



**NORFOLK ISLAND LEGISLATIVE ASSEMBLY
12TH NILA HANSARD – 25 MARCH 2009**

PRAYER

Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this House, direct and prosper our deliberations to the advancement of Thy glory and the true welfare of the people of Norfolk Island, Amen

Thank you Honourable Members

CONDOLENCES

Honourable Members I call on condolences, are there any condolences this morning?
Mr Sheridan

MR SHERIDAN

Mr Speaker it is with regret that this House records the passing of Raymond George Christian, affectionately known as Smudge on Wednesday 4th March 2009. Smudge, was born on Norfolk Island on 8th September 1944, the youngest son of the late Alec (YaYa) and Joyce (Mummy Joyce) Christian. His sisters Shirley and Eileen and brother Ron known as Blimp all pre-deceased him. Smudge attended and completed his schooling in Norfolk Island and went to work for the then Works and Housing Department, repairing the ruins in what today is called the Kingston and Arthur's Vale Historic Area with his good mate 'Skeet' Anderson and others. He was then transferred to the Administration and worked in various areas, eventually gravitating to the Roads department. He went to Canberra for training in heavy equipment operation and returned to Norfolk and became an expert and a well-known figure on the graders and building roads. Smudge also operated the cranes unloading the ship with his elder brother Blimp for many years. Smudge loved working on the roads with many people including - Chris Pedel, Snitch and Tardy to name a few. Smudge became ill about 17 years ago and was on and off the Island receiving treatment. This led to his reducing his hours of work to three days a week until he received his Certificate of Service in 2004 when he finally retired from the Administration. When in Sydney for medical treatment, he stayed with Skeet and Noreen Anderson and he and Skeet would spend hours talking about good times and people on Norfolk. Smudge became a well-known figure in the hospital receiving dialysis and became quite the expert in the operation of the dialysis machine. He was never one to let out too much detail, and the family became quite successful in decoding what was happening and how he was. This was the same right up till the moment he slipped away, last Wednesday evening, with his family around him at the Norfolk Island Hospital. He was 64 years old. Smudge is survived by Darren, who is quick to point out that Smudge really lived for his grandchildren - Dylan and Brit - and would spend many hours showing Dylan how things worked in the shed and then heading off in his truck with camera in hand, to check up on what was happening around Cascade, where he lived all his life, and what was happening around the rest of Norfolk. Not too much went on without 'Inspector' Smudge knowing about it. Smudge became, to the Islanders especially, an identity, and will be dearly missed by our community. To Darren, April, Brittany and Dylan, to his family and many friends this House extends its deepest sympathy. Mr Speaker may he rest in peace.

It is with regret that this House records the passing of Charles James Anderson on the 7th March 2009. Mr Speaker over the years, many people have arrived from overseas

and played a major role in the life of this community. They got on with their own life and unless you were a close friend, it is not until their death, that you learn something about them. Such was the case of Jim Anderson. Jim, was born at Ivanhoe, Victoria on 20th May 1920, the elder son of Agnes and Charles Anderson who we believe came to Australia after World War I. Jim spent his early years in Victoria before moving to Apollo Bay, which apparently reminded his parents of Scotland, in the mid 1930s. Jim is survived by his brother William Ian Anderson, his niece Carol Moor together with her husband Don and his great nieces and nephews Nicole, Travis, Alisha and Tamika. Jim had an adventurous, though not well documented life - he was in the RAAF from 1942 to 1946 then had a spell in Apollo Bay where he had a number of fishing boats including two that were lost and nearly drowned himself. His next career was in Clayton, Melbourne, where he had a factory that built fibreglass boats and a small soft drink factory. From the 1960s, Jim lived on Norfolk Island and made many lasting friendships. He is also particularly remembered by his step-daughter Emily, her husband and children. Jim married Carmelita when her daughter Emily was only 11 years old. He had no children of his own and took the role of father with love and devotion. He was a wonderful and caring Dad right till the end. Jim started the Cascade Soft Drinks business, built a boat, as well as a number of houses and sheds. He won 'Best Exhibit in the Show' for the electric theatre organ he built from scratch, and he loved people to come to his house and play it. Jim kept bees, processed the honey and was the person locals contacted if there was an errant swarm. He divined water all over the Island and long before people were aware of vitamins, he took a deep interest in food and supplements. He could propagate all sorts of plants and thought nothing of moving mature trees to give to friends. Although Jim never had any children he was always kind to the children of his friends and would baby sit whenever asked.. He was totally kind hearted to animals hated cruelty. Jim loved to travel and once he was no longer tied to Cascade Soft Drinks, had many long trips . He would travel light, and considering he was not in the first flush of youth, nothing seemed to faze him. He visited many countries and was passionate about his Scottish heritage and loved how his parent's relations welcomed him. In the last decade of his life he suffered a number of tragedies, including the burning down of a second house with the loss of his beautiful electric organ and the myriad items of historical and sentimental value that he loved to have around him. For the last three years, Jim has been a resident of the Norfolk Island Hospital in the Aged Care unit. He died last Saturday, aged 88 years. To Emily and her family, to Jim's relatives and many friends, this House extends its deepest sympathy. Mr Speaker may he rest in peace

MR SPEAKER Thank you Mr Sheridan. Honourable Members as a mark of respect to the memory of the deceased, I ask that all members stand in silence please. Thank you Honourable members

PETITIONS

Are there any petitions this morning Honourable Members?

GIVING OF NOTICES

Are there any notices Honourable Members?

QUESTIONS WITHOUT NOTICE

Are there any questions without notice this morning Honourable Members

MR B CHRISTIAN Thank you Mr Speaker a question for the Minister for Tourism. Minister were you satisfied with the arrangements of the recent Norfolk Island Tourism Exchange and have you received any feedback to date

MR GARDNER Thank you Mr Speaker, yes I think it goes without saying that there were a few hesitant moments in the lead up to the Norfolk Island Tourism Exchange, particularly as it was a first off for Norfolk Island and as one of the wholesalers said during the course of the Tourism Exchange, a quantum leap forward for Norfolk Island as far as its tourism activities were concerned. Those hesitations probably related more to what was perceived to be a very tight time frame and obviously by a lot of people a significant commitment of time to achieve the success of this Tourism Exchange so I think entering NITE, it was with some trepidation however I think it is fair to say that the overwhelming response to NITE has been very positive and pleasing and the feedback that we have received both from the local industry and from our wholesale partners in both Australia and New Zealand and through the airlines, both Air New Zealand and Norfolk Air have been overwhelmingly positive and very constructive and despite some of the apprehension that some of those people may have had leading into NITE about exactly what benefits may have arisen from it for them, I can say that my discussions with all of them, they have learnt a lot about their established suppliers, they've been pleased to have been able to engage meaningfully with people of all descriptions and new businesses in Norfolk Island and I think it has really provided a foundation for an outstanding initiative going forward that can only assist in benefiting our tourism in Norfolk Island

MR B CHRISTIAN Thank you Mr Speaker another one for the Minister for Tourism. Minister in light of the recent survey on shopping in Norfolk Island commissioned by the Tourist Bureau how would the recommendations be implemented and by whom and what were the main findings of this report

MR GARDNER Thank you Mr Speaker, I can provide the findings or recommendations. There are a number of them and it might be easier subject to Mr Christian being comfortable with that, to table the document. I understand that it is available publicly. There are eleven major recommendations in relation to the report that stem from things such as the Burnt Pine shopping precinct being refurbished as a matter of urgency right through to forming a Retail Action committee under the auspices of the Minister for Commerce and Trade to the continuation of regular surveys and follow up and the like and as I said I believe it is a public document already but it just further ensures that if people want access to it readily are able to gain access to it. Mr Speaker just touching on it the reason for the survey was to ensure that there was a full audit of the retail sector on Norfolk Island and in addition to that to be able to gauge current visitor attitudes to retail outlets on Norfolk Island, the product range, customer service, the sociodemographic profile of visitors, the retail sectors attitude to visitor interest and the match with existing products, customer service again and how the retail sector can improve their viability and profitability and identification of any gaps that may exist between visitors and retailers. The results for the survey are interesting and contained in the report is reference to a number of myths associated retail shopping in Norfolk Island. A number of them seem to have been busted so an interesting report. One that certainly provides an overview of the retail sector in Norfolk Island and the buying activity of our current demographic in Norfolk Island and importantly, that report identifies that current demographic and the need for regular surveys to continue and the reason for that as we know we are targeting different demographics to build on our already established visitor base into Norfolk Island but aside from air passenger travel to Norfolk Island we are also targeting a new and different market with arguably different taste and that is the cruise market and so it is going to be important with these regular surveys to ensure that we are able to survey them and to make sure that we are in a strong position to provide them with a shopping retail experience in Norfolk Island that they are looking for as they cruise the Pacific and venture from port to port. In relation to the shopping survey I've been informed this morning that Prof Bruce Trudeau from James Cook University who was commissioned to undertake the survey on behalf of the Norfolk Island Government Tourist Bureau will be on island in late April and it is intended that there will be a couple of industry workshops to discuss the outcomes and the recommendations with the industry generally on Norfolk Island and how to take that next step and ensure that it is

properly implemented and the recommendations are picked up and managed appropriately

MR SHERIDAN Mr Speaker a question for the Minister for the Environment. Minister with regard to the soil and sediment testing for dioxins there is still some concern in the community with regards to the testing. In the report - a little background information Mr Speaker – in the report dated 17 December from Toxicos it is indicated that the dioxins detected in soil present a negligible health risk. It also refers to the testing done on the sludge, ie water and sediment and indicate that the dioxins measured do not indicate any immediate concerns for public health but then quantifies this statement, with, however, additional testing is required to separate the sample sediment or water and tested sediment and water collected separately in order to confirm the negligible risk to public health. The question is this Minister why have we spent some tens of thousands of dollars on the testing of dioxins but you will not go that last step to unequivocally determine if any dioxins are present in the sludge and to put these matters to bed finally

MRS JACK Thank you Mr Speaker, all Members were sent a copy of this letter and as Mr Sheridan raised it in MLA's on Tuesday, yesterday, the letter arrived last week and it was discussed at executives and at MLA's, and I maintain the stance that I have continually had following the final testing that will be that no further funds will be expended for any further testing and it is regrettable that Mr Sheridan wasn't at MLA's on the 17th of this month where my decision was unanimously supported by the remaining colleagues. Thank you

MR B CHRISTIAN Thank you Mr Speaker a couple of questions for the Chief Minister. Does the Minister intend to give a detailed statement on the talks with Minister Debus on the governance arrangements, and what is the status of the \$1.5m stimulus to underpin the budget request from the Commonwealth and the \$1m tourism stimulus

MR NOBBS Thank you Mr Speaker. Two questions there. The first one in terms of the update on discussions with Minister Debus, we had provided a combined media release at finalisation of the talks in February. I will be providing an expanded detail on that very shortly so that there is a greater understanding of all areas that were covered in those discussions that were specifically around the accountability and transparency movements that this Government has been making for Norfolk Island and the areas that were open to co operation and also that required tripartite agreements to facilitate it and by that I mean to enable us to have access to ombudsmen and anti corruption commission, we actually need some legislative change to be taken in Australia so those discussions were the key focus in February. Moving on to the stimulus package that we've discussed at various times, that was presented in February as well and we discussed the detail of both the tourism related aspects of it as well as the impacts that Norfolk Island is feeling in the fall out from the global economic crisis that has led at that stage to what we saw as a 15% decline in tourism numbers which we then factored forward to see what our situation was going to look like and what options we could put forward that would both protect jobs and the economy in the best way that we could. The Federal Minister Bob Debus undertook on our behalf to discuss those issues with Lindsay Tanner, very recently and as yet I haven't had the report back on how those discussions have gone. I will be contacting the Minister's office, hopefully before the end of this week so that I will be able to provide a bit more detail on that, and perhaps I can get on the radio and talk about how those discussions are going in that way as well. It is worth noting that Norfolk Island is in a slightly different situation than other States and Territories, in that they are enabled to run deficit budgets whereas for Norfolk Island we obviously have to be very careful about the amount of debt that we incur. Thank you

MR SHERIDAN Mr Speaker a question for the Minister for Finance, Minister I note the wholesale price for fuel in last weeks Norfolk Island and ask this question. What was the price per litre for unleaded petrol provided to the Norfolk Island Administration for the December fuel delivery and the March fuel delivery

