

# Norfolk Island's Major Problem is DIRDC

An examination of the relationship of the Australian Department of Infrastructure, Regional Development and Cities with Norfolk Island, 2015-2018

A Report provided to  
The Hon Dr John McVeigh MP  
Minister for Regional Development, Territories and Local Government  
and to  
The Norfolk Island Community

by

Chris Nobbs

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## **STOP PRESS**

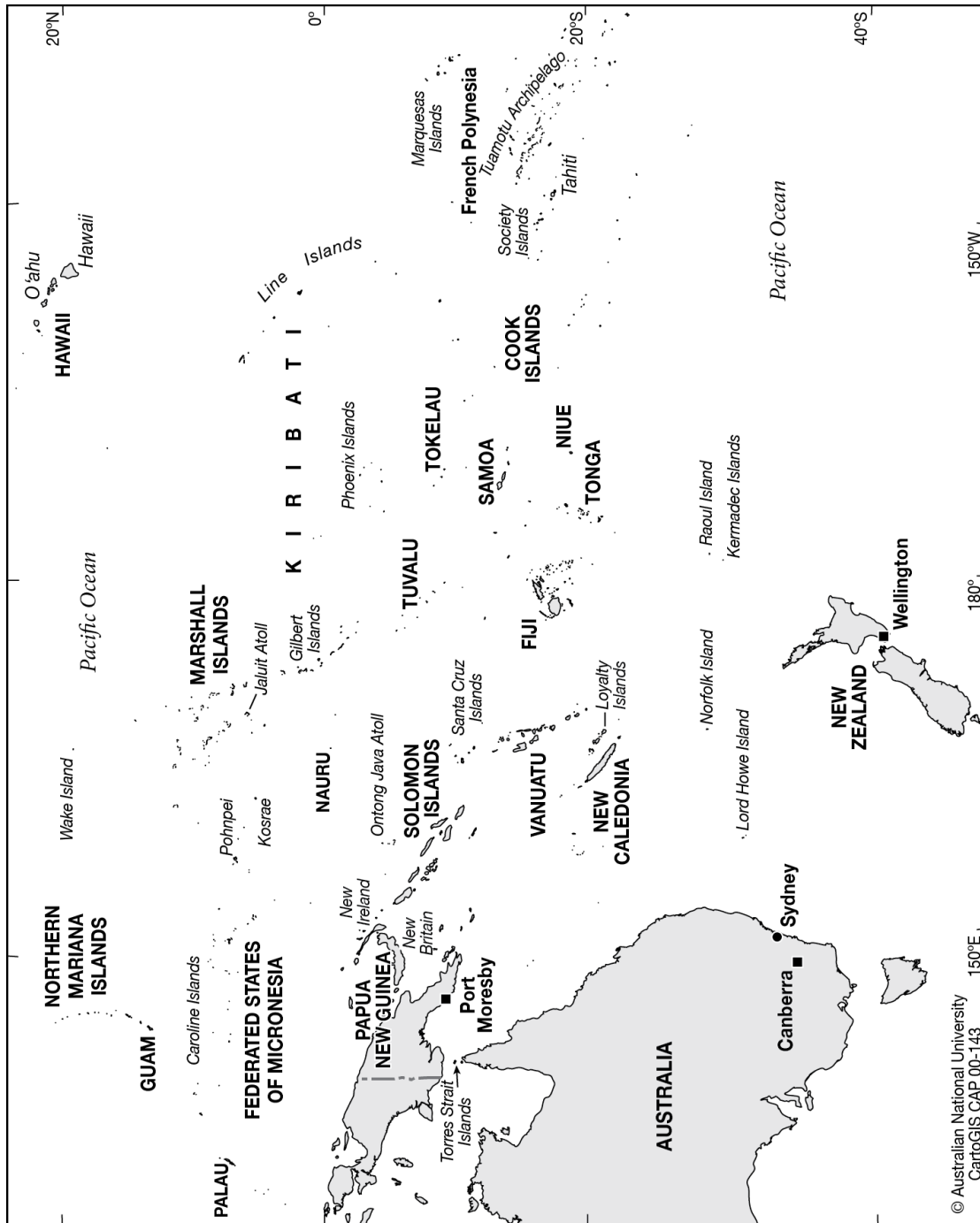
On 7 June 2018 the Australian National Audit Office (ANAO) announced as part of its on-going performance monitoring processes, the commencement of a performance audit on *The design, implementation and monitoring of services reform on Norfolk Island*, with the objective "to assess whether the Department of Infrastructure, Regional Development and Cities has designed and implemented appropriate governance and administration arrangements for the transition and delivery of sustainable reforms to services on Norfolk Island." The completed audit is due for tabling in the Commonwealth Parliament in April 2019.

**Corrigenda (16 June 2018)**  
Small typographical corrections  
on pages 5 and 11 have been made  
since original publication

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This map shows the location of Norfolk Island in relation to other islands and major land masses in the Southwest Pacific region. The map is reproduced by kind permission of CartoGIS Services, College of Asia and the Pacific, The Australian National University.

## Preamble

*I made hundreds of phone calls to the education department, the police and civil departments, to ask questions about the student casualties, but of course nobody would talk to me. (Ai Weiwei, "Remembering the Sichuan earthquake 2008", 2018)*

Norfolk Island is in a state of quiet crisis: it is undergoing immense economic and social disruption and uncertainty in the wake of the interventions on the island by the Australian Government commencing in 2015. This crisis has been the subject of recent reporting (Nobbs, 2017a), and has been documented and discussed elsewhere over an extended period of time in local, national, and international media [Note 1].

Amid rising concern in the Norfolk Island community the Norfolk Island Regional Council agreed unanimously at its meeting of 20 December 2017 to write to the Minister for Regional Development, Territories and Local Government, Hon John McVeigh, requesting that he commission a public inquiry to be carried out by the Australian Productivity Commission in order to determine:

- (a) The current financial capacity of the island; and*
- (b) How to grow Norfolk Island economically, socially, culturally and environmentally, including building a diverse and vibrant business environment. (Adams & Jackson, 2018)*

In his letter of response dated 20 February 2018 Minister McVeigh determined that:

*.... it is too early in the reform process to properly assess the impacts and gain an accurate understanding of Norfolk Island's economic future. I have asked the Department of Infrastructure, Regional Development and Cities to consider options for reviewing and monitoring the progress of the reforms. (McVeigh, 2018)*

This appears to be a rather temporizing response from the Minister, but there is an even more fundamental concern expressed by the Minister's letter, and that is that for Norfolk Island it is the Department of Infrastructure, Regional Development and Cities (DIRDC) itself which is Norfolk Island's major economic and social problem.

Setting aside the political and human rights issues raised by the recent Australian intervention on the island and considering only economic and social issues, the actions of DIRDC have had a very detrimental influence on the island. The proposal that DIRDC should carry out "reviewing and monitoring" is akin to putting the fox in charge of the chicken coop. The purpose of the present report is to describe why this is so, and to request remedial action from the Minister.

In making this critique, it needs to be emphasised that the author freely acknowledges the importance to Norfolk Island of the Commonwealth's support and interest, which indeed is likely to be vital for the island's well-being at least in the short to medium term. As this report will describe, what is at issue is the developmental and consultative model held by DIRDC and expressed in present Australian Government policies and the manner of their imposition.

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## Executive Summary

Following the implementation of the *Norfolk Island Legislation Amendment Act 2015* on Norfolk Island the Australian Government has intervened making major structural changes to the organisation, administration, and economy on the island, and consequential changes to its social fabric. This intervention has been augmented by a number of infrastructure investments on the island that have been broadly welcomed by the community.

The Commonwealth Minister responsible for Norfolk Island is supported by the Department of Infrastructure, Regional Development, and Cities (DIRDC) which provides analysis, advice and recommendations to the Minister, as well as administrative support.

This report finds that DIRDC has exercised a calamitous influence on Norfolk Island over the last three years in enforcing a grossly inappropriate developmental model on the island.

The evidence available demonstrates that in recent years DIRDC has: imposed its own model view of what the Norfolk Island economy requires; conducted inadequate analysis of the effects of changes consequent on the intervention; failed to engage adequately on the ground with commercial and other interests on the island; remained silent on important and unresolved economic issues; and not supported major projects championed by Norfolk Island governments. This approach has had damaging consequences for Norfolk Island, and has led to a lack of confidence on the island, a lack of trust, and the questioning of the motives and competence of DIRDC. The fate of the former Norfolk Island Hospital Enterprise provides a case study.

There is an urgent need for a reappraisal of the developmental model being applied to Norfolk Island, and the implementation of one that takes cognisance of its small size and extreme marine isolation. Recent studies of the financial sustainability of three Australian "island councils" (Kangaroo, Flinders and King Islands) by Sinnewe *et al.* have pointed to the "distinctive nature" of these island councils and the key issues involved namely:

- ◆ the greater importance of local government for islands than in Australia as a whole;
- ◆ the especial reliance on an intricate knowledge of local needs;
- ◆ the wide range of services island councils are called upon to deliver;
- ◆ the "tyranny of distance" that negates economies of scale; and
- ◆ the importance of local leadership in economic development.

The importance of these issues for Norfolk Island is magnified by the extreme nature of its isolation. (The issues are laid out in more detail in Sections 5.2 and 5.3.)

Within this context there is an urgent and immediate need for a deferral of the imposition on the island of the Australian Modern Award System (MAS) for employment – due on 1 July 2018 – until its consequences for the island are better understood. Coming on top of the wide range of impositions by the Commonwealth in recent times – the introduction of Australian taxes, compulsory superannuation, a plethora of NSW-based regulatory requirements, land rating, and changes in health services provision – this will increase the burden on the island community beyond fairness or reason.

