

s22

**From:** [REDACTED]  
**Sent:** Thursday, 14 April 2016 9:44 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Draft DIs - NIRC establishment [SEC=UNCLASSIFIED]  
**Attachments:** DIs - NIRC establishment.DOCX  
**Importance:** High

s22

H [REDACTED] s22

While we are awaiting your further instructions on the application of the WHS Act and the SRC Act, which would determine whether the NIRC needs to be set up as a body corporate (please see my email this morning), I thought I would wrap up what I have done so far in reviewing your original drafting instructions, ie the version you provided on 31 March. I assume you will put these instructions into your standard DIs format before issuing to OPC.

You will see that there are a number of policy issues that require your confirmation, and that we have sought AGS's urgent advice on a couple of matters before we provide or confirm drafting instructions on those matters.

Catherine and I had initially intended to swap our drafts to make sure we were both on the same page and provide the proposed instructions to you in a single document, but we have not had time to do that with the limited time available. Of course we would be happy to discuss any aspect of our proposed instructions to clarify any inconsistency there might be.

Regards,  
[REDACTED] s22

## DRAFTING INSTRUCTIONS – Norfolk Island Regional Council Declaration Ordinance

### BACKGROUND

1. It is intended that, on 1 July 2016, the Administration of Norfolk Island will be replaced by the Norfolk Island Regional Council (NIRC). Part 2 of Sch 2 to the Norfolk Island Legislation Amendment Act (NILA Act), which will come into effect on 1 July 2016, provides for the transfer of assets, liabilities, employees etc from the Administration to the NIRC.
2. Also on 1 July 2016, ss 18A and 18B of the Norfolk Island Act (NI Act) will commence. Importantly, the NSW Local Government Act (NSW LGA) will become in force for Norfolk Island (NI) according to s 18A(1) of the NI Act. It is intended that the NIRC will be a 'council' for the purposes of the applied NSW LGA and have the rights and obligations under that Act accordingly. (We note that s 18B(2) of the NI Act means that all powers of a council under the applied NSW LGA will be vested in the Commonwealth Minister by default. It is intended that the Commonwealth Minister will, under s 18B(3), delegate those powers to, or direct that those powers be vested in, the NIRC.)
3. Under the NSW LGA, 'council' is defined by reference to an 'area'. Consistently with that, s 219 of that Act provides that a council is constituted by that Act for an 'area', and its rights and obligations under the NSW LGA are defined on that basis.
4. To achieve the above outcome, an ordinance needs to be made under s 19A of the NI Act. Our drafting instructions for the ordinance are as follows.

### INSTRUCTIONS

#### Establishment of NIRC

5. Please draft a provision with the effect that the 'Territory' as defined in the NI Act is taken to be an 'area' constituted under Div 1 of Pt 1 of Ch 9 of the applied NSW LGA whether or not the requirements of Pt 1 of Ch 9 of the applied NSW LGA are met. Note, however, that Pt 1 is intended to apply for other purposes (eg in the unlikely event that the NIRC wishes to divide NI into wards).
6. With NI being an 'area', it is intended that s 219 of the applied NSW LGA will automatically operate so that a 'council' is constituted by the applied NSW LGA for the area that is NI.
7. However, s 221 needs to be modified so that it provides for the council to be named the 'Norfolk Island Regional Council'.
8. The legal status of the NIRC has yet to be determined. Depending on the final policy position on this, s 220 may need to be modified as well.

**Commented [NILT1]:** This reflects G&LS's instruction that the wards provisions should remain in force for NI even though in practice it would be highly unlikely that NIRC would want to divide NI into wards.

**Commented [NILT2]:** As an alternative to relying on s 219 to constitute the council, it seems possible for the ordinance itself to establish the body to be declared as the NIRC. However, this does not seem to be the legislative intent as expressed in the NIRC definition. (The definition could have simply provided for the ordinance to establish the NIRC for the purposes of the definition, but instead, it seems to envisage that the establishment and the declaration would be done separately via different instruments.) Further, on the basis that s 219 will operate automatically to constitute the council, establishing the NIRC under the proposed ordinance may be an unnecessary duplication and may cause confusion. While the ordinance could repeal or modify s 219 for NI to avoid the duplication, the implications are unclear. For example, if a NSW law specifically refers to councils constituted by virtue of s 219, such a law may not operate as intended for the NIRC if s 219 is not in force, or is force in modified terms, for NI.

**Commented [NILT3]:** Please see email of 14 April 2016 regarding application of the WHS Act and the SRC Act.

#### Declaration of NIRC for purposes of NI Act

9. The council constituted for NI by the applied NSW LGA will be a 'body'<sup>1</sup> ... established by or under a law in force in the Territory' within the meaning of the definition of 'Norfolk Island Regional Council' at s 4 of the NI Act. However, in order for the council to be the NIRC for the purposes of the NI Act, the ordinance needs to declare it as such. To that end, please draft a provision to declare the council constituted under s 219 of the applied NSW LGA to be the NIRC for the purposes of the definition of NIRC in the NI Act.
10. The above, of course, assumes that the NSW LGA becomes in force for NI under s 18A(1) of the NI Act immediately before the declaration commences. Please draft a provision to that effect. (Since the NIRC definition does not come into force until 1 July 2016, it appears that the declaration also will not commence until 1 July 2016, the same day as the commencement of the applied NSW LGA.)
11. It is intended that, once the NIRC is declared as indicated above, Pt 2 of Sch 2 to the NILA Act will operate to effect the transition from the Administration to the NIRC.

**Commented [NILT4]:** It appears that the body to be declared should be the council constituted according to s 219 of the applied NSW LGA. The original Dis suggest that the ordinance could declare that the body formerly known as the Administration is to be the NIRC from 1/7/2016. However, Sch 2 Pt 2 of the NILA Act, in providing for transfer of things from the Administration to NIRC on 1/7/2016, assumes that the Administration and the NIRC are 2 separate entities. If, preparatory election ordinance, in defining 'Administration', also notes that the Administration will cease to exist on 1/7/2016. It is unclear how a body that has ceased to exist could be declared to be the NIRC. To explain the transition from the Administration to NIRC, appropriate explanations could be provided in the explanatory statement instead.

#### Other modifications to applied NSW LGA

12. The preliminary instructions we provided on 7 April 2016 also deal with a range of other transitional matters. The following instructions supplement those preliminary instructions.

#### Councillors

13. Please draft a provision so that the councillors elected before 1 July 2016 in accordance with the *Norfolk Island Regional Council Preparatory Election Ordinance 2016* are, from 1 July 2016, taken to be 'councillors' for the purposes of the applied NSW LGA, and therefore the 'elected representatives' comprising the NIRC governing body within the meaning of s 222 of the applied NSW LGA, until cessation of their office in accordance with the applied NSW LG and other relevant NSW laws in force for NI under s 18A(1).

**Commented [NILT5]:** Does this reflect the policy intent? We understand the preparatory election ordinance would be used only for the election on 28 May 2016 and will be repealed on 1 July 2017, and so any future councillors can only be elected in accordance with the NSW laws that start to apply to NI on 1 July 2016 (and which apply to other councils in NSW as

#### General manager and other staff

14. Under item 368, Pt 2 Sch 2 to the NILA Act, employees of the Administration will transfer to the NIRC on 1 July 2016. Please draft a provision to the effect that the transferred employees are taken to have been appointed in accordance with the applied NSW LGA even if the requirements of that Act regarding appointment of employees have not been met. However, it is intended that appointment of further employees will need to comply with the requirements of the NSW LGA (subject to the limitation outlined at para 16 below).
15. The Chief Executive Officer (CEO) appointed under the *Public Service Act 2014 (NI)* is considered to be one of the employees to be transferred to the NIRC. Please draft

**Commented [NILT6]:** We assume this is the policy. Please confirm.

**Commented [NILT7]:** Within the limited time, we have not fully investigated whether this is legally correct. To confirm this, significant further factual and legal analysis would be necessary. For present purposes, we assume that the CEO can be considered to be 'acting in an official capacity of the Administration' and thus falls within item 193, Pt 2 Sch 1 to the NILA Act. On that basis, he/she would be an 'eligible employee' and thus taken to be employed by the Administration at the moment.

<sup>1</sup> The definition originally provided in item 17, Pt 1 of Sch 2 to the NILA Act, referred to a 'body corporate'. However, the word 'corporate' has subsequently been deleted by Sch 6 to the *Territories Legislation Amendment Act 2016* which commenced on 26 March 2016.

a provision to the effect that the individual occupying the office of the CEO immediately before 1 July 2016 is, from 1 July 2016, taken to be the general manager appointed in accordance with the NSW LGA even if the requirements of that Act regarding appointment of the general manager have not been met. This transitional arrangement will apply until the CEO's existing contract of employment expires or is terminated. However, it is intended that appointment of future general managers will need to comply with the requirements of the NSW LGA (subject to the limitation outlined below).

**Commented [NILT8]:** We assume this is the policy. Please confirm, especially in relation to the time when this transitional arrangement is to end.

16. There are other provisions in Ch 11 of the NSW LGA relating to employment-type matters concerning the general manager and other staff of the council. It is intended that those provisions, including any relevant provisions of the Local Government (General) Regulations (NSW) (NSW LGR), would apply in relation to the NIRC and its staff, including the general manager, to the extent that they are not inconsistent with the Fair Work Act or the *Employment Act 1988 (NI)* (see s 18A(4) of the NI Act).

**Commented [NILT9]:** We understand this to be the policy. Please confirm.

**Other matters**

17. In relation to fees for councillors and treatment of money within the Public Account of Norfolk Island, AGS advice has been sought on the proposed approach, and we will provide further drafting instructions regarding those when we have received the advice.
18. Drafting instructions on the conferral of powers by applied NSW laws on courts and tribunals will also be provided once we have AGS's constitutional advice on the relevant issues.



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**From:** [REDACTED]  
**Sent:** Monday, 6 June 2016 3:57 PM  
**To:** [REDACTED]  
**Subject:** NIRC Functions [SEC=UNCLASSIFIED]  
**Attachments:** Service Type and Functions - NIRC.docx

Hi [REDACTED]

I have attached the outline of the NIRC functions.

Thanks,

[REDACTED]  
Local Government and Territories Division  
Department of Infrastructure and Regional Development  
T: 02 6274 7825  
PO Box 594, Canberra ACT 2601  
[REDACTED]@infrastructure.gov.au  
[www.infrastructure.gov.au](http://www.infrastructure.gov.au)

## **Norfolk Island Regional Council – Service Type and Functions**

### **Education:**

- Support Staff for Norfolk Island Central School

### **Courts and Legal Services:**

- Registrar of Probates
- Bailiff and Sheriff
- Clerk of the Court of Petty Sessions
- Crown Law Officer
- Prosecutions Services
- Debt Recovery
- Companies Auditors Authority
- Registrar and Assistant Registrar of Companies
- Registrar of Brands and Marks
- Coroner and Deputy Coroner
- Clerk of the Coroners Court
- Rule Making Committee
- Secretary of the Rule Making Committee
- Magistrate
- Medical Superintendent
- Legal Aid Advisory Committee
- Mental Health Tribunal
- Mental Health Advocate
- Registrar of Lands
- Registrar of Titles
- Authorised Person
- Registrar of Supreme Court
- Deputy Registrar of Supreme Court

### **Tribunals/Boards**

- Administrative Review Tribunal
- Mental Health Tribunal
- Statutory Appointments

### **Child Welfare**

- Child Welfare Officer

### **Registry, Licencing and Regulatory Enforcement**

- Motor Vehicle Registration
- Drivers Licence
- Land Titles Registration
- Companies Registrar
- Associations
- Registrar of Births, Deaths and Marriages
- Liquor Licencing
- Workplace Safety
- Environmental Protection

### **Emergency Services**

- Fire and Marine Search and Rescue
- Ambulance Services

### **Kingston and Arthurs Vale Historic Area (KAVHA) and Museums**

- KAVHA Landscape and Garden Maintenance
- Facilities Maintenance
- KAVHA Interpretation and Public Programs
- Museums – KAVHA/Sirius Collections

### **Office of the Administrator**

- Office Support

### **Gaming**

- Gaming Authority Regulation
- Lotteries

### **Pest and Noxious Weed Control**

- Pest and Noxious Weed Control

### **Workers Compensation**

- Workers Compensation

### **Ports Management**

- Ports Management

### **Record Keeping**

- Record Keeping and Archiving

16: Norfolk Island Reform Implementation Plan: **Local government election and body politic**

<b>Scope:</b>	
<b>Outcome:</b> Determine model for Regional Council including number of councillors, election type and schedule. Announce and hold local government elections in early 2016 with councillors sworn-in on 1 July 2016.	
<b>Deliverables/Outputs:</b> Brief and drafting instructions to enable final decision on Regional Council model by AM Norfolk Island Local Government Ordinance 2016 Communication and implementation plan for election	<b>Responsible Officer/s:</b> Nick Hannan/Michael Reedy
<b>Key Tasks:</b> Assist consultation with Administrator, Executive Director and Advisory Council on Regional Council model Draft brief and drafting instructions for comment Support initial decision on Regional Council model by AM Prepare drafting instructions Prepare election communications and implementation plan, including support for election by NSW Electoral Commission/NSWLGA Finalise Local Government Ordinance and seek agreement by AM Create Ordinance Announce and hold election	<b>Timeframe:</b>  July – October 2015 October 2015 November 2015 December 2015 – January 2016 December 2015 – January 2016  February 2016 February 2016 March – May 2016
<b>Decision-making process:</b> Regional Council model decided by AM Ordinance made by Governor-General-in-council	<b>Dependencies:</b> Local Government Ordinance is reliant on completing sufficient consultation to enable a decision on the Regional Council model by the end of November 2015. Drafting and implementation planning for the election can then occur over December and January, with an announcement of the election in February 2016.
<b>Legislation Required:</b> Yes. Decision date as above.	<b>By whom:</b> Policy input by Assistant Minister, Administrator, Executive Director & Advisory Council.



Australian Government

Department of Infrastructure and Regional Development

## PROPOSED MODEL: NORFOLK ISLAND REGIONAL COUNCIL

The Joint Standing Committee of the National Capital and External Territories (JSC) found that sound governance underpins any discussion of economic development. Reform for Norfolk Island must improve the capability and sustainability of the island's governance arrangements.

One proposed model is to establish a local government type body, such as a Norfolk Island Regional Council, to replace the current Norfolk Island Government. The following information outlines what a Norfolk Island Regional Council might look like.

### What happens to the Norfolk Island Government?

The Norfolk Island Government could be replaced by a Norfolk Island Regional Council. Residents of Norfolk Island would still participate and be represented in the Island's governance through the Council. Residents would elect councillors, replacing the election of Members to the Norfolk Island Legislative Assembly. Elections would mirror local government elections on the mainland.

#### *Services*

The Norfolk Island Regional Council would make key decisions on local matters. It would be responsible for local services, such as road maintenance and waste management, and continue to be responsible for law-making on local issues, such as planning and development.

It would also be responsible for the management of Government Business Enterprises (GBEs), including fuel and electricity supplies, and operation of the Norfolk Island airport. The majority of existing Norfolk Island Government staff would transition to the local government type body and perform the same functions in service delivery, corporate support or operating GBEs.

It makes sense that decisions around local assets and services are made locally and delivered by locals. There is potential for the Norfolk Island Regional Council to have a wider range of functions and responsibilities than an average mainland local council.

#### *Support*

The Australian National Audit Office found that there is a lack of proper financial controls and poor financial management practices in the Norfolk Island Government. The Norfolk Island Regional Council would operate within the Australian Local Government Association (ALGA). ALGA provides a framework to strengthen local government finances, build capacity and sustainability in local communities and improve local assets.

As a Council, there would be greater access to support and professional development opportunities to strengthen the skills of the public service to deliver services to the community. The Norfolk Island Regional Council would also be able to access additional grants and assistance from the Commonwealth Government to better perform its functions.

## What about state and federal services?

Norfolk Island is unique in being the only Australian self-governing external territory with responsibility for federal, state and local government responsibilities. The JSC found that it is not practical that a community of 2,000 people will have the governance, financial and the skills base to run a semi-sovereign state.

Communities on the mainland are able to work together to fund and deliver highly complex functions through larger State and Commonwealth governments. No other small community is asked to be responsible for all services that the Norfolk Island Government currently is.

The Australian Government believes that Australians should be treated the same, no matter where they live. The proposed reforms will build a stronger and more sustainable economy on Norfolk Island and provide the community with the opportunities and responsibilities consistent with the mainland.

### *Services*

The Australian Government would provide immigration, quarantine and customs services. Federal laws around these services will replace equivalent Norfolk Island laws. These changes would make it easier to travel to and from Australia and provide greater assistance in ensuring that Norfolk Island remains pest-free.

State-level services would be delivered under an arrangement with either the New South Wales or Queensland Government, as currently exists for the Norfolk Island Central School. This arrangement would extend to the Norfolk Island Hospital and other areas of service delivery, such as social and community support, environmental management and justice services.

State laws, based either on New South Wales or Queensland law, would replace the equivalent Norfolk Island laws. These changes would be made after input and feedback from the community. These issues may include registration and licensing; work cover and fair trading; or gaming.

### *Employment*

Federal services would be delivered by the relevant federal agency. For example, immigration and customs services would be delivered by the Australian Border Force and quarantine services by the Department of Agriculture, Fisheries and Forestry.

There would not be a substantial increase in the number of Commonwealth or state officials on Norfolk Island and some Norfolk Island Government staff may be retained by federal and state agencies to deliver services. For example, the Australian Border Force may engage existing Norfolk Island immigration staff to continue delivering these services. Norfolk Island Hospital staff may be retained under the new management of the hospital. In some cases, staff may be asked to transfer to a new role.



You are invited to provide feedback on this proposed model.

Website: [www.infrastructure.gov.au](http://www.infrastructure.gov.au)

Email: [NorfolkIslandReforms@infrastructure.gov](mailto:NorfolkIslandReforms@infrastructure.gov)

Post: Administrator – Australian Territory of Norfolk Island, PO BOX 201, Norfolk Island 2899

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Friday, 15 April 2016 5:15 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: NIRC - body politic or body corporate [SEC=UNCLASSIFIED]

s42

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**Sent:** Friday, 15 April 2016 4:51 PM

[REDACTED]  
**Subject:** RE: NIRC - body politic or body corporate [SEC=UNCLASSIFIED]

Hi [REDACTED]

Thanks for this, that's very helpful to have the various issues set out like this.

If you get a chance can you please double check that the Fair Work Act will apply to the NIRC if a body politic? I understand from [REDACTED] previous advice that it does definitely apply if a body corporate.

Kind Regards,



**Subject:** NIRC - body politic or body corporate [SEC=UNCLASSIFIED]  
**Importance:** High

Hi [REDACTED]

We offer the following comments to assist you in deciding whether the NIRC should be a body politic or a body corporate. We note, at the outset, that our understanding is that even if the NIRC is a body politic, it would not mean that it is the Commonwealth or a part of the Commonwealth. Rather, it will still be a separate legal person from the Commonwealth. For this reason, we understand that employees engaged by the NI Administration (which is a body politic: see NI Act s 5(2)) are not considered Cth employees at present.

We note s 220 of the NSW LGA provides that a council is 'a body politic of the State'. If the NIRC is to be a body politic as well, s 220 as applied to NI should be modified to simply refer to 'a body politic'. The intention that the NIRC is not the Cth could be explained in the explanatory statement for the s 19A Ordinance that makes the modification.

Conversely, if the NIRC is to be a body corporate, s 220 of the applied NSW LGA should be modified as well.

We set out below the apparent application (or otherwise) of relevant legislation in relation to the NIRC. We note, however, the following only represents our assessment based on a rather superficial consideration of these Acts. To provide definitive advice on the application of each Act, further legal research and analysis would be necessary.

	<b>Body politic</b>	<b>Body corporate</b>
<b>WHS Act</b>	Excluded from WHS Act by default on the basis that it is neither the Cth nor a 'public authority'	Most likely excluded from WHS Act by default on the basis that it is neither the Cth nor a 'public authority' To remove any risk that it may be considered a 'public authority', Employment will need to arrange for regulations to be made to exclude the NIRC
<b>SRC Act</b>	Excluded from SRC Act by default on the basis that it is neither the Cth nor a 'Cth authority' To remove any risk that SRC Act does apply (on the argument that the NIRC is the Cth, which we do not consider to be correct), it appears that Employment can fairly easily arrange for NIRC employees to be declared to be excluded	Excluded from SRC Act by default on the basis that it is neither the Cth nor a 'Cth authority'
<b>PGPA Act</b>	Excluded from PGPA Act by default on the basis that it is not a 'Cth entity'	Excluded from PGPA Act by default on the basis that it is not a 'Cth entity'
<b>Fair Work Act</b>	Covered by FW Act	Covered by FW Act
<b>Other Cth laws (which we have <u>not</u> considered for present purposes)*</b>	Possible that Cth laws may apply to NIRC (as a body politic) differently from how they apply to councils in the IOTs (as bodies corporate)	Presumably the same as for councils in the IOTs (unless specific steps have been taken to apply / disapply particular Cth laws re IOT councils, which may mean that those laws would apply / disapply in relation to NI

		in the same way only if the same steps are taken for NI)
<b>NSW laws</b>	Same as for body corporate	Same as for body politic

\* From our discussion yesterday, we understand that there has been no previously determined policy position on whether and how Cth laws (other than WHS, SRC and PGPA) should apply to the NIRC. It also appears that, until relatively recently, other agencies had understood that the NIRC would be a body corporate. We assume that means a change in the proposed status of the NIRC from body politic back to body corporate at this time should not give rise to any real concern that Cth laws may apply to the NIRC in a different way to what has been previously intended.

Of course there are policy considerations that you may also take into account, eg the preference to maintain consistency with the status of other NSW local councils and the status of the current Administration.

Please let us know once a policy position is settled on this, and we will propose drafting instructions for OPC accordingly.

Regards,

Sensitive: Legal



Australian Government

Department of Infrastructure and Regional Development

<b>FOR: The Hon Paul Fletcher MP</b> <b>cc: The Hon Warren Truss MP</b> <b>Mr Andrew Wilson, A/g Secretary</b>	<b>PDR ID:</b> <b>MB15-000691</b>	<b>For Decision by: 25 January 2016</b> <b>Reason: To support your announcement of the Regional Council election details during your visit on 28-29 January 2016.</b>
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## **SUBJECT: Norfolk Island Regional Council Framework**

### **Recommendation: That you:**

- (a) Agree to the New South Wales (NSW) local government election framework being applied for the pending Norfolk Island local government election via a Norfolk Island Regional Council Preparatory Election Ordinance 2016 (the Ordinance), and that this brief serves as your policy authority. Critical elements are outlined at **Attachment A**;
- (b) Agree to the Norfolk Island Regional Council (Regional Council) comprising five elected Councillors, including a Mayor;
- (c) Agree that this brief serves as your policy authority for the Norfolk Island Appropriations Amendment (2016 Measures.No.1) Ordinance 2016;
- (d) Sign the letter to the Chair of the Norfolk Island Advisory Council (Advisory Council), Ms Melissa Ward at **Attachment B**; and
- (e) Note the functions of the Regional Council are yet to be finalised and a separate brief seeking your policy authority for a further ordinance covering the detailed operations of the Regional Council will be provided in March.

### **Key Issues:**

1. To deliver on the Australian Government's Norfolk Island reforms, a Regional Council needs to be established prior to 1 July 2016 under an appropriate legislative framework. The Department of Infrastructure and Regional Development (the Department) reviewed and identified the relevant governance and election provisions in the *Local Government Act 1993 (NSW)* (the NSW Act) appropriate to apply to support the Regional Council election. These are detailed at **Attachment A**. Further, the current appropriation Ordinance requires amendment and your policy authority is required to adjust the appropriation amounts for the remainder of the current financial year.
2. In respect of the development of the electoral framework for the Regional Council, the Advisory Council was tasked by the former Minister for Territories with helping to establish a framework for transition from the Administration of Norfolk Island (ANI) to the Regional Council.
3. The Chair of the Advisory Council, Ms Melissa Ward wrote to you on 19 November 2015, presenting 16 recommendations on a local government model for the Regional Council. The recommendations were informed by a community consultation process.
4. The recommendations are comprehensive and address two broad areas:
  - the make-up of the Regional Council and the local government election framework; and
  - constraining the scope and functions of the Regional Council to those activities normally delivered by similarly sized local councils in NSW, with remaining activities to be moved to a structure separate from the Regional Council.

Cleared by: <span style="background-color: black; color: black;">[REDACTED]</span> Date: 19 January 2016 Phone: 6274 7446 Division: Local Government and Territories	(a) <input checked="" type="checkbox"/> Agreed <input type="checkbox"/> Not Agreed (b) <input checked="" type="checkbox"/> Agreed <input type="checkbox"/> Not Agreed (c) <input checked="" type="checkbox"/> Agreed <input type="checkbox"/> Not Agreed (d) <input checked="" type="checkbox"/> Signed <input type="checkbox"/> Not Signed (e) <input checked="" type="checkbox"/> Noted	Election to be on Saturday not Wednesday please.  Paul Fletcher 26 / 1 / 16
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Sensitive: Legal

**Sensitive: Legal**

5. The Advisory Council's recommendations are listed at **Attachment C** together with the Department's preferred position and rationale. The Department supports those recommendations (in full or in part) that are consistent with the existing provisions of the NSW Act, namely Recommendations 1, 5, 6, 7, 8 and 12; partially supports Recommendations 9, 10, 13, 14 and 15; and does not support Recommendations 2, 3, 4, 11 and 16. The views of the Hon Gary Hardgrave, Administrator of Norfolk Island (the Administrator) have also been included.
6. The Administrator has a similar view to the Department except for Recommendations 4 and 6. In Recommendation 4, the Administrator supports independent members serving on a Council Committee in an advisory capacity only however the NSW Act requires members of a Council Committee to be Councillors. In Recommendation 6, the Administrator does not support a non-resident land owner on Norfolk Island being eligible to vote in their home jurisdiction as well as in the Norfolk Island Regional Council election. The Administrator's proposed change is not consistent with the NSW Act.
7. The Ordinance is being drafted to align with the NSW Act. The Ordinance establishes the relevant processes for the conduct of this first election and covers voter eligibility, establishment of electoral rolls, eligibility and election of the councillors and the mayor and the system and conduct of the election. If you agree, it is expected to be put to the federal Executive Council (ExCo) meeting on 25 February 2016. Consideration by ExCo in February will support the earliest announcement of the election date and clarity on voter eligibility, key areas of interest by the community.
8. You will be provided with the package of materials for ExCo in early February. A separate brief seeking your policy authority for a further ordinance covering the detailed operations of the Regional Council will be provided in March once the Department has been provided with advice from the Executive Director of the ANI.
9. ExCo approved the Norfolk Island Appropriation Ordinance 2015 to support the expenditure budget of the ANI for the 2015-16 financial year.
10. The Norfolk Island Appropriations Amendment (2016 Measures No.1) Ordinance 2016 amends the agreed appropriation to provide for necessary increases and decreases to appropriation amounts for the remainder of the current financial year. The funding for the Regional Council election is within the appropriation envelope.
11. The Department intends to submit the legislative package for the Appropriations Ordinance to the 11 February 2016 meeting of ExCo and will provide you with the package of materials under a separate submission shortly.

**Sensitivities:**

Some longstanding Norfolk Island residents, including some prominent community and business leaders, are New Zealand citizens who will not be eligible to vote in the Regional Council election, unless they seek Australian citizenship. This will be a controversial issue. A resident's eligibility to vote in council referendums and polls is tied to eligibility to be on the Commonwealth or NSW electoral roll.

In discussions with your Office, the Department understands you may announce your decision on the election framework in a media release with other key decisions ahead of your visit, including the election timing, the transition of the hospital and the air services contract. You may wish to call the Chair of the Advisory Council as a courtesy prior to your announcement of the election details. The Advisory Council put in considerable effort to develop its recommendations.

**Consultation:**

The Hon Gary Hardgrave, Administrator of Norfolk Island

The Norfolk Island Advisory Council

**Attachments:**

<b>Attachment A</b>	Regional Council Election Framework and Functions – detailed coverage
<b>Attachment B</b>	Letter to the Chair of the Advisory Council, Ms Melissa Ward
<b>Attachment C</b>	Table: Positions on Advisory Council recommendations

**Sensitive: Legal**

## Regional Council Election Framework and Functions – detailed coverage

### *Regional Council Election*

#### Councillors and Mayor

1. The Department recommends that five (5) Councillors be elected for the standard four-year term, with the Mayor elected by the Councillors from among their numbers at their first meeting on or after 1 July 2016, to serve a 12-month term.
2. The Advisory Council recommended a seven-member Regional Council to provide improved transparency and broader representation. NSW local councils may have between five and 15 Councillors; five is appropriate for a population of this size and is the most financially responsible position in the short term until the longer term financial position of the Regional Council is known.
3. The Advisory Council recommended the standard remuneration provisions for local councils in NSW apply to the Councillors and Mayor. The Department and Administrator agree with this approach and propose to set remuneration in line with the NSW Local Government Remuneration Tribunal's *Annual Report and Determination 2015*.
4. The Department considers Norfolk Island to be most similar to the General Purpose Council category 'Rural' which provides for Councillor remuneration in the range of \$8,330 and \$11,010 per annum. All Councillors receive the same remuneration.
5. The Mayor receives a fee in the range of \$8,860 to \$24,030 additional to his/her Councillor remuneration.

