

**NORFOLK ISLAND  
NORF'K AILEN**



**Petition to the United Nations  
Special Committee on  
Decolonization**

***P'tishan fe giw udu de Yuunaited  
Nieshan Spesh'l K'miti fe  
Diikohlenaisieshan***

**April 2016**

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22 April 2016

His Excellency Rafael Darío Ramírez Carreño  
Chair  
United Nations Special Committee on Decolonization  
United Nations Organization  
New York NY 10027

Your Excellency

**PETITION OF REPRESENTATIVES OF THE PEOPLE OF NORFOLK ISLAND TO THE UNITED NATIONS  
SPECIAL COMMITTEE ON DECOLONIZATION**

On behalf of the petitioners, representative of the people of Norfolk Island, we respectfully submit for the consideration of the Committee the petition underleaf.

Yours sincerely

Christopher Magri  
President  
Norfolk Island People for Democracy

David Ernest Buffett  
Speaker of the Legislative Assembly  
abolished by Australia in 2015

Albert Fletcher Buffett  
President of the Norfolk Island  
Council of Elders

## PETITION

*From the people of Norfolk Island to the United Nations Special Committee on Decolonization, requesting that Norfolk Island be recognised and listed as a non-self-governing territory*

**Your Petitioners** humbly submit to the United Nations Special Committee on Decolonization their urgent petition:

- o THAT the United Nations Special Committee on Decolonization resolve:
  - (a) to include in its organization of work for 2016 the case of Norfolk Island;
  - (b) to investigate and approve the claim that Norfolk Island is a non-self-governing territory within the meaning of Article 73e of the Charter of the United Nations; and
  - (c) to recommend to the General Assembly that Norfolk Island be inscribed as a non-self-governing territory under Article 73e;

### ON THE GROUNDS THAT:

- (d) the territory is distinct ethnically and/or culturally from the country administering it, namely Australia;
- (e) the territory is geographically separate from Australia;
- (f) until 1913, Great Britain recognised that Norfolk Island was a distinct territory which did not form part of Great Britain;
- (g) after 1913, Norfolk Island was administered by Australia in a manner that also recognised the independent and separate status of Norfolk Island;
- (h) elements of an administrative, political, juridical, economic and historical nature affect the relationship between Australia and Norfolk Island in a manner which arbitrarily places Norfolk Island in a position or status of subordination and infringes its citizens' right to self-determination;
- (i) the territory has enjoyed a large measure of self-government since 1979 and seeks a full measure of self-government; and
- (j) the Parliament of Australia has passed legislation, due to take effect on 1 July 2016, which has the effect of ending Norfolk Island's independent status, terminating self-government, and asserting full sovereignty over Norfolk Island and its people, and amounts to a subordination of the wishes of the majority of the people of Norfolk Island.

### **Your Petitioners are:**

- *Of the first part, the **Executive Government** of the democratically elected **Norfolk Island Parliament** abolished by the government of Australia on 17th June 2015. They were elected to the Legislative Assembly on 13<sup>th</sup> March 2013, and should have continued in office until March 2017. They comprise: David Ernest Buffett (Speaker of the Norfolk Island Legislative Assembly), Lisle Denis Snell (Chief Minister and Minister for Tourism), Robin Eleanor Adams (Minister for Cultural Heritage and Community Services), Ronald John Ward (Minister for the Environment) and Timothy John Sheridan (Minister for Finance).*
- *Of the second part, the **Norfolk Island Council of Elders**, representing the indigenous inhabitants of Norfolk Island, namely the descendants of the Polynesian women and British sailors who were settled on the Island by the UK Government in 1856, and who, despite many years of assimilation policies by Australia, still make up the largest ethnically and culturally distinct group of Island people today: at least 45% of the permanent population. And Albert Fletcher Buffett (President) and Kenneth Gregory Christian (Vice President) join this petition on behalf of the Council, which has a duty to preserve the Island's cultural identity, rights and dignity.*
- *Of the third part, the **Norfolk Island People for Democracy**, an association representing the majority (718) of the Island's adult citizens. It was formed after 64% of the Island's electors (70% of votes validly cast) voted in a referendum in May 2015 in favour of their "right to freely determine their political status, their economic, social and cultural development and be consulted at referendum or plebiscite on the future model of governance for Norfolk Island." Its President, Christopher Adam Magri, presents this petition on their behalf.*

### **Introduction**

Norfolk Island has been an autonomous region of Australia, enjoying a large measure of self government through a Legislative Assembly, democratically elected every 3 to 4 years, and maintaining its local traditions, language and culture which are demonstrably distinct from those of the Australian mainland. In 2015, against the wishes of the substantial majority of Norfolk people, Australia passed legislation which abolished the Island Government and Parliament and provided for rule directly from Canberra (the Australian capital). The legislation will become final on July 1<sup>st</sup> 2016, when the Island people will become subject to the laws of an Australian State (New South Wales) in which they have no say. It is proposed that local people are expected only to be permitted to organise a few minor civic functions through a local council. The decision by Australia to destroy the democracy previously enjoyed by a culturally, geographically and ethnically distinct people is, it is contended, contrary to international law.

Norfolk Island is a non-self-governing territory within the meaning of Article 73 of the United Nations Charter. Norfolk Island is a defined territory with a distinct and distinctive population, governed or administered by a member state of the UN. The administering State, Australia, now denies any real measure of self-government - by removing democracy and all rights to self-determination. Australia's failure to transmit

the information required of it by Article 73(e) of the United Nations Charter is no impediment to recognition of Norfolk Island's true legal status.

Given that the abolition of democracy and re-subjugation of the people of this Island to rule by Australia will be finally effected by July 1<sup>st</sup> 2016, your petitioners humbly request that the *Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* should take cognizance of their plight and their loss of the rights to democracy and to self-determination and add this as an urgent pending matter for consideration at its meeting in June 2016.

Your petitioners have a well-founded fear that, unless subject to the urgent scrutiny of the United Nations, Australia will proceed to extinguish not only their right to representative democracy but their unique identity and culture. They would welcome a detailed investigation by the Special Committee of the claims made in this petition. The organisations led by the petitioners also offer to host the Committee's upcoming Pacific Regional Seminar.

### **Background**

1. Norfolk Island is a volcanic island of 34.5 square kilometres in the Pacific Ocean, lying between New Caledonia and New Zealand, some 1,900 kilometres from Canberra, from which Australia intends that it will now be governed. There are infrequent and expensive air services between the Island and Australia. It has about 1,700 permanent residents, at least 45% of whom are descendants of the Pitcairn Islanders. Norfolk was settled at various times by Polynesian people, although by 1774, when it was mapped by British navigator Captain James Cook, it was uninhabited. In 1788 the British established a penal colony in Sydney and within 40 days thereafter occupied Norfolk. It was vacated in 1814 and re-established in 1825 as a place of incarceration for convicts thought to require harsh discipline. Remnants of this brutal period survive today, and are included in a World Heritage area – the prison ruins, barracks and gravestones of executed convicts bear vivid testimony to this brutal aspect of South Pacific colonial history. In due course, the prison was closed, the penal settlement abandoned and the Island vacated.
2. Meanwhile, Pitcairn Island had been settled by a number of British sailors involved in the mutiny in 1789 on board HMAV *Bounty*. This legendary episode in Pacific history had seen a rebellion by the sailors against the inhumane punishments imposed by their captain, Bligh, who was set adrift in a small boat (through astonishing seamanship, he survived and later became a governor of New South Wales). Some of the mutineers took Tahitian women and settled on Pitcairn, where their descendants lived until 1856, when the Island became unsustainable. The British government therefore removed them all (194 men, women and children) to Norfolk, which was vacant, granting them land and declaring, by a special law which has never been repealed, that Norfolk should be a "distinct and separate settlement" from Australia, although it would for convenience be administered by a governor from an Australian state. This remained the position when the Australian states federated in 1901: the Australian Constitution granted in that year made no mention of Norfolk Island, which remained under UK sovereignty. It was not until 1913 that the UK handed

over Norfolk Island to Australia to govern as an external territory, although the UK continued to pass laws relating to Norfolk well into the 1930s.

3. It must be clarified that two of the Pitcairn families, after a time in Norfolk, pined for Pitcairn and went back to form a small settlement there, and it is their descendants (less than 50 of them) who occupy Pitcairn today. It is still under UK government hegemony, and despite the small numbers is nonetheless listed by the UN as a non-self-governing territory.
4. Under Australian administration, the Island was allowed a slow return to self-government. Initially, in 1913, two members of an 8-man advisory "Executive Council" were elected by Island "elders", and this was increased in 1925 to half. In 1935 it was replaced by a wholly elected "Advisory Council", although as its name suggests it had no executive power. In 1964 it was replaced by an elected Norfolk Island Council, which at least could appeal to the Australian government minister if the Administrator refused to listen to its advice. It was not until the *Norfolk Island Act* of 1979 that Australia took a major step towards decolonization, by establishing a democratically elected Legislative Assembly, with power to make laws for the good government of the island in respect to crime, health, education, customs, immigration, social security and so forth. From 1979 until 2015 the Island enjoyed a large measure of self-government. Australia's residual powers covered such areas as defence, aviation, shipping, banking, family law etc, and the Australian High Court held that Australia could tax residents on their earnings in Australia. But for most intents and purposes, the Legislative Assembly made laws on matters of prime concern to the Islanders, and gave them an autonomy under which they could protect their separate cultural identity. The position is explained by the former Speaker of the Parliament, David Ernest Buffett at Appendix A, and the relationship with Australia is detailed by Don Wright, a solicitor admitted both in Norfolk and in New South Wales, in Appendix F.

### ***Distinct and Separate***

5. Over 36 years of self-government, Norfolk remained a "distinct and separate settlement", with communal norms quite different to those in mainland Australia. Its guiding principle of 'communal self-help' has been implemented by levies (particularly on the tourist industry), customs and stamp duties and the use of land in common. It has, distinctively, no taxation on income, although it has not developed as a tax haven because of stringent residence requirements and because residents are in any event subject to tax in countries (mainly Australia) where any of their earnings arise. Three quarters of the islanders speak a local language, which is taught in school. It has its own special festival and religious days, its own flag and emblem, and its athletes compete as Norfolk Islanders in the Commonwealth and Pacific Games. "God Save the Queen" was (until this year) its national anthem. As one recent academic study concludes:

*"The historical rights claimed to derive from Pitcairn Island include: the right to self-government; the right to live as British subjects and in accordance with British law; the right of families to own subsistence land; and the right to graze cattle on commons. There are cultural obligations: to provide labour for public works, including communal grave digging and*

*free burials. The right to live free from taxes (especially externally-imposed) is said to derive from the original Pitcairn ethos of self-help, simplicity of lifestyle and financial autonomy.*

*In an assessment of the Island's common heritage, a Norfolk-commissioned report identified other cultural practices and traditions:*

*'The harmonic rather than polyphonic style of church music, the availability of voter initiated intervention in the legislature, the barter economy, the rejection of development for its own sake and the relaxed, relatively low technology lifestyle of the Island are each examples that reflect the Island's past and distinguish it from mainland [Australian] norms that together contribute to the distinctive identity of Norfolk Island'" (See Helen Irving, Sydney University legal studies Research Paper 13/83, November 2013)*

6. The question of Norfolk's cultural and ethnic distinction from Australia is clearly answered by the independent expert Professor Mühlhäusler, whose report is at Appendix B. He concludes that Norfolk Islanders are genetically distinct and different from mainland Australians with regard to all parameters that define ethnicity: homeland, shared ancestry, cultural narrative and cultural core values, and that they subscribe to an Anglo-Polynesian rather than Australian identity. Their culture exhibits numerous differences with Australia in musical styles, traditional ecology and spirituality, and their language – "Norf'k" – is not related directly to English. The citizens of Norfolk Island constitute a distinct population which is capable of being an identifiable "people" for the purposes of exercising their human right to self-determination.
7. So far as geographical separation is concerned, at Appendix C another independent expert explains how the natural environment of Norfolk is unique and distinct, containing flora and fauna not found elsewhere in the world and with unique genetic diversity. The man-eating mammals and poisonous reptiles common to Australia are entirely absent from Norfolk. Norfolk Island is territorially distinct and geographically separate from the Australian mainland.

#### ***Australia's 2015 Legislation and its Subordination of the People of Norfolk Island***

8. Australia now effectively seeks to colonise Norfolk Island by means of the *Norfolk Island Legislation Amendment Act 2015* and related enactments. The legislation seeks to assimilate the Island with Australia. Significantly, the 2015 Act repeals the preamble of the 1979 Act, which recited the Island's status as "a distinct and separate settlement" and stated:

*"And whereas the Parliament considers it to be desirable and to be the wish of the people of Norfolk Island that Norfolk Island achieve, over a period of time, internal self-government as a Territory under the authority of the Commonwealth and, to that end, to provide, among other things, for the establishment of a representative Legislative Assembly and of other separate political and administrative institutions on Norfolk Island."*



9. The repeal of those words, which recognised Norfolk Island's separate and independent status, is contrary to Australia's obligations towards the Island and its people. Internal self-government has been abolished and the Island is reduced to the status of a colony. Its citizens will have no say in the laws by which they will henceforth principally be governed (the laws of New South Wales, where they cannot vote) and will only be able to vote in respect of federal laws (and only if Australian citizens) in an electorate of the Australian Capital Territory (i.e. Canberra) some 1,900 kilometres away. Australia's regressive action contravenes the right to self-determination, the rights of minorities and the right to take part in public affairs and elections.
10. The Norfolk Island Legislative Assembly was abolished on 17<sup>th</sup> June 2015, the day that democracy came to an end by Australian diktat. The historic Parliament chamber was locked up and has not been used since: all democratic memorabilia, together with flags and photographs and historical records and artefacts (including some from the 1856 Pitcairn settlers) were taken from exhibits and locked away. In an action all too typical of colonial power, the island's radio station was subjected to government censorship: its Manager was removed, all contributions from opponents of Australia's action were disallowed, and satirists were sacked on the grounds that criticism of Australia was "political" and could not be broadcast. All community announcements are now subject to approval by the Executive Director (the Australian government official appointed to run the Island in place of the Legislative Assembly), who refused to allow mention of opposition to Australia's intentions. Australian officials have indicated that the radio station will not be funded from government sources after July 2016. Already, war memorial commemorative events have been told to play the Australian anthem, "*Advance Australia Fair*", in preference to "*God Save the Queen*" or the indigenous 'Pitcairn' anthem. These examples of colonialist behaviour can be multiplied. See further examples set out at Appendix D.
11. A particularly cruel result of the enforced assimilation of the Island into Australia will be to take away from Norfolk Islanders the long-standing enjoyment of their identity at international and regional political and cultural organisations and at sporting events. Norfolk Island is represented on a number of UN committees (e.g. Indigenous Peoples' Center for Documentation, Research and Information). Their place will now be taken by Australians. They will no longer have members of parliament eligible, as previously, to attend meetings of the Commonwealth Parliamentary Association and other international gatherings of democratic countries. (Norfolk has been a member of the CPA since 1980 and its Speaker was actually a member of the CPA executive at the time – June 2015 – when the Assembly was abolished). It is particularly humiliating and degrading that Norfolk Island athletes and sportspeople may no longer be entitled to compete at international and regional events under their own flag and identity. The achievements hitherto of Norfolk sportspeople at the Commonwealth Games and in Regional athletics, bowls, archery etc is set out in Appendix E. They may now have to compete as Australian, if they manage to get into an Australian team. Norfolk has played an important role in the Oceania Athletics Association, and currently provides its President – here too, its identity may be lost. All these examples reflect on the unthinking behaviour of Australia, which has destroyed Norfolk democracy heedless of the ways in

which this will undermine the dignity and self-respect of its people as a people on the regional and international stage.

### **Article 73**

12. Norfolk Island is, and should always have been recognised as being, a non-self-governing territory within the meaning of Article 73 of the United Nations Charter.
13. Article 73 provides, as the Special Committee knows, that UN members (Australia, in this case) which assume responsibilities for the administration of territories whose people have not yet attained a full measure of self-government, must accept as a "sacred trust" the obligation to promote the well-being of the inhabitants and in particular to promote self-government taking due account of their aspirations and to assist the progressive development of their free institutions.
14. Principle IV adopted by the General Assembly in Resolution 1541 (1960) defined the obligation of an administering State to transmit information under Article 73(e) in respect of territories administered by the State which are geographically separate and are distinct ethnically and/or culturally from the administering State.
15. Australia has failed to transmit the information required of it by Article 73(e). That failure does not alter the legal status of Norfolk Island; it merely engages the international responsibility of Australia in respect of its past, and on-going, failure.
16. Australia has, regrettably, continued to make demonstrably false claims that removal of the Norfolk government by it "*is supported by a substantial majority of Norfolk Island residents*". The unvarnished truth is found in the result of a referendum held in May 2015 – 64% of enrolled electors voted against the plan to deprive them of freedom of choice (70% of votes validly cast).
17. The historical failure of Australia to transmit the information required of it under Article 73(e) in respect of Norfolk Island is inexplicable. In 1946 the then Secretary General invited member states to notify him of any territories falling within that description: Australia notified him in respect of Papua, and subsequently the Cocos (Keeling) Islands, but maintained silence over Norfolk. It was in consequence in breach of its obligation, under Article 73(e), to transmit information about the territory. In 1960 it abstained from voting for the epochal General Assembly Resolution (1514) XV, "*Declaration on the Granting of Independence to Colonial Countries and Peoples*", but it did vote for Resolution 1654 (XVI), which established your Special Committee. Notwithstanding that it has been at times a member of your Committee, Australia has manifestly failed in its obligation to transmit information about Norfolk Island.
18. Australia's conduct cannot be justified by claiming that Norfolk Island is an internal part of Australia: as Professor James Crawford (currently a member of the International Court of Justice) has concluded in relation to Australian law, "*constitutionally Norfolk Island was not an internal territory and thus not an*

*integral part of the Commonwealth of Australia.”* It was, until 1979, in the language and intent of Article 73, a territory whose people have not yet attained a full measure of self-government, and for the administration of which Australia was responsible. It was given autonomy, in the form of a large measure of self-government, in 1979. That is now being destroyed, and the Island’s arbitrary subordination to Australia will be complete on and after July 1<sup>st</sup> 2016.

