On 4 November longstanding residents of New Caledonia will vote on whether or not New Caledonia will accede to full sovereignty and become independent. What does this mean for continued and enhanced business activity?

As is often the case, there is good news and bad news.

For sure the referendum is the final step of the 1998 Noumea Accord. And it is this accord and its predecessor agreements that have presided over thirty years of peace, predictability and economic growth. And if there’s anything business runs shy of, it is lack of peace, predictability and economic growth. But the outlook is more complex, and in some ways presents more opportunity, than initially meets the eye.

The referendum is part of a broader framework, a carefully negotiated framework that began in 1988 with the Matignon/Oudinot/Bercy Accords and was expanded and extended in the 1998 Noumea Accords. The fact that it is taking place at all is a great confidence building step. It was not a foregone conclusion that it would be held. As recently as over the last two years some parties have suggested that it be deferred yet again, and this after broken promises that date back as far as the 1960s and 1970s. The fulfilment of the commitment to hold the referendum is a sign of the good faith of the three major sides involved: the French State, the pro independence and pro France groups.

It is these agreements which established new local political and economic institutions that have worked generally very well. And it is these agreements which spelled out a schedule of new responsibilities for local authorities, across a range of activities including shared foreign affairs and regional trade responsibilities; critically, the power to legislate, including on setting vital economic conditions; and clear mechanisms through which outsiders, like Australians, could participate in business. These agreements put an end to civil war over independence, by deferring a sensitive vote to give time for New Caledonia to consolidate its economy; to re-distribute the benefits including from its main resource, nickel; and to approach the shape of its future in a calm informed way and most of all in a peaceful
environment. Without them there would have been less business activity across the Coral Sea.

Critically, and a major positive factor in the current environment, the Noumea Accord also provides that whatever has been transferred to New Caledonian authorities, will remain irreversibly with them regardless of the outcome of the referendum. This provides a certain predictability especially as the referendum process plays out.

I know that businesses here present engaged in New Caledonia will have worked hard to get on top of the complexity of New Caledonia’s decision-making apparatus relating to all kinds of business activity. You have invested deeply in understanding the many cultural factors at play - not only indigenous, but French, culture and customs. And to understand which layer of government (the French State, the New Caledonian Government, the Provincial governments and municipalities) is in control of which responsibilities. You can take comfort that this investment is not wasted, all of those local handovers will remain in place. I would maintain however that there’s more work to be done. If Australian companies had been more careful about cultural and other factors in their early engagement in the nickel and education sectors, perhaps they would be more present in those sectors than they are today.

The record of bilateral business activity over the last twenty years, it must be admitted, has been mixed. New Caledonia was hesitant to take up its new powers especially relating to regional trade. There have been limitations in maximising its first international agreement, the Economic Arrangement with Australia whose signature I witnessed in 2002, but that framework is at least there and ready to be built on in the future. We know too that the early broad engagement by Australian businesses in the nickel projects and in the education sector in the early 2000s was thwarted by a concerted local policy to turn instead towards francophone Canada. And New Caledonia’s cost of living is still 34% more expensive than in metropolitan France, hardly welcoming regional participation. There has been a lot of talk about regional integration for the French territories, and fairly limited action, but there have been some positive developments.

New Caledonia is fully engaged in a range of Pacific regional bodies in its own right, from the Secretariat for the Pacific Community, whose headquarters have been in Noumea since 1947, the related range of technical bodies in the Council of Regional Organisations in the
Pacific CROPS, and the Pacific Islands Forum including Forum Economic Ministers meetings. Inevitably this engagement, particularly full membership of the Forum, will lead to greater business activity provided Island countries keep the pressure on.

