

**NORFOLK ISLAND
MINUTES OF PROCEEDINGS
NINTH LEGISLATIVE ASSEMBLY
21 FEBRUARY 2001**

**NORF'K AILEN
DIISEM MENETS LARNEN WATHING HAEPN
INAA
NAINTH LEJESLIETEW 'SEMBLE
21 FEBYUWERI 2001**

- 1 The Legislative Assembly met at 10.02 am. The Speaker (Hon D.E. Buffett MLA) took the Chair and read the Prayer

2 PRESENTATION OF PETITIONS

Mr Smith (Minister for Tourism and Commerce) presented a Petition from some 1035 persons. Of those 1035 persons, 709 are on the electoral roll, 120 are long term or "ordinarily resident" on Norfolk Island, 90 are senior school children and 130 are interested persons, all of whom are petitioning the Legislative Assembly to take immediate action -

To suspend conditional registrations of the tourist accommodation units where work is yet to commence until the Island's ability to fund and provide essential services such as water-supply, electricity supply, sewerage and waste management is established.

3 GIVING OF NOTICES

Mr Cook QC gave notice of his intention to move the following motion at the next sitting of the House:

THAT the moratorium provided for in the Tourist Accommodation (Moratorium) Act 2000 be extended under section 8 of that Act for a further period of 6 months from 22 March 2001

4 QUESTIONS WITHOUT NOTICE

**The Deputy Speaker took the Chair at 10.09 am
Acting Deputy Speaker Bates took the Chair at 10.35 am**

5 ANSWERS TO QUESTIONS ON NOTICE

Answers were provided to the following questions on notice:

No. 48 (Mr McCoy to the Minister for Health and Environment:) re. level of debt owed to the Norfolk Island Hospital Enterprise at November 2000

No. 49 (Mr McCoy to the Minister for Health and Environment) re. rehabilitation of portion 48c

No. 50 (Mr McCoy to the Minister for Health and Environment) re dumping of rock and rubble on the land beside the Banyan Park Playcentre and related issues

No. 51 (Mr McCoy to the Minister for Tourism and Commerce) re all registered accommodation houses being made one hundred percent self sufficient in water.

No. 52 (Mr McCoy to the Minister for Health and Environment) re. provision of an industrial area in the revised Norfolk Island Plan

- No. 53 (Mr McCoy to the Minister for Health and Environment) re. alternative rock crushing site
 No. 54 (Mr McCoy to the Chief Minister) re. purchasing policy guidelines for the Public Service
 No. 55 (Mr McCoy to the Chief Minister) re. contractual arrangement with Mobil for supply of diesel fuel
 No. 56 (Mr McCoy to the Minister for Tourism and Commerce) re. the continuing decline in New Zealand visitors
 No. 57 (Mr McCoy to the Minister for Health and Environment) re Part 2 of the AQIS Report into Plant, Pest and Disease on Norfolk Island
 No. 58 (Mr McCoy to the Minister for Health and Environment) re. eradication of army worm

6 PRESENTATION OF PAPERS

The following papers were presented:

- 1) Mr Nobbs (Chief Minister) tabled the Financial Indicators for January 2001 and moved –
THAT the House take note of the paper
 Debate ensued
 Question put and agreed to on the voices
- 2) Mr Smith (Minister for Tourism and Commerce) tabled the Inbound Passenger Statistics for January 2001 and moved -
THAT the House take note of the paper
 Debate ensued
 Question put and agreed to on the voices

7 STATEMENTS

- 1) Mr Buffett (Minister for Immigration and Community Services) –
 - a) foreshadowed his intent to proceed speedily with the immigration review;
 - b) briefed the House on the proposed reform of the Justice and Court legislation; and
 - c) gave an update on the development of the Mini Games 2001 legislation package
Paper:
Mr Buffett tabled the memorandum of 12 February 2001 to him from Legislative Counsel providing a brief report on the proposed legislation to acquaint Members with its scope and purpose
- 2) Mr Nobbs (Chief Minister-
 - a) provided a further response to a question asked at an earlier sitting by Mr Brown regarding the theft of pay packets from the Accounts Branch;
 - b) made a statement in relation to telecommunication services into and out of Norfolk Island and reported on funding being made available under the Networking the Nation Scheme (Federal)

