

RESUMPTION OF SITTING

ACTING DEPUTY SPEAKER Honourable Members we resume our sitting from Wednesday the 21st February. We are on Order of the Day No 1. Tourist Accommodation (Registration and Quota) Amendment Bill No 2 and we are dealing with the detail stage of the Bill and Mr Walker's amendment No 4 as circulated and Mr Smith you have the call to Honourable Members we resume on the question that the Bill be agreed to in principle and Mr Cook you have the call to resume

MR SMITH Thank you Mr Acting Deputy Speaker I have the call because I moved the suspension the other day and I did that principally because there were some queries and questions in Members minds and I wanted to make sure that I could clarify issues before we went to finality with the Bill and I don't intend to say anything else at this point in time so maybe we can move to Mr Walker

MR WALKER Thank you Mr Acting Deputy Speaker we resume on this clause 4 and I would be seeking leave to make a couple of small alterations in that as circulated to Members. I will elucidate as to what they are for you and they are in (b) that is the highlighted (b) refers to renumbering of subsection 2 to become 2(a) and inserting an additional paragraph called (b) which isn't highlighted. that refers to 1, 2 and 3. At the end of 3 to be 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' and in little (c) immediately following that we need to just take out a type which is 8(2)(b)(iii), delete the (iii). Those small additions to the amendment as read and has been circulated to Members.

ACTING DEPUTY SPEAKER You said that leave is required. Leave is so granted. I take it that you so move those amendments'

MR WALKER I so move

MR McCOY Thank you Mr Acting Deputy Speaker but I will give Mr Walker the opportunity to carry on

ACTING DEPUTY SPEAKER Perhaps we can just tidy the motion of those amendments being incorporated into Clause 4 first and then we can deal with those amendments in its entirety so there being no further debate on that question I put the question that the amendments be agreed to

QUESTION PUT
AGREED

The ayes have it. We are now dealing with clause 4 as amended

MR WALKER Thank you Mr Acting Deputy Speaker I did speak to this clause at some length before we suspended and I would recommend the clause as it is to the House for passing

ACTING DEPUTY SPEAKER Any further debate

MR McCOY Thank you Mr Acting Deputy Speaker I have become a little confused with the process here but we have another amendment which has been incorporated in Mr Walkers previous amendment and that is the new subparagraph after 3 which mr Walker has just read out and I will be looking to the responsible Ministers in this area that is the Minister for Tourism and the Minister for Planning or maybe Mr Walker would like to inform the listening public why we are inserting this new paragraph into his amendment and also I'll make it clear and await the other Members discussion on subparagraph 3 of clause 4 in Mr Walker's amendment, thank you

MR WALKER Thank you Mr Acting Deputy Speaker for the information of the listening public the small amendments that I have just moved is to make the number stated in 8(2)(a) absolutely clear in other words, to clarify exactly those that we are including in the quota. 1,2 ,and 3 of that section, and I'll read them again just so the listening public are fully aware of what it includes and they are 1. registered tourist accommodation houses, registered under the principal Act which are constructed and operating as at the 5th February 2001, 2. tourist accommodation houses registered under section 4a of the Principal Act for which planning approval under the Planning Act 1996 has been lodged, approved and not expired as at the 5th February 2001 and 3. tourist accommodation houses registered under subsection 7(4)(a) of the principal Act in respect of which a planning application under the Planning Act 1996 has been lodged but not yet approved or refused as at the 5th February 2001. It's important to remember that the number stated in paragraph 8(2)(a) above, includes to the exclusion of all others in other words, we are making it quite clear that we are drawing a line in the sand. I understand that this does preclude some of those who are in the position of having a conditional registration under the Tourist Accommodation Act and it is also excluding some who have had a conditional approval under the Tourist Accommodation Act, have applied under the Planning Act and it has been approved and that Planning approval has expired. In other words we are talking about excluding all those who are waiting in the wings in a sense and have at this stage not got any approval to proceed. They are still to enter into that process. I feel quite strongly that that is the place where the line should be drawn and that is to include those who are in the system and could be approved if they go to fruition however, within that group by including subsection (c) into my amendment we have put a clause in place whereby there is a mechanism that should any of those for any reason whatsoever drop out of the system then the number of the quota is automatically reduce and that automatic reduction takes place in all of the categories mentioned if for any reason any of them becomes deregistered or for some other reason are no longer qualified to be registered so therefore we are making it quite clear here that a quota has been set on a certain criteria and that criteria is as I have just mentioned and read out. That is the purpose of the amendment in its totality under (b) is to give us the mechanism by which we set the quota to go into the transitional clause of the bill before us

ACTING DEPUTY SPEAKER Thank you Mr Walker. Is there any further debate on clause 4 as amended

