

**Robin Adams JP**  
**Norfolk Island Regional Council**  
Public inquiry into the Norfolk Island Regional Council  
31 May to 4 June 2021

**WITNESS STATEMENT**

**1. “THE TRANSITION PROCESS LEADING TO THE ESTABLISHMENT OF THE NIRC ON 1 JULY 2016 AND THE PERIOD THEREAFTER, INCLUDING INTER ALIA:**

- (a) *The nature and extent of any due diligence process undertaken by the NIRC (including its governing body) – so as to ascertain, among other things, the assets and liabilities of the council, the scope of the functions and responsibilities of the council, the responsibilities of each councillor, and their authority;*
- (b) *how the budget, the long-term financial planning, asset management planning and operational planning were developed before and after 1 July 2016;*
- (c) *the extent to which the administration and policies of the former Norfolk Island Administration were subsumed by the Council – i.e. to what extent was corporate knowledge effectively transferred?*

**IN RESPONSE**

A new model of governance was imposed on Norfolk Island in 2016 following the removal of self-government by the Australian Parliament in 2015; and its replacement from 1 July 2016 with the Norfolk Island Regional Council (NIRC). NIRC operates under a Commonwealth applied version of NSW legislation - the *Local Government Act 1993 (NSW)(NI)* (the applied NSW Act). The applied NSW Act and the policies adopted by NIRC, including the ‘*Model Code of Conduct*’ and the ‘*Councillor Access to Information and Interaction with staff*’ policy, clearly spell out the ‘scope of the functions and responsibilities of the council, the responsibilities of each councillor, and their authority’.

The Auditor-General Report No. 43 2018-2019 presented to the Presiding Officers of the Australian Parliament 31 May 2019 provides helpful insight into the transition process ‘***leading to the establishment of the NIRC***’.

**Rational for Undertaking the Audit**

“There were significant risks involved with the Australian Government taking on additional responsibilities in a remote location where, similar to the Indian Ocean Territories, service delivery is complex and expensive. ANAO reporting for the 2015–16 financial statements audit reported two significant audit findings in relation the Administration of Norfolk Island, indicating that ‘At the conclusion of the 2015–16 audit, the finalisation of key governance processes and policies by the Administration remained outstanding.’ As Norfolk Island’s new governance and service delivery arrangements began on 1 July 2016, it was timely to undertake an audit focusing on the design, implementation and monitoring of reforms to services on Norfolk Island.” **Source: Auditor-General Report No. 43 2018-2019 Para.5**

**Audit objective and criteria**

“The audit assessed whether the department had designed and implemented appropriate governance and administration arrangements for the transition and delivery of sustainable reforms to services on Norfolk Island.” **Source: Auditor-General Report No. 43 2018-2019 Para.6 S**

**Robin Adams JP**  
**Norfolk Island Regional Council**  
**Public inquiry into the Norfolk Island Regional Council**  
**31 May to 4 June 2021**

The following which include Audit Findings documented in the ANAO Report demonstrate some of the issues in the transition process, and in the period thereafter, which have impacted on the NIRC from its commencement:

i. "At the commencement of the transition period on 18 June 2015, the Australian Government assumed control of the ANI. A funding agreement that outlined deliverables to underpin the transition process and related milestone payments was established between the department and the ANI for 2015–16. This provided funding for additional executive positions, including an Executive Director, within the ANI.<sup>81</sup> Key deliverables were the development of strategic and operational plans; transitioning federal and state-type services to the Australian Government; and transitioning the ANI to the NIRC" **Source: Auditor-General Report No. 43 2018-2019 Para. 3.63**

"The ANI Executive Director advised the department soon after being appointed on 24 June 2015 that additional resources were required to meet the implementation timeframes" **Source: Auditor-General Report No. 43 2018-2019 Para 3.64**

