Norfolk Island Transition Assembly

Supporting Guidelines

The purpose of this document is to provide additional information to support the Transition Assembly in fulfilling its Charter. This document sets out, in detail, operational aspects of the Transition Assembly.

The Australian Government remains committed to restoring representative democracy for the people of Norfolk Island and will do this through a staged transition to a new model of local democratic governance. This approach recognises the community's wish for stronger local representation. As the first step, the Norfolk Island Transition Assembly (Transition Assembly) will be established as an elected body. It will give the community a direct role in developing recommendations for the future statutory governance framework, which will be put in place through primary legislation.

This staged approach allows Norfolk Island residents to shape the future governance framework through elected representatives. It will help ensure recommendations are based on local knowledge, community views and can be implemented in practice.

During this period, the Australian Government will continue to make new laws for Norfolk Island and amend existing laws where needed. This will also continue after the new statutory Assembly is established for matters that sit outside the scope of the new governance framework.

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1. Establishment

The Norfolk Island Transition Assembly (Transition Assembly) is a non-statutory advisory body. Its role is to develop recommendations on a future statutory governance framework for Norfolk Island, including the establishment of the Norfolk Island Assembly. The Transition Assembly will not have law-making, executive, regulatory or decision-making powers.

The Transition Assembly will be made up of five members, all elected by eligible voters[1] in the Norfolk Island community and formally appointed by the Minister with responsibility for Territories (the Minister). It will operate for an initial period of two years. The Minister will decide its final duration, based on the time needed to establish the future statutory body. Any part of these Supporting Guidelines may be amended at the absolute discretion of the Minister.

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2. Purpose

The Transition Assembly is a formal way for elected community representatives to develop recommendations over a two-year period to inform the design of the future establishment of the Norfolk Island Assembly under primary legislation. The recommendations will be guided by the Queensland local government model, with modifications to reflect the distinct needs and context of Norfolk Island, and will help the Australian Government prepare future legislation. The Transition Assembly will not draft legislation or exercise legal or administrative powers.

The Transition Assembly will develop recommendations that:

1. support financially sustainable democratic governance on Norfolk Island
2. support a practical administrative framework for delivering local government-type services on Norfolk Island

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[1] Enrolled to vote on Norfolk Island, as set out in the Election Rules for this election.

3. build on the important work already done by the Norfolk Island Governance Committee (NIGC), including its recommended text for a preamble and analysis of Queensland local government laws, noting that matters already agreed by the NIGC are considered final and settled
4. consider the existing administrative and service-delivery arrangements on Norfolk Island
5. reflect the Australian Government's November 2024 announcement that the Norfolk Island bespoke governance model be based on the Queensland local government model, with appropriate tailoring to reflect the distinct needs and context of the Island.
6. reflect community aspirations, including the clear preference for a primary legislative pathway.

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3. Priorities

The Transition Assembly will prepare a workplan setting out the main areas it expects to focus on in each quarter of its first two years, including proposed processes for ongoing community consultation. It must give the workplan to the Minister for approval within three months of starting.

The Transition Assembly's main functions are set out below and are grouped around two phases of work: Phase 1, which establishes the Transition Assembly and delivers recommendations to the Minister; and Phase 2, which supports the implementation of the new Norfolk Island statutory body.

PHASE ONE – ESTABLISH THE TRANSITION ASSEMBLY AND DELIVER RECOMMENDATIONS

3.1 Design the Statutory Governance Model

Develop proposed administrative and financial arrangements for the future statutory Norfolk Island Assembly, including:

- a revenue framework to support long-term financial sustainability
- principles for budgets and financial accountability
- priorities for managing infrastructure and other assets
- processes for decision-making and to support accountability and transparency
- standards for integrity and conduct, and
- processes for regular community participation.

3.2 Recommend Legislative or Administrative Changes

Prepare recommendations that clearly explain:

- the outcome the recommendation is intended to achieve, or the issue it is intended to address
- the genesis of the local governance model, and how it will be applied to maintain service delivery
- how the arrangement could work in practice, including how it would be monitored or enforced on Norfolk Island.

3.3 Report on Progress and Provide Regular Advice

Quarterly reports

Provide quarterly reports to the Minister on progress against the approved workplan. Reports will be provided to the Minister through the Norfolk Island Administrator.