#### Voter eligibility

6. The Department agrees with the Advisory Council recommendation that eligibility to vote in the election be aligned with mainland electoral conventions and restricted to Australian citizens. This position is a departure from previous electoral arrangements on Norfolk Island which have seen resident non-citizens vote in elections for the former Legislative Assembly.
7. The Department therefore recommends that eligibility to vote be consistent with NSW practices but with a minor, one-off departure from the NSW voter eligibility criteria for this election only.
8. The NSW criterion of 'rateable land' is not yet applicable to Norfolk Island and the 'rateable land' criterion will not be applied on this occasion.
9. The Advisory Council has recommended an interim model for municipal rates be introduced from 1 July 2016 and value-based system to commence before the end of the first term of the Regional Council.
10. The Department and Administrator do not support a staged approach and a municipal rates system will be established from 1 July 2016. The 'rateable land' criterion for inclusion on the electoral rolls will apply in all future elections.
11. Removing the 'rateable land' criterion, voter eligibility will be:
  - Australian citizens who ordinarily live on Norfolk Island, either owning or renting their land or property; or
  - Australian citizens who own property or businesses on Norfolk Island but live off-island, provided they are eligible to be on the Commonwealth or NSW electoral roll.

Land owners include corporations and trustees in the NSW model.

12. In line with NSW local government arrangements, voting is compulsory for electors on the residential roll. Voting is not compulsory for electors on the non-residential roll, even if they have applied for inclusion.
13. No elector will be entitled to more than one vote, even if they are eligible under more than one criterion.

Election date

14. The Department proposes you announce the election will be held on Wednesday, 1 June 2016. Wednesday is traditionally used for elections on Norfolk Island as businesses close at noon, and the Department suggests maintaining this practice as a gesture on this one occasion. 1 June is the optimum time to realise a result before the following Wednesday (8 June is the Bounty Day local public holiday) and the most culturally significant date on the Norfolk Island calendar.
15. Other options are 25 May or 15 June 2016.
16. 1 June 2016 accommodates the prescribed timeframes for nomination of candidates, the opening and closure of the residential and non-residential rolls, applications for postal voting, pre-poll voting, registration of political parties and preparedness for the running of the polling station.
17. For future elections, the date will be the same as the ordinary election date for Councillors in NSW, being the second Saturday of September every four years. NSW local government elections are set for 10 September 2016 and there is a likelihood merged councils may hold elections around March 2017.
18. The Department recommends the next Regional Council election be aligned with the NSW timetable at the end of the next four year term; at this time it is September 2020.

Election model

19. The Advisory Council recommended that electoral wards not apply, given the small population and geographic area. The Department agrees and candidates will stand in an undivided electorate.
20. The Advisory Council recommended applying the preferential voting model used in NSW local government elections, but restricting voting to 'below the line' only (that is, not allow group voting).
21. The Department does not support a deviation from the NSW local government model and recommends applying the proportional representation system, where candidates are elected in proportion to the number of votes they receive. Under this model, candidates need a quota of the total formal votes cast and surplus votes (those votes received by a candidate above their quota) are distributed in accordance with the process specified under NSW legislation.
22. This model allows for group voting, where candidates may choose to form groups and request a group voting square 'above the line'. There are conditions to be met:
  - There must be two or more groups requesting a group voting square on the ballot paper before 'above the line' group voting can take place; and
  - For a group to be eligible for a group voting square on a ballot paper in an undivided council, the number of candidates in the group must be at least half the number of candidates to be elected.
23. If there are no groups, candidates are listed on the ballot paper in a single column in the order determined in a draw.
24. The Advisory Council recommended the number of members for registration of a political party be lowered to 20 instead of the 100 required under NSW law due to the small voting population. The Department and the Administrator do not support a deviation from the NSW standard and proposes to apply the NSW requirements for political parties in local government elections.
25. The Advisory Council recommended the Regional Council be responsible for administering elections into the future. The Department and Administrator agree in principle, noting a number of local councils in NSW either administer elections themselves or contract a commercial election services provider experienced in NSW local government election requirements. Such a commercial provider is a sound and appropriate option for at least the initial election.
26. The Department is highly conscious of the importance of the first election to not only be conducted in accordance with the Act and a valid result delivered, but also be seen to be open, transparent,

accountable and at arms-length from staff of the future Regional Council to avoid conflicts of interest (real or perceived).

#### Operation of the elected Regional Council

27. To provide access to a broader skills base, the Advisory Council recommended that independent members be allowed to serve on formal Committees of the Regional Council. They would be selected by a majority of Councillors but not have any voting or decision-making powers.
28. The Department and Administrator support the principle of the Regional Council drawing on expertise and independent views. However, the Act only permits elected Councillors to serve on formal Committees of Council. Community members may sit on informal committees or working/advisory groups to provide information and contribute views, but accountability for decisions taken remains with the Councillors.
29. The Advisory Council has recommended that Regional Council meetings have a public forum for community members to present views on topics of importance to them. The Department and Administrator support this recommendation, noting the Act to be extended to Norfolk Island stipulates Council meetings are to be open to the public, unless sensitive or confidential matters are to be discussed.

#### *Regional Council functions*

##### Transition process

30. A community of circa 1500 residents faces challenges with generating revenue, fostering economic growth and maintaining infrastructure. The structure that evolved under self-government was not able to deliver the full range of local, state and federal services. A key result of the reforms process will be a local government-level Regional Council with an appropriate range of functions and activities for Norfolk Island's population.
31. In its November 2015 paper, the Advisory Council present a number of recommendations for the restructure of the functions and business activities of the Administration of Norfolk Island (ANI) as part of the transition to the Regional Council. The process of assessing all current functions and business activities and mapping them to an appropriate function structure is well advanced, but not yet settled.
32. Many Government Business Enterprises (GBEs) run by the ANI (notably the electricity company and Norfolk Telecom) fall outside the regular functions and responsibilities of local governments.
3. The Advisory Council recommended the GBEs be situated outside the management of the Regional Council, under an alternative professional management structure overseen by the Australian Government. The Department and Administrator agree in principle, and work continues to design the most appropriate structure and management model.
34. The scope and functions of the Regional Council will be limited to those activities appropriate to a local government entity, broadly: planning and zoning functions, rates, roads and grounds maintenance, local infrastructure construction and maintenance, the community library, the cemetery, waste management, community services, grants management and water services.
35. The ANI has engaged experts in transitional management to inform and support the movement of the GBEs to a separate structure alongside the Regional Council. The Department proposes to engage external expertise to advise on an appropriate governance model. The intention is for revenue earned on-island and critical to the functioning of the Regional Council be retained, but also that the GBEs are run using contemporary, efficient management practices.
36. To support the new structure from commencement, the Advisory Council recommended the Executive Director position be continued to advise the incoming Council and be responsible for a range of business improvement activities including operational and management practice reforms.
37. The Department and Administrator support this recommendation, particularly as expertise in local government administration will be critical to the success of the transition. The tenure and

responsibilities of the position are yet to be finalised and depend on the activities and functions of the Regional Council and the separate, enterprise structure, including its legal form.

38. The Advisory Council also recommended that an economic development function covering heritage and tourism be established in the Regional Council, with destination marketing to be funded by the Australian Government. The Department and Administrator support this recommendation in part, noting the Government already contributes to tourism access to the island by underwriting the air service contract.
39. Destination marketing is not provided for in forward funding at this time, although the Department notes the progression of the tourism proposition for Norfolk Island is broader than just destination marketing and requires a whole-of-concept approach, including training of operators.
40. The Advisory Council recommended the Charter of the Act be modified when it is applied to Norfolk Island; extended from covering the needs of children to also include the elderly and vulnerable. The Department and Administrator do not support this expansion in scope; protections for the elderly and vulnerable are state and federal functions and are adequately provided for in these jurisdictions.
41. The Regional Council must remain focused on typical local government-level tasks and not revert to duplicating services delivered by other levels of government.





Australian Government  
Department of Infrastructure  
and Regional Development

**MINISTERIAL CORRESPONDENCE**  
Office of the Hon Paul Fletcher MP

PDR ID:  
Due at MPS:  
/ / 2015

**OFFICE ADVICE**

**TIMEFRAME**

- ☒ Standard (10 days)  
☐ Urgent (5 days)  
☐ Other:

**ACTION**

**Reply:**

- ☒ Minister  
☐ Chief of Staff  
☐ Department

**Refer:**

- ☐ State Minister (Chief of Staff reply):  
☐ Commonwealth Minister (MPS reply):

**Other:**

- ☒ Brief  
☐ Department to determine appropriate action  
☐ File (for information only)  
☐ Standard words

**COMMENTS/INSTRUCTIONS**

Adviser: NH  
Date: 20 / 11 / 2015  
☐ Call adviser to discuss

**FEEDBACK - QUALITY RATING**

1. Excellent
2. Good
3. Satisfactory
4. Poor
5. Very Poor

**COMMENTS**

**DEPARTMENT ADMINISTRATION**

**Referred to adviser**

CG AN  
MS AW

NH

Date referred:

DLO: KS x6130

**Other information**

- ☐ Referred from:  
☐ Relates to PDMS item/s:

**Referred to division**

CORP II  
P&R STP

LG&T  
WSU

☐ Please seek input from other division/agency:

**Action Officer**

**Clearing Officer**



## Advisory Council NORFOLK ISLAND

The Hon Paul Fletcher MP  
Minister for Territories, Local Government and Major Projects  
Parliament House  
CANBERRA ACT 2600

Dear Minister

### NORFOLK ISLAND REGIONAL COUNCIL FRAMEWORK

Thank you for your letter acknowledging receipt of the Advisory Council's first progress report to the former Minister the Hon. Jamie Briggs MP, and the attention given to the Norfolk Studies matter I raised in my previous letter.

I also congratulate you on your appointment as Minister for Territories, Local Government and Major Projects. The Advisory Council looks forward to providing you with community feedback and advice as governance in Norfolk Island transitions to a Regional Council.

The Advisory Council has undertaken a significant community engagement process which assisted us to gain an understanding of how the community would like its new model of government to look and operate within the framework of the *Local Government Act 1993* (NSW). The Advisory Council has given due consideration to the community feedback and is in a position to provide you with advice on a preferred Norfolk Island Regional Council framework.

Community feedback indicates a general desire for a small Regional Council which directly undertakes core activities and outsources service delivery to the private sector where possible.

Government business activities currently owned and operated by the Administration of Norfolk Island provide a unique challenge. While there will be a need to continue delivery of these functions on-island, the Advisory Council does not believe they should be a core function of the Regional Council, but managed independently under a separate governance structure.

The Advisory Council has made 16 specific recommendations based on the community feedback we have received to date. A summary of the recommendations is at Attachment A for your information. A longer version of the recommendations including an explanation of the rationale for each is at Attachment B.

A proposed breakdown of the responsibilities of the Regional Council, the Australian Government, the private sector, not for profit and volunteer groups with regard to service delivery and operational tasks is included at Attachment C for your consideration.



In addition, health and aged care services, roads, environmental management, tourism promotion, telecommunications, and renewable energy were identified by the community as key priorities for Regional Council service delivery and a shared investment with the Australian Government. A high level of community concern continues in relation to the Island's future health and aged care model, to this end, the Advisory Council looks to an early announcement of the model so that genuine discussion can be held based on fact.

There continues to be a strong desire to preserve and promote Norfolk Island's unique heritage, language and traditions. The Advisory Council plans to provide you with advice on the (now repealed) preamble of the *Norfolk Island Act 1979* (Cth) in the near future. The preamble contained words which recognised the ongoing relationship between descendants of Pitcairn Island and Norfolk Island, and the Advisory Council supports this recognition continuing. The Advisory Council will continue its consultation process and provide you with advice on priorities and preferences for new laws, modelled on New South Wales law, in coming weeks. We welcome the announcement of your upcoming visit to the Island and look forward to holding discussions with you in person.

Yours sincerely



Melissa Ward

Chair, Norfolk Island Advisory Council

Cc: The Hon. Gary Hardgrave, Administrator

Enc.

## GOVERNANCE AND FUNCTIONS FOR THE NORFOLK ISLAND REGIONAL COUNCIL

A SUBMISSION TO THE MINISTER FOR TERRITORIES, LOCAL GOVERNMENT AND MAJOR PROJECTS

### SUMMARY OF RECOMMENDATIONS

1. The Advisory Council recommends the role of the Executive Director be continued and include some executive powers to advise and mentor an Incoming Council and to continue the business improvement activities in cooperation with the Administrator and the Department of Infrastructure and Regional Development.
2. The Advisory Council recommends that the *Local Government Act 1993 (NSW)* Charter be modified as follows:

To promote and to provide and plan for the needs of children, the elderly and the vulnerable
3. The Advisory Council recommends seven members (including the Mayor) serve on the Regional Council.
4. The Advisory Council recommends independent members may serve on Committees of the Regional Council to ensure that the Council is able to draw on a broader skill base.
5. The Advisory Council recommends Regional Council meetings have a public forum as provided for in the *Local Government Act 1993 (NSW)* so members of the community, or representative bodies, can present views on topics important to them and their members.
6. The Advisory Council recommends Australian citizens, who are resident or non-resident landowners, and occupiers or leaseholders of business or residential property, be eligible to vote at Regional Council elections.
7. The Advisory Council recommends the Mayor be elected by councillors under the terms set out in the *Local Government Act 1993 (NSW)*.
8. The Advisory Council recommends electoral wards not apply to Norfolk Island due to its small population and geographic area.
9. The Advisory Council recommends the preferential voting electoral system set out in the *Local Government Act 1993 (NSW)* be used and, given the Island's small population, recommends voting below the line only.
10. The Advisory Council recommends the Regional Council be responsible for administering elections.
11. The Advisory Council considered the Island's small voting population (approximately 1000) and recommends to establish a political party would require 20 members.
12. The Advisory Council recommends the remuneration provisions in the *Local Government Act 1993 (NSW)* apply to Norfolk Island.
13. The Advisory Council recommends the Executive Director continue to pursue governance and operational reform, improve management and customer service standards, remove barriers to competition, contract out services and divest businesses to the private sector wherever possible.

14. The Advisory Council recommends the management of current Norfolk Island government business activities sit outside of the core functions of the Regional Council, and an alternative professional and independent management and oversight model be established by the Australian Government.
15. The Advisory Council recommends an economic development function that encompasses heritage and tourism development be established in the Regional Council and destination marketing be funded by the Australian Government as a State function.
16. The Advisory Council recommends an interim rating model be introduced commencing 1 July 2016, and a value based system be introduced by the end of the first term of the Regional Council.

## **GOVERNANCE AND FUNCTIONS FOR THE NORFOLK ISLAND REGIONAL COUNCIL**

### **A SUBMISSION TO THE MINISTER FOR TERRITORIES, LOCAL GOVERNMENT AND MAJOR PROJECTS**

#### **SUMMARY**

In line with its Terms of Reference, the Norfolk Island Advisory Council consulted with the Norfolk Island community on the governance model and functions of a future Regional Council. This paper outlines the Advisory Council's recommendations based on consultations which took the form of:

- Two discussion papers with feedback surveys that were sent to every post office box;
- Two public meetings where every member of the Norfolk Island community was invited to attend and speak;
- An open invitation to all members of the Norfolk Island community to assist in the process;
- Media segments outlining the process and providing information;
- Meetings with key stakeholder groups;
- Meetings with individuals.

The Advisory Council considers the views represented through the consultation process are broadly representative of community sentiment as the discussion papers were widely circulated and advertised, and all community members were afforded an opportunity to put forward their views.

The Advisory Council would like to thank residents of Norfolk Island for their engagement with this process and for the thoughtful and constructive submissions that have been made on these issues.

In coming weeks the Advisory Council will seek further feedback from the community on its priorities for economic development, and the phasing in of an applied laws regime to cover State functions. As part of this process, the Advisory Council will also seek feedback on a preamble for the *Norfolk Island Act 1979* (Cth) (as amended).

## 1. GOVERNANCE

It was clear from the consultation process the community wants a professional, well-managed, cost effective public service which serves the community and delivers value for money. Respondents highlighted the need for fair and equitable access to services, service provision at arms-length from policy development, and the growth of the role of the private sector in service provision. The community feedback supported greater transparency in the decision making process by both elected officials and council employees, and an effective merit based process for decision making and review, and for complaint handling.

It is likely that the business improvement process for the Administration of Norfolk Island and related entities will extend beyond 1 July 2016, and that the newly elected Regional Council will need additional assistance at both a strategic and operational level. As outlined in Section 2, there will need to be a separate management structure in place for (transitional) business units which do not form the core functions of the Regional Council.

### RECOMMENDATION 1:

The Advisory Council recommends the role of the Executive Director be continued and include some executive powers to advise and mentor an incoming Council and to continue the business improvement activities in cooperation with the Administrator and the Department of Infrastructure and Regional Development.

The Advisory Council supports the application of the *Local Government Act 1993* (NSW) as the primary governance framework for Norfolk Island as this approach provides an appropriate level of transparency and accountability for the establishment of the Regional Council. There are a number of options which could be considered within this framework for the operation of the Regional Council. The Norfolk Island community has been consulted on these, and the Advisory Council's recommendations are set out below.

### Norfolk Island Regional Council Charter

The community endorsed the proposed adoption of the *Local Government Act 1993* (NSW) Charter. Some wanted the Charter to recognise Norfolk Island's multiculturalism, culture and traditions, and recognition of the elderly and vulnerable when planning for the future. Some wanted the *Norfolk Island Act 1979* (Cth) preamble to be reinstated.

### RECOMMENDATION 2:

The Advisory Council recommends the *Local Government Act 1993* (NSW) Charter be modified as follows:

To promote and to provide and plan for the needs of children, the elderly and the vulnerable

### Number of councillors

Nearly half of the community support a five member Council, with the remainder calling for a greater number of councillors. On average, the community recommended six councillors be appointed. A six member Council would give the deciding vote to the Mayor which the Advisory Council believes is not ideal. Others in the community presented the view that a larger number of councillors would improve transparency and provide broader community representation.

### RECOMMENDATION 3:

The Advisory Council recommends seven members (including the Mayor) serve on the Regional Council.

## Committees

Community feedback indicated widespread support for the inclusion of non-elected members on committees of the Council where specialist skills are required.

### RECOMMENDATION 4:

The Advisory Council recommends that independent members may serve on Committees of the Regional Council to ensure that the Council is able to draw on a broader skill base. These members would be chosen by a majority of the existing Committee, but would not have voting rights.

## Public forums

Community feedback indicated strong support for a public forum to be included at the start of council meetings.

### RECOMMENDATION 5:

The Advisory Council recommends Regional Council meetings have a public forum as provided for in the *Local Government Act 1993 (NSW)* so members of the community, or representative bodies, can present views on topics important to them and their members.

## Who can vote?

There was strong community support for broadening the voting base.

### RECOMMENDATION 6:

The Advisory Council recommends Australian citizens, who are resident or non-resident landowners, and occupiers or leaseholders of business or residential property, be eligible to vote at Regional Council elections.

## Electing the Mayor

The community was evenly split on whether the Mayor of the Regional Council be selected by elected councillors, or by popular vote.

### RECOMMENDATION 7:

The Advisory Council recommends the Mayor be elected by councillors under the terms set out in the *Local Government Act 1993 (NSW)*. It is thought to be the most cost-effective and efficient solution, and the process is familiar to the community.

## Electoral wards

There was minimal community support for establishing electoral wards.

### RECOMMENDATION 8:

The Advisory Council recommends electoral wards not apply to Norfolk Island due to its small population and geographic area.



## **The electoral system**

There was general community support for the electoral system set out in the *Local Government Act 1993* (NSW).

### **RECOMMENDATION 9:**

The Advisory Council recommends the preferential voting electoral system set out in the *Local Government Act 1993* (NSW) be used and, given the Island's small population, recommends voting below the line only.

## **Responsibility for administering future elections**

The community indicated support for both the Regional Council and the NSW Electoral Commission to administer elections. The Advisory Council recognises the need to hold an election outside the NSW election cycle, and suggests the most cost effective and transparent method is used to conduct the first election.

### **RECOMMENDATION 10:**

The Advisory Council recommends the Regional Council be responsible for administering elections.

## **Political parties**

Although major political parties are represented on the Island, community feedback indicated there is little support for a political party system on the Island. Some respondents suggested if there were to be political parties, they should have 80 members but no reasons were provided. The Advisory Council accepts policy statements set out by political parties provide valuable information to the community.

### **RECOMMENDATION 11:**

The Advisory Council considered the Island's small voting population (approximately 1000) and recommends that to establish a political party would require 20 members.

## **Remuneration**

The Advisory Council notes there is already a prescribed process for setting councillor remuneration under the terms of the *Local Government Act 1993* (NSW) and believe that this provides an appropriate framework for determining remuneration for the Regional Council.

### **RECOMMENDATION 12:**

The Advisory Council recommends the remuneration provisions in the *Local Government Act 1993* (NSW) apply to Norfolk Island.

## 2. THE FUNCTIONS OF A REGIONAL COUNCIL

The Advisory Council sought feedback from the community based on the following core principles:

- The operation of the Council should be framed by a Community Engagement Strategy which recognises the community has a right to be consulted in the decision making process.
- Services provided by the Regional Council must be accessible by all parts of the community in a fair and equitable manner.
- Some services provided by the Regional Council may be provided at a loss to ensure the community is able to access key programs, initiatives, and support activities that would not otherwise be available. These could include community health services, relief programs or concessional rates for vulnerable people.
- Council decision making should support economic development and the generation of local employment opportunities and development of local skills. At the same time, decisions should be made in consideration of any present environmental or cultural factors.
- Organisations providing services on behalf of the council must be permitted to do so within set parameters but at arm's length. Councillors and Regional Council Staff must not be members of community boards that deliver services on behalf of the Regional Council.
- The Council should avoid where possible, providing services which could be provided by the private sector. These services should be regularly market tested to ensure the community is receiving value for money.

### Key priorities for service delivery improvement

The priorities the community identified for service delivery under the new arrangements by the Regional Council are:

- Health and aged care services;
- Roads;
- Environmental and waste management;
- Cultural and tourism development; and
- Mobile phone and internet service.

The community was also seeking improvements in public sector management, customer service, and in the professionalism and training of staff.

It was suggested that a greater focus and more resources should be applied to pest control, renewable and sustainable energy supply options, plus continued public access to heritage sites and materials.

### Support for smaller government

The community's desire for smaller government is clearly demonstrated by general support for the divestment or privatisation of government businesses and the contracting out of services wherever possible. This could be described as a future where the Regional Council becomes a facilitator of service delivery rather than a provider in its own right.

The Australian Government has already agreed to take on a range of "national and state" functions such as border security, quarantine, immigration, taxation, health, education and social services. The responsibility for these functions will be transitioned to the Australian Government.

The Advisory Council supports the community's aspirations for the private sector to play a bigger role in public service delivery.

## **Fair competition**

Comments from the community strongly reflect that where government businesses compete with the private sector, they must do so on a fair basis.

Some respondents suggested splitting the wholesale and retail arms of appropriate businesses such as the liquor bond to encourage competition. Some also suggested separating regulatory and service functions and encouraging third party access to publicly owned infrastructure in telecommunications.

## **Divestment and contracting out**

Respondents indicated a preference for the exploration of alternative management and delivery models for a range of services provided by the Administration of Norfolk Island including the divestment of some government businesses and contracting out the provision of some services. In particular, respondents focussed on telecommunications, electricity generation and distribution, broadcasting, postal services, waste management and the maintenance of public places.

There was general support for the divestment or privatisation of Norfolk Telecom, the liquor bond and the post office.

There was mixed support for the retention of government broadcasting services with respondents indicating support for both the retention and divestment of the broadcaster.

Importantly, a number of respondents highlighted the significance of ensuring the divestment of government businesses does not lead to their replacement with a privately owned monopoly.

There was support for contracting out of works functions, fleet maintenance, the management of public places, fuel supplies for the council fleet, road maintenance, and purchasing.

### **RECOMMENDATION 13:**

The Advisory Council recommends the Executive Director continue to pursue governance and operational reform, improve management and customer service standards, remove barriers to competition, contract out services and divest businesses to the private sector wherever possible.

## **The financial myth exposed**

There is a view on Norfolk Island, that government businesses provide valuable income to the public purse, in reality, this is not the case. Only a very small number recover costs, and little or no money is set aside for capital replacement. Deloitte reports clearly show that when the full cost of service delivery is taken into account (including provision for asset replacement), few of the business activities make a profit.

The Advisory Council notes the true cost of service delivery by these businesses is not clear and considerable investment will be required to ensure that government businesses are sustainable and function under the most appropriate operating model.

The Advisory Council acknowledges this may present an immediate revenue challenge for the Regional Council. A financial commitment may be needed in the short term to ensure delivery of core council functions, and in the medium term to allow development of a sustainable Regional Council model.

## **Norfolk Island Regional Council core functions and transition model**

The Advisory Council has provided a list (Attachment C) of Regional Council Core Functions and Transitional Activities. The list separates the suite of core services that could be delivered by the Regional Council from a relatively large range of services currently provided by the Administration of Norfolk Island. This includes the

government business activities and functions that will transfer to the Australian Government. Importantly, the strong role played by the community sector on Norfolk Island would be retained under the model.

The Advisory Council strongly believes government business activities must be managed and delivered independently from the Regional Council. As the governance and operations of these business activities improve over time, and the best business model for each service is put in place, management of the service delivery arrangement could be reconsidered.

The Advisory Council strongly advocates that local people be provided with every opportunity to fill positions in core services, business enterprises, and transitioned services.

**RECOMMENDATION 14:**

The Advisory Council recommends the management of current Norfolk Island government business activities sit outside the core functions of the Regional Council, and an alternative professional and independent management and oversight model be established by the Australian Government.

**Partnership in tourism**

There was community support for reform of the tourism function, and support in the community for offshore professional involvement in management of the marketing of the island's tourism activities. There was also support for a stronger marketing emphasis on the National Park and the Kingston and Arthur's Vale Historic Area.

The Advisory Council believes the Regional Council and community will require ongoing independent and professional support to improve the tourism product. This will in turn grow the economy and lead to a more sustainable Regional Council.

This will require broader consideration of the current tourism strategy and the execution of the strategy which is almost exclusively focussed on destination marketing. While important, there are a range of other considerations which need to be addressed such as infrastructure and the cost of doing business. Product development will attract more and new visitors and increase yield and as such, the tourism function should not continue in isolation from broader economic development activity.

**RECOMMENDATION 15:**

The Advisory Council recommends an economic development function which encompasses heritage and tourism development be established in the Regional Council and destination marketing be funded by the Australian Government as a State function.

### **3. REVENUE**

Community feedback indicated an understanding within the community that it is essential to consider other ways to raise revenue for the Regional Council. A number of suggestions were made including poker machine revenue, visitor levies, a tax on alcohol and cigarettes and retention of the local goods and services tax (GST). Rates were specifically suggested as a way to raise revenue by a similar number of people to those who stated rates should not be used to raise revenue.

The Advisory Council notes the Household and Business Income and Expenditure Survey 2014, and believes a rating system with adequate concessions for those suffering genuine hardship in the community is required, as is a staged implementation approach.

#### **RECOMMENDATION 16:**

The Advisory Council recommends an interim rating model be introduced commencing 1 July 2016, and a value based system be introduced by the end of the first term of the Regional Council.

## REGIONAL COUNCIL CORE FUNCTIONS AND TRANSITIONAL ACTIVITIES

### Core Regional Council responsibilities and operational activities to be retained

Workplace health and safety compliance, road maintenance, registry functions, community health services, cemeteries and funerals, cultural development, library, and Museums (community collection)

Tourism and economic development

Volunteer coordination

Human resources, governance, contract management, internal planning and reporting, asset management, audit, risk and records, projects, IT support, purchasing, rates and finance, and planning and development regulation

### Government business enterprises that could be operated as independent utilities

Waste management

Electricity

Water Assurance Scheme

Airport

Lighthouse

Telecom

Broadcasting

### Functions of the Administration of Norfolk Island that could be transferred to the private sector

Sale of rock

Fleet maintenance

Works store

Liquor bond

Fuel sales

Tanalith

Forestry

Audit (external)

### Services delivered to the community by the not for profit or volunteer sector

St John's Ambulance

Volunteer rescue

Meals on wheels

Community transport



**Responsibilities of the Australian Government**

Border control (Customs, Immigration and Quarantine)

Taxation

Kingston and Arthur's Vale Historic Area

Museums (national collections)

National Parks, conservation and crown reserves,

Healthcare levy (Medicare)

Social services (Centrelink)

Company registrations (ASIC/ABN)

Post Office

Health – hospital, aged care and medivac

Emergency management

Education

Police

Philatelic

Workplace law and regulation

**State Government functions to be further considered in the transitional process**

Noxious pest and plant control

Workers compensation

Courts, public prosecutions, and Coronial services

Gaming

Fire and emergency services





## PAUL FLETCHER MP

Federal Member for Bradfield  
Minister for Major Projects,  
Territories and Local Government

PDR ID: MB15-000691

Ms Melissa Ward  
Chair  
Norfolk Island Advisory Council  
PO Box 468  
NORFOLK ISLAND 2899

*Melissa*  
Dear ~~Ms~~ Ward

### Norfolk Island Regional Council Framework

Thank you for your warm congratulations on my appointment as Minister with responsibility for Territories and for the Advisory Council's *Governance and Functions for the Norfolk Island Regional Council* paper you provided to me on 19 November 2015.

The Advisory Council is undertaking valuable work in ensuring every member of the community is afforded an opportunity to put forward their views on establishing the Regional Council and the reform program. This consultation process is critical to building a better understanding of the reforms and their impact on the community.

