



## THE GOVERNMENT OF NORFOLK ISLAND

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*Sent to all Senators.*

Senator Di Natale  
Leader of the Australian Greens  
Parliament House  
CANBERRA ACT 2015

Dear Senator

### REQUEST FROM NORFOLK ISLAND GOVERNMENT FOR A SENATE SELECT COMMITTEE INQUIRY

You would be aware that Assistant Minister Briggs on 26 March 2015 introduced into the House of Representatives a number of Bills pertaining to the reform of governance arrangements on Norfolk Island. These Bills include the removal of self-government and the islands' parliament replacing it with a Regional Council; and the extension of the Australian Taxation, Social Security and Medicare systems to Norfolk Island.

The proposal to remove self-government is a recommendation of the Joint Standing Committee on the National Capital and External Territories (JSC) report "Same Country Different World – The Future of Norfolk Island". Governance change to Norfolk Island was outside of the JSC's Terms of Reference and the Norfolk Island Government was not afforded the opportunity to provide evidence on governance issues. We hold serious concerns that a Regional Council model will leave our community with no voice in the management of services and is not in the best interests of our community. Such issues of inadequate discussions with Norfolk Island on their preferred model of governance, amongst other things, should be referred to a brief Senate Inquiry.

In acknowledging that reform was required to strengthen the island's sustainability, the Norfolk Island Government in 2011 first put forward its preferred model of territory self-governance. The Norfolk Island model returns Federal powers back to the Commonwealth, powers which Norfolk Island has administered and funded since self-government commenced in 1979. This would leave Norfolk Island with a model of governance similar to that of the Northern Territory and the Australian Capital Territory. This model is supported by resolution of the Norfolk Island Legislative Assembly at its sittings on 3 August 2011 and 8 May 2013.

The introduction of the Taxation, Social Security and Medicare systems were coalition commitments at the 2013 Federal Election. The Norfolk Island Government made a similar commitment in 2010; a commitment that is conditional on transitional arrangements being in place so as not to disadvantage or displace Norfolk Island residents.

The introduction of the Australian Taxation, Social Security and Medicare systems **does not require the removal of self-government.**

The Norfolk Island Government model has been costed by economists ACIL ALLEN CONSULTING in January 2015. That cost analysis demonstrates the Norfolk Island model is financially sustainable and is assumed to be less costly to the Australian taxpayer than the current reforms proposed by the Commonwealth. The phrase 'assumed to be less costly' had to be used in the previous sentence as at no point has the Commonwealth Government or the Department of Infrastructure and Regional Development (DIRD) answered our requests for all costings, economic modelling and impact assessments that the Commonwealth have undertaken on Norfolk Island to help assist us with analysis and decision making. The Commonwealth is not only unwilling to provide all information, it is actually blocking the release of key information requested by Norfolk Island and Norfolk Island stakeholders. For example: the Norfolk Island Government was repeatedly denied access to the full 2006 Centre for International Economics Report on Norfolk Island. To quote Freedom of Information (FOI) Commissioner Popple 'It is clear from the body of the report ... it was created to inform the Cabinet about a range of issues associated with the future governance of Norfolk Island'. The FOI Commissioner made a decision to release the 2006 Report to a private individual on Norfolk Island, however, before its release, the Department of Prime Minister and Cabinet together with DIRD has requested a review of the FOI Commissioner's decision through the Administrative Appeals Tribunal. That hearing has concluded and judgement has been reserved. It is concerning that such pertinent information is being withheld from Norfolk Island and should be a matter for Senate Inquiry.

Despite numerous attempts in the last four years to engage in dialogue with the Australian Government on Norfolk Island's proposed model of territory self-governance, or any model for that matter, this has not occurred. It was therefore very disappointing that the Australian Government only advised the Norfolk Island Government and community of their intentions to abolish self-government seven (7) days prior to introducing the legislation into the House of Representatives.

We have also presented a strongly supported community petition to both the House of Representatives and the Senate requesting that the people of Norfolk Island have a say through referendum or plebiscite on a future governance model before any changes are voted on by the Australian Federal Parliament. Assistant Minister Briggs has responded that it is not his intention to hold a referendum, as he believes the consultation process undertaken has been adequate. We refute this claim. We seek that the stated consultation process be examined through a Senate inquiry.

On 8 May 2015 a referendum which asked the following question of the Norfolk Island electorate was supported with a YES vote of 624 to a NO vote of 266.

*"Should the people of Norfolk Island have the 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 before such changes are acted on by the Australian Parliament? YES/NO"*

This result clearly undermines the assertion by the Norfolk Island Administrator and Assistant Minister Briggs that they have "overwhelming support" from the community for the abolition of self-government and the Norfolk Island Parliament. Clearly the community wants proper information and consultation at referendum or plebiscite. The proposed governance change is a constitutional matter and the community should be afforded their say at the ballot box.