MR NOBBS Thank you Mr Acting Deputy Speaker I just want to point out that there are now 58 units on the wrong side of the line that Mr Walker proposes that we draw in the sand. That's all, 58. Not a lot really. I'm a bit concerned because we are actually amending what I thought was the Tourist Accommodation Act. I didn't think we were amending the Planning Act but the Planning Act seems to have equal weight in this argument as the Tourist Accommodation Act and this is a concern to me. The proposal to include, and I think it was spelt out, and I certainly spelt it out on the radio this morning but the ones that

MR GARDNER	NO
MR WALKER	NO
MR SMITH	NO

ACTING DEPUTY SPEAKER That motion is lost. We are still dealing with clause 4 as amended and Mr McCoy you have the floor

MR McCOY Thank you Mr Acting Deputy Speaker seeing that I had already spoken I was merely giving other Members the opportunity to have their say but it seems such a touchy subject that everybody is a little afraid to talk so on that note I will say a few more words on the amendment of clause 4 being proposed. Quite clearly I did argue that I don't think we should be allowing a clause in the amendment bill to include all of the tourist accommodation planning applications that have been made that are current and have not lapsed. I believed all along that the petitioners were looking to the Legislative Assembly and they do have some 700 odd signatures to draw the line pretty well at where the tourist accommodation applications that had sought planning approval are current and have not lapsed would be where we draw the line and I believe it is also retrospective back to the 5th February, Mr Smith's intended Bill and in that case the number on the list, some 60 units, are out of the equation and I have based my debate on that theory that that's what the petitioners were looking for. Now we've suspended because it appears that there was a problem that we were made aware of when we broke for lunch on Wednesday. We come in today and we have another proposal put before us to further amend and include this maybe in Mr Walker's amendment and that amendment would allow for two applications, that we became aware of as I said on Wednesday lunchtime, who had not completed their conditional registration application. I believe that they had sought to have their current conditional approval extended as they all expired on the 31st July, and notes were sent out to have them extended but the Minister with responsibility for Tourism was awaiting further information before he could sign off on these conditional approvals. So technically these two conditional applications do not have a conditional approval and I did argue that if we draw the line and cut out 60 applications that have been made, are current and have not lapsed, I was only concerned that one of the applications may be treated a little unfairly because of the bureaucratic process and that particular application was awaiting approval of the KAVHA Board and I have been told and unfortunately some of the Members have left the room, but I have been told by the Chairman of the Planning Board that one of the applications did have a recommendation for approval and that particular application the applicant had done everything. It was simply the fact that the application had to go to the KAVHA Board to get their approval. Now we have a situation which has arisen which is quite different from that. We had two applications where they did gain conditional approvals, but their conditional approvals lapsed on the 31st July. The Minister gave them the opportunity to extend their conditional approval for which they have paid their fee but there is further information sought by the Minister and the applicants have I believe had ample time to provide that information. Now there is no bureaucratic problem there as compared to the first applicant that I have concern for. It is not because the Government or the applicant was waiting for the bureaucratic process to be completed and an approval or otherwise to come back from KAVHA. That's the first situation but the second situation concerns conditional approvals because the Government was waiting for the applicants to come back with the required information and I most probably feel ashamed to be a part of this process where we are now creating legislation to allow these applicants to come back and be caught in the net so to speak, yet we will look at knocking out everyone else who has conditional approvals. I think we are not being fair to all in this situation and if we are going to go and pass this amendment to clause 4 which Mr Walker is proposing, and

also if we are going to include No 3 in clause 4 well really this has been quite a fruitless exercise because we are making legislation to accommodate the 60 units in the tourist accommodation planning applications that have been made, are current and have not lapsed and there is also, which Minister Smith made quite clear the other day, another further 21 which is included in the two conditional applications that I have been talking about so we now will have 81 still in there and we will still have 580 units that could possibly be built rather than some 499. Now I see Mr Smith is concerned but I believe the total operating registered units 520, then there would be another 97 included in that so there's 617 but if we take out the 21 who unfortunately because the Government is awaiting information, do not have conditional approvals, the Minister has not signed off on their conditional approvals because he couldn't, that figure drops down by 21 which makes it 596 but then if we include the 60 who have made applications but have not lapsed, we then jump up to 656 so really, all this time we will not have carried out the wishes of the petitioners and I think that is a sad day for the community if this Legislative Assembly chooses to do things like that and I'll look to the other Members to hear their opinion on what I've just said