In agreeing to the Regional Council election framework, I have applied the principle of maintaining consistency with the NSW *Local Government Act 1993* unless there is a compelling reason not to do so. I believe it is particularly important to apply a trusted and mature elections framework to ensure a valid result will be delivered and the community can have confidence that the highest standards of transparency and accountability have been applied.

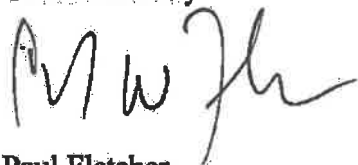
I have made one variation for the first Regional Council election in respect of voter eligibility; it will not be contingent on the owning or leasing of rateable land as municipal rates are not yet applied on Norfolk Island. I anticipate this eligibility test will be applied for future elections.

Accordingly I have supported some, but not all, of the recommendations in the Advisory Council's paper. As we discussed on 17 December 2015, I intend to announce the framework and timing for the Regional Council election ahead of my visit to Norfolk Island on 28 and 29 January 2016. I will ensure you are informed of the exact timing of the announcement.



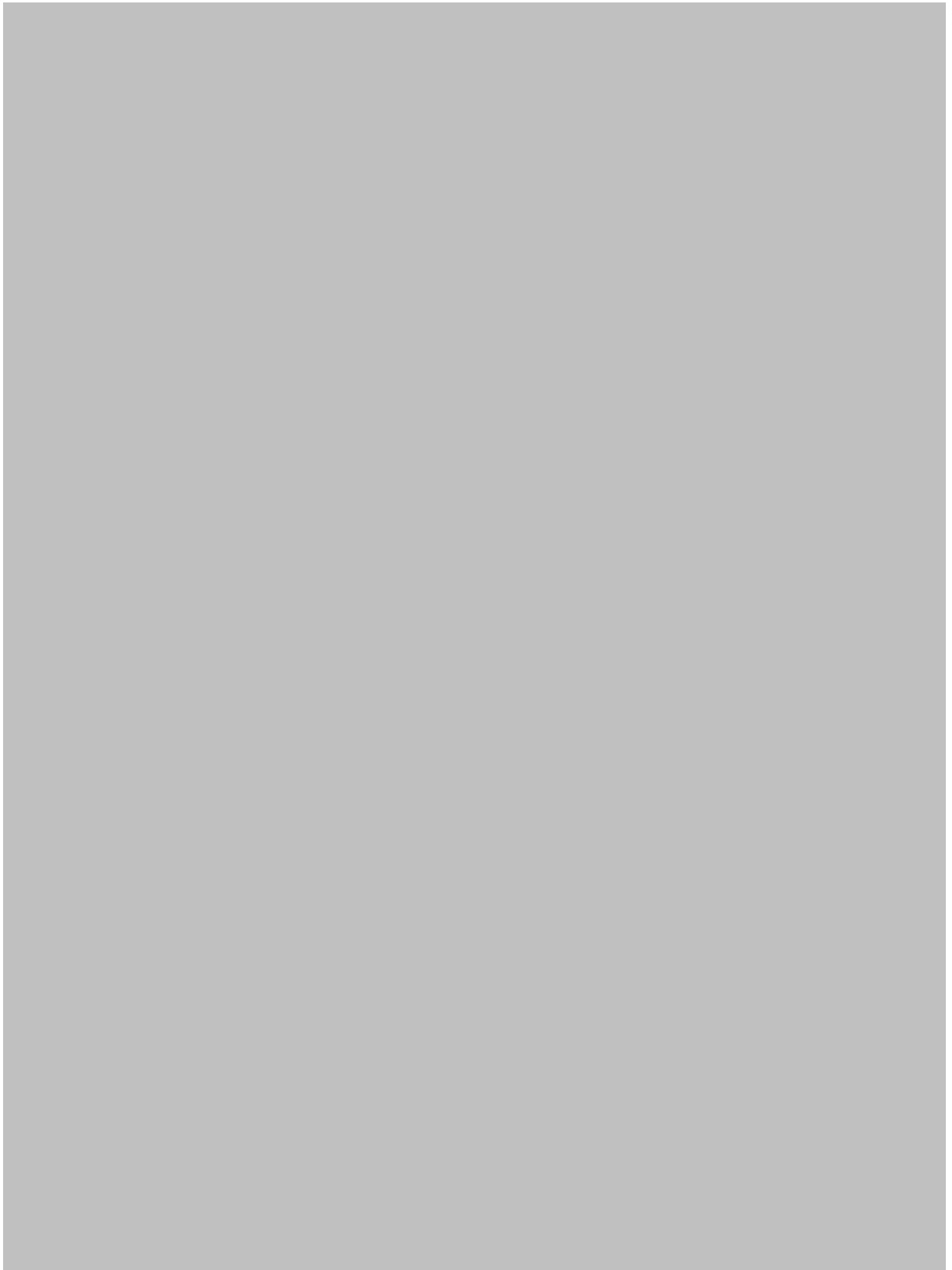
Thank you again for your work in leading the Advisory Council. I look forward to meeting you and the other Council members in person during my upcoming visit.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Fletcher', with a stylized flourish at the end.

Paul Fletcher

26 / 1 / 2016



The first part of the paper discusses the importance of the research and the objectives of the study. It then moves on to a literature review, which provides a background on the topic and identifies the gaps in the existing research. The methodology section describes the research design, data collection, and analysis. The results section presents the findings of the study, and the conclusion summarizes the main points and offers suggestions for future research.

The study was conducted in a laboratory setting, where participants were asked to perform a series of tasks. The tasks were designed to measure the participants' ability to perform under different conditions. The results of the study show that there is a significant difference in the performance of the participants under different conditions. This suggests that the factors being studied have a significant impact on the outcome of the tasks.

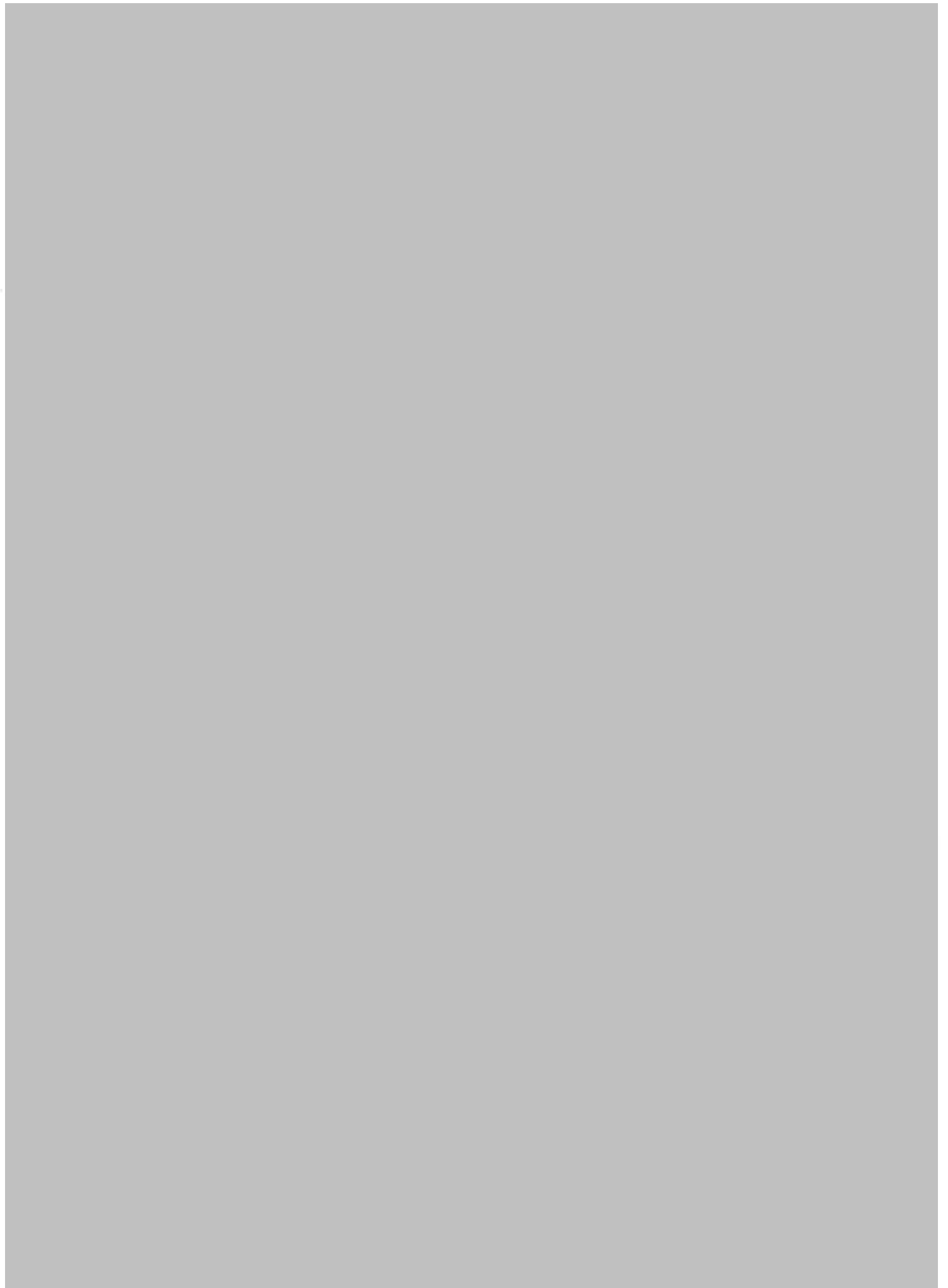
The findings of the study have important implications for the field of research. They provide a better understanding of the factors that influence the outcome of the tasks and can be used to develop more effective strategies for improving performance. The study also highlights the need for further research in this area, as there are still many questions that need to be answered.

In conclusion, the study has shown that the factors being studied have a significant impact on the outcome of the tasks. This suggests that there is a need for further research in this area to better understand the factors that influence the outcome of the tasks and to develop more effective strategies for improving performance.









# 1b. Norfolk Island Reform Implementation Plan: Local government election and body politic

<b>Deliverables/Outputs:</b>	Brief and drafting instructions to enable final decision on Regional Council model by AM Norfolk Island Local Government Ordinance 2016 Communication and implementation plan for election		
<b>Key Tasks:</b>	<p><u>Task:</u></p> <p>Assist consultation with Administrator, Executive Director and Advisory Council on Regional Council model</p> <p>Draft brief and drafting instructions for comment</p> <p>Support initial decision on Regional Council model by AM</p> <p>Prepare drafting instructions</p> <p>Prepare election communications and implementation plan, including support for election by NSW Electoral Commission/ NSWLGA</p> <p>Finalise Local Government Ordinance and seek agreement by AM</p> <p>Create Ordinance</p> <p>Announce and hold election</p>	<p><u>Timeframe:</u></p> <p>July – October 2015</p> <p>October 2015</p> <p>November 2015</p> <p>December 2015 – January 2016</p> <p>December 2015 – January 2016</p> <p>February 2016</p> <p>February 2016</p> <p>March – May 2016</p>	
<b>Decision-making process:</b>	Regional Council model decided by AM Ordinance made by Governor-General-in-council		
<b>Dependencies:</b>	Local Government Ordinance is reliant on completing sufficient consultation to enable a decision on the Regional Council model by the end of November 2015. Drafting and implementation planning for the election can then occur over December and January, with an announcement of the election in February 2016.		
<b>Legislation Required: If yes, decision date/s and whom/what</b>	Yes. Decision dates: as above.		
<b>Responsible Officer/s:</b>	<p>By whom:</p> <p>Policy input by Assistant Minister, Administrator, Executive Director &amp; Advisory Council.</p>		

s22



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## COMMONWEALTH FINANCIAL OFFICER

NORFOLK ISLAND 2899

TELEPHONE: 6723-22152  
FACSIMILE: 6723-22681

## BRIEF

**To:** [REDACTED] Executive Director, Local Government and Territories Division  
**CC:** [REDACTED] Acting General Manager, Norfolk Island Branch  
 [REDACTED] Director, Contracts and Heritage Section s22  
**Subject:** Approval to Procure Project Management Services for the Implementation of the Norfolk Island Regional Council Enterprise Management System

## Recommendation(s)

That you:

1. Note the process followed by the Administration of Norfolk Island (ANI) in procuring project management services for the Implementation of the Norfolk Island Regional Council (NIRC) Enterprise Management System (EMS).

Noted / Please discuss

2. Approve ANI's spending proposal to procure project management services from [REDACTED] s47G for \$ [REDACTED] (inclusive of travel and accommodation costs), by signing the form provided at Attachment A.

Approved / Not approved / Please discuss

[REDACTED]  
**Executive Director**  
**Local Government and Territories Division**  
 .../05/2016

## Background:

1. ANI has sought your approval to procure the services of an external firm to provide project management services to assist ANI (and the NIRC) with the implementation of a new EMS.
2. Clause C.1.1.1 of Schedule 1 of the *2015-16 Funding Agreement for 2015/16 Norfolk Island Territory Funding: Variation 2* between the Commonwealth and ANI (the Funding Agreement) requires that ANI seek your approval for spending proposals that are to commit more than \$50,000 of public money.

Commonwealth Financial Officer PO Box 201 Norfolk Island 2899

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3. Approval for the procurement of a new EMS for the NIRC was provided by the Minister on 1 March 2016 (MS16-000253) and then yourself on 2 March 2016. The business case supporting the procurement of the EMS highlighted the need for ANI to source additional specialist project management resources to oversight and manage the implementation of the system as ANI does not have staff with appropriate experience, qualifications and skills in managing complex projects. Budget of [REDACTED] for this was included within the approved project costing of [REDACTED]
4. The tender specification provided at **Attachment B** (please refer to section 2.0, page 3) details the scope of services that are being sought from the procurement. These are:
  - Programme Management – A strategic resource, providing overall independent governance and to manage Civica, Project and Change Manager and all internal ANI stakeholders; and
  - Project and Change Management – An independent implementation resource, dedicated to improving project and change management practices, providing education support and training for staff in an environment of continual change.

### Key points regarding the procurement:

5. The ANI Procurement Policy requires goods and services valued at greater than \$50,000 be sourced via an open approach to market.
6. ANI has utilised the services of Regional Procurement, a NSW based procurement advisory firm to conduct an open approach to market for project management services. The tender was advertised on 30 March 2016 on TenderLink (an online gateway for the advertisement and management of tenders, quotes and EOIs). Tenders closed on 11 April 2016.
7. The Executive Director established an assessment criteria and a Tender Evaluation Panel before tenders closed. The assessment criteria was based on respondents project management and change management experience, the qualifications and skills of nominated staff and price. The Tender Evaluation Panel consisted of the Deputy Chief Executive Officer and the Manager, Regional Procurement. An independent Probity Adviser was also provided by Regional Procurement to ensure that ANI's procurement policy was complied with.
8. Two tenders were received, from [REDACTED] and [REDACTED] and these were evaluated against the assessment criteria. A Tender Evaluation Report was prepared, signed by the Tender Evaluation Panel and provided to the delegate (Executive Director) for approval. The approved Tender Evaluation Report is provided at **Attachment C** for your information.
9. It has been recommended by ANI that [REDACTED] be awarded the tender. The pricing of the two proposals was very close, [REDACTED] \$6,500 lower than [REDACTED]. This small difference is considered immaterial to the overall assessment and therefore the key assessment criteria became the experience of the tenderer and qualifications and skills of the nominated staff.
10. [REDACTED] experience in having worked with ANI over the last year to develop the EMS business case and approach to market for the software meant that their proposal more clearly articulated the work required and better tailored the management approach to the needs of the project. This was the key differentiator between the two proposals, with both tenderers offering qualified and experienced staff as part of their proposed team and both proposing to utilise Industry standard project management methodologies.
11. As noted above, budget of [REDACTED] has been included in the overall approved implementation cost of the EMS. The additional budget of [REDACTED] which is needed to fund this spending proposal, will be sourced from the budgeted contingency pool of [REDACTED]

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# UNCLASSIFIED

## Summary

12. ANI has conducted a compliant procurement process as it has followed an open approach to market, utilised predetermined assessment criteria and a Tender Evaluation Panel has evaluated the response against this criteria and reported their outcomes. The process has also been reviewed and endorsed by an independent Probity Adviser.
13. Based on the information provided, value for money and the ability of the selected tenderer to provide quality project management services has been demonstrated through the assessment process.
14. Based on the above analysis I recommend you approve ANI's request to procure project management services from [REDACTED], estimated as costing [REDACTED] inclusive of travel and accommodation costs. s47G

[REDACTED]  
Commonwealth Financial Officer

04/05/2016

Attachment A – Approval from Commonwealth to Spend Public Money Greater than \$50,000

Attachment B – Tender Specification

Attachment C – Tender Evaluation Report



## APPROVAL FROM COMMONWEALTH TO SPEND PUBLIC MONEY GREATER THAN \$50,000

The Funding Agreement between the Administration of Norfolk Island and the Commonwealth of Australia provides for Commonwealth oversight of spending proposals that would commit more than \$50,000 of public money of the Administration or money of a Territory Authority. Before an arrangement to commit more than \$50,000 can be entered, approval must be obtained from the Executive Director Local Government and Territories, as informed through the Commonwealth Financial Officer.

This form must be completed and submitted to the Commonwealth Financial Officer for approval at least 5 business days before entering into the agreement with the supplier.

Contact person:

Position: Deputy Chief Executive Officer

Email: [deputyceo@admin.gov.nf](mailto:deputyceo@admin.gov.nf)

Telephone: Intl 6723 22001 extn 8

Identified business need: *(Enter the business justification for this procurement)*

As identified in the Technology Transformation Business Case, which supported the request to spend over 5 years for the installation of the Civica system, there is a requirement for two roles for twelve months, neither role can be sourced from within ANI:-

1. a programme governance, strategic advisory role, and
2. an operational project and change management role.

Quotations: *(Please attach all quotes to this form)*

	Supplier's Name	Total Project Price (\$)
Supplier 1		s47G
Supplier 2		
Supplier 3	n/a	

Justification for supplier selection: *(Enter the business justification for the selection of the preferred supplier e.g. quote represented value for money).*

An open tender process was conducted by Regional Procurement on behalf of ANI. Seven tender documents were downloaded from the TenderLink website; two tenders were received. The Evaluation Report is attached.



### Costing Comparison

s47G

As [REDACTED] Advisory have a greater knowledge of the project than other tenderer/s, they were able to provide a detailed estimate of requirements. In the comparisons below, it has been assumed that the other tenderer would have similar requirement.

#### 1. Consultant Costs

[REDACTED]
------------

s47G

[REDACTED]
------------

s47G

#### 2. Estimated Travel and Accommodation

[REDACTED]
------------

[REDACTED] were not in a position to provide estimates, [REDACTED] requirements have been assumed.

s47G

s47G

#### 3. Total Costs (addition of points 1 & 2 above)

[REDACTED]
------------

s47G



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Yes No

Are there funds available within the vote of the business area for the procurement? x

Is approval required under Order 40?

(Norfolk Island Minister for Finance's written agreement for arrangements not supported by sufficient available appropriation)

Attached is the Executive Director – Norfolk Island endorsement.

x

Is approval required under Order 41?

(Responsible Commonwealth Minister must be notified of all spending proposals greater than \$1 million).

x

Proposed date to enter into the arrangement with the supplier?

9 May, 2016

**CEO / General Manager / Director's Approval:**

I support and authorise the business case for this spending proposal as an efficient, effective and ethical use of Norfolk Island Government resources that is consistent with the Commonwealth Finance Minister's (Norfolk Island) Orders 2011.

Signature:

Name:

Date:

2/5/16

2/5/16

s47F

**Commonwealth Financial Officer's Approval:**

I support and authorise the business case for this spending proposal as an efficient, effective and ethical use of Norfolk Island Government resources that is consistent with the Commonwealth Finance Minister's (Norfolk Island) Orders 2011.

Signature:

Name:

Date:

5/5/16

s47F



**Executive Director Local Government and Territories Approval:**

I support and authorise the business case for this spending proposal as an efficient, effective and ethical use of Norfolk Island Government resources that is consistent with the Commonwealth Finance Minister's (Norfolk Island) Orders 2011.

**Signature:**

s47F

**Name:**

**Date:**

5.5.16



Administration of Norfolk Island

# Request For Tender

**Tender No: SPT411516NF Programme Management and Project and Change Management**



## 1.0 About the Administration of Norfolk Island

### 1.1 Location and History

Located 1,677 km north-east of Sydney, Norfolk Island is home to a unique historical community. Whilst discovered by Captain Cook prior to Governor Phillip's Sydney Cove landing in 1788, Norfolk Island was not officially settled until 1789.

Today it is best known as home to the descendants of the famous *HMS Bounty* mutineers who relocated from Pitcairn Island in 1856.

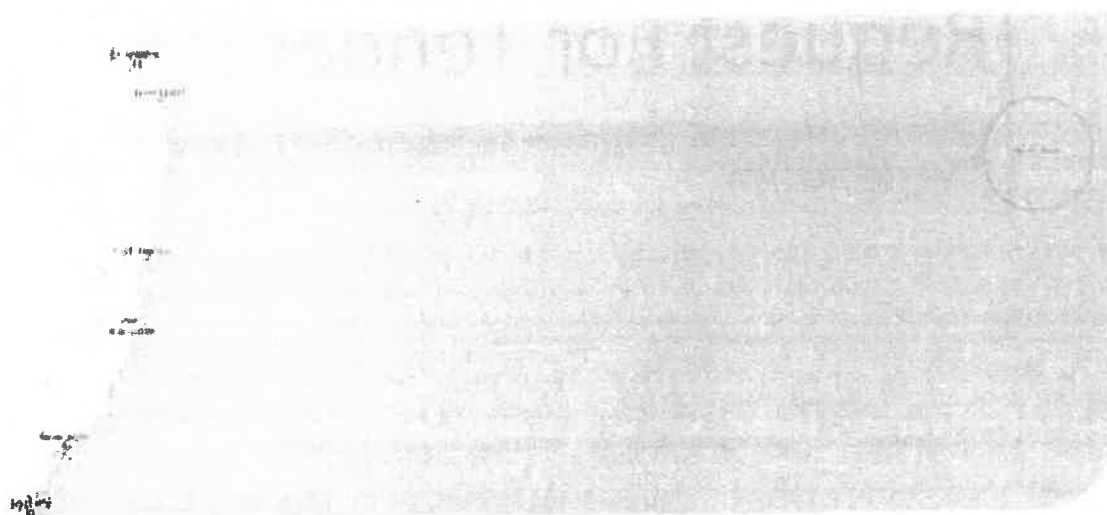


Figure 1: Norfolk Island is located 1,677 km north-east of Sydney, Australia

### 1.2 Governance Reform

Norfolk Island is an External Territory under the authority of the Commonwealth of Australia.

In May 2015 the passing of the *Norfolk Island Legislative Amendment Bill 2015* abolished the Legislative Assembly of Norfolk Island. As a consequence of these reforms, the Australian Government is implementing a new governance framework on Norfolk Island and the Administration of Norfolk Island (the Administration) is in the process of transitioning to the Norfolk Island Regional Council (Council) from 1st July 2016.

At that time a range of state (health, education and policing), and federal (taxation, social security, immigration, customs, quarantine) services will be delivered by the Australian Government, with some potentially being provided with the New South Wales Government<sup>1</sup>.

<sup>1</sup> For further information see: [http://regional.gov.au/territories/norfolk\\_island/reforms](http://regional.gov.au/territories/norfolk_island/reforms).

### 1.3 Norfolk Island Regional Council Profile

In order to achieve transitional reform and guide the future work of the Council, the Administration has commenced a series of strategic reviews and initiatives focused on streamlining service delivery and improving operational efficiency and effectiveness.

#### Key Statistics:

▪ Island Population:	2,200 (including 600 visitors)
▪ Geographic area:	35 km <sup>2</sup>
▪ Administration Employee base:	220 (operating as 150 FTEs)
▪ Assessments:	2,000
▪ Annual Plan:	<a href="http://www.norfolkisland.gov.nf">www.norfolkisland.gov.nf</a>

Today the Administration comprises up to 2,000 rateable assessments<sup>2</sup> with an estimated consolidated income of approximately AUD\$40 million<sup>3</sup>. Its' capital works program is primarily focused on remediating existing assets by undertaking rehabilitation and upgrading works.

As a geographically remote public-sector business, the Administration operates without competitors; but not without a number of significant challenges in relation to how it must evolve to remain both sustainable and relevant to the community it serves.

The Administration is entering the local government sector at a period of significant and longitudinal change. The evolving role of local government in Australia is forcing all councils to find new ways of improving responsiveness and efficiency for their ever-broadening group of stakeholders.

This stakeholder base is no longer just the resident rate payer. Instead it now encompasses a much broader portfolio of service consumers encompassing residents, visitors, tourists, complainants, applicants, contractors, staff, commercial organisations, developers, media, and small business.

In a sector where direct competition is rarely seen as a business driver, sustainability through service and structural efficiency is today providing ample incentive to improve corporate performance for the benefit of all. And nowhere more so than on Norfolk Island.

And as a key enabler of efficient service delivery, an agile portfolio of information technology service enhancements is deemed critical.

### 1.4 Business Objective

When it comes to technology and its strategic application, the collective businesses that constitute the Administration of Norfolk Island and its service delivery stakeholders is a unique organisation.

Whether measured by its commercial and geographic remoteness, or the ratio of its size to service delivery responsibilities, the complexities of Norfolk Island's administrative and operational environments cannot be under-stated.

Practically speaking this poses significant challenges in identifying working models for integrated and efficient technology platforms that are capable of meeting the daily operational requirements of such a complex ecosystem.

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<sup>2</sup> The Administration is currently in the process of developing its local government property rating function.

<sup>3</sup> Please refer to the 2015/16 Budget Report for full financial details:

<http://www.norfolkisland.gov.nf/reports/Administration%20of%20Norfolk%20Island%20Budget%20Reports/ANI%202015-16%20Budget%20Report/2015-16%20ANI%20and%20Territory%20Authorities%20Budget%20Report%20FINAL.PDF>

A public tender process<sup>4</sup> for a Local Government Enterprise Management System commenced in October, 2015. At the conclusion of the process, which included on-island presentations by four tenderers, and their provision of a best and final offer, Civica Pty Ltd were chosen as the preferred tenderer.

As the Administration of Norfolk Island does not have the skill base for programme implementation, a public tender is being called for these services. This public tender process is being implemented as permitted by the *Public Moneys Act 1979* and in accordance with the *Commonwealth Finance Minister's (Norfolk Island) Amendment Orders 2015 - F2015L01213*. It encompasses the requirement to call for public tender for any good and services having an estimated value in excess of \$50,000.

## 1.5 Invitation to Tender

An invitation is extended for interested and capable providers (Respondent(s)) to meet certain criteria and demonstrate their ability to deliver against the Administration's requirements.

Respondents should note that as required by law, the Administration is bound by *Administration Policy and Guidelines for Procurement of Goods and Services* which generally sets out how it conducts tender processes and procurement. A copy can be accessed via the Administration's web-site at <http://www.norfolkisland.gov.nf>.

## 2.0 Scope of Work

The Administration is seeking assistance from interested and capable parties to provide two services for a period of twelve months from late-April 2016, namely:-

1. Programme Management.  
A strategic resource, providing overall independent governance and to manage Civica, Project and Change Manager and all internal ANI stakeholders.
2. Project & Change Management.  
An independent implementation resource, dedicated to improving project and change management practices, through the educate support and train staff in an environment of continual change.

### Information requirements

Data and information requirements arise from the functions that users of Council systems carry out on a day-to-day basis to manage operational processes.

It has been identified that while these requirements are the same as those being used by other Australian Councils now and into the future, they represent new requirements for the future Council. That is, unless there is a major change in the Australian Council regulatory landscape, the information and data requirements for the identified functions remain predominantly the same as mainland operational environments. Therefore the primary functional areas for managing core information and data requirements have been identified as per the table on the following page:

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<sup>4</sup> RFT No. 71/15 Local Government Enterprise Management Systems

### Primary system function requirements

Financial Management	Human Capital Management	Property and Regulatory Management	Asset Management	Enterprise Content Management	Performance Reporting
General Ledger	Reporting	Rates Management	Management Reporting	Search	Spatial Analysis
Accounts Receivable	Leave Entitlement	Billing	Asset Inventory	Centralised Information Management	Financial Analysis
Accounts Payable	Payroll	Property Data Management	Asset Data Collection	Document Management	Business Intelligence
Tax Management	Establishment	Inspection and Certification Management	Network or Portfolio Operations	Records Management	Strategic Reporting
Management Accounting	Benefits Management	Permit and Licensing Management	Asset Construction	Web Content Management	
Banking	Time Sheeting	Planning, Development Management	Asset Maintenance	Digital Asset Management	
Procurement	Training Management	Integrated Debtor Management	Asset Safety	Case Management	
Purchase Cards	Performance Management	Fee and Charges Management	Investment Analysis	Process Management	
Reconciliation	Skills and Competency Management	Infringement and Enforcement Management	Work Order Management		
Financial Asset Management	Recruitment Management	Open Space Management	Project Management		
Capital Works	Contract Management	Animal Management	Stores Management		
Project Costing	Workforce Planning	Stormwater Management	Fleet Management		
Budgeting	Industrial and Workplace Relations	Roads and Infrastructure Management	GIS Integration		
Portfolio Management		Electoral Roll Management			
Cash Management		Request Management			
		Work Order Management			
		GIS Integration			

**Estimated Internal Labour Days.**

Positions and Days are as stated or similar. Days are calculated at 7.5 hours.

A combined estimate of 1,376 man days of implementation effort required of Norfolk Island internal staff.

