and implement robust performance measurement, monitoring and evaluation strategies to assess the progress and impact of the Norfolk Island reforms to service delivery.

**Department of Infrastructure, Regional Development and Cities response:** *Agreed.*