MR COOK Thank you Mr Acting Deputy Speaker, thank you. I just want to indicate that I wish to support the motion as originally brought forward by Mr Smith. I don't support the amendment. A number of points have been made by Mr McCoy. I don't wish to go over them again, I will just use my vote and I believe I will do so in accord with what appears to me to be the will of the electorate and the community as to the manner in which we should bring to a halt to the highest possible level that is consistent with appropriate principals of justice and fairness the tourist accommodation house situation here on Norfolk Island and the proliferation of applications and buildings which obviously require most careful assessment before it can be allowed to be continued so I wish to make it perfectly clear that as I see it, Mr Smith's amendment does the very best that it appears can be done at the present time to carry out the will of the electorate and I strongly support it

MR WALKER Thank you Mr Acting Deputy Speaker in answer to Mr McCoy I would just like to point out that it is my understanding that at the 1st August last year all conditional registrations were up for renewal and they were all extended pending certain conditions. The important fact is that no time limit was placed on the applicants to complete that process. In other words it didn't matter if they did it the next day or a week later or three months later, it was a process that had to be gone through so they were all, every single one of them, subject to being signed off and were considered to be pending. There is no difference in the two that we are talking about in Mr McCoy's presentation. They were going through a process to be re-established as full conditional registered accommodation subject to complying with certain things that the Minister has asked for and that process has not completed, however, there were some other applicants who took quite some months to get through the process as well. It didn't all happen in the first week and I say again, that there was no time limit placed on those applicants to have that process completed. I think that we have to say that the listing as is in the Gazette on page 1 is correct. Even though some of those conditional registrations were pending. The process was being entered into by the Minister and his officers within the Administration and there is nothing untoward in that, taking place, nor was there anything untoward in there being no time limit unless for some reason the Minister wished to put a time limit on. However he didn't. So therefore it is my understanding that those two applicants in there still have conditional registrations that are pending the process being completed. I cannot stress that strongly enough that we are not about doing something that will upset that process. What we are doing is trying to put in place a mechanism by which if one of those processes falls down, then at that point will the mechanism of this Bill come into play and the quote number will be

reduced accordingly but that applies to all of the categories as I said in my addressing the amendment so I believe that we are being fair. These people did have conditional registrations up until the 1st August. They then had an extended registration which is still in place pending a process taking its course and the Minister signing off on them

MR GARDNER Thank you Mr Acting Deputy Speaker I'm somewhat concerned about the turn of events in recent days. It seems that a lot of personalities have been dragged into the equation and I believe it's had a serious effect on the direction that some Members of the Legislative Assembly are taking. I have been very vocal in what I have said

MR McCOY Point of Order. I wonder if Mr Gardner is aiming those comments at myself and if so I reject them

ACTING DEPUTY SPEAKER Mr Gardner you may continue

MR GARDNER Thank you Mr Acting Deputy Speaker, and this relates primarily to the subject of consistency and how consistent we are in the application of legislation and how we deal with live and living implications in the administrative process. I don't want to go into a great deal of depth about it other than to say that if the amendments as proposed are not acceptable to this House then it is inconsistent with the way that the House has dealt with three other pieces of legislation in the life of this Legislative Assembly, namely the Tourist Accommodation Moratorium Act, the Crown Lands Moratorium Act and the Subdivision Act Moratorium which the House has put in place where in all of those, those living live applications that were currently before the statutory body that was to deal with them, would have been dealt with to finality and would be included and finalised under those processes. If these amendments do not get up that is inconsistent with the position of this House on all of those occasions and I would be unable to support, these amendments failing, any further dealings in the Bill and I would exercise my right to a conscience vote in that matter thank you

MR SMITH Thank you Mr Acting Deputy Speaker in relation to what has been said around the table it is important for us, firstly, whichever way this Bill goes, that what we need to concentrate on is the number that we end up with the quota. Nothing else matters as far as that goes. The amendment spells out who should be included in the quota but it doesn't say this one, this one, this one are included by name or this one, this one are excluded. The reason for all this debate is to find out what we come up with for a final number. Whatever we agree in the end for the quota whether 617 or 720 that's all we'll accept and register on Norfolk Island at the moment. From there the bill does spell out, both ways, amended or otherwise, that if somebody doesn't come up to what's required under the Bill, for example, if we have somebody in there that we consider is on our list that we've been referring to that says they have planning approval, it doesn't mean to say that they are automatically included in the quota. It does in our own minds for the purposes of what we are doing with the Bill but if we set the quota at 720 and George Smith's got a tourist accommodation of 10 units, has planning approval and we do an investigation and find that he hasn't completed it, he would be out. He would not be eligible to be part of that quota of 720. That's an important factor for us to remember. Whichever way the Bill ends up it is that number that is important. We can set it at 520 for example, which is all the current operating tourist accommodation and work in reverse and add people on as we know they have planning approval and subject to their planning approval and tourist accommodation applications, being satisfied. We could do it that way and increase the quota as we go along. That might make