Division/Dept	Position or Role	Subject Matter Expertise	FY15-16 Days	FY16-17 Days
<b>Information &amp; Technology</b>	Acting IT Manager	Information Technology	80	80
	IT Officer 2	Applications and Data	35	50
	IT Officer 2	Applications and Data	35	50
	Records Officer	Information and Records	10	90
<b>Finance</b>	Finance & Budget Manager	Charts-Account Structure, Finance and Budget, Data	70	80
	Assistant Finance Manager	Accounts, Payroll	60	10
	Finance Officer - AR	Rates and Revenue	40	10
	Finance Officer - AP	Accounts	40	10
	Administrative Officer(s)	GBE and Point of Sale	10	40
	Risk and Audit Manager	Compliance	10	40
<b>HR</b>	HR Manager	Human Resources	5	5
	HR Admin Officer	HR and Payroll	5	30
<b>Customer Service</b>	Accounts Officer	Request Management	10	15
	Customer Services Officer	Request Management	10	15
<b>Regulatory Environment</b>	Registry Manager	Regulatory Environment	20	10
	Community Services	Regulatory Environment		
	Public Works Manager	Building and Plumbing	15	10
	Planning Officer	Planning	2	15
	Acting Records Assistant	Planning & Spatial	5	25
	Senior Health-Quarantine Officer	Environmental Health	5	35
	Foreman - Building	Building and Plumbing	5	25
	Grounds Staff	Parks and Gardens	0	10
<b>Waste</b>	Forester-Ranger-Conservator	Animal Registration & Enforcement	10	35
	Waste Management - Foreman	Service, Rates and Levies	5	15
<b>Asset Management</b>	Public Works Manager	Engineering, Fleet, Plant	5	20
	Administrative Assistant Public Works	Asset and Work Order Management	2	12
	Acting Purchasing Officer	Fleet and Plant-Inventory & Stores	10	30
	Deputy CEO	Asset Services, Airport Compliance and Utilities	30	50
<b>Rounded Estimates (days)</b>			<b>544</b>	<b>832</b>

## 2.1 Request for Tender

The Administration invites Respondents to address the three points below, in the tender to provide Programme Management and Project and Change Management Services.:

1. Ability to carry out Programme Management and Project Change and Management roles based on experience.
2. Qualifications and quality of staff assigned to the project.
3. Price: Hourly/Daily rate for each consultant; and estimated number of hours for the twelve month project.

### *Conditions of Contract for the RFT*

The Conditions of Contract associated with the Request for Tender for services which the Administration of Norfolk Island proposes to issue as part of this RFT will be the Australian Standard 4122-2000 General Conditions of Contract for Consultants. This Australian Standard is available from Standards Australia.

### *GST*

GST will not apply to this RFT. All costs are to be represented in Australian dollars and are to exclude GST.

### *Insurance (certificates of currency must be provided with the tender submission):*

- a. Professional Indemnity Insurance in excess of \$5 million per claim.
- b. Public Liability Insurance in excess of \$10 million per claim.
- c. Cyber Insurance in excess of \$5 million per claim
- d. Workers Compensation.

## 2.2 Expectations of Service

The proposed changes being sought by this tender are intended to deliver numerous key benefits for the Administration. To be short-listed the Respondent must clearly define capabilities in the delivery of the following services in an Australian Council environment:

1. Clear Indications of governance, controls and quality measures to manage projects.
2. Critical processes for both automated and manual disaster recovery and business continuity.
3. Experience in the support of remote computing environments involving multiple datacentres.
4. Expertise in the implementation of data integration, data federation and data quality solutions.
5. Experience, willingness and capability to work in partnership with 3<sup>rd</sup> party software suppliers.
6. Support in migrating customers away from the Respondent's services at term.
7. Innovative service models to provide flexible license pricing.

## 2.3 Assumptions

The following assumptions apply to the scope, execution, services and deliverables required under this document, subject to final contract. They do not represent an exhaustive list:

**Proactive Participation:** The successful Respondent will pro-actively and collaboratively work with the Administration to achieve the objectives and subsequent contract. These will include:

- Openly discussing key decisions regarding the process and direction of the contract.
- Providing guidance and ongoing support to the relevant teams.
- Participating in agreed contract management meetings.
- Assessing the impact of proposed changes in scope.
- Facilitating the availability of resources to achieve agreed service delivery outcomes.

**Issue Resolution:** Timely resolution of issues will be a critical success factor. The successful Respondent will work together to identify, document and resolve any potential functional, technical or other contract issues.

**Escalation Process:** In the event of the need to escalate an issue or concern, the successful implementation Respondent will raise the issue or concern with a nominated contact to facilitate resolution.

**Language:** The project language for all documentation, development, meetings, and communication must be English.

### 3.0 Procurement Process

This public tender is being implemented as permitted by the *Public Moneys Act 1979* and in accordance with the *Commonwealth Finance Minister's (Norfolk Island) Amendment Orders 2015 - F2015L01213*.

It is governed in accordance with the *Administration Policy and Guidelines – Procurement of Goods and Services, Chapter 5*, which includes *Appendix 1 – Probity Plan*.

Electronic versions of these documents are made available for public access via the Administration's internet page in the NI Administration section of the Norfolk Island Government Information webpage <http://www.norfolkisland.gov.nf>.

#### 3.1 Lodgement

RFTs will only be received electronically via TenderLink.

#### 3.2 Closing Time

The deadline for the submission of responses pursuant to this invitation is 10.00am Australian Eastern Standard Time, Monday 11<sup>th</sup> April 2016. Respondents should note, in accordance with the *Public Moneys Act 1979* late RFTs may only be accepted at the sole discretion of the Chief Executive Officer if satisfied that the integrity and competitiveness of the tendering process has not been compromised.

Request for Tender process milestones will occur across the following provisional timeline:

▪ Invitations to tender issued to respondents	Wednesday 30 <sup>th</sup> March, 2016
▪ Closing date for tender responses	Monday 11 <sup>th</sup> April, 2016
▪ Tender Evaluation panel recommendation	Wednesday 13 <sup>th</sup> April, 2016
▪ Commonwealth approval received.	Tuesday 19 <sup>th</sup> April, 2016
▪ Notification of successful respondent	Tuesday 19 <sup>th</sup> April, 2016
▪ Contract Finalisation	Wednesday 20 <sup>th</sup> April, 2016
▪ Initial Implementation Team Teleconference	Friday 22 <sup>nd</sup> April, 2016

#### 3.3 Evaluation Criteria Request for Tender

The criteria to be applied in evaluating tender responses will be based on the professional judgement of the Tender Evaluation Group. The selection criteria to be applied are listed below.

1. Ability to carry out Programme Management and Project Change and Management roles based on experience.
2. Qualifications and quality of staff assigned to the project.
3. Price: Hourly/Daily rate for each consultant; and estimated number of hours for the twelve month project.

### 3.4 Scoring Methodology

Tenders will be scored using weighting factors entered against each criterion. The weighting factors are allocated, for each criterion, in the range from 1 to 10 where:

Score	Description	Interpretation
0	Unacceptable	Nil Response or Irrelevant Response –The information presented is not relevant to the criteria/sub-criteria OR no information presented. Would pose an extreme risk if awarded.
1		In-between unacceptable and below poor.
2	Below poor	The information presented has demonstrated capability which is far below the appropriate standard level for this criteria/sub-criteria. Would pose a high risk if awarded.
3		In-between below poor and poor.
4	Poor	The information presented has demonstrated capability which is just below the appropriate standard level for this criteria/ sub-criteria. Would pose a moderate risk if awarded.
5		In-between poor and good.
6	Good	The information presented has demonstrated adequate capabilities with slight enhancement in some areas. Some monitoring required if awarded. Would pose a low risk if awarded.
7		In-between good and very good.
8	Very Good	The information presented has demonstrated more than adequate capabilities with additional factors which sets the Respondent's offering apart from others and is advantageous.
9		In-between very good and excellent.
10	Excellent	The information presented exceeds the expected level of capability suggested by the criteria/ sub-criteria and is most advantageous.

### 3.5 Addenda

Any instruction resulting from questions and enquiries through the electronic tender portal will be added to the electronic tender portal by the Administration in the form of an Addendum. Similarly, should the Administration require documents to be amended an Addendum will be issued. Electronic notification will be provided to each party that has downloaded RFT documents to allow them to obtain the issued Addendum. Any issued Addendum shall become part of the Request for Tender documents.

**Note:** Respondents must refer to each Addendum in their RFT submission, and state that the RFT allows for the instructions given in the Addendum.

### 3.6 Awarding the Tender

Subject to the evaluation and subsequent recommendations of the Tender Evaluation Group, Commonwealth approval will be required to enter into an arrangement with the successful Respondent(s). For planning purposes, Respondents are advised that approval must be sought from the Commonwealth up to 7 days prior to the date proposed to enter into the arrangement.





## EVALUATION REPORT 'COMMERCIAL IN CONFIDENCE' EMS Project Implementation SPT411516NF

Regional Procurement® has called an open Single Source tender on behalf of the Administration of Norfolk Island (ANI) for the EMS Project Implementation.

Tenders closed at 10.00am on Monday 11 April 2016.

This tender was advertised in the following media:  
o TenderLink on Saturday 30 March 2016

Two (2) tenders in total were received from:



s47G

Seven (7) tender documents were downloaded from the TenderLink website.

### Probity

This tender has been called in accordance with ANI Administration Policy and Guidelines (APG) Procurement of Goods and Services 2004/07, Local Government Tendering Guidelines and the Regional Procurement® Tendering Code of Conduct.

Conflict of Interest Declarations were signed by all members of the Tender Evaluation Group (TEG). The declarations are available to be viewed if required.

All tenderer insurance records were checked against Tender requirements and potential non-conformities (where applicable) are noted in the Evaluation Matrix for the consideration of the TEG.

The evaluation was conducted in accordance with the ANI Administration Policy and Guidelines (APG) Procurement of Goods and Services 2004/07 requirement, the Local Government Tendering Guidelines, Regional Procurement® Tendering Code of Conduct and Tendering Evaluation Principles and Process.

Regional Procurement was engaged to provide independent probity auditor services. The officer responsible for this service was Michelle Partland – Advisor / Probity and Quality Management. Confidentiality and probity were maintained throughout the process with this being achieved by way of the Probity Plan document created by the Probity Advisor and signed off by both members of the TEG.

### Tender Evaluation

The tender evaluation was conducted on Thursday 21 April via teleconference by:

- TEG member: Bruce Taylor – Deputy CEO ANI
- TEG member: Peter Salafia – Manager Regional Procurement
- Probity Advisor: Michelle Partland – Advisor / Audit & Quality Management

A second teleconference was also undertaken on Friday 22 April to cover off on additional information with regard to Previous Experience checks that had not been completed the day before.

**Methodology:**

The % weightings and criteria were agreed upon prior to the tender closing.

The evaluation result was determined by:

- Total estimated price was calculated using the same methodology ie: assumptions on:
  - number of man-days required to complete the project using the rates nominated by each tenderer in their respective submissions,
  - applicable ATO charge out rates for consultants where actual rates were not provided,
  - The lowest overall amount was awarded the full Criteria % for each this Category as shown in the Evaluation Table on the following page
  - Each subsequent total \$ value was then divided into the lowest total amount to obtain a pro-rata score.

- Qualifications and quality of staff assigned to the project was evaluated based on the information viewed in the respective resume's provided by each company

- The ability of each tenderer to carry out Programme Management and Project Change and Management roles based on experience was evaluated using a standard Previous Experience questionnaire. Each of the nominated contact persons provided by each company was contacted and asked to provide objective feedback on the tenderer by way of a standardised scoring methodology of 1 to 5. The scoring rationale is based on 1 being very poor to 5 being for excellent. Respondents could also respond in 0.5 increments if desired.

Results are calculated by adding the total scores obtained from the Tenderer's three nominated points of contact (each totalling up to a maximum of 25 points) and dividing this total by the maximum possible score of 75, then multiplying this number by the allocated matrix Weighting value of 40%.

**Note:**

- No late tenders were received.
- All tenderers had been noted as active on the ASIC website.
- No tenders were deemed non compliant.

**Evaluation Outcome:**

**Contract Duration**

This contract will run for approximately 12 months from the date of engagement with actual commencement subject to formal endorsement of this report by the ANI Executive Director and subsequent Commonwealth approval.

**Tender de-brief:**

Regional Procurement® will formally invite all tenderers to make an appointment to discuss their respective tender submissions with a view to providing them with feedback on the tender evaluation process.

### Evaluation Results:

#### **Tender Evaluation Criteria and % weightings:**

Criteria	% weighting	Tenderer
1. Ability to carry out Programme Management and Project Change and Management roles based on experience	40	
2. Qualifications and quality of staff assigned to the project.	40	
3. Price: Hourly/Daily rate for each consultant; and estimated number of hours for the twelve month project.	20	
Total	100	

s47G

Insurances	
Professional Indemnity	\$5M per claim
Public Liability	\$10M per claim
Cyber Insurance	\$5M per claim
Workers Compensation	Current

s47G

s47G

**Contract Price Variations:**

Any variations to the total value of this project will be subject to approval by the Deputy CEO ANI.

**TEG Recommendation:**

s47G

1. That [REDACTED] be awarded this contract as the Single Source supplier to the Administration of Norfolk Island and

Yours truly,

[REDACTED]  
Deputy CEO  
Administration of Norfolk Island

Signed .....

Date .....

29/04/2016

[REDACTED]  
Manager  
Regional Procurement Initiative@

Signed .....

Date .....

26/4/2016

s47F

**From:** [REDACTED]  
**Sent:** Tuesday, 12 April 2016 9:03 AM  
**To:** [REDACTED]  
**Subject:** FW: NIRC Community Strategic Plan [SEC=UNCLASSIFIED]  
**Attachments:** Norfolk Island Regional Council Community Strategic Plan Draft - GH, RH Comments.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Red Category

Attached and below.

[REDACTED]  
 Department of Infrastructure and Regional Development (Commonwealth)  
 [REDACTED]

---

**From:** [REDACTED]@nlk.regional.gov.au]  
**Sent:** Wednesday, 6 April 2016 12:09 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED] HARDGRAVE Gary; [REDACTED]  
**Subject:** NIRC Community Strategic Plan [SEC=UNCLASSIFIED]

Hi [REDACTED] has reviewed the document and is comfortable, subject to your consideration of some further comments/changes, as noted in the attached (this also includes my comments).

Thanks

[REDACTED]  
 Commonwealth Financial Officer  
 Norfolk Island Office of the Administrator  
 [REDACTED] | Mob: [REDACTED]  
 e: [REDACTED]@infrastructure.gov.au | [REDACTED]@admin.gov.nf

---

**From:** [REDACTED]  
**Sent:** Wednesday, 6 April 2016 10:51 AM  
**To:** 'Peter Gesling'  
**Cc:** [REDACTED]  
**Subject:** RE: CSP [SEC=UNCLASSIFIED]

Thanks [REDACTED]

Please find attached a marked up document with my comments included.

I have also provided the document to my colleagues for review and will pass on any further comments once received.

I would be happy to discuss my comments further if you would like to.

Regards  
 [REDACTED]

[REDACTED]  
Commonwealth Financial Officer  
Norfolk Island Office of the Administrator  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Tuesday, 5 April 2016 4:32 PM  
**To:** [REDACTED] [infrastructure.gov.au](mailto:[REDACTED]@infrastructure.gov.au)  
**Subject:** CSP

Document as discussed

[REDACTED]  
*Executive Director*  
*Norfolk Island Administration*



DR

9

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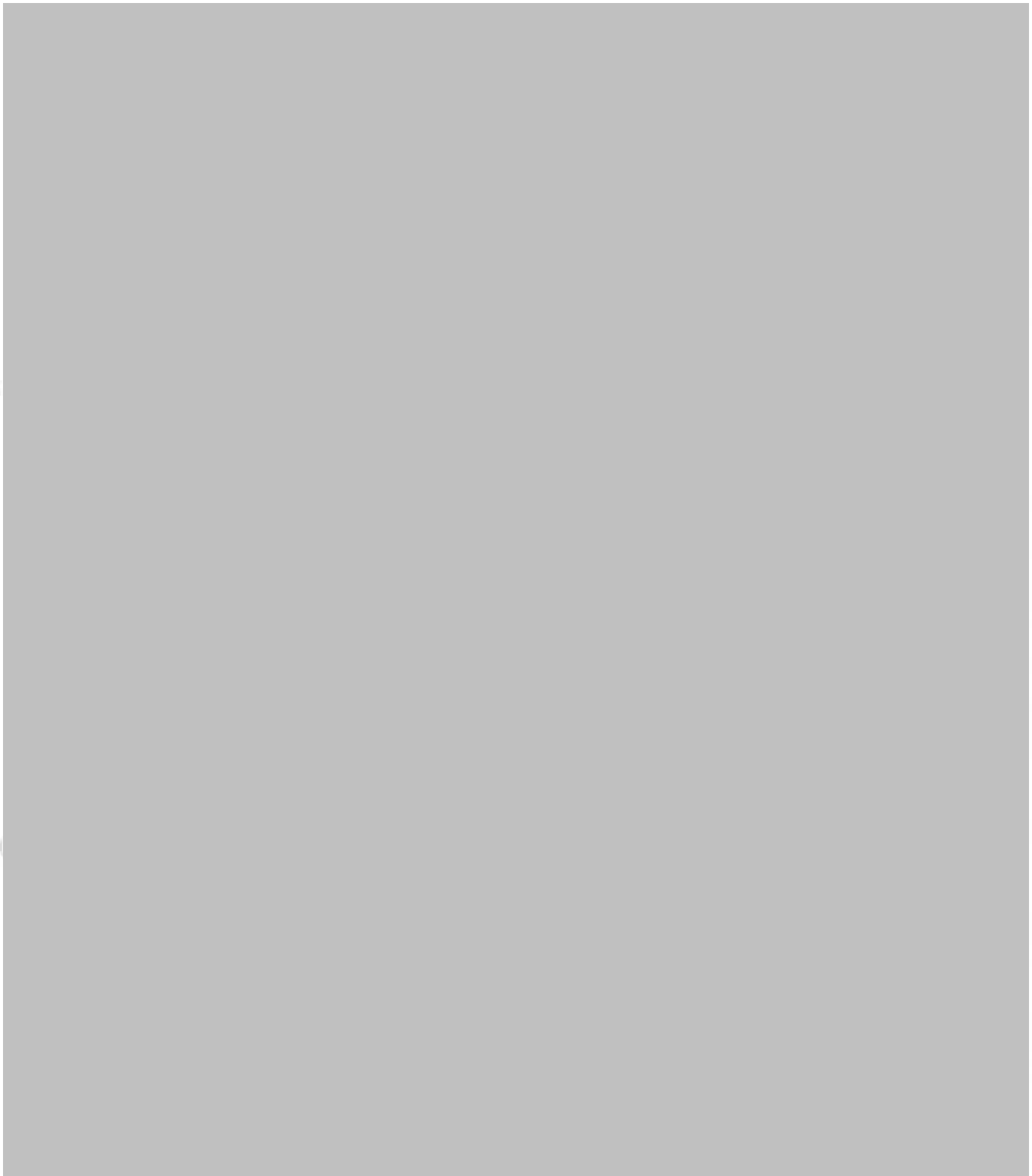


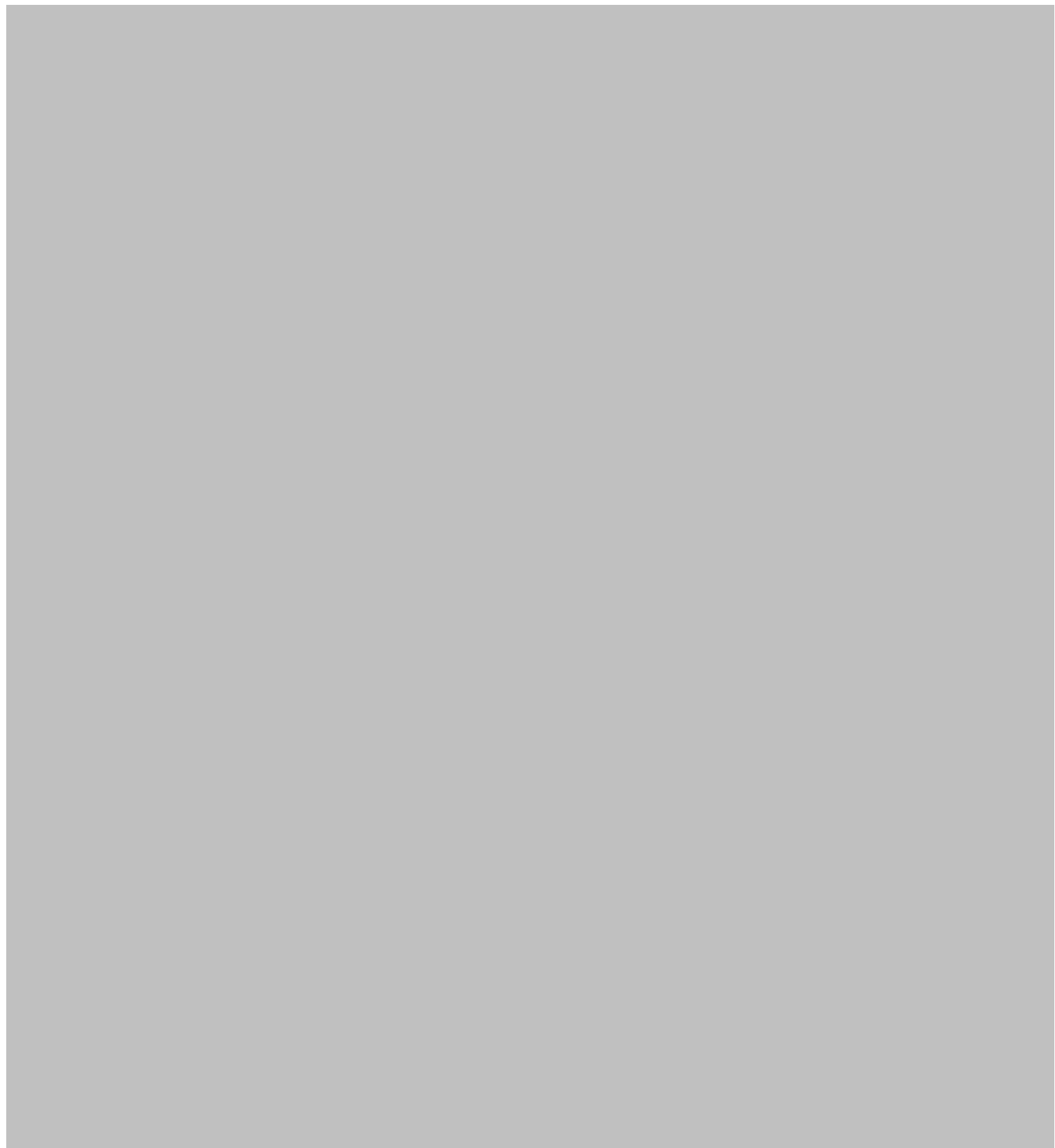
DRAFT

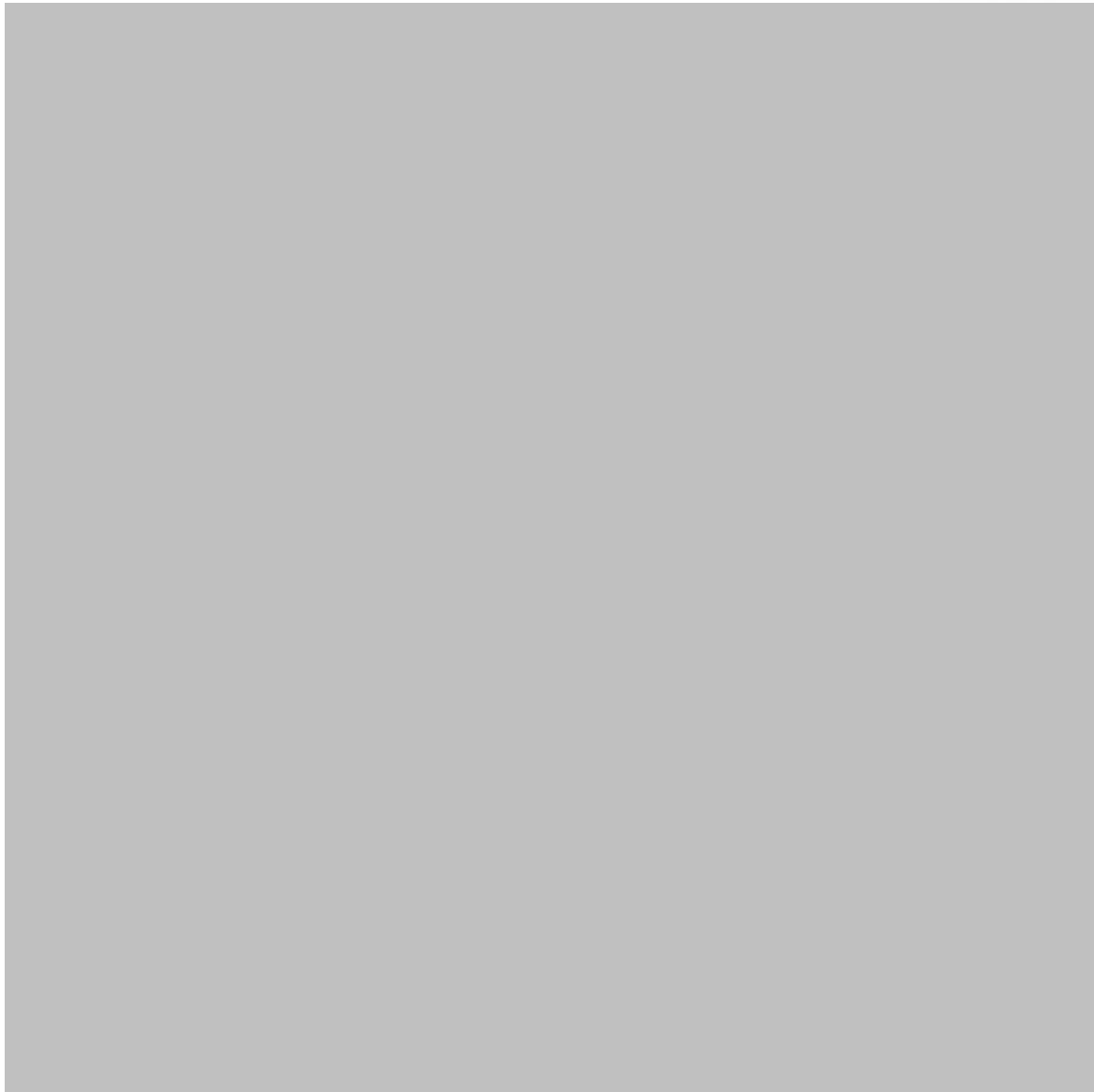










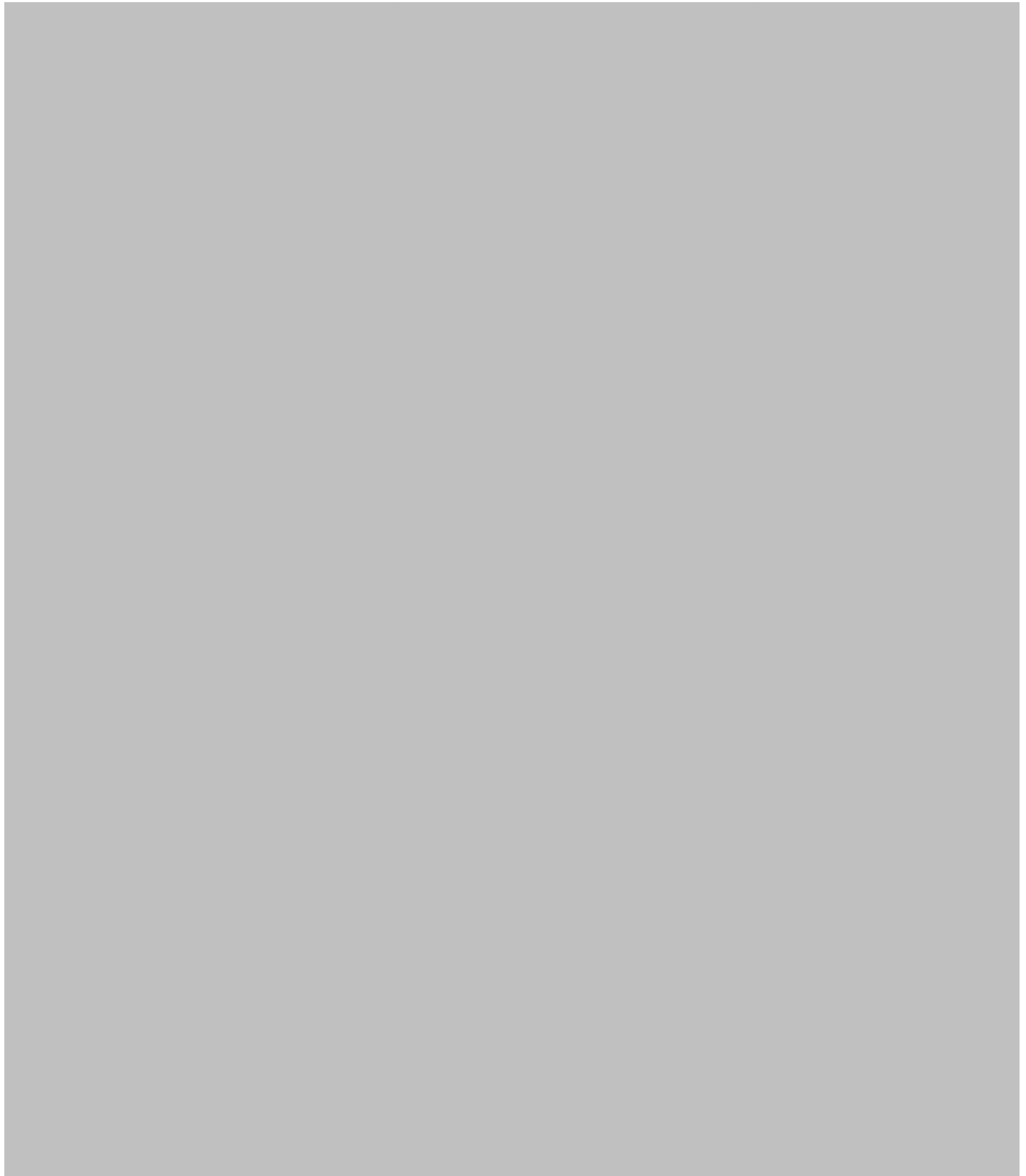




















**FOR: The Hon Paul Fletcher MP**

**DIVISION: Local Government and Territories**

## **EVENT BRIEF 5: Meeting with the Administration of Norfolk Island**

### **Event details**

Meeting at the Office of the Administrator with the senior managers of the Administration of Norfolk Island.