MR N CHRISTIAN I don't have that information with me Mr Speaker

MR SHERIDAN Mr Speaker a supplementary question Minister would you be willing to obtain that information and provide it to Members

MR N CHRISTIAN Certainly. What I can say by way of information is that where for instance diesel and kerosene came down and aviation kerosene came down in price there was no downward movement in respect of unleaded petrol. The explanation provided to me by the Secretary to Government is that the petrol that was actually delivered to Norfolk Island at this time was premium unleaded rather than unleaded, and that was the reason that there was no downward movement in the price of petrol

MR B CHRISTIAN Thank you Mr Speaker a follow on question for the Chief Minister, but I was a bit slow in getting in there, Minister have other Ministers been involved in the discussions and negotiations with Minister Debus and his department or was it just yourself and the Secretary to Government

MR NOBBS Thank you Mr Speaker all Members around the table formed the submission that was presented as our response, going back to the presentation of the Minister's statement to cabinet back in October following on from that I've provided updates to all MLAs and in each of the cases where we have had discussions on the transparency issues as well as the stimulus package issues MLAs have been involved and particularly the executives have been involved to enable the compilation of that information relevant to their areas in terms of the stimulus package

MR B CHRISTIAN Thank you Mr Speaker a supplementary question, and that question is, is it the intention that other Ministers will be meeting or discussing with Minister Debus or travelling to Canberra to have meetings with his department in regard to the ongoing governance issues

MR NOBBS Thank you Mr Speaker. And thank you for reiterating the question Mr Christian. As we progress along particularly from this point forward we'll be talking about long term governance and no doubt long term fiscal relationships with the Commonwealth so yes, each area and each Minister will no doubt have a key role to portray in that as we go through those discussions as the federal Minister has pointed out, not only to myself directly in our meetings as well as recently to the Chamber of Commerce I believe with a letter to them he's very keen for us to put the time and effort and the evaluation into a positive outcome for Norfolk Island and a positive outcome in terms of the relationship between the Commonwealth and Norfolk Island

MR SHERIDAN Mr Speaker question for the Chief Minister also as being responsible for the RESA works. Chief Minister how is the work on RESA progressing and has the work that's been completed been assessed by the design engineer to ascertain if the work completed is to the required standard and if so, has it Chief Minister

MR NOBBS Thank you Mr Speaker and Mr Sheridan. My understanding is that there was regular evaluations by professional consultants on those issues of standards and density and the elevation and angle of fall off for the RESA works. My understanding is that there has been no issues raised as it is entirely compliant with standards. In terms of extending my answer a little more, to say that the

recent discussions I had with the Chief Executive Officer of the Public Service he indicated that the RESA works would complete this Friday and within the capped budget. I've had a bit of communication this morning that perhaps it will go three days over schedule so that may mean that perhaps we extend above the cap as well but I'll chase up that detail this afternoon

MR SHERIDAN Mr Speaker a supplementary question. Chief Minister considering that the western end of the project is due for completion at the end of next week as you indicated, is it intended for the project design engineer to come over and physically sign off on the work that has been complete

MR NOBBS Thank you Mr Speaker that was always the intention and I just want to reiterate that as we've talked about before, we did invest in a nuclear densimeter and that was to enable us to train Members of the Public Service and those who are operating in that area to use that equipment so that we were a) complying with the standards but also so that we were able to assess how we assembled that RESA area so that if we are looking to the future where we perhaps may be requested to extend the runway but also we have the capacity to do it by understanding exactly what those density level are and the compaction levels of the soil. The final surveys will be done and presented to CASA as well

MR SHERIDAN Mr Speaker a further supplementary there, I understand that the eastern end or Kingston end of RESA will be completed next financial year. Has it been identified what the cost of that project will be.

MR NOBBS Thank you Mr Speaker at this stage and I don't have the detail with me, we anticipate about \$560,000 and approximately two months or eight weeks work

MR SHERIDAN Mr Speaker one in a related area you might say, with regard to the fire station. Along the same lines Chief Minister what monies have been expended on the fire station to date and has it been within the budgeted amount

MR NOBBS Thank you Mr Speaker the fire station isn't actually within my area of responsibility but I'm happy to chase up that detail

MR B CHRISTIAN Thank you Mr Speaker a question that I believe we touched on it in the last month, but you might have further information hopefully. It's to the Minister for Finance. Could the Minister give a clear indication of when the long awaited report on harbour facilities will be delivered to the House

MR N CHRISTIAN Thank you Mr Speaker I can't give a definitive time at the moment. The Consultants have almost finished their work. They did give me some preliminary costings which were way beyond what the Norfolk Island Government was expecting but part of their brief was to also provide the Norfolk Island Government with more cost effective methods of construction and once the final report is received I would expect that that detail will be contained within it

MR B CHRISTIAN Thank you Mr Speaker a question for the Minister for the Environment. Minister how is the disposal of waste progressing and when does the Minister think the Waste Management Centre will be in a position to receive green waste and builders waste again

MRS JACK Thank you Mr Speaker the service is progressing well with the burning of the builders waste on site. There have been some slight breakdowns but they have been overcome. The position which we hope to be in, is half way through next week, but if this weather continues there may be a further delay for the beginning to lay bait. The acceptance of builders waste back to the Waste Management

Centre will be dependent that all that waste has been burnt, taken out to Headstone and dumped and the area treated and then the area that has been used for the contamination of builders waste needs to be marked out to the various sorting piles, whether it's wood, aluminium whatever, so we did hope by the end of March hopefully not too much longer but it look like being delayed a couple of weeks. As for the acceptance of green waste, the service is still providing me with alternatives and some of those alternatives are dependent on planning approval so we are looking at various options and as soon as I have a forward going result for definitive action I'll be letting the community know what it is

MR SHERIDAN

Mr Speaker a question for the Chief Minister. Chief Minister when will you be tabling the report of MLAs travel for the past months. I think you indicated previously that you would table a report quarterly I think it was, every three months

MR NOBBS

Thank you Mr Speaker my actual recollection was that the last time it was requested I presented a paper on Members travel that covered the full financial year so I anticipated that I would be presenting a similar paper at the completion of this financial year. If you see a specific need at the moment to present it in a quarterly fashion or something like that, perhaps we can discuss this after the meeting but I certainly planned on presenting at the end of the financial year as I was able to present it at the last years end I think it showed an annual spend of somewhere around \$51,000 for the full financial year, from memory, for all Members

SPEAKER

Thank you Chief Minister. Any further questions Honourable Members

PRESENTATION OF PAPERS

Are there any Papers for presentation this morning Honourable Members

MR CHRISTIAN

Thank you Mr Speaker, I present the financial indicators for January and February. Thank you Mr Speaker for the benefit of the listening public I will read from the indicators the important points. For the month of January 2009 the revised budget forecast revenue from all sources of \$1,141,000. The actual results that have been produced this year is an income of \$1,459,000 and this compares with \$1,281,000 last year. I'll identify for the public the main revenue items and they are customs duty which is currently on a pro rata basis for the year running at 89% of the revised budget. Other taxes have achieved 101% of the revised budget. Earnings from GBE's have achieved 96% of the revised budget and GST has achieved 113% of the revised budget and interest at 100% and other charges and income is at 113% of the revised budget. Now on the expenditure side, and expenditure covers such things as Administrative Health and Quarantine, Education, Welfare, Community Services, Works in General and Capital Works Purchases, the revised budget provided for an expenditure of \$1,220,000. The actual expenditure to date has been \$1,140,000 and that compares with last years spend of \$1,176,000. Relative to the budget, for the month of January we would have expected to have been \$79,000 in deficit. This compares with \$105,000 surplus last year and the actual result for January 2009 is a positive result of \$319. If we look at it on a seven month pro rata basis for the year, the results are as such, we are forecasting a total revenue for the year of \$30,686,000 Now on a pro rata basis at the moment, having taken account of expenditure the situation on a pro rata basis should be a deficit at this point in time, that is January 2009, of \$553,000 with the actual result at this time for January is a deficit of \$236,000 which compares to the surplus for the corresponding period last year of \$97,000 and the net result there at the end of January is that the revenue fund is \$317,000 better off than the revised budget position would have us in on a pro rata basis. So if we turn to the revenue fund's capital works and purchases, the revised budget provided for an annual spend of \$99000 and to date we have spent \$52000 of that money. If we now turn to the cash at

bank situation, total cash held by the Administration at the end of January 2009 stood at \$7,535,000 which compares with \$7,171,000 which was held at the end of December 2008. Now in non trust type accounts, we have \$4,108,000 and in the balance of that or the balance of the total amount, is held in trust accounts, and that is \$3,342,000. Of that number, \$2,467,000 is airline prepaid ticket sales and that compares for those who are interested, with the number of \$2,758,000 which was held at the end of December so there's a fair amount of money sitting in the airline forward ticket sales. If we now move to the estimated position of the revenue fund at the end of January the results are these. Current assets which are cash at bank, stands at \$1,739,900. To that we can add debtors of \$1,205,400 which gives us a total current asset of \$2,945,300. Mr Speaker if we look at the liability side of the equation we have known liabilities of \$2,901,500 and if we add to that our long term liabilities that is, employees entitlements and the like, another \$452,200, our total liabilities is \$3,353,700 which leaves us in negative territory of \$408,400 but once again, the \$408,000 is less than the long term employees entitlements and I'm not likely to be called upon to meet those long term entitlements this month or next month or for that matter, any time in the current financial year, so I am comfortable with the situation. If we now turn to the results for Norfolk Air for January 2009 the situation is this. Total income for the airline for the month was \$1,641,860. Total expenditure came in at \$1,512,400 which delivered a profit for the month of January of \$129,460 for the airline so that's a fairly pleasing outcome and indicates that we may have turned the corner and hopefully we can maintain that trend of the rest of the financial year. Now on a year to date basis, the results are these. Total income for the airline from all sources was \$11,280,900 a total operating expenditure if you like is \$12,564,500 which when we add a little bit of advertising and promotion there the bottom line comes out at a loss of \$1,498,300 for the financial year to date. Included in that figure is a number of \$1,502,400 for additional fuel costs over and above those contained in the charter contract. Where does that leave us at the end of January. Fortunately we have had profits from previous years which we've used to offset the losses so at the end of January 2009 as best as the finance section could determine, the airline is in negative territory of \$703,533. Mr Speaker the airline's budget for the year forecast a loss for the year of somewhere in the order of \$600,000 I think from memory and if I can maintain the trend for the rest of the financial year, I should see the airline coming out of the end of this financial year with about \$100,000 in the bank. That's the January numbers Mr Speaker and I might add that this has been very interesting in respect of the airline in that last week our ticket sales for the week were \$440,000 and you've got to bear in mind there that forward ticket sales in March for travel in April we were offering 25% discounts, and that \$440,000 sales for that week represents the third best week in the history of Norfolk Air so once again I think it's a fairly encouraging result.