We in the region would like France and New Caledonia to do more in practical terms to open its markets. Here there are signs of opportunity. A big recent step has been the legislation passed earlier this month by New Caledonian authorities, after a very long gestation period, introducing goods and service tax from 1 October. This tax will replace four import/freight taxes and potentially opens the market to Australian and other regional goods and services. Let’s not forget that this big change has been made by the local authorities, not France. But the proof will be in the application, and there are already signs of qualified protectionist application of the removal of the TGI import tax (for example payment of the tax anyway by local businesses who prefer an imported over a local product, ostensibly to level the playing field locally). Still, a cursory look at the list of existing tax provision shows that there are quite a few products that currently incur around 35-45% in import taxes, all of which, from 1 October, will be liable only to taxes of from 6 to a maximum of 22% local GST. So there will be opportunities there.

Another potentially positive feature of this final stage of the Noumea Accord is that the independence referendum is not just one day, it is a process, and one that is likely to take up to six years. The 1998 Noumea Accord provides for up to three votes. If the first referendum results in a “no” to independence, there be another within two years if 1/3 of the local Congress agrees; and if the result remained no, a third one two years after that on the same basis. If the answer is still no, consultations about the future will follow, with the French state. Because the independence groups hold many more than 1/3 of the Congress seats, the second and third votes are likely if the first and second results are against independence.

You would need a crystal ball to predict the outcome of the first vote, especially since the specific group of voters eligible to vote in this referendum has never been tested electorally before, and because the vote in any case is one about independence, not about elections to local bodies like other votes. Two polls in the last year or so have suggested a 60 to 40 per cent support for staying with France but they are very small samples of “self-identified eligible voters” with a big margin of error.
In the event of a vote for independence, then clearly all decisions would be taken by the New Caledonian government, which could be an outcome at the least simplifying the processes of doing business for external players. However, even if independent, there will continue to be differences in powers exerted by provincial as opposed to territory-wide authorities. Comments by some independence leaders suggest that even a newly independent New Caledonia may want a continued French role in some areas, and I’ll come to those later.

In the event of what many believe is more likely, that of a “no” to independence at least for the first vote on 4 November, then the possibility of a further vote or even two would kick in, and the process could extend to 2024.

The protracted nature of this process, which is focused on the greatest areas of difference and past bitterness in this territory, suggests a period of potential division and instability. In acknowledgement of this reality, France and the main parties agreed to a new Dialogue on the future process that began late in 2017. The design of this process is to set the background for the referendum itself, identifying first areas of agreement and eventually to tackle areas of disagreement.

Establishing this habit of dialogue is another critical confidence-building factor. There are already numerous institutions engaging political leaders in different ways. These include the local Government or Cabinet, the local Congress, the Provincial governments, and the Committee of Signatories to the Noumea Accord, a steering group that meets every year. To engage as widely as possible and in a private forum for debate and discussion, French Prime Minister Édouard Philippe set up and takes a close interest in the Dialogue on the Future Committee which meets regularly engaging the main political party leaders both pro independence and pro France, the French High Commissioner, and a personal representative of Philippe.

So what are the areas open for debate during the forthcoming referendum period? There are a number of foreseeable areas of discussion, each touching on the most sensitive political nerves locally. Each element of the following areas provides elements which can be negotiated into a future framework that will be the basis of a future New Caledonia. They will include:
o all the powers not yet handed over to New Caledonia so far. Decisions will specifically be made, in the course of time about:

- The “regalien” or “core sovereign” responsibilities – foreign affairs, defence, currency, justice, law and order
- The so-called Article 27 powers (broadcast media, tertiary education and municipal government)

o the international status of New Caledonia, including whether or not it takes a seat in the UN

o the powers to decide on immigration and related issues of “citizenship” or how to retain special voting and employment rights for longstanding residents as opposed to transient or newcomer visitors from other parts of France

o greater returns to New Caledonia from its primary resource, nickel

o finally, measures to better engage the young, especially young Kanaks, many of whom everyone agrees have been left out of the benefits of the Accord. This will provide future opportunities for Australian business in education, youth activity, sport and other areas.

These elements are clearly all elements that impact on doing business in New Caledonia.

What is the likelihood of success as defined as a smooth transition to a new framework? Much will depend on the good faith of the three main players. The stake for each is higher than ever before.