### **Minister's role**

Discuss activities being undertaken and end goals aiming to be achieved in the transition to a Regional Council model.

### **Attendees**

- The Administrator, Commonwealth Officials and Ministerial Staff
- Mr Peter Gesling, Executive Director of Norfolk Island
- Mr Jon Gibbons, Chief Executive Officer
- Mr Bruce Taylor, Deputy Chief Executive Officer
- Mr Richard Hay Commonwealth Financial Officer (Commonwealth Statutory Appointment)
- Mr Peter Adams, Operations Manager
- Ms Susan Law, Transition Manager
- Mr David McCowan, Hospital Director
- Mr Rod McAlpine, Gaming Authority

### **Key issues**

Issues raised may include:

- Structural change and transition to a Regional Council
  - The efforts to restructure to a Regional Council are complex and needs to be supported by a plan and good leadership. Form needs to follow function and there are many good examples in local councils that are a success story and are able to be viable, sustainable and deliver essential services.
  - The principles in the reports commissioned by the Commonwealth last year, and several before that, need to be embraced and implemented. In addition, Strategic and Operational plans are being developed by the ANI to support the transition to a Regional Council.
  - Costs and revenues need to be set at levels to support and deliver services to the community.
- Assets
  - Negotiations on asset transfers to follow function have commenced.
  - There are major concerns about their current condition and mainly due to the lack of maintenance and upgrading over the years. A better regime needs to be implemented including a funded depreciation program in the near future.
- Key service delivery for council
  - Key service delivery needs at the council level generally include rates, roads and rubbish. The Norfolk Island environment is significantly different and many of the state and federal level services have historically been delivered at the local level.
  - This will change in the future, with the Department of Infrastructure and Regional Development and other Australian Government Departments taking on the state and federal level service delivery as appropriate.
  - Staffing needs will need to be determined as operational needs require and in a merit-based environment.

### **Contact**

Robin Fleming, mobile: [REDACTED]

[REDACTED]

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**From:** Melissa Ward <excellent@ninet.nf>  
**Sent:** Friday, 21 August 2015 9:02 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Norfolk Island Advisory Council Media Release  
**Attachments:** Media Release public meeting Aug..pdf

Hi there

Attached is a media release which covers this week's public meeting – thank you all.

Kind regards

Melissa W.





## **Media Release**

MR2015/004

Friday, 21 August 2015

### **COMMUNITY FEEDBACK ON DISCUSSION PAPER 1 – A FUTURE NORFOLK ISLAND REGIONAL COUNCIL**

The Advisory Council has now concluded the public feedback process on the first discussion paper – A Future Norfolk Island Regional Council.

Over the consultation period 123 written submissions were received by the Advisory Council and a further 7 public submissions were made at the public hearing on 19 August 2015. The public meeting was attended by 49 people. The Advisory Council would like to take this opportunity to thank everyone for taking the time to make a written submission, and would particularly like to thank the speakers at the public meeting for their contribution to the discussion.

Analysis of the submissions is underway. The Advisory Council will collate and publish a summary of the submissions early next month. Information gathered during this process will inform advice to the Assistant Minister Hon. Jamie Briggs MP. The advice will outline community views on how a future Regional Council model should be set up to provide the greatest possible benefit to the people of Norfolk Island.

The next Discussion Paper will be on the principles of government service delivery, service functions (including community health) and revenue functions to be carried out by the Regional Council. At this stage the Advisory Council expects the discussion paper to be released in early September.

If you would like to meet with the Advisory Council to discuss the first or second discussion papers, or any other reform matter please contact the Secretariat, James on 23215 or leave a message on 23015.

**Contact: Melissa Ward 50776**

## **Norfolk Island Regional Council**

As part of the Norfolk Island reform, the Norfolk Island Regional Council will be established from 1 July 2016.

The regional council will consist of five Councillors. The Councillors will elect a Mayor from among their number.

The first election is being held on **Saturday, 28 May 2016**.

Future elections will be held on the same date as NSW local government elections.

### **Enrolling to vote**

New electoral rolls are being created for this election. All people eligible to vote in the Norfolk Island Regional Council election should apply to be included on the new electoral roll before 6.00 pm on **Monday, 18 April 2016**.

### **Further information**

Further information about the Norfolk Island Regional Council election, including the enrolment process, is available on the Australian Election Company website -

<http://www.austelect.com/elections/norfolk-island-regional-council-election/>

## **Norfolk Island Regional Council**

The Norfolk Island Regional Council will begin operations on 1 July 2016.

The regional council will continue to provide some state level services on behalf of the Australian Government.

Like councils on mainland Australia, the Norfolk Island Regional Council will have a wide range of responsibilities. As well as the state level services funded by the Commonwealth, the regional council will be responsible for rates, roads and grounds maintenance, local infrastructure construction and maintenance, cemetery, waste management, community services and grants management.

Land planning arrangements have not been changed. The Norfolk Island Plan will continue and land planning will be a responsibility of the Regional Council.

As with councils across Australia, the Norfolk Island Regional Council will need to raise revenue from land rates.

### **Norfolk Island Regional Council election**

The Norfolk Island Regional Council election was held on 28 May 2016.

Five Councillors have been elected in the following order:

- Mr Rod Buffett
- Mr Lisle Snell
- Mr David Porter
- Mr John McCoy
- Ms Robin Adams

The Councillors are elected for a four-year term and will commence on 1 July. Every 12 months, the Councillors will elect a Mayor from among their number.

Further information about the Norfolk Island Regional Council election results can be found on the Australian Election Company website - <http://www.austelect.com/elections/norfolk-island-regional-council-election/voting-2016-norfolk-island-regional-council-election/>

### When will the election be held?

Saturday 28 May 2016.

### When will elections be held in the future?

Future elections will be held on the same date as NSW local government elections.

### How many people will be elected to the council?

Five Councillors will be elected for a four-year term. Every 12 months, the Councillors will elect a Mayor from among their number.

### Who is eligible to vote?

Eligibility to vote will be aligned with NSW Local Government electoral conventions and be restricted to:

- Australian citizens living on Norfolk Island (voting is compulsory); or
- Australian citizens not living on Norfolk Island, but owning land or a business on Island (voting is not compulsory).

No elector will be entitled to more than one vote.

### When can I enrol to vote?

New electoral rolls will be created. You can apply to be included on the new electoral rolls in March 2016. You will be provided with information about enrolling ahead of this. Please delete pink highlighted text.

### Will the Mayor and Councillors be paid?

Yes. Remuneration of Councillors will be in line with similar sized NSW councils in the Local Government Remuneration Tribunal's *Annual Report and Determination*, 13 April 2015.

Norfolk Island is most similar to the General Purpose Council category 'Rural' which provides for Councillor Remuneration in the range of \$8,330 to \$11,010 per annum. All Councillors receive the same remuneration.

The Mayor receives a fee in the range of \$8,860 to \$24,030 in addition to his/her Councillor remuneration.

### How do I nominate as a candidate to be a Councillor?

The nomination process for candidates will be held in April 2016. Any person on the new electoral rolls for Norfolk Island is eligible to nominate as a candidate for Councillor. An information session for potential candidates will be held in early April - this will include details on how a person is qualified to hold civic office and the disqualifying criteria that will apply.

### What will the voting model be?

Electoral wards will not apply and candidates will stand in an undivided electorate.

The proportional representation system used by NSW Local Government will apply; where candidates are elected in proportion to the number of votes they receive (they need a quota of formal votes cast).

### What are the key dates for the 2016 Norfolk Island Regional Council election?

Event	Key date(s)
Enrolment opens	Late March
Formal advertising of enrolment period	Monday 4 April
Regional Council electoral roll closes	Monday 18 April
Nomination of candidates commences	By Wednesday 20 April
Nomination of candidates closes	Wednesday 27 April
Early voting	Monday 16 to Friday 27 May
Election date	Saturday 28 May
Final date for receipt of postal votes	6pm, Monday 30 May
Successful candidates commence work as councillors	Friday 1 July

### Where can I find further information?

Further information about the Norfolk Island Regional Council election is available on the Australian Election Company website - <http://www.austelect.com/elections/norfolk-island-regional-council-election/>

## *Norfolk Island Regional Council*

### **Key Issues:**

#### *Regional Council Election*

- The Norfolk Island Regional Council Preparatory Election Ordinance 2016 is being drafted in line with the *Local Government Act 1993 (NSW)* and is expected to be put to the Federal Executive Council meeting of 11 February 2016.
- This Ordinance covers voter eligibility, establishment of electoral rolls, eligibility and election of the councillors and mayor and the system and conduct of the election.
- The election will be held on a Wednesday in late May or June 2016 as a one-off concession.
- An elector will not be entitled to vote more than once. This is a departure from the current system where electors each have nine votes.
- Only Australian citizens resident on Norfolk Island will be eligible to vote, either owning or renting their property. Australian citizens who own property on Norfolk Island but live off-island will also be eligible to vote.
- The NSW rules for candidate eligibility, party registration and group voting (above the line) will be used, including pre-poll and postal voting.
- Five (5) Councillors will be elected for the standard four year term. The Mayor will be elected by the Councillors from among their numbers at their first meeting, on or after 1 July 2016 for a 12 month term.
- The annual fees paid to the Councillors will be as per the NSW Local Government Remuneration Tribunal Determination 2015 between \$8,330 and \$11,010. The Mayor receives an additional fee of between \$8,860 and \$24,030.
- You have been briefed separately on the recommended framework for the Regional Council (MB15-000691) [PLACEHOLDER FOR MINSUB CONTENT WHEN SETTLED].

#### *Regional Council Administration*

- A key component of the Norfolk Island reforms is an appropriate governance structure for Norfolk Island's circa 1500 residents. A community of this size faces challenges with generating revenue, fostering economic growth and maintaining infrastructure and they were not able to deliver the full range of local, state and federal services under self-government.
- The scope and functions of the Regional Council will be limited to those activities appropriate to a local government entity, broadly: planning and zoning functions, rates, roads and grounds maintenance, local infrastructure construction and maintenance, the community library, the cemetery, waste management, community services, grants management and water services.
- Many Government Business Enterprises (GBEs) under the current Administration of Norfolk Island (such as the electricity company and Norfolk Telecom) fall outside the regular functions and responsibilities of local governments.
- The Administration of Norfolk Island has engaged experts in transitional management to inform and support the movement of the GBEs to a separate structure alongside the Regional Council. The intention is for revenue earned on-island and critical to the functioning of the Regional Council be retained, but also that the GBEs are run using contemporary and efficient management approaches.

- These need to continue to be delivered on-island in the immediate term; at least until a more detailed understanding of operating costs, business models and their suitability for migration to the private sector or otherwise is established. The impact on revenue to the Regional Council is of particular importance.

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**Australian Government**

## **Norfolk Island (*Local Government Act 1993* (NSW) (NI)) Direction and Delegation 2016 (No. 1)**

---

I, **PAUL FLETCHER**, Minister for Territories, Local Government and Major Projects, make this direction under subsections 18B(3) and 18B(4) of the *Norfolk Island Act 1979*.

Dated

2016

**Paul Fletcher**

Minister for Territories, Local Government and Major Projects



**1 Name of Instrument**

This instrument is the *Norfolk Island (Local Government Act 1993 (NSW) (NI)) Direction and Delegation 2016 (No. 1)*.

**2 Commencement**

This instrument commences on 1 July 2016.

**3 Definitions**

In this instrument:

**Administrator of Norfolk Island** means the Administrator of the Territory of Norfolk Island appointed under section 7 of the *Norfolk Island Administrator Ordinance 2016*.

**Classification Rules** means the rules issued under section 23 of the *Public Service Act 1999*.

**Commonwealth Act** means the *Norfolk Island Act 1979* (Cth).

**Deputy Secretary** means a Deputy Secretary of the Department.

**LGA** means the *Local Government Act 1993* (NSW) (NI), in force under section 1A of the Commonwealth Act.

**Power** includes function or duty, and, in that context, **conferred** means imposed.

**Regional Council** means the body declared to be the Norfolk Island Regional Council by the *Norfolk Island Regional Council Declaration Ordinance 2016*.

**Secretary** means the Secretary of the Department.

**SES 1** means an SES employee who is classified as a Senior Executive Band 1 employee under the Classification Rules.

*Note* Section 2B and subsection 46(1) (where applicable) of the *Acts Interpretation Act 1901* incorporates in this instrument the definition of SES employee from the *Public Service Act 1999*.

**SES 2** means an SES employee who is classified as a Senior Executive Band 2 employee under the Classification Rules.

**the Department** means the Department of Infrastructure and Regional Development.

**4 Vesting of powers**

- (1) I direct, under paragraph 18B(3)(a) of the Commonwealth Act, that the power or powers that are specified in Column 1 of an item in Schedule 1 are also vested in:
  - (a) the authority; or
  - (b) a person for the time being holding, occupying or performing the duties of the office or position; or

(c) a person acting in an office or position;  
specified in Column 2 of that item.

- (2) A person or authority who has been vested with a power must refer to the provision of the LGA or the subordinate legislation made under the LGA that confers the power.

## **5 Delegation of powers**

- (1) I delegate, under paragraph 18B(3)(b) of the Commonwealth Act, the power or powers that are specified in Column 1 of an item in Schedule 2 to:

- (a) the authority; or
- (b) a person for the time being holding, occupying or performing the duties of the office or position; or
- (c) a person acting in an office or position;  
specified in Column 2 of that item.

- (2) A person or authority who has been delegated a power must refer to the provision of the LGA or the subordinate legislation made under the LGA that confers the power.

## **6 Delegation of powers by General Manager**

The General Manager is empowered to delegate, in writing, to a specified person, any or all powers vested in him or her by clause 4 of this Instrument.

Note subsection 18B(4) of the *Norfolk Island Act 1979* (Cth) allows the Commonwealth Minister to empower a person in whom a power is vested under section 18B(3)(a) to delegate the power, in writing, to a specified person.

## **7 Delegation of powers by the Regional Council**

The Regional Council is empowered to delegate, in writing, to a specified person, any power vested in it by clause 4 of this Instrument provided that the delegation complies with the requirements in section 377 and section 379 of the LGA.

## **8 Delegation of powers by the Administrator of Norfolk Island**

The Administrator of Norfolk Island is empowered to delegate, in writing, to a specified person, any or all powers vested in him or her by clause 4 of this Instrument.

## **9 References to business division, branch, office or centre**

Unless the contrary intention appears, a reference in the Schedule to a business division, branch, office or centre is a reference to such an organisational structure within the Department.

# Schedule 1      Vesting

(section 4)

## 1. *Local Government Act 1993* (NSW) (NI) and subordinate legislation under that Act in force on Norfolk Island

	Column 1	Column 3
Item	Power(s) vested	Persons vested
1.01	All powers expressed to be powers of an Administrator	Administrator appointed under s 66 or s 256 of the LGA
1.02	Appropriate person (within the meaning of Reg 164 of the Local Government (General) Regulation 2005)	A person designed by the General Manager to receive or deal with tenders submitted, or if no one is designated, the General Manager of the Regional Council
1.03	All powers of an auditor	Auditor appointed under s 422 of the LGA
1.04	All powers of persons appointed as an Authorised Officer under s 746 of the LGA	Authorised Officer appointed under s 746 of the LGA
1.05	All powers expressed to be of a council or a local government	The Regional Council
1.06	All powers of a committee of the council	Any committee of the Regional Council established by the Regional Council in accordance with s 373 of the LGA
1.07	All powers of a councillor	A councillor of the Regional Council
1.08	All powers of a Department of NSW	Secretary Deputy Secretary SES 2 in Local Government and Territories Division
1.09	All powers of a Departmental Chief Executive	Secretary Deputy Secretary SES 2 in Local Government and Territories Division
1.10	All powers of the Director-General	Secretary Deputy Secretary SES 2 in Local Government and Territories Division
1.11	All powers of the Deputy Mayor	The Deputy Mayor of the Regional Council
1.12	All powers of the Electoral Commissioner and the Electoral Commission except the power to receive penalties under s 314(3)(b) of the LGA	Administrator of Norfolk Island

1.13	The power of the Electoral Commissioner to receive penalties under s 314(3)(b) of the LGA	The Regional Council
1.14	All powers of an electoral official	An electoral official appointed under s 296B of the LGA
1.15	All powers of the General Manager	General Manager of the Regional Council
1.16	All powers of the Interim Administrator	Interim Administrator of the Regional Council
1.17	All powers of the Mayor	Mayor of the Regional Council
1.18	All powers of the Ombudsman	The Commonwealth Ombudsman, within the meaning of the <i>Ombudsman Act 1976</i> (Cth)
1.19	All powers of the Public Officer	Public Officer of the Regional Council
	All powers of the responsible accounting officer (within the meaning of Reg 196 of the Local Government (General) Regulation 2005)	A person designated the responsible accounting officer by the General Manager of the Regional Council, or if no one is designated, the General Manager of the Regional Council.
1.20	All powers of the Returning Officer	Returning Officer appointed under s 296A or s 296B of the LGA
1.21	All powers of a Substitute Returning Officer	Substitute Returning Officer appointed under s 296A or s 296B of the LGA
1.22	All powers of a temporary adviser	A person appointed as a temporary adviser under s 438G of the LGA.

## Schedule 2      Delegations

(section 5)

### 1. *Local Government Act 1993* (NSW) (NI) and subordinate legislation under that Act in force on Norfolk Island

	Column 1	Column 3
Item	Power(s) delegated	Delegate(s)
1.01	All powers of a Minister of New South Wales except those under Part 7 of Chapter 13 and Division 2 of Chapter 14 of the LGA	Secretary Deputy Secretary SES 2 in Local Government and Territories Division

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**Australian Government**

## **Norfolk Island (*Local Government Act 1993* (NSW) (NI)) Direction and Delegation 2016 (No. 1)**

---

I, **PAUL FLETCHER**, Minister for Territories, Local Government and Major Projects, make this direction under subsections 18B(3) and 18B(4) of the *Norfolk Island Act 1979*.

Dated

2016

**Paul Fletcher**

Minister for Territories, Local Government and Major Projects

**1 Name of Instrument**

This instrument is the *Norfolk Island (Local Government Act 1993 (NSW) (NI)) Direction and Delegation 2016 (No. 1)*.

**2 Commencement**

This instrument commences on 1 July 2016.

**3 Definitions**

In this instrument:

**Administrator of Norfolk Island** means the Administrator of the Territory of Norfolk Island appointed under section 7 of the *Norfolk Island Administrator Ordinance 2016*.

**Classification Rules** means the rules issued under section 23 of the *Public Service Act 1999*.

**Commonwealth Act** means the *Norfolk Island Act 1979* (Cth).

**Deputy Secretary** means a Deputy Secretary of the Department.

**LGA** means the *Local Government Act 1993* (NSW) (NI), in force under section 1A of the Commonwealth Act.

**Power** includes function or duty, and, in that context, **conferred** means imposed.

**Regional Council** means the body declared to be the Norfolk Island Regional Council by the *Norfolk Island Regional Council Declaration Ordinance 2016*.

**Secretary** means the Secretary of the Department.

**SES 1** means an SES employee who is classified as a Senior Executive Band 1 employee under the Classification Rules.

*Note* Section 2B and subsection 46(1) (where applicable) of the *Acts Interpretation Act 1901* incorporates in this instrument the definition of SES employee from the *Public Service Act 1999*.

**SES 2** means an SES employee who is classified as a Senior Executive Band 2 employee under the Classification Rules.

**the Department** means the Department of Infrastructure and Regional Development.

**4 Vesting of powers**

- (1) I direct, under paragraph 18B(3)(a) of the Commonwealth Act, that the power or powers that are specified in Column 1 of an item in Schedule 1 are also vested in:
- (a) the authority; or
  - (b) a person for the time being holding, occupying or performing the duties of the office or position; or

(c) a person acting in an office or position;  
specified in Column 2 of that item.

- (2) A person or authority who has been vested with a power must refer to the provision of the LGA or the subordinate legislation made under the LGA that confers the power.

## **5 Delegation of powers**

- (1) I delegate, under paragraph 18B(3)(b) of the Commonwealth Act, the power or powers that are specified in Column 1 of an item in Schedule 2 to:

- (a) the authority; or
- (b) a person for the time being holding, occupying or performing the duties of the office or position; or
- (c) a person acting in an office or position;  
specified in Column 2 of that item.

- (2) A person or authority who has been delegated a power must refer to the provision of the LGA or the subordinate legislation made under the LGA that confers the power.

## **6 Delegation of powers by General Manager**

The General Manager is empowered to delegate, in writing, to a specified person, any or all powers vested in him or her by clause 4 of this Instrument.

Note subsection 18B(4) of the *Norfolk Island Act 1979* (Cth) allows the Commonwealth Minister to empower a person in whom a power is vested under section 18B(3)(a) to delegate the power, in writing, to a specified person.

## **7 Delegation of powers by the Regional Council**

The Regional Council is empowered to delegate, in writing, to a specified person, any power vested in it by clause 4 of this Instrument provided that the delegation complies with the requirements in section 377 and section 379 of the LGA.

## **8 Delegation of powers by the Administrator of Norfolk Island**

The Administrator of Norfolk Island is empowered to delegate, in writing, to a specified person, any or all powers vested in him or her by clause 4 of this Instrument.

## **9 References to business division, branch, office or centre**

Unless the contrary intention appears, a reference in the Schedule to a business division, branch, office or centre is a reference to such an organisational structure within the Department.



# Schedule 1      Vesting

(section 4)

## 1. *Local Government Act 1993* (NSW) (NI) and subordinate legislation under that Act in force on Norfolk Island

	Column 1	Column 3
Item	Power(s) vested	Persons vested
1.01	All powers expressed to be powers of an Administrator	Administrator appointed under s 66 or s 256 of the LGA
1.02	Appropriate person (within the meaning of Reg 164 of the Local Government (General) Regulation 2005)	A person designed by the General Manager to receive or deal with tenders submitted, or if no one is designated, the General Manager of the Regional Council
1.03	All powers of an auditor	Auditor appointed under s 422 of the LGA
1.04	All powers of persons appointed as an Authorised Officer under s 746 of the LGA	Authorised Officer appointed under s746 of the LGA
1.05	All powers expressed to be of a council or a local government	The Regional Council
1.06	All powers of a committee of the council	Any committee of the Regional Council established by the Regional Council in accordance with s 373 of the LGA
1.07	All powers of a councillor	A councillor of the Regional Council
1.08	All powers of a Department of NSW	Secretary Deputy Secretary SES 2 in Local Government and Territories Division
1.09	All powers of a Departmental Chief Executive	Secretary Deputy Secretary SES 2 in Local Government and Territories Division
1.10	All powers of the Director-General	Secretary Deputy Secretary SES 2 in Local Government and Territories Division
1.11	All powers of the Deputy Mayor	The Deputy Mayor of the Regional Council
1.12	All powers of the Electoral Commissioner and the Electoral Commission except the power to receive penalties under s 314(3)(b) of the LGA	Administrator of Norfolk Island

1.13	The power of the Electoral Commissioner to receive penalties under s 314(3)(b) of the LGA	The Regional Council
1.14	All powers of an electoral official	An electoral official appointed under s 296B of the LGA
1.15	All powers of the General Manager	General Manager of the Regional Council
1.16	All powers of the Interim Administrator	Interim Administrator of the Regional Council
1.17	All powers of the Mayor	Mayor of the Regional Council
1.18	All powers of the Ombudsman	The Commonwealth Ombudsman, within the meaning of the <i>Ombudsman Act 1976</i> (Cth)
1.19	All powers of the Public Officer	Public Officer of the Regional Council
	All powers of the responsible accounting officer (within the meaning of Reg 196 of the Local Government (General) Regulation 2005)	A person designated the responsible accounting officer by the General Manager of the Regional Council, or if no one is designated, the General Manager of the Regional Council.
1.20	All powers of the Returning Officer	Returning Officer appointed under s 296A or s 296B of the LGA
1.21	All powers of a Substitute Returning Officer	Substitute Returning Officer appointed under s 296A or s 296B of the LGA
1.22	All powers of a temporary adviser	A person appointed as a temporary adviser under s 438G of the LGA.

## Schedule 2      Delegations

(section 5)

### 1. *Local Government Act 1993* (NSW) (NI) and subordinate legislation under that Act in force on Norfolk Island

	Column 1	Column 3
Item	Power(s) delegated	Delegate(s)
1.01	All powers of a Minister of New South Wales except those under Part 7 of Chapter 13 and Division 2 of Chapter 14 of the LGA	Secretary Deputy Secretary SES 2 in Local Government and Territories Division

## Norfolk Island Regional Council – draft structure at December 2015

Functions	Notes	Staffing	Actions
<b>Transition Box</b>			
<b>1. Utilities Provider</b> <ul style="list-style-type: none"> <li>a. Waste management</li> <li>b. Water and sewerage</li> <li>c. Electricity</li> <li>d. Energy (gas and fuel)</li> </ul>	Waste, water and sewerage are core Council functions but will sit in Transition Box pending further planning.		
<b>2. Ports Corporation*</b> <ul style="list-style-type: none"> <li>a. Airport</li> <li>b. Ports</li> <li>c. Lighterage</li> </ul> <p>* may not be a corporate structure</p>	<p>An option may be to package the sale of the airport with the sale of the airport loan. Council will not have access to capital funding for terminal or other upgrades, might be worth exploring east-coast airport consortium as potential acquirer.</p> <p>Airport fire response should sit with Ports Corporation</p>		
<b>3. Economic Development Agency</b> <ul style="list-style-type: none"> <li>a. Tourism</li> <li>b. Philatelic design</li> <li>c. Radio station</li> <li>d. Cultural development</li> </ul>	<p>A coordinated approach to the tourism campaign is appropriate. Philatelic designs may be leveraged for promotional products. Radio station is a key communications channel for showcasing the island to visitors. A more upbeat/energetic/affirmative tone would be appropriate.</p> <p>Public service broadcasts should be paid for, along with an</p>		

Functions	Notes	Staffing	Actions
	appropriate charge being set for commercial promotion.		
<b>4. Telecommunications</b> a. Norfolk Telecom b. Satellite NBN	<p>Need to assess whether NT can/should adopt the Universal Service Obligation and the consequent regulatory and funding implications.</p> <p>To access the dedicated NBN beam, a Retail Service Provider needs to be established.</p>		Work through issues and questions with the Department of Communications and the Arts.
<b>5. Rock sales</b>	Intention is to pay out Commonwealth loan. This function to remain in Transition Box pending further planning on future rock supply needs.		
<b>6. Tanalith plant (with forestry?)</b>	<p>Opportunity to create supply chain of timber harvest, milling and treatment process.</p> <p>Should be positioned as boutique/cottage industry with emphasis on its value for preservation of traditional craft skills.</p> <p>Should ensure cultural interest in use of native timber is preserved.</p> <p>The private sector has expressed interest; this would be acceptable with agreement to promote the conservation of craft skills.</p>		
<b>7. Liquor Bond (and Tobacco?)</b>	<p>Issue is removal of GST and indirect taxes from 1 July 2016 will drop the price of alcohol and tobacco products to unacceptably low levels (unless price is 'corrected' through intervention).</p> <p>Suggest Transition Box entity maintains wholesale and retail sales of liquor.</p> <p>Could consider adding Tobacco products to the Liquor Bond, but as a</p>		

Functions	Notes	Staffing	Actions
	wholesaler only. This would allow the price to be set through the appropriate means (price floor?) but allow current retailers to continue with tobacco sales.		
<b>8. Conservator and Reserves</b> a. State-level biosecurity	Department of Agriculture only handles border incursions, resident biosecurity matters are State and local functions		Assess application of NSW legislation
<b>9. Hospital / associated health</b> a. Hospital b. Dental service & assistant c. Child welfare	<p>Consider the alignment of non-clinical support staff and the ancillary staff within the Transition Box, potentially also in a shared services hub.</p> <p>Child welfare generally a State responsibility, may be appropriate to combine with Health service.</p>		
<b>10. Registrations</b> a. Company registration b. Business name registrations c. Conveyancing and land title registration d. Collection of land transfer fees e. Registration of associations f. Births, deaths and marriages	<p>Functions need to continue for the foreseeable future until replaced by Commonwealth legislation.</p> <p>Normally a State government responsibility</p> <p>Normally a State government responsibility</p> <p>Normally a State government responsibility</p> <p>Normally a State government responsibility</p>		Pursue the policy position of the Treasury for application of Corporations Act.
<b>11. Licencing</b> a. Firearm licencing	<p><i>(currently showing in Operations Functions in August structure)</i></p> <p>Firearms licencing is a State government function.</p>		

Functions	Notes	Staffing	Actions
b. Vehicle registrations	Vehicle registration is a State government function		
<b>12. Gaming</b>			
a. Regulation of lotteries and fundraising	Normally a State government responsibility Need to understand what risks the Gaming Authority has already taken on		
b. Online gambling			
<b>13. Emergency Services</b>			
a. Community fire service	This is the red fire truck service, the airport fire service would sit with the Ports Corporation		
<b>14. Workplace Health and Safety</b>			
a. Workers compensation	Either augment Norfolk laws in the interim or look to introduce NSW provisions		Assess application of NSW legislation Assess interactions with Commonwealth framework
<b>15. Administrative Review Tribunal</b>	Generally delivered by State governments Will need to be maintained until jurisdiction is conferred on the NSW equivalent		
<b>16. Legal Aid</b>	Normally a State government responsibility		
<b>17. Official Trustee under the NI Bankruptcy Act</b>	Normally a Commonwealth government responsibility, but Commonwealth bankruptcy law not proposed for extension in short term.		Pursue the policy position of the Treasury for application of bankruptcy.
<b>18. Courts, including coroner's court</b>	Includes funding the existing Norfolk Island courts and registrar services until such time as jurisdiction can be conferred on NSW		

Functions	Notes	Staffing	Actions
	courts.		
19. Slaughtering Act inspectors	Normally a State government responsibility		

Operations functions			
1. Planning, building and environment			
2. Library			
3. Community services. a. Volunteers coordination	Maintain in Regional Council		
4.			