3) Mr Smith (Minister for Tourism and Commerce) –

Paper:

Tabled a preliminary discussion draft of the Norfolk Island Broadcasting Authority Bill 2001 which will establish the Norfolk Island Broadcasting Authority and to make provision for the licensing, control and regulation of both audio and visual broadcasting for the purposes of radio and television within the Territory of Norfolk Island and for related purposes

Mr Smith gave a brief overview of the provisions in the Bill

8 PROPOSAL FOR CHILDREN (CARE AND PROTECTION) LEGISLATION

Mr Cook QC, pursuant to notice, moved the motion standing in his name on the Notice paper in the following amended form:

THAT this House requests the responsible Executive Member to have drafted, most urgently, and to be brought before the Legislative Assembly, legislation by way of a Children (Care and Protection) Act which provides –

- a) **for all proper, necessary and suitable measures, duties, obligations and requirements which establish and guarantee the highest possible levels of essential care, nurture, welfare, protection and safety of children on Norfolk Island;**
- b) **a Child Protection Council similar to that Council set up in New South Wales, comprised of community members with expertise in child welfare and protection and representatives of government agencies responsible for the care and protection of children, the apprehension and prosecution of offenders and the prevention of any child abuse and neglect in the community, which will advise the responsible Executive Member and the Government of Norfolk Island on matters related to child protection;**
- c) **amendments to any other legislation which are necessary to carry into effect and operation the principles adopted by this House that the safety, well-being and welfare of children in this community are paramount and that all penalties and punishments in respect of offences against children reflect and respond to community attitudes and concerns in relation to all such offences and are appropriate and just penalties and punishments able to be imposed on offenders**

Debate ensued

Leave having been denied Mr Brown to move an amendment without notice, Mr Brown moved –

THATS so much of standing orders be suspended as would prevent his moving the amendment

Question put
The House voted –

AYES, 7
Mr Buffett
Mr Nobbs
Mr Bates
Mr Gardner
Mr Walker
Mr Smith
Mr Brown

NOES, 2
Mr Cook
Mr McCoy

Motion agreed to
Mr Brown moved –

THAT all words after “THAT” (first occurring) be deleted and the following substituted –

“this House requests the responsible executive member to investigate whether there is a need to give priority to the intended review of the Child Welfare legislation, and if so, to expedite same

Debate ensued
Question put
The House voted –

AYES, 3
Mr Gardner
Mr Walker
Mr Brown

NOES, 6
Mr Buffett
Mr Nobbs
Mr Bates
Mr Cook
Mr McCoy
Mr Smith

Amendment negatived
Question – That the amendment be agreed to – put and agreed to on the voices, Mr Brown abstaining

9 DETERMINATION OF HUMAN RESOURCES POLICY & ORGANISATIONAL STRUCTURE

Mr Nobbs (Chief Minister) tabled the draft determination in respect of the Organisational Structure dated 20th^h day of February 2001 and the draft determination in respect of the Human Resources Policy dated 20th day of February 2001 and moved -

THAT this House, having considered the written comments of the Public Service Board dated 12 February 2001 in respect of the draft Human Resources Policy and Organisational Structure in accordance with and pursuant to sections 26, 27 and 28 of the *Public Sector Management Act 2000*, hereby –

- a) makes the draft determination in respect of the Organisational Structure, dated the 15th day of February 2001, produced by the Chief Executive Officer; and
- b) makes the draft determination in respect of the Human Resources Policy, dated the 15th day of February 2001, and produced by the Chief Executive Officer,

and declares that a copy of this motion, signed by the responsible executive member and appearing in the Gazette, shall be the instrument in writing of the Legislative Assembly for the purposes of paragraph 26(1)(d) of the said Act

Debate ensued

Mr Nobbs, by leave, moved the following amendment:

1. Opening paragraph, line 2, add the words “and 20th February 2001” after the words “12th February 2001”;
2. Paragraph a) change “15th” to “20th”;
3. Paragraph b) change “15th” to “20th”