19. There can be no question but that it is now entitled to be listed as a non-self-governing territory, for which Australia must provide, under Article 73, a progress back to democracy.

### **Conclusion**

20. There can be no doubt that Norfolk satisfies the requirements for listing set out in the “principles” contained in Resolution 1541 of December 1960. These principles make clear that Article 73 applies to “colonial type “territories which are “geographically separate” and “ethnically and/or culturally distinct” from the administering country. Principle V looks to other elements of distinction, through history and politics. In all these respects, Norfolk Island qualifies as a non-self-governing territory. It is a separate geographical entity from mainland Australia. Since 1856 it has had a separate political, historical and cultural identity, with its own local laws and customs that have been respected by the UK and (until now) by Australia. A substantial majority of its people, represented by your petitioners, object to being amalgamated with Australia and to the consequent loss both of their democratic rights and their unique local identity. They seek recognition as a non-self-governing territory because that status will bring them within the purview of the Special Committee whose work can provide them with real protection against colonial domination and exploitation by Australia and will assist their case for returning to them their rights to participate in their own governance. The work of the Special Committee, as the Secretary General recently remarked, has been of great importance in advancing the right of peoples to determine their own future. It would be a retrograde step, damaging to the principle of anti-colonialism, if the UN were now to turn a blind eye to a member state’s blatant attempt to re-colonise a territory which has been autonomous for decades.

Presented on behalf of your petitioners by:

Christopher Magri  
*President*  
*Norfolk Island People for*  
*Democracy*

David Ernest Buffett  
*Speaker of the Legislative*  
*Assembly*  
*abolished by Australia in*  
*2015*

Albert Fletcher Buffett  
*President of the Norfolk*  
*Island*  
*Council of Elders*

Norfolk Island  
22 April 2016

## APPENDIX A: STATEMENT ON BEHALF OF THE DEPOSED GOVERNMENT OF NORFOLK ISLAND

By

David Ernest Buffett, elected MP (2013) and Speaker of the Legislative Assembly

Norfolk Island is the homeland of the descendants of the *Bounty* mutineers and their Tahitian consorts, who in 1856 arrived as a complete community of 194 persons from Pitcairn Island in the eastern Pacific.

Norfolk Island is located in the South Pacific Ocean. It is highly isolated, lying 675km south of New Caledonia (its nearest neighbour), 772km north-west of New Zealand, 900km north-east of Lord Howe Island, and 1367km east of Australia. It has a population of approximately 1,700 people, excluding visitors.

Norfolk Island's relationship with the Commonwealth of Australia has been described by one historian as "uneasy". It was essentially self-governing from 1856 to 1897, then governed by metropolitan powers until 1979 (first New South Wales, and from 1914 the Commonwealth of Australia). In 1979 it was granted limited self-government by Australia.

The present petition is brought forward because in May 2015 the Australian Parliament passed legislation abolishing the Legislative Assembly of Norfolk Island and the limited self-government granted to Norfolk Island in 1979. Further legislative changes, amounting to integration with Australia, will operate from 1 July 2016. The change was driven by a number of reports by Australian authorities since 1979 that have in general been critical of the governance of Norfolk Island. But they did not adequately take into account the real and concrete achievements of the Norfolk Island community under self-government.

Those achievements include many infrastructure and social initiatives, for example the takeover of the airport; a new airport terminal; extension of the electricity reticulation network; the water assurance scheme; a replacement police station; the Bicentennial Centre; a new library and broadcasting station; a replacement works depot; a new waste management centre; a new telecommunications centre, satellite arrangement, internet and mobile phone service; the maintenance of Australian assets such as the Cascade pier; and a new landing platform for cruise ships. Some initiatives were contributed to by Australia (such as the Kingston Arthur's Vale Historic Area). The majority were not.

Social issues addressed during self-government included a statutory social security system; no fault workers' compensation; a healthcare scheme (originally instituted as an emergency response to the withdrawal without notice of Australian legislation); modernisation of numerous laws, especially relating to criminal justice; the introduction of land planning; guaranteed land titles; and education to Year 12.

The outcome of all of these measures – and many more – differed from Australian laws. But they vindicated the expectation of the Australian government in 1979, through its

responsible Minister, Mr Robert J Ellicott QC, that the Island could develop an appropriate form of government involving its elected representatives.

As well, they allowed room for recognition of the heritage of the Pitcairn descendants, in a way which cannot – and will not – operate in a system where Australian laws and practices are introduced wholesale. The preamble to the Norfolk Island Act 1979 included Parliamentary recognition of the special relationship of the Pitcairn descendants with Norfolk Island, but we find from the explanatory memorandum to Australia’s 2015 legislation that “the preamble no longer reflects the Parliament’s intention”.

Why is this important? It is important because good government proceeds from lived experience of the nature of the polity concerned. It is important because without that experience it is unlikely to operate satisfactorily: as is seen from Australian attempts to govern the Indian Ocean territories, and indeed the experience of Norfolk Island itself prior to self-government. It is important because democracy not only confers legitimacy – it works.

Australia’s proposals will abolish democracy in Norfolk Island. They will not preserve the right or opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives. Instead, they will remove that right and deny that opportunity at the vital level of state-type functions, including the delivery of health services; education and many others.

Self-government is not just an expression of democracy; it is also feasible at a practical level. Contrary to uninformed opinion, small communities with small populations can and do exercise wide-ranging powers: St Helena (approximately 5,000 people); Montserrat (5,000); Falkland Islands (2,500); Niue (1,600); Tokelau (1,400). There are many other examples.

On 8 May 2015, Norfolk Island’s electors overwhelmingly expressed their opinion that they should be consulted, by means of referendum or plebiscite, on the future model of governance for Norfolk Island before the Australian authorities proceed further.

The annex to United Nations General Assembly Resolution 1541 (XV) of 15 December 1960 sets out the principles which should guide member states in determining whether or not an obligation exists to transmit the information called for in Article 73e of the UN Charter. The principles include the following:

- Principle IV.

“Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and/or culturally from the country administering it”.

- Principle V.

“Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. Those additional elements may be, inter alia, of an administrative, political, juridical, economic or historical nature. If they affect the

relationship between the metropolitan state and the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under Article 73e of the Charter”.

Accordingly, this submission includes:

- A paper addressing the issue of ethnic and/or cultural distinctiveness.
- A paper addressing geographical separateness.
- Papers addressing other elements affecting the relationship between Norfolk Island and Australia: administrative, political, juridical, economic and historical.

On the basis of the Principles above, your petitioners claim the right to freely determine their political status, and their economic, social and cultural development.

For the peace, order and good government of Norfolk Island, your petitioners seek to pursue that right through the auspices of the Special Committee on Decolonization.



## **APPENDIX B: ETHNIC AND/OR CULTURAL DISTINCTIVENESS**

*Norfolk Island is Ethnically, Culturally and Linguistically Distinct from Australia*

by

Emeritus Professor Peter Mühlhäusler

Emeritus Professor Peter Mühlhäusler is Emeritus Professor of Linguistics, University of Adelaide, and a Supernumary Fellow, Linacre College, University of Oxford.

He has authored numerous publications on the Norfolk language and is an expert on colonial and missionary linguistics.

# IS NORFOLK ISLAND DISTINCT ETHNICALLY AND/OR CULTURALLY FROM AUSTRALIA?

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Prepared by: Professor Peter Mühlhäusler M.A. (Oxon); M.Phil.; Ph.D.; F.A.S.S.A.

## Executive Summary:

### **Norfolk Island is Ethnically, Culturally and Linguistically Distinct from Australia.**

Ethnicity, culture and language of the Anglo-Polynesian-West-Indian Pitcairn descendants came into being on Pitcairn Island in 1790 and were taken by the Pitcairners to Norfolk Island in 1856 where it continued to develop, without Australian input, until the 20<sup>th</sup> century. Inter-marriages with mainland Australians and Australian assimilation policies have not significantly weakened the distinctiveness of the Norfolk Islanders of Pitcairn descent. The literature surveyed as well as field-notes, taken over 21 years, confirms:

- The Norfolk Islanders of Pitcairn ancestry remain a genetic isolate;
- Anthropometric research suggests significant physiological differences between Norfolk Islanders and Anglo-Australians;
- The Norfolk Islanders are distinct from mainland Australians with regard to all parameters that define Ethnicity: homeland, shared ancestry, cultural narrative and cultural core values;
- Norfolk Islanders subscribe to a separate Anglo-Polynesian rather than Australian identity. This was strengthened after the Great Depression when Norfolk Islander migrants joined the Polynesian Club in Sydney. Norfolk Island has been a member of a number of Pacific cultural organizations. The Pitcairn homeland and the Pitkern-Norfolk language play a central role in defining the identity of Norfolk Islanders;
- The material culture of the Norfolk Islanders combines Tahitian, West Indian and British influences with a large amount of adaptation as well as later influences from American whalers and the High Anglican Melanesian Mission. Importantly, cultural forms that bear resemblance to Australian cultural forms (kites, surfing, pie cooking) can be shown to have come from other sources.
- The intangible culture of the Norfolk Islanders exhibits numerous differences with that of the Australian mainland, particularly in their musical styles, Traditional Ecological Knowledge and spirituality;
- The Norfolk language is neither directly related to English nor mutually intelligible. It is technically characterized as an Anglo-Polynesian-St. Kitts Creole language. Its core grammar is typologically different from English.
- The semantic and pragmatic properties of the Norfolk language are more Polynesian than English. Polynesian pragmatics is carried over into the variety of English used by Norfolk Islanders.

The culture of the Pitcairner descendants has remained distinct, viable and dynamic and is passed on to future generations in a number of ways:

- Preservation of material culture in collections and museums
- Preservation of intangible culture through written or visual records
- Maintenance by consciously living the culture
- Revival by devising strategic means of enhancing transmission
- Adaptation of older culture to new conditions



## Background

The notion that the Norfolk Islanders are ethnically and culturally akin to the population of mainland Australia dates to the 1970s when Australia informed the UN that Norfolk Island was not a 'non-self-governing external territory'. The Senate Standing Committee on Foreign Affairs and Defence in 1975 concluded: "The population of about 1,900 is ethnically and culturally akin to that of the mainland, its economic and social links are with Australia"(1). The records examined suggest otherwise.

Norfolk Islanders of Pitcairn descent have their roots in British, West- Indian and Polynesian culture, and remain ethnically distinct in spite of many decades of Australian assimilation policies. These were preceded by British policies of isolating the Pitcairn Islanders, policies referred to as 'experiment'.

One of the roots of misunderstandings between the Pitcairn descendants and the British and Australian administrations is that the resettlement of the Pitcairn Islanders on Norfolk Island was a social experiment (2) (3) (4)

The conditions encountered by the Pitcairners on Norfolk (ecological degradation, insufficient workforce) precluded the success of the experiment. This was taken to justify increasing interference and assimilation policies. The Australian commissioner Hunt stated:

"It was thought that the people could be left to work out their own destiny, but the settlement was not a great success. In 1884, twenty-eight years after they had taken possession, the Governor of New South Wales paid them a visit, and he found that they had considerably deteriorated. As a result of injudicious marriages, they had been on the decline physically, and even more noticeably in the mental direction. The people...had very few good qualities to commend them. Cultivation had been very slovenly, stock had been allowed to run to seed, and the people had not shown themselves worthy of the benefits which had been conferred upon them." (5) (5a)

## Physical anthropology, genetics, ethnicity

Ethnicity refers to groups of people who share salient racial, cultural and linguistic traits.

The genealogy of the descendants of the Mutiny of the Bounty has been documented by Lareau (6) (6a) (6b)

Comments on distinct physical properties date back to 1808. The Pitcairners' medical history is summarised by Källgård (7). Beechy, who visited Pitcairn in 1825 noted:

"Although none of the Polynesian men fathered a child, the Polynesian genes were predominant in the shape of nose and lips, eyes were mainly brown, all hair was black and only one exception, and facial hair was very spare by European standards." (8)

Stewart, the caretaker preparing the Pitcairners' arrival on Norfolk Island, observed:

"They appeared at first sights, very like the half cast Feejee men we meet at Ovalau, but without their energy and much dirtier, than ever I saw a half cast[e] boats crew. It seemed so curious to hear them talking English. (9)

A letter from Bishop Patteson, (July 5th 1856) notes:

"The men are darker than Italians; as dark as some of the lighter coloured Maories occasionally, but no shade of black, - it is more of the bright copper colour."

Shapiro researched Norfolk Island for a five months (1923/4) and Pitcairn for ten days (1934). (10) (10a) (10b) (10c). His biometric findings disconfirm earlier prejudices:

“From necessity the islanders have inbred from the beginning, so that now after five or six generations, everyone is related to the rest of the community. In some cases the degree of blood relationship between husband and wife is extremely close. Yet there are no evidences of deterioration... Among the Norfolk Islanders we have another example that inbreeding in a sound stock is not attended by the traditional stigmata of degeneration. (11)

Shapiro (1926) summarises:

“To the anthropologist, the chief interest of the descendants of the mutineers of the “Bounty” lies in the fact that here is an example of race mixture between two contrasted races. In studying race mixture it is always discouraging when one attempts to define the ancestry precisely. Where the mixture has been long continued, it is frequently hopeless to obtain satisfactory genealogies. The Norfolk Islanders, however, have kept records of marriages and births, so that I have been able to make for all the islanders genealogical tables which go back to the original cross, and in that way determine the proportions of Tahitian and English in the population. There is somewhat more English “blood” in the present generation.... In a small proportion the recessive traits such as blue eyes, blond hair, and fair complexion, are combined in one individual. On the other hand, one finds, according to expectation, a number of individuals who are strikingly Tahitian in appearance. On the whole, Tahitian and English characters form a mosaic, the totality of which in some tends toward the English and, in others toward the Tahitian.”

The Norfolk Island community has participated in a number of recent studies investigating the genetic determinants of disease, given their common genetic heritage.

“The proportion of Polynesian ancestry in the present-day individuals was found to significantly influence total triglycerides, body mass index, systolic blood pressure and diastolic blood pressure. For various cholesterol traits, the influence of ancestry was less marked but overall the direction of effect for all CVD-related traits was consistent with Polynesian ancestry conferring greater CVD risk.” (13)

Genetic research supports the thesis that the Norfolk Islanders are a distinct genetic isolate: ‘The complete Norfolk Island pedigree includes 6537 individuals and 11 meiotic generations.’ (14). This gene pool is of particular interest as:

- Its origins are recent;
- Genetic homogeneity remains strong;
- The susceptibility of the Islanders to diseases differs from that of other populations.

## Ethnicity

An ethnic group is, “a named human population with myths of common ancestry, shared historical memories, one or more elements of a common culture, a link with a homeland, a sense of solidarity.” (15) and ‘core cultural values’ (16).

All components of ‘distinct ethnicity’ are met by the Norfolk Islanders and their ethnicity significantly differs from that of other Pacific and Australian communities.

The Norfolk Islanders constitute a distinct genetic isolate. Their **common ancestors** are six British sailors and six Polynesian women.

The Pitcairn Island community was resettled on Norfolk Island in 1856. Pitcairn is regarded by the Pitcairn descendants as their historical **homeland**.

The Bounty Saga is part of Norfolk Island's "living culture ...The prominence of Bounty mythology in present-day public culture on Norfolk Island does not so much evidence an "ossified image of the past" as a refigured one that complements a set of socio-political argument and feelings that crystallised in the 1980s." (17) The Norfolk Islanders **share the narrative** of the Bounty Saga (18; (19); (20). The events of the mutiny are re-enacted and transmitted (21).

The **Norfolk Islanders' Core cultural values** differ from Australian values (22):

- Fair dinkum
- Fair go
- Love for freedom
- Mateship
- ANZAC spirit
- Egalitarianism
- Community spirit

Norfolk Islander's core cultural values include:

- **Knowing one's roots**  
The ability of the Norfolk Islanders clearly to identify common ancestors is described as *kumfrum* 'come from, Pitcairn lineage'. "Islanders trace their ancestry through genealogy, history books, oral histories and through their embodied performance of their relationships to first settlers on Bounty (Anniversary) Day." (23)
- **Sharing food and community spirit**  
"It is when trouble comes in times of sickness, or when death takes the breadwinner or deprives young children of a mother's care, the islanders are seen at their best. Everything that can be done to alleviate suffering, to mitigate misfortune, is done, not perfunctorily or as a duty, but gladly and as a matter of course." (24)

The importance of mutual support remains a very strong value among Norfolk Islanders.