Members a bit nervous having to do that because if we are having a bad day or refuse an application we could put ourselves and tourist accommodation people in an awkward position. but let me refer back to the other thing that's been discussed with the two tourist accommodation properties that have fallen outside the category altogether at this point. mr Walker is right. So is Mr McCoy. the difference that has occurred in that situation is the point where we backdated this bill to the 5th February. that excluded them. In our list of names that we have and the one that went into the Gazette, it's a reference list. It was our intention that they would be included in the list right from the beginning. We weren't going through names and saying we want this one, or that one, but we don't want that one. But what the rules of it were, if they had planning approval they would be included in the quota in my original Bill and also in my amended bill. Through the process however, because of the date when we backdated the bill to, at that very moment in time they didn't have conditional registrations. Mr Walker is right. It was extended conditional registrations but subject to. now I think Geoff has argued the other side of that. Well we had planning approvals in the same situation. They be subject to and it must be. I don't think the planning approvals that we have on our list here are guaranteed totally and finalised. they may be but as I understand it, they are not so they are in the same situation. The difficulty that I actually have with agreeing to that part of Mr Walker's amendment is with those two properties that don't have full conditional registration at the date that we backdate this Bill to and let's be honest. There's another difficulty with it to which is embarrassing to me but is embarrassing for everyone in a sense and that is, that one of the properties is a colleague and the other one works for us. Now some people might say so what, but I find a real difficulty in saying, let's make an exception. No matter how hard that is for me or the property owner I find that really difficult. if we are to deal with it we can deal with it afterwards I believe when we make an amendment to the Act afterwards or if the quota needs adjusting but at this point in time I am really uncomfortable by accepting that new amendment that Mr Walker is proposing to include them. I understand the arguments that mr Gardner has put up. it isn't any different really in a sense to the ones that Mr Walker is now bringing in that weren't in my original Bill except that we are not colleagues of any of those other people and I don't know what that means. Maybe I'll pay for that for the rest of my political term but that's how I feel about it and I can't support that amendment for that reason but referring once again to the quota. The quota doesn't spell out exactly who is in it. It spells out the number that we accept as tourist accommodation. Now obviously that is all the current operating tourist accommodations, 510. We had wanted to include another 97 which at this point has dropped by 21, plus the next 60 which wasn't included in my original bill but which is included in Mr Walker's' amendment. I'm not too sure how we go with this. If I don't agree to that partiucular section that refers to including the two properties back in, and agreeing or not agreeing to the rest of that clause I'm not too sure what happens. If I oppose that piece does that mean that I oppose the rest of those amendments

ACTING DEPUTY SPEAKER I understand that piece has already been incorporated in Mr Walker's proposed amendment No 4 which was the first vote we had today so it's No 4 as amended that we'll take the next vote on

MR SMITH Thank you Mr Acting Deputy Speaker

ACTING DEPUTY SPEAKER Is there any further debate on Mr Walker's No 4 as amended

MR BUFFETT Thank you Mr Acting Deputy Speaker. The most powerful message that has come forward, especially in discussion with many of the principal petitioners and organisers of the petition is that there is a want on their