Infrastructure and Works			
1. Infrastructure and road safety projects	Maintain in Regional Council		
2. Road works and grounds	Maintain in Regional Council		
3. Asset management and fleet	Mechanical services Maintain in Regional Council		



Finance and Budget			
1. Rates	Maintain in Regional Council		
2. Purchasing and Stores	Could outsource under contract or move to Services Hub		
3. Finance and Payroll	Could move to Services Hub		

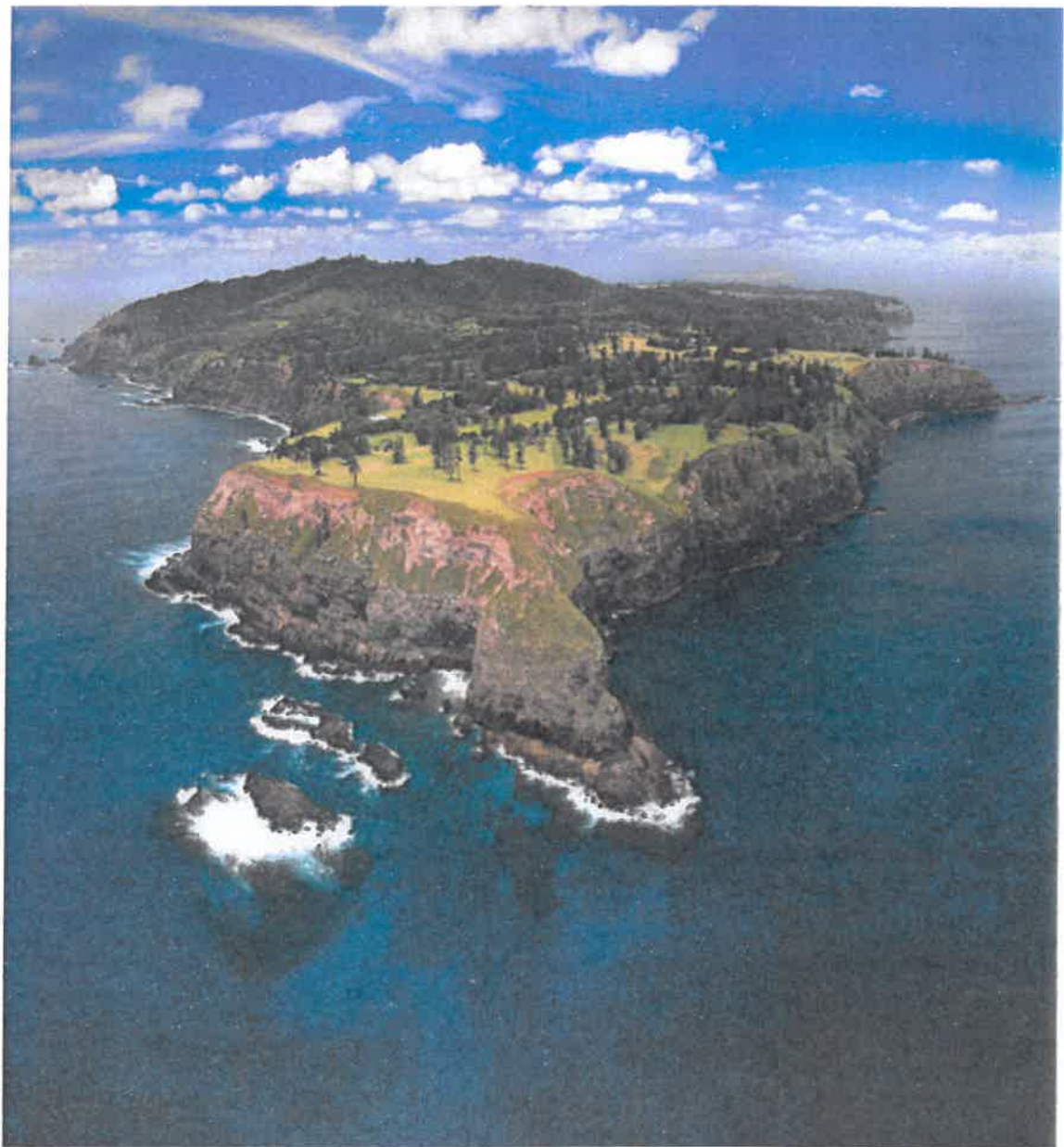
Governance and Policy			
1. Legal <ul style="list-style-type: none"> <li>a. Contracts</li> <li>b. FOI</li> <li>c. Privacy</li> </ul>	Could explore buying in services		
2. Statutory Planning	Includes reporting, policy and grants processes Support to Mayor and Regional Council Continuous improvement and communications		
3. External Auditor	Could move to Services Hub		

Knowledge and People				
1. Human Resources				
2. Customer Care				
3. IT and Records management				
4. Office of the Administrator				

Commonwealth functions remaining on Norfolk Island				
1. KAVHA	Move sexton to KAVHA management			
a. Cemetery				



# **NORFOLK ISLAND REGIONAL COUNCIL OPERATIONAL PLAN 2016/17**



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## 1 Message from the Executive Director

I am pleased to present to the Norfolk Island community the 2016/17 Operational Plan for the Norfolk Island Regional Council (the Regional Council). Further versions of this document will be introduced by the Mayor to be elected at the first meeting of the Regional Council. The Mayor along with the four (4) Councillors will be responsible for ongoing consultation with the community to further refine the future vision for Norfolk Island.



This plan outlines the Regional Council's key priorities for 2016/17. These priorities are based on two key work streams:

1. Complete the transition to the Norfolk Island Regional Council and
2. Achieve the program of reform by establishing a culture of continuous improvement

The 2016/17 work program will be guided by our vision, culture and values, which are also set out in this document and have been adapted from those set out by the former Norfolk Island Government in late 2014/15. The work program is also guided by the draft 2016-2026 Community Strategic Plan, which sets out the long-term vision and strategic directions of the Norfolk Island Regional Council. This approach ensures our work in 2016/17 contributes to our long-term vision for the future of Norfolk Island.

The strategic planning framework will be enhanced further for 2016/17 through the adoption of the *Integrated Planning and Reporting Framework* developed by the New South Wales Office of Local Government and outlined by the Interim Norfolk Island Advisory Council. The Regional Council will publicly report achievement against planned outcomes every six months and also in the 2016/17 Annual Report. This will ensure there is transparency regarding public sector performance and the use of the community's resources.

The operational focus priorities that have been set for 2016/17 are challenging and will be refined by the Regional Council after deciding on their Delivery Program for the 2016-2020 term of the Regional Council.

This Operational Plan proposes continued investment in the staff to develop their individual and collective leadership and technical capability. This will include establishing a leadership framework with a continuous improvement focus.

I am confident that this Operational Plan sets a solid foundation for the coming year and look forward to working with the Regional Council staff to achieve the 2016/17 priorities.

**Peter Gesling**  
**Executive Director**  
**Administration of Norfolk Island**



## 2 Message from the Administration of Norfolk Island

This 2016/17 Operational Plan has been prepared by the Administration of Norfolk Island in readiness for the new Norfolk Island Regional Council and sets out two main Priorities in Section 6 and 7 as follows:

Priority Area 1 – Complete the transition from the Administration of Norfolk Island to the Norfolk Island Regional Council.

This priority is outcome focused and identifies the need to ensure that the Regional Council is established and performing its core functions, that a performance management regime is incorporated, that the new enterprise management system is operational and delivering vastly improved capabilities, that the Regional Council has a positive and aspirational culture while recognising the importance of cultural identity within the community, and ensuring financial sustainability and proper management of assets.

Priority Area 2 – Achieve the program of reform

This priority identifies that more work is required to deliver optimal outcomes for electricity, telecom and other retail activities, to ensure that infrastructure deliver optimal service and value for money, and that support for tourism and economic development will deliver a vibrant and growing economy.

This Operational Plan accompanies the draft 2016-2026 Community Strategic Plan completed for the new Norfolk Island Regional Council and both align with the *Integrated Planning and Reporting Framework* developed by the New South Wales Office of Local Government.

The 2016/17 Operational Plan identifies a significant body of work to be achieved by the newly elected Regional Council. Development of the Delivery Program by the Regional Council may result in the Operational Plan requiring some refinement throughout 2016/17.

To assist in achieving the priorities, Corporate Planning processes will be established; business plans and work programs developed, operating budgets for all business units will be monitored and corporate and financial performance reporting processes for will be established.

The establishment and performance of the Regional Council will be guided by the Community Strategic Plan 2016-2026, which importantly builds upon the organisational vision, culture and values set out below.

In readiness for the Norfolk Island Regional Council, the Administration of Norfolk Island has attained membership of the NSW Local Government Association (LGNSW). This Association provides valuable support and resources for its member councils and staff with resultant flow-on community benefits.

LGNSW's objective is to strengthen and protect an effective, democratic system of local government by supporting and advocating on behalf of member councils and delivering a range of relevant, quality services.

The Regional Council will also be guided by the Australian Centre of Excellence for Local Government (ACELG) which is a leading national local government research and policy institution. ACELG's vision is: *World-class local government to meet the emerging challenges of 21st century Australia.*

The role of Chief Executive Officer will transition to a General Manager for the Regional Council. The General Manager will be responsible for the efficient and effective operation of the council and for ensuring the implementation, without undue delay, of decisions of the council.

The General Manager has the following particular functions:

- to assist the Council in connection with the development and implementation of the Community Strategic Plan and the Council's Resourcing Strategy, Delivery Program and Operational Plan and the preparation of its annual report, end of term report and the state of the environment report;
- the day-to-day management of the Council;
- to exercise the functions as delegated by the Council;
- to appoint staff in accordance with an organisation structure and resources approved by the Council;
- to direct and dismiss staff; and
- to implement the council's equal employment opportunity management plan.

The Community Strategic Planning and Operational Planning processes herald an exciting time of change and will confidently guide the Administration of Norfolk Island as it transitions into a Regional Council by taking account of community input and the availability of resources, finances and assets.

#### **Administration of Norfolk Island**

### 3 Organisational Vision, Culture and Values

#### Vision

To protect the unique culture, heritage, traditions and environment for the Norfolk Island people through promoting a healthy and sustainable lifestyle, creating employment and prosperity, planned economic growth and development while reinforcing law and accountability through good governance.

#### Culture

During January 2016 the Administration of Norfolk Island engaged a consultant to conduct Culture Health Workshops with its staff. The key actions identified to ensure an improved organisational culture were:

- Improve communications;
- Promote Island culture and traditions;
- Develop a Strategic Direction for the Public Service;
- Training; and
- Encourage and empower all staff to focus on the positives.

#### Values

The five values of the Administration of Norfolk Island were identified by the Chief Executive Officer after working with Administration staff and will transition across to the Regional Council for future review:

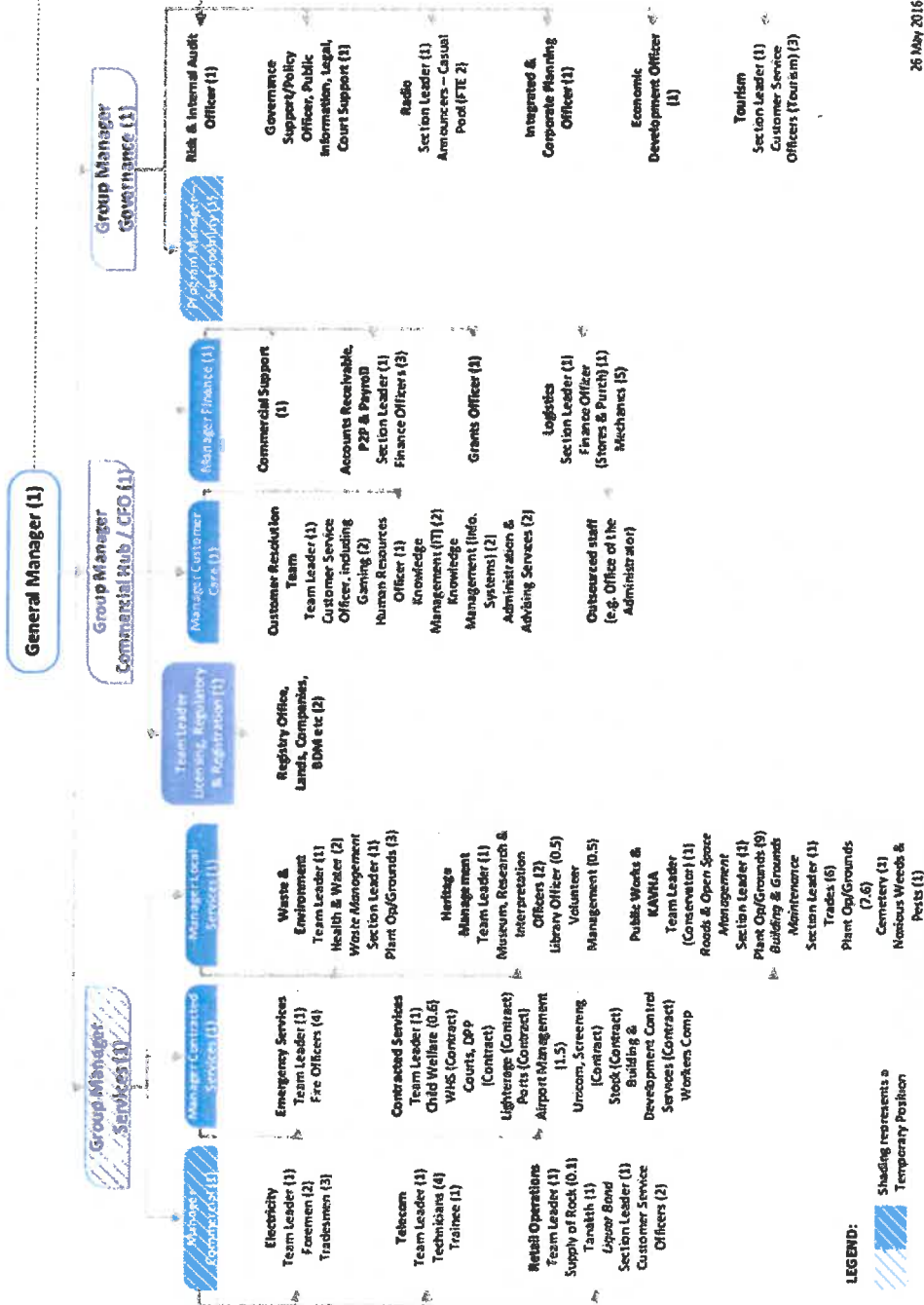
1. **Leadership** – All staff are valued and have roles in leading the transformation of the organization to benefit the Norfolk Island community.
2. **Work Ethic** – To have the skills, confidence and desire to engage in efficient and productive work.
3. **Adaptability and Flexibility** – To be flexible and adaptable in response to changing circumstances.
4. **Collaboration** – Working collaboratively with a common purpose
5. **Mutual Accountability** – Sharing the workload and everyone being accountable for their area of responsibility.





## Structure of the Norfolk Island Regional Council

4



## 5 The Integrated Planning and Reporting Framework

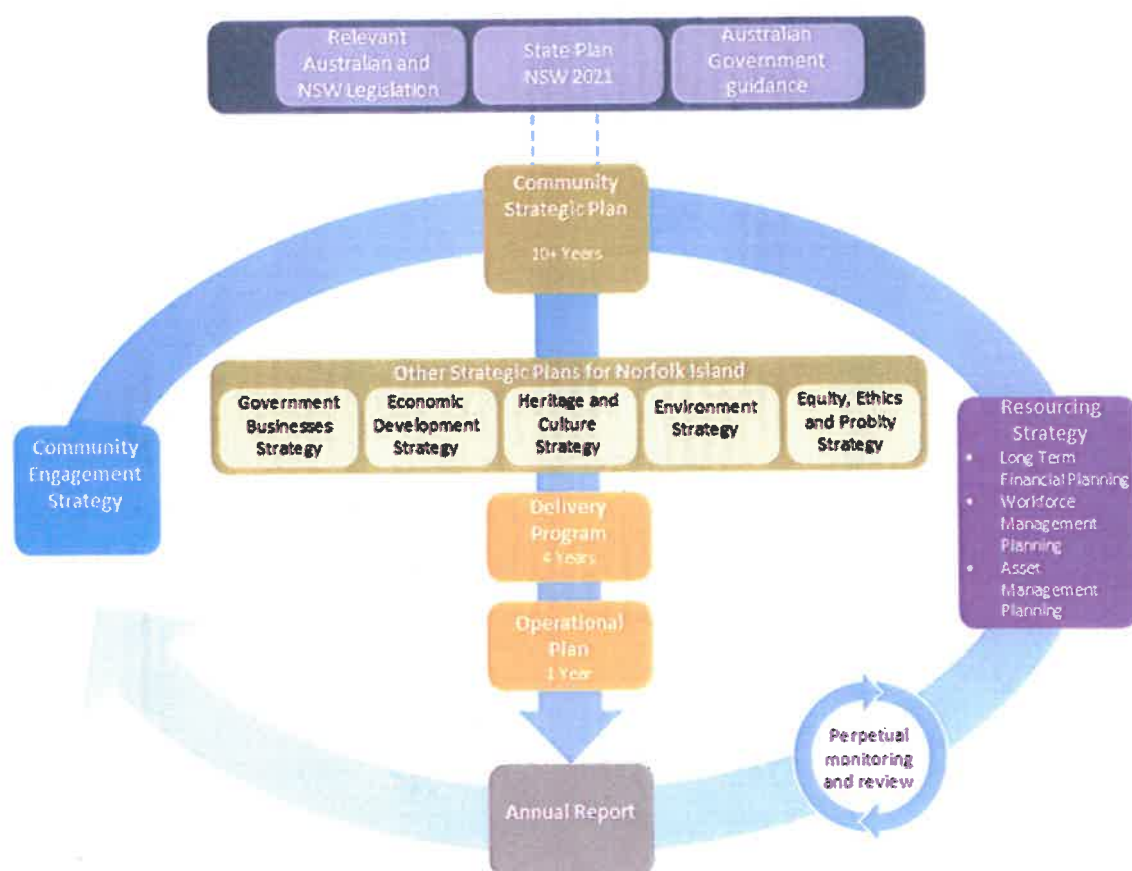
The Administration's Strategic and Operational Planning Framework evolved throughout 2015/16 as the organisation transitioned to become a Regional Council on 1 July, 2016.

The operational priorities in 2015/16 were guided by the need to continue to deliver existing services while establishing and executing transition plans for those federal and state government type services that will transition to the Commonwealth from 2016/17 onwards.

A key goal for the Administration was to prepare the 2016-2026 Community Strategic Plan for the new Norfolk Island Regional Council which aligns with the requirements of the *Integrated Planning and Reporting Framework* developed by the New South Wales Office of Local Government and outlined by the interim Advisory Council in their second Discussion Paper.

The following diagram outlines the elements of the Integrated Planning and Reporting Framework:

Figure 1 - The Integrated Planning and Reporting Framework for Norfolk Island<sup>1</sup>

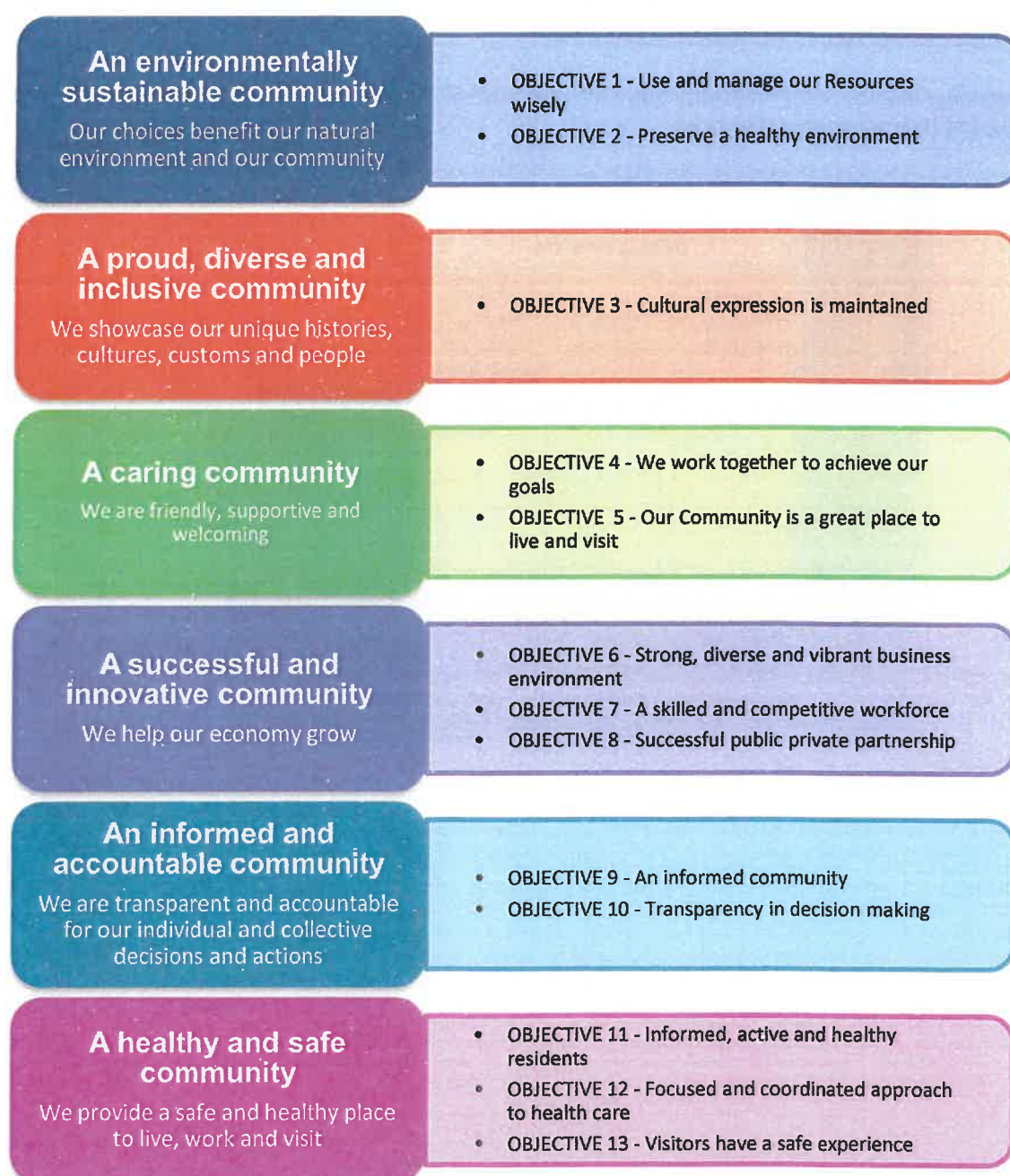


<sup>1</sup> Adapted from the NSW integrated Planning and Reporting Framework to reflect the needs of Norfolk Island. The NSW framework is available online at: <https://www.olg.nsw.gov.au/councils/integrated-planning-and-reporting/framework>

The Integrated Planning and Reporting framework recognises that most communities share similar aspirations: such as a safe, healthy and pleasant place to live, a sustainable environment, opportunities for social interaction, opportunities for employment and reliable infrastructure. The difference lies in how each community responds to these needs. This is what shapes the character of individual towns and cities. It also recognises that the Council plans and policies should not exist in isolation and are in fact connected to its community.

The Norfolk Island Community Strategic Plan identified six strategic directions and a further thirteen objectives, these are outlined in figure 2 below.

**Figure 2 – Norfolk Island Community Strategic Plan excerpt**

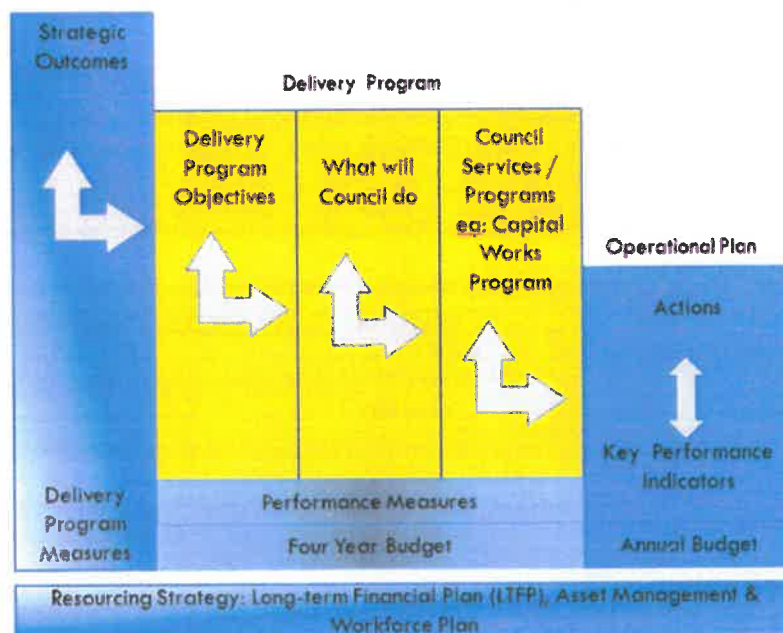


In doing this, the operational planning process considered the issues and pressures which may affect the community and the level of resources realistically available to achieve its vision and the identified strategic directions and objectives.

The Community Strategic Plan has been informed by an amended version of the previous Norfolk Island Government's Strategic Vision developed in 2015 as well as from conversations held with the community throughout 2016. This will be modified to reflect the future responsibilities of the Regional Council and include an advocacy role for services to be managed by the Australian Government.

The new Regional Council will be requested to consider the Community Strategic Plan and develop a four year Delivery Program. This will be used by the Regional Council's Executive Management Team to formulate future operational plans. Given the timing of elections, the 2016/17 Operational Plan will be developed before the Regional Council is established however it will be revisited with the Council following its commencement on 1 July 2016.

The following diagram demonstrates the interrelationship of the various planning tools to be developed for/by the Regional Council.