Question – That the amendments be agreed to put –and agreed to on the voices

Debate ensued on the question as amended

**At 1.48 pm Acting Deputy Speaker Bates suspended the sitting until 2.15 pm
At 2.16 pm, the House resumed its sitting, Acting Deputy Speaker Bates resuming the Chair**

Mr Nobbs, by leave, read into hansard a memorandum to him of 21 February 2001 from Chief Executive Officer on the subject matter before the House

Question – That the motion be agreed to – put

The House voted –

AYES, 6
Mr Nobbs
Mr Cook
Mr Gardner
Mr Walker
Mr Smith
Mr Brown

NOES, 2
Mr Buffett
Mr McCoy

ABSTENTIONS, 1
Mr Bates

Motion agreed to

10 MOTION BY LEAVE – IMMGRATION ACT 1980 – DETERMINATION OF GENERAL ENTRY PERMIT QUOTA FOR PERIOD 17 FEBRUARY 2001 TO 16 FEBRUARY 2002

Mr Buffett (Minister for Immigration and Community Services), by leave, moved –

THAT for the purpose of subsection 21(1) of the Immigration Act 1980, this House resolves that it be determined by instrument in writing that 10 General Entry Permits be granted during the period 17 February 2001 to 16 February 2002

Debate ensued

Deputy Speaker took the Chair at 2.35 pm

Acting Deputy Speaker Bates resumed the Chair at 2.55 pm

Mr Brown, by leave, moved –

Delete “10”, insert “48”

Question – That the amendment be agreed to – put

The House voted –

AYES, 1

Mr Brown

NOES, 7

Mr Buffett

Mr Nobbs

Mr Bates

Mr McCoy

Mr Gardner

Mr Walker

Mr Smith

ABSTENTIONS, 1

Mr Cook

Motion negatived

Question – That the motion be agreed to – put

The House voted -

AYES, 6

Mr Buffett

Mr Bates

Mr Gardner

Mr Walker

Mr Smith

Mr Brown

NOES, 2

Mr Nobbs

Mr McCoy

ABSTENTIONS, 1

Mr Cook

Motion agreed to

**11 TOURIST ACCOMMODATION (REGISTRATION AND QUOTA)
AMENDMENT BILL 2001**

Debate resumed (Mr Smith, Minister for Tourism and Commerce) from 7 February 2001 on the question – That the amendments proposed by Mr Walker be agreed to.

The amendments before the House were withdrawn by leave and the following proposed by Mr Walker:

Clause 4(2) of the Bill is amended by substituting “(1)” and “(2)” for “(2)” and “(3)” respectively where they appear in the substituted subsection 5(3) of the principal Act, and by further substituting “(a)” for “(i)” where that appears in the said substituted subsection 5(3)

Debate ensued

Question – That the amendment be agreed to – put and agreed to on the voices, Mr Brown and Mr Bates abstaining

Mr Walker moved –

Clause 6(4) of the Bill is amended by –

- (a) deleting subparagraph 8(1)(c)(v);**
- (b) substituting “(iii), and (iv)” for “(ii) and (iii)” where they first appear after the words “ mentioned in sub-paragraphs”.**

Debate ensued

Question – That the amendment be agreed to – put and agreed to on the voices, Mr Brown being absent from the Chamber and Mr Bates abstaining

Mr Walker moved -

Clause 7 of the Bill is deleted and a new clause 7 substituted as follows –

“7. The following section is inserted immediately after section 8 –

“8A. No compensation is payable by the Crown in respect of anything done under or arising out of section 8.”.