This report therefore respectfully requests the Minister to:

- (1) Act immediately to delay the introduction of MAS on Norfolk Island until an analysis of its effects on the island's economy is carried out and the results made available publicly;

And in relation to the provision of health services on the island to:

- (2) Undertake a thorough cost benefit analysis of medical and health services for Norfolk Island given its severely isolated location, focusing in particular on the possible return of hospital services on the island and the reopening of the operating theatre; and
- (3) Increase the efficiency of NIHRACS service provision by providing an alternative management structure and involving shared responsibility between the Commonwealth and Norfolk Island;

And in relation to Norfolk Island's longer-term needs to:

- (4) Initiate a broad inquiry – not restricted to DIRDC and open to public participation – to determine an improved developmental model for Norfolk Island's future (taking cognisance of the evidence provided by Sinnewe and co-workers);
- (5) Acknowledge the unique position and needs of islands in the Australian local government system;
- (6) Increase the transparency of all processes involving the Commonwealth and the people of Norfolk Island in order to increase trust in these processes;

And in the interim and in relation to the adequate functioning of the Norfolk Island Regional Council to restore greater flexibility by:

- (7) Re-introducing the ability of the Norfolk Island Regional Council to approach relevant ministers directly for advice, as was previously the case for the Norfolk Island Government; and
  - (8) Assisting the Norfolk Island Regional Council to develop a series of relevant economic indicators to monitor the time course of the island's economy.
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## **1. Note on Norfolk Island's Current Administrative Arrangements**

Norfolk Island is an external territory of Australia and under the responsibility of the Australian Government. From 1979 until 2015 the island enjoyed a degree of self-government but this was terminated in June 2015 by the then Australian Government under the *Norfolk Island Legislation Amendment Act 2015*, which saw the abolition of the Norfolk Island Legislative Assembly and the disbanding of the Norfolk Island Government and Public Service, and the absorption of Norfolk Island into the Australian taxation and welfare systems.

The Legislative Assembly was replaced by a "regional council", constructed under Commonwealth legislation, modelled on a New South Wales local authority template, and with substantially reduced powers. The activities of the new Norfolk Island Regional Council (NIRC) are regulated by the Commonwealth-enacted *Local Government Act 1993 (NSW)(NI)*, and by other Commonwealth Acts and Norfolk Island Acts still applicable to Norfolk Island. (This whole package of measures is hereinafter referred to as "the intervention".)

Politically Norfolk Island residents now vote in the Australian Federal electorate of Canberra, 1900km away and with which they have no associations, and have no vote in New South Wales elections. Internationally regarded human rights lawyer Geoffrey Robertson QC has referred to this imposition as "a heavy-handed act of regression". (Robertson, 2016) World-renowned author and long-time resident of Norfolk Island, the late Colleen McCullough, referred to the actions of the Australian Government as "bloodless genocide". (Robinson, 2016)

The Department of Infrastructure, Regional Development and Cities (DIRDC) is a large and complex department with a wide range of responsibilities, from cities, to infrastructure policy and projects, aviation and airports, land transport, maritime and shipping, regional development and local government, in addition to territories. [Note 2] It serves the needs of three Ministers in the Australian Government: the Minister for Infrastructure and Transport, the Minister for Urban Infrastructure and Cities, and the Minister for Regional Development, Territories and Local Government currently Hon John McVeigh MP. Minister McVeigh has overall Commonwealth political responsibility for Norfolk Island.

Under the Norfolk Island Government, Norfolk Island ministers had access to relevant Commonwealth ministries for their concerns (health, environment, finance etc.), while under the new arrangements all Norfolk Island issues are referred to the Minister for Territories. This gives the single Minister and his or her Department immense power over events on Norfolk Island. As Norfolk Island has had five different Commonwealth ministers responsible for the island over the last three years (see Appendix I), this has given DIRDC even greater influence on policy formation and practice than it would otherwise have had. The Commonwealth's representative on Norfolk Island is the Norfolk Island Administrator, formerly a Crown appointee but now the delegate of the Minister paid from the DIRDC budget. The Administrator has delegated powers under a number of Commonwealth Acts.

Within DIRDC the Territories Division has responsibility for the administration of the Jervis Bay Territory, the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island, the Coral Sea Islands Territory, the Territory of Ashmore and Cartier Islands, and for Commonwealth responsibilities on Norfolk Island. Christmas Island and the Cocos (Keeling) Islands comprise what is referred to as the Indian Ocean Territories (IOT). The IOT has been facing a series of economic and social issues with similarities to those of Norfolk Island.

It appears that DIRDC has two major functions in its dealings with Norfolk Island: policy development and the provision of advice and recommendations to the minister; and organising the provision of Commonwealth services to the island. These latter appear to involve a range of inter-departmental



relationships. On the one hand Commonwealth statutory requirements for taxation, workplace issues and welfare payments, for example, place immutable obligations on DIRDC in its relation to Norfolk Island; Commonwealth-owned land on Norfolk Island (including the World Heritage listed Kingston and Arthur's Vale Historic Area - KAVHA) places management responsibility directly on DIRDC; however DIRDC manages the Norfolk Island Health and Aged Care Service (NIHRACS) through a service provision arrangement with South East Sydney Local Health District (SESLHD), and the Norfolk Island Central School through an arrangement with the NSW Education Department. The recent on-island project on law and child and family welfare appears to have been an initiative by the Department of Prime Minister and Cabinet, and its relationship to DIRDC's functions unclear.

The passage of the *Norfolk Island Legislation Amendment Act 2015* which precipitated the transformation of Norfolk Island and its changed relationship with the Commonwealth, was prompted in large measure by the report of the Joint Standing Committee on the National Capital and External Territories (JSCNCET) in 2014. In their final report to Parliament the Committee remained uncertain as to what "model" would best suit Norfolk Island, indicating that: "The Commonwealth, supported by the resources and expertise of DIRDC, can work out the best model to proceed with, in accordance with the community's needs and aspirations" (JSCNCET, 2014: 42): something that has yet to be achieved.

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## 2. DIRDC and the Norfolk Island Economy

### 2.1 Non-response to residents' and organisations' concerns

There are in the Norfolk Island community many examples, spread over time, of DIRDC not responding to, or even acknowledging receipt of, legitimate correspondence and enquiries sent by Norfolk Island residents, community and business groups, to an extent that can only be regarded as systemic. Commonwealth Ministers responsible for Norfolk Island have been similarly uncommunicative with Norfolk Island residents on the subject of Norfolk Island. (e.g. Nobbs, 2016a) The consequences of this approach for Norfolk Island have been a shutting down of information flow, a lack of transparency, a circumscribed ability to plan for the future, and a lack of trust in the Department. Further issues relating to DIRDC's conduct on the island are considered in Section 3.

This approach by DIRDC should come as no surprise, as it mirrors the experience of the IOT with the same department. Mr Jon Stanhope AO, Administrator of the Indian Ocean Territories 2012 - 2014, in evidence before the JSCNCET inquiry into governance of the IOT in 2015-16, stated:

*An issue of concern to residents in relation to the governance of the Indian Ocean Territories is the practice adopted by the Department of Infrastructure, the administering Department, of not responding to correspondence from either the Administrator or community organisations..... I have in my possession a raft of other community-initiated correspondence which was similarly ignored by the Department.... None of the issues raised by residents in the correspondence was addressed while I was Administrator and my understanding is that even now, more than eighteen months after it was sent, it has not been answered. The Department consistently ignores correspondence from residents and community organisations and treats their views and concerns with contempt. (Stanhope, 2015)*

## 2.2 Disguised and inappropriate econometric modelling

In 2006 DIRDC (then DOTARS) commissioned the Centre for International Economics (CIE) to prepare a report on the effects of an extension of all Commonwealth legislation to Norfolk Island. The report was not released by the Commonwealth, and only became available publicly in August 2015 by decision of the Administrative Appeals Tribunal following a four-year-long campaign under the *Freedom of Information Act*, opposed by the Commonwealth. According to court documents DOTARS, together with the Department of Prime Minister and Cabinet, argued that release of the report would be contrary to the public interest. (Belot, 2015)

In 2014 the CIE was asked by DIRDC to prepare a second report on the same issue. This report was released publicly by the Australian Government and gave a much rosier picture of the merits of the intervention by the Commonwealth on Norfolk Island.

When both reports became available, Professor Michael Common, an internationally recognised professor of economics based in the UK, well versed in the methodology used in the CIE computer modelling, was asked to compare the two CIE reports and comment on their differences. In his report Professor Common noted that the numbers generated by the two model applications (2006 and 2014) were quite different, and that due to the lack of transparency as to the data entered into the models and how they had been treated, it was not possible to discriminate amongst possible causes for the discrepancies. (Common, 2015) Furthermore, his judgement was that given the very small size of the Norfolk Island economy, the use of the type of general equilibrium economic modelling employed by CIE was invalid. Common considers that "... neither CIE2006 nor CIE2014 was a useful exercise". The usefulness of the CIE2014 report in particular was further undermined by the fact that it did not make clear what the baseline was against which the economic changes were assessed, nor what infrastructure spending would be made and by whom: issues critical to any coherent assessment of Norfolk Island's future. And as pointed out by Professor Common, the CIE reports made no mention of social costs and benefits, or of environmental issues.

DIRDC made no attempt to respond to these criticisms when they were made, and as far as is known there has been no subsequent attempt by DIRDC to reconsider its economic methodology or predicted outcomes in response to this report. A particularly glaring omission from this modelling is noted in the next section.

## 2.3 Introduction of the Australian Modern Award System

The Australian Modern Award System (MAS) is slated for introduction on Norfolk Island on 1 July 2018. Amongst other things the MAS introduces the concept of a specified minimum weekly wage for different levels of work responsibility above the basic minimum wage, in each of several different industry categories. All of these specified wage rates change over time by the same percentage as the minimum wage rate does (over recent years approx. +2.7 per cent per annum). The MAS introduces penalty pay rates for overtime, which will have very serious implications for Norfolk Island where tourist air service arrivals often occur at weekends. The MAS also introduces specified minimum working hours for part-time employees (who on Norfolk Island are naturally restrained to live within 10 minutes travel time from work, and who due to other commitments can be quite comfortable with shorter and more flexible working hours).