- **Democracy and egalitarianism**  
The Norfolk Islanders have a long tradition of political democracy. Important decisions in their history were reached by democratic means. Unlike many other Pacific cultures the concept of 'choice' is deeply entrenched. The rules of governance set up on Pitcairn Island in 1838 were adapted for Norfolk Island, and remained in force until 1894..
- **Love of Queen Victoria and the monarchy**  
This value can be traced back to Pitcairn Island and has remained undiminished, as the Pitcairn descendants believe that *Kwiin Victoria giw et f' ucklun* 'Queen Victoria gave Norfolk Island to us' "Queen Victoria holds special importance for many Norfolk Islanders; her personage is intimately connected with local understandings of the very place of Islanders on Norfolk Island." (25).
- **Spirituality**  
Religion plays a more important role in the Norfolk Islanders' lives than on mainland Australia. Differences include: The low percentage of Catholics; importance of Methodism and Seventh Day Adventism, brought from Pitcairn in 1891.

- **Honouring the dead**  
Norfolk Islands provides free funerals for all residents. When an Islander passes on, the official flag is on half-mast and "Great respect has always been shown with retail stores closing their doors as the funeral procession passes."(26)
- **Gender equality**  
Compulsory education for both girls and boys was introduced on Pitcairn Island in the 1820s and in 1838 women were allowed to vote. In Australia, the first time women were allowed to vote 1896. The pioneer role of the Pitcairners in universal education and women's suffrage remains a strong memory in present day Norfolk Islander society.
- **Speaking Norf'k**  
"Some Islanders consider Norf'k as a form of cultural property belonging to Islanders... Such proprietary claims over Norf'k seem to indicate the status of Norf'k as a constituent part of Islanders' identities;" (28)

Educational assimilation policies (29; (30); (31) aimed at killing the language, lasted from 1914 to the 1970s. Whilst causing considerable collateral damage, they generated resistance and ultimately failed.

The distinct **social structures** of the Norfolk Islanders are determined by factors that are substantially different from those that shaped the social structures of Australia:

- The small size of the community and landmass enables a dense, multiplex social network (32)
- The majority of the Island's population "organised themselves into large family groups who lived, worked and socialised in close proximity to one another." (33)
- The insular nature of Norfolk Island limited access to the outside world, promoted self-sufficiency, psychological detachment from Australia, and subsistence affluence (34) .
- Its origins as a culturally and racially mixed beach community. (35), which engendered development of a new society and a new language.
- "Fundamental to any notion of Pitcairn identity, and to the identity of Norfolk's Pitcairn descended population, is the historical event of the *Bounty* mutiny and the settlement of Pitcairn by the mutineers and Tahitians." (36)

Many genetic and cultural features are gender-specific:

"In general it seems that the cultural pattern of Pitcairn society evolved from Polynesian or European practice according to the traditional role of male and female. After all, the islanders were not starting civilisation afresh. The Europeans had brought their skills and knowledge with them, as well as the arms, tools, pots and pans, canvas and cordage, and all the varied products that were on the ship; and the Polynesians brought their skills and knowledge of the trees and plants which enabled them to process these for both food and clothing. Apart from language and religion these practices, in the early years, were set mainly by the women as they controlled domestic life and child-rearing." (37)

Frazer (38) provides a detailed analysis of Pitcairner identity, which determines social interactions.

Pitcairners 1 - Those born on the island who accept and follow the traditional ways of life;

Pitcairners 2 - Pitcairners who do not follow traditional ways of life, and often live away for long periods;

Stranger 1 - Strangers who are friends and who accept local patterns of behaviour;

Stranger 2 - Outsiders, ignorant or dismissive of local patterns of behaviour.

The distinct **culture** developed on Pitcairn Island in the first half of the 19<sup>th</sup> century was taken to Norfolk Island in 1856 and continued to evolve in isolation until the construction of an airfield in 1942, and increasing numbers of outside settlers.

### Distinct cultural features

Importantly, when the Pitcairn Islanders arrived on Norfolk in 1856 they brought with them a complete culture, which had developed without input from an Australian source. Up to 1914, when Australia took over control of Norfolk Island, they adapted the Pitcairn culture to local conditions. Significant culture contacts with Australia date to the 1960s.

A table of distinct cultural features was compiled by Shapiro. (40) This table ignores the important influence of Young from St. Kitts, the principal male socializer of the first generation children. (39).

	Tahitian	English	Original
The Household Arts:			
Underground oven	x		
Food preparation	x		
Tapa- making	x		
Use of Calabash	x		
Dress Style	x		
Hats	x		
Houses:			
Building Materials		X	
Structure		X	x
Roof Thatch	x		
Arrangement			x
Household equipment:			
Furniture		X	
" Linens"	x		
Lighting	x		
Fishing:			
Gear		X	

Methods	x	X	
Boats	x		x
Agriculture:			
Tools		X	
Methods	x	X	
Family life:			x
Social life:			
Social organization			x
Separation of sexes at meals	x		
Position of women			x
Dance	x		
Music	x	X	
Surf-riding	x		
Kite-flying	x	X	
Private ownership of land		X	
Common fund			x
Education		X	
Religion		X	x

“Summarizing the situation by this method, it becomes apparent that the Tahitian contributions outweighed the English. For reasons already mentioned this is not unexpected: Pitcairn is more like Tahiti in its resources; the Tahitian women coming from a simpler plane of life were more efficient in adapting their culture to its new home; the Englishmen conditioned by specialization and hindered by the absence of the necessary materials were less able to draw upon their own background for contributions to their new existence.

But the most unexpected findings of this survey concern the relatively large number of original adaptations to the exigencies of Pitcairn life, which this handful of people developed on a pinhead of land. Merely to list some of them is impressive: the original architecture, the modified Tahitian canoe, the patriarchal social organization, the development of a community chest from which an individual could draw and by which inequalities in production could be equalized, the position of women, which in spite of certain Tahitian conventions, permitted them greater freedom than was customary in the age and allowed them equal franchise and inheritance rights, and finally, a simple but personal faith that evolved from a crystallized, conventional religious system. “ (40)

Major contributions from the **Melanesian Mission** (1867 to 1920) to culture include:

- The style of wooden houses built on stone foundations;
- Musical life and hymn singing (36);
- Exposure of the Pitcairn descendants to British English;
- Mission Mota and Melanesian Pidgin expressions in Norfolk (42).

Major cultural influence also resulted from prolonged contacts with **American whalers**, including:

- Reinforcement of fundamentalist Christianity and the singing of hymns. (43);
- Service on whaling vessels developed the navigation skills of the Islanders (44) ;
- New cooking styles, ingredients and dishes such as pies.
- Methodism, introduced in 1879 (45).

### **Tangible culture:**

A number of **events and special Days**, central to the culture of the Norfolk Islanders are not found on the Australian mainland:

**Agricultural and Horticultural Show Day**, which can be traced back to the Melanesian Mission. It includes a number of distinct Norfolk Island culture and language categories.

**Thanksgiving Day**, not celebrated in Australia, dates back to contacts with American traders and whalers (46)

On **Bounty / Anniversary Day** the arrival of the Pitcairn Islanders on June 8, 1856 is re-enacted. On this day the Norfolk Islanders affirm their identity and separate ethnicity.:

“Every year on the 8th June, just as they have done since 1856, the islanders don traditional dress and re-enact the landing of their ancestors at Kingston. This is followed by a walk to the Cenotaph for the laying of wreaths, then to the wonderful cemetery where the touching Pitcairn hymns are sung.”(47)

Details of this event are given by Low (48), a photographic essay by Partridge (49)

The distinctive aspects of **Norfolk Island food** include:

- **Cooking styles**; which combine Polynesian, American and British traditions as well as reflecting the ingenuity of the Islanders and utilizing Norfolk’s seasonal food resources, such as using unripe or force ripening ingredients
- The principal **ingredients** of the Norfolk Islander diet remain distinct from those of Australian residents and some ingredients still are only used by Pitcairn descendants. “Bananas, with maize, potatoes and kumeras are the survivors of the staple crops of earlier days” (50). Local staple food plants include 20 named varieties of bananas , about ten named varieties of sweet potatoes, taro, corn and coconut products. Locally caught seafood is eaten throughout the year, whalebird egg dishes, periwinkles (*hihi*) on special occasions.
- The **methods of preparation** in the past reflected a Polynesian approach, which is still practised at special events.

Typical **dishes** include baked pudding-type dishes *anna*, *pilhai*, *poi*, *mudda* and *mari*. *Pilhai* refers to a baked pudding made of grated kumara in coconut cream, first recorded by Beechy in 1825 on Pitcairn.

**Plaiting and Weaving** first came to Norfolk from Pitcairn. The *plaeten en wiiven of mu'uu* (flax) and *rahulu* (banana bark) to make hats and baskets continues to be done with the distinctive method of the four-strand plait of Pitcairn Island. (51).

### **Fencing (fance)**

On Pitcairn fences were used to protect gardens from wandering animals, rather than to fence in pastures. Norf'k fance translates as 'fence, enclosure, paddock, cultivated area on a farm'. The absence of fencing on Norfolk relates to the fact that domestic animals can roam freely on the common (52).

### **Norfolk Wave**

The habit of greeting passersby is an important means of bonding. It was commented on first by Hunt (53). Norfolk Islanders give a friendly wave to all vehicles they pass.

### **Ship building**

The origins of the shipbuilding tradition can be traced to Pitcairn Island in the year 1819, when Captain King gave the Pitcairners a whaleboat, in return for their refreshments.

Four Pitcairn boats were taken to Norfolk Island and subsequent boats followed the traditional design. (55) (56)

### **Domestic implements**

The *yorlor* 'grating stone' is regarded as a particularly valuable item of material culture: Made from the volcanic rock of Pitcairn Island and used extensively for grating root vegetables, pumpkins and bananas, *yorlors* were bought to Norfolk Island in 1856.

Other domestic implements include the *niau broom* 'broom made from palm fronds'. This tradition goes back to the Tahitian women on Pitcairn. The *ana* 'seat grater, shingle splitter' was used on Pitcairn Island in splitting and grating coconuts. (57) An adapted *ana* was used when cutting shingles. (58)

### **Cultural landscape**

Norfolk Island houses are known by their name (usually derived from the first inhabitant). Many of the names are in Norf'k, thus increasing the visibility of the language (59).

### **Kites**

Pitcairn has a long history of kite flying and this tradition continues on Norfolk Island. It originates from Tahiti for the simple bamboo-framed kites and from the West Indies for the five-sided 'Singing Engine' (60), (61)

The **Intangible culture** of the Norfolk Islanders includes their **Musical Tradition**. They are renowned for their singing (62) (63) Hayward conducted a comprehensive study, which distinguishes:

- The music and dancing of the Tahitian women that was practiced on Pitcairn Island until the 1850s. It was not acceptable to the Christian faith and was discouraged and lost.
- The music and dancing of the British sailors was strengthened by visiting British and American visitors to Pitcairn and Norfolk Island.
- The Pitcairn hymns, which play a major role at religious and cultural events.
- Polynesian music and dancing was rediscovered in the 1930s and reestablished on Norfolk. As a historical part of Norfolk Islanders' heritage it is very much alive.



- The development of a distinct Norfolk language song tradition, which is an important part of present-day Norfolk Island musical culture.

These musical styles are distinct from the Australian musical heritage.

## Traditional ecological knowledge (TEK)

TEK describes Aboriginal, indigenous, or other forms of traditional knowledges regarding sustainability of local resources.

Much of the Norfolk Islander's TEK can be traced back to the Tahitian women, who brought to Pitcairn Island detailed knowledge of plants, medicines, fish and the sea. (65) Such knowledge was needed to manage the ecology of Pitcairn Island. It was transferred to Norfolk Island, where it was adapted to the special conditions that obtained there. (66); (64)

TEK and language are closely interrelated. One can only manage what one knows and what one can communicate to others. The Norfolk language is full of expressions that reflect local traditional knowledge.

Globalisation has begun to erode this knowledge (64) but a great deal of TEK can still be found in most island households and is passed on to the next generation.

Norfolk Islander TEK includes **weather knowledge, knowledge of timber, knowledge of the sea and soil conditions.**

## Language

"One of the most striking cultural developments to take place in this unusual Pacific Island society was the invention of a new language. Through day-to-day contact, the mix of people speaking Tahitian and other Polynesian languages, and eighteenth century English dialects, eventually developed a distinctive Pitcairnese language. Although owing more to English than to Polynesian, the 'language of the mothers' (largely Tahitian, that is), made its presence especially felt in the matter of vocabulary, providing words for which there were no English equivalents, or for which Tahitian just seemed more appropriate. This language they took with them when they finally moved to Norfolk and is the basis of the present Norfolk dialect". (67)

Norfolk is central to the culture of the Pitcairn descendants and its uniqueness is widely acknowledged by linguists, e.g. Schneider (69).

An extremely remarkable and unique case of linguistic development can be found with the varieties which are nowadays commonly labelled Pitkern or Norfolk, derived from the names of the islands, where they are spoken ..... with hardly any outside contacts influencing the development of the community and the origins of the sailors and settlers known exactly, linguistically speaking this settlement constitutes a unique, laboratory-like contact situation. A new English contact variety, with strong maritime and biblical components and a Tahitian substrate, emerged on its own.

**Official recognition** was granted in 2004 through the Norfolk Island Language (Norfolk) Act (Act No. 25 of 2004) (70). This contrasts with the continued non-recognition of Aboriginal languages on the Australian mainland. Norfolk was recognized by UNESCO as a Language in Danger of Disappearing in 2007.

The relationship of Norfolk Islanders with their language is different from the pragmatic attitudes Australians have towards English. This is spelled out in Cooper's (n.d.) *'The cultural tradition of the Norfolk language'*. (74)

1. It is unique to the Norfolk and Pitcairn Island people of Anglo-Polynesian ancestry
2. It is the mother tongue of the Norfolk Islanders of Pitcairn descent, who think in Norfolk language.
3. It perpetuates the identity as it forms the link to the Norfolk Islanders past;
4. It is the most identifiable expression of the unique nature of Norfolk culture.
5. It is a main source of confidence to the people whose mother tongue it is.

The central role of Norf'k in sustaining Islander identity is discussed by Low. (75)

There are numerous accounts of the **history of Pitkern and Norf'k** (76), (77), (77b) (78). The special circumstances that were involved in its formation and development make Pitkern-Norf'k unique. It is distinct not only from English but also from other Pidgin-Creoles and English-derived contact languages. (79)

These linguistic studies demonstrate that Norf'k, is a language distinct from English in pronunciation, lexicon, grammar and pragmatics. It is **not mutually intelligible with English**. Depending on topic, speaker, medium and setting, mutual intelligibility ranges between 30% and 70%.

The **social relationship of Norf'k to English** (akin to British rather than Australian English) is one of diglossia, a situation in which two languages are used under different conditions (in different domains and functions) within a community, often by the same speakers.

Standard English is for religion, education and communication with outsiders; Norf'k is a family language and a symbol of common identity. Up to the 1960s Norf'k coexisted with English in a stable diglossic situation (82). Harrison (83) reported "a more diffuse language pattern created as one of the manifestations of the social upheaval which has taken hold of the island in the last thirty years".

Norf'k is most closely related to Pitkern followed by St. Kitts Creole English which, according to some Islanders, is easy for them to understand. Linguists have labelled Norf'k an English-based Atlantic Creole. It is **distinct from English in pronunciation and phonetics** (81).

About 80% of the **lexical forms** are derived from English dialects. However, their **lexical meaning** is often different. About 5% of the lexicon derives from Tahitian and another 5% from St. Kitts Creole. Up to 10% of Norf'k words reflect productive word-formation rules, which reflect English, Tahitian and St. Kitts models.

The differences between Norf'k and English **Syntax** are far reaching and, importantly, found in its core components.

There are specific **semantic** fields, which are central to the world view of Norfolk Islanders and differ radically from the way speakers of Australian English conceptualize the world.

Unlike English **spatial orientation**, which is relative (up from, right of, near the speaker) Norf'k employs an absolute system similar to those of Polynesian languages. Location, distance and direction are expressed in relation to absolute reference points: *down* the Kingston area, *up* Mount Pit, *out* 'away from Kingston and *een* Burnt Pine. To express location and direction speakers employ a mental map of Norfolk Island, which extends to the surrounding Ocean where Norfolk Islanders traditionally fish. (84)

Norfolk does not require compulsory time markers but grammaticalises the order and manner in which events occur. This impacts on the way Norfolk Islanders handle time. Present events and people are often interpreted as recurrences of past ones. When speaking Norfolk, the dominant view of time is that of a cycle, whereas speaking English portrays time as a directional arrow.

English and Norfolk differ in a number of significant ways in the semantics of possession.

Norfolk distinguishes

Noun + Noun juxtaposed express communal ownership such as *Taro Groun* 'the swampy area of Kingston'.

Noun + s as in *uckluns side* 'our home'

Noun fer Noun (+ s) side fer ucklun 'Youth Centre --place for us'

The voice between 's and *fer* in Norfolk is reminiscent of the Polynesian choice between 'a' and 'o' possession. It is sensitive to the perceived control the possessor has of the relationship with what is possessed. The 's is chosen when the relationship is beyond the owner's control (parents, family land), the *fer* construction, where there is control (cars, investment property).

The semantics of possession in Norfolk is closely linked to cultural concepts of ownership, mutual obligations and custodianship.