Mr Speaker, I now move on to the financial indicators for February and we were forecasting, according to the revised budget, revenue from all sources of \$1,141,000 for the month. The actual revenue that have been produced to date is an income of \$920,000 and this compares with \$1,152,000 last year. On the expenditure side the revised budget estimated that we would be in negative territory for February to the tune of \$79,000. The actual result is that we are in negative territory for February of \$351,000 and this compares with \$25,000 last year. Now on a pro rata basis at the moment, compared with the eight months of the year, we had anticipated that we would be in deficit at this point by \$632,000. We are actually in deficit at the end of February by an amount of \$587,000 which is \$45,000 better than the budget forecast and once again for the benefit of the listening public we had budgeted for a deficit of \$948,000 for this financial year. I once again turn to the revenue fund's capital works and purchases. The revised budget provided for approximately \$100,000 to be spent and to date we have spent or committed to spend at the end of February, \$62,000 of that money. If we now turn to the cash at bank situation again, we can see that total cash at bank held by the Administration at the end of February 2009 stands at \$7,836,500 which compares with the January figure of \$7,535,200 which I previously mentioned. If we split that into non trust and trust type accounts, we have \$4,135,500 in non trust accounts, which is pretty

much where we were back in January and in trust accounts, that is \$3,685,300 which compares with \$3,342,000 in January and Mr Speaker the principle difference there is that prepaid airline ticket sales has climbed from \$2,467,200 to \$2,835,800 so once again there are promising signs that we are headed the right way in respect of forward ticket sales of the airline. I do not at this time have February results for the airline and I will include them in my presentation at the next meeting of this House but I will circulate the results to Members as soon as they are made available to me. Thank you

MR MAGRI
move that the paper be noted

Mr Speaker has that paper been noted. Then I

SPEAKER
be noted

Honourable Members the question is that the paper

MR MAGRI
Mr Speaker the Revenue Fund financial indicators tabled by the Minister for Finance raise a number of interesting issues. Firstly, they make clear that the comprehensive budget review undertaken by the Administration and the executive was fully warranted in light of the global financial crisis which continues to affect visitor arrivals to Norfolk Island and consequently to depress public revenues. The budget review enabled us to clarify the difficult policy choices facing us – and of course they are similar to the complex options confronting the Commonwealth government and all states and territories. Those states and territories have seen their budget surpluses evaporate and in many cases they are facing huge deficits this financial year. In Norfolk Island, we have chosen to budget for a modest deficit, to seek external financial assistance and to continue to stimulate the Norfolk Island economy through ongoing capital works, even if these are at a slower rate than might have been possible without the world economic downturn. We will continue to seek to stimulate the local economy while vigorously pursuing the new tourism brand and strategies arising from last week's very successful Norfolk Island Tourism Exchange. Secondly, these financial indicators show that in most areas we are on track to achieve the income and expenditure projections which arose from the budget review and which were confirmed by the Legislative Assembly last month. This means that the assumptions, which underpinned that process, were fundamentally accurate. In one of the portfolio areas for which I am responsible, the financial indicators do point to a continuing decline in revenue for the philatelic service, where sales have continued their long-term decline. I am seeking more detail of the sales and forward orders performance of the philatelic area and indicate to the House that I, in conjunction with the CEO and senior managers, intend to undertake a thorough review of its business planning and revenue projections. I am not pre-empting what policy decisions might flow from that review, but indicate that we cannot allow the philatelic service to continue to accumulate losses and will take whatever decisions are necessary to turn around that situation. Mr Speaker, I will report again to the Assembly about what action will be taken once the review of the philatelic service is completed. Thank you, Mr Speaker.

SPEAKER
Thank you Mr Magri. Further debate Honourable Members. There being no further debate, the question is that the paper be noted and I put that question

QUESTION PUT
AGREED

Thank you. The ayes have it. The paper is so noted

MR GARDNER
Thank you Mr Speaker, pursuant to section 14 of the Bookmakers and Betting Exchange Act 1998 I table the following licences recently approved by the Norfolk Island Gaming Authority. Firstly the Media and Gaming Proprietary Limited – a licence to act as a bookmaker and secondly World Wide Totalisators Norfolk Island Proprietary limited - renewal of licence to act as a bookmaker

MR MAGRI Mr Speaker in accordance with section 41 of the Interpretation Act I table the Road Traffic General Amendment Regulations 2009 and Postal Services Amendment Regulations 2009

MR GARDNER Thank you Mr Speaker just to put a matter that I earlier touched on in Questions Without Notice to rest, for administrative purposes of the House I formally table the Shopping on Norfolk Island survey which is the final draft dated March 2009

MR N CHRISTIAN Thank you Mr Speaker I table the Electricity Supply Amendment Regulations 2009 and just for the benefit of the listening public these regulations are the ones that allow for the connection of solar generation systems to the grid

MR NOBBS Mr Speaker, I am pleased to table for the information of members an Exposure Draft of the Ombudsman Bill 2009. I intend to move that this document be noted and then printed, so that comments can be provided to me by Members and also by any interested people in Norfolk Island or elsewhere. Mr Speaker, as I have said many times, the Norfolk Island Government is absolutely committed to transparency and accountability in government, and this Bill marks a further step in opening up the actions and decisions of the Norfolk Island public sector to full and open scrutiny. We are building on a growing list of achievements which make us in many ways more open and accountable than other Australian jurisdictions, and do not intend this to be the last measure as we continue to work with our state and federal counterparts to strengthen administrative review and anti-corruption measures. The framework of transparency and accountability measures in place already includes:

- A statutory code of conduct for all elected Members of the Legislative Assembly;
- Procedures under which members of the public may make complaints about the conduct of Members to the Committee of Privileges of the Assembly;
- Formal review processes for most decisions under statute, including key areas such as immigration, social welfare and planning;
- A code of conduct for public servants endorsed by this House as part of the Administration Human Resources Policy, supported by a probity complaints system; and
- An administrative complaints system within the Administration, allowing for investigation and resolution of complaints about administrative decisions.

Mr Speaker, the establishment of the Administration's complaint system was an essential prerequisite for the introduction of an ombudsman service. We have worked in very close cooperation with the Commonwealth Ombudsman and the Attorney-General's Department to design the complaints system, and are now ready to go to the next step of appointing an ombudsman to deal with matters which are not resolved in the complaints system. Our jurisdiction is too small and the complaint demand is too limited for us to justify the appointment of a full-time official to be our ombudsman. Therefore, this Bill is predicated on the understanding that we will appoint the Commonwealth Ombudsman under a contract or memorandum of understanding to provide ombudsman services. This is the situation in the Australian Capital Territory, which has worked satisfactorily over a number of years. Based on the advice of the Commonwealth Ombudsman, this Bill is in a more simplified form than the existing Commonwealth and ACT legislation, reflecting the Commonwealth Ombudsman's 30 years of experience and their more recent assistance to other Pacific and Asian jurisdictions in establishing ombudsman services appropriate to smaller communities. Mr Speaker, since this is an exposure draft of the Bill, I do not propose to discuss in detail its provisions. In summary, however, the Bill provides that the major functions the Norfolk Island Ombudsman will be:

- Investigation of actions that relate to a matter of administration within the public sector about which a complaint has been made to the Ombudsman;
- Investigation of such matters on the "own motion" of the Ombudsman;

- Inspection of the records of the Administration Complaints Officer; and
- Reporting on the outcomes of complaint investigations, including the making of appropriate recommendations for individual or systemic remedies.

Mr Speaker, Members would be aware that I have had a continuing series of discussions and negotiations with the Commonwealth Minister for Home Affairs, the Hon Bob Debus MP, about governance issues. We continue to discuss some matters of detail about how the ombudsman will function, including the specific nature of reports by the ombudsman to the Legislative Assembly and possibly to the Commonwealth. I am grateful to Minister Debus for indicating that the Commonwealth will assist with both the technical details of establishing the ombudsman and with the cost of providing this service. The Commonwealth has also indicated that it is prepared to assist with the cost of establishing anti-corruption training and complaint handling, in association with the New South Wales Independent Commission Against Corruption (ICAC). The Norfolk Island Government has already reached agreement in principle with ICAC on the range of services and costs involved, and we are now seeking the assistance of the Commonwealth in drawing up the necessary tripartite documentation and legislation to enable this initiative to proceed. Recent discussions with Minister Debus have also included the possibility of Commonwealth assistance for us to review and restructure our formal administrative review and tribunal processes and to implement freedom of information provisions. These later matters are at a relatively early stage, with a number of options under consideration based on advice from the Commonwealth Attorney-General's Department, the Commonwealth Ombudsman and our own legal advisers. Mr Speaker, we are making real progress on expanding our transparency, accountability and open government mechanisms. I look forward to the comments of Members and the community on this draft Bill. I now move that the document be noted and printed. Thank you, Mr Speaker.

SPEAKER Honourable Members the question is that the paper be noted and printed. Is there debate Honourable Members. There being no further debate, the question is that the paper be noted and printed and I put that question

**QUESTION PUT
AGREED**

Thank you. The paper is noted and will be printed

MR GARDNER Thank you Mr Speaker, I table the inbound passenger statistics for February 2009 and move that the paper be noted

SPEAKER Honourable Members the question is that the paper be noted

MR GARDNER Thank you Mr Speaker, without beating about the bush the results are particularly disappointing and bearing in mind the airlines performance in a very difficult environment has been very good in obtaining the numbers it has, I think some 65% which is near to or holding break even results for them, it still means that our numbers have been disappointingly low. Mr Speaker it probably reflects the very volatile nature of the marketplace and the industry at the moment and that was well recognised during the Norfolk Island tourism Exchange by I think everybody that was involved, particularly our wholesale partners and just reflecting on the volatility I know last month in the House and in January both the Minister for Finance responsible for the airline and myself had made comment about very positive booking trends that were some many percentage points tens of percentage points above those of the same period last year, only to find that February's performance was disappointingly low and then I see from the weekly reports that are now provided to us, by the visitors information centre that March figures are probably at, if not in excess of record numbers for March so really that is just a clear demonstration of the volatility of the industry and the marketplace at the moment. However, going forward, as the Minister for Finance

alluded to in his presentation of the financial indicators, the airline performed for example last week at or near record levels, as far as total booking numbers are concerned so there's plenty of positive indicators out there but a recognition by all as I can't help but overemphasise that we are operating in a very volatile marketplace at the moment with a deal of uncertainty. Some of the positive outcomes particularly arising from NITE that will directly affect our future inbound passenger statistics is the very positive attitude of Air New Zealand and their representative Cameron Wallace when he was here recognising the value of the destination, recognising the need and the desire to want to work very closely to Norfolk Island tourism in promoting to the marketplace in New Zealand over the months to come, a recognition by them that in effect they've reduced by half the number of flights but certainly less than that, the capacity into Norfolk Island, a recognition by them that despite the fact that they've reduced to one flight per week from this coming Saturday into Norfolk Island that their booking trends have already given them a good reason to lock in two flights per week in October and the recognition by them that with the volatility of the market that they have the available capacity readily available to them if our fortunes as far as promoting and marketing are to improve, that they have the flexibility to readily slot in additional flights into Norfolk Island so that's positive and certainly very positive that they are keen to work with us going forward. As far as what initiatives are in place to continue our efforts and change the February fortunes, and I think opportunity as I've spoken about March's fortunes have improved somewhat, there is a commitment obviously to the implementation of the Strategic Plan going forward, there's a number of other initiatives being put in place or are under way including the marketing partnership programme and ongoing commitment to that by wholesalers, with a need to revise those arrangements and ensure that there is flexibility within that programme to adapt to a changing environment, the increased focus on co-operative partnerships with wholesalers in New Zealand and I've already talked about our arrangements with Air New Zealand the rebranding of the destination and the first step in that took place with the launch of the new brand for Norfolk Island at the Norfolk Island Tourism Exchange last week, conducting the Norfolk Island Tourism Exchange on a biannual basis to enable wholesalers and travel agents to meet directly with island tourism operators, to develop holiday packages and experiences and that also incorporates any new development of experience which seems to be a continuing trend in Norfolk Island and people are looking to provide different and new experiences for people which is to be commended. Also continuing on the initiatives is the establishment of Norfolk Island as a cruise destination and as we know with visits from carnival Australia and a range of expenditure cruise ships in 2010, the overhauling of the island's retail sector based on findings from the retail survey that I tabled earlier today, upgrading of the island's special events programme to attract a wider range of visitors of all ages and interests and the appointing of a dedicated marketing manager to support the marketing partnership programme both within the Tourist Bureau and the activities of Norfolk Air and some of those initiatives are really starting to take hold. I've already reported on the success of the tourism exchange and I think that holds an immense potential for us, as to the branding but some of these other steps will be more clearly outlined to Members in the presentation of the budget for the 09/10 financial year and in that process Members of the Legislative Assembly will have a very good opportunity to discuss face to face with both the representatives of the board and the General Manager of the Tourist Bureau those initiatives and what we expect they will deliver going forward for tourism in Norfolk Island. Yes it was a disappointing result for February after positive indicators from January. We are aware that March is performing very well and I look forward to providing some positive numbers once they have been finally documented at next months sitting. Certainly the market remains volatile and uncertain but there are positive indicators going forward and I have confidence that with the initiatives in place, we are going to continue to grow tourism in Norfolk Island and hopefully we've seen the last of those February figures for years to come. Thank you

SPEAKER

Thank you Mr Gardner. Further debate Honourable Members. There being no further debate, the question is that the paper be noted and I put that question

QUESTION PUT
AGREED

SPEAKER

Thank you.

Thank you Mr Gardner. Any further Papers for Presentation Honourable Members. No. We move on to Statements

STATEMENTS OF AN OFFICIAL NATURE

Are there any Statements of an official nature this morning Honourable Members?