For an island struggling to adjust to a wide range of economic imposts including the introduction of Australian taxes, superannuation, land rating, a plethora of NSW-based regulatory requirements, and changes in health services provision, the introduction of the MAS will deal an immense shock to the economy of the island. Although employees may benefit, the imposition of overtime and weekend penalty rates in particular will increase business costs and prices on the island very substantially, and reduce employment, as has been pointed out previously. High overheads are not readily recouped in such a small market as Norfolk Island has. One small retail store estimates a 35 per cent rise in wage

costs on current practices; others have announced weekend closures commencing 1 July; some will undoubtedly close doors permanently. (Nobbs, 2017a) This situation is doubly problematic for a small island dependent almost totally on a competitive tourism market, and where many passenger flight arrivals occur at weekends.

Although the MAS introduction will represent the largest single one-off shock to be put upon the island's economy in recent times, it was not studied in the CIE modelling exercises, and there is no public evidence that its effects have ever been studied by the Department.

At its ordinary meeting of 16 May 2018 the NIRC passed unanimously the following motion:

*Council requests that the Mayor make Minister McVeigh aware of the many representations and serious concerns held by the Norfolk Island business community relating to the imminent introduction of the Australian Awards System under the Fair Work Act 2009 (CTH) in its application to Norfolk Island; and Council's support for progression as a matter of urgency of the review and monitoring of the impact of Commonwealth reforms on Norfolk Island as foreshadowed by the Minister in his letter to the Mayor of 20 February 2018 and endorsed by Council at its March 2018 meeting.*

In speaking to the motion and with particular reference to the coming introduction of the MAS, councillors expressed deep concerns for the stresses in the community which had been brought to their attention by the public, and for the viability of some businesses now providing services for tourists. Mayor Adams pointed to the need for understanding from the Commonwealth "that this is a community that has evolved separately of the rest of Australia and it is only in the last two years that the whole raft of legislation from which we have been removed for so long, is coming over the top of us. I use the words 'Too much too soon'."

In response to the impending introduction of MAS large hotels have already started laying off staff, and other shops, cafes and tour operators have announced their inability to provide weekend services under the new regime, although some may still provide services at weekends but apply surcharges.

But Norfolk Island also faces additional and immediate shocks to its economic survival. The introduction of the MAS system itself on Norfolk Island on 1 July 2018 is accompanied by a 3.5 per cent increase to the Australian national minimum wage and award rates, as announced by the Australian Fair Work Commission on 1 June. Furthermore as a consequence of the withdrawal of Air New Zealand from providing direct Auckland to Norfolk Island services, total visitor numbers to Norfolk Island in March 2018 recorded -7.8 per cent drop from previous year, in April a -16.6 percent drop from the previous year, and in May an -8.1 per cent drop. (Norfolk Online News, 2018) Direct flight arrivals from Sydney and Brisbane to Norfolk Island over the months July-September 2018 will average only 3.5 per week, with 30 per cent of those flights arriving on weekends. This slump also presages a bleak winter for Norfolk Island tourism.

While the above issues are immediate threats to the island economy, it is important also to flag the decimating of the Norfolk Island agricultural and horticultural sectors of the economy being carried out by ill-judged and unsupportable decisions of the Biosecurity Division of the Commonwealth Department of Agriculture and Water Resources (DAWR), and which have yet to impact the island economically. These decisions will be the subject of a subsequent analysis by the present author.

## **2.4 Business impact report and business confidence survey**

In November 2017 an unsolicited private study of the impacts of the Australian Government reforms on Norfolk Island businesses was provided to the then-Minister responsible for Norfolk Island, and the report was also made available to the media. (Nobbs, 2017a) It is to all knowledge the only such study that has been carried out in relation to the island. The report concluded that on the evidence available:

*(1) The Norfolk Island economy is in a state of crisis and on its current trajectory is heading towards a disaster in which many businesses and families will suffer substantially; and that*

*(2) This crisis is a result of the manner of intervention by the Australian Government in the island's government and economy commencing 1 July 2016. By requiring both that Norfolk Island pay its own way and that Norfolk Islanders become like mainland Australians in terms of their obligations and expectations, the Australian Government is by its decisions crushing the island's economy in a vice from which few groups will escape unscathed.*

The report was discussed in *The Australian* on 20 November 2017. In response both the Minister and "agency sources" (i.e. DIRDC) were reported as making a series of comments on the report (*The Australian*, 21 November). In their comments to *The Australian*, neither the Minister nor the Department addressed the core issues raised by the report, but merely provided a few alternative dot points from their own perspectives. These were responded to by the present author in a brief letter published in *The Australian* and at greater length in an article in the Norfolk Island media which was widely distributed (Nobbs, 2017c: reproduced here as Appendix II).

Since that time no contact with the author of the report has been made by the Department, no attempt made to point out any failings in the report in an analytical sense, and no alternative propositions advanced. It was in this context that the Norfolk Island Regional Council (NIRC) put forward the proposal to approach the Minister to request a public inquiry by the Australian Productivity Commission, as noted in the Preamble.

As part of the preparation for the business impact report, the author carried out a questionnaire study of the levels of business confidence on the island amongst members of the Norfolk Island Chamber of Commerce and the Norfolk Island Accommodation and Tourism Association. The results showed that business confidence on the island was low and heading lower. (Nobbs, 2017d) In the case of this study also, the public release of the results was greeted by silence from DIRDC.

## **2.5 Lack of support for locally determined initiatives and needs**

While imposing their own developmental view on Norfolk Island, DIRDC and its representatives have shown a decided tendency to ignore or reject economic initiatives proposed or promoted on Norfolk Island. Recent examples include:

**(i) Medicinal cannabis.** Given the island's severe isolation, biosecurity status and climatic conditions, commercial research showed that this could be a very valuable crop for the island. On two occasions (2014 and 2015) the Norfolk Island Government issued separate licences under Norfolk Island law to Australian companies to import to, cultivate and harvest cannabis in, and export cannabis from, Norfolk Island. On both occasions the licence was cancelled by the Norfolk Island Administrator on instructions from Canberra. (Hardgrave, 2014a; Adams, 2015a & b).

**(ii) international communications cable.** During 2016 Norfolk Island was given the opportunity of connecting to a state of the art undersea trans-Pacific fibre optic telecommunications cable. The 15,000km cable, being installed by the New Zealand-based consortium Hawaiki Cable, connects Australia, New Zealand, American Samoa, Hawaii, and mainland USA, and includes stubbed branching units to facilitate future connections to New Caledonia, Fiji, and Tonga. The cable route passes within 90km of Norfolk Island. Hawaiki Cable offered a number of options to Norfolk Island to connect to the cable network, from a completed connection (\$15 million USD) to a stubbed branching unit to facilitate future connection (\$2 million USD). With the final splice and all cable station installations now complete, the Hawaiki Cable System is due to enter service in June 2018.

From Norfolk Island's point of view, a submarine cable connection would have provided state of the art Internet connectivity offering benefits to business, tourism, education, remote access, and online medical services, all vastly superior to the quality offered by satellite-based options and providing a quantum leap in technology likely to be of generational significance. Linking with Norfolk Island's underutilized cable station at Anson Bay, an undersea telecommunications cable would feed directly into the island's existing infrastructure and help modernize Norfolk Island's extensive but aging land-line and mobile networks. (Howard, 2016; McDonald, 2016)

The NBN Sky Muster geostationary satellite system, to which Norfolk Island has been assigned dedicated capacity by the Australian Government – although being well-suited to minimal broadband Internet access to remote Australian homesteads – is not designed to meet the complete spectrum of telecommunications needs of a geographically concentrated and tourist-centric community such as Norfolk Island. For example, professional opinion has it that NBN Sky Muster cannot provide international connectivity for Norfolk Island's telephone or mobile networks, nor sufficient capacity to cover the needs of the Norfolk Island Airport and Central School, nor provide for the requirements of emergent applications such as telemedicine and cloud services.

Despite urging by the NIRC, all offers by Hawaiki Cable were declined by Minister Nash.

**(iii) Norfolk Island tourism.** The former Norfolk Island Government over many years provided steady base funding for Norfolk Island tourism organisation and promotion (around \$1.3m per annum), as a foundation for forward planning by island businesses. Following the initiation of the reform process in July 2015, the Commonwealth's administration froze such funding, chose not to renew the contract of the Tourism Manager and disbanded the Tourism Advisory Board, with the then-Administrator recording that tourism advertising, relative to other calls on the tourism budget, was "a waste of money". This period was followed by a decline in New Zealand bookings and the withdrawal of Air New Zealand from the Auckland to Norfolk Island route. (Nobbs, 2018)

Under the Australian Government's intervention the Commonwealth agreed to fund state functions. Because tourism promotion in Australia is a state function, it is contended on Norfolk Island that it is the Commonwealth's responsibility to provide stable and reliable funding for tourism promotion on Norfolk Island – as Australian states do for their own tourism. So far the Commonwealth has refused to do this. All it has done is to propose (May 2018 Budget) to provide \$776,000 over the next two years. While this money is welcomed it is far less than what experience has found necessary, and much less than the Norfolk Island Government provided.

Furthermore, in this Commonwealth-state entanglement in which Norfolk Island finds itself, the island does not have access to NSW state tourism funding, such as the \$300million Tourism Fund or Destination NSW.