## Identity

The first visitors to Pitcairn from the outside world in 1808 were informed:

Captain Folger ... inquired, 'Who are you?' – 'We are Englishmen.' – 'Where were you born?' – 'On that island which you see.' – 'How then are you Englishmen, if you were born on that island, which the English do not own, and never possessed?' – 'We are Englishmen because our father was an Englishman.' –

The identification of the Islanders as English rather than Polynesian was a deliberate act of identity of their leader, John Adams, who subsequently invited two Englishmen to help preserve English ways of life and language. They were joined by the Irishman, Nobbs, who strongly promoted the Pitcairners' Englishness (17).

The identification with English people came to an end in 1831 during the Pitcairners' traumatic resettlement in Tahiti where they experienced the unwillingness of the European residents to accept them as Englishmen. They also felt alienated from a Tahitian way of life. Laycock (85) argues that the Tahitian interlude led to a linguistic and cultural act of identity that asserted the uniqueness of the Pitcairners as a special race of people. By 1856 the term 'English' had come to mean 'outsider'.

For self-reference, Norfolk Islanders use '*ucklun* 'we Islanders', Norfolk Islander or *Nuffka* (lit. kingfisher (E. Norfolk)). The pronoun *ucklun* 'we' is one of the most common words of the Norfolk language. It is used only with reference to persons of Pitcairn descent (unlike *wii*, which can refer to mixed groups) and is employed in a number of ways to signal and strengthen distinct identity.

Ritzau (86) distinguishes between a political and a cultural discourse about Norfolk Islander identity. The political discourses about identity have been the subject of two academic theses (86) and (23).

Cultural discourses about identity are selective in all cultures, including that of the Pitcairn descendants on Norfolk Island. Selections can change over time: In the case of the discourses of the

Pitcairn descendants, the contribution of the Polynesian women to their identity initially was downplayed, and the contribution of Edward Young's St Kitts Creole culture generally ignored. Once Tahitian culture was revalorized it became part of the overt cultural discourse.

Cultural discourses have been particularly strong in the diaspora. The revalorization of Tahitian culture began with the temporary emigration of many Norfolk Islanders to the Australian East Coast after the Great Depression. **Importantly, many Norfolk Islanders chose to identify with fellow Pacific Islanders rather than Australians, as their joining the Polynesian Club in Sydney demonstrates.** Hayward (17) refers to it as "the beginning of a conscious embrace of a pan-Pacific identity for Norfolk Islanders." As increasing numbers of Norfolk Islanders study on the Australian mainland they uphold their distinct identity by cooking, displaying objects from Norfolk Island and speaking Norf'k. (87)

There were only "limited changes to the culture of Pitcairn descendants as a result of the move to Norfolk. (92)

"The cultural performance of Pitcairn identity slowly changes however, as new bodies began to arrive and new ways of being on-island began to develop. These were not radical departures from traditional behaviour, rather an incremental change over time. It was not until the changes within the community generated by the arriving bodies of new settlers in the 1960s and 1970s that more obvious change began to occur. This has been a significant change in the descendant attitudes to outsiders, as demonstrated by their claiming of difference and seeking separation in some way from 'others'." (86)

The cultural practices found until WW 2 are still found in some island homes, (50); (89). Norfolk Islanders continue to live differently from other residents of Norfolk.

### **Ethnography of speaking**

A number of the cultural rules (93) underlying language use of the Norfolk Islanders are significantly different from those of mainstream Australians and often a source of misunderstandings, as the pragmatics of Norf'k are carried over to English as spoken by Norfolk Islanders. The situation is comparable to that of English speaking Aboriginal people in Queensland. (88)

Where monolingual English speakers employ different styles Norfolk Islanders employ different languages. Code switching is required when the topic changes (e.g. local vs. international) or by a change in the level of formality (English is the more formal, distancing way of expressing ideas).

Two factors account for the fact that information handling follows Polynesian rather than Anglo conventions.

**Implicitness** - In a small community much more information is shared than in a large one and, consequently, such shared knowledge is often not mentioned. Seemingly simple sentences may convey a great deal of information to an insider but appear trivial or uninformative to an outsider.

**Value and scarcity of information** - Like many small communities most information is known to all community members and knowledge that is not widely shared is a valuable commodity. Norf'k has several expressions meaning 'I am not going to tell': *I se oop, I se sly, nor larnen*. Such utterances are a reminder to interlocutors that their request for information was inappropriate.

Like in other Pacific cultures

- It is not necessary to provide an answer.
- Answers can be given with considerable delay.
- Answers can be very vague.

None of these responses are rude. Rather they are a mechanism for avoiding the unhappiness explicit answers may cause.

Norfolk Islanders, unlike Australians avoid direct 'to-the-face' utterances. Direct threats to a person's face such as overt criticism or suggesting mental inferiority is rarely found in Norfolk. Social control by means of language is achieved by means of *dem tull* 'rumour', by quoting *thing fer dems* 'so-and-so's saying', and nicknames. There are significant differences between what can be communicated to insiders and to outsiders: *tullen stolly* is best translated 'not tell the truth to other Islanders'.

Lying to outsiders can be traced back to the Tahitian practice of *ha'avare* 'scrupulous lying to outsiders' (90) and its Pitkern-Norfolk equivalent *hypocrite ar English* is the reason not only for a number of conflicting accounts of the mutiny and has remained the norm of interaction with outsiders one has reasons not to trust. Telling outsiders what they want to hear (gratuitous concurrence) and what the Islanders want them to hear is a similar survival strategy, as both islands remain dependent on the goodwill of outsiders. (91) For similar reasons not providing information deemed to be *dar fer ouwas* 'our own affairs' remains common.

There are numerous other conventions for the use of language that are significantly distinct from those of mainland Australia.

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## Professor Mühlhäusler's qualifications relevant to Norfolk Islander culture and the Norfolk Language

Professor Mühlhäusler has carried out annual fieldwork on Norfolk Island since 1997 and has done extensive archival research in Australian, US and UK archives. He has published 2 books and 30+ book chapters and papers on linguistic, historical and social aspects of Norfolk Island. He participated in two major international research projects, the Max Planck *Atlas of Pidgin and Creole Structures (APICS)* and the *Varieties of World Englishes (WAVE)* project of the Freiburg Institute of Advanced Studies (FRIAS)). He has held three Australian Research Council discovery grants as well as a linkage grant for Norfolk Island research. He is currently writing a monograph on the socio-cultural and structural history of Pitkern and Norfolk. He has played a major role in preparing the submission to UNESCO to obtain recognition for Norfolk as an endangered language and has worked closely with the Norfolk Island Central School, the Norfolk Museum and the Council of Elders on a range of language and culture issues.

Professor Mühlhäusler is Emeritus Foundation Professor of Linguistics at the University of Adelaide and Supernumerary Fellow of Linacre College, University of Oxford. He is an expert in colonial and missionary linguistics and English-based contact languages in Australia and the Pacific. He has published extensively on language planning and policy, language economics and language revival as well as many aspects of linguistic theory. He is one of the pioneers of ecolinguistics and ecological language planning and, following his retirement from teaching, is the manager of the University of Adelaide's Mobile Language Team, set up to cater for the linguistic needs of South Australia's Aboriginal communities (see [www.mobilelanguageteam.com.au](http://www.mobilelanguageteam.com.au)).

## Professor Mühlhäusler's publications on the Norfolk language;

### Scholarly books

2012 with Joshua Nash *Norfolk Island: History, people, environment, language*. London: Battlebridge.

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## APPENDIX C: GEOGRAPHICAL SEPARATENESS

*Is Norfolk Island geographically separate from (continental) Australia?*

by

Dr Ceaira Cottle

Dr Ceaira Cottle holds a PhD from Griffith University and the degree of Bachelor of Science with Honours. Her dissertations include *A tale of two islands: long distance dispersal to oceanic islands and the influence of dispersal potential on large-scale phylogeographic patterns*, and *The historical biogeography of Norfolk Island based on freshwater invertebrates: individual measures of the patterns and mechanisms of dispersal to a remote oceanic island*.

# “Is Norfolk Island geographically separate from (continental) Australia?”

Prepared by: Ceaira Cottle BSc (Hons) PhD

## Geographic setting and tectonic history of Norfolk Island

Lying 29° 02'S and 167° 56'E, the Norfolk Island complex contains Norfolk Island (3455ha), Phillip Island (190ha), Nepean Island (10ha) and several small islets which occur off the northern end of Norfolk. Norfolk Island is a remote subtropical island in the South Pacific Ocean. It is highly isolated, lying 675km south of New Caledonia (its nearest neighbour), 772km north-west of New Zealand, 900km north-east of Lord Howe Island, and 1367km east of Australia (Figure 1).

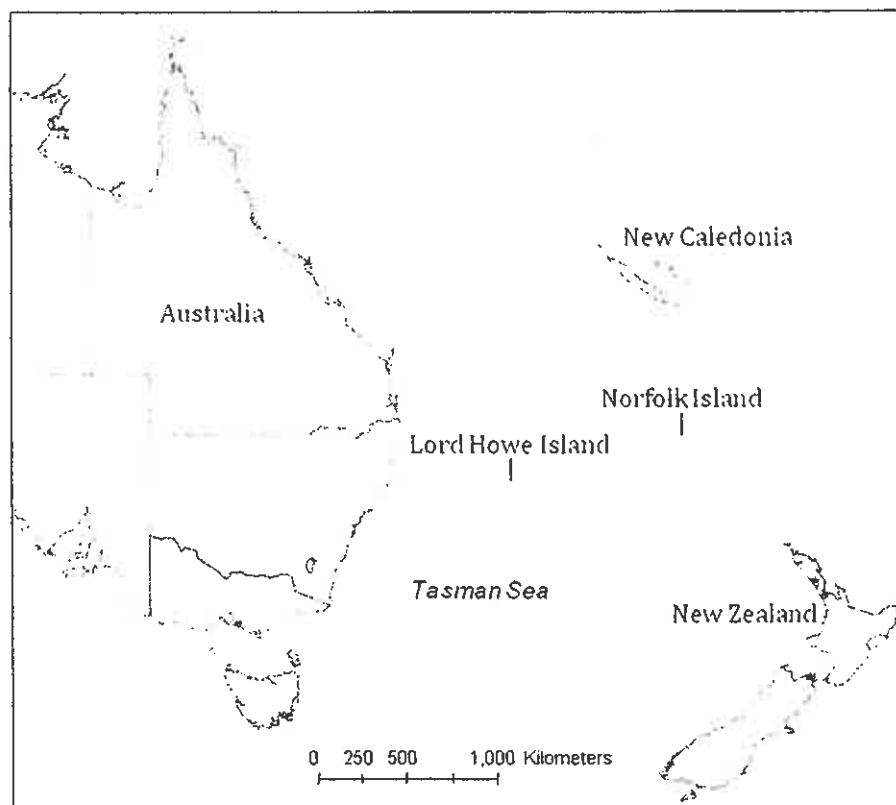


Figure 1: Location of Norfolk Island with respect to surrounding landmasses

Norfolk Island is very small, measuring 8km long and 5km wide, rising to an altitude of just over 300m with a general elevation of about 100m. Phillip Island lies approximately 6.5km south of Norfolk, rising to 280m; it is sparsely vegetated, with a rocky shoreline and precipitous cliffs, and has been subject to massive erosion (Cogger *et al.* 1983). Nepean Island is a small rocky island between Norfolk and Phillip, rising to 32m, and consists of weathered Pleistocene sandstones (Cogger *et al.* 1983).

Norfolk Island is an oceanic island that was constructed during volcanic episodes from 3.05-2.3 million years ago (Jones and McDougall 1973, Rahman and McDougall 1973). Both Norfolk and

Phillip Islands are deeply weathered erosional remnants of volcanoes consisting of olivine basalt lavas and tuff (Jones and McDougall 1973).

Norfolk Island protrudes on the otherwise submerged Norfolk Ridge (Jones and McDougall 1973), a pronounced narrow bathymetric feature of a rifted Gondwanan continental fragment (Green 1973, Steadman 2006). Gondwana was a super-continent in the Southern Hemisphere which began breaking-up 180 million years ago. The Norfolk Ridge is part of the now largely submerged continent Zealandia (Figure 2), which separated from Gondwana 80 million years ago (Trewick *et al.* 2007). Zealandia also includes New Zealand, the Campbell Plateau, Challenger Plateau, New Caledonia, Lord Howe Rise, Chatham Rise and several subantarctic islands. With the opening of the Tasman Sea, Zealandia moved north-eastwards with respect to eastern Gondwanaland. With rifting, Zealandia stretched and thinned, and eventually sunk 2000 to 3000m. The Tasman Sea has separated Zealandia and Australia for approximately 65 million years (Knapp *et al.* 2007).

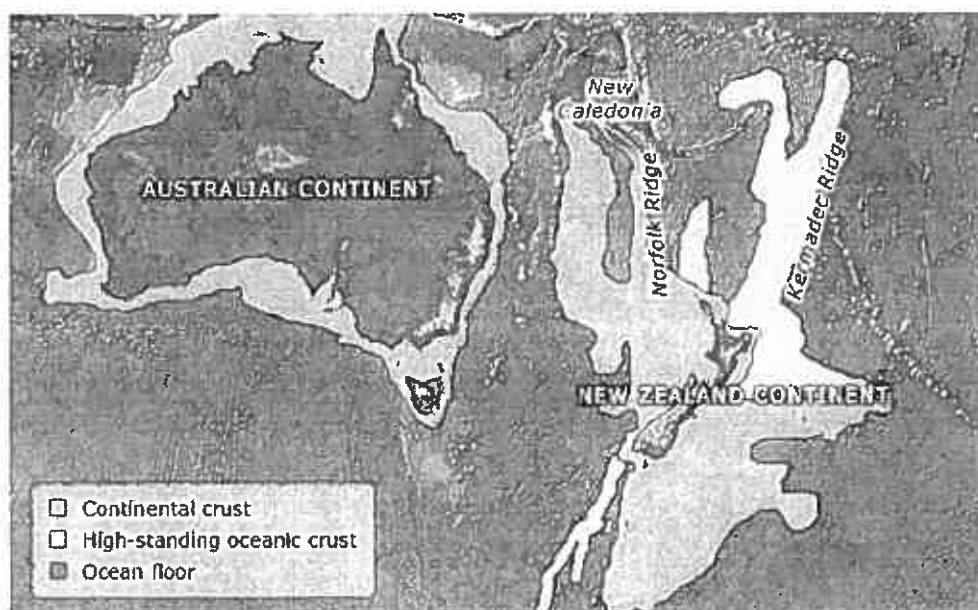


Figure 2 - Map of the New Zealand continent, Zealandia, the now largely submerged continent that the Norfolk Ridge is a part of (Source: NIWA – National Institute of Water and Atmospheric Research, reproduced with permission)

Situated midway between Australia and the active Tonga-Kermadec trench-arc system (Green 1973), the Norfolk Ridge links New Zealand and New Caledonia (Green 1973, McLoughlin 2001). Although the Zealandia continent is now largely submerged, some authors speculate that at some stage in the past, a terrestrial link through time between New Caledonia and New Zealand may have been possible along the Norfolk Ridge (Naumann 1990, Glasby and Alvarez 1999, Trewick *et al.* 2007). While some state that there is no reason for excluding the possibility that eruptions that constructed Norfolk Island took place on a crest of dry land along the Norfolk Ridge (Jones and McDougall 1973), there is some evidence that a shallow sea environment existed on the ridge prior to volcanic activity (Coleman and Veevers 1971, Jones and McDougall 1973). The Norfolk Ridge now has a crest depth greater than 1000m below sea level and has probably been under shallow seawater since the end of the Cretaceous (McLoughlin 2001). The Norfolk Ridge has been very stable for the past 3 million years, indicated by the fact that relative sea level was equal to present levels when the islands evolved (Jones and McDougall 1973).

## **Biodiversity: The flora and fauna of Norfolk Island**

The biota on remote islands today is a result of colonisation and extinction events, influenced by isolation and the intrinsic characteristics of each island. The remoteness and isolation of an island also determines the flora and fauna present on islands; with small, isolated islands having the lowest number of species (MacArthur and Wilson 1967). Holloway (1977) considers Norfolk Island to be one of the smallest and certainly one of the most isolated islands in the Pacific.

Norfolk Island has never had any direct contact with any source of colonists, as it is of volcanic origin. This has directly influenced the biodiversity of the island, as the species that are present on Norfolk Island have had to arrive via long distance dispersal over the ocean. The native flora and fauna of the island therefore possess varying degrees of affinity with surrounding landmasses such as Australia, New Zealand, New Caledonia, Lord Howe Island, the Kermadec Islands, New Guinea, Vanuatu, Samoa and Fiji (Holloway, 1977).

Because successful colonisation of remote islands is largely confined to organisms that disperse well, islands generally have a small representation of the major plant and animal groups compared to source areas (Gillespie and Roderick 2002). This is certainly the case for Norfolk Island, where some groups are underrepresented or completely absent.

### **Amphibians**

Amphibians are absent from Norfolk Island.

### **Reptiles**

Only two native reptiles are present, The Lord Howe Island skink (*Oligosoma lichenigera*) and the Lord Howe Island gecko (*Christinus guentheri*). Morphological differences between the Lord Howe and Norfolk populations of both species indicate some degree of taxonomic distinctiveness. The gecko and the skink are now extinct on Norfolk, but still persist on Phillip Island and on at least two small rocky islets adjacent to Norfolk (Cogger *et al.* 1993).