part for we who are in the Legislative Assembly to draw a line clearly in respect of the tourist accommodation arrangements that are moving at this moment. It is my interpretation that we all want to do this. I've got to say that also some people in the community have expressed doubt that we will actually grab hold of it and do that. They use more stronger words than those that I have used but nevertheless that has been expressed to me but I think we do want to do that. Our major task is to determine where to draw that line and that's really what we are doing and doing around this table at this moment and as everyone can see we have very diverse views. It's also very fair to say that there are very diverse views that have been put to us from those who are in the community about this. Very diverse views from those who have signed the petition for example. They are not all of one mind exactly where that line would be drawn and indeed I do understand also from many I have talked to that there is also a want to give the Members of the Legislative Assembly reasonable flexibility in providing a solution to this situation. Mr Smith's proposal is to say to us that only those who are up and running, operating that is, only those should be within the quota and that all of the remainder should be on the subsist list. That's the major interpretation that I have made. Mr Smith is moving his head in a negative way so I'll give him an opportunity to maybe put that in more clear terms, but certainly that's the major component of my understanding there, and that all the others would be on the subsist list. Mr Walker's proposal is to actually exclude 2 categories that are in processes at this moment. For example all of those who have tourist accommodation conditional approval but haven't lodged a planning application, they would be out. Those who have tourist accommodation conditional approval and who have expired planning approvals, they too would be out. It's my understanding that those who might have tourist accommodation conditional approval and are still in the planning processes, in other words they've lodged an application and it has either been approved and they haven't started or it is still being processed to its finality would remain, would be within the quota, knowing however that some of those may not make the grade for a whole host of reasons. It's wrong to interpret what might be the final result in some of them but some of them still need to run the processes. One for example has had major adverse comment in the public consultation process so there's no guarantee that that will be part of the approval arrangements at the end of the day at all. Our task obviously is to assess a proper response to those who are petitioning us and to also deal fairly with those who are part way through the processes. It's very easy when you've got huge numbers behind you to actually put aside those who may be involved in something that is not the flavour of the month, but in fact if we are to be a responsible Government we need to be mindful of such people and we need to deal fairly with them and we need to deal consistently with those who are in the community. So they are all the factors and a number of factors in addition to that no doubt, but they are some of the major factors that are obviously exercising my mind and exercising the minds of my colleagues. Can I turn to the first proposal which is Mr Smith's proposal. Bear in mind that we have already voted upon the subsist component and we have said that we are not going to have that. So therefore part of Mr Smith's proposal has already dropped out of the system and I just draw your attention to that. We are still yet to determine those parts of Mr Walker's proposal and as can be seen it is excluding some and including others. I think in the balance of things that are to be considered as comfortable as one can be because this is not a comfortable position to be in, this is where we as Members of the Assembly earn our keep, we have to make sound assessments and stand up and be counted about these things. But in all of the circumstances as best as one can weight them I have reasonable comfort with Mr Walker's proposal. It's being described as Mr Walker's proposal, we all know that Mr Walker has kindly accommodated a number of things that have been said around the table in putting his proposal together. So it is an amalgamation of a number of views that have been expressed and I think that that is probably our better way to be pursuing this. There

are hiccups in those that may we be within the quota situation if we move in that direction. I say this in respect of those. If in fact they have not completed the process and they still have to get over the hurdles, if in fact they don't get over the hurdles under the existing arrangements then they drop out of the system, and the quota takes account of that and using the sinking lid process the quota is automatically reduced to take account of that. It's important to say that if we do that it does not give any more substance to those that are going through the processes than they already have at this moment. They must rise or fall upon the things that are already in place. In us doing this doesn't give them added substance at all, in fact it makes provision very clearly that if they fall out because they don't measure up then their place is not taken by something else, the quota falls automatically. So it doesn't give them any more substance than they are entitled to at this moment. There is no perfect answer in this, there is no magic number but I just share with you the balance of views that I think are appropriate to be considered in this process. Therefore I'll be supporting Amendment No. 4 which is moved in its amended form.

MR SMITH

Thank you Mr Acting Deputy Speaker.. I'll just clarify what Mr Buffett said and he kindly acknowledged that I was shaking my head to what he said. I think he said that it was my wish to cut the quota, or draw the line under only operating tourist accommodation which would be the 520 units number. I had discussed that in my previous debate as a possibility of a way with dealing with things but I refer Mr Buffett back to the original Bill which is what I'm talking about. That is still my preferred option, the original Bill does many things. It does take into account those people who have conditional registrations which has been the vein of our lives for the last 12 months but at least we are not chopping them off. They will expire at the end of a certain amount of time anyway and if the quota is set at a certain level we adjust that if we want to. If we don't want to do it those people would drop out anyway, but what we're doing with the amendment is we're actually saying well we're going to pick you and you but we're not going to pick you and I don't see that as totally responsible but having said that I certainly take note of the amount of people that signed the petition saying we want you to do something, but the petition said to suspend conditional registrations. Now that can be interpreted in many ways. It could mean suspend the lot or it could mean suspend all these ones that are in the processes or what ever and there was different views on that, even from people who have signed the petition, but it's very important that we the Assembly takes note of what people are saying and I can understand. I can understand what people are saying, particularly over the last months where there has been accommodation proposed and it's really upset the neighbouring people and that should never have happened but neither should of this Tourist Accommodation Act in the form that it is that has caused so much difficulty over the period of time. If there is anyone that would like to get this sorted out first I'd be the first one that would want it to be done Mr Acting Deputy Speaker. It has been a pain to me, it's been a pain to Mr Gardner trying to deal with these things while we haven't been able to do anything under the Act because of the legalities of making any changes. Finally with the support of the petition being able to bring it to the House and Members can see how complex it has been because it's probably the most complex thing we've been trying to deal with ourselves since I introduced the Bill. There is so many complexities to everything that's in the Tourist Accommodation Act that it's not an easy matter of just saying let's just flick this one off with this one. It is really quite difficult, if your trying to please the people in the community who are unhappy about what's happened with tourist accommodation. I fully understand what they are saying but we've also got to do what we are supposed to do as an Executive Government and how we have to treat it as a Parliament. That's where my Bill I believe covers as many aspects as we can but does achieve what everyone around this table is trying to achieve. I don't believe that there is any of us that disagree with what we're trying to do. I'm sure

there's not but it's how we get to that end process is the thing. The subsisting clause which was taken out I don't think would have a major effect if the original Bill was reverted to. I would need some clarification on that but as I understand it how we did that with the subsisting would be after the next period which would be the 31st of July, they would be able to apply to subsist. If that's gone that reduces the time frame to the 31st of July. However I don't know what's in Members minds with agreeing or not agreeing to Mr Walker's amendments but I'll wait and see.