**Norfolk Island Regional Council**

ii. "The NIRC is comprised of five councillors and its responsibilities are broad ranging (refer to Table 3.1) compared to typical mainland councils and the two shire councils in the Indian Ocean Territories. This is due to the NIRC retaining responsibility for GBEs and, in the absence of a fully engaged state partner, also delivering some state-type responsibilities" **Source: Auditor-General Report No. 43 2018-2019 Para. 3.75**

iii. "The department advised the Minister in January 2016 that:

'The priority is for the establishment of a functioning Council on 1 July 2016. The complexity and diversity of the activities of the former Assembly and Administration are such that a thorough analysis and assessment of the most appropriate method of future service delivery will be compromised by adherence to the 1 July deadline.' " **Source: Auditor-General Report No. 43 2018-2019 Para 3.77**

iv. "The ANAO closing report for the Administration of Norfolk Island 2015–16 financial statement audit reflected that the NIRC's business model 'does not clearly demonstrate a self-sustaining model that can fund capital expenditure in the future to maintain or upgrade facilities such as the airport. The level of revenue generated by rates and the GBEs are currently insufficient to both fund short term costs such as employees and suppliers. While the medium-term forecasts do provide for future balanced budgets, these assumptions are conditional on a significant increase in Commonwealth Financial Assistance Grant revenue and an increase in current operational fees and charges. The management of this by the NIRC will be central to the future success of the NIRC.' **Source: Auditor-General Report No. 43 2018-2019 Para. 3.78.**

v. "The closing report further noted that 'significant financial and operational reform is still required to increase revenue and closely monitor expenditure in order to fund asset replacement and upgrade programs and achieve an accrual based surplus'. There were aspects of the reform program that were to be considered in the longer term, including reviewing the GBEs" **Source: Auditor-General Report No. 43 2018-2019 Para. 3.79**

**Robin Adams JP**  
**Norfolk Island Regional Council**  
**Public inquiry into the Norfolk Island Regional Council**  
**31 May to 4 June 2021**

vi. “There was no formal channel established by the department for the NIRC to apply for additional grant funding normally provided by states and territories. The department identified risks to the achievement of the Norfolk Island reforms in its advice to the Australian Government in February 2015 but did not develop a risk management plan until September 2017. Risk owners or risk managers were not identified, and some controls to mitigate risks, particularly in regard to the risk of not securing a fully-engaged partner for the delivery of state-type services, were inadequate”. **Source: Auditor-General Report No. 43 2018-2019 Paras 15 and 16**

vii. **DESIGN OF LOCAL GOVERNMENT SERVICE DELIVERY**

“The department utilised data from the ANI’s 2014–15 budget to estimate the revenue streams and expenses of the proposed Norfolk Island Regional Council in order to design and establish the funding required to support the sustainable delivery of services. The department’s costings did not reflect planned increases in service standards to meet mainland standards (refer to paragraph 3.86). This meant that the cost of delivering services was under-stated.” **Source: Auditor-General Report No. 43 2018-2019 Para.2.16**

“The department contracted the ANI, through a Service Delivery Agreement (SDA) on 24 June 2016, to provide state-type services including: environmental protection; courts and legal services; workers compensation; motor vehicle registrations; food safety; and ports management, including lighterage. The ANI was replaced by the NIRC on 1 July 2016, and took responsibility for these state-type services along with ‘responsibility for local government functions such as land planning, local roads and waste management’ and the operation of business enterprises including liquor supply, electricity generation, telecommunications, and the airport.....” **Source: Auditor-General Report No. 43 2018-2019 Para 3.10**

viii. The first Norfolk Island Regional Council commenced on 1 July 2016. The 2016-17 budget presented to Council on 20 July 2016 projected a net operating deficit of \$4.276 million; after depreciation expense of \$5.826 million. The report to Council details major revenue sources, major areas of expenditure, capital budget and cash position. **Source: Council agenda for 20 July 2016.**

ix. In December 2016, the NIRC noted in its long term financial plan that:

“The transitional phase from the previous administration to the Council was not adequately planned and implemented. Critical transitional aspects such as the implementation of Civica and the relocation of Council’s administration staff to the Bi-Centennial building did not occur as was originally planned. Council has needed to devote its limited resources to addressing these issues amongst many others that were left unresolved, whilst addressing the day to day business of the Council.” **Source: Auditor-General Report No. 43 2018-2019 Para 3.80**

**FINANCIAL ASSISTANCE GRANTS (FAGS)**

x. “The NIRC’s delivery of local government services was financially supported by the payment of Financial Assistance Grants (FAGs). The calculation of annual FAGs for 2016–17 and 2017–18 was undertaken by the NSW Local Government Grants Commission (Commission), as noted at paragraph 3.46. The Commission indicated that it could not make a comparative assessment for Norfolk Island but nonetheless used Brewarrina Shire Council (classified as ‘rural agricultural small’) as its model for calculating Norfolk Island’s FAGs. **Source: Auditor-General Report No. 43 2018-2019 Para 3.81**

**Robin Adams JP**  
**Norfolk Island Regional Council**  
**Public inquiry into the Norfolk Island Regional Council**  
**31 May to 4 June 2021**

xi. "For 2018–19, the funding calculations model was changed to better reflect Norfolk Island's remote status and the resulting higher costs and revenue raising constraints, drawing on work undertaken by the Western Australian Government for the Indian Ocean Territories FAG calculation. This resulted in the FAGs for Norfolk Island increasing substantially. From a base of \$1.89m in 2016–17, the FAGs increased by 30 per cent to \$2.45m in 2017–18 and by 41 per cent to \$3.46m in 2018–19." **Source: Auditor-General Report No. 43 2018-2019 Para 3.82**

xii. Council inherited the following loans from the ANI – Airport Runway Loan \$12m; Cascade Cliff Loan \$3.25m. The amount of debt outstanding at 30 June 2017 was expected to be \$10,323,514 and Cascade Cliff Loan \$123,514. Council's request of 2 August 2016 for the airport loan to be waived as a gesture of good will to the new Council was declined but a new payment schedule was agreed. Remaining \$10.9m of the airport loan was waived in April 2019.

xiii. **AUSTRALIAN PRODUCTIVITY COMMISSION**

Council by resolution 2017/224 on 20 December 2017 unanimously agreed the Mayor and General Manager enter into conversation with the Commonwealth re the engagement of the Australian Productivity Commission to carry out research and conduct a public inquiry to determine –

- i. The current financial capacity of the island; and
- ii. How to grow Norfolk Island economically, socially, culturally and environmentally, including building a diverse and vibrant business environment.

On the grounds 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," Minister the Hon Dr. John McVeigh advised he had asked the Department of Infrastructure, Regional Development and Cities to consider options for reviewing and monitoring the progress of the reforms.

**2. COUNCIL POLICIES (as at 20.5.2021) - <http://www.norfolkisland.gov.nf/policy-and-governance/council-policies>**

"A Council policy is adopted by Council resolution and is in place until it is made obsolete by Council. Policies detail Council's position on a particular matter and provide transparency to the community of Council's decision making by ensuring that fair and consistent decisions are made throughout Council. Policies can be put in place because there is a legal requirement to do so; other policies are put in place to provide guidelines for Councillors and staff to work towards strategic objectives of Council or are administrative in nature. Policies of Council relate to one of its four functional areas, these four areas are detailed below with their corresponding policies."

**1. General Manager** Includes Councillors, corporate management, economic development, tourism, museums and library services

**2. Governance and Human Resources** Includes internal services such as policy development, planning and reporting, legal advice, internal audit, records management and public information

**3. Corporate** Includes customer services, finance, information technology and registry office

**4. Services** Includes asset management, airport and utility services

**Robin Adams JP**  
**Norfolk Island Regional Council**  
Public inquiry into the Norfolk Island Regional Council  
31 May to 4 June 2021

**3.      *TRANSITIONED                      POLICIES                      UNDER                      REVIEW                      (Source***  
***<http://www.norfolkisland.gov.nf/transitioned-policies-under-review> as at 20.5.2021)***

“Policies of the Administration of Norfolk Island (ANI) were temporarily transitioned for the Norfolk Island Regional Council to review and develop its own appropriate policies for the new Regional Council. The below ANI policies are currently still in place and under review.”