### **Mammals**

Only two indigenous species of mammals have ever been recorded from Norfolk Island, the Norfolk Island free-tail bat (*Tadarida norfolkensis*) and Gould's wattled bat (*Chalinolobus gouldii*). Both species are no longer thought to occur on the island.

### **Freshwater fish**

The freshwater long-finned eel, *Anguilla reinhardtii*, naturally occurs on Norfolk Island and is also known from eastern Australia, New Caledonia, Lord Howe Island and New Zealand. Its widespread distribution is attributed to transoceanic dispersal during marine life intervals (McDowall *et al.* 1998). It is catadromous, living in freshwater but breeding at sea which facilitates dispersal between freshwater habitats, resulting in a broad distribution.

The freshwater short-finned eel, *Anguilla australis*, is the only other native freshwater fish recorded from Norfolk Island.

### **Invertebrates**

Whilst information on the invertebrates of Norfolk Island is not complete, there have been several surveys of some of the major groups. These surveys have identified the affinities of the invertebrates of Norfolk Island and have also documented those species found to be endemic to the island.

Ninety eight species of macro-Lepidoptera (larger moths and butterflies) are found on Norfolk. Of these, 22 species and sub-species are endemics, two of which appear to have New Zealand affinities, and the rest have affinities primarily with Australia and New Caledonia (Holloway 1977). An additional two species may have affinities with the New Hebrides and Samoa (Holloway 1977).

A number of Orthopteroid (grasshoppers and crickets) species and genera are restricted to Norfolk Island or are shared only with Lord Howe Island. For example, the genus *Insulascirtus* (Gryllidae) is restricted to the two islands (Otte and Rentz 1985). Others have varying degrees of affinity with New Caledonia and Australia (Otte and Rentz 1985, Rentz 1988).

Records of the Neuroptera (lacewings and antlions) of Norfolk Island indicate that affinities of the fauna are predominantly Australian (New 1987).

Within the Hemipterans (true bugs), there is a cicada which is endemic to Norfolk Island, *Kikihia convicta*, which belongs to a tribe of New Zealand cicadas (Arensburger *et al.* 2004).

The Diptera (flies and mosquitoes) of Norfolk show clear relationships with the Australian fauna (Pont 1973, Schneider 1991), but in other respects, also show a relationship to Fiji-Samoa (Bock 1986) and New Zealand (Ferrar *et al.* 1975).

Within the Myriapods (centipedes and millipedes), the most notable species present in the Norfolk Island complex is the centipede, *Cormocephalus coynei*, which is endemic to Phillip Island. This centipede is very large, but seldom collected (Koch 1984).

Twenty species of Psocoptera (booklice) are known from the Norfolk Island complex, of which 12 are thought to be endemic (Smithers 1981, Smithers 1986, Smithers 1994).

There are 5 endemic species of land snail on Norfolk Island which are critically endangered (Director of National Parks 2010): *Advena campbellii campbellii*, *Mathewsoconcha grayi*, *Mathewsoconcha phillipii*, *Mathewsoconcha suteri*, and *Quintalia stoddartii*.

Two native crustaceans inhabit the freshwater streams of Norfolk Island. An endemic freshwater shrimp, *Paratya norfolkensis*, is most closely related to the shrimp endemic to Lord Howe Island, *Paratya howensis* (Page *et al.* 2005). An ancestral amphidromous lifecycle is thought to have assisted dispersal through oceanic currents to reach both islands (Page *et al.* 2005). A freshwater crab, *Amarinus lacustris*, also occurs on the island.

### **Birds**

102 species of birds occur on Norfolk Island (Director of National Parks 2010). Of the 31 extant land and freshwater breeding birds (an additional 7 are extinct), 8 are endemic. There are also 14 breeding seabirds, and 74 non-breeding migrants and vagrants.

### **Coastal fish**

Tropical and subtropical species dominate the coastal fish fauna of Norfolk Island (Francis 1993). 254 coastal fish species have been recorded from Norfolk Island, of which 10 are endemic (Francis 1993).



### Larger-scale marine biodiversity within the Norfolk Island Seamount Area

A large-scale survey of the Norfolk Island Seamount Area by CSIRO (Commonwealth Scientific and Industrial Research Organisation) found that 'biological communities are particularly rich and diverse, characterised by high levels of endemism (species found nowhere else), and are comprised of a remarkably high number of species and genera that are new to science' (Williams *et al.* 2005).

### Flora

The flora of Norfolk Island has been described as 'undoubtedly of high conservation significance at an international level' (Gilmour and Helman 1989). It has a mixture of affinities, with Australian (*Lagunaria* and *Acronychia*), New Zealand (*Meryta* and *Nestegia*) and New Caledonian (*Araucaria*, *Elaeodendron* and *Zanthoxylum*) elements. Like other oceanic islands, Norfolk's flora displays a high level of endemism, forming unusual plant communities in terms of species composition and structure (Parks Australia 2000).

The Norfolk Island complex has 171 species of indigenous plants, of which 47 species and two genera are endemic (Mabberley *et al.* 2007). The Norfolk Island pine, *Araucaria heterophylla*, is the best known of the species endemic to Norfolk Island. Pines as large as 70m tall with an 11m circumference have been recorded (Jurd 1989). Taxonomically, *A. heterophylla* is close to *A. columnaris* of New Caledonia.

The flora of Norfolk Island is noted for its high degree of endemism (Green 1994). Of the indigenous species of Norfolk, 40% of woody monocots, 38% of forest plants, 33% of dicots, and 24% of ferns are endemic (Mueller-Dombois and Fosberg 1998).

**Table 1: Phytogeographic affinities and endemism of the native flora of Norfolk Island (from Mueller-Dombois and Fosberg 1998)**

Affinity Area	Ferns	Forest plants	Coastal plants	Herbaceous monocots	Woody monocots	Dicots
<i>Australia</i>	17	19	9	14	1	22
<i>New Zealand</i>	5	19	6	2	3	16
<i>New Caledonia</i>	1	8	0	0	0	6
<i>Pacific-wide</i>	19	10	13	8	1	29
<b>% Endemism</b>	24	38	4	8	40	33

Approximately 76% of the indigenous flora of Norfolk occurs naturally in at least one other place, others occur only on Norfolk and Lord Howe Island, and many more are widespread in the western Pacific (Mills 2006). The ferns, dicots and coastal plants of Norfolk share their highest degree of affinity with the Pacific. Overall, Norfolk shares 51% of its indigenous flora with Australia, 39% with Lord Howe Island and 33% with New Zealand (Mills 2006) (Figure 3). The direction of major weather systems, which usually move from west to east, explains why Norfolk shares the highest proportion of flora with Australia, followed by Lord Howe Island (Mills 2006).

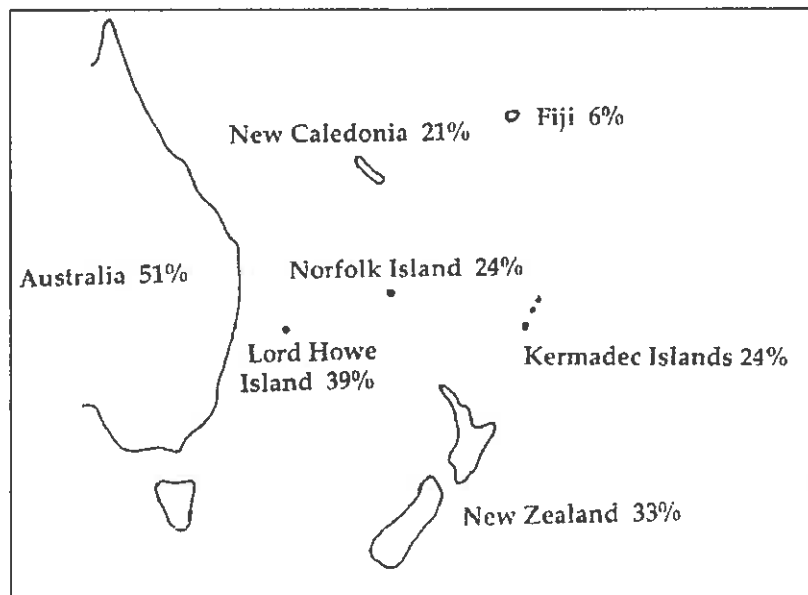


Figure 3: Percentage of indigenous flora Norfolk Island shares with surrounding landmasses (from Mills 2006).

In the highest mountainous part of the island, extensive stands of relatively natural forest remain untouched. The middle altitude plateau and coastal areas contain the most severely modified vegetation communities (Gilmour and Helman 1989). 46 plants are listed as threatened under the Environmental Protection and Biodiversity Conservation Act 1999, 31 of these are endemic to Norfolk (Australia. Dept. of the Environment and Heritage. 2004). Seven extinct species have been recorded including *Streblorrhiza speciosa*, the Phillip Island Glory Pea, which was a monospecific genus endemic to Phillip Island (Schrire 2007).

### Genetic diversity due to geographic isolation

The biotas of oceanic islands in the Pacific have fascinated evolutionists for a long time because isolated populations, such as those confined to islands, undergo genetic drift and over time become genetically differentiated from source populations (Hughes 2003, Trewick *et al.* 2007). It is the geographic isolation of Norfolk Island that has led to the genetic divergence of some populations on the island. For example, a divergent lineage of *Amarinus lacustris*, a freshwater crab, is restricted to Norfolk Island (Cottle 2014). The high level of differentiation of the population confined to Norfolk was attributed to the severely limited dispersal powers of the crab (Cottle 2014), which has an obligately freshwater life cycle without a free living larval stage (Lucas 1970). This unique genetic diversity has arisen due to the geographic isolation of Norfolk Island, as gene flow between populations on Norfolk Island and surrounding landmasses is absent.

### Summary

Norfolk Island is certainly geographically separate from continental Australia. Norfolk Island is a remote subtropical island in the South Pacific Ocean, lying 675km south of its nearest neighbour (New Caledonia) and 1367km east of Australia. It is volcanic in origin and was constructed 3.05-2.3 million years ago. It lies on the Norfolk Ridge which is a part of the New Zealand continent, Zealandia. The Tasman Sea has separated Zealandia and Australia for the past 65 million years.

Norfolk Island has never had any direct contact with Australia or any other source of colonists, which has directly influenced the biodiversity of the island. The native flora and fauna of Norfolk Island had to arrive via dispersal and possesses varying degrees of affinity with surrounding landmasses such as Australia, New Zealand, New Caledonia, Lord Howe Island, the Kermadec Islands, New Guinea, Vanuatu, Samoa and Fiji.

The natural environment of Norfolk is unique and distinct. The flora of Norfolk Island contains many endemic species, found nowhere else in the world. The fauna of Norfolk Island is depauperate compared to Australia, with mammals and reptiles virtually absent from the island. Although only a small representation of the major plant and animal groups exist on Norfolk Island, within the biodiversity that is present a high proportion of species are found nowhere else in the world. Some populations on Norfolk Island harbour unique genetic diversity. Due to the isolation of the island, populations have genetically diverged from their source populations which has ultimately lead to the evolution of the range of endemic species now found on Norfolk Island.

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**APPENDIX D: OTHER ELEMENTS AFFECTING THE RELATIONSHIP BETWEEN  
NORFOLK ISLAND AND AUSTRALIA:**

*Examples of Colonialist Conduct by the Australian Government in Relation to Norfolk  
Island*

by

Dr Chris L Nobbs

**Examples of Colonialist Conduct  
by the Australian Government in Relation to  
Norfolk Island**

**A report commissioned by  
Norfolk Island People for Democracy**

**Compiled by  
Chris L Nobbs**

**14 April 2016**

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Dr Chris Nobbs has conducted research in molecular biology at the University of Cambridge, has been a consultant and administrator at the OECD Environment Directorate, economist to the Government of Victoria's salinity control programme, and a co-director of an Australia-wide social research consultancy. His book *Economics, Sustainability and Democracy* was published by Routledge in 2013. Chris Nobbs was born on Norfolk Island.



## Introduction

There are available a number of definitions of colonialism. The *Stanford Encyclopedia of Philosophy* notes:

*Colonialism* is a practice of domination, which involves the subjugation of one people to another. [Kohn, M., 2012, 'Colonialism', <http://plato.stanford.edu/entries/colonialism/>.]

Alternatively:

*Colonialism* is a relationship between an indigenous (or forcibly imported) majority and a minority of foreign invaders. The fundamental decisions affecting the lives of the colonized people are made and implemented by the colonial rulers in pursuit of interests that are often defined in a distant metropolis. [Osterhammel, J., 2005, *Colonialism: A Theoretical Overview* (trans. S. Frisch). Princeton, NJ: Markus Weiner Publishers, p.16]

In elaborating the meaning of the concept of colonialism in the everyday life of Norfolk Island, long-term resident Mrs Mary Christian-Bailey has summarised her understanding of the characteristics of colonialist action as follows:

- (1) Assumes control of someone else's territory;
- (2) Imposes its laws on them;
- (3) Places it's own citizens to assume roles of responsibility and authority; leaving the more menial tasks to the indigenous inhabitants;
- (4) Expects loyalty first and foremost to the colonial power;
- (5) Acts in the belief that might is more important than rights;
- (6) Assumes control of infrastructure and resources;
- (7) Uses propaganda to justify its actions;
- (8) Discriminates culturally.

These elements have been taken as guidance in identifying the examples given in what follows.

From 1979 until 2015 the affairs of Norfolk Island were regulated by the *Norfolk Island Act 1979*. The *Norfolk Island Legislation Amendment Act* passed in the Australian Parliament on 14 May 2015 introduced immense change in the political, economic and cultural landscape of Norfolk Island, centred around the abolition of the Norfolk Island Legislative Assembly and the reconstitution of the Island as a regional council within a New South Wales state model. [[http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bId=r5440](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5440)]

The following report summarises a number of examples of conduct of the Australian Government which could be considered colonialist in relation to Norfolk Island. Examples post-May 2015 (in Section 2) are backed by references to 'letters to the editor' published locally and in Australian media, to media releases, to letters to officials, and to reports. Further primary sources are indicated in these references. Examples pre-May 2015 are summarised in Section 3. The list of examples given is not intended to be exhaustive. Appendix B contains a list of recent letters and articles on Norfolk Island.

## 2. Examples: post-May 2015

### 2.1 Dispossession of the Community

#### *Summary*

Passage of the *Norfolk Island Legislation Amendment Act 2015* in the Australian Parliament ushered in the dissolution of the Norfolk Island Legislative Assembly against the wishes of the majority of Norfolk Island electors as expressed at referendum on 8 May 2015. This Act has severely reduced the democratic rights of Norfolk Island citizens and their ability to fashion their own life on a small isolated island. Replacement of the Legislative Assembly with a regional council modeled on the New South Wales system implies a serious reduction in powers. Furthermore the removal of mention of Norfolk Island's Pitcairn heritage from the preamble of the *Norfolk Island Act 1979* in the *Norfolk Island Legislation Amendment Act 2015* which replaced the earlier Act, has dealt a serious psychological blow to Norfolk Islanders.

Elements of the dispossession exemplified in the regional council model include:

- o The introduction of a land-based rating system which for Norfolk Islanders of Pitcairn descent, many of whom are land rich but cash poor, will seriously degrade their ability to retain cultural identity with their land and its transfer over generations;
- o Introduction of unrestrained immigration from Australia will dilute cultural practices and their importance in community life;
- o The replacement of many Norfolk Island managers and line public servants with higher paid Commonwealth functionaries with no experience of Island life and values, and little likelihood of staying permanently, will be detrimental to the Island community;
- o The replacement of the Kingston and Arthurs Vale Historic Area (KAVHA) management, traditionally a shared responsibility between the Commonwealth and the Norfolk Island Governments, with an Advisory Committee dominated by Commonwealth interests (see further KAVHA below) has almost completely replaced Island influence on the Kingston area of the island which is focal for the life of the community;
- o The Norfolk Island Hospital and hospital services, recognised as a cornerstone of community life, are being replaced with an Australian 'multiple service model' of provision based on population counts, which will involve a reduction in services;
- o The rights of all-comers on Norfolk Island (including in particular New Zealanders) to vote in Norfolk Island elections has been removed;
- o The Commonwealth has failed to promote adequate discussion by the Administration with representatives of the community as to its plans.

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Nobbs, Chris, '16. How to Dismember a Community – the Australian Government and Norfolk Island', letter in *The Norfolk Islander* and *Norfolk Online News*, 9 April 2016.

Ward, R.J., 'Land Rates on Norfolk Island', Submission to the Hon. Paul Fletcher, Minister for Major Projects, Territories and Local Government, 26 January 2016 (reprinted in *The Norfolk Islander*, 30 January 2016).

Norfolk Island Council of Elders, 'Open Letter to all Parliamentarians' (re Act Preamble), 30/04/15.

Nobbs, Chris, '4. Norfolk Island: Health, Public Health, and Catch-22', letter in *The Norfolk Islander* and *Norfolk Online News*, 21 November 2015.