MR NOBBS

Thank you Mr Acting Deputy Speaker. I would just like to point out that under the original Moratorium Act which as Ministers are well aware I suggested and it was Mr Smith unfortunately I guess who had to carry the day with it and I thank him for that but we all agreed that conditional registrations at that particular point in time would carry forward and that has occurred. What we're doing now is actually changing the game plan so to speak. As I said we're putting 58 out of contention with Mr Walker's proposal and it will be more if we follow the proposal put by Minister Smith. I'd just like to reiterate that the actual numbers I believe are fairly significant. The personalities are nothing but the numbers are. The registered tourist accommodation houses to me are 521, tourist accommodation houses registered under the section of the principle Act, that's have conditional registration and planning has been lodged and not expired are 76, tourist accommodation, this is 3 under Mr Walker's proposal, tourist accommodation houses registered under the 74a, that's conditional approval in which respect a planning applications under the Planning Act has been lodged but not yet approved or refused, that's at 6th of February there are 60 of them and the last section where there are no conditional approvals is 21. That brings the quota at that point would be I think Mr Smith, and you can correct me if I'm wrong 678 with those totals included and as I say there are 58 who have either expired, they still have conditional approval these 58, their planning approval has expired or they have not submitted a planning application. They are the 58. So there are the figures, 678 under this particular arrangement and 58 would miss out. Now I don't know whether that is fair but the petition required us to do something and as I said before I have great difficulty if a particular proposed facility has not got conditional registration approval, I would have great difficulty in supporting that. As far as Mr Smith's I think yours would be 597 would be the quota, if we take into account those registered already plus tourist accommodation where the planning approval has been lodged, approved and not expired. I understand that's as far as your proposal goes. That's 597 in that list alone. I'm easy as I said I have a problem if it's not conditional registration because I don't believe it's fair on the 58 others who have conditional registration and haven't applied for the planning because we are and we can look at the statutory arrangements as we like but as I repeat, we are dealing with the Tourist Accommodation Act, not the Planning Act. However in relation to all the issues I suggest and I've said all along that if we are to make a decision in relation to reducing the number of conditional approvals that are currently in place at the time of the moratorium and also have sought to have been granted approval to continue since, following the 1st of August I think was mentioned a while ago, if we are to reduce those numbers then we should be prepared for some sort of compensation or actual legal proceedings that may occur. Now I'm not saying that they will and I've said it before and I'll say it again that people may just say well that's fair enough and walk away and not do anything but we must consider that and weigh up those issues. If Members are prepared to run with that well I most certainly am myself, but as far as this particular proposal is concerned I can't support Mr Walker's proposal totally as it is now and I would be more inclined to look at the proposal as put by the Minister in its original format. Thank you Mr Acting Deputy Speaker.

MR WALKER Thank you Mr Acting Deputy Speaker. I would just like to reiterate on some of those figures that Mr Nobbs has just quoted. Yes if my amendment is passed then 678 is the figure for the quota. However, of that 157 units comprised in 16 proposals have still not completed and become fully registered. Any one of those if for any reason whatsoever does not meet the conditions or compliance with the Act as is set out in the conditional approvals then they drop out and so the quota figure of 678 is automatically reduced. I only say again that those 157 units are already in the system. They have already commenced. Whether it is simply going through the planning process or going through the construction process or going through the refurbishment process or whatever process, they have commenced and those are the ones that I'm saying should be included. The actual quota in a year's time from now may be quite considerably less than 678, depending on the outcome of those 157. So therefore Mr Acting Deputy Speaker I commend my Motion as it stands the amendment clause No. 4 because I believe that it achieves and I'll say it again I believe it achieves what the petitioners were asking. It was asking us to be clear and concise as to where the line is drawn and as such I believe it is, I stand by that and I hope that I will gain sufficient support around this table to see that passed today.

