



GOVERNMENT OF NORFOLK ISLAND



SUBMISSION ON THE PROPOSED EXPANSION OF THE NORFOLK MARINE PARK

September 2026

Government of Norfolk Island



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Director of National Parks
Australian Marine Parks
Parks Australia
Department of Climate Change, Energy, the Environment and Water
Australian Government

By email: marineparksreview@dcceew.gov.au

Submission on the Proposed Expansion of the Norfolk Marine Park

Dear Director,

Re: Proposed Expansion of the Norfolk Marine Park

Purpose

The Government of Norfolk Island (GNI) makes this submission in response to the proposed expansion and rezoning of the Norfolk Marine Park, the proposed removal of the Cascade Pier area from the Park, and the proposal for a standalone management plan.

The submission takes account of the Commonwealth consultation material, questions put by GNI to Parks Australia and the written response received, and discussion at the General Assembly held at Rawson Hall on 22 August 2026.

The Marine Park proposal was brought to the General Assembly so the Norfolk Island community could consider it publicly and contribute to GNI's response. The discussion showed support for responsible protection of Norfolk Island's marine environment, together with significant concern about jurisdiction, the extent of the proposed zoning, fishing and resource interests, enforcement, Cascade Pier and the future role of Norfolk Islanders in management of the waters surrounding the Island.

These matters inform this submission.

Reservation of rights and non-acquiescence

Participation by GNI, the General Assembly or any Norfolk Island resident in this consultation is not to be interpreted as:

- acceptance of Commonwealth title, jurisdiction or control over Norfolk Island's surrounding maritime area or natural resources;
- acquiescence in the description of the surrounding maritime area as "Australia's EEZ";
- acceptance that Norfolk Island's interests are confined to the proposed Special Purpose Zone; or
- waiver, limitation or prejudice of any position concerning Norfolk Island's territorial sea, wider maritime area, continental shelf, natural resources, self-determination or constitutional status.



GNI requests that this reservation be recorded in the Director of National Parks' report to the Minister and retained in subsequent consultation records, instruments and management processes.

GNI raised the question of jurisdiction directly with Parks Australia. Parks Australia advised that the proposal “has no bearing on the legal jurisdiction of the waters surrounding Norfolk Island” and that constitutional, international-law and ocean-treaty matters are more appropriately directed to the Australian Government Attorney-General's Department.

Those questions have therefore not been addressed through this consultation and remain unresolved. GNI does not accept that reliance upon the EPBC Act determines the antecedent question of jurisdiction raised by Norfolk Island.

The present process is being undertaken under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). GNI's participation in that process is not acceptance of the Commonwealth's underlying jurisdictional position and is without prejudice to Norfolk Island's position concerning its surrounding waters and resources.

Norfolk Island's relationship with its surrounding seas

The sea surrounding Norfolk Island is integral to the history, culture, food security, economy and future of the Pitcairn–Norfolk Island people.

Questions concerning control and use of those waters and their resources have existed for decades. They did not begin with the present Marine Park proposal.

During the period of statutory self-government, fisheries-management arrangements were developed involving the Norfolk Island Government, Norfolk Island Fishing Association and Commonwealth fisheries authorities. Parks Australia itself refers in its response to GNI to the Norfolk Island Fishery Management Policy 2009 and the Memorandum of Understanding between AFMA and the former Norfolk Island Legislative Assembly as the basis for management arrangements around Norfolk Island.

In 2016, Albert Buffett, President of the Council of Elders, formally recorded a Norfolk Island position concerning the surrounding maritime area and its natural resources. That action forms part of the documented history of Norfolk Island's position concerning its waters. It was raised again during the Marine Park discussion at the General Assembly on 22 August 2026.

GNI formally recognises and affirms the significance of the 2016 action as part of Norfolk Island's continuing record concerning its surrounding waters and resources. Participation in the present consultation does not displace, waive or prejudice the position expressed at that time.

Existing Norfolk Island legislation

At the General Assembly, attention was drawn to the *Territorial Waters Act 1926* (Norfolk Island) and how this law is observed within the present park expansion proposal.

Commonwealth legislation has continued to refer expressly to “*the territorial waters of Norfolk Island*” within the meaning of the *Territorial Waters Act 1926* of Norfolk Island.¹

¹ *Crimes at Sea Act 2000* (Cth), s 6(10)(a), referring expressly to “*the territorial waters of Norfolk Island* (within the meaning of the *Territorial Waters Act 1926* of Norfolk Island)”. Australian Government, Federal Register of Legislation.