MR GARDNER

Thank you Mr Speaker, I just wanted to make a very brief statement on the Norfolk Island Tourism Exchange, not to revisit the detail that I've spoken about both in Questions Without Notice and also supporting arguments to the tabling of the arrivals statistics for February but really to recognise the outstanding effort by so many people involved in the tourism exchange exercise in Norfolk Island. Not just those efforts of the Norfolk Island Government Tourist Bureau and Mr Terry Watson, the General Manager but also those of Rhonda Griffiths who was the co-ordinator of the Tourism Exchange in Norfolk Island through the staff of the Norfolk Island Government Tourist Bureau, the various venues that hosted events, the sponsors of the various dinners and afternoon teas, the industry media for the very very positive coverage that they provided which I think knocked every other destination off the front cover of most of the industry press in the latter part of last week and for a series of days, right down to our wholesale partners and all of our local sellers in Norfolk Island it has been a fantastic event, really demonstrating the serious commitment by all those involved from the top to the bottom and gives me great confidence going forward that we have a united front. People who are prepared to work very keenly in the interest of developing tourism in Norfolk Island and on behalf of Members I would like to publicly acknowledge all of those involved for their outstanding effort. Thank you

MEMBERS

Hear hear

MRS JACK

Thank you Mr I wish to make a statement regarding my decision **not** to continue with an application made by Mr W Sanders to vary the *Norfolk Island Plan 2002*. Mr Speaker under s10 of the *Planning Act 2002* the executive member has certain legislative requirements and section 10 states - Notice of refusal to act on application for variation of the Plan **10. (1)** This section applies if, at the expiration of 28 days after a person applies to the executive member for a variation of the Plan, the executive member has failed to invite public submissions about a draft plan for the proposed variation under section 11. **(2)** The executive member shall, as soon as practicable after the expiration of the 28 days— (a) give the applicant notice of the failure; and (b) lay before the Legislative Assembly a statement giving — (i) details of the application; and (ii) the reasons why the public submissions about a draft plan for the proposed variation have not been invited under section 11. **(3)** After the statement is laid before the Legislative Assembly under paragraph 10(2)(b), the Legislative Assembly may — (a) take no action; or (b) by resolution direct the executive member to do all or any of the things the executive member may do under this Act in relation to a proposed variation of the Plan as sought in the application. Mr Speaker at the end of my statement I will ask that it be noted and seek debate by my colleagues. I will then seek their support in my taking no further action. Mr Speaker on the 10 February 2009 Mr William Sanders made application to vary the *Norfolk Island Plan 2002*. The application dealt with 5 portions, all are located across the road from the airport terminal, all are adjacent to one another and all form part of the Light Industrial Zone. This zone consists of a total of 15 portions. No reasons substantiating the application were provided when the application was submitted and a further request for a statement of reasons as to why this application for variation/rezoning should be

considered resulted in a letter from Mr Sanders stating '*Section 83 of the Norfolk Island Plan 2002 implies that there is an intention to develop the properties in some way. There is no such intention at present*'. Mr Speaker, it may be beneficial to outline the background of this application. It appears that this application may stem from an earlier application that failed. In October 2008 Mr Sanders wrote to me applying for a 'change of use' for portion 58g10 from a 'garden centre' to a 'residence'. My response to Mr Sanders in November 2008 stated that portion 58g10 is situated in the Light Industrial Zone. This zone prohibits the use or development of a Residence – Dwelling House My response indicated that the current zone listing prohibited such a development and that a possible way forward would be to vary the Plan. I also advised Mr Sanders that given the location of the portion together with the type of commercial activities operating on nearby and adjacent properties that an application to vary the Plan would not have my support. At the time I had discussed the application with my ministerial colleagues and advised Mr Sanders that they too would not support such a variation. Undeterred Mr Sanders proceeded and the current application now includes five properties all owned by Mr Sanders. In a separate page to the application Mr Sanders makes various claims one of which is that to take away his right to build is against natural justice. Mr Sanders' response is that his right to build remains and there is no denial of natural justice. Mr Sanders can still develop his property in a number of ways. Current use may continue e.g. his current dwelling may continue to be his place of residence. Any of the five properties can be developed for a wide variety of commercial purposes.. Under the current zoning – Light Industrial, there would be several developments or uses that cannot be permitted but in my view it would be the fact that Residence – Dwelling is prohibited that is causing this action. Varying the Plan to rezone these portions as Mixed Use would allow the development of Residence – Dwelling, it would also allow the 'change of use' from 'garden centre' to Residence – Dwelling. Mr Sanders writes that 'it goes against common sense and natural justice to zone this property Light Industrial which deprives me of reasonable use and development of my land'. In referring back to the making of the *Norfolk Island Plan 2002* I have noted that no submissions were received from Mr Sanders regarding dissatisfaction to the new zoning measures to his five portions. I also note that when submissions were called for when commencing the current review of the Plan no submissions were submitted by Mr Sanders stating dissatisfaction with the current zoning measures. Mr Speaker if we consider the number of types of development that can occur in the Light Industrial Zone some 16 developments can occur. These developments fall into the 3 usual categories Permitted (as of right) use or development, Permitted Use or Development and Permitted (with consent) use or development. One of these developments is Industry – Light of which some 116 different commercial activities are listed. I would say that there is sufficient activity permitted that would allow Mr Sanders reasonable use and development of his land. Mr Sanders also writes 'By the sweep of someone's pen a property I have cherished has been swept into a zone which limits my productive use and enjoyment '. Mr Speaker I strongly disagree. There was an extremely active community consultation process undertaken when making the *Norfolk Island Plan 2002*. This process is being repeated in the review that is currently underway and at no time has Mr Sanders made a submission seeking a change to the zoning requirements of any of the five portions under discussion. Mr Speaker as mentioned earlier Mr Sanders has stated that there is 'no intention' to develop and goes on to state that the zoning of his land as '*Light Industrial precludes any development...goes against the best possible use of the land now or in the future*'. I disagree. Given the current operations currently in use adjacent and nearby to these portions I consider varying the Plan to facilitate further residential development would only add further impetus to the current noise and dust complaints that I receive/have received from occupants in pre-existing residential developments in this zone. This zone, the Light Industrial zone, is adjacent to the NI Power House, NI Airport and WMC. It also contains private commercial operations including a bar/tavern, printery. and butcher shop. Taken together these operations are high noise, high traffic and at times high smell (avgas fumes). I believe it would be inappropriate to allow this variation to proceed that would facilitate the development/change of use for Residence – Dwelling House. My view is that if there is no intention to develop there is no need to

seek a variation to the NI Plan 2002. Mr Speaker I ask the statement be noted and that members support my decision to take no action. Thank you

MR GARDNER

Thank you Mr Speaker, just some observations if I can at this stage, and I would be interested in other Members views. The Minister is quite right to outline the process and the process has been followed in assessing the application before her. It's a statutory requirement but clearly there's I'm sure a number of people who are asking a few questions and I'll try to cover some of them that immediately spring to mind and some of those I have discussed with the Minister about the light industrial zone. As Members would be aware I have a major difficulty with considering variations to the Norfolk Island Plan unless they can be completely 100% justified because the plan was put in place for very good reasons and shouldn't be something that's handled lightly and I'm not suggesting that the Minister is handling this matter lightly at all but my questions really relate to the point about; indicating a use and the reason for why you would want to in this case, vary the Norfolk Island Plan and the Minister was referring to a letter from Mr Sanders in relation to portion 58G10 some months ago that indicated his reason for wanting this variation to occur and that was to change the garden centre or garden shed to enable a dwelling to be constructed and I would be interested in just where that indicator back then falls down as far as indicating a purpose for wanting to vary the Norfolk Island Plan. Is it just in the paperwork and the forms that are filled in or does it, because that initial issue was taken up, doesn't constitute an indication for the purposes, and that's probably my understanding but if that could be clarified I would appreciate that. I guess it draws my attention to the light industrial area and discussing the matter with the Minister a couple of weeks ago, we tried to look at just how big an area the light industrial zone is, and it's not very big. It covers fifteen portions and most of those are small portions, so in total maybe covering an area in Norfolk Island of two or three acres in total, may be a bit bigger, may be four, but it's not a big area and the Minister has indicated that where its location is and we understand the reasons why it was initially nominated for zoning and that went right through a whole consultation process but it does lead me to the question of the review of the Norfolk Island Plan and I'm not aware other than the construction of that shed of any other uses that have been sought for any of those properties since the plan was promulgated in 2002 which really raises the question, is there a continuing argument for it to be zoned the way it is zoned, and the reason I raise that is the changing to mixed use of the plan as it stands at the moment is that those 115 or thereabout different light industrial things can as of today be accommodated in the mixed use zone, so we've got two zones, that other than the development of a dwelling house have all the other similar attributes. So it's not an argument that I'm using now to vary the plan under this application, it's just an observation that I'm making with the review of the Norfolk Island plan as a whole and we continue to justify making this stand alone light industrial area if there is not a marked difference other than a dwelling place between the mixed use, and there may be some others, I accept that, I haven't got the plan in front of me but can we continue to justify separating those two into the mixed use and the light industrial into two separate zones when this is just such a very small area of Norfolk Island, light industrial in my view doesn't provide any marked benefit over a place being zoned as mixed use but that is an observation and a matter that probably needs to be considered in the overall review of the Norfolk Island plan as to whether we can continue to justify the separation of the two areas

MRS JACK

Thank you Mr Speaker the Minister raised the initial matter coming before me and that was purely received by a letter, there was no formal application made, that was a request for consideration even though the word "application" was used in the letter and talking with the Planning Officer no formal application arrived with that letter and that's why nothing came into this forum. I believe another aspect of the mixed use zone that would be allowed would be residents accommodation units and so if you were to progress, I mean this is all for further debate, I understand that, but you would be able to have light industrial next to an accommodation house and you can run into some problems there as we have

discovered in one area on the island already with existing use and accommodation houses being built beside it and that is what I'm trying to avoid in this Mr Speaker

MR B CHRISTIAN Thank you Mr Speaker the Minister quite clearly pointed out there what I was trying to clarify from the Minister is was a formal application actually made to the Planning Officer and my question was, did it go through the normal channels but she has just made it clear that the formal application wasn't made, so

MRS JACK With the first letter, but with the second one

MR B CHRISTIAN So I'm quite happy with that thank you Mr Speaker

MR SHERIDAN Mr Speaker touchy subjects when we talk about varying the Norfolk Island plan and I know that this Legislative Assembly has been reluctant to do so in the past. We have varied it to allow some minor housekeeping and I think there's one down there at Rainbow's End that we allowed to happen. One must feel for Mr Sanders because as he indicates in his letter, his land used to be rural and then when the Norfolk Island plan some years ago, in 2002 was drawn up, his land was rezoned into light industrial use which allows him to do most things except for, as I think as the Minister stated, to put a residence on the land. Now I think that every person should be given the opportunity to build a residence where they may wish, and in Mr Sanders case, he's not getting any younger and he might be trying to tidy his affairs and he has quite a few children out there and of course, some grandchildren, and he might be trying to do the right thing in setting them up and giving them a head start in life you might say as was the case with his nephew and the garden centre and giving him permission to convert it into a house but that was turned back. I'm in two minds as to whether or not. I note that Mr Sanders hasn't given any indication as to what he would like to do with these five zones, and may I suggest that Mr Sanders go back to the drawing board and view each portion individually and if he has an intention to do something with that portion of land then maybe come back to this forum with some definite plans so that we can actually debate exactly what he intends to do with it instead of just at a whim to rezone the land from light industrial to mixed use. I wouldn't have any problem with the House being there. I wouldn't have any problem with five houses being there. It's quite a built up area at the moment. I think light industrial, the many uses that the Minister has indicated, has potential to affect the uses that are there now, the butcher shop and the tavern and the printery and of course there tourist accommodation not far away and some private accommodation so just in saying those few words I note that we have the opportunity to take no action or to pursue this matter through the normal system and that's what I would encourage the Minister to do and that is to take this to the enth degree so that there is no curtailing of Mr Sanders' right to have his application fully followed through

MRS JACK Thank you Mr Speaker that would be for Mr Sanders to put forward a further application on his own for us to reassess, another application. The application we are dealing with today is as it stands and I'm just asking that no further action be taken on this. It may well be that if Mr Sanders puts forward another application with reasons, it may well be viewed differently. Maybe he needs to see if its too late to put in a submission to ask that the variation happen with the consideration of the review of the Norfolk Island plan. There are a whole lot of issues there Mr Speaker and I'll just deal with this one today