MR SMITH Mr Acting Deputy Speaker two things. One is, it's kind of a negative of my Bill but what if my Bill was to pass unamended as I originally intended although there has been one amendment already agreed is as I said right from the very beginning in the first sitting about this particular issue was we would have to revisit the quota at certain times. Now that would have to happen because my proposal doesn't include as many as what Mr Walker's amendment does in accommodation and my reasoning for that was the ones that aren't included now under my Bill, when they get through their processes and have their planning approval, then we would adjust the quota upwards. But as Members might remember I was saying that would be a decision of the House to actually approve those in the final analysis. So I don't want that to sound negative than what I'd proposed but that's the actual fact of it. I wouldn't like to see on the other hand where the Bill gets agreed to, the original one and then comes the time in 3 or 4 weeks or 3 or 4 months where we'd have to adjust the quota and I'd be coming back to the House, or whoever would be and saying well we've got these other 5 or 2 or 1 ready to go and the House rejects it. That would be difficult and I don't want to talk Members out of supporting the original Bill Mr Acting Deputy Speaker. I was just looking for the referendum actual wording Mr Walker's quoted clear and I can't remember if Mr Walker's words but the position was to suspend conditional registration of the tourist accommodation units where work is yet to commence until the island ability to fund, provide essential services such as water supply, electricity supply, sewerage and waste management is established. Now that's a clear message to me that the people who signed the petition are saying look fellows you've got to suspend this, put a hold on it and work out where the island is going. I think Mr Walker said it was a little bit more exacting that but I just wanted to clarify those 2 particular issues. Thank you.

MR GARDNER Thank you Mr Acting Deputy Speaker. What the Minister has just said is a very very important point in the whole equation. Under the Minister's original Bill the quota can be moved at any time, we have a whole host of subsisting applications that at the whim of this House we'll just go and lift it and they can come into the equation. Under Mr Walker's amendments we are being very definite about that is the figure. It can never go any higher but it can be lowered with those dropping out of the system.

MR ACTING DEPUTY SPEAKER Is there any further debate on Mr Walker's amendment No. 4 as amended. There being no further debate then I put the question.

QUESTION PUT

MR ACTING DEPUTY SPEAKER Would the Clerk please call the House.

MR BUFFETT	AYE
MR NOBBS	NO
MR BATES	ABSTAIN
MR COOK	NO
MR MCCOY	NO
MR GARDNER	AYE
MR WALKER	AYE
MR SMITH	NO

MR ACTING DEPUTY SPEAKER Honourable Members the No's 4, the Ayes 3, that amendment is lost.

MR WALKER Thank you Mr Acting Deputy Speaker. For purposes of placing a penalty into amendment No. 1 we need to revisit there and I move that the decision on amendment No. 1 be rescinded and the following new amendment be agreed and that is that amendment B 1A clause 4(2) of the Bill is amended by inserting the following immediately after substituted subsection 5 (2a) penalty, 10 penalty units and B as has already been passed, 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 principle Act and by further substituting A for I where that appears in the said substituted subsection 5(3).

MR ACTING DEPUTY SPEAKER Thank you Mr Walker. To such extent that leave is required for you to, as I understand it rescind your earlier amendment No.1 that had been agreed on Wednesday and to add some additional parts about penalty units etc and then also to move that that amendment No. 1 as amended be agreed to. Is that correct.

MR WALKER That is correct and I so move.

MR ACTING DEPUTY SPEAKER Members do you wish to debate that.

MR WALKER Thank you Mr Acting Deputy Speaker. The reasons for this additional change to that amendment is simply to insert the penalty units. The other changes which were agreed to under B are numerical and grammatical errors that had been in the original Bill and are simply those being corrected.

MR ACTING DEPUTY SPEAKER Thank you Mr Walker. Are Members clear what's being done there. Is there any further debate.

MR BUFFETT This is purely on the revisitation to amend the No. 1

MR ACTING DEPUTY SPEAKER Yes. There being no further debate then I put the question.

QUESTION PUT
QUESTION AGREED

MR ACTING DEPUTY SPEAKER Honourable Members I think that dispenses with Mr Walker's amendments but I believe Chief Minister you have an amendment.

MR NOBBS Thank you Mr Acting Deputy Speaker. The actual numbering of this is little concerning. It was proposed after paragraph, you may need to assist me Mr Acting Deputy Speaker if you may. I proposed after paragraph 8(1)b to insert the following as 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 2 separate editions of the Norfolk Island Government Gazette and the resolution was made no earlier than 45 days following the 2ⁿ^d gazettal notice. I'm looking at the numbering, whether that should be following 8(1)c or it should be following 8(1)b. The confusion is that

MR ACTING DEPUTY SPEAKER The Motion is for 8(1)c and your suggesting that it may be 8(1)

MR NOBBS Well I'm not too sure in the amendment that was made on Wednesday whether it actually got up or not and that's in the original where it says a new paragraph 8(1)c is inserted immediately after paragraph 8(1)b as follows and then it goes on c in making the resolution under this section the legislature shall not fix a maximum number of tourist accommodation units etc etc and I've got in my notes here that V in the roman style was deleted and I'm not too sure whether the whole 8(1)c was deleted or whether it was just that last bit of it.