GNI requests formal advice from the Commonwealth on the present status and operation of the *Territorial Waters Act 1926* (Norfolk Island) and its interaction with the EPBC Act, the *Seas and Submerged Lands Act 1973* and the proposed Marine Park arrangements.

Parks Australia has not addressed that question and has referred constitutional and international-law matters to the Attorney-General's Department.

GNI considers that the status and effect of existing Norfolk Island legislation concerning its territorial waters is directly relevant to any Commonwealth proposal affecting those waters and requires a substantive response.

Conservation and evidence

GNI supports responsible, evidence-based protection of Norfolk Island's marine environment.

The proposed expansion would place approximately 94 per cent of the Marine Park within IUCN Category II National Park zoning. A restriction of that scale requires a clear evidentiary basis and a demonstrated relationship between the threats identified and the protection proposed.

Parks Australia identifies climate change, pollution, overfishing, habitat destruction, biodiversity loss and nutrient runoff as principal threats. Its written response to GNI confirms that the proposed expansion is not expected to address pollution or nutrient runoff and describes the expanded National Park Zone as removing the potential risk of overfishing and habitat destruction.

The information provided to date does not, in GNI's view, adequately establish the Norfolk Island-specific basis for placing approximately 94 per cent of the proposed Park within Category II zoning.

GNI seeks the evidence relied upon to establish:

- the present or reasonably foreseeable fishing pressure or other extractive activity requiring that level of protection;
- the ecological harm presently occurring or reasonably anticipated;
- how the proposed boundary and zoning address each identified threat;
- the environmental outcomes expected after 1, 5 and 10 years and the baseline against which those outcomes will be measured;
- the stock, biomass, catch, effort and bycatch information relied upon;
- what alternative or more targeted management measures were assessed; and
- why the proposed zoning is proportionate to the circumstances of Norfolk Island.

The absence of present fishing activity in an area is not evidence that the area has no future importance to Norfolk Island.

Local fishers hold practical and intergenerational knowledge of established and prospective fishing grounds and marks. Future vessels, technology, infrastructure, markets and environmental conditions may allow sustainable use of areas not presently fished. Decisions made now need to preserve reasonable options for future generations.



Fishing, monitoring and enforcement

GNI supports expansion of the Special Purpose Zone (Norfolk), commonly known as the Norfolk Island fishing box, where that expansion preserves and strengthens sustainable local fishing access.

The fishing box reflects a history of local stewardship. GNI seeks continuation and strengthening of fisheries-management arrangements involving Norfolk Island fishers and institutions, including NIFA, GNI, AFMA and relevant technical expertise.

The General Assembly heard reports from residents and experienced mariners of apparent foreign long-line fishing activity in waters surrounding Norfolk Island, including observations believed to involve the fishing box or existing protected areas.

GNI does not present those observations as proof of unlawful fishing. Vessel identity, location, activity and authorisation require verification against the relevant Commonwealth records.

They do, however, raise a practical issue about enforcement.

Parks Australia has advised that AFMA operates risk-based fisheries compliance arrangements and that AFMA, Parks Australia, AMSA, Australian Border Force and the Australian Defence Force have monitoring capabilities in the waters around Norfolk Island. Detailed operational information is not publicly released.

GNI accepts that some operational information cannot be made public. An expanded Marine Park nevertheless requires adequate surveillance and enforcement if the additional protection is to have practical effect.

GNI seeks confirmation that any expansion will be accompanied by funded and measurable monitoring and enforcement arrangements appropriate to the size and location of the Park.

Governance and management

The proposed proclamation and the future management plan are separate processes. Parks Australia has confirmed that, if standalone management is adopted, preparation and consultation on the new management plan will follow the decision on the present proposal.

The Norfolk Island community is therefore being asked to consider the proposed expansion and zoning without first knowing the full management arrangements that would apply.

GNI requires clarity as to the legal and practical consequences that would arise from proclamation, including which matters would become fixed or constrained and which, if any, would remain capable of determination through a subsequent management plan. This request for clarification does not imply acceptance of proclamation or of the proposed sequencing.

A standalone Norfolk Marine Park also requires an enduring Norfolk Island role in its governance.

GNI's position is that the governance arrangement is to provide for a locally selected Norfolk Island majority with defined responsibilities in matters including zoning, permits, sustainable use, research, monitoring, budgets and future amendments. Consultation or advisory



participation alone does not provide an adequate governance role for the community whose waters, resources and future interests are directly affected.

Parks Australia's response invites the community to make submissions on future management arrangements but does not address GNI's question as to whether a permanent locally selected governing body with defined powers will be supported.

That matter remains unresolved.

Cultural relationship and local stewardship

GNI asked Parks Australia how the distinct historical, cultural and intergenerational relationship of the Pitcairn–Norfolk Island people with their surrounding seas had been identified and assessed in developing the proposal.