## 6 Priority Area 1: Complete the transition from the Administration of Norfolk Island (ANI) to the Norfolk Island Regional Council

ACELG Framework	Community Strategic Plan (CSP)	Input	Activity	Output	Metric	Outcome
Local Governance and Finance	3. A Caring community 5. An informed and accountable community	Staff resource Budget for training	<ul style="list-style-type: none"> <li>Establish forward agenda for Council meetings</li> <li>Publish timetable for meetings</li> <li>Develop Code of Conduct, Role clarity statements</li> <li>Training for elected members</li> <li>Design and implement the process for Council decision-making and consideration of recommendations</li> <li>Regular and transparent reporting to the community of financial and planning progress</li> </ul>	Democratic processes, governance and internal relationships defined and agreed Engagement process is defined Advocate for the community's aspirations.	Adopted by Council	Regional Council established and performing its core functions
	5. An informed and accountable community	Staff resource Budget for proprietary system or resource required to design	<ul style="list-style-type: none"> <li>Establish the corporate planning process within the Council</li> <li>Develop a four-year Delivery Programme and enterprise risk management framework (including corporate fraud risk management)</li> <li>Identify the critical components of an individual performance management system</li> <li>Design, purchase system</li> <li>Roll out through Council</li> <li>Establish monitoring and reporting processes of corporate and financial performance</li> <li>Establish and implement good governance and management controls based on sector best practice</li> </ul>	Performance management system implemented	Golden thread from CSP to individual performance discernible and able to be consolidated at individual, team, business unit, Directorate and corporate level	Performance management culture inculcated Trusted organisation
Local Governance and Finance	5. An informed and accountable community	Staff resource Management contract Budget allocation	<ul style="list-style-type: none"> <li>Complete contracts for the supply of Enterprise Management System (EMS) and Project Management providers</li> <li>Cleanse existing data and re-engineer or adopt standard processes to comply with proprietary EMS requirements</li> </ul>	EMS implemented	On time, within budget and meets the needs of the new Council	More efficient, less manually reliant Council

ACELG Framework	Community Strategic Plan (CSP)		Input	Activity	Output	Metric	Outcome
	Strategic Direction	Objective					
Local Governance and Finance	5. An informed and accountable community	Objective 9	Facilitators – Budget allocation Staff resource Workshop time	<ul style="list-style-type: none"> <li>Run all staff workshops to ensure clarity on the vision for the Regional Council</li> <li>Establish the values of the Regional Council through engagement and participation of all stakeholders</li> <li>Operationalise values through performance management system, role clarity statements for all staff</li> <li>Continue leadership and cultural change development</li> </ul>	Cultural health of new organisation is known and accepted	Baseline established	Healthy, positive culture aspiration
		Objective 10					
Community and Culture	2. A proud, diverse and inclusive community	Objective 3	Staff resource Budget allocation	<ul style="list-style-type: none"> <li>Continued recognition of multicultural identity</li> <li>Management and preservation of the Norfolk Island cultural and historical assets</li> <li>Educate and build awareness of the unique NI multi-cultural heritage</li> </ul>	Educative material published Historical and cultural events run	Local and visitor uptake	Diverse and respectful culture
Local Governance and Finance	5. An informed and accountable community	Objective 10	Staff resource Consultancy support Budget allocation	<ul style="list-style-type: none"> <li>Establish operating budgets for all business units</li> <li>Ensure all budget managers trained and confident with the proprietary financial systems</li> <li>Establish regular monitoring and reporting process</li> <li>Establish investment and expenditure return criteria</li> <li>Identify and implement an appropriate rating system</li> <li>Establish and implement a fees and charges regime</li> <li>Long term financial planning</li> </ul>	Financial performance is regularly monitored and managed Rating system implemented Fees and charges reviewed and implemented	<ul style="list-style-type: none"> <li>Council operates within available resources</li> <li>Expenditure decisions are supported by positive business cases</li> <li>Adopted by Council</li> <li>Council maximises its revenue options</li> </ul>	Financially sustainable Council

ACELG Framework	Community Strategic Plan (CSP)		Input	Activity	Output	Metric	Outcome
	Strategic Direction	Objective 1					
Infrastructure and Services	1. An environmentally sustainable community	Objective 1	Staff resource Consultancy support Budget allocation	<ul style="list-style-type: none"> <li>Refine and/or develop strategic plans for the management of the Council's key assets and infrastructure – roads, airport, electricity, real property</li> </ul>	Existing Asset Management Plans (AMPs) reviewed and gaps identified. Capital expenditure identified	Adopted for 30 June 2017 Prepared and finalised 30 June 2017.  30% planned: 70% reactive  Asset maintenance programs reflect the plans	Sound stewardship of assets
				<ul style="list-style-type: none"> <li>Shift the maintenance of assets from being reactive to being programmed and planned</li> </ul>			
				<ul style="list-style-type: none"> <li>Develop asset investment/ divestment criteria</li> </ul>			

## 7 Priority Area 2: Achieve the program of reform

ACELG Framework	Community Strategic Plan (CSP)		Input	Activity	Output	Metric	Outcome
	Strategic Direction	Objective					
Infrastructure and Services	1. An environmentally sustainable community	Objective 1	Consultancy support Budget allocation Staff resource Project management support	<ul style="list-style-type: none"> <li>Complete a functional review from strategic positioning to current delivery</li> <li>Process analysis</li> <li>Cost and revenue drivers analysed</li> </ul>	Documented current state	Current state accepted and agreed  Workflows and inefficiencies understood	Current provision and strategic positioning
	3. A caring Community	Objective 3	Consultancy support Staff resource	<ul style="list-style-type: none"> <li>Strategic and functional review</li> <li>Process analysis</li> <li>Cost and revenue drivers analysed</li> </ul>	Documented current state	Current state accepted and agreed  Workflows and inefficiencies understood	Current provision and strategic positioning
	4. A successful and innovative community  6. A healthy and safe community	Objective 6  Objective 11					
Infrastructure and Services	1. An environmentally sustainable community	Objective 1	Staff resource Project management Consultancy support	<ul style="list-style-type: none"> <li>Re-engineer processes, implement improved cost options</li> <li>Research and analyse alternative delivery options against current state.</li> <li>Market test, providers in market identified</li> <li>Develop business case against approved rate of return for recommended option</li> </ul>	Recommended alternative delivery option	Recommended option approved	Optimal service for Norfolk Island
Local Economy	1. An environmentally sustainable community	Objective 2	Staff resource	<ul style="list-style-type: none"> <li>Market test individual services or packages of services with a category management approach</li> <li>Assess and recommend preferred provider</li> </ul>	Recommendation of provider made	Recommendation accepted by Regional Council	Optimal value for service
	4. A successful and innovative community	Objective 6					
	6. A healthy and safe community	Objective 11					



ACELG Framework	Community Strategic Plan (CSP)		Input	Activity	Output	Metric	Outcome
	Strategic Direction	Objective					
Local Economy	2. A proud diverse and inclusive community	Objective 3	Staff resource Training support in re-engineering tools	<ul style="list-style-type: none"> <li>Develop 'to be' of the services</li> <li>Re-engineer processes (lean, scrum, agile tools)</li> <li>Incorporate the use of EMS and technology</li> <li>Improve cost efficiencies from 'as is' analysis</li> <li>Implement the changes</li> </ul>	Efficient services aligned to delivery plans	Target operating models adopted and implemented	Optimal and competitive services
	4. A successful and innovative community	Objective 7					
	6. A healthy and safe community	Objective 11					
Local Economy	2. A proud diverse and inclusive community	Objective 3	Staff resource Training	<ul style="list-style-type: none"> <li>Sector, particularly tourism engagement</li> <li>Governance structure including funding options agreed with sector</li> </ul>	Governance and funding options recommended to Council	Presented for adoption by Council	Vibrant and growing economy
	4. A successful and innovative community	Objective 6					
	5. An informed and accountable community	Objective 10					
Natural Environment	1. An environmentally sustainable community	Objective 1	Staff resource Training support in re-engineering tools	<ul style="list-style-type: none"> <li>Waste Management Strategy Implemented</li> <li>Implementation Plan Adopted</li> <li>Resolve current disposal options for non-recyclables</li> <li>Initiate an approach for a water plan</li> </ul>	Efficient services aligned to delivery plans	Strategies adopted and implemented	Improved natural environment

s22

**From:** [REDACTED]  
**Sent:** Tuesday, 19 January 2016 4:06 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Amendment to the definition of Norfolk Island Regional Council [DLM=Sensitive-Legal]

s22

Hi [REDACTED]

s47C

Proposed email to [REDACTED] on the amending the definition of the NIRC to be either a body politic or body corporate. I understand that [REDACTED] may have a view, and she is back on Thursday this week.

Thanks

[REDACTED]

Hi [REDACTED]

Thank you for your work on the Territories Legislation Amendment Bill 2016 (the Bill) to date. We would like take the opportunity to progress an amendment to the definition of the Norfolk Island Regional Council through the Bill.

#### Background

As identified by [REDACTED] in the drafting of the Norfolk Island Regional Council Preparatory Election Ordinance 2016, Infrastructure has been considering whether it would be necessary or desirable to amend the *Norfolk Island Act 1979* so that the Norfolk Island Regional Council could be either a body politic (like councils under the *Local Government Act 1993* (NSW)) or a body corporate (as currently envisaged in the definition of Norfolk Island Regional Council to be inserted in subsection 4(1) of the *Norfolk Island Act 1979* on 1 July 2016 by item 17 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015*.

Subsection 4(1) will provide that:

Norfolk Island Regional Council means a body corporate that is:

- (a) established by or under a law in force in the Territory; and
- (b) declared by a section 19A Ordinance to be the Norfolk Island Regional Council for the purposes of this definition.

It is the policy intention is to provide flexibility for the application of local government law to Norfolk Island from 1 July 2016.

#### Drafting Instructions

Please amend the definition of Norfolk Island Regional Council to refer to a body corporate or body politic.

Please let me know if you need more information.

Kind regards

Governance and Law | Norfolk Island  
 Local Government and Territories | Department of Infrastructure and Regional Development



✉: GPO Box 594 CANBERRA ACT 2601



**This material contains information that may be subject to legal professional privilege.**

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 20 November 2014 3:07 PM  
**To:** [REDACTED] s22  
**Subject:** Factsheet - Norfolk Island Regional Council [SEC=UNCLASSIFIED]  
**Attachments:** Factsheet - Norfolk Island Regional Council.DOCX

Can you PDF and send to [REDACTED] Might need to call and let him know its cleared etc.

[REDACTED]



## A local government model for Norfolk Island

Economic development must be underpinned by sound governance. In its report on Norfolk Island, the Joint Standing Committee for the National Capital and External Territories ('the Committee') found that Norfolk Island's governance arrangements are a major impediment to economic development and that the Island's sustainability will not improve until these issues are addressed. The Committee recommended that the Norfolk Island Government be transitioned to a local government type body, such as a Norfolk Island Regional Council.

The following information outlines what a Norfolk Island Regional Council might look like, based on typical local government arrangements in other Australian communities. This information is intended to promote constructive debate in the community and inform the consultation being undertaken by the Norfolk Island Administrator.

The Australian Government will consider its response to the Committee's report in early 2015 and encourages the Norfolk Island community to contribute its views on this issue through the consultation process.

### What would happen to the Norfolk Island Government?

Under a local government model, the Norfolk Island Government could be replaced by a Norfolk Island Regional Council. Residents of Norfolk Island would still participate and be represented in the Island's governance through the Council. Residents would elect councillors, replacing the election of Members to the Norfolk Island Legislative Assembly. Elections would mirror typical local government elections in mainland communities.

#### Services

It makes sense for local services to be managed and delivered by local people. A Norfolk Island Regional Council would be responsible for all local services, such as road maintenance and waste management, and continue to be responsible for law-making on local issues, such as planning and development.

A Norfolk Island Regional Council could also have a wider range of functions and responsibilities than an average mainland local council to reflect the particular needs of the Norfolk Island community. It could manage the Government Business Enterprises (GBEs), including fuel and electricity supplies, and operate the Norfolk Island airport. The majority of existing Norfolk Island Administration staff would likely move to the Council and perform many of the same roles in service delivery, corporate support or operating GBEs.

#### Support

An advantage to a local government model is that the Norfolk Island Regional Council would be able to access a wide range of support and expertise from mainland organisations to improve its operations. The Australian National Audit Office has found that the Norfolk Island Administration needs stronger financial controls and financial management practices, better governance frameworks and support for staff.

A Norfolk Island Regional Council could have much greater access to this support from a state local government agency and the Australian Local Government Association, which would provide a framework to strengthen local government finances, build capacity and sustainability in local communities and improve local assets.

The Norfolk Island Regional Council may also be able to access additional grants and assistance from the Commonwealth Government to better perform its functions, including financial assistance grants and local roads funding.

## What about state and federal services?

Norfolk Island is unique in being the only Australian self-governing territory with responsibility for federal, state and local government services. The Committee found that it is not practical for a community of 1,800 people to have the governance, financial and other skills to deliver all the services expected from a modern government.

Communities on the mainland are able to work together to fund and deliver highly complex functions through larger state and federal governments. It makes sense that Norfolk Island should be able to access more complex and technical services from these levels of government, which will also allow a Norfolk Island Regional Council to better focus on delivering local services.

### Services

Under a local government model, the Australian Government would deliver immigration, quarantine and customs services to Norfolk Island. The Australian Government has experience in delivering these services on the mainland through Australian Border Force and the Department of Agriculture, Fisheries and Forestry. These services have national importance and it makes sense to deliver them in the same manner throughout Australia. These changes would make it easier to travel and move goods to and from the mainland and provide greater assistance in ensuring that Norfolk Island remains pest-free.

The Committee recommended that state-level services on Norfolk Island be delivered under an arrangement with either the New South Wales or Queensland government, similar to the arrangement that currently exists for the Norfolk Island Central School. This arrangement would include the Norfolk Island Hospital and other services where there would be clear benefits in accessing the expertise and experience of a state government, such as social and community support, environmental management and justice services.

Federal laws would apply to Norfolk Island as they do in all other parts of Australia. State laws, based either on New South Wales or Queensland law, could replace the equivalent Norfolk Island laws and be adjusted to reflect local conditions after consultation with the community. State laws would include issues such as professional registration and licensing; work cover and fair trading; and gaming.

### Employment

While responsibility for delivering some services under a local government model would rest with federal and state agencies, many of these services would still be delivered by local people. Were responsibility for certain services transferred to federal and state agencies, it is unlikely there would be a substantial increase in the number of Commonwealth or state officials on Norfolk Island. Some Norfolk Island Administration staff may be engaged by federal and state agencies to deliver services. For example, immigration staff in the Norfolk Island Administration could be engaged by the Australian Border Force to continue providing those services, and staff at the Norfolk Island Hospital could also continue in those positions. In some cases, staff could be asked to transfer to a new role.



You are invited to provide feedback on any aspect of this information.

Website: [www.infrastructure.gov.au](http://www.infrastructure.gov.au)

Email: [NorfolkIslandReform@infrastructure.gov.au](mailto:NorfolkIslandReform@infrastructure.gov.au)

Post: Administrator – Australian Territory of Norfolk Island, PO BOX 201, Norfolk Island 2899



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 23 October 2015 3:33 PM  
**To:** Kidman Glenda  
**Cc:** [REDACTED]  
**Subject:** FW: Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

FYI, and background in case we discuss at Tuesday's Dirs meeting.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 23 October 2015 3:32 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

[REDACTED]

( e should probably discuss this?  
Separately or during the next Directors' meeting?

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 23 October 2015 10:55 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

No, not at all. Coverage of the Cth WHS Act is not linked to award coverage.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 23 October 2015 10:31 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

Many thanks for that [REDACTED]

On a related (??) note, we understand that the nurses at the current hospital facility are hoping to move to the Commonwealth award from 1 July 2016; or possibly the NSW award. If they were covered by the Commonwealth award does it automatically mean that they are covered by Commonwealth WHS?

[REDACTED]

---

[REDACTED]

Cc: [REDACTED]  
Subject: RE: Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi [REDACTED]

Sorry for the delay with responding to your query.

We think that the Commonwealth Work Health and Safety Act would apply to the Regional Council because it falls within the definition of 'public authority' in section 4 of that Act.

It is possible to exclude the Council from the coverage of the Commonwealth WHS Act by making a regulation prescribing it for the purposes of para (a) of the definition of 'public authority'. This might be appropriate if the Council is intended to operate (and receive the same treatment) as authorities under the NSW Local Government Act. The result would be that the NSW WHS Act, as applied to Norfolk Island, would apply to the Council.

If excluded from the scope of the Commonwealth WHS Act, consideration would need to be given to how NSW laws could be 'applied' to the Regional Council. More broadly, we think further consideration of the modifications and amendments to NSW WHS and workers compensation laws that might be required to ensure the laws operate as intended when applied to Norfolk Island is required.

Happy to discuss further –

Thanks

From: [REDACTED] [\[REDACTED\]@infrastructure.gov.au](mailto:[REDACTED]@infrastructure.gov.au)  
Sent: Tuesday, 29 September 2015 3:41 PM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: FW: Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

Hi [REDACTED]

According to our legislation area, the Regional Council provisions are in the current NI Act (see below). The Ordinance for the Regional Council won't be drafted until early next year.

Happy to discuss and once again many thanks for your time today.

Kind regards



**From:** [REDACTED]  
**Sent:** Tuesday, 29 September 2015 3:37 PM  
**To:** [REDACTED]  
**Subject:** Definition of Norfolk Island Regional Council [SEC=UNCLASSIFIED]

**Norfolk Island Regional Council** means a body corporate that is:

- (a) established by or under a law in force in the Territory; and
- (b) declared by a section 19A Ordinance to be the Norfolk Island Regional Council for the purposes of this definition.

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s22

**From:** [REDACTED]  
**Sent:** Thursday, 10 March 2016 12:51 PM  
**To:** KIDMAN Glenda; [REDACTED]@nlk.regional.gov.au  
**Subject:** FW: NIRC draft Budget [SEC=UNCLASSIFIED]  
**Attachments:** RE: Provident Fund Payout [SEC=UNCLASSIFIED].msg

s22

See [REDACTED] comments re provident fund I believe we can proceed to implement on this basis, as discussed with Glenda

Robyn

**From:** [REDACTED]@nlk.regional.gov.au]  
**Sent:** Wednesday, 9 March 2016 2:53 PM  
**To:** [REDACTED] MCINNES Paul  
**Subject:** RE: NIRC draft Budget [SEC=UNCLASSIFIED]

, Robyn

### Provident

I indicated that I would follow up regarding whether there had been any changes to the provident account closure and payout arrangements.

I have now been advised that Bruce requested last Friday (refer attached – I wasn't included) that Leanne's team amend the ordinance to bring forward the effective date of the payout to 18 May, with actual payments scheduled for 27 May and the account closed on 31 May. Interest accrued to 18 May will be included in the payouts and interest accrued between 19 May and 31 May will be retained by ANI to pay the audit costs – any excess above this will be treated as an administration fee.

Provident entitlements will continue to be honoured to 30 June and paid via fortnightly pays. If staff leave during the period 19 May to 30 June, these payments will stop as at the date of their resignation.

The reason for the request to bring forward the payout date was to manage workload in the Finance team, there are paydays in June, they have entitlement payouts to process, EMS implementation will add pressure and they are currently two people under their previous staffing complement.

If don't have any issues with the proposed change but would be happy to discuss any concerns that yourself and Paul may have.

### Gratuities

Further to my comments regarding gratuities below, a commitment has been given to payout gratuities for contract staff ending at 30 June, prior to 30 June to avoid the need to pay tax on this. Payouts for contracts extending past 30 June will be considered on the basis of whether the contractor will still have a position. Paul also mentioned that you were also interested in the performance pay aspect of this, which is 3.5% of the contract value. The Q&As which have been published on the ANI intranet have stated that these will be paid if staff have met their performance objectives, which is the standard terms and conditions (although I think basically everyone gets the performance part!).

Hope that helps, happy to discuss further if you would like to.

Regards

[REDACTED]

---

**From:** [REDACTED]@infrastructure.gov.au]  
**Sent:** Monday, 7 March 2016 2:13 PM  
**To:** [REDACTED]; MCINNES Paul  
**Subject:** RE: NIRC draft Budget [SEC=UNCLASSIFIED]

[REDACTED]

Thanks

Noxious weeds – need to identify specifically what we as 'state' have responsibility for – advice etc; as council would have responsibility for council lands

Rest seems pretty much on the money.

If we own the ports Cascade and Kingston then yes we should have a management charge but we would also collect the revenue for diembarcation etc

[REDACTED]

---

**From:** [REDACTED]@nlk.regional.gov.au]  
**Sent:** Monday, 7 March 2016 9:44 AM  
**To:** [REDACTED]; MCINNES Paul  
**Subject:** RE: NIRC draft Budget [SEC=UNCLASSIFIED]

Hi [REDACTED]

ANI have not specifically identified these in the budget yet and the first draft of their budget assumed that all services they currently provide will continue with the exception of health, education and policing. They have however begun the work of putting together a list of services for our review and we should have this within the next week or so along with cost estimates (net of any revenue collected). The services that they have initially identified are:

- Licensing and registrations – motor vehicles, births, deaths and marriages, firearms, land transfers, land registry maintenance etc.
- Justice – courts, DPP service and legal aid
- Workers compensation and workplace safety – collection of levies and depending on the regime, potential enforcement of legislation
- Emergency services – including airport fire rescue although this is arguable as to whether it attaches to the airport rather than the state
- Child welfare
- Gaming
- Corrective services
- Noxious weeds and pests.

I could put together some initial costings in advance of ANI's submission to us, based on past data, if it would help?

I also understand that ANI are considering proposing that the Commonwealth support (possibly via a top up subsidy) its airport and electricity generation and supply service, arguing that it is not reasonable for a remote local

government to fully fund these given precedents in the IOTs where the Commonwealth fund the services. They are also looking at services they provide for the Commonwealth now which are not charged, mowing of reserves and maintenance of facilities, ports management etc.?

I am conscious that other than support funding (i.e. \$2.959m (at this stage – depending on FAGs calculations and other pressures) in 16/17) and funding for health, education and policing we do not have any funding for state-type services in 2016/17, however funding is provided from 17/18 onwards, which makes next year very tricky. Could we consider options such as accepting a reduction in the runway loan if we don't have the funds to provide to the Regional Council directly for reasonable state services in 16/17 – I know the policy position regarding the runway loan but this wouldn't involve forgiving it?

I am not aware of Peter proposing an 18 May Provident Fund closure. I will follow up. As far as I am aware they are looking to payout to 30 June, with the last fortnightly contribution from ANI being paid in advance (if staff left before 30 June this would be recovered from their final pay). I was anticipating the work would be done immediately after the first June pay day and the May interest was received. June interest would be estimated and an amount retained for the audit costs.

As far as I understand it, the gratuity payment for contractors is just if they are deemed to not have a role in the new structure. In this situation they would be entitled to be paid out their gratuity along with their remaining contract amounts. Contractors may be job matched or can apply for Executive positions, we don't know the outcomes of this, not to know whether they will have a role in the Regional Council or not.

Hope that clarifies/helps. Happy to discuss further if you would like to or provide additional information if needed.

Regards

**From:** [REDACTED]@infrastructure.gov.au]  
**Sent:** Friday, 4 March 2016 5:54 PM  
**To:** [REDACTED] MCINNES Paul  
**Subject:** NIRC draft Budget [SEC=UNCLASSIFIED]

/Paul

Keen to get a view on what state service payments Peter has included in the budget as trying to get my head around the 16-17 Budget pressures going forward ( for me )

I understand Peter is proposing provident fund closes 18 May – supported – not supported?

I also understand there is some proposal for a gratuity payment for contractors. Can you talk me through the rationale for this - is it part of the terms of the current contracts? Are these contractors not getting positions in the new structure?

cheers

**Executive Director  
Local Government and Territories Division**

Department of Infrastructure and Regional Development

GPO Box 803, Canberra, ACT, 2601  
Level 3 62 Northbourne Avenue, Canberra, ACT, 2601  
p: 02 62747446 mobile 0419020842

[infrastructure.gov.au](mailto:infrastructure.gov.au)

**From:** [REDACTED]  
**Sent:** Tuesday, 8 March 2016 8:31 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]; [REDACTED]  
**Subject:** RE: Provident Fund Payout [SEC=UNCLASSIFIED]

Hi [REDACTED]

I refer to your comment "This will help me to clarify which ExCo date we should work towards if we are looking at having the Ordinance made by late May."

The following is written assuming the Ordinance has been to ExCo by 18 May.

1. The pay fortnight ends midnight on a Wednesday night. The last relevant fortnight ends Wednesday 18 May, 2016.
2. Employee contributions (5%) cease with the deductions from the pay of 18 May, and the payment into the Provident account on that same day, or the day after at the latest.
3. Employer contributions into the fund (5%, 6.5% or 8%) also cease following the payments of 18 May.
4. In the payrolls of 1 June, 15 June and 29/30 June employees will receive 100% of their pay (i.e. the 95% they previously received, plus the 5% that was previously deducted to be transferred to the Provident Fund).
5. In the payrolls of 1 June, 15 June and 29/30 June employees will also receive an amount equal to the employer's contribution, previously paid to the Provident account. (see 3 above)
6. All term deposits will mature and be in a cash account on 19 May. Interest will be known and calculated at that date.
7. Interest will be allocated as at 19 May. It will take 5 working days to calculate members total payout and have verified by the independent auditor.
8. Funds will be direct deposited to the 80 members bank accounts Friday 27 May, 2016.
9. The bank account will be closed 31 May, the balance (being the interest earned between 19 May and closing) being transferred to the Administration's bank account. This amount will be used to pay the final audit fee for the provident account, and excess will be kept by the Administration as a fee. (The Administration has carried out all accounting functions for the Provident Fund on an FOC basis since 1958).
10. Final Accounts and Final Audit will be completed 10 June, 2016.
11. The Official Trustee shall report in writing under s.4A(6). Between 10 June and 30 June.

/p>

Suggested changes required to the Provident Account Act 1958, clause:-

9. Final date for such payment is (including) 18 May.
10. Final date for such payment is (including) 18 May.
- 12.(1) Interest. As soon as practicable after 19 May, 2016 .....
13. Each contributor will be furnished with particulars by 27 May.
14. All contributors are to be 'retired' under the Act, 19 May.

And the Act is to be wound up/repealed on 30 Jun, 2016

Regards,

[REDACTED] | Acting & Deputy Chief Executive Officer | Administration of Norfolk Island | Norfolk Island 2899  
 email [REDACTED] [admin.gov.nf](mailto:admin.gov.nf) Phone intl 672 3 22001 Extn 8. Fax 672 3 22205. Mob. 52123

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**From:** [REDACTED]@infrastructure.gov.au]

**Sent:** Friday, 4 March 2016 5:46 P M

**To:** [REDACTED]

**Subject:** RE: Provident Fund Payout [SEC=UNCLASSIFIED]

Hi [REDACTED]

[REDACTED] forwarded your email on to me – I am in the Governance and Law team with Michael and will be working on the Provident Account Ordinance. I do not think the timeframe you suggest will be a problem, but is it possible for you to nominate a specific date after 18 May? This will help me to clarify which ExCo date we should work towards if we are looking at having the Ordinance made by late May.

Kind Regards,

[REDACTED]  
Governance and Law | Norfolk Island Branch  
Local Government and Territories | Department of Infrastructure and Regional Development  
☎: 02 6274 7345  
✉: GPO Box 594 CANBERRA ACT 2601

---

**From:** [REDACTED]@admin.gov.nf]

**Sent:** Friday, 4 March 2016 2:39 PM

**Subject:** Provident Fund Payout

The Finance Department is scheduling their June work. The combination of three paydays in June; Provident Fund payout; LSL and Annual leave payout; and gratuity payouts for all contractors; along with the EOFY requirements stretches resources too far.

Whilst we were scheduling 1 June as a cut-off for the Provident Fund; **is it possible to change the Ordinance to have a cut-off after the pay of 18<sup>th</sup> May?**

This would allow adequate time to process all the additional work, thus reducing the possibility of error and allowing a small reserve for the things that may go wrong.

We are happy to discuss with you and Michael if required.



Regards,

**[REDACTED] Deputy Chief Executive Officer | Administration of Norfolk Island | Norfolk Island 2899**  
email **[REDACTED]** [@admin.gov.nf](mailto:[REDACTED]@admin.gov.nf) Phone intl 672 3 22001 Extn 8. Fax 672 3 22205. Mob. 52123.

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[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 8 April 2016 5:09 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: WHS coverage of the Norfolk Island Regional Council [SEC=UNCLASSIFIED]

---

**From:** [REDACTED]  
**Sent:** Friday, 8 April 2016 5:06 PM  
**To:** [REDACTED]  
**Subject:** FW: WHS coverage of the Norfolk Island Regional Council [SEC=UNCLASSIFIED]

---

**From:** [REDACTED]  
**Sent:** Friday, 8 April 2016 5:05 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: WHS coverage of the Norfolk Island Regional Council [SEC=UNCLASSIFIED]

Hi [REDACTED]

Following the passage of the *Territories Legislation Amendment Act 2016* it is necessary for us to revisit our earlier advice that the Norfolk Island Regional Council (NIRC) would be captured by the Commonwealth's work health and safety laws.

While the NIRC would no longer fall within the definition of 'public authority' for the purpose of the WHS Act, our view is the Commonwealth WHS Act would still apply. We have based this view on the assumption the NIRC will form part of the Commonwealth from 1 July (as per your email below).

Unless repealed, subsection 12(2) would operate to prevent the Commonwealth owing duties in relation to activities forming part of the administration of Norfolk Island or the NIRC. This section is intended to reflect the self-governing jurisdiction of NI.

Our view is this subsection should be repealed and we would like to explore possible legislative options with you to achieve this outcome.

Neither the Norfolk Island Employment Act or the NSW Work Health and Safety Act extend to bind the Commonwealth

## Application of the Commonwealth WHS Act

Making laws about workplace health and safety are principally the responsibility of the states and territories. The Commonwealth *Work Health and Safety Act 2011* (the WHS Act) applies to the Commonwealth, public authorities and a small number of private companies that self-insure under the Comcare scheme.

Section 4 of the WHS Act defines 'public authority' as:

*a body corporate established for a public purpose by or under a law of the Commonwealth or a law of a Territory (other than the Australian Capital Territory, the Northern Territory or Norfolk Island), but does not include a body corporate prescribed by the regulations to be a body corporate to which this Act does not apply; and*

...

As you point out, the *Territories Legislation Amendment Act* amended the definition of the NIRC in the *Norfolk Island Legislation Amendment Act 2015* from a 'body corporate' to a 'body'. The effect of this change is the NIRC no longer meets the definition of 'public authority' for the purpose of the WHS Act.

We note for completeness that section 2H of the *Acts Interpretation Act 1901* may also operate to treat the NIRC as a body 'established under a law of the Territory of NI rather than 'a law of the Commonwealth'. Section 2H of the *Acts Interpretation Act 1901* provides:

*In any Act, a reference to the law of the Commonwealth, or to a law of the Commonwealth, does not include, and is taken never to have included, a reference to a law in force in a Territory so far as the law is so in force because of an Act providing for the acceptance, administration or government of that Territory.*

While the legal status of the NIRC is still to be determined, you have asked us to assume it will form part of the Commonwealth. Applying this assumption, the NIRC would nevertheless fall within the application of the WHS Act.

### Subsection 12(2) of the Cth WHS Act

The Commonwealth owes duties under the WHS Act in relation to its activities if those activities form part of a 'business or undertaking' that is 'conducted by the Commonwealth'.

Subsection 12(2) of the WHS Act clarifies the administration of NI does not form a business or undertaking of Commonwealth. Meaning the Commonwealth would not have a duty to ensure the health and safety of workers involved in the administration of NI under that Act.