## **2.6 Note on the Cascade Pier project**

As a significant element of the Commonwealth's contribution to the economy of the island, the Commonwealth has committed a very substantial amount of money to upgrade the Cascade Pier and related equipment with the objective of improving freight handling (including container freight), and access to the island for cruise ship passengers. [Note 3] This work has involved the extension of the pier into deeper water and adding curvature and a wave deflector to the pier to reduce wave action; the addition of a new heavy-lift crane; and the construction of barges designed one for carrying ship-to-shore freight, and three for ship-to-shore passenger transfer.

This has been a munificent infrastructure investment by the Commonwealth to Norfolk Island, reaching an estimated cost of around \$18-20m overall. The Cascade Pier reconstruction is now complete and was available for use from 21 April 2018.

Along the way there have been several complications to the project that have been overcome, and there remain others for the future. A major problem is that no freight ships servicing Norfolk Island can safely handle containers on board or in lowering them over the side, on account of their height above sea (wharf-level unloading being the norm). Furthermore the practice of unloading a ship in sea conditions experienced some hundreds of metres off-shore can be difficult. The construction of the freight barge has now been put on hold.

There are also concerns about the use of the passenger barges. Because of their weight, they can only be launched at Cascade with use of the heavy-lift crane. However if weather conditions are such that a cruise ship anchors at Kingston, the barges have to be driven by sea to Kingston (10km in open water) to service cruise ship passengers, because the barges are too big for road transportation. The barges then have to be returned to Cascade for landing and storage.

Both these issues were raised during the project design phase. There remain other issues to be sorted out, including the cost of operation and maintenance of the heavy-lift crane, and lighterage workers' remuneration. Freight rates to and from the island are very dependent on the price of oil, and it is not clear whether freight costs to the island will rise or fall in the future.

It must be said that for now, despite the quality of construction that has gone into the project, the true benefits of the pier remain to be revealed.

## 2.7 Summary

Norfolk Island stands on the brink of a deep and abrupt economic decline as it tries to come to terms with Australian Government imposed taxes, superannuation, land rates, compliance with a plethora of NSW-based regulatory requirements, the introduction of the MAS, and ill-judged agricultural and horticultural decisions by the Commonwealth, while at the same time facing straitened times for the tourism industry. Substantial rises in prices across the board appear inevitable. These huge changes cannot reasonably be absorbed in a small community in a short period of time.

The evidence above demonstrates that in recent years DIRDC has:

- ◆ imposed its own model view of what the Norfolk Island economy requires;
- ◆ conducted inadequate economic analysis of the effects of changes consequent on the intervention;
- ◆ remained silent on important and unresolved economic issues;
- ◆ failed to engage adequately on the ground with commercial and other interests on the island; and
- ◆ not supported major projects promoted by Norfolk Island governments.

This type of approach has for many on Norfolk Island led to a lack of confidence, a lack of trust, and the questioning of the motives and competence of DIRDC.

Economic issues will be further discussed in Section 5. Meanwhile Chapter 3 approaches some of the issues just referred to from an alternative perspective.

### **3. DIRDC on Norfolk Island: Social Matters**

#### **3.1 "We want to hear from you ..."**

DIRDC's failure to answer correspondence or respond to criticism (Section 2.1 above) has been paralleled by the island's experience of DIRDC representatives' visits to Norfolk Island over recent years. Many on the island consider these to have been characterised by avoidance, pseudo-consultation, and/or the ignoring of Norfolk Island opinion and advice. This view is widespread on the island and comes from the direct experience of many.

Pseudo-consultation can be considered to take place when DIRDC representatives visiting the island talk only with selected individuals and/or groups pre-selected for them, or alternatively meet with broader groupings but do not listen to, or ignore, the input they receive. Returning to Canberra these representatives appear to do exactly what they proposed in the first place. Consultation as box-ticking.

One departmental approach has been along the lines of "We are on-island and we want to hear from you...". However it is important to distinguish between "hearing", and "listening", and "doing". "Hearing" is merely the act of perceiving sound; "listening" requires conscious engagement of hearer with speaker with the intention of absorbing information and in some manner adding it to the understanding of the situation. "Doing" suggests that in some way the listening has induced an observable change in conduct or policy. The complaint is made however that even after meetings are held, nothing is observed to change in the Department's conduct or intentions. This is doubly frustrating because the Department neither attempts to justify what it is doing nor give reasons for rejecting the proposals put to it.

One Norfolk Island businessman said to the author in frustration: "I've pleaded to talk with them but I've been absolutely ignored. They're just unwilling to engage with the community. How can they validate their policies if this is the case?" This is a commonly reported experience on the island.

#### **3.2 Selections for committees and boards**

The selection of members for the Norfolk Island Advisory Council (NIAC) (2015-16) provides a prime example of concerns on this matter. Membership of the NIAC was established by confidential self-nomination, with five applicants being chosen by then-Minister Jamie Briggs. Former Chief Minister and Speaker in the Norfolk Island Legislative Assembly David Buffett, initially invited to be a member of NIAC, had his invitation withdrawn by Minister Briggs for 'disruption' following his (Buffett's) presenting a 'remonstrance' to the Commonwealth Parliament which he was obliged to do as Speaker on instruction of the Norfolk Island Legislative Assembly (NILA). (Lawson, 2015)

Following the abolition of NILA members of committees and boards established by Norfolk Island legislation – volunteers all and chosen by the community as their representatives – were required to reapply for their positions in writing to the Administrator. Not all were successful. Such conduct provides opportunities for Commonwealth-led triage in favour of the Commonwealth but not necessarily in favour of the interests of Norfolk Island or its community. It also provides the Commonwealth with a means of avoiding criticism. Some boards, such as the successful and important Norfolk Island Tourism Advisory Board were disbanded. The Norfolk Island Government was relieved of any management responsibility for KAVHA, and Norfolk Island interests reduced to minority membership on an advisory only body, chaired by the Administrator.

### 3.3 Spin

When a person makes a statement that bends the truth in order to persuade a listener or reader to adopt a particular attitude or act in favour of a particular theme, this is commonly referred to as "spin". Some "spin" is socially acceptable as it provides the basis of advertising, but some is unacceptable. The use of spin in public life is pernicious because when it is seen for what it is it breeds suspicion and undermines trust. Spin can also cross the borders of truth.

Norfolk Island has been regularly subject to spin by the Australian Government. In introducing the second reading of the Norfolk Island Legislation Amendment Bill 2015 in the Australian House of Representatives (26 March 2015), Minister Briggs made a number of inflated claims, such as: "In fact, there is almost a complete absence of health and social services most Australians take for granted", and: "From 1 July 2016 the Norfolk Island community will have access to social security payments. Older Australians will be able to access the age pension". (Briggs, 2015)

The facts of the matter were, with regard to pensions, that under the Norfolk Island Government Norfolk Island pensioners on-island received a similar payment to that received by Australian pensioners, free or heavily subsidised hospital and medical care, together with free medications for all PBS listed products. No co-payments were required by pensioners and they were not liable for any prescription fees. Any person on the Norfolk Island pension was able to access long term aged care at the hospital at a total cost of 85 per cent of their pension, providing them with 15 per cent for personal incidentals. Norfolk Island pensioners were also able to immediately access specialist medical services including surgical services in Australia without having to be on any waiting list at no cost to them. Members of the Norfolk Island Health Care Scheme (compulsory for all non-pensioners) also received free PBS-listed medications on the basis of their financial membership of the Scheme and after reaching a total for all medical expenses of \$2,000 for a single or \$2,500 for a family.

Previously in a radio interview with the ABC Western Plains on 20 October 2014, Minister Briggs had also made a number of claims, amongst which were that: "... when it comes to broader issues of for instance child protection laws, child protection laws do not exist on Norfolk Island" and "... drink driving laws do not operate on this island. These are anomalies which need to be fixed." In both cases the claims were not merely spin, they were false.

Norfolk Island Administrator Hon Gary Hardgrave, in his report to Minister Briggs in December 2014 stated that the change in governance arrangements proposed by the Australian Government was supported by a majority of Norfolk Island residents (Hardgrave, 2014b). This statement remains unsupported by any information available in the public arena and is contradicted by much: including a public referendum held on the island. (Nobbs, 2016b) The denigration by Administrator Hardgrave of the Norfolk Islanders who walked to Government House on 17 June 2015 to mourn the passing of their Legislative Assembly, is well-known and detailed elsewhere. (Nobbs, 2015)

In November 2017 the then Minister Senator Fiona Nash visited the island and met *inter alia* with a small group of the island's prominent business people who described to her what they saw as the very worrisome current state and future prospects of the island's economy. Following her departure from the island a statement which appeared over her signature in *The Norfolk Islander* of 15 October 2016, opened with: "It was important for me to visit and see and hear with my own eyes and ears." There followed a statement of praise for Norfolk Island and a list of things that the Commonwealth was spending money on in the island. No mention was made of any issue or problem that might exist or which might have been raised with her. Such disguise of the truth benefits no one except in the inflation of the Australian government's own image. As Norfolk Islanders are very aware of their own circumstances, this breeds mistrust and resentment. (Other examples of spin abound: see for example Appendix II.)



It is extremely difficult for a small community such as on Norfolk Island to counteract these types of statement, often broadcast on Australian media, and designed presumably to persuade all and sundry that what the Commonwealth is doing on Norfolk Island is all good, all benevolent, immaculate.

### 3.4 Patronising impositions

And there is a further consequence of spin put out by Ministers, Administrators and bureaucratic functionaries, which many on Norfolk Island find deeply disturbing. The inflation of the merits of the Australian Government's intervention implicitly denies the value of anything that preceded it: what might be called the "white colonialist approach". It dis-endorses all the many achievements of the Norfolk Island Government and the island's people over many years in the often-difficult circumstances of isolated island living. The achievements of the past are not to be celebrated but torn down. Beyond the issue of truth or falsity, many on Norfolk Island find such insensitivity patronising and humiliating. It undermines self-confidence and tears at the social fabric of the island. And it does nothing to elevate the standing of the Australian Government within the community.