## 2.2 Management and Cultural Failures relating to Kingston and Arthur's Vale Heritage Area (KAVHA)

### *Summary*

During September 2015 or thereabouts the Administrator/Administration of Norfolk Island took decisions and actions that have illegitimately altered the KAVHA World Heritage Site. Central to these has been the removal of all vestiges of the Norfolk Island Legislative Assembly chamber and associated rooms from the Old Military Barracks, Kingston, without public announcement or discussion. These things had been *in situ* since the creation of the Assembly in 1979, and prior to the declaration of the area as part of the World Heritage. These things have enshrined Norfolk Island's democratic aspirations, and represent an important and on-going cultural aspect of Norfolk Island life (including the existence of women's suffrage on Norfolk since 1856 and prior to that on Pitcairn).

The removal of the Legislative Assembly things from a World Heritage site appears to contravene the World Heritage Convention. Other actions in the KAVHA area contrary to Australian law, and contrary to heritage best practice, appear also to have been carried out on the site. These actions have been brought to the attention of authorities in Australia (including the Minister for the Environment, the Australian Heritage Council, Australia ICOMOS) and overseas (ICOMOS, UNESCO), and are documented in letters to these individuals and bodies. Some detail of these actions by the Norfolk Island Administrator/Administration is given in Appendix A to this report.

### *References*

Media release (3) – 14/02/2016: *Australian Government dismantles part of World Heritage Site.*

Nobbs, Chris, '9. Norfolk Islanders must stand their ground over KAVHA'. letter in *The Norfolk Islander* and *Norfolk Online News*, 9 January 2016.

Nobbs/Richards letters to Minister Hunt, ICOMOS, UNESCO etc.: copies available.

*Further information:* Ms Lisa Richards, Norfolk Island.

## 2.3 Gagging of Free Speech on Radio Norfolk

### *Summary*

In late January 2016, prior to the visit to the island of the responsible Minister Hon Paul Fletcher, the Executive Director of Norfolk Island directed that a radio announcement on behalf of the Norfolk Island People for Democracy not be broadcast. On 28 January he went further and directed that the public meeting to be held with the Minister not be broadcast.

Further moves by the Administration against Radio Norfolk have transpired. On 27 January the Executive Director also decreed that henceforth all community announcements would require approval from the Administration, and that all interviews were to be pre-recorded and approved by him prior to broadcast. A request for clarification of this ruling from the Executive Director by the Acting Manager of Radio Norfolk was met with her removal from her position with one week's 'stress leave', and subsequent redeployment elsewhere in the Norfolk Island Public Service.

In unrelated incidents one volunteer presenter was sacked for mentioning on radio that the Australian Government would not be providing funds for the radio station after 1 July 2016; and two volunteer presenters of a popular and mildly satirical weekly show were sacked with immediate effect for not being "apolitical".

## **References**

Nobbs, Chris, '13. The Gagging of Radio Norfolk – another disgrace for the Australian Government', letter in *The Norfolk Islander* and *Norfolk Online News*, 27 February 2016.

White, Graham, Correspondence with Norfolk Island Administration and others, February-March 2016.

Media release (5) – 4 March 2016:

*Australian Government acts further to gag free speech on Norfolk Island.*

Media release (2) – 29 January 2016:

*Australian Government gags free speech on Norfolk Island.*

## **2.4 Establishment and Function of the Norfolk Island Advisory Council (NIAC)**

### **Summary**

The Norfolk Island Advisory Council (NIAC) was set up in June 2015 by Jamie Briggs, the former Assistant Minister for Infrastructure and Regional Development and responsible for Norfolk Island, with the terms of reference 'to provide a forum for the Norfolk Island community to raise issues and provide feedback to the Administrator and the Commonwealth Minister.' Ever since, NIAC has provoked a steady stream of criticism from Norfolk Island citizens, much of it recorded in the columns of *The Norfolk Islander* and *Norfolk Online*.

The core issue surrounding the whole NIAC process is one of bias towards the Australia Government and its interests as distinct from those of the community: in the composition of NIAC membership; in secretariat provision; in its presentation of information; in who can readily participate; in submission secrecy; in NIAC's use of numbers; and consequently in NIAC's reportage to the Minister.

### **References**

Nobbs, Chris, '10. The Norfolk Island Advisory Council process is a disgrace to Australia'. letter in *The Norfolk Islander* and *Norfolk Online News*, 16 January 2016.

## **2.5 Failures of the Administrator and Administration with regard to Democratic Conduct**

### **Summary**

The conduct of the Norfolk Island Administrator has been called into question by many people over many months (as recorded over the period in *The Norfolk Islander*). In May 2015 a petition of over 400 signatures was presented to the Governor General of Australia requesting the Administrator's removal. There have also been more recent call made for this action.

Activities of most concern have included: disparaging statements about things Norfolk (see for example letter 'Comments on an Interview...'); responsibility for dismantling the Norfolk Island Legislative Assembly furnishings from the Kingston Old Military Barracks building (see letter 'Norfolk Islanders must stand their ground...'); and the claim that a majority of Norfolk Islanders were in favour of the dissolution of the Norfolk Island Legislative Assembly and the installation of a regional council model, a claim which on the publicly available evidence cannot be substantiated (see letter 'Was there ever a majority...'). (And see further section 2.6 below.)

Nobbs' letter 15 summarises complaints against the Administrator and the Administration, measured in relation to the criteria set out under headings of The Commonwealth of Nations Charter, referring to: Democracy; Human Rights; Tolerance, Respect and Understanding; Freedom of Expression; Good Governance; and Protecting the Environment.

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Nobbs, Chris, '15. Commonwealth Day, the Commonwealth Charter, and Why the Norfolk Island Administrator should Resign or be Sacked', letter in *The Norfolk Islander* and *Norfolk Online News*, 26 March 2016.

Nobbs, André, Letter to the Prime Minister of Australia The Hon Malcolm Turnbull, reprinted in *The Norfolk Islander*, 12 March 2016.

Nobbs, Chris, '12. Was there ever a majority of Norfolk Islanders in favour of the removal of self-government?', letter in *The Norfolk Islander* and *Norfolk Online News*, 13 February 2016.

Nobbs, Chris, 'Comments on an interview given by the Administrator of Norfolk Island, Hon. Gary Hardgrave, to Radio Norfolk, on 18 June 2015', letter in *The Norfolk Islander*, 27 June 2015.

## **2.6 Other Administrative Matters**

### ***(i) Refusal to answer correspondence***

Refusals by the Norfolk Island Administrator, the Administration, and the responsible Commonwealth Department - the Department of Infrastructure and Regional Development (DIRD) - to acknowledge receipt of, or provide answers to, correspondence and queries relating to the future of Norfolk Island, have been commonplace. This has been the experience not only of private citizens but also, for example, of the Norfolk Island Accommodation and Tourism Association (NIATA), the representative organisation of the major sector of the Norfolk Island economy.

### ***References***

Nobbs, Chris, '11. Is there anyone out there? (Re: Unanswered queries)', letter in *The Norfolk Islander* and *Norfolk Online News*, 6 February 2016.

Donde, Rael, President of NIATA, 'Submission to Hon Minister Fletcher MP – Norfolk Island Economic Collapse', 10 February 2016.

### ***(ii) Contention over the singing of the British anthem at Anzac Day ceremonies***

In 2015 the Norfolk Island Administrator demanded that the Norfolk Island Returned Services League (RSL) at its Anzac Day service give precedence to the Australian anthem rather than the British anthem. In this regard it should be noted that during both World Wars and up until January 1949 Norfolk Islanders were British citizens, and that the Norfolk Island RSL has honoured the British anthem for the last 100 years – since the Island's first Anzac Day service in 1916. (The RSL refused the Administrator's demand, and as an independently constituted organisation continued its traditional practice.)

### ***Reference***

'Norfolk Island RSL Community Announcement', *The Norfolk Islander*, 14 March 2015.

***(iii) Obstruction of island interests in the Norfolk Island Hospital's future***

In 2015 consultants KPMG visited Norfolk Island as part of a consultancy to advise on the redesign of hospital services for the Island. The Administrator refused to allow the Hospital Board (made up of community representatives) to meet with KPMG during their on-island consultations. However it is understood that the Administrator's wife was consulted as the Patron of White Oaks (senior citizens club).

The refusal by the Administration to re-appoint members to the Hospital Board as each member's term expired, has blocked Hospital Board meetings from occurring and from providing broad community input to significant health services decisions which continue to be taken by the Administration. (See in addition section 2.4 on NIAC.) A similar circumstance in regard to undermined community input currently prevails in relation to the community-based Norfolk Island Tourist Board.

***(iv) Concerns for the future***

There are concerns as to whether Norfolk Island will be able to continue into the future to issue its own postage stamps; and as to whether it will be able to continue participation in the Commonwealth Games and other regional and international sporting events (as it currently does).

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### **3. Examples: pre-May 2015**

#### **3.1 Exclusion of Norfolk Island from the South Pacific Commission**

The South Pacific Commission (SPC) at its 34th session in 1971 resolved that Australia's voting number of five votes be reduced to four until such time as Norfolk Island participated in the Conference, at that time as part of the Australian delegation. Subsequently, at the SPC Conference at Rarotonga in October 1974, Norfolk Island was given entitlement to direct representation to SPC, when a Memorandum of Understanding was signed known as the "Canberra Agreement". The Australian Government did not inform Norfolk Island of its entitlement to attend and be represented at Commission meetings.

After clarification of this matter in the late 1970s, a Norfolk Island representative for the first time attended the SPC's 1980 Conference in Papua New Guinea. At the end of the meeting the Australian Government representative introduced a motion that Norfolk Island's direct representation at the Commission be rescinded, and this motion was passed.

***Further reference:*** Messrs Geoff Bennett and David Buffett, formerly Minister and Chief Minister respectively, in the Norfolk Island Government.

#### **3.2 Failure of post-1979 Australian Governments to support the *Norfolk Island Act 1979* initiatives**

The *Norfolk Island Act 1979* makes clear that the intention of the Commonwealth Parliament at that time was that Norfolk Island should move progressively towards internal self-government, with the Commonwealth's guidance and assistance. Subsequent Commonwealth governments, rather than encouraging this fledgling development, did not live up to their commitments, and inhibited the

development process on the island (see also section 3.3 below). Promised reviews of the workings of the 1979 Act were never carried through by the Commonwealth. The Norfolk Island Government was not been permitted to use debt or bond financing for development without the Commonwealth's permission (which was never forthcoming). Rather than encourage Norfolk Island, reports out of Canberra over the years regularly criticised the Island and its administration.

*Further reference:* Mr Geoff Bennett, formerly a Minister in the Norfolk Island Government.

### **3.3 Lack of Australian Government support for Norfolk Island-initiated economic proposals**

Over the years since 1979, a number of economic initiatives were developed by the Norfolk Island Government and others, with the purpose of raising income and employment on the Island. These were ignored or rejected by Australian Governments. These initiatives included:

- o The minting of Norfolk Island coinage, exchangeable at full value for Australian currency (1993-94);
- o Establishment of an offshore financial/banking centre on Norfolk Island (1997, 2010);
- o Proposal to develop a small-scale offshore commercial fishery in the Norfolk Island exclusive economic zone (2010-14);
- o Establishment and location on Norfolk Island of an appropriately structured Australian International Shipping Register (2013-14);
- o On two occasions the Norfolk Island Government issued licences under Norfolk Island law for the cultivation and harvest of medicinal cannabis. On both occasions the licences were cancelled by the Administrator on instruction from Minister Jamie Briggs (2014, 2015).

*Further reference:* Contemporary documentation of these initiatives is available on Norfolk Island.

### **3.4 Refusal to permit Norfolk Island to access profits from the Island's Exclusive Economic Zone**

In 1979 in debate on the Norfolk Island Bill in the House of Representatives the responsible Minister, Hon R.J. Ellicott said:

‘Again, fishing off Norfolk Island is of some significance.... basically, the fishing around Norfolk Island will be conducted, one hopes, for the benefit of the people of Norfolk Island.’ (Hansard, 5 April 1979, p.1644).

Such a benefit has never been acknowledged by subsequent Australian Governments.

### **3.5 Australian Government reneges on the *Norfolk Island Road Map* agreed with the Norfolk Island Government**

On 2 March 2011, the document *Norfolk Island Road Map* was signed by Hon. Simon Crean as Minister for Regional Australia, Regional Development and Local Government and on behalf of the Australian Government, and by David Buffett, Chief Minister of Norfolk Island. The purpose of the Roadmap was specified as:

‘to describe the reforms needed to strengthen:

- o The Island’s **economic** diversity to provide a sustainable and growing economy.
- o The Island’s **social cohesion** and **resilience**.
- o The Island’s unique **heritage** and **environment**.’

(bolding in the original)

The Norfolk Island Government drew up a consultative document on this basis but received no response from the Minister.

The *Road Map* also stated that:

‘The Parliament of the Commonwealth of the Commonwealth of Australia has recognized the special relationship of the descendants of the original 1856 settlers with Norfolk Island and their desire to preserve their traditions and culture. The Australian Government supports the goals of the Norfolk Island community through a mutually acceptable and appropriate modified form of self-government.’

This was not honoured. The Norfolk Island Road Map document was unilaterally repudiated by the Australian Government.

### *Reference*

Commonwealth of Australia and Norfolk Island Government, *Norfolk Island Road Map*, 2 March 2011. <http://norfolkisland.gov.nf/la/RoadMapReformProcess/TheRoadMap/Norfolk%20Island%20Road%20Map%20-%20%202%20March%202011.pdf> (as at 12/04/2016)

### **3.6 Deceptive conduct by the JSCNCET Inquiry into economic development on Norfolk Island**

Following the federal election in Australia in September 2013, Jamie Briggs MP was appointed Assistant Minister for Infrastructure and Regional Development with responsibility for Norfolk Island. As Minister, in 2014 he referred an inquiry into the economic development of Norfolk Island to the Joint Standing Committee on the National Capital and External Territories (JSCNCET).

The JSCNCET Inquiry into Economic Development on Norfolk Island received the following Terms of Reference:

“The Committee will inquire into and report on:

- o Redressing barriers to tourism, with particular regard to air services, facilities for cruise ships, roads and other infrastructure;
- o Complements to tourism, such as agriculture, other industry or small-medium enterprises; and
- o Proposals and opportunities for niche industries.”

The thrust of the Inquiry’s work was reinforced by Chair in the opening session of Norfolk Island (29 April 2014) when he said in opening remarks:

“The committee is not seeking with this inquiry to replicate the work of previous reviews or complementary processes which look into wider governance issues. Rather, this inquiry focuses on one of the aspirational goals of the Norfolk Island Road Map—namely, positive action to encourage diversification and a broadening of the island’s economic base. The committee wants to hear your ideas and thoughts on opportunities for growing economic activity on the island.”



(As a matter of further note the Chair then went on to say that a maximum of five minutes would be allowed to individual community members to address the Inquiry.)

When the JSCNCET final report was tabled in October 2014, the major two recommendations were not about economic development, but about governance (and recommended the disbanding of the Norfolk Island Legislative Assembly and its replacement by a 'local government type body'.) This represented an unwarranted and inadmissible extension of the Committee's Terms of Reference, because governance issues extend far beyond mechanisms of economic development and into issues of representation and democracy. No opportunity was ever accorded to the Norfolk Island Government or Norfolk Island citizens to present their views in this extended context.

### ***References***

JSCNCET, *Same Country: Different World. The Future of Norfolk Island* (October 2014).

Proof Committee Hansard: JSCNCET, Economic development on Norfolk Island, 29 April 2014, Norfolk Island, p. 1.

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## Appendix A:

### Actions by the Norfolk Island Administrator/Administration in relation to KAVHA

- Prepared by Ms Lisa Richards, April 2016

- **October 2014:** Instruction by the Administration of Norfolk Island to empty within two weeks the house at No. 11 Quality Row which was used as the offices of the KAVHA Secretariat (Norfolk Island Government appointed). No. 11 Quality Row then remained empty for 12 months.
- **Approximately October 2015:** Instruction by the Administration of Norfolk Island to remove all furniture and fittings in the Old Military Barracks relating to the former Norfolk Island Legislative Assembly. This included some of the most important and significant cultural heritage materials belonging to the people of Norfolk Island, and were all in place at the time when the site was included in the World Heritage listing. The community at large only became aware of the action in the weeks after the work was completed. The items removed have been put into storage and the Old Military Barrack building stands empty.
- **October 2015 to present:** Disregard for adherence to Commonwealth Department of Environment *Environmental Protection and Biodiversity Conservation Act* (EPBC Act) by carrying out 'significant actions' as identified in the Act with either no demonstrated compliance or in breach of the Act. These include:
  - Removal of all heritage items relating to the Norfolk Island Legislative Assembly;
  - Undertaking multiple earth-works such as trench digging, removal of original ground material to lay road surface and post hole digging, with no archaeologist present;
  - Changing a water course by closing off an historic water channel and 'filling in' under a bridge that was in need of repair;
  - Erecting unsightly and unnecessary signage and barriers in ad hoc places they identified as posing a safety risk, despite no evidence of this;
  - Despite a lengthy consultation process between approximately 2012 and 2014, the Draft Heritage Management Plan for KAVHA (the key planning document for the site required by all current Heritage listings, National, Commonwealth and World) was reportedly returned over 16 times to be re-written by its authors. Despite this the document has not been publically or formally released, leaving the KAVHA World Heritage Site using a document that expired in 2008.
- **Present:** Removal of the Norfolk Island Public Service from the entire Kingston site by instructing that the New Military Barracks (NMB) be emptied of all Administration of Norfolk Island employees. This building has been in continual use since 1856 as the home of the Island's Public Service. An architect has re-designed the Bicentennial Complex at Burnt Pine to house these workers who will be moved as soon as building works are completed. There has been no communication with the community concerning future plans for the New Military Barracks complex.