The reports will include:

- recommendations
- evidence that supports the recommendations
- summary of community engagement undertaken
- stakeholder views gathered through consultation, and
- any minority views held by Transition Assembly members.

The Transition Assembly will meet with the Norfolk Island Administrator regularly. These meetings will be used to discuss key issues about the Transition Assembly's work program, provide regular updates including on community engagement and support a 'no surprises' approach.

Final report

Within two years of starting, or as agreed in the Minister-approved workplan, the Transition Assembly must provide a Final Report. The Final Report must include the detailed recommendations needed to establish the future statutory body and cover:

1. governance arrangements
2. integrity and accountability arrangements
3. transitional arrangements
4. financial and administrative arrangements
5. implementation issues, and
6. next steps for the Transition Assembly, noting that the full second phase workplan will be developed after the final recommendations are submitted.

PHASE TWO – SUPPORT THE IMPLEMENTATION OF A NEW NORFOLK ISLAND STATUTORY BODY

3.4 Design and coordinate the implementation of the new Norfolk Island Assembly

After the Transition Assembly gives its Final Report to the Minister, and the Minister announces the way forward, the Transition Assembly enters its Phase 2.

This phase will be guided by a second workplan that maps out the establishment of a new Norfolk Island Assembly and the integration of Norfolk Island institutions with the Assembly. This period will involve engagement with Norfolk Island institutions such as Norfolk Island Regional Council, the Norfolk Island Health and Residential Aged Care Service (NIHRACS), and Commonwealth and state jurisdictions. The second workplan will be provided to the Minister for Territories for approval within three months of entering this phase.

3.5 Build capacity across Norfolk Island institutions and the community to support the new Assembly

The second workplan should also focus on building capacity in the Norfolk Island community and ensure that the institutions that will support the Assembly are integrated, fit for purpose and ready for the transition to a new Assembly.

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4. Principles

When developing its recommendations, the Transition Assembly must consider the principles below.

4.1 Sustainability

Governance arrangements must be financially and administratively sustainable.

4.2 Consistency

Queensland local government legislation and the work of the Norfolk Island Governance Committee, including its analysis of the Queensland model, will be the main reference point for the Transition Assembly's work.

The Transition Assembly may recommend a different approach from Queensland arrangements where:

- it would not put service delivery arrangements at risk;
- Norfolk Island's local circumstances support a different approach; and
- the recommendation still achieves the same objective or outcome.

4.3 Representation

The Transition Assembly will represent the entire Norfolk Island community and capture its diversity of views.

4.4 Practicality

Recommendations need to be clear, outcome-focused, and feasible to implement. Recommendations should not prescribe specific wording or try to draft legislation. Rather, recommendations should focus on and articulate the intended objective or outcome that is sought.

The Australian Government will develop the legislation in line with legal requirements, legislative processes and Australian Government drafting practices.

This principle also covers recommendations about a preamble. The Australian Government commitment to reinstate a preamble remains unchanged and it will consider the Transition Assembly's recommendations in line with its legal obligations.

4.5 Continuity

Existing legislative, governance and service delivery arrangements for Norfolk Island, including arrangements with the Queensland Government to deliver services under applied Queensland law, will continue during this period.

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5. Matters Outside Scope

The Transition Assembly will not:

- exercise legislative powers or amend Commonwealth legislation
- administer government programs
- direct Commonwealth or State agencies
- revisit decisions already made by the Australian Government regarding reform, and
- recommend arrangements inconsistent with Australia's Constitutional framework.

The Transition Assembly's role is outcome-focused and will inform the development of, not draft, legislation.

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6. Membership

6.1 Composition

The Transition Assembly will have five members. The Minister will appoint the members after they are elected by eligible Norfolk Island voters.

To nominate and be elected to the Transition Assembly, a person must:

- be at least 18 years old
- enrolled to vote on Norfolk Island in accordance with applicable election rules
- be an Australian citizen, and
- have been ordinarily resident on Norfolk Island for at least 12 months before nomination.

Observers and other attendees

The Transition Assembly may invite the Norfolk Island Administrator to attend any meeting as an observer. The Administrator may also attend any Transition Assembly meeting with the Minister's approval. The Administrator does not have voting rights at Transition Assembly meetings.