- Infection and health control
- OHS Training and Competence
- Workplace Amenities
- Return to Work Program
- Management of Work Experience Students
- Studies Assistance
- Management and Use of the ANI Facebook Page
- Radio Norfolk Policy on Programming
- Reimbursement of Recreational Travel Allowance
- Recognition of Service (Revised February 2016)
- Use of Personal Social Media by Staff Under the Code of Conduct
- Radio Norfolk Election Broadcasting Policy
- IT Security User Password Policy (Revised May 2015)
- Application and Acquittal Process for Business Travel and Allowances
- Reimbursement of Consultants and Contractors Out of Pocket Expenses
- Maintenance and Repair of Footpaths
- Warning Signs as Remote Supervision
- Trees and Tree Root Management
- Contractor Management
- Construction Site Safety
- Plant and Equipment Safety
- Portable Equipment Electrical Safety
- Policy for Relocating Building containing Asbestos
- Use of the Administration’s Motor Vehicle Fleet (Revised)
- Safe Asbestos Removal and Disposal Practices

**4.      *“COUNCIL AGENDA EXTRAORDINARY MEETING 1 JUNE 2020 - NIRC ORGANISATIONAL RESTRUCTURE***

Author:            Andrew Roach, General Manager

**BACKGROUND**

“I commenced the role of General Manager on 6 January 2020. Since that time Council has adopted a Strategic Action Plan, commenced significant capital programs, addressed water shortages, engaged in the sea freight solution, and the latest and most difficult challenge of managing a pandemic. Added to this challenge for me is analysing our financial position, and how this can support the challenges facing this Council and its community for the next few years.

**Robin Adams JP**  
**Norfolk Island Regional Council**  
**Public inquiry into the Norfolk Island Regional Council**  
**31 May to 4 June 2021**

“Through the Covid-19 crisis we have uncovered the dire financial position facing the Council and it should be noted that these financial challenges were always there, as a result of poor decisions made by former Management. However, through the efforts of the current Executive Officers and staff including Roger Nielsen {our interim contracted Finance Manager}, we have identified these issues and worked diligently to provide an urgent solution in this short period of time - knowing that financial stability and accountability is paramount. In searching for solutions, it is also important to note that Council has a number of contractual obligations that it cannot change; therefore hard fiscal decisions are now required to correct our course.

#### **DISCUSSION**

Attached to this report is the existing structure (Attachment 1) and the newly proposed structure (Attachment 2).

“Benefits of new structure:

- Whilst not desirable, there are more direct reports to the General Manager, which allows more direct input into the operation of Council
- Economic Development is created to drive the change in direction Council requires for recovery, but more importantly creation of new revenue streams (diversification)
- Considerable savings are created by this structure {\$2.2M), which will include redundancies for 20 permanent roles which also includes a significant reduction in casuals and non- replacement of some vacant positions.
- Removing silos that exist between teams within Council
- Alignment with TAAPILI goals and objectives
- Reallocates existing resources into new positions to provide them with an opportunity, but will require a formal application process in 12 months
- Addresses opportunities to maximise support programs from the existing SDA arrangement with the Department
- Provides opportunity to the local economy to ensure some stimulus {legal panel)
- Decision will remove the anxiety in the organisation that has been building now for 2 months

#### **“GOVERNANCE/POLICY IMPLICATIONS**

The coronavirus has permanently changed the way we live and work beyond travel restrictions and Social Distancing. Governance and Policies will have to be reviewed and aligned to what this 'New Normal' transpires for us. As such, more direct reporting positions will allow the General Manager to personally oversight the recovery and transition period of each of NIRC's sectors going forward post

#### **“FINANCIAL IMPLICATIONS**

This organisational restructure will yield \$2.2M in savings. This will reduce total employment costs from \$11.9M to \$10.5M. This is a positive step in addressing community concerns that have been raised with me since arriving in the role and shows community leadership during this difficult time of fiscal constraint.