## Appendix B:

### List of Recent Writings on the Norfolk Island Situation

#### - Chris Nobbs, April 2016

(The following letters, media releases, booklet and report are available at:  
<http://www.norfolkonlinenews.com/chris-nobbs.html> or from: [nobbs298@gmail.com](mailto:nobbs298@gmail.com))

#### Letters (to 9 April 2016)<sup>1</sup>

17. 'How to Dismember a Community – the Australian Government and Norfolk Island'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 9 April 2016.

16. 'A Response to Minister Fletcher's Radio Interview' (together with transcripts of  
 radio interviews by Minister Fletcher, and Dr Nobbs)  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 2 April 2016.

15. 'Commonwealth Day, the Commonwealth Charter, and Why the Norfolk  
 Island Administrator should Resign or be Sacked'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 26 March 2016.

14. 'Canberra Seminar on Future Governance on Norfolk Island – Successful but  
 Struck by Absenteeism'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 19 March 2016.

13. 'The Gagging of Radio Norfolk – Another disgrace for the Australian Government'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 27 February 2016.

12. 'Was there ever a majority of Norfolk Islanders in favour of the removal of  
 self-government?'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 13 February 2016.

11. 'Is there anyone out there? (Re: Unanswered queries)'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 6 February 2016.

10. 'The Norfolk Island Advisory Council Process is a Disgrace to Australia'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 16 January 2016.

9. 'Norfolk Islanders must stand their ground over KAVHA'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 9 January 2016.

8. 'Norfolk Island: Christmas Reading'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 19 December 2015.

7. 'The Proposed Economic Development Strategy: Good Sense, Fairy Story,  
 and Deception (Part II)'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 12 December 2015.

6. 'The Proposed Economic Development Strategy: Good Sense, Fairy Story,  
 and Deception (Part I)'  
 Letter in *The Norfolk Islander* and *Norfolk Online News*, 5 December 2015.

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<sup>1</sup> In descending date order.

5. 'Norfolk Island Reform Scenarios - Comparing the two CIE reports (2006 and 2014)' Letter in *The Norfolk Islander* and *Norfolk Online News*, 28 November 2015.

4. 'Norfolk Island: Health, Public Health, and Catch-22' Letter in *The Norfolk Islander* and *Norfolk Online News*, 21 November 2015.

3. 'Prices on Norfolk Island after 1 July 2016' Letter in *The Norfolk Islander* and *Norfolk Online News*, 14 November 2015.

2. 'The Commonwealth's Model and Norfolk Island' Letter in *The Norfolk Islander* and *Norfolk Online News*, 7 November 2015.

1. 'Norfolk Island Regional Council and the proposed "Core Principles"' Letter in *The Norfolk Islander* and *Norfolk Online News*, 31 October 2015.

'Preparing for the New Regime – Some Employment Issues' Item in *The Norfolk Islander*, 31 October 2015.

'"Spin": An Introduction' Letter in *The Norfolk Islander*, 4 July 2015.

'Norfolk Island: Incomprehension' Letter in *The Canberra Times*, published in part, 1 July 2015.

'Comments on an Interview given by the Administrator of Norfolk Island, Hon. Gary Hardgrave, to Radio Norfolk, on 18 June 2015' Letter in *The Norfolk Islander*, 27 June 2015.

'In opposition to Gai Brodtmann MP's views' Letter in *The Canberra Times*, 19 February 2015.

'Norfolk Island: So Far, a Failure of Process' Letter in *The Norfolk Islander*, 24 January 2015.

### **Media releases**

*Australian Government acts further to gag free speech on Norfolk Island*  
Media release (5) – 4 March 2016.

*Norfolk Island economy in danger of collapse*  
Media release (4) – 20 February 2016

*Australian Government dismantles part of World Heritage Site*  
Media release (3) – 14 February 2016.

*Australian Government gags free speech on Norfolk Island*  
Media release (2) – 29 January 2016.

### **Reports, Booklets**

Common, Professor M., *A Comparison of two CIE Reports (2006, 2014) on the Economic Impact of Norfolk Island Reform Scenarios: A Specialist Report*, 20 November 2015.

Nobbs, C.L., *Norfolk Island – Thoughts for the Future*  
Booklet 40pp, published in New Zealand, June 2015. ISBN 978-0-473-32470-4. #

**APPENDIX E: OTHER ELEMENTS AFFECTING THE RELATIONSHIP BETWEEN  
NORFOLK ISLAND AND AUSTRALIA**

*Norfolk Island: participation at international and regional political, sporting and cultural  
activities, independent of Australia*

by

Robin Adams JP

Until its abolition in 2015, Robin Eleanor Adams held office in the Norfolk Island Legislative Assembly as Minister for Cultural Heritage and Community Services.

## NORFOLK ISLAND

### PARTICIPATION AT INTERNATIONAL AND REGIONAL POLITICAL, SPORTING AND CULTURAL ACTIVITIES, INDEPENDENT OF AUSTRALIA

#### **1. Participation in political activities at an international and regional level**

- ❖ Following a presentation on 'Sustainable Development and Land' to the XVth session of the United Nations Working Group on Indigenous Populations (WGIP), a Norfolk Islander was appointed to the Committee on Indigenous health (COIH), the Indigenous People's representative body on health concerns recognized by the United Nations and its intergovernmental agencies. In 1999, a Norfolk Islander assisted in the organization of, and attended, the 'First International Consultation on the Health of Indigenous Peoples' at WHO headquarters in Geneva. Recommendations from this Consultation formed the basis of a Resolution adopted by the 53<sup>rd</sup> World Health Assembly in May, 2000. A Norfolk Islander drafted the 'Geneva Declaration on the Health and Survival of Indigenous Peoples' which was fully incorporated into the report.
- ❖ Norfolk Island is a member of the Council of Pacific Arts and Culture. The Council comprises 22 Pacific Island countries and territories which are members of the Secretariat of the Pacific Community plus an additional 3: Norfolk Island, Rapa Nui (Easter Island) and Hawaii. The Council of Pacific Arts was established following the success of the first Festival of Pacific Arts in 1972. Norfolk Island has participated in every festival of Pacific Arts since 1985.
- ❖ Norfolk Island has been a member in its own right since 1980 of the Commonwealth Parliamentary Association (the CPA), attending and contributing to discussions on issues arising at the Small Nations Conference and voting at Plenary sessions. Norfolk Island hosted the 1994 meeting of the CPA Executive Committee and has hosted regional meetings from time to time. The Hon David Buffett AM, Speaker of the Legislative Assembly of Norfolk Island, served as a member of the Executive of the CPA from October 2012 to 17 June 2015 when the Legislative Assembly of Norfolk Island was abolished.

#### **2. Participation in cultural activities at an international and regional level**

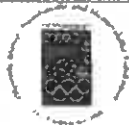
- ❖ Norfolk Island is a foundation member of the Pacific Island News Association (PINA)
- ❖ Norfolk Island has been a member of the Pacific Islands Museums Association

#### **3. Participation in sporting activities at international and regional level**

Norfolk Island is a member of the Commonwealth Games Federation and has attended and competed in all games since 1986. Medals have been won on a number of occasions at these Games.


**NORFOLK ISLANDS OLYMPIAN**

*Malcolm Champion 1884-1939*  
*Olympic Gold Medalist 1912*



**Malcolm Eadie Champion** was born on Norfolk Island on 1 November 1884, the eldest of 6 children of Captain William Champion, a merchant seaman, and Sarah (nee Quintal), who was born on Pitcairn Island and moved to Norfolk in 1856. Malcolm's great-grandfathers were 2 of the Bounty mutineers. In 1912, Australia and New Zealand formed a composite team for the 4 x 200 yard freestyle relay event at the Stockholm Olympics. Taking the gold, Champion became New Zealand's first ever Olympic Gold Medal winner, and by birthright, Norfolk Islands only Olympic medal winner still to this day. Australia also claim Champion as one of their medal winners.

In an ironic postscript to a lifelong accomplished swimmer, Champion, whilst trying to save someone else, died from drowning on 26th July 1939, aged 59 years.



### Athletics Norfolk Island

Norfolk Island attained full Membership of the International Association of Athletics Federation (IAAF) at the IAAF Congress in 1995. Norfolk Island has participated at a number of the IAAF World events including the World Youth Championships, the World Junior Championships, the World Indoor Championships and the World Championships.

Full membership of the Oceania Athletics Association (OAA) was attained in 1995, with full participation rights at all OAA events. Norfolk Island has participated at all OAA Championships and Regional Championships since becoming a member of the OAA and has been awarded numerous medals.

Norfolk Island is affiliated with the World Masters Athletics (WMA) and has had a participating member on the WMA Stadia Committee, and had a Vice-President of the Oceania Masters Athletics Association – one of the six international regions.

Athletes from Norfolk Island have also participated in most, if not all, Pacific Games and South Pacific Mini Games since the late 1970's with a large number of medals having been won by our competitors at these Games. Norfolk Island hosted the 2011 South Pacific Mini Games.

### Lawn Bowls Norfolk Island

Norfolk Island is a member of the International Lawn Bowls Federation (called World Bowls) which has permitted Norfolk Island to compete at many of the World Championships.

## **Norfolk Island Bowling teams have competed on the international stage –**

- ❖ In the South Pacific Games since 1979 winning four (4) Gold Medals, ten (10) Silver Medals and six (6) bronze Medals.
- ❖ In the Asia Pacific Championships since 1987 winning four (4) Gold medals, three (3) Silver Medals and six (6) Bronze Medals.
- ❖ In the Commonwealth Games since 1994 and have won one (1) Bronze Medal.
- ❖ In the World Bowls Championships including the World Champion of Champions, the World Indoor Cup and the World team Championships winning –
  - a Gold Medal in the Ladies Outdoor Singles in 1996;
  - a Bronze medal in the ladies Indoor Singles in 2014; and
  - a Gold Medal in the same event in 2016.
- ❖ In the Asia Pacific Merdeeka Indoor Championships and won the Gold Medal in Ladies Singles in 2015 and a Bronze Medal in the same event in 2009. In 2016 all other players (three other team members qualified for the quarter finals in this Championship)
- ❖ In the Asia Pacific Lawn Bowls Championships, and has won Gold Medals on more than four occasions,

Norfolk Island representative Bowls teams have qualified for the 2016 World Bowls Championships in every discipline being contested. i.e. Men's Singles,, Ladies Singles, Men's Pairs, Ladies Pairs, Men's Triples, Ladies Triples, Men's Fours and Ladies Fours – only TEN (10) countries in the World qualified in every discipline. They are Norfolk Island, Australia, New Zealand, Malaysia, Canada, England, Scotland, Ireland, Wales and South Africa.

## **Archery Norfolk Island**

Norfolk Island Archery Association was affiliated with the Federation of International Archery (FIA), the World body for Archery, in 1997. Norfolk Archery held their first international archery competition for the South Pacific Games in Norfolk Island in 2001; and the Association -

- ❖ Has competed in national championships in the region;
- ❖ Has competed in the Commonwealth Games in 2010 (India); and
- ❖ Hosted international competitions in Norfolk Island on an annual basis, attracting players from novices to a World Champion.

## **Squash Norfolk Island**

- ❖ Has competed in the South Pacific Games and South Pacific Mini Games since 1979;
- ❖ Hosted the Pacific Squash Racquets Cup on numerous occasions;
- ❖ Competed away and on Norfolk Island in the Oceania Masters;



- ❖ Competed in the last three Commonwealth Games in Melbourne, Delhi and Glasgow (Squash Racquets Doubles);
- ❖ Hosted the Oceania Masters Squash Racquets Championships, and the Oceania Veterans Athletics Championships, with medals won at both; and
- ❖ Hosted the Oceania Veterans Athletics Championships in 2000.

### **Body Building Norfolk Island**

Norfolk Island has hosted one Oceania Bodybuilding Championship and on two occasions, the South Pacific Bodybuilding Championships.

### **Weightlifting Norfolk Island**

Norfolk Island has been affiliated with the International Weightlifting Federation and the International Bodybuilding Federation. In respect of the latter, a Norfolk Island person has served as the Vice-President of the International body, and President of the South Pacific Federation.

### **In addition –**

Norfolk Island has also participated both internationally and regionally in the sports of –

- ✓ Clay Target and Pistol Shooting
- ✓ Triathlon
- ✓ Outrigger Association
- ✓ Golf

### **Norfolk Island plays a key administrative role in the international and regional sporting arena**

Norfolk Islander, Mr Geoff Gardner OAM (General Secretary of Athletics Norfolk Island) has been a member of the Oceania Athletics Association (OAA) Council since 2003 and is the current President

Mr Gardner has also held the following positions in the International Amateur Athletics Federation (IAAF):

- ✓ Area Association Representative and Council Member 2011 – to date
- ✓ Member – IAAF Executive Board 2015 – to date
- ✓ Deputy Chair – Development Commission 2015 – to date
- ✓ Deputy Chair – Audit Commission 2015 – to date
- ✓ Member – IAAF Taskforce – Doping in Russia 2015 – to date
- ✓ Member – IAAF Governance Reform Working Group 2016 – to date

Mr Gardner has officiated at the following events as either a Judge, Chief Judge or Referee:

- ✓ Pacific Games and Pacific Mini Games 2007,2009,2011,2013
- ✓ Oceania Championships and Regional Championships 2007 – 2015

He has also served on the Jury of Appeal at the following IAAF and World events:

- ✓ IAAF World Indoor Championships 2012
- ✓ IAAF World Championships 2011, 2013, 2015
- ✓ Olympic Games London 2012 and will again in Rio de Janeiro 2016
- ✓ Commonwealth Games 2014.

**4. FURTHER/MISCELLANEOUS FEATURES THAT IDENTIFY NORFOLK ISLAND'S DISTINCTIVENESS/SEPARATENESS**

- Norfolk Island has a separate Internet Country Code – “nf “
- Norfolk Island has a separate International Telephonic Country Code – “+ 672 3 “

5 April 2016



Robin Adams JP

**Minister for Cultural Heritage and Community Services**

March 2013 to June 2015

(when Norfolk Island Parliament abolished)

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**APPENDIX F: OTHER ELEMENTS AFFECTING THE RELATIONSHIP BETWEEN  
NORFOLK ISLAND AND AUSTRALIA**

*Administrative, political, juridical and historical*

by

Don Wright

Don Wright is the solicitor for Norfolk Island People for Democracy. He is a solicitor of the Supreme Court of New South Wales and the High Court of Australia. He is a registered practitioner in the Supreme Court of Norfolk Island.

## **APPENDIX F: OTHER ELEMENTS AFFECTING THE RELATIONSHIP BETWEEN NORFOLK ISLAND AND AUSTRALIA: *administrative, political, juridical and historical***

**By Don Wright**

### ***Key points***

- Norfolk Island was declared by Britain to be “distinct and separate” from Australia in 1856. This was for the benefit of the former Pitcairn Island community, who moved as a whole from Pitcairn to Norfolk in that year.
- Since then (until now) the Island has been dealt with by New South Wales, and later the Commonwealth of Australia, as external to those political communities: Australian law was not usually applied to the Island; Islanders did not vote in metropolitan elections; the Island was governed by colonial-style institutions.
- Limited self-government during the period 1979 to 2015 recognised Norfolk Island’s separate status.
- The current measures by the Commonwealth of Australia to remove self-government amount in substance to integration with Australia, without the consent of those affected.
- Authoritative assessments of Australia’s proposed governance model for Norfolk, based on the experiences of Australia’s other external territories in the Indian Ocean, suggest that the new model is defective in practice.

### ***Historical to 1914***

Norfolk Island was identified and mapped by Captain Cook on 10 October 1774: “We found it uninhabited and were undoubtedly the first that ever set foot on it”. Cook was wrong about the latter proposition – evidence shows earlier settlement by Polynesian peoples – but it has never been suggested that the Island was inhabited in 1774.

Norfolk Island was first settled in 1788 as a British penal colony, which it remained (save for a brief interval) until 1856. In 1844, for reasons connected with the

organisation of the penal establishment, Norfolk Island was "...taken to be a part of the colony of Van Diemen's Land" (modern-day Tasmania).

The entire population of Pitcairn Island in the eastern Pacific, moved from Pitcairn to Norfolk in 1856, following the closure of the penal establishment in Norfolk. The Pitcairn community was descended, with some exceptions, from the *Bounty* mutineers and their Tahitian consorts. The present Pitcairn Island community is in turn descended from a number of families who returned from Norfolk to Pitcairn in the 1860s.

In anticipation of the Pitcairn Islander's arrival on Norfolk, arrangements were made to separate Norfolk Island from the colony of Van Diemen's Land. An order-in-council to that effect was made on 24 June 1856, 16 days after the arrival on Norfolk of the Pitcairn settlers. By that order, Queen Victoria separated Norfolk Island from the colony of Van Diemen's Land and from the jurisdiction of the governor of that colony and ordered that the Island:

".... shall be a distinct and separate settlement, the affairs of which, shall, until further order is made in that behalf by Her Majesty, be administered by a governor, to be for that purpose appointed by Her Majesty..."