Other observers may be invited to attend any meeting, either in whole or in relation to specific agenda items. This may include Norfolk Island Regional Council (NIRC) administrators, NIRC employees, or other guests who may, for example, present research, commissioned reports and/or provide external expertise on a specific matter. Officials from relevant Australian Government departments may also be invited, but this must be

facilitated through the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (DITRDCSA).

A Transition Assembly member should seek agreement from all other members before inviting observers or other attendees.

Other meetings

Transition Assembly members may be required to attend meetings of other bodies as directed by the Minister, including meetings of the Norfolk Island Regional Council for the purposes of informing the Transition Assembly's recommendations for the design of the new statutory governance body and the transition to this model.

6.2 Resignation

A Transition Assembly member may resign by writing to the Minister.

If a member resigns within 12 months of the Transition Assembly starting, the position will be filled by the candidate who received the next highest number of votes at the election.

If a member resigns more than 12 months after the Transition Assembly starts, the position will stay vacant.

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7. Conduct, Confidentiality and Conflicts

7.1 Code of conduct

Transition Assembly members must not behave in a way that:

- is likely to damage the reputation of the Transition Assembly or other members;
- is unlawful, improper, unethical, harassing, bullying or an abuse of power;
- causes or involves intimidation or abuse;
- involves failing to declare a significant conflict of interest, or using their role to gain a private benefit;
- involves sharing confidential information with people or organisations outside the Assembly (unless authorised by the Minister or required by law).

A Transition Assembly member who does not follow this Code of Conduct may be removed from the Assembly at the absolute discretion of the Minister.

7.2 Conflict of interest

Upon commencement, Transition Assembly members will be required to make an initial declaration of any financial or other interests that conflicts or could be perceived to conflict with their role. Subsequently, a Transition Assembly member must give written notice to the Norfolk Island Administrator and all other members of any financial or other interest they later acquire that conflicts or could be perceived to conflict with their role.

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8. Decision-Making and meetings

The Transition Assembly should try to make decisions by agreement. Where a consensus cannot be reached, the Transition Assembly will consult with the Norfolk Island Administrator for assistance to facilitate a resolution. If members cannot agree, the Transition Assembly must prepare a report that includes both supporting and opposing views and give it to the Minister through the Norfolk Island Administrator.

The Transition Assembly will develop its procedures during its first month. These procedures will cover:

- how often members will meet and how meetings will be run;
- arrangements for the chairing of each meeting;
- arrangements for public observation of meetings;

- how decisions will be recorded and records kept; and
- how consultation and public reporting will be managed.

A quorum is three Assembly members.

If membership falls below quorum, the Minister will consider whether to dissolve the Transition Assembly and/or hold another election to establish a new Transition Assembly.

Quorum requirements will no longer apply after the Transition Assembly has submitted its first phase recommendations and second phase workplan to the Minister.

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9. Community Engagement

The Transition Assembly will engage with the community regularly through appropriate local channels to shape its recommendations and inform the community of its work. Engagement should be broad and inclusive, seeking views from across the Norfolk Island community, including residents, businesses, community organisations and other stakeholder groups, and reflecting the diversity of community perspectives.

Engagement should focus on:

- testing possible options;
- identifying issues that may affect implementation;
- gathering evidence to support pathways; and
- ensuring the community understands the activities of the Assembly.

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10. Member Support

10.1 Remuneration

Transition Assembly members will be paid an annual stipend as determined by the Minister. Superannuation will be provided in accordance with applicable Commonwealth taxation and superannuation laws.

10.2 Secretariat

DITRDCSA will provide secretariat support for the Transition Assembly. The exact nature of the support will be negotiated through a memorandum of understanding once members are elected but may include:

- Initial logistical arrangements, including venue and administrative resources.
- Payroll processing for Transition Assembly members.
- Managing Transition Assembly Conflict of Interest processes and paperwork.

And, if requested:

- Administrative support for monthly meetings, including preparing and distributing meeting minutes, including actions and decisions, in a timely manner. Additional meetings may take place without DITRDCSA support.
- Maintaining records of and reporting on the progress of Assembly decisions, advice and recommendations.
- Provide advice on policy matters and/or review draft recommendations.