The level of consultation and the want by the Norfolk Island community to have a say in their future governance arrangements was also considered at a meeting of the Australian Region Management Committee of the Commonwealth Parliamentary Association held in Melbourne on 10 April 2015. The Management Committee supported further consultation with the people of Norfolk Island on the proposed governance model prior to the current legislation before the House of Representatives is progressed (copy



attached). Assistant Minister Briggs has responded that he believes that the consultation process has been adequate. The Norfolk Island Government refutes this claim.

The Norfolk Island Government was denied the opportunity to view the raft of amendments that deal with the removal of self-government and the introduction of the Australian Taxation, Social Security and Medicare systems into Norfolk Island before their introduction into the Australian Parliament. The amendments currently leave many questions unanswered. For example, they leave doubt around policy implementation on taxation and social security and have the potential to disadvantage social welfare recipients and working people on Norfolk Island as currently drafted. It is essential that Norfolk Island recipients are not unfairly disadvantaged or displaced in the transition from the current Norfolk Island system to the Australian systems. It is essential that there be proper scrutiny both in the costing to the Commonwealth and the impact on the Norfolk Island community and the need for adequate transitional provisions. This is a matter for Senate Inquiry.

Whereas superannuation is to be phased in over a 12 year period with an increase of 1% each year, it is unclear why the drafter of the Bills was unable to address transition and phase in periods in all essential areas.

Further examples are:

- From 1 July 2016 the Australian Pension and age provisions will apply. Currently women on Norfolk Island are entitled to the Norfolk Aged Pension at 60. The Commonwealth Bill proposes women under the Australian 65 age provision will be transferred to a Newstart payment and not the Australian Aged Pension payments. There should be phased in provisions similar to the current provisions for increasing the Australian Aged Pension to 67 Years.
- From 1 July 2016 the full pay as you earn Australian Taxation provisions will apply to all employees on Norfolk Island by imposing an immediate real cut in take home pay to Norfolk Island workers, as the Tax is applied without any offsetting wage increases. The Department of Infrastructure and Regional Development have advised that there is no immediate intention to increase wages or the minimum hourly wage rate to compensate for the introduction of Tax. This appears to be a double standard. In any impost on employers, such as superannuation payments and payment of Australian Employment standards, are either to be phased in or subject to future consultation, when employees and pensioners are faced with the immediate application of Australian Taxation and unfair pension transition provisions. Norfolk Island households are experiencing financial stress as reported by Deloitte Access Economics Norfolk Island Wellbeing Report (2011) and the Norfolk Island Household and Business Income and Expenditure Surveys (2014). This is an unfair imposition on an already identified financially stressed economy and should be the matter of a Senate Inquiry.

The introduction of the Taxation, Social Security and Medicare systems into Norfolk Island was not reported on in the JSC report "Same country - different world - The Future of Norfolk Island"; nor has there been any opportunity for proper consultation, negotiation and consideration on the implementation of those changes.

The Norfolk Island Government refutes the assertion in the Statement of Compatibility with Human Rights contained within the Explanatory Memorandum to the Bills, that the consultation undertaken by Administrator Hardgrave and Assistant Minister Briggs on the proposed governance reforms has significant support within the Norfolk Island community. The overwhelming results of the referendum conducted on 8 May 2015 clearly indicates that the Norfolk Island electorate require that they be consulted at referendum

on the future model of governance for Norfolk Island before such changes are acted on by the Australian Parliament.

Additionally, the fact that the proposed amendments to the *Norfolk Island Act 1979* remove the Preamble to that Act would seem an impingement on the rights of minorities. The Preamble to the Act is the only place in legislation that recognises the descendants of Pitcairn Island as residents on Norfolk Island. In the Australian population, Norfolk Islanders of Pitcairn descent are a minority. The Preamble, amongst other things, 'recognises the special relationship of the said descendants with Norfolk Island and their desire to preserve their traditions and culture'. There has been no consultation on the removal of the Preamble which recognises these people.

Therefore the conclusion contained within the Statement of Compatibility that the Bill is compatible with Human Rights is incorrect. It is our opinion and the opinion expressed on 8 May 2015 by the Norfolk Island electorate, the reform Bills as proposed do in fact limit human rights and should be the subject of a Senate Inquiry.

The Norfolk Island Government seeks your support for the current reform Bills to be referred to a Senate Select Committee for inquiry to allow these and other related matters to be resolved in a manner which would enable the reform process to be positively embraced by the Norfolk Island community rather than the current divisive process taking place at the present time.