### 3.5 The DIRDC approach: a summary on the evidence

Having discussed in this and the preceding chapter what evidence indicates as the approach of DIRDC to affairs of Norfolk Island in social interaction and economics respectively, we give a further summary.

The DIRDC approach appears as one which maintains a dogmatic insistence on its own virtue combined with sometimes a loose interpretation of the truth. It suggests a lock-step standard operating procedure inured to novelty or alternative information.

Indeed in this type of approach there is no need to listen to others because you have all the answers already. Public and community opinion can be ritualised and sidelined. Judgments already made can be reaffirmed by talking only to those on the ground who agree with you. Then the only remaining task is to find fault in the other's position (the "It's a failure" syndrome).

There are a number of damaging consequences of this approach. The first is that when one does not listen one does not learn, or to put it another way, one cannot take advantage of the bountiful local knowledge and experience of those who have lived in the environment over many years – and even generations – and who have developed economic and social mechanisms well-tuned to the exigencies of life in that environment.

The second consequence is that one does not – cannot – understand what one is dealing with. There is little more inadequate than the oft-promoted idea that "Norfolk Island is just the same as an Australian country town". This is a lazy belief, and analysis shows that it is very important ways it is false (e.g. Nobbs, 2016d). Certainly Norfolk Island displays some aspects of Australian country towns, but it has aspects which go far beyond that and it is these that are the more significant ones. There can be little understanding of the Norfolk Island economy or society without an appreciation of the consequences of Norfolk Island being a small and remote and marine-isolated settlement. (See further Section 5.2)

Third, the dis-endorsement of Norfolk Island's past experience and cultural heritage has been a recurring theme of the Commonwealth's intervention on the island (witness for example the removal of mention of Pitcairn heritage of Norfolk Islanders from the Preamble of the *Norfolk Island Legislation Amendment Act*). The continuing discounting of this experience by Commonwealth representatives is destructive of community well-being on the island. (See further Nobbs, 2016e)

The final indignity for Norfolk Islanders is the idea that desk-bound bureaucrats 1,900km away from the island, with little or no experience of living and working on an isolated island, can make optimal decisions and recommend policy for Norfolk Island to their Minister.

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## 4. Case Study: DIRDC and the Demise of the Norfolk Island Hospital Enterprise

### 4.1 Background

Over its almost 100-year life, the Norfolk Island hospital was wholly funded by the community, and from 1979 to 2015 was an independent arm of the former Norfolk Island Government, the Norfolk Island Hospital Enterprise (NIHE). Throughout its life it was been the centrepiece of Norfolk Island family and community life, witness to births, illnesses and deaths, and of recent years provider of general practice, surgery, acute care, a wide range of visiting specialist services, pathology, x-ray, dentistry, physio, pharmacy, counselling, and aged care services. It has been a much loved and comprehensively supported institution, paid for and run by the community itself.

On 1 July 2016 the community's hospital ceased to exist, emasculated by the Australian Government to the status of a multipurpose 'service', now called the Norfolk Island Health and Residential Aged Care Service (NIHRACS). NIHRACS is run by DIRDC. There is a sub-contractual arrangement with South Eastern Sydney Local Health District (SESLHD) with regard to the provision of some specific services, but it is DIRDC that pays the bills, employs the director, and makes all major decisions including the recruitment of doctors.

### 4.2 Specific Matters

The experience of NIHRACS since the dissolution of the hospital has been tragic for the island. We consider some of the aspects below.

**(i) closure of the operating theatre.** In 2013 the NIHE, with the intention of improving health care services on the island, approached the Australian Council of Healthcare Standards (ACHS) to carry out an accreditation audit on the hospital. This was done in March 2014. The hospital did not come up to scratch, and accreditation was not granted. Amongst other things the ACHS recommended the closure of the operating theatre for elective surgery – but remaining operative for emergency surgery – until it was brought up to ACHS standards. (It should be noted here that over the years of its functioning the operating theatre recorded no case of hospital acquired infection.) At the time of the operating theatre closure it was a requirement that any expenditure by the NIHE greater than \$25,000 needed the approval of DIRDC, and they refused to approve the upgrading of the operating theatre.

Currently there is no operating theatre on the island, for either elective or emergency surgery. This is a serious situation for Norfolk Island given its isolation and the risk of catastrophic air accidents and emergencies on the island or in the surrounding oceans, and given the time taken for any emergency services to arrive from overseas. There are a number of approaches by which this circumstance could be reversed, for example by the rotation of surgeons on and off the island.

**(ii) inability to retain doctors.** Perhaps the most serious concern for all on Norfolk Island is the inability of NIHRACS to retain doctors on a permanent basis.

In the last two years, there has been a revolving door for doctors appointed to permanent positions in NIHRACS, who after brief interludes have found it necessary to seek jobs elsewhere. The count is currently three, all of whom it is understood moved to Norfolk with the intention of living and working on the island permanently. The reasons for these departures are not confirmed, although rumours persist that they are due to DIRDC's inflexibility and failure to meet promised conditions. No public discussion of this matter has taken place on the island, presumably due to non-disclosure clauses in the doctors' contracts. No admissions on the matter have been made by either NIHRACS or by DIRDC.

The DIRDC response to the doctor outflow has been to employ a procession of short term locum doctors from Australia at salaries believed to be of up to \$1,500 per day, plus travel and accommodation. This is an unconscionable waste of Australian taxpayers' money and represents a failure to provide the continuity of care needed for patients on the island, and particularly for the elderly.

**(iii) loss and downgrading of diagnostic services.** The quality and availability of diagnostic services on the island have declined markedly since the DIRDC takeover of the hospital on 1 July 2016. Examples include:

- ◆ radiography - In previous times a trained radiographer would record and develop the x-ray plates and take them to the doctor in place to interpret. Under the new system it is considered necessary that the radiogram, while it may be read on the island by a doctor, must be emailed to Sydney for assessment by an "official" radiologist. This currently can take up to 18 days – and this is for the *diagnosis* of bone breakages and similar issues;
- ◆ ultrasonography, a vital diagnostic tool previously provided at the hospital is now a part time service provided by a visiting sonographer, and sonogram analyses must be referred to Sydney for assessment and are also subject to delays;
- ◆ the former emergency blood donor panel for serious trauma casualties has been disbanded: a particularly serious matter in mass-casualty situations;
- ◆ many pathology services are now reduced to simple point of care (bedside) services, with more complicated diagnostic tests (e.g. liver, pancreas) having to be referred off-shore;
- ◆ dialysis services formerly available on the island (and used) are no longer so. This is a very serious issue for the future as anyone on the island needing these services on a regular basis will have to move to Australia whether they have any close or familial associations there or not;
- ◆ the availability of some visiting specialist programmes has been reduced since the 1 July 2016 e.g. gastro-enterology, gynaecology, neurology, ophthalmology, podiatry, diatetics.

Whereas under the NIHE the above-enumerated services were provided without the level of overt sophistication now deemed necessary in Australia, they operated efficiently, at relatively low cost, and without any recorded problems over many years.

On the other hand, it needs to be acknowledged that DIRDC has purchased for NIHRACS a new state-of-the-art digital mammography machine and is understood to be finalising contract terms with a successful tenderer, specialised in such procedures, to operate the machine.

**(iv) rising number and cost of air medivacs.** The availability of medical evacuation (medivac) flights from Norfolk Island is a great boon and can mean the difference between life and death for those involved. However a consequence of not providing an operating theatre on the island, of reducing acute care services, and the employment of locum doctors, there has been a rise in need for medivacs, at substantial cost to the Australian taxpayer.

In the decade prior to July 2016 there was an average of 12-13 medivacs per year. The NIHE was able to manage in a safe therapeutic environment the remaining acute cases with good results. The number of medivacs has now risen annually to more than three times that figure, with each costing over \$45,000 or more depending on the origin of the aeroplane. A part of this rise may have been due to older Australians relocating to live on Norfolk Island, and individual expectations in regard to health care, but is fundamentally due to the withdrawal of on-island services. The total cost of medivac services from Norfolk Island since 1 July 2016 is \$3,441,798. (DIRDC, 2018)

**(v) privatisation of the hospital pharmacy.** Before the DIRDC takeover of the hospital there were two pharmacies on Norfolk Island accessible openly to the public, one in the hospital and one privately operated in the shopping precinct, and happily co-existing. Now there is only one, that in the mall, which among its functions provides pharmaceutical products to the hospital under an imprest system to serve patient needs, including acute and emergency care. Previously, with a dispensing pharmacy at the hospital, GP patients had immediate access following consultation (a consideration particularly important for the aged), the hospital had the capacity to stock a wide range of drugs including very expensive ones, secure storage for Schedule 8 drugs, provided 24x7 availability (holidays included), and ever-present vigilance.

Under the present regime there is only one private pharmacy that must inevitably act on commercial principles regarding its costs, inventory, and opening hours. Any idea that both pharmacies could continue to cohabit was stymied with the *Norfolk Island Legislation Amendment Act Transition Rule (Approved Pharmacists) 2016* written expressly by DIRDC to exclude a dispensing pharmacist being engaged at the hospital. Privatisation (here in combination with monopoly) has substantially decreased the benefits available to the Norfolk Island community.

**(vi) wastage of money on contracts.** In a letter published in *The Norfolk Islander* on 15 October 2016, the then Minister responsible for Norfolk Island stated that the Australian Government has “invested \$700,000 on urgent repairs for the NI health service, which we look forward to improving”. (Nash, 2016) This was a fanciful claim, and one that has never been itemised. And if indeed it were true, it would likely multiply the extent of wastage that was apparent in some of the expenditures visible to the public eye.

