

I would like to make a statement – which I table for inclusion in the Minutes please.

We are charged with working together to get the best outcome for the people of Norfolk Island and Australia. Yesterday we successfully worked together to progress the framework for a model of governance for Norfolk Island through consensus.

The Preamble to the new primary legislation seeks to address the inclusion in our Terms of Reference of the recommendation by the Joint Standing Committee that:

“... the NIGC will consider the development of a preamble for the establishing legislation that amongst other things:

...defines the nature of the relationship between Norfolk Island and Australia; and

sets out the shared aspirations for the future directions of the relationship.”

We have attempted to address these recommendations in the Preamble.

Some members of the NIGC have expressed issue with the clause

“WHEREAS the Parliament recognises Norfolk Island as a Non-Self Governing Territory within the meaning of the Charter of the United Nations”

In this respect I refer you to the Australian Attorney-General’s website public sector guidance sheet entitled “Right to self-determination” in which it states: “...it is agreed that at a minimum, it entails the entitlement of peoples to have control over their destiny and to be treated respectfully. This includes peoples being free to pursue their economic, social and cultural development.”

I table two letters which have been presented to the Norfolk Island Governance Committee:

1. A Letter from the Norfolk Island United Nations Petitions Group; and
2. A letter from the Norfolk Island People for Democracy; and

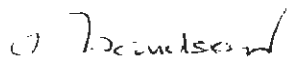
ask that these documents together with our Terms of Reference be used as evidence of strong community sentiment on the need to formally recognise the right of the people of Norfolk Island to freely pursue their economic, social and cultural development.

*D. Henderson*  
13/6/24

This right to self-determination was one of the platforms I stood for election to be a community member of this Norfolk Island Governance Committee and therefore I cannot resile from this or acknowledgement that Norfolk Island is a non-self governing Territory within the meaning of the Charter of the United Nations.

Today we commenced with the John Adams Prayer . Do not let expedience be our "folly" and we show a lack of good judgement to achieve the best outcome for both Norfolk Island and Australia. Our Terms of engagement is for three years and unless all the members of the NIGC are able to honestly respond to the underlying sentiments in the two letters I have tabled and the Attorney-General's public sector guidance information, I do not believe the 28 June timeframe can be achieved as I have an obligation to go back to the Norfolk Island community to explain why such acknowledgement of the community's rights has been denied.

Thank you

  
ALVIN DAVIDSON  
13/6/24



## Norfolk Island's Future Governance Model

The Norfolk Islanders welcome this opportunity to respond to the proposed governance model for Norfolk Island. We agree that *"Genuine self-determination is fundamental to fostering the well-being of the people of Norfolk Island"* and endorse the Australian Government's commitment to supporting *"the island's long-term aspiration to be as self-sustaining as possible"*.

At the same time, however, it is important that all parties learn the lessons from history and ensure that mistakes are not repeated. We recall that the 1913 transfer to Australia via the Norfolk Island Act 1913 *"to sever Norfolk Island from the Government of New South Wales and to annex it"* to Australia constituted an action which was undertaken without the formal consent of the inhabitants. We further recall that the 2018 **"Assessment of self-governance sufficiency in conformity with internationally-recognised standards"**<sup>1</sup> identified the *"..governance under the Norfolk Island Act of 1979 revealed a significant degree of delegated - rather than devolved - authority exercised by the elected government with the objective reality of a retained unilateral power of the cosmopole. This rendered the territory below the threshold of full internal self-government, but yet not under the formal U.N. review process as a listed Non Self-Governing Territory"*.

The result of the above arrangements has meant that successive Norfolk Island Governments have held responsibilities, but not held the controls to ensure optimum governance outcomes. The *Norfolk Island Act 1979* established a democratically elected Parliament with power to make laws for the good governance of the island in respect of crime, health, education, customs, immigration and other local matters, whilst the Australian Government retained power over defence, aviation and shipping.

In 2015, however, the Australian Government re-colonised Norfolk Island by abolishing the Norfolk Island Legislative Assembly. Since this time, the Norfolk Islanders have been excluded from the ability to pass laws for the development and long-term benefit of Norfolk Island and the Norfolk Islanders. Without an equitable and accountable governance framework for the islanders, changes such as the decision by the Australian MP on the 6<sup>th</sup> of December 2021 to dismiss and prevent any elected or democratically accountable body for the equitable representation of the Island, instead installing an unaccountable officer to make damaging unilateral decisions across socio-economic and governance outcomes – often with disastrous results.

The time has now come for the Norfolk Islanders to be given greater autonomy in the governance of Norfolk Island. The Norfolk Islanders therefore cannot accept and will not support any model in which “*Commonwealth laws will continue to apply on Norfolk Island*” and “*the power of the new governing body to make laws will be limited to local government-type laws*”.

The Norfolk Islanders will only support a future governance model that has, at a minimum, the following characteristics:

1. Acknowledgment of the Norfolk Islanders as the indigenous population of Norfolk Island, having been in continuous occupation since 1856, and possessing a unique and distinctive cultural identity.
2. The right for Norfolk Islanders to pass their own laws, free from Australian Government interference, on immigration, customs, crime, health and education.
3. The granting to Norfolk Island exclusive jurisdiction over both living and non-living resources within the Island’s 200 nautical mile exclusive economic zone.
4. The abolition of land rates and the reinstatement of a goods and services tax, with all revenues paid directly to the Norfolk Island Government.
5. A timetable with clearly-defined aspirational targets and objectively-measurable milestones leading to the genuine self-determination for the Norfolk Islanders.