Debate ensued

Question – That the amendment be agreed to – put and agreed to on the voices, Mr Brown being absent from the Chamber and Mr Bates abstaining

Mr Walker moved –

Clause 8 of the Bill is amended by –

- (a) deleting the word “a” in the third line of subclause 8(1);**
- (b) renumbering subsection (2) to become (2)(a), and inserting additional paragraphs as follows –**

“(b) The number stated in paragraph 8(2)(a) above includes, to the exclusion of all others –

- (i) registered Tourist Accommodation Houses registered under the principal Act which are constructed and operating as at 5 February 2001;**
- (ii) Tourist Accommodation Houses registered under section 7(4A) of the principal Act for which planning approval under the Planning Act 1996 has been lodged, approved, and not expired as at 5 February 2001;**
- (iii) Tourist Accommodation Houses registered under section 7(4A) of the principal Act in respect of which a planning application under the Planning Act 1996 had been lodged but not approved as at 5 February 2001.**

- (c) In respect of those Tourist Accommodation Houses mentioned in subparagraph 8(2)(b)(iii) above, the quota number stated in paragraph 8(2)(a) shall automatically reduce without further motion of the Legislative Assembly in the event that –**

- (i) **planning approval is refused, or where an appeal against such refusal is lodged the refusal is upheld; or**
- (ii) **planning approval has lapsed or expired; or**
- (iii) **the tourist accommodation House or any of the units therein are de-registered under the principal Act,**

and such reduction shall be by the number of units which are so affected under the provisions of this paragraph.”.

- (c) **substituting the words “this section.” for the words “section 9 of this Act.” in subclause 8(3);**
- (d) **substituting the words “subsection (3)” for the words “section 10” in paragraph (a) of subclause 8(4);**
- (e) **deleting the words “\$2,500.00 in each case” in paragraph (b) of subclause 8(4), and substituting the following –**

“ that amount, if any, which may be prescribed by regulation for the purposes of this subsection within the Tourist Accommodation Regulations under the principal Act, and to give effect to such prescribed regulations, their source of power shall be deemed to be the Tourist Accommodation Act 1984, as if this subsection appeared in and formed part of that Act.”

Debate ensued

Mr Gardner (Minister for Health and Environment) moved –

THAT the sitting be suspended for 15 minutes

Question put and agreed to on the voices, Mr Brown being absent from the Chamber

Acting Deputy Speaker suspended the sitting at 4.40 pm for 15 minutes

The House resumed its sitting at 5.05 pm, Acting Deputy Speaker Bates taking the Chair

Debate was adjourned until a later hour in this sitting

12 EMPLOYMENT AMENDMENT (NO. 3) BILL 2000

Debate resumed (Mr Smith, Minister for Tourism and Commerce) from 20 December 2000 on the question – That the Bill be agreed to in principle

Debate adjourned (Mr Smith) and the resumption of debate made an Order of the Day for a subsequent day of sitting

13 Stage 1 Waste Management Audit and Options Study Report dated December 2000 prepared by CRC Waste Management and Pollution Control Ltd and APrince Consulting

Debate resumed (Mr Brown) from 24 January 2001 on the question – That the House take note of the paper

Question put and agreed to on the voices

14 REPORT ON MATTERS RELATING TO IMMIGRATION INTO NORFOLK ISLAND

Debate resumed (Mr Cook QC) from 20 December 2000 on the question – That the House take note of the Paper

Debate adjourned (Mr Cook QC) and the resumption of debate made an Order of the Day for a subsequent day of sitting

15 AMENDMENT TO IMMIGRATION AMENDMENT (NO. 2) BILL 2000 IN RESPECT OF NEW ZEALAND VISAS

Debate resumed (Mr Smith, Minister for Tourism and Commerce) from 24 January 2001 on the question – That the Bill be agreed to in principle

Debate adjourned (Mr Smith) and the resumption of debate made an Order of the Day for a subsequent day of sitting

16 CROWN LANDS ACT 1996

Debate resumed (Mr Nobbs, Chief Minister) on the question – That the amendments proposed by him be agreed to

Debate adjourned (Mr Nobbs) and the resumption of debate made an Order of the Day for a subsequent day of sitting

**17 DISAASTA EN 'IMERJENSI MAENIJMENT BIL 2000
DISASTER AND EMERGENCY MANAGEMENT BILL 2000**

Debate resumed (Mr Cook QC) from 20 December 2000 on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

Detail stage:

Mr Cook QC moved –

THAT the following detail stage amendments be taken as read and agreed to as a whole:

1. Deletion and substitution of year in name of Bill and short title

Where the year "2000" appears in the name of the Bill and the Short title in clause 1, that year shall be deleted and the year "2001" substituted.