---

**From:** [REDACTED]  
**Sent:** Thursday, 7 April 2016 2:24 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: WHS coverage of the Norfolk Island Regional Council [SEC=UNCLASSIFIED]

Hi [REDACTED]

It would be fantastic if you could please provide us with your advice on the basis that the NIRC will be a body politic that will not have a separate legal identity and will form part of the Commonwealth. We don't have a definitive answer on that question at the moment but we think that that is most likely the case.

Kind regards  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 7 April 2016 9:06 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: WHS coverage of the Norfolk Island Regional Council [SEC=UNCLASSIFIED]

Hi [REDACTED]

Thanks for your email. We had noticed the recent amendments to the status of the Norfolk Island Regional Council (NIRC) made by the *Territories Legislation Amendment Act 2016*.

Thank you also for the further information about the proposed arrangements for the NIRC.

If the NIRC will be a body politic does this mean that it will not have a separate legal identity and will form part of the Commonwealth?

[REDACTED]

[www.employment.gov.au](http://www.employment.gov.au)

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**From:** [REDACTED]  
**Sent:** Wednesday, 6 April 2016 12:57 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** WHS coverage of the Norfolk Island Regional Council [SEC=UNCLASSIFIED]

Dear [REDACTED]

My name is [REDACTED]. I have recently joined the Norfolk Island State and Local Government Service delivery section of the Department of Infrastructure.

Thank you for your advice provided to [REDACTED] in January in relation to WHS coverage of the Norfolk Island Regional Council (NIRC) post 1 July 2016.

You noted then that under the new governance arrangements, the Norfolk Island Regional Council and its employees will be covered by the Commonwealth WHS Act and the SRC Act (and regulated by Comcare). This advice was based on the fact that the NIRC would be a body corporate established for a public purpose under a law of the Commonwealth.

Since that time there have been a few developments in relation to the NIRC.

The *Territories Legislation Amendment Act 2016* amended the definition of Norfolk Island Regional Council to remove the requirement for it to be a body corporate. The new definition becomes as follows:

***Norfolk Island Regional Council*** means a body ~~corporate~~ that is:

- (a) established by or under a law in force in the Territory; and
- (b) declared by a section 19A Ordinance to be the Norfolk Island Regional Council for the purposes of this definition.

The Explanatory Memorandum for the *Territories Legislation Amendment Act 2016* explains that the reason for this change is to provide flexibility in the application of local government law to Norfolk Island.

Our Law and Governance section are intending that the Norfolk Island Regional Council will be established under the *Local Government Act 1993* (NSW). Section 220 of that Act states that a council is not a body corporate, but is a body politic of the State. That section also states that a law of the State applies to and in respect of a council in the same way as it applies to and in respect of a body corporate. However, the *Local Government Act 1993* (NSW) doesn't make any similar statement about a law of the Commonwealth.

We were wondering if this then changes your advice on whether the Commonwealth's *Work Health and Safety Act 2011* and *Safety Rehabilitation and Compensation Act 1988* will apply to the Norfolk Island Regional Council?

Does the reference in subsection 12(2) of the *Work Health and Safety Act 2011* to the administration of Norfolk Island cover the Norfolk Island Regional Council?

If the Commonwealth legislative framework would not apply to the NIRC, would the arrangements under Norfolk Island's *Employment Act 1988* apply instead, or the NSW regime, or a combination of both? (noting that subsection 18A(4) of the *Norfolk Island Act 1979*, as amended by the *Norfolk Island Legislation Amendment Act 2015* states that applied NSW law has no effect on Norfolk Island to the extent that it is inconsistent with an enactment).

We are keen to resolve this question soon so that we can ensure that the correct arrangements are in place for NIRC employees from 1 July 2016.

Thank you very much for your assistance.

Kind regards

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]

**Sent:** Wednesday, 20 January 2016 5:11 PM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** FW: NI [SEC=UNCLASSIFIED]

Hi [REDACTED]

Just to clarify, the Territories Legislation Amendment Bill 2016 is not expected to affect the coverage of the Commonwealth's work health and safety and workers compensation laws in relation to Norfolk Island. It is essentially status quo post 1 July 2016.

***Coverage of Commonwealth WHS and workers' compensation laws***

In very broad terms, the Commonwealth's laws will continue to apply to the Commonwealth and its workers while they are on Norfolk Island. The Employment Act will apply to private businesses on the Island.

As the Commonwealth's WHS and workers' compensation scheme has traditionally only regulated the Commonwealth and a small number of businesses that self-insure for workers compensation purposes, our understanding was that NSW WHS and workers' compensation laws would be applied to NSW and a service agreement would be entered into with the NSW government. This would be consistent with the application of WA laws to Christmas Island and Indian Ocean Territories.

### ***Norfolk Island Regional Council***

There is a separate issue (unrelated to the Bill) about the coverage of the newly created Regional Council. Employees on Norfolk Island, including those working in the public service would have been covered by the NI Employment Act under self-government.

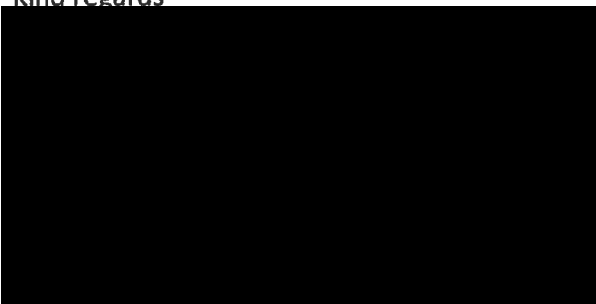
Under the new governance arrangements, the Norfolk Island Regional Council and its employees will be covered by the Commonwealth WHS Act and the SRC Act (and regulated by Comcare). This is because it is a body corporate established for a public purpose under a law of the Commonwealth.

[http://www5.austlii.edu.au/au/legis/cth/num\\_act/nilaa2015350/sch2.html](http://www5.austlii.edu.au/au/legis/cth/num_act/nilaa2015350/sch2.html)

The Council and any employees could be excluded from coverage of both the WHS Act and the SRC Act by making a declaration and/ or regulation. The result would be that NSW laws would apply and the council would be regulated by NSW authorities.

The declaration can be made at any time and the department would be happy to discuss the coverage of the Council with you.

Kind regards



[www.employment.gov.au](http://www.employment.gov.au)

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**From:** [Redacted]  
**Sent:** Wednesday, 20 January 2016 3:26 PM  
**To:** [Redacted]  
**Cc:** [Redacted]

**Subject:** RE: NI [SEC=UNCLASSIFIED]

Thanks [Redacted]

This is good news about the Norfolk Island Regional Council (NIRC) potentially being eligible for worker's compensation under the Commonwealth Act from 1 July 2016.

In relation to the extension of the Commonwealth WH&S Act, there will need to be a transition period of at least 12-24 months. NIRC will be implementing the WHS from a very low starting point and would need this time to comply. If there is a transitional period:

- by what process would this occur; and

- would NIRC still be covered by Comcare during this period?

Happy to discuss.

**From:** [REDACTED]  
**Sent:** Wednesday, 20 January 2016 2:09 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: NI [SEC=UNCLASSIFIED]

Hello [REDACTED]

[REDACTED] has suggested that we should confirm our preferred approach to the application of Commonwealth workers' compensation and work health and safety legislation to Norfolk Island with you, in the context of the Bill that is being drafted (attached) which will apply Commonwealth legislation to Norfolk Island unless provided for otherwise, and also confirm any Norfolk Island legislation that should be retained for the time being.

#### **Workers' Compensation**

1. As entities administering Norfolk Island are established under Commonwealth laws (for example, the proposed Regional Council), employees of these entities will, by default, be covered for workers' compensation by the Commonwealth Safety, Rehabilitation and Compensation Act 1988 (the SRC Act), and will need to pay a workers' compensation premium to Comcare. If this is not the desired outcome, it is possible for the Minister for Employment to declare that the SRC Act does not apply to certain entities – we are happy to work with Infrastructure to discuss policy implications if desired.
2. To clarify arrangements for existing Commonwealth employees - Commonwealth employees that go to Norfolk Island for the purposes of their employment are covered for workers' compensation for injuries that occur during the course of their employment while on Norfolk Island. This situation will not change as a result of transferring Norfolk Island legislation to Commonwealth legislation.
3. To ensure that workers' compensation is available to employees of businesses on Norfolk Island, Part 3 of the Norfolk Island Employment Act on Compensation for work-related accidents should remain in force until arrangements for New South Wales or Commonwealth workers' compensation laws to apply have been resolved.

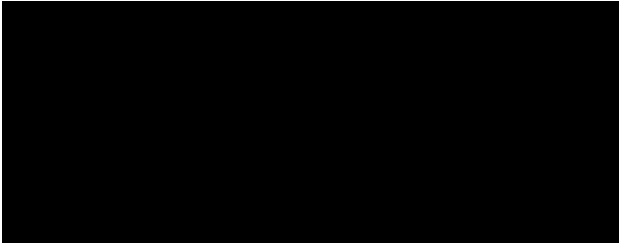
#### **Work Health and Safety**

1. The Commonwealth *Work Health and Safety Act 2011* (WHS Act) can be applied to Norfolk Island as proposed by Item 3 of the attached Bill. However, the current scope of the WHS Act should not be amended. This will provide that the application of the WHS Act extends to Norfolk Island (which it already does), but does not capture businesses or undertakings on Norfolk Island unless they are businesses or undertakings of the Commonwealth (and this already explicitly excludes the administration of Norfolk Island).
2. To ensure that there are work health and safety laws applying to businesses on Norfolk Island, Part 4 of the Norfolk Island Employment Act on Safe Working Practices should remain in force until arrangements for

Commonwealth or New South Wales work health and safety laws to apply to businesses on Norfolk island have been resolved.

Please give me a call if you have any questions in relation to work health and safety. If you have any questions in relation to workers' compensation, please call [REDACTED]

Kind regards,



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**From:** [REDACTED]  
**Sent:** Tuesday, 19 January 2016 3:27 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** NI [SEC=UNCLASSIFIED]  
**Importance:** High

Hi [REDACTED]

As discussed, I've attached a table which was prepared some time ago regarding the application of various Acts within the portfolio to Norfolk Island. I understand there was consultation across the Dept largely coordinated by WRL but I'm not sure who specifically considered each particular Act. This information was then provided to DIRD. I've also attached the current version of the Bill, as provided today by OPC, for your reference.

As you mentioned, given DIRD are clear that current WHS/WC provisions on NI should be retained until other arrangements are brought in, it might be worth confirming the approach with them. My understanding is that the retention of any existing NI legislation will be facilitated through DIRD Ministerial Ordinances which will be prepared prior to 1 July 2016. Hopefully this would address any risk of the SRC Act otherwise applying from 1 July, noting the coverage provisions of the WHS Act seem unlikely to extend the Act to NI (this is also the case with the FW Act and so we are amending the relevant coverage provisions so it does apply). I imagine a number of pieces of Cth legislation will be affected in a similar way.

Subject to your discussions with DIRD, we are separately intending to tap into a DIRD process to seek PM policy approval for amendments to a number of Acts within the portfolio. Hopefully it won't be required but we may be able to use that as an opportunity to seek approval for any other amendments. Unfortunately timeframes are tight - the Bill is meant to be introduced on 10/11 February and so Ministerial sign off on the Bill is needed by 29 January. Policy approval/finalisation of the Bill etc needs to be bedded down asap to facilitate that.

We will keep in touch with you about how that process is progressing but will otherwise take your/WRL's advice on whether you need us to facilitate any input into that.

Happy to discuss further.

Thanks  
[REDACTED]



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local time) and delete all copies of this transmission together with any attachments.

**From:** [REDACTED]  
**Sent:** Tuesday, 20 October 2015 1:28 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: Workplace relations and the Norfolk Island Regional Council [DLM=Sensitive-Legal]  
**Attachments:** Comments on the Norfolk Island Legislation Amendment Bill 2015.docx

I think Peter Gesling mentioned Employment issues for the Council at the start of the teleconference today. I have started a conversation with Employment (see below) in relation to the workplace relations structure of the local government, I just wanted to let you know this was in train because Peter raised it.

I've also asked [REDACTED] to confirm Employment's past advice that NSW workplace relations laws should 'never' apply to Norfolk Island.

I haven't looked into WH&S—I think we're in the position of awaiting advice from [REDACTED] about what NSW can agree to deliver for us (if anything) in that space as that would inform what legislative provisions we need.

Kind Regards,

[michael.reedy@infrastructure.gov.au](mailto:michael.reedy@infrastructure.gov.au)

's material contains information that may be subject to legal professional privilege.

**From:** [REDACTED]  
**Sent:** Monday, 19 October 2015 12:18 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Workplace relations and the Norfolk Island Regional Council [DLM=Sensitive-Legal]

Thanks for the discussion earlier. I have attached the previous advice from [REDACTED] at Employment to which I referred, including advice about timing and dependencies for extension of certain NSW laws. This was from March 2015, so I understand Employment's thinking may have changed since then.

Also as discussed, Peter Gesling, the Executive Director of Norfolk Island, asked for some advice on which workplace relations framework would apply to Norfolk Island Regional Council staff from 1 July 2016. I was hoping you might be able to take a look and let me know your views on my proposed response, before I clear it internally:

*The timing for the roll out of the Fair Work Act 2009 (Cth) and the awards under the Fair Work Act (including the Local Government Award) remains under consideration. However, it is highly unlikely that Commonwealth employment awards will be extended to Norfolk Island from 1 July 2016.*

*It is also unlikely we would be in a position to roll out NSW workplace relations law or have the New South Wales Government on board to administer workplace relations laws from 1 July 2016.*

*Planning should therefore proceed on the basis that the existing Norfolk Island workplace relations framework will apply to Norfolk Island regional council staff beyond 1 July 2016.*

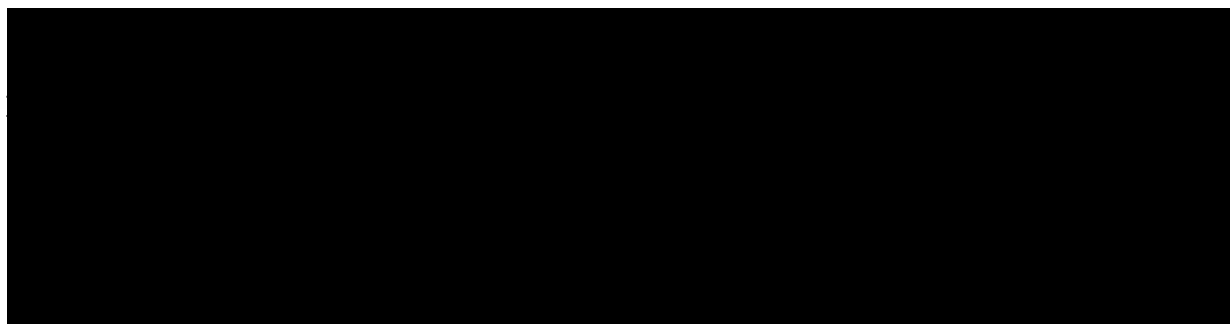
*However, if you do in fact want Regional Council staff to operate under the terms set out in the national Local Government Industry Award, we are not aware of anything which would prevent the making of an enterprise agreement with staff in substantially the same terms as the Local Government Industry Award. As far as we are aware, under the Public Service Act 2014 (NI) this would require putting a proposed enterprise agreement to staff for a vote, and if the vote was in the affirmative, receiving the agreement of the Public Sector Remuneration Tribunal (PSRT). I should stress we have not looked at this option in any detail or considered the practicalities but if it is something you are interested in pursuing we can look at this more closely and provide further advice to you.*

*Another option would be to legislate under an s 19A Ordinance that the national Local Government Industry Award applied to Regional Council staff (perhaps with some modifications). Again we haven't considered this option in any detail, but it is likely to raise legal issues which would need careful consideration, especially if applying the Award resulted in a diminution in the employment terms of any staff.*

*Of course, there is also the option of persisting with the current employment terms and conditions past 1 July 2016, subject to any future PSRT determinations (which the Commonwealth Minister has the power to disallow).*

*Happy to discuss, and if you would like further work done on any of the above options then please let me know.*

Kind Regards,



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## Norfolk Island Legislation Amendment Bill 2015

### Continuation of certain Territory Laws and application of NSW laws

#### *Interim arrangements*

Amendments will provide for the continuance of certain laws in force immediately before the interim transition time (a time to be fixed by proclamation), including all Legislative Assembly laws (this would include the *Employment Act 1988* (NI)) that were in force in the Territory immediately before the interim transition time (new s 16A of the *Norfolk Island Act 1979* (NI Act)). Such laws may however be amended or repealed by an Ordinance (new s 19A) made by the Governor-General or by a law made under such an Ordinance (new s 17). Subject to the making of appropriate Ordinances, we do not have any concerns with these provisions.

#### *Final arrangements*

As a result of this Bill, NSW laws will be applied to the Territory (new s 18A) from the final transition time – which is intended to be 1 July 2016. Ordinances will be able to incorporate, amend, repeal or suspend the operation of the applied laws. To the extent that a law will be in force in the Territory, it will have no effect to the extent that it is inconsistent with the Constitution, a Commonwealth Act or an enactment.

This is similar to the application of WA laws in the Indian Ocean Territories.

We will need to work closely with Infrastructure to ensure that certain NSW laws operate and others do not operate as applied laws. Timing will be critical.

Notwithstanding the inconsistency provision in new s 18A, we will need to make sure that the *Industrial Relations Act 1996* (NSW) and the *Industrial Relations (Commonwealth Powers) Act 2009* (NSW) never commence operation. This is essential so that we do not introduce a third industrial relations system to Norfolk Island. Accordingly, the timing of the Ordinances should align with the rest of the final governance arrangements (i.e. 1 July 2016), so that NSW industrial relations laws do not come into effect. This would avoid confusion from Territory employees and employers as to which industrial relations system applies to them.

Laws that deal with non-excluded matters as set out in s 27(2) of the *Fair Work Act 2009* (Fair Work Act) (e.g. *Public Holidays Act 2010* (NSW), *Industrial Relations (Child Employment) Act 2006* (NSW) and *Long Service Leave Act 1955* (NSW)) should not be repealed or suspended. However in our view, the application of these laws should not commence until the Fair Work Act has been extended to the Territory and the *Employment Act 1988* (NI) has been repealed by an Ordinance in order that the change in the industrial relations system is done in a comprehensive and not haphazard manner.

Further, NSW workplace, health and safety and workers' compensations laws should not be repealed or suspended. We anticipate that those arrangements will be similar to those that currently apply to Christmas Island and the Cocos (Keeling) Islands. We will however need to make sure that the application of these NSW laws does not overlap with the operation of the *Employment Act 1988* (NI).

### Employees of the Territory

#### *Interim arrangements*

Amendments will be made to the NI Act so that the Administrator may, on behalf of the Administration, engage employees for the purposes of the government of the Territory. The Administrator will have the power to determine the terms and conditions (including remuneration) of an employee.

Under transitional provisions certain employees will be taken, at the interim transition time, to have become employed by the Administration (Schedule 1, Part 2, item 382). The employees' terms and conditions, accrued entitlements, and service will be recognised.

We think that it will be appropriate for these employment relationships to remain underpinned by Territory laws (including the *Employment Act 1988* (NI) and *Employment Regulations 1991* (NI)) until such time as the Fair Work Act is extended to the Territory. The extension of the NSW industrial relations system to these employees on an interim basis would be undesirable.

#### *Final arrangements*

Under the Bill, transitional rules may provide that, at the final transition time, employees that were employed by the Administration become employees of the Norfolk Island Council (Schedule 2, Part 2, Division 5, item 340). The employees' terms and conditions, accrued entitled entitlements, and service will be recognised.

As above, we think it is appropriate for these employment relationships to be underpinned by Territory laws until such time as the Fair Work Act is extended to the Territory.

[REDACTED] s22

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**From:** [REDACTED]  
**Sent:** Thursday, 10 December 2015 9:41 PM s22  
**To:** [REDACTED]  
**Subject:** Norfolk Island Regional Council draft structure [SEC=UNCLASSIFIED]  
**Attachments:** Norfolk Island Regional Council draft structure.docx

# Norfolk Island Regional Council – draft structure at December 2015

Functions	Notes	Staffing	Actions
<b>Transition Box</b>			
<b>1. Utilities Provider</b> <ul style="list-style-type: none"> <li>a. Waste management</li> <li>b. Water and sewerage</li> <li>c. Electricity</li> <li>d. Energy (gas and fuel)</li> </ul>	<p>Waste, water and sewerage are core Council functions but will sit in Transition Box pending further planning.</p>		
<b>2. Ports Corporation*</b> <ul style="list-style-type: none"> <li>a. Airport</li> <li>b. Ports</li> <li>c. Lighterage</li> </ul> <p>* may not be a corporate structure</p>	<p>An option may be to package the sale of the airport with the sale of the airport loan. Council will not have access to capital funding for terminal or other upgrades, might be worth exploring east-coast airport consortium as potential acquirer.</p> <p>Airport fire response should sit with Ports Corporation</p>		
<b>3. Economic Development Agency</b> <ul style="list-style-type: none"> <li>a. Tourism</li> <li>b. Philatelic design</li> <li>c. Radio station</li> <li>d. Cultural development</li> </ul>	<p>A coordinated approach to the tourism campaign is appropriate.</p> <p>Philatelic designs may be leveraged for promotional products.</p> <p>Radio station is a key communications channel for showcasing the island to visitors. A more upbeat/energetic/affirmative tone would be appropriate.</p> <p>Public service broadcasts should be paid for, along with an</p>		



Functions	Notes	Staffing	Actions
	appropriate charge being set for commercial promotion.		
<b>4. Telecommunications</b> a. Norfolk Telecom b. Satellite NBN	<p>Need to assess whether NT can/should adopt the Universal Service Obligation and the consequent regulatory and funding implications.</p> <p>To access the dedicated NBN beam, a Retail Service Provider needs to be established.</p>		Work through issues and questions with the Department of Communications and the Arts.
<b>5. Rock sales</b>	Intention is to pay out Commonwealth loan. This function to remain in Transition Box pending further planning on future rock supply needs.		
<b>6. Tanalith plant (with forestry?)</b>	<p>Opportunity to create supply chain of timber harvest, milling and treatment process.</p> <p>Should be positioned as boutique/cottage industry with emphasis on its value for preservation of traditional craft skills.</p> <p>Should ensure cultural interest in use of native timber is preserved.</p> <p>The private sector has expressed interest; this would be acceptable with agreement to promote the conservation of craft skills.</p>		
<b>7. Liquor Bond (and Tobacco?)</b>	<p>Issue is removal of GST and indirect taxes from 1 July 2016 will drop the price of alcohol and tobacco products to unacceptably low levels (unless price is 'corrected' through intervention).</p> <p>Suggest Transition Box entity maintains wholesale and retail sales of liquor.</p> <p>Could consider adding Tobacco products to the Liquor Bond, but as a</p>		

Functions	Notes	Staffing	Actions
	wholesaler only. This would allow the price to be set through the appropriate means (price floor?) but allow current retailers to continue with tobacco sales.		
<b>8. Conservator and Reserves</b> a. State-level biosecurity	Department of Agriculture only handles border incursions, resident biosecurity matters are State and local functions		Assess application of NSW legislation
<b>9. Hospital / associated health</b> a. Hospital b. Dental service & assistant c. Child welfare	<p>Consider the alignment of non-clinical support staff and the ancillary staff within the Transition Box, potentially also in a shared services hub.</p> <p>Child welfare generally a State responsibility, may be appropriate to combine with Health service.</p>		
<b>10. Registrations</b> a. Company registration b. Business name registrations c. Conveyancing and land title registration d. Collection of land transfer fees e. Registration of associations f. Births, deaths and marriages	<p>Functions need to continue for the foreseeable future until replaced by Commonwealth legislation.</p> <p>Normally a State government responsibility</p> <p>Normally a State government responsibility</p> <p>Normally a State government responsibility</p> <p>Normally a State government responsibility</p>		Pursue the policy position of the Treasury for application of Corporations Act.
<b>11. Licencing</b> a. Firearm licencing	<p><i>(currently showing in Operations Functions in August structure)</i></p> <p>Firearms licencing is a State government function.</p>		

Functions	Notes	Staffing	Actions
b. Vehicle registrations	Vehicle registration is a State government function		
<b>12. Gaming</b> a. Regulation of lotteries and fundraising b. Online gambling	Normally a State government responsibility Need to understand what risks the Gaming Authority has already taken on		
<b>13. Emergency Services</b> a. Community fire service	This is the red fire truck service, the airport fire service would sit with the Ports Corporation		
<b>14. Workplace Health and Safety</b> a. Workers compensation	Either augment Norfolk laws in the interim or look to introduce NSW provisions Generally delivered by State governments		Assess application of NSW legislation Assess interactions with Commonwealth framework
<b>15. Administrative Review Tribunal</b>	Will need to be maintained until jurisdiction is conferred on the NSW equivalent Normally a State government responsibility		
<b>16. Legal Aid</b>	Normally a Commonwealth government responsibility, but Commonwealth bankruptcy law not proposed for extension in short term.		Pursue the policy position of the Treasury for application of bankruptcy.
<b>18. Courts, including coroner's court</b>	Includes funding the existing Norfolk Island courts and registrar services until such time as jurisdiction can be conferred on NSW		

Functions		Notes	Staffing	Actions
		courts.		
19. Slaughtering Act inspectors		Normally a State government responsibility		

Operations functions				
1. Planning, building and environment				
2. Library				
3. Community services a. Volunteers coordination		Maintain in Regional Council		
4.				

Infrastructure and Works				
1. Infrastructure and road safety projects		Maintain in Regional Council		
2. Road works and grounds		Maintain in Regional Council		
3. Asset management and fleet		Mechanical services Maintain in Regional Council		

Finance and Budget			
1. Rates	Maintain in Regional Council		
2. Purchasing and Stores	Could outsource under contract or move to Services Hub		
3. Finance and Payroll	Could move to Services Hub		

Governance and Policy			
1. Legal <ul style="list-style-type: none"> <li>a. Contracts</li> <li>b. FOI</li> <li>c. Privacy</li> </ul>	Could explore buying in services		
2. Statutory Planning	Includes reporting, policy and grants processes Support to Mayor and Regional Council Continuous improvement and communications		
3. External Auditor	Could move to Services Hub		

Knowledge and People				
1. Human Resources				
2. Customer Care				
3. IT and Records management				
4. Office of the Administrator				

Commonwealth functions remaining on Norfolk Island				
1. KAVHA	Move sextant to KAVHA management			
a. Cemetery				

[REDACTED] s22

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**From:** [REDACTED]  
**Sent:** s22 Wednesday, 13 January 2016 11:33 AM  
**To:** [REDACTED]  
**Subject:** Norfolk Island Regional Council Issues brief [SEC=UNCLASSIFIED]  
**Attachments:** Norfolk Island Regional Council Issues brief.docx

Hi [REDACTED], I've made Glenda's edits. It's important to note the Minister has not seen the brief yet about the draft model for the election or the Councillors part yet, obviously it's still in confidence and still to go to ExCo. This is written in alignment with the Minsub on same, but both may change.

Best

[REDACTED] s22

## *Norfolk Island Regional Council*

### **Key Issues:**

#### *Regional Council Election*

- The Norfolk Island Regional Council Preparatory Election Ordinance 2016 is being drafted in line with the *Local Government Act 1993 (NSW)* and is expected to be put to the Federal Executive Council meeting of 11 February 2016.
- This Ordinance covers voter eligibility, establishment of electoral rolls, eligibility and election of the councillors and mayor and the system and conduct of the election.
- The election will be held on a Wednesday in late May or June 2016 as a one-off concession.
- An elector will not be entitled to vote more than once. This is a departure from the current system where electors each have nine votes.
- Only Australian citizens resident on Norfolk Island will be eligible to vote, either owning or renting their property. Australian citizens who own property on Norfolk Island but live off-island will also be eligible to vote.
- The NSW rules for candidate eligibility, party registration and group voting (above the line) will be used, including pre-poll and postal voting.
- Five (5) Councillors will be elected for the standard four year term. The Mayor will be elected by the Councillors from among their numbers at their first meeting, on or after 1 July 2016 for a 12 month term.
- The annual fees paid to the Councillors will be as per the NSW Local Government Remuneration Tribunal Determination 2015 between \$8,330 and \$11,010. The Mayor receives an additional fee of between \$8,860 and \$24,030.
- You have been briefed separately on the recommended framework for the Regional Council (MB15-000691) [PLACEHOLDER FOR MINSUB CONTENT WHEN SETTLED].

#### *Regional Council Administration*

- A key component of the Norfolk Island reforms is an appropriate governance structure for Norfolk Island's circa 1500 residents. A community of this size faces challenges with generating revenue, fostering economic growth and maintaining infrastructure and they were not able to deliver the full range of local, state and federal services under self-government.
- The scope and functions of the Regional Council will be limited to those activities appropriate to a local government entity, broadly: planning and zoning functions, rates, roads and grounds maintenance, local infrastructure construction and maintenance, the community library, the cemetery, waste management, community services, grants management and water services.
- Many Government Business Enterprises (GBEs) under the current Administration of Norfolk Island (such as the electricity company and Norfolk Telecom) fall outside the regular functions and responsibilities of local governments.
- The Administration of Norfolk Island has engaged experts in transitional management to inform and support the movement of the GBEs to a separate structure alongside the Regional Council. The intention is for revenue earned on-island and critical to the functioning of the Regional Council be retained, but also that the GBEs are run using contemporary and efficient management approaches.



- These need to continue to be delivered on-island in the immediate term; at least until a more detailed understanding of operating costs, business models and their suitability for migration to the private sector or otherwise is established. The impact on revenue to the Regional Council is of particular importance.