MR NOBBS Thank you Mr Speaker Mr Sheridan raised some issues about sensitivity and the level to which we assess applications and the ability for people to hand on their land for it to be useful, if I could just point out from the Minister's perspective I would imagine that she bears the responsibility of ensuring that if she is to enable someone to build in any area that through planning and zoning that there is fair degree of though that's gone into the vapours and fumes that may be coming from surrounding industry, in this case, I imagine the airport, the relative noise levels and

things like that, as well as perhaps issues that may arise out of having such a close proximity to the Waste Management Centre. Two other thoughts spring to mind, and one is going back some many years ago when there were only two zones, the residential and commercial zones, I think some of the commercial zones were applied for to become commercial zones, for the reasons that they specifically wanted to be able to have perhaps noisy or other wise disturbing, to residents, type industry in those areas so that is another aspect as well. The other is that in the past we've had perhaps written understandings from those people who have chosen to build in close proximity to industrial areas or commercial or zoned areas where commercial activities occur and in their understanding in the early stages they've been quite complicit with the fact that yes, we understand that there will be these issues in close proximity to our residence or our guesthouses or the like and as time progressed those letters of understanding have perhaps been forgotten and in following up to that on a regular basis the Minister or other Minister's responsible are contacted on an almost daily basis that those persons are no longer happy with the commercial or industrial area operating the way they are and that it now impacts on their ability to operate their guesthouse say for example and what I'm getting at is that in early stages there may well be someone who asks for a rezoning of their property to ask for a residence, they fully recognise that there is an industrial area nearby and they propose that there'll be no issue with it, but down the track we have often found out that it does come back to bite us and as I said before, on almost a daily basis, so although I recognise exactly where Mr Sheridan is going, I also endorse what the Minister with responsibility for this area has said, that if there's a more structured application that is resubmitted that provides exactly what the proposed areas may be used for then that may be something that we can assess on that basis, however, history has shown me in particular that an agreement at the start presented by someone who is proposing to occupy a land near and industrial area does not mean that it will run smoothly from that point on

MR SHERIDAN Mr Speaker I would just like to see the opportunity for this application to run its course instead of being buried dead in the water today. I just believe the applicant should have that right to run it to the end game and so if we are to be voting on this to virtually say, take no further action, I won't be supporting it

MR B CHRISTIAN Thank you Mr Speaker just to clarify the issue that we're discussing here, Minister correct me if I'm wrong, this is a letter asking for a general variation of the plan for rezoning of multiple blocks

MRS JACK Yes

MR B CHRISTIAN It's not actually an application asking for specific development of these blocks. Is that correct

MRS JACK That is correct. Under the Norfolk Island plan when people put in a variation to rezone, an application to rezone, they are to take into consideration sections I think 83 to 92 of the plan and 83 is regards, use of the devolvment of the block that is to be put forward because, why vary unless you know what you are going to put there and we've been told there's no indication so they've failed to comply with those aspects

MR B CHRISTIAN Thank you Mr Speaker so just to carry on from that and I understand where Mr Sheridan is coming from and the Chief Minister discussing the development of these blocks. I don't believe this application is for the development of those blocks and my understanding is that if the applicant has not entered the story here if this doesn't get up today, there's still the course of the usual action of being able to put an application to the Planing Officer, to the Planning Board and then through the Minister and then to the Legislative Assembly for the development of these blocks. Is that not correct

MRS JACK No. If this variation is given and then say, they put in something to build a house, that would then go to the Minister responsible but the variation comes before the house so the use or development would come, but you see this is the problem, in the plan it says the variation should come in with their use or development so that all of that can be considered by the House for example, if it came in that they were wanting to build tourist accommodation houses then we would be sitting here saying where is it, and bringing all this adjacent use into consideration. We can't do that with this application because we haven't been given all the information. They have failed to do it.

MR ANDERSON Mr Speaker I take up the point the Chief Minister made about the dangers of a general variation to what could happen in the future. People have short memories when you get down the track and as I see it Mr Sanders still has the ability later on when he gets his act together to apply again through the normal channels. Pure and simple

MR GARDNER Thank you Mr Speaker, just returning to my overarching question in relation to the review of the Norfolk Island plan, when we last debated a variation to the plan and it passed through the House it was in relation to the development of tourist accommodation. I accepted the view of the House even though I clearly didn't support the motion at the time, but there was quite a bit of debate at that time about allowing, or the view of the Legislative Assembly and the review of the Norfolk Island plan was probably to do away with the restrictions for tourist accommodation for example in all zones in Norfolk Island so that I imagine that took up mixed use and it took up the light industrial and it took up the rest of them but obviously that's detail for debate at another time, but my query to the Minister is just and I understand the current restrictions on resources and human resources in particular as far as the process of the review of the Norfolk Island plan but it is required to be finalised at some time because I'm more than happy to deal with some of these representations that have been made to us as part of that process, rather than as the individual variations to the plan which I'm not a great fan of unless it can be clearly demonstrated that there is absolutely no other option and people's rights are being impinged upon so if the Minister could provide some oversight of when we might expect some finalisation or further debate on that, that would be very helpful I think

MRS JACK Thank you Mr Speaker if I could just reply to the Minister. If there was some delay with resources being extremely limited and given the Planning Officer has some higher duties and he's being stretched very thin, but the CEO and the Planning Officer have taken on another person part time and that person is dealing with the submissions and joining them all up to bring forward to be presented in the first draft to all Members of the Legislative Assembly. Following that we will then be able to put together a final paper to discuss in this House so hopefully within a few weeks we should be getting the first draft to discuss amongst ourselves at MLA's and perhaps bring to the House in draft form before going on to a more final form

SPEAKER Thank you Mrs Jack. Further debate Honourable Members. There being no further debate, the question is that the House take note of the Statement be noted

MRS JACK Thank you Mr Speaker can I just clarify by taking note of the statement that we are also saying taking no further action or is that a separate part. That's a separate part. Thank you

SPEAKER I put the question that the House takes note of the Statement and I put that question

QUESTION PUT
AGREED

Thank you the ayes have it. The motion is so agreed. Any further Statements of an official nature Honourable Members

- MRS JACK But don't we now have to
- MR SHERIDAN Mr Speaker weren't we just noting that. We weren't voting on a decision
- SPEAKER That is correct. We were noting the statement
- MRS JACK So can I just then say that we now agree to vote to take no further action Mr Speaker
- SPEAKER You need a motion of the House by leave to do that
- MRS JACK I was advised by Legal that I could do it under the Statement
- MR MAGRI Mr Speaker just to expedite the issue could we seek leave at the end of debate
- MRS JACK Well if necessary I'll seek further legal advise. That's fine Mr Speaker I'll do that. Fine. Thank you
- SPEAKER Are you seeking leave Mrs Jack
- MRS JACK I'll seek leave of the house to move the motion Mr Speaker
- SPEAKER You're seeking leave. Is that leave granted Honourable Members. Thank you. Leave is granted. You may now put the motion that you indicated before
- MRS JACK I move the motion that Members agree that no further action be undertaken on my statement on the matter of the application made by Mr W Sanders to vary the Norfolk Island plan
- MR GARDNER Thank you Mr Speaker, I'm less than comfortable with the uncertainty about what the process should be and I'd be more inclined to support a motion to adjourn the matter until that can be clarified, until we've got some certainty because we are dealing with the Norfolk Island plan and it is not something that we should just deal with lightly. I try and emphasise that point. I understand the advice that the Minister has received. There is uncertainty as to whether there should be a formal motion and I think that we probably need to seek some advise about the process. That's only my view
- MR MAGRI Mr Speaker I support Mr Gardner's' suggestion of adjourning the motion. If what we've done today is the formal statutory process then I think that needs to be reviewed as well because I think it's inadequate so I'm happy to adjourn the motion
- MRS JACK Can I just say that I did ask through the Planning Officer if a motion would be required for this, and his advise back from Legal was no, it could all happen through statement, however if Members are concerned about the process I have no objection to it getting formal advise back again from Legal, presenting the paper and then operating forward from there for the next months sitting

- SPEAKER So Mrs Jack you wish to amend your motion
- MRS JACK Withdraw it then Mr Speaker
- SPEAKER You are withdrawing your motion
- MRS JACK If Members are concerned I have no trouble in withdrawing it to ensure that process is carried out
- MR SHERIDAN Thank you Mr Speaker I think where the confusion is, I think in as far as the paperwork for the Minister has provided, the Norfolk Island plan states that when the Minister lays it before the House, after the statement is laid before the Legislative Assembly under paragraph 10(2)(b) the Legislative Assembly may (a) take no action and I believe that may be where she had the legal advise or by resolution direct the executive member to do all or any of the things the executive member may do under this Act in relation to a proposed variation of the plan as sought in the application. Now I presume looking at that, if they accepted the statement then that would be take no further action as in paragraph one, but if we wanted the Minister to do other than that, then we have to do it by resolution of the House. Is that correct
- SPEAKER Yes
- MR GARDNER Thank you Mr Speaker, I accept what Mr Sheridan says, but without the benefit of actually having an opportunity to sit down and clearly understand that that's the process, I would prefer to err on the side of caution to make sure that we get it right and Mr Speaker at the appropriate time I'm happy to move an adjournment motion on the matter until the next sitting
- MRS JACK I have no problem with that
- SPEAKER Mrs Jack, you have withdrawn your previous motion
- MR GARDNER I so move Mr Speaker that the matter be adjourned and made an Order of the Day for a subsequent day of sitting
- SPEAKER Thank you
- MR N CHRISTIAN There's nothing to adjourn Mr Speaker. There's no formal motion to the House
- SPEAKER Mrs Jack has asked that the motion be withdrawn. There is now no official motion on the table as has been pointed out, with the exception that Mr Gardner has now moved
- MR GARDNER Thank you Mr Speaker, as he quite rightly points out if Mrs Jack's withdrawn the motion there is no motion on the table to adjourn, the matter as Mr Sheridan pointed out, is noted however, if there was to be a change to that direction that would then require a motion and a formal resolution of the House and that is a matter for consideration of the House between now and the next sitting obviously
- SPEAKER Thank you. Members we move on. Any further statements Honourable Members
- MR GARDNER Just to clarify that Mr Speaker and to avoid any uncertainty, the question that the paper be noted was put and was agreed

MR N CHRISTIAN And what that now means Mr Speaker if you can guide us, is that unless somebody moves a formal resolution that it be disallowed, the intent that was contained within Mrs Jack's statement, actually stands

MRS JACK That no further action be taken

SPEAKER Yes that's correct

MRS JACK Yes Mr Speaker I have another statement to make. Mr Speaker I would like to make a statement regarding applications to vary the Norfolk Island Heritage Register. Mr Speaker during the life of the last Assembly the then Chair of the KAVHA Board asked landowners and land occupiers within the KAVHA precinct who wished to vary their property boundaries listed under the NI Heritage Register to make submissions for variation under the Heritage Act 2002. Some 9 applications were received. The process was delayed by a separate Supreme Court case run by one of the applicants seeking the Supreme Court to grant an order that her property be removed from the Register. This application was dismissed. The assessment process continued and as required under s 13(2) of the *Heritage Act 2002* Ms Sheridan Burke of Godden Mackay Logan was engaged as an independent heritage advisor to assess the nine applications and to provide a report and recommendations to the Norfolk Island Planning & Environment Board. Ms Burke met with all landowners/occupiers of the nine portions. She also met not only with all full members of the Planning & Environment Board but with delegate members as well. Following extensive discussion the Board forwarded to me their recommendations together with the Report from Godden Mackay Logan. The Board agreed to and supported the recommendations of the Report which did not support the exclusion of any of the nine portions. Mr Speaker I wrote to all applicants on the 10 March giving my determination and enclosed a copy of Ms Burke's report. Also, in accordance with the Heritage Register, I placed in the gazette a Notice of Withdrawal to vary the NI Heritage Register. This notice was published on the 13 March 2009. The reasons for the withdrawal of these proposals were as follows: The heritage significance and integrity of the KAVHA would be severely diminished and compromised by the excision of the above portions; All the properties within the KAVHA are components of KAVHA as an entity, and demonstrate the criteria described in the Schedule to the *Heritage Act 2002* for listing in the Heritage Register; and The proposals are in direct conflict with the stated purpose of the *Heritage Act 2002* which is "to provide for the promotion of the conservation of the heritage of Norfolk Island". Mr Speaker, Ms Burke's report ends with some 12 recommendations that involve my progressing issues on a number of fronts. I have already met with the Administrator and had initial discussions about the report and its recommendations. I have also sent a letter to Minister Debus seeking time to discuss with him a way forward in terms of the recommendations involving the Commonwealth Government. The report has been provided to KAVHA Board members and is listed for discussion at the next KAVHA Board meeting scheduled for the 4th or 5th of June. Mr Speaker I have asked the Secretary to Government, Mr Peter Maywald , to place Ms Burke's report on the government website and it can be accessed on the Norfolk Island Government information site, www.info.gov.nf under 'External Reports'. Mr Speaker I ask the report be noted and printed. Thank you Mr Speaker