Successful free association models for Pacific Islands are easily accessed, as are the disastrous outcomes (inclusive of the current New Caledonia riots) from attempts to colonise and impose inequitable governance on island people. The Norfolk Islanders have always sought a peaceful and genuine collaborative partnership with Australia. However, the media statement from the Australian Government Administrator dated 16 May 2024 is evidence that once again there is no commitment from the Australian Government to honour its decolonisation obligations to the people of Norfolk Island or to the United Nations.

Statements and information within this document have been co-drafted and shared with:

**Geoffrey Robertson AO KC** Founding Head of Chambers, Doughty Street Chambers UK

**Lionel Nichols – Barrister** 4 New Square Chambers, London

**Dr Carlyle G. Corbin - International Advisor on Governance** - Senior Fellow (DSP)

**United Kingdom, Norfolk Island All Parties Parliamentary Group** Westminster Parliament

**The Norfolk Island - United Nations - Petitions Progression Group**

<sup>1</sup> Assessment of self-governance sufficiency in conformity with internationally-recognised standards - Dr. Carlyle G. Corbin, Senior Fellow, 1st September 2018



NORFOLK ISLAND  
PEOPLE FOR DEMOCRACY

## Open letter to the Norfolk Island Governance Committee

Re. Statement on proposed community model for future governance by George Plant,  
Administrator of Norfolk Island

The Norfolk Island People for Democracy (NIPD) as one of the principal drivers in the establishment of the Norfolk Island Governance Committee (NIGC), is well versed on the proposition and negotiations that preceded the adopted Terms of Reference (TOR) that inform the NIGC's obligations. We put faith over reservations and offered to work together to arrest the abhorrent mess Norfolk Island finds itself in, due to the illegal 2015 abolishment of the Norfolk Island Legislative Assembly, and its' replacement with the imposed Norfolk Island Regional Council, (an entirely different entity) which is undemocratic, financially unsustainable, and inappropriate to the interests and aspirations of our Island community.

It is disappointing, but not unexpected that six months into the NIGC process, the bureaucracy has moved to change the goalposts by a play of words delivered by the Minister's appointed local representative; both an employed official and at the same time, a NIGC member.

The NIGC Terms of Reference state the 'Role of the NIGC' *is to provide decisions, advice and recommendations on the governance of Norfolk Island.*

- *The NIGC's considerations will include the legislative framework and laws applying to Norfolk Island, the delivery of government services, and other governance-related matters of importance to the Norfolk Island community.*
- *The NIGC will work with the Norfolk Island community to deliver a plan, methodology and timeline to modernise Norfolk Island's governance, consistent with the needs and aspirations of its people, and establish:*
- *a new governing body with the appropriate legislative authority and financial and administrative capacity to efficiently, effectively and sustainably administer its responsibilities, and*
- *a new governance model that is clear, fair and effective, and ensures a secure and genuinely democratic future for Norfolk Island and its people.*

The Administrator now tells Norfolk Island that the 'scope' of the above TOR does not include 'many of the aspirations of the community' nor does it include 'matters such as land ownership; transfer of assets; and that 'the power of the new governing body to make laws will be limited to local government type laws'. And then there's the design of the model for Government consideration 'in line with what Government has asked NIGC to deliver'.

Does the Administrator really believe that the published *Statement on proposed community model for future governance* is 'clear, fair and effective, and ensures a secure and genuinely democratic future for Norfolk Island and its people' as stated in the TOR, and will restore democracy on Norfolk Island?

Australia is a liberal democracy with a government committed in principle to human rights, political participation, rule of law for its own people yet it imposes on Norfolk Island a system which falls far short of the standards upheld in western democracies. It is time for Norfolk Island to use its own authority rather than continue to be under the authority of the Commonwealth of Australia where democracy is denied.

Only a Norfolk Island legislative Assembly with democratically elected members has the power to create laws for Norfolk Island and return Norfolk to democracy. A local government body, established on behalf of Norfolk Island by the Commonwealth of Australia can only deliver a defacto, not a de jure local government. This body we're advised, can make "local government-type laws" ie by-laws, which are rules of a corporate entity and not laws at all.

In 1856 under an Imperial Order in Council Norfolk Island was made a distinct and separate settlement, a possession of the British Crown. The Pitcairn Islanders were given the Norfolk Island Seal to seal all laws. And in Dec 1856 a Royal Warrant was issued. These instruments provided for Norfolk Islands true legal status.

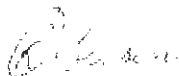
In 1913 the Commonwealth of Australia passed the Norfolk Island Act to "accept" Norfolk Island as a Territory before "the offer" in 1914 of Imperial Order in Council, to place Norfolk Island "under the authority" of the Commonwealth of Australia. This status was to be temporary. The contracting parties were the Imperial authorities and the Commonwealth of Australia, Norfolk Island people were not consulted.

Under common law a Commonwealth Act cannot override an Imperial Order, Norfolk Island's true legal status stands. And just like Papua, Norfolk Island remained a possession of the British Crown after 1914, as shown by the 1925 Order in Council.

NIPD expects the NIGC to progress their role through the true legal status of Norfolk Island as a distinct and separate settlement. Anything less does not restore democracy and subsequently will not enjoy our consent.

We look forward to reviewing your final draft governance model that advances the true authority, jurisdiction and rights of Norfolk Island, for her people, which includes a compact of free association with Australia that recognizes the important strategic relationship between Norfolk Island and Australia.

Yours Sincerely,



Ric Robinson  
**Norfolk Island People for Democracy**  
President

06 May 2024