

NORFOLK ISLAND PEOPLE for DEMOCRACY



YOUR FUTURE – YOUR CHOICE

**AN INVITATION TO ALL NORFOLK ISLAND PEOPLE TO CONSIDER SOME
OPTIONS WHICH ARE STILL AVAILABLE TO US TO PURSUE A SECURE,
PRODUCTIVE AND DEMOCRATIC FUTURE.**

Dear Residents,

On 19 March 2015, Norfolk Island suffered an enormous blow against its government processes when the Commonwealth government announced its unwarranted and ill-informed decision to remove the Island's Legislative Assembly.

On 8 May 2015, the Norfolk Island People voted overwhelmingly in support of their "right to freely determine their political status, their economic, social and cultural development". Australia has chosen to ignore the outcome of that referendum and disregard the rights of the Norfolk Island People.

This is a summary of our situation today:

- 1. Self-government has been removed.**
- 2. Norfolk Island is now a Non Self-Governing Territory.**
- 3. Norfolk Island may now be inscribed on the United Nations List of Non Self-Governing Territories.**
- 4. Upon Inscription, there are protective rights accorded to the Norfolk Island People by the United Nations to allow them to freely determine their political status and freely pursue their economic, social and cultural development.**

On 18 May 2015 a small group of Norfolk Island people came together to set in motion an action plan to ensure our rights are restored and protected thereafter. The group has adopted the title of Norfolk Island People for Democracy (NIPD).

You are invited to be a supporter and be part of a strong team to regain Norfolk Island's rightful and democratic voice.

BACKGROUND

1. On 14 December 1960 the United Nations passed resolution 1514 which proclaimed the necessity of *'bringing a speedy and unconditional end to colonialism in all its forms and manifestations'* and declared:

"All peoples have the right to self-determination and by virtue of that right can freely determine their political status and freely pursue their economic, social and cultural development". (United Nations General Assembly resolution 1514)

2. On 15 December 1960 the United Nations passed resolution 1541, which had the effect of requiring Australia under international law to list Norfolk Island on to the United Nations list of 'non self-governing territories' so that Norfolk Island could enjoy a United Nations assisted transition towards a legally protected governance model designed in accordance with the wishes of the Norfolk Island People.
3. A 1978 report by the United Nations Association of Australia (U.N.A.A.) confirmed Australia's obligation to list Norfolk Island; however Australia had always strongly resisted listing Norfolk Island, probably in the knowledge that by doing so they risked losing control over the extended 200nm territorial waters surrounding Norfolk Island.

"...the reason that Norfolk Island was, in 1972, attached to the Department of Capital Territory instead of Science and External Territories with Cocos and Christmas Islands, was deliberately to avoid U.N. scrutiny." (Nimmo Royal Commission, 1976)

4. To further avoid listing Norfolk Island in 1979 Australia 'cleverly' conferred to the Norfolk Island People a limited form of self-government through the Norfolk Island Act 1979 (Cth). By doing this it allowed Australia to argue that Norfolk Island was a 'self-governing territory' and therefore there was no need to list Norfolk Island with the United Nations as a 'non self-governing territory'.
5. What Australia failed to explain to the Norfolk Island People in 1979 was that the success of the Norfolk Island Act 1979 was contingent upon the ongoing goodwill of the responsible Commonwealth Department and Federal Minister; that Australia would retain control of most of the law-making powers and economic freedoms the Island needed to govern effectively; and Australia would retain total control over the 200nm E.E.Z. and the natural resources contained therein.
6. In light of the changes made to the Norfolk Island Act on 26 May 2015 Australia can no longer sustain the argument that Norfolk Island is a 'self-governing territory' and must as a matter of international law now list Norfolk Island on to the United Nations list of 'non self-governing territories'.

"NIPD is committed to ensuring the Norfolk Island People can enjoy their democratic rights by having Norfolk Island listed on the United Nations list of 'non self-governing territories'". (NIPD)

THE UNITED NATIONS AND NORFOLK ISLAND

7. After inscription the United Nations will educate us, the Norfolk Island People, on our rights at law and allow us to decide what sort of future we want through a United Nations sponsored referendum.
8. This process is commonly referred to as an act of self-determination. A United Nations sponsored referendum would give the Norfolk Island People the following options:
 - Self-Government in Free Association;
 - Independence; or
 - Integration.

“NIPD supports self-government in free association with Australia.