Known repairs carried out at the hospital included providing fire doors, ramp access, water storage tanks, and upgrading the electrical system. Unfortunately the fire doors only extend internally from floor to ceiling. The new concrete disability ramp was installed to replace an old concrete disability ramp judged to be too steep. However the new railings appear dangerously inadequate, the cornering is too sharp for motorised scooters, and at its top the ramp meets an outward opening door which cannot be manipulated by wheelchair-bound patients. And then there was the hospital ward which had new windows installed but none were capable of opening. And then there was the hospital kitchen which was stripped for refurbishment before the job was declared to have “run out of money”, so that all hospital meals were having to be bought in commercially (a situation which continued for 12 months). All these “urgent repairs” were or still are visible to any casual visitor to the hospital.

In the face of such Commonwealth largesse, it might appear to the observant Australian taxpayer that there has been on Norfolk Island a lack of control and substantial wastage by DIRDC. And Norfolk Island itself has a significant interest in these matters, both because efficient spending would free up funds for other projects, and because the island has never ever wanted to be seen merely as the recipient of alms.

**(vii) NIHRACS and health insurance funds.** Prior to the dissolution of the NIHE, local patients admitted to the Norfolk Island hospital were covered to some degree by Norfolk Island Healthcare fund, and tourists by recommended travel insurance. Since 1 July 2016 the local Healthcare fund has been shut down, and Norfolk Islanders encouraged – not to say coerced – into taking out private health insurance. However with the degrading of the hospital to the status of a “health service”, patients admitted to NIHRACS – be they Norfolk Island residents or tourists – while being supported by Medicare cannot make claims against their private health insurance for “hospital-based” procedures. This exclusion includes doctors' fees, day surgery, consultations with specialists, medical tests and scans, and being admitted as a private patient in a single room. (BUPA, 2018)

**(viii) DIRDC management and staff.** Under the NIHE, the management team consisted of a Director, Medical Superintendent, Nurse Unit Manager and Accounting Officer/Deputy Director. Now, for a service with reduced responsibilities the management team consists of a Director, Medical

Superintendent, Finance Manager, Practice Manager, a Health and Wellbeing Coordinator, a Child and Family Unit Manager, a Business Manager, and a Nurse Unit Manager. It is not clear how this magnification in management, at the cost of primary services, can be justified.

**(ix) the hospital rebuild.** The Norfolk Island Government and other bodies (e.g. ACHS) had recognised that the buildings occupied by NIHE and NIHRACS were coming to the end of their lives and needed to be replaced. Community fundraising was carried out over many years for this project. Design proposals had been provided. The Commonwealth appears to have now withdrawn any interest in this project, and furthermore has resumed the land purchased for a new hospital by the Norfolk Island Government on behalf of the community.

**Note on maternity services on Norfolk Island.** It needs to be noted that despite common claims to the contrary, the Commonwealth is not responsible for the curtailment of birthing on Norfolk Island. Up until 2014 the NIHE was able to provide maternity services because of the GP/surgeon/obstetrician and GP/anaesthetist/obstetrician skills of the two then-resident medical doctors. Upon their retirement and despite a very wide-ranging and expensive recruitment campaign, NIHE was unable to recruit appropriately qualified and skilled doctors to enable the hospital to continue providing maternity services. The cessation of maternity services in small communities in Australia has also been an ongoing occurrence for many years with these services being referred to larger regional hospitals. This has resulted in a deskilling of general practitioners and a move to medical specialisation. The increase in litigation with a resultant increase in the cost of medical malpractice insurance, particularly in the area of obstetrics, has also made the practice of obstetrics by GPs less viable.

#### 4.3 Conclusions

On the assumption that health services on Norfolk Island are to be provided for the benefit of residents and visitors, and that that provision needs to be efficient, the evidence available indicates that many unwise decisions have been taken by DIRDC in relation to these services and the manner in which they are delivered. These decisions, it appears, were taken by DIRDC without substantive consultation with the Norfolk Island community. Money has been wasted, top heavy management installed, services withdrawn, and doctors continue to come and go through the revolving door. Morale amongst staff at the hospital has suffered substantially.

What is being provided or not provided by DIRDC appears to be the result of some centralised logic and formulaic prescription held in the bunkers of Canberra and dependent on "number of consumers" rather than on a clear appreciation of the needs of a small marine-isolated community: and one almost wholly dependent on tourism. It is not known what competence DIRDC claims to have in running hospitals in isolated areas but it appears seriously deficient in this case. A new and different management approach is essential.

There is an urgent need for a detailed cost benefit analysis of health services provision on Norfolk Island. This is likely to point to a re-opening of the operating theatre, an alternative allocation of funds, a different model of provision, and in the interests of efficiency more trust in the local community and more local control. The Norfolk Island hospital has been over many years a powerful symbol of community values, of shared experiences, and of the bonds of affection which unite individuals and families in this island community, and there is immense value in it's remaining so.

## 5. DIRDC and some Broader Considerations

### 5.1 Matters of law and regulation

The Australian Government has incorporated Norfolk Island notionally as a part of New South Wales by passing Commonwealth laws applicable on Norfolk Island which mirror NSW laws. The New South Wales Acts currently in force on Norfolk Island include the *Local Government Act 1993 (NSW)* (as the *Local Government Act 1993 (NSW)(NI)*), the *Health Services Act 1997* and the *Public Health Act 2010* (together with the *Interpretation Act 1987* and the *Long Service Leave Act 1955*).

There are many examples in which Norfolk Island has been and is being disadvantaged by entanglement in complex laws inappropriate to its condition as a small isolated island remote from the Australian mainland. In Section 2.5(iii) we have seen the way this has played out in the case of tourism funding. In fact it could be argued that a major part of Norfolk Island's problems arise from an incapacity of DIRDC to think through the consequences of the welter of legislation that it decided to impose on Norfolk Island. Here are some issues.

*(i) NSW regulatory compliance.* In an earlier report (Nobbs, 2017a) it was argued that public health and occupational health and safety (OH&S) requirements will represent very significant cost increases for businesses on Norfolk Island. Many businesses on Norfolk are small (because the market is small), and some businesses are not full-time. For these reasons the costs of meeting regulatory provisions will be high relative to revenue and can be further increased by transportation costs to and from Australia e.g. for training, laboratory sample testing, monitoring. If the full weight of NSW regulatory provisions is imposed on businesses on Norfolk, many will close, and this has already been happening.

The *Public Health Act 2010 (NSW)* and Public Health Regulations 2012 for example require the establishment of a defined quality assurance program for all "private water suppliers" providing water to the public. (NSW Health, 2014) As there is no reticulated water supply on Norfolk Island and all businesses provide water from rainwater tanks or bores, this definition includes all individual accommodation houses, hotels, recreational and sporting facilities, community halls, schools, food preparation premises, restaurants and cafes, rented accommodation, and even private homes providing progressive dinners for tourists, *individually*. Each and every one of these businesses is being forced into compliance with the panoply of NSW water regulations. Water carters who provide water only in temporary drought periods on the island (less than 100 deliveries total per year) also come under similar regulations. Initial cost of compliance with this Act for private water suppliers is running at around \$5,000 for 10-unit accommodation property, \$15,000 for hotels, and with on-going compliance costs – for filters, testing, six-monthly council inspections, and reporting – a continuing extra.

The main point is that Norfolk Island businesses are supportive of public health and OH&S objectives, however the costs and the benefits need to be assessed in a manner which a small community is capable of sustaining. Within the ambit of World Health Organisation criteria, the current Australian state regulations do not necessarily represent a uniquely best solution to these issues. It is imperative – in water supply as in other regulatory matters – to put in place a flexible system that does not drive small businesses to the wall.

With regard to the application of other NSW legislation, Schedule 1 item 1 of the Norfolk Island Applied Laws Ordinance 2016 temporarily suspends the application of other NSW laws until 1 July 2018. As the NSW Government lists over 950 Acts currently in force in NSW, if this proposition were to be imposed on Norfolk Island it would increase costs for businesses and families, provide a feast for financial and legal intermediaries, and little or no tangible benefit for the island. However it appears that a little common sense has prevailed here, as it has been recently announced that the application of the 2016 Ordinance has been further suspended for three years. Permanent suspension would be more appropriate.

(ii) **DIRDC and statutory powers.** The control that DIRDC maintains on Norfolk Island has many manifestations, not all of which are obvious to casual observation. Here are some worth mention:

- ◆ Freedom of Information requests to DIRDC – including those which have been made by Norfolk Island residents eager to explore DIRDC conduct or the legitimacy of its actions – are determined in the first instance by DIRDC;
- ◆ If a Norfolk Island resident wants to approach the Commonwealth Ombudsman about DIRDC conduct then the initial complaint must go first to DIRDC. (The "Kafkaesque bureaucratic nightmare" experienced by Christmas Islanders in dealing with DIRDC and the Commonwealth Ombudsman has been described by Towell (2014));
- ◆ When in May 2015 a petition, signed by over 450 members of the Norfolk Island community was delivered to the Governor-General of Australia petitioning that he terminate the appointment of the Administrator of Norfolk Island, the Hon Gary Hardgrave, as they had lost confidence in the position, to whom did the Governor-General forward the petition? To DIRDC;
- ◆ Despite the fact that responsibility for KAVHA as a World Heritage site rests with the Minister for the Environment and Energy under the *Environment Protection and Biodiversity Conservation Act 1999*, management of the site is the responsibility of DIRDC;
- ◆ NIHRACS is run by DIRDC;
- ◆ The Norfolk Island Administrator, responsible to the Minister for Territories, is paid from the DIRDC budget;
- ◆ Any worker compensation complaint on Norfolk Island goes for resolution to the Employment Conciliation Board of three Canberra bureaucrats, chaired by, yes, a DIRDC employee;
- ◆ A full list of 110 delegations from the Minister to the Norfolk Island Administrator, taking over responsibilities from former Norfolk Island Acts, is contained in the Minister's Norfolk Island Delegation Instrument 2017 (No. 2)(CTH). In each case the Administrator is seconded by a senior DIRDC employee.