Parks Australia responded that the Special Purpose Zone recognises the history of local use and management and invited submissions about incorporating local aspects into the future management plan.

The relationship of Norfolk Islanders with their surrounding seas extends beyond current fishing activity and beyond the boundaries of the Special Purpose Zone.

GNI requests that the Director's report identify how the cultural, historical and intergenerational interests of the Pitcairn–Norfolk Island people have been assessed across the whole proposed Marine Park, and how that assessment has influenced its boundaries, zoning and proposed governance.

Cascade Pier

Parks Australia has advised that removal of the Cascade Pier area is intended to remove the requirement for a specific Marine Park authorisation and make future infrastructure upgrades supporting shipping and tourism easier to undertake.

That clarification is noted.

It remains unclear why the same consideration has not been applied to Kingston, Ball Bay, Headstone and other landing locations that may be important to Norfolk Island's future shipping, access, resilience and infrastructure needs.

GNI requests the assessment relied upon in determining that Cascade requires removal from the Marine Park and whether comparable present and future requirements at other landing locations were considered.

Any proposal for future development at Cascade would also need to address sediment, runoff, turbidity, blasting, noise, lighting, vessel movements, ballast water, biofouling, invasive species and other impacts on the surrounding marine environment.

Community views

GNI acknowledges the organisations and individuals whose earlier representations contributed to development of the proposal, including proposals to increase marine protection and expand the Norfolk Island fishing box.



The General Assembly on 22 August 2026 provided a further opportunity for the community to consider the proposal after its details had been released.

Contributions raised jurisdiction and control of the surrounding waters, the fishing box, mining and resource access, the *Territorial Waters Act 1926*, local management, foreign fishing and enforcement, Cascade Pier and future economic opportunities.

A mining exclusion for the Special Purpose Zone was proposed. The continuing relevance of the *Territorial Waters Act 1926* was raised. Other contributors sought greater local control over management of the surrounding waters, and one community organisation asked GNI to consider legal proceedings concerning Commonwealth claims over Norfolk Island's waters.

These contributions are recorded as part of community consultation. They are not represented as individual resolutions of the General Assembly.

Government of Norfolk Island position

Having considered the proposal, the information provided by Parks Australia and the views expressed through the General Assembly, **the Government of Norfolk Island does not support proclamation of the proposed expansion of the Norfolk Marine Park in its present form.**

GNI's position is based on:

- unresolved questions concerning jurisdiction and the operation of existing Norfolk Island legislation;
- insufficient Norfolk Island-specific evidence presently available to demonstrate the need for and proportionality of the proposed scale and zoning;
- the proposed proclamation preceding preparation of the standalone management plan;
- the absence of an agreed governance arrangement providing Norfolk Island with a substantive and continuing decision-making role;
- outstanding questions concerning monitoring and enforcement;
- the need to preserve sustainable local fishing, future economic opportunities and intergenerational access;
- unresolved issues concerning Cascade and other strategically important landing locations; and
- the need to recognise the cultural, historical and intergenerational relationship of the Pitcairn–Norfolk Island people with the whole surrounding maritime area.

Accordingly, GNI's position is that the proposal is not to proceed to proclamation until these matters have been substantively addressed and the relevant information made available to the Norfolk Island community.



Before any further decision is taken, the Government of Norfolk Island requires:

1. a formal Commonwealth response to the jurisdictional and legislative matters that Parks Australia has referred to the Attorney-General's Department;
2. disclosure of the Norfolk Island-specific scientific, fisheries and socioeconomic evidence supporting the proposed scale and zoning;
3. agreement on an enduring, locally representative governance arrangement;
4. preservation and strengthening of the Norfolk Island fishing box and local fisheries-management arrangements;
5. an express mining exclusion protecting Norfolk Island's present and future interests;
6. monitoring and enforcement arrangements commensurate with the proposed protected area; and
7. resolution of the outstanding issues concerning Cascade and other strategic landing locations.

If the Commonwealth proceeds with the proposal, GNI requests that the Director's report to the Minister record that the Government of Norfolk Island does not support the proposal in its present form and that GNI's participation in the consultation remains subject to the reservation of rights and non-acquiescence stated at the commencement of this submission.

GNI remains available to work with the Commonwealth on marine conservation arrangements that protect the marine environment while recognising Norfolk Island's history, community interests, local knowledge and continuing relationship with its surrounding seas.

Peter Christian Bailey
Chief Magistrate
Government of Norfolk Island

Timothy Brown
Councillor

Rebecca Hayes
Councillor

22 September 2026