NIPD does not support independence. NIPD does not support integration with Australia.

However, we recognize that self-determination means that the Norfolk Island People have the democratic right to choose which option they wish to pursue.” (NIPD)

9. As a part of NIPD’s due diligence process we explored the different free association models already in existence around the world. What became clear to NIPD is that self-government in free association addresses most of the fundamental inequities associated with government exercised from afar; it addresses the weaknesses of our previous governance arrangements with regards to financial sustainability; it ensures Norfolk Island has the necessary powers required to govern effectively; and it guarantees the fundamental right of the Norfolk Island People to determine their own future.
10. Despite Australia’s historical unwillingness to uphold the legal rights of the Norfolk Island People, especially when compared to the demonstrated willingness of other Nations who have the same legal responsibilities to their dependent Territories, NIPD is committed to have Norfolk Island listed with the United Nations and to give the Norfolk Island People the opportunity to determine their own future.

THE RISKS

11. Australia may be disappointed at the potential of losing its position of absolute power over the Norfolk Island Territory when Norfolk Island is initially listed with the United Nations. However, Australia has a distinct moral and ethical responsibility to ensure the ongoing financial welfare of the Norfolk Island People during the transition to new governance arrangements; and a very strict legal obligation to ensure that it does not abuse its position of power to the detriment of the Norfolk Island People. To ignore these responsibilities could cause Australia’s actions to be viewed by the United Nations as a gross breach of their international obligations.

THE OPPORTUNITIES

12. Norfolk Island will be able to develop proposals to stimulate the economy without the risk of those proposals being rejected by Australia.
13. Greater direct control of the land and the waters surrounding Norfolk Island will bring benefit to the Norfolk Island People.

“It is important to understand that Norfolk Island is not just 40 km² of land; it also includes the 428,618 km² Exclusive Economic Zone (EEZ) and rights to all of the resources contained therein.

This is a part of the true wealth of the Norfolk Island Territory.” (NIPD)

14. To better identify some of the other opportunities available to the Norfolk Island People, and to start the conversation about framing our future governance model, NIPD has developed the following Draft Understanding that we believe should underpin our new self-governing relationship with Australia.

DRAFT UNDERSTANDING

THE NORFOLK ISLAND PEOPLE FOR DEMOCRACY SUPPORT SELF-GOVERNMENT IN FREE ASSOCIATION WITH AUSTRALIA UNDER THE FOLLOWING UNDERSTANDING AND DOES SO IN A SPIRIT OF PARTNERSHIP, COOPERATION, SHARED VALUES, RESPECT FOR HUMAN RIGHTS AND RESPECT FOR THE PRINCIPLES OF THE UNITED NATIONS.

I. SELF GOVERNMENT IN FREE ASSOCIATION WITH AUSTRALIA

Norfolk Island and Australia to negotiate a treaty package, which makes clear in its words and supporting documents that Norfolk Island will remain associated with Australia but will end its status as a non-self governing territory.

II. NORFOLK ISLAND WILL HAVE THE POWER TO LEGISLATE FOR THE PEACE, ORDER AND GOOD GOVERNMENT OF THE ISLAND

Norfolk Island laws would not require approval or assent from Australia. Australia will not have the power to make laws for Norfolk Island; however Norfolk Island may seek to have a particular law of Australia extended to the island. Norfolk Island will be responsible for making laws for many of the issues important to this community today, including but not limited to, controlling electoral eligibility; the Norfolk Island public service; land tenure, immigration and residency requirements.

III. NORFOLK ISLAND WILL HAVE RIGHTS TO THE NORFOLK ISLAND EXCLUSIVE ECONOMIC ZONE (N.I.E.E.Z.) INCLUDING FISHING, MINERALS AND MINING RIGHTS

IV. AUSTRALIA WILL ASSIST WITH ECONOMIC AND INFRASTRUCTURE DEVELOPMENT SUPPORT INITIATIVES

Norfolk Island will reserve the right to receive 'untied financial support' from non-government agencies and governments, other than Australia, for the maintenance and development of large-scale infrastructure. Norfolk Island will develop bilateral administrative, technical, and specialist support guarantees with Australia.

V. NORFOLK ISLAND WILL ENSURE INDEPENDENT OVERSIGHT AND REVIEW MECHANISMS ARE IN FORCE FOR THE MANAGEMENT OF THE PUBLIC ACCOUNT AND SIGNIFICANT PUBLIC DECISION-MAKING

VI. ALL PUBLIC LANDS WILL BE THE PROPERTY OF NORFOLK ISLAND

Norfolk Island will recognise Australia's relationship with KAVHA and the National Park.