SPEAKER Honourable Members the question is that the Statement be noted and printed. Any further debate Honourable Members. There being no further debate, the question is that the Statement be noted and printed and I put that question

QUESTION PUT
AGREED

Thank you the motion is agreed. Any further Statements of an official nature Honourable Members. We move on

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 25

SPEAKER Honourable Members, I have received the following Message from the Office of the Administrator and it is Message No 25 which reads that on the 17th March 2009, pursuant to section 21 of the Norfolk Island Act 1979, I declared my assent to the following laws passed by the Legislative Assembly, the Road Traffic (Amendment) Act 2009 (Act No 4 of 2009), the Road Traffic (Amendment No 2) Act 2009 (Act No 5 of 2009) and that message was dated the 17th March 2009 and signed Owen Walsh, Administrator

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 26

SPEAKER Honourable Members, I have received the following Message from the Office of the Administrator and it is Message No 26 which reads that on the 24th February 2009, pursuant to section 21 of the Norfolk Island Act 1979, I declared my assent to the following law passed by the Legislative Assembly, the Appropriation (Amendment) Act 2008-2009 (Act No 3 of 2009) and that message was dated the 24th February 2009 and signed Owen Walsh, Administrator

REPORTS OF STANDING COMMITTEES

Honourable Members are there any Reports of Standing Committees. No. We move to Notices

NOTICES**NORFOLK ISLAND GOVERNMENT TOURIST BUREAU ACT 1980 - RE-APPOINTMENT OF MEMBER OF THE NORFOLK ISLAND GOVERNMENT TOURIST BUREAU**

MR GARDNER Thank you Mr Speaker, I move that this House in accordance with subsection 4 of the *Norfolk Island Government Tourist Bureau Act 1980* recommends to the executive member that he re-appoint Ian Ross Mackenzie Anderson to be a member of the Norfolk Island Government Tourist Bureau for the period 18 April 2009 to 31 March 2010. Mr Speaker the provisions of the *Norfolk Island Government Tourist Bureau Act 1980* provide for a Member of the Legislative Assembly to be appointed to the Norfolk Island Government Tourist Bureau and Mr Anderson has filled that task for the last couple of years and has indicated a willingness to continue as a Member and I commend the motion to the House

SPEAKER Is there further debate Honourable Members. I note that there is an absence of two Members from the House and I will have to call on the Clerk to turn the hour glass before the motion is so put

MR N CHRISTIAN Mr Speaker I move that the question be put

SPEAKER You move that the question be put. Thank you

QUESTION PUT
AGREED

I now put the question that the motion be agreed on the appointment of Mr Anderson

QUESTION PUT
AGREED

Thank you. That motion is agreed to

APPOINTMENT OF PUBLIC SECTOR REMUNERATION TRIBUNAL

MR GARDNER Thank you Mr Speaker, I move that in accordance with subsection 5(2) of the *Public Sector Remuneration Tribunal Act 1992*, this Legislative Assembly recommend to His Honour the Administrator, that the Honourable James Burchett be appointed as the Public Sector Remuneration Tribunal as soon as reasonably practicable; and that he determine the terms and conditions of the appointment be as specified in the Schedule attaching to the motion. SCHEDULE Allowances Daily allowance \$1,000.00 Payable for each day (six hours) including aggregated parts of a day spent attending to the business of the Public Sector Remuneration Tribunal. Expenses Reimbursement of all reasonable expenses incurred in attending to the business of the Public Sector Remuneration Tribunal including all reasonable travel, accommodation, meals, phone and facsimile expenses. Justice Burchett has been the Remuneration Tribunal in Norfolk Island for the last five years, the appointment is for a five year period, and he's had the opportunity to deal with a number of determinations and I think it's fair to say that he's discharged his duties in a more than appropriate manner and in accord with Norfolk Island legislation and his roles and responsibilities contained therein, in that regard I commend the motion to the House and subject obviously to Members approval will then ensure that the matter is taken to the executive council for final determination and advise to His Honour the Administrator

SPEAKER Thank you Mr Gardner. Is there further debate Honourable Members. I do not again absences from the House. Is it the wish of the House to turn the glass

MR N CHRISTIAN I move that the question be put Mr Speaker

SPEAKER You move that the question be put. Thank you

QUESTION PUT
AGREED

We now move to the motion and I put the question that the motion be agreed on the appointment of Justice Burchett

QUESTION PUT
AGREED

Thank you. That motion is agreed to

CUSTOMS ACT 1913 – EXEMPTION FROM PAYMENT OF CUSTOMS DUTY

MR N CHRISTIAN Thank you Mr Speaker I move that under subsection 2B(4) of the Customs Act 1913, this House recommends to the Administrator that the goods specified in the first column of the Schedule imported by the person specified opposite, and on the conditions mentioned, in the second column of the Schedule be exempted from duty and Mr Speaker I'll just identify the goods and who the importer is. The first one is Aluminium Shed with a dutiable amount of \$1,763.40 and the importer is the Rotary Club of Norfolk Island and the purpose is the house the Driver Education Vehicle that was imported some time ago. Secondly, there are three Gas Fryers with a dutiable amount of \$659.04 and once again that was imported by the Rotary Club of Norfolk Island. Thirdly a Portable Ultrasound Machine with duty payable of \$940.00 has been imported by the Animal Welfare Society of Norfolk Island. These are all charitable groups and I trust that my colleagues will support the motion before them today. Thank you

MR SHERIDAN Mr Speaker just one query with regard to one of these items there, whilst I am fully supportive of the non profit organisations bringing these goods in duty free, just with the portable ultrasound machine, it's brought in by the Animal Welfare or the Cat Society or whatever they call themselves these days, but I'm just wondering who will be utilising it, because obviously you would have to be a professional to utilise the machine, and if there is a service fee for the use of that machine, so if the fee goes to the Animal Welfare Society of Norfolk Island yes I wouldn't have a problem with it, but if it goes to a private practice where it's their own business then maybe that needs to be looked at

MR N CHRISTIAN Thank you Mr Speaker I don't have that detail with me. That information has not be made available to me. The first port of call in this type of request is to the Customs Officer. He makes a recommendation to the responsible Executive Member and I've acted on his recommendation

MR SHERIDAN Mr Speaker I just ask the Minister if it would make a difference, if the service fee for the use of this machine was going to a private practice, then would it be viewed differently by a customs Officer

MR N CHRISTIAN Absolutely

MR SHERIDAN Mr Speaker if I may, well then may I suggest then that the Minister delete that if he can or remove that one from the schedule and bring it back at a later meeting. Could you do that

MR N CHRISTIAN Thank you Mr Speaker, what I would suggest to put it beyond doubt so that I can provide you with full information in respect of that, that I move an adjournment in respect of this matter and we can deal with it at the next meeting and I so move Mr Speaker that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

MUSEUM TRUST ACT 1987

MRS JACK Thank you Mr Speaker there has been a vacancy on the Trust for some time and when it was coming up for the time for the remaining four Members to be reappointed,. I was advised that Margaret Rosemary Jowett, Arthur Lawrence Bigg and Ronald Coane Nobbs were happy to remain and be reappointed, however, the Chair of the Trust, His Honour the Administrator, was unsure about the fourth member and that member was Mr Ian McCowan. I contacted Mr McCowan and asked if he would be interested in remaining on the Trust and he said that while he had had four very happy years being on the Trust that he felt it was time that he gave his position up to somebody, I think the words were, give someone younger a go, and asked that I accept his resignation which I did. I then contacted Jodie Therese Williams and Elizabeth Anne McCoy and they were extremely happy to be asked and had no hesitation in accepting the request that they join the other three Members and formed the Museum Trust Board, so I ask that this House resolve for the purposes of section 5 of the *Museum Trust Act 1987* that the executive member appoint Jodie Therese Williams; and Elizabeth Anne McCoy and re-appoint Margaret Rosemary Jowett; Arthur Lawrence Bigg; Ronald Coane Nobbs; to be members of the Norfolk Island Museum Trust for the period 21 April 2009 to 20 April 2011. Thank you Mr Speaker

SPEAKER Is there further debate Honourable Members. There being no further debate, the question is that the motion be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. That motion is agreed to

NORFOLK ISLAND GOVERNMENT TOURIST BUREAU ACT 1980 - RE-APPOINTMENT OF MEMBER TO THE NORFOLK ISLAND GOVERNMENT TOURIST BUREAU

SPEAKER I do note that Mr Gardner is absent from the Chamber

MR N CHRISTIAN We can move it in Mr Gardner's absence Mr Speaker

SPEAKER Thank you Mr Christian. Do you so wish

MR N CHRISTIAN Thank you Mr Speaker, for and on behalf of Mr Gardner I move that this House in accordance with section 4 of the *Norfolk Island Government Tourist Bureau Act 1980*.. aaa Mr Gardner

MR GARDNER Thank you Mr Speaker, I apologise for my brief absence from the Chamber. Mr Speaker I move recommends to the executive member that he re-appoint Wallace James Beadman to be a member of the Norfolk Island Government Tourist Bureau for the period commencing 20 March to 30 June 2009. Thank you Mr Speaker those around the table may be wondering why the appointment is only for a three month period and I've discussed the appointment with Mr Beadman who is also the Chair of the Norfolk Island Tourist Bureau. He has indicated to me his desire not to continue on the Norfolk Island Government Tourist Bureau pass the period 30th June 2009 and to be appointed until that period so that it brings back into sequence all of the appointments to the Norfolk Island Government Tourist Bureau other than the appointment of the Member of the Legislative Assembly to the Bureau. I've discussed that with Members and they are comfortable with that continuation at this point and I commend the motion to the House

SPEAKER Thank you Mr Gardner. Is there further debate Honourable Members

MR B CHRISTIAN Thank you Mr Speaker on the matter I am hoping to cover this appointment and the previous appointment by the Minister and it is to congratulate the people proposed for the appointment because in these modern times it becomes more difficult for citizens to fit these voluntary roles into their busy schedules. I also urge other Members of the community to if possible, make themselves available to various Boards and Trusts that rely solely on volunteers to give a wider opinion

MR GARDNER Thank you Mr Speaker, I happily endorse that. It is more than difficult to try and get people who are willing and certainly have the skills base to be able to provide the necessary input and advise to many of our Boards. Mr Speaker in relation to the Norfolk Island Government Tourist Bureau I've taken a view that bodies such as the Chamber of Commerce and the ATA are asked to nominate people for appointment to the Norfolk Island Government Tourist Bureau and in the past they've been more than forthcoming with that providing a list of names that are then considered by this forum for appointment and certainly that's how I intend to continue with the

appointment or reappointment of Members going forth from June of this year for the next twelve months, so I'll be contacting those bodies and certainly have already received a number of people who have shown interest in being appointed to the Norfolk Island Government Tourist Bureau but as I said, those names as they are received will be considered by Members of the Legislative Assembly and the appropriate motions for reappointment drawn up, but just endorsing Mr Christian's words, Mr Speaker we are very grateful for those people who in a voluntary capacity continue to come forward to offer their services for the betterment and the development of the community of Norfolk Island

SPEAKER Thank you Mr Gardner. The question is that the motion be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. That motion is agreed to

SOCIAL SERVICES (AMENDMENT) BILL 2009

MRS JACK Thank you Mr Speaker I present the Social Services (Amendment) Bill 2009 and move that the Bill be agreed to in principle