2. Insertion

Clause 17 of the Bill is amended by inserting the following after clause 17(7) --

"(8) The Disaster Relief Fund Committee (in this section called the "committee") shall cause to be kept, in accordance with commercial accounting principles, proper accounts and records of the transactions and affairs of the Disaster and Emergency Relief Fund and for the purposes of this section the term "commercial accounting principles" has the same meaning as that contained in section 36(C) of the Public Moneys Act 1979.

(9) (a) As soon as practicable after the end of each financial year, or at any other time requested by the executive member, the committee shall cause to be prepared in accordance

with commercial accounting principles, a balance sheet and a statement of income and expenditure with respect to the Disaster and Emergency Relief Fund provided that this subsection shall only apply if there were any monies whatsoever held in the said fund at any time during the financial year.

- (b) The committee shall provide a copy of the balance sheet and statement of income expenditure to the executive member who shall table such documents before the Legislative Assembly at the first sitting after his receipt of same.**
 - (c) Provided that any monies whatsoever were held in the Disaster and Emergency Relief fund in any financial year, such fund shall be audited as if it were a fund to which section 37 of the Public moneys Act 1979 applied.**
- (10) Sections 33 and 34 of the Public Moneys Act 1979 shall apply to the misappropriation of monies of the fund, and forging or uttering a document with intent to obtain monies fraudulently from the fund, as if those sections were contained within this Act and the monies contained within the fund were public moneys.**
- (11) The bank account opened for the purposes of subsection (6) may not be overdrawn.**
- (12) The Committee may invest the monies of the Disaster and Emergency Relief Fund, provided that such investments are made in accordance with the provisions of section 10 of the Public Moneys Act 1979.”.**

Debate ensued

Question – That the amendments be agreed to – put and agreed to on the voices

Question – That the clauses as amended be agreed to – put and agreed to on the voices

Question – That the remainder of the Bill be agreed to – put and agreed to on the voices

Mr Cook QC moved –

THAT the Bill as amended be agreed to

Question put

Bill as amended agreed to on the voices

17 SUSPENSION OF SITTING

Mr Smith (Minister for Tourism and Commerce) moved –

THAT the House suspend its sitting until Friday 23 February 2001 at 1.30 pm

Question put and agreed to on the voices

At 5.50 pm the House suspended until 1.30 pm on 23 February 2001

Friday 23 February 2001

The House resumed its sitting at 1.35 pm, Acting Deputy Speaker Bates taking the Chair

All Members were present except Mr Brown.

18 TOURIST ACCOMMODATION (REGISTRATION AND QUOTA) AMENDMENT BILL 2001

Debate resumed (Mr Smith, Minister for Tourism and Commerce) on the question – That amendment No. 4 proposed by Mr Walker be agreed to Mr Walker by leave moved that the following amendments be made to amendment No. 4 before the House:

Proposed subparagraph 8(2)(b)(iii) of the Bill, delete “but not approved as at 5 February 2001” substitute “but not yet approved or refused as at 5 February 2001” followed by the words

and in this paragraph “registered” shall mean a current certificate of registration has issued under the principal Act and Regulations or, where an application form and fee for renewal or extension of registration has been accepted by the Administration, the issue of a current certificate of registration is pending

Question – That the amendments be agreed to – put and agreed to on the voices

Debate continued

Mr Walker moved –

THAT the question be put

Question – That the question be put – put

The House voted –

AYES, 0

NOES, 8

**Mr Buffett
Mr Nobbs
Mr Bates
Mr Cook
Mr McCoy
Mr Gardner
Mr Walker
Mr Smith**

Motion negatived.