VII. NORFOLK ISLAND WILL HAVE A CONSTITUTIONAL GOVERNOR, ACCOUNTABLE ONLY TO THE PEOPLE OF NORFOLK ISLAND

Norfolk Island will not have an Administrator.

VIII. NORFOLK ISLAND WILL HAVE ITS OWN CONSTITUTION

ABOUT OUR GROUP AND SUPPORTER BASE

15. Our group is called the *Norfolk Island People for Democracy (NIPD)*
16. NIPD's role is to transition our Islands current governance arrangements towards a new and appropriate democratic governance model for Norfolk Island based on and guided by a spirit of partnership, cooperation, shared values, respect for human rights and respect for the principles of the United Nations.
17. It is important that NIPD develop an official 'register' of supporters so that it can demonstrate a reasonable degree of representative authority.
18. You can register your support in confidence either directly through any of the NIPD interim points of contact (listed below) or by email to pdsupport@ninet.nf. When registering your support you will be asked to provide your name and email contact and to confirm whether or not you are a Norfolk Island resident in accordance with the Immigration Act 1980 (NI) prior to 1 July, 2015.
19. There are no costs associated with registering as a NIPD supporter. Registered NIPD supporters will be provided with updates by email.
20. To ensure that NIPD acts in accordance with its core democratic principles all office bearers will be freely elected at a general meeting of registered supporters to be held prior to incorporation.
21. In the interim, the following people have been asked, and kindly agreed, to be available to act as interim points of contact for those members of the community interested in being involved in refining the Draft Understanding and assisting to formalise the organization more generally.

Ron Nobbs
Geoff Gardner
Lisle Snell
David Buffett
Andre Nobbs
Robin Adams
Geoff Bennett
Chelsea Evans
Chris Magri
Mitchell Graham
Brett Sanderson
Albert Buffett

22. NIPD will announce the date for a public meeting and education forum once we have had time to develop our supporter base. Our aim is to hold this meeting no later than 30 August 2015.
23. Any questions about the United Nations process can be directed to NIPD at pdsupport@ninet.nf or if you would like to learn more yourself go to the United Nations website at <http://www.un.org>.

DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES ADOPTED BY GENERAL ASSEMBLY RESOLUTION 1514 (XV) OF 14 DECEMBER 1960

The General Assembly,

Mindful of the determination proclaimed by the peoples of the world in the Charter of the United Nations to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom,

Conscious of the need for the creation of conditions of stability and well-being and peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence,

Aware of the increasing conflicts resulting from the denial of or impediments in the way of the freedom of such peoples, which constitute a serious threat to world peace,

Considering the important role of the United Nations in assisting the movement for independence in Trust and Non-Self-Governing Territories,

Recognizing that the peoples of the world ardently desire the end of colonialism in all its manifestations,

Convinced that the continued existence of colonialism prevents the development of international economic co-operation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace,

Affirming that peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law,

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Welcoming the emergence in recent years of a large number of dependent territories into freedom and independence, and recognizing the increasingly powerful trends towards freedom in such territories which have not yet attained independence,

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory,

Solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations;

And to this end Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.
2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

(continued overleaf)

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.
5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.
6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.
7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

CHAPTER XI: DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- c. to further international peace and security;
- d. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
- e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

PRINCIPLES WHICH SHOULD GUIDE MEMBERS IN DETERMINING WHETHER OR NOT AN OBLIGATION EXISTS TO TRANSMIT THE INFORMATION CALLED FOR UNDER ARTICLE 73(e) OF THE CHARTER ADOPTED BY GENERAL ASSEMBLY RESOLUTION 1541 (XV) OF 15 DECEMBER 1960

United Nations Resolution 1541 (XV) of 15 December 1960 sets out the Principles which should guide members in determining whether or not an obligation exists to transmit the information called for under Article 73(e) of the Charter.

Principle IV of that Resolution says that:

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

Principle V goes on to say that:

“Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctiveness of a territory exists, other elements may then be brought into consideration. These 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 73(e) of the Charter.”



“DEMOCRACY IS THE GOVERNMENT OF THE PEOPLE, BY THE PEOPLE, FOR THE PEOPLE”

ABRAHAM LINCOLN