It is no exaggeration to say that Norfolk Island is now subject to bureaucratic strangulation by DIRDC. Given the evidence of the present report, this is a baleful situation, not in the interests of Norfolk Island, and should be considered unacceptable by the Australian Government.

## 5.2 Matters of administration and finance

There are around 540 local government bodies in Australia covering a diverse range of metropolitan, regional, rural, and Indigenous communities. Of these, about 60-70 per cent are classed as regional or rural.

It has been well known in Australia for many years that the financial sustainability of local governments is a serious problem, and this subject has been the focus of many enquiries. All of them show that there has been a secular decline in local infrastructure, with "own-source" revenue unable to cover necessary investment. State-based surveys suggest that between 25 per cent and 40 per cent of Australian councils are financially unstable, while a sample-based national survey by Price Waterhouse Cooper indicated a figure of between 10 and 30 per cent. Those local governments considered the least financially viable are accumulated in the categories of "rural agricultural" and "rural remote". (Access Economics, 2006; Price Waterhouse Cooper, 2006). Little appears to have changed in these respects over the last two

decades (Dollery et al., 2013). An analysis by the NSW Treasury Corporation (2013) found that in 2012 only one third of NSW councils reported an operating surplus, and that the financial sustainability position was expected to deteriorate for nearly 50 per cent of all NSW councils.

There is an important observation for Norfolk Island to be made from this situation. The persistent cry by previous Commonwealth ministers and their departments and representatives that the reason for the intervention on Norfolk Island was that the NILA could not make ends meet, is exposed as a sham. Australian local councils – particularly those that are regional or remote – have had the same problem as Norfolk Island had, and for similar reasons; and the Australian intervention on Norfolk Island has not altered that position in any way. In fact, by removing the island's general revenue-raising powers it may have made the position worse. In Australia, Commonwealth and state governments and others have put much effort into trying to resolve this issue of financial sustainability, and some proposals have been forthcoming. However in a longer-term sense the issue remains essentially unresolved.

In 2015 a group of Australian academics carried out research specifically on the position of Australia's "island councils" (Kangaroo Island (SA), Flinders Island and King Island (Tas)) in relation to financial sustainability (Sinnewe *et al.*, 2015). They pointed to the "similar social and economic challenges faced by these islands, such as limited access to services and comparatively high freight costs, together with the local challenges and opportunities which each faced in particular". Their conclusion was that: "Overall, ... summary statistics indicate that these island councils are heavily reliant on grant funding in addition to having a relatively narrow property tax revenue base – in terms of number of households – on which to levy rates."

In pointing to the "distinctive nature of these island councils" they observed:

*- Firstly, local government is of far more importance to these islands than in Australia as a whole, particularly in maintaining the economic and social fabric of these small island communities, and articulating their unusual needs....;*

*- Secondly, the services provided by island councils are especially reliant on an intricate knowledge of local needs; information which would not be available to higher tiers of government. Consequently, service provision on island councils makes local decision making and local resource allocation even more essential than in other remote Australian local authorities.*

*- Thirdly, Australia's island councils deliver a range of services which would ordinarily be provided by state and Commonwealth public agencies. Put differently, in many respects local authorities on the islands represent "government of last resort" to islanders....;*

*- Fourthly, the "tyranny of distance" between administrative centres of mainland councils and low population densities mean that economies of scale are unobtainable in the provision of local government services regardless of which structural arrangements might be imposed on these island councils.*

*- Finally, the importance of local leadership in the economic development of island councils can hardly be overstated, given the special circumstances of island inhabitants."* (Sinnewe *et al.*, 2015, pp. 161-2)

Here the important observation for Norfolk Island is that what these authors have drawn attention to are precisely those things that residents of Norfolk Island have been trying over and over and over again to say to DIRDC and others, but have gone unheeded.

Indeed the importance of these issues is further magnified by the severe isolation of Norfolk Island. Previously these issues were able to be responded to in large measure by the *in situ* Norfolk Island Government. Whatever failings the Norfolk Island Government may have had, it was a system that had



evolved by gradual adjustment to the exigencies of life on a small island, taking into account its severe isolation and the consequences that flowed from that. This is what is being lost on Norfolk Island, now thrown into the maw of an Australian local government system lacking its own coherence and clear financial way ahead.

Other aspects of the tensions for islands between investment and revenue, between periphery and centre and the representation of the periphery's interests, have been explored in the case of Norfolk Island particularly by Wettenhall (2016, 2018). Wettenhall (2016) notes that: "What appears totally absent from the current generation of Australian policy-makers is a preparedness to recognise that there are features of island life that are different from those commonly experienced by mainland communities and that some of these features are worth preserving."

### 5.3 Matters of policy and method

Apart from anodyne statements about "increasing economic growth" little is clear from the Commonwealth as to the foundations of their policy concerning Norfolk Island. We may divine however that "Norfolk Island is just like an Australian country town" has been a strong element, and another has been a free market emphasis - but one placed under savage regulatory control in many instances. Following the work of Sinnewe *et al.* these stances can no longer be rationally maintained. If the purpose is to assist Norfolk Island, it appears that there has been a failure by DIRDC adequately to think through the consequences of its own actions, and/or that DIRDC comes to the process with a too-rigid mindset derived from practice in continental Australia.

While the economic approach – as discussed in previous sections – appears designed to test the Norfolk Island economy to destruction, another arm of the Commonwealth policy is providing investment in such things as the Cascade Pier upgrade, NIHRACS, and assistance to the Norfolk Island Central School. These investments are potentially of great benefit to the island and have been widely welcomed. Nonetheless as the example of NIHRACS shows, there can be a substantial gap between proposal and practice. It needs to be noted also that there is a disjunction in time frames: the dissolution of the Norfolk Island economy needs an immediate response, while any transformational outcomes from these on-island investments will take a much longer time to bear fruit.

There appears to be two major issues which need to be confronted by policy: Norfolk Island paying its own way at a fair and reasonable level, and the development and maintenance of a dynamic and capable society to ensure the economic survival of the island and its island-based way of life and culture.

As to the first of these it is clear that Norfolk Island will need ongoing Commonwealth support at least in the interim, and in the interests of both parties this support must be efficiently provided. Efficiency requires the flexibility of local control, and local control contributes substantially to the maintenance of a stable and capable society, and one to which pride has been returned. Simplicity and flexibility are the watchwords. This requires a partnership between the Commonwealth and Norfolk Island based on trust: and this requires consultation and transparency.

Sinnewe and co-workers have provided a clarification of important issues facing small islands in their reduced scale and isolation, which can provide important elements of an improved approach to the problems facing Norfolk Island. Significant elements here include: the small size of the market and the difficulties of recouping regulatory charges; economic instability and need for precaution in policy; the inevitability of monopoly in some services; limits to resources and to growth; importance of environment; loss of employment may mean emigration; the irreducibly high cost of freight; the understandings that on small islands everything is connected to everything else; and the need for close consultation as a survival mechanism.

Other more extensive suggestions for alternative approaches from the Commonwealth have been made by Nobbs (2016f). Among the suggestions here was to consider examples of other successful small island dependencies across the British Commonwealth, or alternatively "envision Norfolk Island not as 'part of New South Wales', but as a world-relevant semi-autonomous model system of 21st-century sustainable living".

#### 5.4 Summary

If the idea of the Commonwealth intervention on Norfolk Island is to improve the economy and well-being of the island's residents, then the lockstep formulation of policy by DIRDC that heeds no novelty – given the novelty of small islands' situations – has been counter-productive and should be abandoned. The development model needs to be re-envisioned. Fortunately there are available indications as to where better models lie.

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## 6. Proposals to Address Norfolk Island's Urgent Needs

There is an urgent need for a review and rethink by the Commonwealth Government of the developmental model being imposed on Norfolk Island. There is also an urgent and immediate need for the introduction of the Australian MAS be deferred pending analysis of its consequences for the island.

Coming at the end of a long period of immense change to the island from which many are exhausted and some overwhelmed, Norfolk Island faces a crisis winter with the abrupt imposition of Australia's Modern Award System for employment and rising prices across the board, together with a steep decline in tourism. These are putting in jeopardy businesses' ability to service tourism and even to survive, and families' ability to work and pay their mortgages and remain on the island. Furthermore there is no clear respite visible in the medium to longer term. This situation has been largely a result of actions taken by the Australian Government following the intervention commencing in July 2015.

It is therefore respectfully urged upon the Minister to:

- (1) Act immediately to delay the introduction of MAS on Norfolk Island until an analysis of its effects on the island's economy is carried out and the results made available publicly;

And in relation to the provision of health services on the island to:

- (2) Undertake a thorough cost benefit analysis of medical and health services for Norfolk Island given its severely isolated location, focusing in particular on the possible return of hospital services on the island and the reopening of the operating theatre; and
- (3) Increase the efficiency of NIHRACS service provision by providing an alternative management structure and involving shared responsibility between the Commonwealth and Norfolk Island;

And in relation to Norfolk Island's longer-term needs to:

- (4) Initiate a broad inquiry – not restricted to DIRDC and open to public participation – to determine an improved developmental model for Norfolk Island's future (taking cognisance of the evidence provided by Sinnewe *et al.*);

- (5) Acknowledge the unique position and needs of islands in the Australian local government system;
- (6) Increase the transparency of all processes involving the Commonwealth and the people of Norfolk Island in order to increase trust in these processes;

And in the interim and in relation to the adequate functioning of the Norfolk Island Regional Council to restore greater flexibility by:

- (7) Re-introducing the ability of the Norfolk Island Regional Council to approach relevant ministers directly for advice, as was previously the case for the Norfolk Island Government; and
- (8) Assisting the Norfolk Island Regional Council to develop a series of relevant economic indicators to monitor the time course of the island's economy.