#### **RECOMMENDATION**

*That: Council notes the General Managers report on the Organisational Restructure be placed in the Operational Plan 2020 – 2021 for public exhibition and approves the General Manager as a matter of urgency to address the fiscal challenges facing the council. **CARRIED UNANIMOUSLY***

**Robin Adams JP**  
**Norfolk Island Regional Council**  
Public inquiry into the Norfolk Island Regional Council  
31 May to 4 June 2021

5.

**“COUNCIL AGENDA EXTRAORDINARY MEETING 24 JUNE 2020 –**

**“7.1 MAYORAL MINUTE - INDEPENDENT GOVERNANCE AND FINANCIAL AUDIT OF NIRC OPERATIONS**

**RESOLUTION 2020/84 CARRIED UNANIMOUSLY**

**BACKGROUND**

“Council for some months now has been addressing financial challenges in developing the 2020/21 Operational Plan primarily resulting from decisions by previous management and which have been further magnified by the effects of the COVID-19 pandemic. Whilst the Council is still receiving community submissions on the Operational Plan, recently highlighted financial exigencies now require Council to take decisive action to ensure Council is able to continue to deliver services; and to adopt a “reduced business as usual” plan on 30 June. Whilst this will allow Council to continue in a reduced capacity during these times of austerity, I believe it is imperative that this elected Council provide a newly elected Council with a list of recommendations to allow them to start their term on the best possible footing.

**“To recap.**

This, the first Norfolk Island Regional Council, has had to address many challenges throughout its term, and in particular the following challenges in the past 6 months:

- Council has been provided poor information in many of their decision making processes by previous management.
- The ‘State Disconnect’ and the resulting systemic and structural deficiencies in the arrangements between NIRC and the Commonwealth as our “State”.
- Existing contractual obligations will exhaust NIRC’s entire cash position and our financial position for 30 June 2021 will be zero cash in reserve.
- NIRC’s revenue streams are so reliant on the Tourism economy; and a review must be undertaken to improve resilience and sustainability.
- Existing NIRC governance systems are inadequate, and financially unsustainable.
- NIRC employees require training and support to make sure our systems are operationally efficient.”

“Unless substantial change is achieved in our operational program, and the Islands economy recovers sufficiently, NIRC’s future remains uncertain. Councillors and I as Mayor believe it is now time to act, and to provide an incoming Council with a clear pathway to success, allowing them an opportunity to either drive change or accept what we have. With that in mind, I now propose the following:

**“RECOMMENDATION**

*“THAT –*

1. *Council instructs the General Manager as a matter of priority to bring to Council for its endorsement terms of reference for the engagement of an appropriate consultant to conduct a full independent governance and financial audit of NIRC operations; and that the General Manager request the Commonwealth Government to meet the audit cost.*

**Robin Adams JP**  
**Norfolk Island Regional Council**  
**Public inquiry into the Norfolk Island Regional Council**  
**31 May to 4 June 2021**

2. *The terms of reference include legislative, regulatory and policy framework amendments to improve the operation of NIRC, with an underlying principle of reduction of service delivery cost and red tape.*
3. *In calling for this review/audit, Council acknowledges that these actions have been taken to ensure a stronger future for the Island through sustainable revenue sources, expenditure management and a pathway towards less reliance on Commonwealth funding.*
4. *Council lead the communication locally as this must be an Island driven initiative.*
5. *Notwithstanding Council resolution 2020/56 of 20 May 2020 Council now requests the election be delayed by two months or to a later date if deemed necessary by the Commonwealth to allow for the review/audit to be undertaken and a report received and adopted by the existing Council to allow the newly elected Council to enter their term unburdened by this process."*

6.