From that time until the closing years of the nineteenth century, the Norfolk people largely regulated their own affairs under a code of 39 laws made by the Governor of Norfolk Island after consultation with the Island's Chief Magistrate. The 39 laws were expressly intended to be simple and straightforward, and the community was intended to regulate its own affairs in accordance with those laws. The Governor, Sir William Denison, travelled to the Island in September 1857 and was, on arrival, provided with a copy of the "laws and regulations" of Pitcairn Island. At a meeting of "the heads of families" on 14 October 1857, Denison informed the meeting that he had been directed:

"....to pay attention to their views and wishes; that in the preparation of the laws which I was about to read to them, I had been guided by those under which they had hitherto been living; that I had done away with a few which were only applicable to the state of things at Pitcairn's Island, and that I had added one or two suited to the situation in which they were then

placed.....Having gone into these explanations, I asked them whether they had any observations to make, and whether they were willing to abide by the laws that they had heard read; and I found that the general feeling was in favour of their adoption. They were then decided to be the laws of the land for the present.....”

Denison’s mode of proceeding was consistent with the Royal Instructions directed to him in his capacity as Governor of Norfolk Island. Those instructions included passages directed to the exercise of legislative authority:

“In framing such laws as aforesaid you are to observe, as nearly as the circumstances will admit, the rules laid down by our Instructions.....And whereas the inhabitants of the said Island are chiefly emigrants from Pitcairn’s Island in the Pacific Ocean, who have been established in Norfolk Island under our authority, and who have been accustomed in the territory from which they have removed to govern themselves by laws and usages adapted to their own state of society, you are, as far as practicable... to preserve such laws and usages, and to adapt the authority vested in you by the said recited order-in-council to their preservation and maintenance”.

From then until 1897 the community of Norfolk Island was essentially self governing. A further British order in council made in 1897 revoked the 1856 order, abolished the separate office of Governor of Norfolk Island and empowered the Governor of New South Wales to make laws for the peace, order and good government of Norfolk Island. Contemporary correspondence makes it clear beyond doubt that the Island was not to be “...annexed formally to New South Wales”. Consistently with that position, the redefinition of the boundaries of the Australian States-to-be, done in 1900 in preparation for Federation by order-in-council under the Colonial Boundaries Act 1895 (UK), did not include Norfolk Island in the boundaries of New South Wales. New South Wales was defined as being:

“....all that portion of Our territory of Australia or New Holland lying between the one hundred and twenty-ninth and one hundred and fifty-fourth degrees of east longitude, and northwards of the fortieth degree of south latitude, including all the islands adjacent in the Pacific Ocean *within the longitude and*

*latitude aforesaid*, and also including Lord Howe Island, being in or about thirty-one degrees thirty minutes south, and the one hundred and fifty-ninth degree of east longitude, save and except those parts of Our said territory of Australia or New Holland which are called respectively 'the State of South Australia', 'the State of Victoria', and 'the State of Queensland'" (emphasis added).

Norfolk Island is situated in longitude 167 degrees 57 minutes east, and therefore Norfolk Island did not fall within the boundaries of New South Wales in 1901 when the Australian colonies united at Federation to form the Commonwealth of Australia.

The final steps in the Island's underlying constitutional history came in 1913 and 1914. In 1913, the Commonwealth of Australia Parliament enacted the Norfolk Island Act 1913, which declared Norfolk Island "...to be accepted by the Commonwealth as a territory under the authority of the Commonwealth by the name of Norfolk Island". The Act was not to come into force until "the King has been pleased to place Norfolk Island under the authority of the Commonwealth". This occurred with effect from 1 July 1914.

### ***Administrative and political institutions of governance from 1914 to 2016***

None of the developments in the period 1897-1914 took place after consultation with the Norfolk Island community, let alone its consent. The Island was "in a position or status of subordination".

During the Parliamentary debate on the second reading of the Norfolk Island Bill 1913, the responsible Australian Minister said in answer to the question "have the people of the Island been consulted?":

"They know what is going on; but they have not been consulted by the Government".

The Minister also said:

"In 1897, the question was raised as to what should be done with the island, and it was pointed out that there could be no annexation by New South Wales or the Commonwealth except by an Act of the Imperial Parliament. But, by an

order-in-council, the island can be placed under the control of the Commonwealth. When that order-in-council is issued, the administration of Norfolk Island will be transferred from the Governor of New South Wales to the Commonwealth [of Australia], and become a territory which will be administered by the Commonwealth in accordance with section 121 [sic] of the Constitution”.

Consistently with the Island’s status of subordination, the inhabitants of the Island – to the extent that they were able to participate in political affairs at all – did so through bodies that were limited essentially to advisory roles, and which had partly elected and partly appointed memberships, as follows:

- The Executive Council of Norfolk Island was instituted in 1913, and was partly elected and partly appointed.
- The Executive Council Ordinance 1925 increased the proportion of elective members (6 elected and 6 appointed).
- The Executive Council was abolished and replaced by the Advisory Council in 1935, which had a wholly elected membership.
- The Advisory Council was replaced in 1964 by the Norfolk Island Council. The Council consisted of the Australian-appointed Administrator and 8 elected members.
- The Norfolk Island Council remained in existence until commencement of the Legislative Assembly in 1979. That body was wholly elective. It was abolished in 2015.
- Since the abolition of the Legislative Assembly in 2015, there has been a wholly-appointed Advisory Council of 5 members.

Irrespective of the extent to which the bodies above were elective or appointed, the functions they performed were to a large extent advisory only.



The Executive Council, which operated from 1913 until 1935, had limited powers over the care and maintenance of public roads, commons and public reserves, and public works “entrusted to the Council”. Otherwise, it was advisory.

The Advisory Council, in place from 1935 to 1964, had as its name suggests the function of advising the Administrator “in relation to any matter affecting the Island”.

The function of the Norfolk Island Council (1964 to 1979) was to “...consider, and tender advice to the Administrator concerning, any matter affecting the peace, order and good government of the Territory”.

None of the above bodies had legislative functions or powers, nor any significant executive role.

The Norfolk Island Legislative Assembly was instituted in 1979 and abolished in 2015. It had significant legislative, executive and administrative functions.

The current Advisory Council, established in 2015 by Federal legislation, has a purely advisory role.

It is proposed by the Commonwealth of Australia that from 1 July 2016 the current Advisory Council will be replaced by a “Regional Council” modelled on New South Wales local government legislation. The exact role and extent of the powers of that body have not yet been established by the Commonwealth. It appears likely to have very limited local government-style functions.

### ***Future administrative and political institutions of governance***

Extensive statutory amendments were made by the Commonwealth of Australia in 2015 and 2016 which are to completely change the legislative and executive arrangements for the Island as from 1 July 2016. From that date, the law of the State of New South Wales will apply to the Island, even though Norfolk Island is not part of NSW, and its people will not be able to vote in NSW elections: ie, for most of the law that will govern them.

After 1 July 2016 the laws in force in Norfolk Island will be:

- (a) Commonwealth of Australia Acts;

- (b) Ordinances for Norfolk Island made by the Governor-General of Australia (effectively, the Australian government);
- (c) Local laws to the extent that they are continued in force by the new measures; and
- (d) New South Wales laws in force in the territory, as above.

It is important to note that the statutory hierarchy set out above is almost entirely content-free. That is, the hierarchy of laws is in no way indicative of who will do what.

For example, the provision by which the Governor-General may make Ordinances for Norfolk Island simply states that “.... the Governor-General may make Ordinances for the peace, order and good government of the Territory”.

Somewhat similarly, the functions of the proposed Norfolk Island Regional Council are also content-free. The amending legislation simply provides that the Regional Council:

“....means a body that is:

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

Hence, the functions of the Council are not set out in the amending legislation, and will only be able to be ascertained by reference at a later time to an Ordinance setting out what the Council’s responsibilities are, and how it is to operate.

### ***The Indian Ocean experience***

What does seem evident – although not explicit – is that although the Regional Council will be elected, it will only have local-government type functions.

This would be consistent with the legal regime imposed by Australia on its external territories in the Indian Ocean: Christmas Island, and the Cocos (Keeling) Islands. The legal regime in force in those territories comprises Australian Acts; laws of the

State of Western Australia applied by the Commonwealth to those Islands; and Ordinances made by the Commonwealth Government specifically for the Indian Ocean territories.

Like Norfolk Island vis a vis the State of New South Wales, the Indian Ocean territories are not part of the State of Western Australia. The consequence is that the people of the Indian Ocean territories do not vote in Western Australian elections, and accordingly have no democratic input into the governance of their islands by means of the application of State laws. Vital "state-type" functions – such as education and the provision of health services – are provided by the State of Western Australia under service delivery agreements between that State and the Commonwealth of Australia, but the State of Western Australia is not democratically accountable to the people of the Islands. The role of the people of the Islands is confined to local government matters, dealt with by a "Shire Council" for each island.

Both the lack of a democratic basis for accountability, and the practical effectiveness of the governance arrangements for the Indian Ocean territories, have been authoritatively criticised in trenchant terms. The former Australian-appointed Administrator of both of the Indian Ocean territories, Mr Jon Stanhope, gave an address at the Australian National University on 1 July 2014, in which he made some observations from his experience as Administrator of Christmas and the Cocos (Keeling) Islands on the state and nature of human rights in the Indian Ocean territories. He said that:

- The dominant human rights issues confronting the Indian Ocean territories arise from the fact that they are "non-self-governing".
- There are no democratic arrangements in place for state-type purposes. Most state-type services are delivered by Western Australian state departments under contracts negotiated and administered by Commonwealth public servants based in Perth and Canberra. There is no input into the content of the contracts by residents of the Territories, nor are the service delivery agreements under which the services are delivered published or made publically available.

- There are no effective consultative mechanisms in place for local decision making or involvement or engagement of the local communities in policy development or resource allocation.
- “I have no doubt that it will come as a surprise to many of you that there are still in Australia, in the 21<sup>st</sup> century, Australian citizens who are denied a most fundamental human right, the right to vote or to be involved in the civil or political life of their community. The people of Christmas Island and the Cocos (Keeling) Islands are such citizens. They have no control over or say in the decisions that affect their day to day lives”.
- “I believe that there is a very strong case for believing that Christmas and the Cocos Islands do come within the terms of Chapter XI of the UN Charter”.
- “I believe that this is an issue which demands the urgent attention of the Commonwealth. As a first step towards a genuine form of self-determination and some say in the decisions that affect them on a daily basis I believe it is imperative that the current paternalistic and autocratic system of administration by anonymous mainland based public servants, which excludes residents from any meaningful part in the determination or delivery of state-type services, must end and local participation in decision making and administration must be enabled”.

The force of Administrator Stanhope’s comments, above, are reinforced by a public apology made by him to the inhabitants of the Indian Ocean territories, which included the following passages:

- “I am at a loss to understand the serial failure of the Department to answer letters or to respond to genuine and legitimate concerns of residents”.
- “I can only assume, and I believe that residents are entitled to believe, that the disrespect and the contempt inherent in the [administering Department] not responding to mail or to requests generated by members of the community for information and advice about matters central to their day to day lives, reflects the attitude which the Department and the Administration holds towards me and more pertinently to each of you personally”.

- o “For this I wish to apologise to all members of the Christmas Island and Cocos Island communities. You do not deserve to be treated like this. I believe that the attitude and behaviour of the Department, and the [Indian Ocean territories] Administration, is clearly unacceptable”.

Your Petitioners submit that the recent, informed and trenchant criticisms by the former Administrator of the Indian Ocean territories is to be preferred to an Australian Parliamentary Inquiry conclusion that “this [governance] model has delivered appropriate state-level government services to the Indian Ocean territories”. It has not.

It remains to notice that an act of self determination was afforded to the inhabitants of the Cocos (Keeling) Islands territory (but not Christmas Island), which occurred on 6 April 1984. The act of self determination took the form of a plebiscite in which the inhabitants of the Cocos (Keeling) Islands were to choose one of the 3 options set out in UN Resolution 1541 (XV) (1960), namely independence; free association with an independent state; or integration with an independent state. The act of self determination was observed by a UN Mission. The 261 electors voted overwhelmingly in favour of integration with Australia. The results were: independence 9, free association 21, integration 229, informal 2.

It is significant that no such act of self-determination has been afforded to the people of Norfolk Island.

### ***Extension of Commonwealth of Australia legislation to Norfolk Island***

From 1914 until now, there has been conscious legislative restraint exercised by the Australian Parliament on the question of extending Federal Acts to Norfolk Island. It is submitted that this reflects the principle that the effect of what was done in 1914 was that the Island:

“...would be a dependency of the Commonwealth, not a part of the Commonwealth itself, and the general laws of the Commonwealth would not be in force in the Island to any further extent than the Parliament thought fit to provide”.

In the period 1914-1979, the extension of Federal Acts to Norfolk Island was quite limited. *The Consolidated Laws of the Territory of Norfolk Island as in force on 31 December 1934* listed 15 Commonwealth Acts extending to Norfolk Island, other than the Norfolk Island Act itself. To put this in context, to 31 December 1934 the Commonwealth Parliament had passed a total of about 1,371 Acts altogether.

By 1 January 1965, according to *The Laws of Norfolk Island 1914-1964*, 91 Commonwealth Acts extended to Norfolk Island. Again, to put that in context, by 1 January 1965 the Commonwealth Parliament had passed a total of 3,968 Acts altogether.

By 1979, according to a list tabled in Parliament during the debate on the Bill which became the Norfolk Island Act 1979, the number of Commonwealth Acts extended to the Island was 121, compared with the total number of Acts passed by the Commonwealth Parliament to the end of 1978, which was 6,090 altogether.

As from 2016, the “default position” set out above will be reversed. All Commonwealth Acts will extend to Norfolk Island unless specifically stated otherwise. Only 23 Commonwealth Acts are to be expressed as not applying, and consequently all other Commonwealth Acts – of which there are now many thousands – will apply to the Island.

The corollary to the proposition that conscious legislative restraint was exercised on the extension of Federal acts to Norfolk Island is that, on many federal-type subjects, the legislative regime hitherto was Territorial rather than Federal. For example:

- *Customs.* The Customs Act 1913 (NI) governs Norfolk Island border control and duties of customs.
- *Quarantine.* The Island’s legislation on this subject is the Plant and Fruit Diseases Act 1959 (NI).
- *Social Security.* The Island’s legislation on this subject is the Social Services Act 1980 (NI).
- *Immigration.* The Island’s legislation on this subject is the Immigration Act 1980 (NI).

- *Employment Issues.* The Island's employment legislation is the Employment Act 1988 (NI).
- *Census and Statistics.* The local legislation on this subject is the Census and Statistics Act 1961 (NI).
- *Postal and telecommunications matters.* These subjects are governed by the Postal Services Act 1983 (NI) and the Telecommunications Act 1992 (NI).

### ***Statutory recognition of the special relationship with Pitcairn Island***

The special relationship of the people of Norfolk Island with Pitcairn Island was hitherto recognised by statute. The preamble to the Norfolk Island Act 1979 included the following:

“And whereas the residents of Norfolk Island include descendants of the settlers from Pitcairn Island:

And whereas the Parliament recognises the special relationship of the said descendants with Norfolk Island and their desire to preserve their traditions and culture”.

That statutory recognition was abolished by Australia's Norfolk Island Legislation Amendment Act 2015, the explanatory memorandum to which states:

“Item 1 [of Schedule 1] provides for the repeal of the preamble to the Norfolk Island Act 1979 as the preamble no longer reflects the Parliament's intention for the governance of Norfolk Island, as expressed in this Bill”.

To the same effect, by Australia's Norfolk Island Continued Laws Amendment Ordinance 2015, Norfolk Island's Immigration Act 1980 was amended to remove reference to special access to the Island for immigration purposes by Pitcairn Islanders:

“This special exemption allowing a resident of Pitcairn Island to apply for [an immigration] permit is repealed to promote further alignment between Norfolk Island and Australian immigration arrangements”.

***Repeal of the Referendum Act***

Accompanying the 2015 suite of Federal legislation was an Ordinance made by the Governor-General under the authority of the legislation, dated 17 June 2015. That Ordinance repealed the Referendum Act 1964, which was the measure used by the electors of the island at the referendum on 8 May 2015 to express their opinion on the proposed governance measures.

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## Sources

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appendix:

1	<i>Captain Cook</i>	Cook, <i>A Voyage Towards the South Pole and Round the World</i> , Vol II, pages 147-148.
2	<i>to pay attention to their views and wishes</i>	Sir William Denison, <i>Varieties of Vice-Regal Life</i> , Vol 1, London, 1870, pages 412-413.
3	<i>Not to be ..... annexed formally</i>	British Parliamentary Papers, <i>Correspondence Relating to the transfer of Norfolk Island to the Government of New South Wales</i> , London, HMSO, 1897.
4	<i>They know what is going on</i>	Minister for External Affairs (Mr Glynn), House of Representatives, <i>Hansard</i> , 16 September 1913, 1247.
4	<i>In 1897, the question was raised</i>	Op Cit, 1241.
8	<i>Stanhope ... address</i>	Paper by John Stanhope, Administrator of Christmas Island and Cocos (Keeling) Islands (2014), Supplementary Submission 23 to JSCNCET inquiry into Economic Development on Norfolk Island
9	<i>public apology</i>	Ibid
10	<i>would be a dependency of the Commonwealth</i>	Opinion by (Sir) Robert Garran, <i>Opinions of the Attorneys-General of the Commonwealth of Australia</i> , Volume 1, 1901-1914, AGPS, Canberra, 1981, pages 267-268