Could I respectfully suggest a time line for dealing with these matters as follows:

1. **That the Bills when tabled in the Senate be referred to a Senate Select Committee to consider:**
  - a. **Future options for the governance of Norfolk Island.**
  - b. **The transition provisions to the Australian Taxation, Social Security and Medicare systems within the proposed Bills.**
  - c. **Examination of all previous costings, economic modelling and impact studies completed on behalf of the Australian Government, including the 2006 Report of the Centre for International Economics on Norfolk Island.**
  - d. **Examine the consultation process with Norfolk Island leading up to the development and introduction of the Bills into the Australian Parliament.**
  - e. **Examine all of the above to ensure compliance with Human Rights provisions.**
2. **The Senate Select Committee to engage the Norfolk Island Government, the Norfolk Island Legislative Assembly and the Norfolk Island community in the process.**
3. **The Senate Select Committee to consider these issues as a matter of urgency and report back to the Senate no later than the 7 September 2015 sittings of the Senate.**

It is not our intention in seeking a Senate Select Committee Inquiry to stop the change process. It is an attempt to deliver appropriate participation in the process by the stakeholders most affected by the package of legislation currently before the Australian Parliament. It is the wish of the Norfolk Island Government that the extension of the Australian Taxation, Social Security and Medicare systems, with proper consideration, still be implemented by 1 July 2016.

Yours sincerely



**Lisle Snell**

**Chief Minister and Minister for Tourism**

9 May 2015





The Hon Jamie Briggs, MP  
Assistant Minister for Infrastructure and Regional Development  
Parliament House  
CANBERRA ACT 2600

Dear Minister

At a meeting of the Australian Region Management Committee of the Commonwealth Parliamentary Association (CPA) held in Melbourne on Friday 10 April 2015 it was resolved that I write to you concerning the Commonwealth Government's proposals to abolish the Norfolk Island Legislative Assembly.

The resolution agreed to was in the following terms:

"That the Australian Region of the CPA:

{1} Notes that on 1 December 2014 a petition was presented in the House of Representatives (*Votes and Proceedings No 88, p1021*) signed by 834 citizens asking that before voting on any Bill to change governance arrangements for Norfolk Island that the residents of Norfolk Island have the right to be provided with the facts and consulted at referendum or plebiscite and have a democratic say on the future model of governance for Norfolk Island before any proposed changes are voted on by the House, and on 18 November 2014 a petition was presented to the Senate (*Journals of the Senate No 65 p 1784*) from 830 petitioners requesting that the Senate not vote on any bill to change governance arrangements for Norfolk Island prior to consultation with, and the consent of, the residents of Norfolk Island;

{2} Notes that on 18 March 2015 the Norfolk Island Legislative Assembly resolved that a referendum of Norfolk Island residents be undertaken on the following question:

Should the people of Norfolk Island have the 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 before such changes are acted on by the Australian Parliament? YES/NO;



## THE GOVERNMENT OF NORFOLK ISLAND

### MEDIA RELEASE

#### Governance change is a constitutional matter!

"I was extremely disappointed and astounded to hear the highest Commonwealth Representative on Norfolk Island, the Hon. Gary Hardgrave, say that a referendum on governance is not a constitutional matter", Hon. Robin Adams, Minister for Cultural Heritage and Community services said.

"For a person who holds a Vice-Regal position to say such a thing, along with a referendum being a waste of time and money is appalling and is not in line with democracy in the 21<sup>st</sup> century", Ms Adams said.

Norfolk Island was accepted by Australia as a Territory under the Authority of Australia in 1914. Well after the Australian Constitution was in place in 1901. Therefore, Norfolk Island is not mentioned in the Australian Constitution, so the closest thing to a constitution for Norfolk Island is the *Norfolk Island Act 1979 (Cth)*. The Norfolk Island Act should therefore be treated like the Australian Constitution – no changes should be made without a referendum.

"As I have been saying for years in our Parliament, the Parliament is the voice of the people, therefore a referendum of the Norfolk Island community on governance change is essential. The Australian Government, as 21<sup>st</sup> Century legislators in a democratic country, must pay attention to the 8 May 2015 referendum on Norfolk Island before they vote on the bill now before the House of Representatives, which proposes to abolish the Legislative Assembly of Norfolk Island. Anything less is undemocratic. This is consistent with the resolution of the Australian Region Management Committee of the Commonwealth Parliamentary Association's letter dated 14 April 2015, in which they called upon Assistant Minister Briggs to not proceed with the legislation before the House of Representatives until, amongst other things, the result of the referendum on 8 May is known", Ms Adams said.

Robin Adams  
Minister for Cultural Heritage and Community Services

1 May 2015

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In the meantime, the Norfolk Island Government urges the Commonwealth Government through the Office of the Administrator to provide facts and information on its proposed model of government so that the community can enter into informed debate on recommendation 1.

Lisle Snell  
**Chief Minister**

**Date 13/11/2014**

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