SPEAKER The question is that the Bill be agreed to in principle. Mrs Jack

MRS JACK Thank you Mr Speaker this Bill which I will read out the explanatory memorandum to and have that put into Hansard, comes about because it has been an amended Bill passed by the previous Legislative Assembly and to which assent was not given, so when it came back there were some concerns highlighted by the then Minister for Territories, the Hon Jim Lloyd, and consideration to those concerns were then written into this amended version of that previous Bill Mr Speaker. Going on to the explanatory memorandum. This Bill proposes to put in place a number of the recommendations of the Policy Review ("the Review") prepared by the Norfolk Island Social Services Board in April 2002 which was in turn prepared following a request from the Members of the Legislative Assembly by resolution of 23 August 1999 and taking into account some of the recommendations of the impact of Bills and subordinate legislation committee in relation to the Bill tabled in March 2005. While the Bill as presented does not address all of the issues raised in Committee Regulations are expected to do so in connection with issues that change from time to time such as threshold income and asset tests for eligibility. The Bill addresses various issues such as definitions of "income" and "deemed income", what is a "couple", residence requirements, the eventual equalisation of entitlement to age benefits of males and females, benefits for incapacity, payments on death, special benefits, improvement of application systems and criteria, hospital and medical assistance, and appeals, and extended regulation powers. The Bill opens with a statement of the basic objectives of the legislation and then provides a number of new definitions required by the amendments (as well as some tidying up of existing definitions). The main change is the inclusion of a definition of "assets" to tie what is a common concept to Regulations, "deemed income" to clarify what was previously simply referred to as "payments in the nature of income", "hospital and medical assistance" also known as HMA which provides assistance to persons who are not eligible for normal benefits because they are recipients of certain benefits in Australia – this benefit which is being normalised was recommended in recommendation 15 of the Review and is dealt with in more detail in clause 15 of the Bill. Other definition changes are the use of the expression "long term incapacity" instead of permanent incapacity which effects change in clause 12; and the inclusion of "special benefit" as a defined term. The clause also splits the section into 2 parts and clarifies that when issues of avoiding or evading income and asset tests arise, the test is to be found in Regulations and not just in a

person's expressed intent. The next main clause of the Bill, clause 6, introduces the new concept of a couple which will extend the application of the Act to persons who are in a "de facto" relationship. Consequential changes to the Act apply the concept which provides extensive criteria to be complied with if the relationship is not one of marriage as well as excluding relationships where the parties live apart on a permanent or indefinite basis. The definition is tailored for the particular purposes of the Act and so does not refer to the *De Facto Relationships Act 2006* that has a much broader application. The Bill also makes some changes to the Board in clauses 7 and 8 by requiring the Board to provide an annual report of the reports and recommendations made in the preceding year and a report of the matters specified in section 11(2) as they appear at the end of the year. The report is to be provided by 31 August and subsequently tabled in the Assembly. In addition the Bill extends significantly the secrecy provisions of the Act by requiring the Chief Executive Officer to take precautions and give directions to ensure that information made available is only provided to those who are authorised to receive it; and by prohibiting persons who are not entitled to information from accessing it or divulging it. The Bill makes it clear that the intentions of a person at the time information came into his or her possession is not relevant to the issue of whether or not a breach of the Act has occurred. As at present the Bill preserves the immunity of a member of the Legislative Assembly who discloses information at a meeting of the Assembly. Clause 9 of the Bill requires the provision of annual income statements from the recipient of a benefit and deals with the variation of benefits arising from a review. A special benefit, on the contrary, because it only exists for a specific time requires a new application on its expiration. Clause 10 is provided to authorise the executive member to approve forms for usage where they are not otherwise prescribed rather than simply require applications in writing, and to authorise delegation to an authorised officer (who is defined as a person who has been appointed by the executive member to be an authorised officer). At present there is no delegation power. The amendments also allow the establishment of financial tests or requirements by means of Regulations that would determine income and asset thresholds for eligibility. The Review's recommendation 4 was for the gradual implementation of a common age of 65 years for "age" benefits and this is found in clause 11 which amends section 16 of the Act providing a table of ages at which the benefit may be claimed by females moving from 63 years to 65 years. The requirements for eligibility for invalid benefits have, as recommended in section 7 of the Review, been altered by clause 12 to change "permanently incapacitated for work" to "long term incapacity", now defined in the new definition in section 3 [clause 5 of the Bill] as mentioned at the commencement of this memorandum. Clause 13 of the Bill provides a more extensive description of the process for obtaining and retaining an invalid or handicapped child benefit and includes the requirement for an annual medical examination and medical report. Clause 14 includes, as recommended by the Review [section 3] a 2 years residence and authorises the executive member to make a disallowable instrument prescribing categories of special benefit, qualification for payment and maximum amounts. Claims for hospital and medical benefits were recommended in section 15 of the Review and clause 16 gives effect to this by requiring a claim to be in a prescribed form and by requiring the provision of income information and details of any benefits being received from outside Norfolk Island as well as requiring the applicant to give authorisation to request information from sources outside Norfolk Island. If an applicant has applied for a benefit outside Norfolk Island and it has been refused the details of the claim and reasons for its refusal must be disclosed. Clause 18 of the Bill establishes a new system for review of decisions by the executive member or an authorised officer ("the decision maker"). A new position of review officer is established and is to be appointed by the Chief Executive Officer for a term not less than 3 or more than 5 years. The review officer is required to examine consider and make recommendations if a person seeks review of a decision by a decision maker. The new provisions set out the timetable to be followed by the parties involved when a review is sought and provide that when the review officer has made a recommendation the decision maker is not required to accept the recommendation but if it is not accepted the reasons must be given. An appeal then lies from the decision to the Administrative Review Tribunal. Clause 19 is included to prevent

the incurring of bad debts by recipients of benefits who, or whose next-of-kin, fail to pay hospital charges, by requiring that such charges be paid from their benefit up to an amount that does not exceed 80% of the person's income (including their benefit). The regulation making provisions of the Act are changed by clause 22 to provide more extensive power to make regulations concerning the income and assets tests for eligibility of benefits, and the grant of benefits, particularly those for HMA, while clause 23 empowers the making of a disallowable instrument to provide for the payment of incentives to take out private insurance. Mr Speaker this has been a long time coming and no doubt will get a lot of debate in this forum and also in the community and so it is my intention that this Bill sit on the table for some time and I look forward to any Member having an initial debate before being able to consider it in more detail and perhaps give more at our next sitting. Thank you

MR GARDNER

Thank you Mr Speaker, I appreciate the Ministers efforts in bringing this back to the House. It's been something that has sat with a number of Legislative Assembly's now and even though a previous attempt as I think the Minister may have outlined on a previous occasion, to pass legislation that was then not assented to by the Commonwealth has caused a degree of frustration and not allowed for measures to modify or review the application of social services in Norfolk Island. Mr Speaker just a few questions really at this stage, more observations again in relation to clause 6 in the bill and the new proposed subsection 3a(1)(b)(v) about the member of a couple, that primary clause 3(A), member of a couple and the subsection I'm referring to is the personal partner not within a prohibited relationship for the purposes of section 23(b) of the Marriage Act 1961 of the Commonwealth and I guess I could do the research but if the Minister just offhand knows whether that's a reference to same sex type relationships or not. I've got the nod. That's what it's in relation to. I think that in this day and age it is recognised that we do have same sex arrangements, not just in other jurisdictions throughout the Commonwealth but also in Norfolk Island and clearly there needs to be a debate at some time as to whether we are going to exclude those things from recognition under our own legislation. I don't want to start a massive moral debate about these issues, but in some people's affairs they are very important and particularly those in same sex arrangements and I think in Norfolk Island we try to embrace as many of the differing arrangements as is possible and I understand this is Commonwealth legislation that's restricting us but in time I hope that there is going to be able to be mature and considered debate about the continuation of those aspects on a global front as far as the Commonwealth is concerned. My other observation relates to clause 12(10) of the Bill and that relates to new sections and initially my query is new section 15(A) about the financial eligibility for benefits and it refers there, and I've raised this on a previous occasion, financial requirements in respect of income and assets and to me that clearly indicates a provision to allow for asset testing in relation to the provision of social service benefits in Norfolk Island and I just wonder whether the Minister has any comment at this stage on when we might have an opportunity to consider what is in mind as far as an application of assets testing in Norfolk Island, whether that is a primary issue for consideration at this stage with the passage of this legislation or whether it is just a facilitating provision for it to occur at some other time under a different set of circumstances and my only other query at this stage is in relation to clause 11 which is new subsection 16(1)(c) in relation to the requirement to be a resident of Norfolk Island under the Immigration Act 1980 and was ordinarily resident in Norfolk Island for not less than 10 years immediately before that date, and I think we have had debate in the past and certainly previous Legislative Assembly's on that requirement to be in Norfolk Island for ten years immediately preceding the date of receipt of an aged benefit. There are various views certainly in past Legislative Assembly's and already in this Legislative Assembly in relation to that requirement as to whether it is seen as a just and fair requirement particularly in relation to people, I think the argument's been had that may have lived all of their life on Norfolk Island, they've reached middle age and for some reason have had to take a partner, a wife, a child or other person off island for treatment, for education, just for gaining of life experiences and then for them having made such a significant contribution in years gone by to

Norfolk Island's society are then required to wait until they can receive any benefit or recompense for that contribution for another ten years upon returning to Norfolk Island to retire. So I think those are things that I think we need to have some meaningful discussion and debate about. Clearly all of them relate to eligibility for social service benefits in Norfolk Island and we need to be very conscious of our ability to adequately fund our welfare arrangements in Norfolk Island so that's obviously an over riding criteria when trying to determine our requirements but that said, there is an expectation in the community where we are devoid of a superannuation scheme as such in the island, an expectation that the community will provide in old age where people certainly struggle making ends meet.

MRS JACK

Thank you Mr Speaker I think I've answered the first query that Mr Gardner raised. The second was regarding asset testing and whether we need to have a primary concern or whether its there merely as a facilitating provision because successive have been aware of the need to consider moving forward in asset testing to balance the income. When I say in line with what happens in Australia I'm not saying by taking up those same asset test requirements by any means, it would be viewed as modifying them under Norfolk Island conditions but that is there in order to facilitate the moving forward. As for the ten years immediately before, that has caused considerable debate and I just note that in the initial Bill in 2006 the number of years was for fifteen years and the comments made were it would require a person to have been ordinarily resident for the ten years immediately preceding the application for not less than fifteen years since obtaining the age of 21 years so in actual fact, that has been pulled back but there is a desire to change that immediately before that date to reflect the ten years of residency in Norfolk Island from the age but I've kept it there. We need to have really informative debate and there may be views by some around this table that consider that not enough, but it's there, it's a starting point, and I look forward to further input and further debate. I notice there's been comments made in the paper recently, through a paid advert on the Norfolk Island Labour who have concerns over income, the view as I said was not meant to be glib, but no policy currently exists, income is very readily defined under the current Act and that is what we work on and I have it here if you want to read out exactly what income is. Concerns have come about when people have been gifted money and it's been put into say, a mortgage account, and they say it's a mortgage account, it's there to pay off but reflecting and looking into some of the accounts, you actually see that benefits have been put in one day and perhaps half withdrawn the next. They are mortgage saver accounts and so they've all been determined to be used as income. It would be different if people could show to me that a mortgage account had never been touched by paying off the money, just completely kept coming off a mortgage as they increase their equity in the House and it's never been drawn down. It's a different view but no one's been able to show me that. Income on Norfolk Island is determined to be all monies that you get in. for example if you win two raffle tickets of trips to New Zealand, no that's not, but if you sell them and get \$500 each, yes that would be deemed to be income. And the income isn't taken for the day that you derive it, it's not taken for the week, that you may spend it, it's taken over the years, so it's all these incidentals whether it's selling off palm seeds, it a gift, whatever. We have a very broad definition of income and it's all monies that come in, over that one year and it's been upheld under appeal, when people have inherited substantial amounts of money it's been deemed that yes, you do have to start using those substantial amounts of money if you have it and not be an impost on the community so as I said, I just look forward to further discussion. I think it would be very healthy and I'm looking forward to Members of the community coming on board with it as well for the discussion. Thank you