Question – That amendment No. 4 as amended be agreed to – put

The House voted –

AYES, 3

**Mr Buffett
Mr Gardner
Mr Walker**

NOES, 4

**Mr Nobbs
Mr Cook
Mr McCoy
Mr Smith**

ABSTENTIONS, 1

Motion negatived

Mr Gardner (Minister for Health and Environment) left the meeting and did not return

Mr Walker moved –

THAT the earlier decision taken by the House on 21 February to agree amendment No. 1 be rescinded and the following Amendment No. 1 be agreed to:

1. **(a) Clause 4(2) of the Bill is amended by inserting the following immediately after substituted subsection 5(2)(a) –**

“Penalty: 10 penalty units”

- (b) Clause 4(2) of the Bill is further amended by substituting “(1)” and “(2)” for “(2)” and “(3)” respectively where they appear in the substituted subsection 5(3) of the principal Act, and by further substituting “(a)” for “(i)” where that appears in the said substituted subsection 5(3)**

Question – That the amendment be agreed to – put and agreed to on the voices
Mr Nobbs (Chief Minister) moved –

Clause 6, after proposed paragraph 8(1)(c) insert the following:

- “(d) a resolution of the Legislative Assembly to increase the maximum number of tourist accommodation houses shall not be made unless notification of the proposed resolution has been published in two separate editions of the Norfolk Island Government Gazette and the resolution was made no earlier than 45 days following the second Gazettal notice.**

Debate ensued

Question – That the amendment be agreed to – put and agreed to on the voices
Mr Smith, by leave, moved –

4. Clause 8 of the Bill is amended by –

- (a) deleting the word “a” in the third line of subclause 8(1);**
(b) renumbering subsection (2) to become (2)(a), and inserting additional paragraphs as follows –

“(b) The number stated in paragraph 8(2)(a) above includes, to the exclusion of all others –

- (i) registered Tourist Accommodation Houses registered under the principal Act which are constructed and operating as at 5 February 2001;**
(ii) Tourist Accommodation Houses registered under section 7(4A) of the principal Act for which planning approval under the Planning Act 1996 has been lodged, approved, and not expired as at 5 February 2001;
(c) In respect of those Tourist Accommodation Houses mentioned in paragraph 8(2)(b) above, the quota number stated in paragraph 8(2)(a) shall automatically reduce without further motion of the Legislative Assembly in the event that –
(i) planning approval is refused, or where an appeal against such refusal is lodged the refusal is upheld; or

- (ii) planning approval has lapsed or expired; or
- (iii) the tourist accommodation House or any of the units therein are de-registered under the principal Act;

and such reduction shall be by the number of units which are so affected under the provisions of this paragraph.”.

- (c) substituting the words “this section.” for the words “section 9 of this Act.” in subclause 8(3);
- (d) substituting the words “subsection (3)” for the words “section 10” in paragraph (a) of subclause 8(4);
- (e) deleting the words “\$2,500.00 in each case” in paragraph (b) of subclause 8(4), and substituting the following –

“ that amount, if any, which may be prescribed by regulation for the purposes of this subsection within the Tourist Accommodation Regulations under the principal Act, and to give effect to such prescribed regulations, their source of power shall be deemed to be the Tourist Accommodation Act 1984, as if this subsection appeared in and formed part of that Act.”.

At 3.02 pm the House suspended its sitting for 30 minutes

At 3.35 pm, the House resumed its sitting, Acting Deputy Speaker taking the Chair

Question – That Mr Smith’s amendments be agreed to – put and agreed to on the voices, Mr Walker dissenting

Mr Smith, by leave, moved –

THAT for the purposes of subclause 8(2)(a) this House determines a quota number of 597 and that that number be so inserted in subclause 8(2)(a)

Question put and agreed to on the voices, Mr Walker dissenting

Question – That the clauses as amended be agreed to – put and agreed to on the voices

Question – That the remainder of the Bill be agreed to – put and agreed to on the voices
Mr Smith moved –

THAT the Bill as amended be agreed to

Question put

Bill as amended agreed to on the voices

19 FIXING OF NEXT SITTING DAY

Mr Buffett moved –

**THAT the House at its rising adjourn until Wednesday
21 March 2001 at 10 am**

Question put and agreed to on the voices

20 ADJOURNMENT

Mr McCoy moved –

THAT the House do now adjourn

Question put and agreed to on the voices

AND THEN the House at 3.42 pm adjourned until Wednesday 21 March 2001 at 10 am

Robin-Eleanor Adams
Clerk to the Legislative Assembly

Members Present: All Members were present except for when stated otherwise as being out of the Chamber