**COUNCIL AGENDA EXTRAORDINARY MEETING 3 JULY 2020**

**6.1 TERMS OF REFERENCE: INDEPENDENT GOVERNANCE AND FINANCIAL AUDIT OF NIRC OPERATIONS**

**Author: Andrew Roach, General Manager**

**NOTE: COUNCIL AGENDA ATTACHED IN FULL. RESOLUTION 2020/102 - CARRIED UNANIMOUSLY.**

**IN SUMMARY**

**THE WAY FORWARD IS THROUGH COLLABORATION, CO-OPERATION AND PARTNERSHIP**

*"Key note speakers at the June 2018 Australian Local Government Association National Assembly consistently spoke of the benefit of collaboration, co-operation and partnership to achieve the best outcome on complex matters.*

*"The continuing challenge is to devise and maintain open processes of dialogue between the Commonwealth and Norfolk Island; processes of dialogue that ensure the community is directly engaged in discussion on complex matters thereby establishing a sense of ownership and responsibility. In resolving this challenge Norfolk Island and Australia will be the winners.*

*"We look forward to returning to the table with the Commonwealth in the very near future to further discuss the broad picture issues."*

**Source: Agenda for Councillors meeting 25 July 2018 with the Hon Dr John McVeigh, Minister for Regional Development, Territories and Local Government**



**Robin Adams JP**  
**Norfolk Island Regional Council**  
Public inquiry into the Norfolk Island Regional Council  
31 May to 4 June 2021

NORFOLK ISLAND REGIONAL COUNCIL  
INDEPENDENT GOVERNANCE AND FINANCIAL AUDIT BY  
GRASSROOTS CONNECTIONS AUSTRALIA  
(15 November 2020)

*“The analysis undertaken for this Audit Report has highlighted that significant legacy issues were inherited by NIRC upon its establishment. It is recommended that these issues (as detailed in this Audit) be addressed as a matter of urgency as significant financial challenges and environmental non-compliances continue to exist.*

*“Whilst it appears it was the expectation of the Commonwealth for NIRC to take responsibility for these issues, NIRC does not have sufficient funding capacity for the issues to be addressed in a timely manner. Consequently, there is an urgent need for a long-term funded strategic and financial plan to be developed in a collaborative manner between NIRC and the Commonwealth.*

*“This will help deliver –*

- a more robust financial outcome;*
- ensure greater compliance with established environmental and public health standards; and*
- prioritise infrastructure and service projects to meet identified community needs.*

*“To be effective, the plan must include the allocation of responsibilities, actions and delivery timeframes. The strategic and financial plan referenced above should be informed by the Audit’s 84 recommendations, which are presented in Section 7 of this Report.”*



**Robin Adams JP**  
24 May 2021

|   |   |
|---|---|
| <b>Robin Adams JP profile:</b>  |   |
| I am Australian born and educated, a Norfolk Islander and a direct descendent of Fletcher Christian of <i>HMA Bounty</i> . I have lived continuously on Norfolk Island since December 1966. |   |
| <b>From 1 July 2016</b>   | <b>Mayor, Norfolk Island Regional Council</b>   |
| <b>2013 - 2015</b>  | <b>Minister for Cultural Heritage and Community Services in the Norfolk Island Government, Vice President Norfolk Island CPA Branch</b>                   |
| <b>2010 - 2013</b>  | <b>Speaker of the Norfolk Island Parliament, Branch President Norfolk Island CPA Branch</b>   |
| <b>1984 - 2010</b>  | <b>Clerk to the Norfolk Island Parliament &amp; Secretary/Treasurer to the Norfolk Island Branch the Commonwealth Parliamentary Association (the CPA)</b> |
| <b>1967 – 1984</b>  | <b>Held various senior positions in the Norfolk Island Public Service</b>   |
| <b>1964 – 1966</b>  | <b>Science Teacher, NSW Department of Education</b>   |