MR SHERIDAN

Mr Speaker I won't say too much on this right now as I know it will be on the table for a couple of months but just a couple of things here for the Minister. I note in the explanatory memorandum that it's quoted as saying, ". While the Bill as presented does not address all of the issues raised in Committee Regulations are expected to do so in connection with issues that change from time to time such as

threshold income and asset tests for eligibility” now one would hope that if we regulate and if we’re going to go down the road of even having asset testing mentioned, one would have the ability to view the regulations prior to the actual vote on this Bill when it comes to this House in a few months time. Also the explanatory memorandum says it addresses various issues such as definitions of income and also the inclusion of the definition of assets. Well unfortunately I cannot find that in this Bill. So that’s something that the Minister may have to take on board and include the definition of income and also of assets and just while she’s on there, I’ve already spoken to the Minister and I would like to see another definition of what is exempt income. If we are going to go down this road of reviewing the Social Services Act, they don’t get reviewed all that often and if we are going to go down the road of reviewing assets and income etc etc I think there’s certain things that may have to be included in the exempt income and I know one particularly that has been causing some angst over the past few years is pension payments to veteran affairs. In Australia they are not deemed as income. They are exempt income and that’s something that I would like the Minister to take on board. Also things such as lottery winnings. Small things like that. Inheritances could be in that same category. I know that maybe there’s a come back that if we go down that road of exempting certain income, the recompense may be that all of a sudden there could be some assets that could be included when they have a look at an application for a pension but those are just a couple of things that I’ve picked up just initially. I also have a view as Mr Gardner did on the eligibility for a pension as living in Norfolk Island for a period immediately prior to the lodgement date of the application. That’s something that I’m going to have to research a little further. I was of the review panel for this Bill back some years ago and I still have my notes on that and I have to go back through those and have a look at the people who came down to talk to us and see exactly what they stated and try and get some sort of sense to it all so that nobody gets discriminated against when they apply for a pension and just that, I don’t think there was anything else there. One of the main bug bars is the asset because it does get mentioned a few times in the Bill and I can see that you need to have a definition of assets, exactly what is an asset, income, you need that to be defined, and also I would like to see exempt income defined as well. Thank you

MR MAGRI

Mr Speaker obviously the Minister is correct in that this is not going to be something that we necessarily approve at the next meeting, or the meeting after that. I note that this came out as a resolution dating back from 1999 so we’re coming up to ten years that this Bill has been thrown around and the requirement to make some of these changes but I know that the Tenth Legislative Assembly felt that it was important enough to recommend that the Impact of Bills Committee assess the impact of this Bill and I would certainly hope that we can, without having to reintroduce the requirement and go back to the Impact of Bills Committee that we can take some of those recommendations and see if they are still relevant to today, but in particular the question that I would like the Minister to come back with to the next meeting, is what the cost implications are to the Norfolk Island Government and the social impact in relation to some of these test are going to be whether people are going to be still eligible or not eligible or having to raise the criteria or whatever it might be, so it’s a pretty wide ranging piece of legislation but I’ll definitely support the Minister in bringing it forward, it’s a terrific move forward

MR NOBBS

Thank you Mr Speaker just in brief I definitely congratulate the Minister in bringing it forward. We as in previous Legislative Assembly’s have to administer social services in accordance with the Act and policies that have been established some time back, I think 1984 was the date of the Act. I think that we all have similar issues around the table in that we are concerned about the detail of the deeming of income, the exempt incomes and the eligibility criteria. Minister Magri raised quite rightly how it will impact on those who are already within the system, those who may be coming up to eligibility and of course the bottom line, how it is to be funded or its impact on the upcoming budget. I definitely welcome it coming to the table and I hope

we can get enough detail through on those areas to have the informed debate and make the changes

SPEAKER Any further debate. Mrs Jack

MRS JACK Thank you Mr Speaker I move that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

QUESTION PUT
AGREED

The Ayes have it. Debate is so adjourned Honourable Members

We move now to Orders of the Day

ROAD TRAFFIC (AMENDMENT) BILL 2009

SPEAKER Honourable Members we resume debate on the question that the Bill be agreed to in principle and Mr Gardner you have the call to resume

MR GARDNER Thank you Mr Speaker the purpose of this Bill is to clarify the status of the law of negligence legislation that we passed and to ensure that any reference contained in the Road Traffic Act 1982 currently doesn't cause any confusion or conflict with that legislation so it looks to remove those provisions under the Road Traffic Act providing for the limitation of liability in respect of road traffic accidents and it ceases to have any application in that it is inconsistent with part 5 of the legislation that I referred to earlier which was the Law of Negligence and Limitation of Liability Act 2008. Mr Speaker it's pretty much a housekeeping amendment and it's primary purpose is in future when people are referring to legislation and particularly in picking up the Road Traffic Act, no confusion is created because those provisions currently exist. If they are not removed then confusion will continue to exist and so it clarifies that, because those questions about law of negligence and personal injury etc are dealt with under the Law of Negligence and Limitation of Liability Act 2008. at the appropriate time there will also be a proposed detail stage amendment in relation to the title of the Bill but the question at the moment is that the Bill be agreed to in principle and I look forward to input from any other Members before we discuss the detail stage amendment as proposed

SPEAKER Is there any further debate Honourable Members. Then I put the question that the Bill be agreed to in principle

QUESTION PUT
AGREED

The Bill is agreed to in principle. We move to the detail stage and Mr Gardner you have a detail stage amendment

MR GARDNER Thank you Mr Speaker, I move that the title of the Bill and clause 1, be amended to change the title from Road Traffic (Amendment) Bill 2009 to Road Traffic (Amendment No 3) Bill 2009. Thank you Mr Speaker again to avoid confusion with the passage of a couple of other parts of legislation that are entitle Road Traffic Amendment that happened to fall into this calendar year and to ensure that there

is consistency in the titling of this legislation and hence to change it to Amendment No 3 Bill from just Amendment Bill 2009 and I commend that motion to the House Mr Speaker

SPEAKER I put the question that the amendment be agreed to

QUESTION PUT
AGREED

The amendment is agreed to

I put the question that the clause as amended be agreed to

QUESTION PUT
AGREED

The clause as amended is agreed to

I put the question that the remainder of the Bill be agreed to

QUESTION PUT
AGREED

The remainder of the Bill is agreed to. Mr Gardner

MR GARDNER Mr Speaker I move therefore that the Bill as amended be agreed to

SPEAKER Thank you Mr Gardner. The question is that the Bill as amended be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

The ayes have it Honourable Members, therefore the Bill as amended is so agreed to

PLANT AND FRUIT DISEASES (AMENDMENT) BILL 2008

SPEAKER Honourable Members we resume debate on the question that the Bill be agreed to in principle and Mrs Jack you have the call to resume

MRS JACK Thank you Mr Speaker up until a few days ago I had envisaged this Bill progressing however, all Members received, I would term it a letter, with some approximately thirty signatures over three pages and the letter was addressed to us all and primarily from growers on Norfolk Island and if I could just the top part Mr Speaker. It says we the undersigned would like the Members of the Legislative Assembly to be aware of our concern over the proposed legislative amendments to the Plant and Fruit Diseases Act. Whilst we remain appreciative of recent Government support to local growers to the sustainable agricultural initiative and we understand the importance of providing continuity and variety in the supply of fruit and vegetables, we feel that the impacts of the proposed legislative amendments on our livelihoods and future have not been fully considered. With only a small number of income generating industries and limited natural resources on Norfolk Island we need to be positive that this amendment will not have a detrimental effect on our industry. Rather than immediately rejecting the changes we ask that the amendment be delayed until such a time as the evidence based assessment as to the impact of this amendment on the primary produce industry on Norfolk Island is carried out. It then went on to the signature. Mr Speaker as a result of the discussions held amongst Members yesterday we came to a view that rather than continue with this motion today, that we would have a

further drafting arrangement done that would alter I think it is section 22 of the Plant and Fruit Diseases Act, it's a section that covers regulations that states that the Administrator may give action for regulations to be drawn up. There's another aspect of that, be included so that this Bill would be passed but before Regulations would be drawn that the request of the types of fruit to be imported would go before the Impact of Bills Committee, that they would then give consideration not only to what is requested by the letter but to the other side of the coin, to the requirements and requests for needs and impacts on the community so bearing that aspect in mind, it is my intention now to ask that this Bill be adjourned. I will then go away and ask that this legislative drafting occur and it can be brought back to the House at the next sitting, so unless there's any debate. I forgot to mention also, that that will include the amendment as forecast by Mr Brendon Christian that is actually written on the programme today and I'm unsure if Mr Christian wants to just talk to that prior to my moving adjournment

MR B CHRISTIAN Thank you Mr Speaker I believe that the path that's being offered by the Minister in light of the debate and concerns raised by the community both for and against the proposed legislation is a vigilant move that will allow time to fully assess the impact of this proposed legislation and I support the adjournment Mr Speaker

MR N CHRISTIAN Thank you Mr Speaker I too support the adjournment. I also intended to support the amendments to the Plant and Fruit Diseases Bill in its original format where it was just to allow the importation of apples, however, what we have before us now is much more widespread than that and one could argue that some checks and balances could possibly be missing. As Mrs Jack has indicated, what we are seeking to do now is to put those checks and balances back into the Bill but we'll do it by way of Regulation so in a practical sense, what will happen is that if somebody were of a view to import a fruit or vegetable which was not currently allowed to be imported into Norfolk Island they would come down and speak to the politicians and if there was support there for that, regulations to allow the importation would be drafted. The draft regulations would be circulated to the Impact of Bills and Subordinate Legislation Committee and they would consider the impact, not only on the growers but on the community as a whole so they are able to take evidence from anybody. The next step then, if there was a decision to proceed, is that the regulations would be passed by the executive council and would become a disallowable instrument, 65 days I think it is after tabling in this House so the community and the Membership of the Legislative Assembly get to have a second go at it and if they don't like what's being presented to them, it's disallowed and the issue effectively is defeated, and you're back to square one, so Mr Speaker I think if we can accommodate all of what we've spoken about today, we should come up with a piece of legislation that's acceptable to everybody in the community and I commend the Minister for taking this initiative. Thank you

SPEAKER Thank you Mr Christian. Is there any further debate Honourable Members. Mrs Jack

MRS JACK Mr Speaker, I move that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

SPEAKER The question is that debate be adjourned and the resumption of debate made an Order of the Day for a subsequent day of sitting

**QUESTION PUT
AGREED**

The Ayes have it. That motion is so agreed that debate be adjourned to a subsequent day of Sitting Honourable Members

FIXING OF THE NEXT SITTING DATE

Thank you Honourable Members we move to the fixing of our next sitting day

MR B CHRISTIAN Mr Speaker I move that the House at its rising adjourn until Tuesday 28th April 2009, at 10.00 am.

SPEAKER Thank you Mr Christian. Is there any debate Honourable Members. I do wish to make a brief statement on that date for the sitting and I would ask the Deputy Speaker to come to the Chair

DEPUTY SPEAKER SHERIDAN Honourable Members any debate. Mr Snell

MR SNELL Thank you Mr Deputy Speaker to support and to give some clarification and importantly, in acknowledging a decision endorsed at the Commonwealth Parliamentary Association meeting in December 2008 whereas it was agreed by Members present to recommend that this House hold its April meeting on the 28th April and that is in recognition of the Commonwealth's celebration of the 60th Anniversary of the London Declaration by Government which created the modern Commonwealth of nations and in recognition also of this historic occasion, H E Kumales Shamar has proposed to us that we work to mark this event by holding a special meeting and possibly debate on the continued value of the Commonwealth in today's global world. Such a debate or discussion would greatly enhance Members and the public's understanding of a relationship which has done so much to contribute to development of all our nations. You might recall that I attended the school and read the message from Her Majesty the Queen to commemorate Commonwealth Day, which used to be Empire Day and also I made reference to the attendance in London to commemorate that occasion of Samantha Race and Joel Quintal, representing Norfolk Island which we were most honoured to have them there and they conducted themselves well and they are to be commended, so Members I do support the change of date to Tuesday the 28th April. Thank you

DEPUTY SPEAKER SHERIDAN Thank you Mr Snell. Is there any further debate Honourable Members. The question is that the motion be agreed to and I put that question

QUESTION PUT
AGREED

The motion is agreed to

ADJOURNMENT

MR ANDERSON Thank you Mr Deputy Speaker I move that the House do now adjourn

SPEAKER Thank you Mr Anderson. Is there any further participation in adjournment debate Honourable Members?

MRS JACK Thank you Mr Deputy Speaker I just inform the House that I'll be on leave for personal holidays at that time so I will give my apologies to the House

MR NOBBS Thank you Mr Deputy Speaker. The usual Ministerial forum all things being in place, should be on the local radio forum tomorrow morning. I've just had the thumbs up from the Radio Station representative and of course, all Members are welcome to go on air whereby we are answering questions from the community, providing information or even using the talk back facilities, I think

MR B CHRISTIAN
from the next meeting also

Thank you Mr Deputy Speaker I too will be absent

DEPUTY SPEAKER

Thank you Mr Brendon Christian. I now put the question that the motion be agreed to that the House do now adjourn

QUESTION PUT
AGREED

Therefore Honourable Members this House stands adjourned until Tuesday 28th April 2009, at 10.00 am.