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## **Afterword**

During the 1968 Tet Offensive in the War in Vietnam, the town of Ben Tre came under heavy assault by Vietcong insurgents. In response, US forces heavily bombed and shelled the town before being able to retake it, much destroyed. In a subsequent briefing to journalists one of the US officers involved explained: "We had to destroy the village in order to save it." (Arnett, 1968) It is sincerely to be hoped that the final judgement on the Commonwealth's recent intervention on Norfolk Island will have no similar ring.

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## Notes

1. Articles and letters, published over many months in *The Norfolk Islander*, *Norfolk Online News* and distributed overseas; variously *The Australian*, *Sydney Morning Herald*, *The Age*, *Canberra Times*, *Tasmanian Times*, etc.; New Zealand and Pacific Islands media; *The Guardian*; Facebook. See also: Nobbs, C., 2017b.
2. Previous titles of Commonwealth departments responsible for Norfolk Island include: Department of Infrastructure and Regional Development (DIRD), 2013-17; Department of Regional Australia, Local Government, Arts and Sport (DRALGAS), 2011-13; and Department of Transport and Regional Services (DOTARS), 1998-2007. In this report all are referred to under the current title, DIRDC.
3. Norfolk Island has no harbour for wharf-side disembarkation of passengers or freight from ships. Ships anchor off the island and transfer passengers and freight by lighters to piers on the island. The island has two piers, at Cascade to the east of the island, and at Kingston to the south. A visiting ship can choose its better anchorage depending on wind and wave conditions, however there are many weather conditions on the island that prohibit lighterage operations completely.

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## **Appendix I:**

### **Commonwealth Ministers responsible for Norfolk Island, 2013-18**

Sept 2013 – Dec 2015	Jamie Briggs MP *Assistant Minister of Infrastructure and Regional Development
Sept 2015 – July 2016	Hon Paul Fletcher MP *Minister for Major Projects, Territories and Local Government
July 2016 – Oct 2017	Senator Hon Fiona Nash *Minister for Local Government and Territories. Minister for Regional Development
Oct 2017 – Dec 2017	Hon Darren Chester MP *Acting Minister for Local Government and Territories Acting Minister for Regional Development
Dec 2017 –	Hon Dr John McVeigh MP *Minister for Regional Development, Territories and Local Government

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## **Appendix II:**

### **Norfolk Island Economy: the Minister, the Elephant, and seeking Win-Win**

[This letter first appeared in *The Norfolk Islander* and on *Norfolk Online News*, 16 December 2017]

Dear Editor,

On 16 November I provided the Acting Minister for Local Government and Territories, Hon Darren Chester, a copy of my report on the Norfolk Island economy entitled "On the Brink of Disaster: The Impact of the Australian Government Reforms on Norfolk Island Businesses" (1). This report was then on 18 November published by *The Norfolk Islander* (TNI) and *Norfolk Online News*. On Monday 20 *The Australian* carried on its front page an article over the signature of associate editor Brad Norington "Norfolk Island 'crushed' by takeover". This was followed on Tuesday 21 by a response from the Minister – also over the signature of Brad Norington – entitled "Minister rejects Norfolk Island claim that takeover risks economic ruin". On the same day *The Australian* carried a commentary by Matthew Lesh of the Institute of Public Affairs in Melbourne entitled "So why do we fell this independent pine?". In response to the Acting Minister's claims I wrote a letter to *The Australian*, an abridged version of which appeared in the paper on Thursday 23 November under the title "Norfolk Island's future".

I was pleased to see the related report that TNI carried last week from Radio NZ dated 23 November 2017 "Canberra rejects claim it's wrecked Norfolk economy", as it provides here a base from which to re-examine the claims made by the Minister and also to raise some broader issues. (In fact the Radio NZ report carried, to a large degree, merely a subset of the content of the article that appeared in *The Australian* on 21 November.)

Let us look at what the Acting Minister is reported to have said to *The Australian* on 21 November. First, he said the "major industry of tourism had just enjoyed its best year". This is false, as consultation of Norfolk Island Annual Reports will show. The Radio NZ report had a slightly extended version of this, saying that Norfolk Island visitor numbers had previously reached 40,000 – which they did uniquely in 2000-01 – and that in 2016-17 tourist numbers had reached 30,000 "the best since the global financial crisis". This numerical claim is problematic because during the year 2016-17 there has been substantial traffic to the island by Commonwealth officials, consultants, and workers contracted on infrastructure projects, and these will not be repeated in the future.

The Minister went on to say that the Commonwealth "had 'hugely' boosted the island's potential visitor pool by scrapping passport requirements for Australians". This is dubious at best as Australians are recommended to carry passports because if their aircraft cannot land at Norfolk due to inclement weather and is diverted to New Zealand, they will not be allowed off the aircraft if they do not have passports. (As has already happened.) For the Department of Immigration and Border Protection, a passport remains the preferred means of personal documentation for travel to Norfolk Island.

Then the Minister is reported saying that the government "had invested millions of dollars in subsidies to keep flights to Norfolk Island operating" and that "The government regarded Air New Zealand's end to flights as the airline's commercial decision". The first claim of "millions of dollars" is unverifiable as Commonwealth subsidies to Air New Zealand are regarded as commercial in confidence. What we do know however is that Air New Zealand has a contract with the Commonwealth to provide air services from Australia to Norfolk Island which provides a "top up" to the airline if the average fare (revenue/passengers) falls below a specified level. So why is it that the withdrawal from the direct New Zealand-Norfolk Island service is of necessity the airline's commercial decision, while it continues to fly from Australia in a subsidised manner?

Continuing, the Minister dismissed the arguments put forward in my report that the Commonwealth "had blocked Norfolk Island from its own revenue raising", saying "Canberra had encouraged the regional council to start charging municipal rates... but it had declined." This second statement is false as anyone living on Norfolk Island will know. And the first statement could not be maintained if the Minister had read my report. Consider the rejection by his predecessor of medicinal marijuana cultivation on Norfolk, and the more recent refusal to allow ruminant imports into Norfolk. And even last week TNI carried an announcement from the Commonwealth that the import of fresh fruit and vegetables to the island is to be permitted – a move which potentially sounds the death knell for local production, particularly if dumping by mainland producers ensues. Other examples from earlier years are also documented. (See (2), pp.129-30)

Then the Minister said he had "helped businesses by abolishing a 12 per cent GST that had applied on the island", and that "wage rate increases were also being introduced gradually". The first claim is selective, because although NI GST has been removed, businesses are now paying income tax. So far there is no evidence to suggest that businesses are better off under the new arrangement. The second claim is false. By far the most serious immediate concern for Norfolk Island businesses is the introduction on 1 July 2018 of the Australian Modern Award System including penalty rates, when there will be an unprecedented large jump in island wage rates across the board. The calculations given in my report of a small business servicing tourists and locals indicates that for present practice there will be a jump in wages of 35 percent.

The Minister finally claims that "Australia was investing \$136 million to fix health, education and the port". The figure is outrageously fanciful and has never been disaggregated in such a way as to appear credible, let alone be verifiable. It is unknown exactly what has been charged to the island's account, over what period of time, how much money went into departmental travel, consultancies both useful and otherwise, or how much was money wasted – some of examples of which wastage are well documented. And furthermore, as pointed out in my letter to *The Australian*, the mere spending of money is no guarantee of achievement.



Norington in his article of 21 November also quotes "government agency sources" (read "DIRD" as the agency with responsibility for Norfolk Island) as claiming that "Norfolk Island's previous administration invested little on infrastructure and repairs during 37 years of self-rule". This is a proposition which covers many broad matters which it is not possible to deal with in detail here, but suffice to say that it is a proposition from which the Commonwealth itself does not escape culpability. (See for example (2), pp.124-34).

The "agency sources" then follow up with the gratuitous comment that "they believe protests over Canberra's takeover are led by an 'anti-Australian crowd' of eight families." This is an unacceptable statement on several grounds. First, it is fallacious in logic as "argumentum ad hominem" – you attack the person rather than the argument being presented. In that respect the statement is mere distraction and humbug. Second, the statement unacceptably conflates the ideas of Norfolk Islanders being anti-Australian – which they are not – and being anti some Commonwealth government policies – which many on the island are.

But there is an even more important issue raised by this comment. The "agency sources" appear to have chosen to interpret my report as a political statement about the Australian government intervention – which it is not – and ignored the fact that it is a commentary about the current state of the island's economy being experienced by those on the ground – which it is. And while it is possible to lob a few claims – however compromised (see above) – into the public arena in contradiction to what I set out in my report, neither the Minister nor the "agency sources" have addressed the facts of the central issue: namely the very dire prospects for the island economy overall. In contradistinction to my detailed and factual report, nowhere is the Commonwealth's set of alternative facts and analyses which establish the contrary case or anything like it, set out. Must the elephant in the room be forever ignored?

What is very clear from all this is that there are very different views held on Norfolk Island's current economic position and future economic and social outlook. With sixteen months experience of the Australian Government's intervention behind us, it seems sensible to take time out to see clearly what the position is, what has worked and what has not, to learn from any mistakes made, and make improvements for the future. The vitality and well-being of this gentle and peaceable island society require nothing less. In this context my proposal for the present imbroglio to be referred to the Australian Productivity Commission seems eminently reasonable. It would clear the air and benefit both Norfolk Island and the Commonwealth itself. That seems like a win-win to me.

Yours sincerely, Chris Nobbs.

(1) Nobbs, Chris, 2017a, "On the Brink of Disaster: The Impact of the Australian Government Reforms on Norfolk Island Businesses" (November), <http://www.norfolkonlinenews.com/impact-of-the-reforms-on-norfolk-island-businesses.html>

(2) Nobbs, Chris, 2017b, *Australia's Assault on Norfolk Island 2015-16: Despatches from the Frontline*, Amazon.

### Biographical Note

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