The French State has claimed it is remaining impartial in its role of organising the referendum, ensuring that the UN has been involved for example in supervising the drawing up of the electoral lists, and in observing on the day. This is to ensure recognition, in New Caledonia, the region and beyond, of the process as fair and legitimate. This is a key confidence-building signal.

At the same time, in public statements at the highest level the French State has acknowledged the importance of its overseas possessions, particularly its Pacific possessions, as delivering strategic benefits for France vital to its global leadership role. In May this year President Macron outlined France’s attachment to a new strategic axis reaching from Paris, to New
Delhi, to Canberra, and Noumea. He underlined that France would be the lesser without New Caledonia and described the referendum as “constructing a sovereignty within a national sovereignty”. He also pledged future French support in strengthening of the nickel and tourism sectors and expansion into food production, forestry, and marine exploitation; and support facing climate change. These areas are potential new areas of opportunity for Australian business in a future New Caledonia within France.

For both pro independence and pro France groups, the stakes are also higher than thirty years ago. Despite ongoing French contributions to the economy, economic development, particularly the massive investment in two nickel processing plants, has strengthened the capacity of the local government to fund many of its activities.

The “mainstream” independence parties, as opposed to the more radical elements such as the Labour Party, have been pragmatic in the positions they are projecting in the campaign period. FLNKS leader Daniel Goa visited Australia in July and, while reaffirming a strong commitment to independence, he referred also to maintaining New Caledonia’s regional relationships and respecting the historical relationship with France, and the FLNKS commitment to a peaceful referendum process. Palika leader Paul Néaoutyine has even put forward a “full sovereignty in partnership with France” option.

Similarly, while the pro France side is fragmented and some small elements advocate staying with France and nothing less than staying with France, the pro France party with the most seats in the Congress, the Calédonie Ensemble, is propounding a position of collaboration with all sectors of New Caledonian society and of negotiation to obtain new powers from France.

From this it seems clear that the scope is pretty high for sound progress in the dialogue process, resulting in time in agreement over the specific parameters of New Caledonia beyond 2024, with new opportunities for Australian business. The sum of these stances should give cause for confidence and optimism.

Yes, there are risks to stability in this sensitive period. We see already non-participation in the dialogue process by some pro France parties, a blockade by young Kanaks at one mining site, and a referendum boycott call by one independence party. There will also be a local provincial election in May 2019 with the potential for further division. But on the positive
side, there are now established mechanisms for peaceful discussion and compromise, with the participation of most broadly based parties.

What can the Australia Pacific Business Council do at this delicate stage to advance its interests? Of course Australians have no place in favouring either an argument for independence or for staying with France. This is a decision for the New Caledonian people. Any involvement in the debate is bound to be counterproductive given the sensitivities.

In a presentation in Canberra just this week, I have argued that regional governments including Australia have historically been influential in shaping France’s past behaviour in the region. I’m thinking here of the opposition to nuclear testing and mishandling of decolonisation in the 1980s when island governments achieved international support and changed France’s behaviour. The Pacific Islands Forum independent governments have a continuing role of influence as the final stage of the Noumea Accord plays out.

Specifically, business can lobby the Australian and French governments to step up and use the publicly declared enhanced strategic partnership with France (2012 and 2017) to urge the opening of France’s Pacific territories to the region in real and practical ways, not the least including greater access for Australian business. France benefits from almost twice as much Australian investment than Australia receives from France; it sends four times as many exports to Australia than it receives from Australia; and well over twice as many services to Australia than Australian services in France. We’ve also recently granted our largest defence contract ever, worth over $A 50 b. to a French–state backed company. So we have leverage on which to draw.

There is also a role for the Pacific Business Council to encourage business in the independent Forum countries to press the Forum Economic Ministers Meetings, and New Caledonian and French Polynesian representatives to open their markets to Islands products and services.

The Business Council can also rightfully make representations to the New Caledonian authorities, as they retain devolved powers regardless of the referendum process. The Council could similarly encourage the strengthening of the existing positive trend towards greater regional involvement by the French territories, and openness to regional economies including our own.