MR ACTING DEPUTY SPEAKER As I understand it Mr Walker's amendment No. 2 deleted sub-paragraph 8(1)c v.

MR NOBBS Thank you. That's what I have. Can I so move that this would then follow 8(1)c and it would be 8(1)d. Can I so move Mr Acting Deputy Speaker.

MR ACTING DEPUTY SPEAKER Thank you Mr Nobbs. I believe that's as it appears on the programme. Debate.

MR NOBBS Thank you. It's a fairly straight forward amendment and it's probably fairly relevant considering the discussions that were on previously that the members of the public are notified well in advance to any proposal to raise the maximum number of tourist accommodation houses under the quota. I think it's fairly straight forward.

MR ACTING DEPUTY SPEAKER Thank you Mr Nobbs. Is there any further debate. We have one Member absent from the House.

MR NOBBS I'm just clarifying with the Clerk. I think everything is kosher Mr Acting Deputy Speaker.

MR ACTING DEPUTY SPEAKER Mr Smith is absent from the House. We'll give him a moment to return.

MR MCCOY Thank you Mr Acting Deputy Speaker. So that we're not sitting in silence I do support this further amendment of Mr Nobbs'. I think it is most important that the community know if the Assembly intends making a few more places on the quota available that a notification be made in the Gazette before that quota number is set, which is I believe is what Mr Nobbs is intending.

MR NOBBS Most certainly that's the way and the numbering is correct Mr Acting Deputy Speaker. The Clerk just confirmed that.

MR COOK Yes Mr Acting Deputy Speaker I also support the Chief Minister's proposed detail stage amendment. It seems to me quite proper that the community in view of its very strong statement of its interest and concerns about this whole issue of the number of tourist accommodation houses should be made amply aware of what is proposed to be done if there's going to be an increase in the number of tourist accommodation houses by some result of some resolution. I think the time scale lay down the adequacy of the notice in the Gazette and the time there after for persons to get together their thought in which to make any representations to Members of this House that might come forward appropriately at the time that the resolution is considered is very appropriate and I think very much needed and I will be supporting it.

MR BUFFETT Yes this amendment has my support Mr Acting Deputy Speaker.

MR ACTING DEPUTY SPEAKER Thank you Mr Buffett. Mr Smith do you wish to say anything on Mr Nobbs' amendment.

MR SMITH Not on his particular amendment.

MR ACTING DEPUTY SPEAKER There being no further debate then I put the question that Mr Nobbs' amendment be agreed to.

QUESTION PUT
QUESTION AGREED

MR ACTING DEPUTY SPEAKER Honourable Members I now need to put the question that the clauses as amended be agreed to.

MR SMITH Mr Acting Deputy Speaker I look to you for advice here because the amendments of Mr Walkers didn't get through we now have to reinsert parts of the Bill that will need to be in there to make the Bill make sense. So in fact what Mr Walker had tried to amend, much of that will still need to be in the Bill. Now I look to you how we actually do that. I guess I'd have to seek leave to move an amendment which would include, if Members have got their papers in front of them. In the same clause that we've been working on where it says amended by and it's got A and B that would remain. What was roman numerals over on page 3 and the darkened paragraph would be removed. All the rest would be inserted.

MR ACTING DEPUTY SPEAKER Could you just repeat that please Mr Smith.

MR SMITH Yes. No. 4 of the amendment, clause A of the Bill as amended by which is the words Mr Walker had there that includes a and b on that page there, all of that information. Over the page it removes the top 2 paragraphs in effect which is the machinery part of what Mr Walker was doing with his particular amendment and following that, those other paragraphs go back in.

MR ACTING DEPUTY SPEAKER So you are moving and amendment which incorporates Mr Walker's clause 4 with the absence of 3, is that what your saying.

MR SMITH Roman numerals 3. Yes

MR ACTING DEPUTY SPEAKER To the extent that you need leave to do that, leave is granted and that is your Motion.

MR SMITH And I so move, but do I need to perhaps spell that out more clearly.

MR ACTING DEPUTY SPEAKER As long as the Members are clear on what you are moving.

MR MCCOY Thank you Mr Acting Deputy Speaker. From my understanding of what Mr Smith is saying is that clause 4 of the detail stage amendment bill which goes A and B and he intends to have roman numerals i and ii reinserted. Is that correct, and in that case I do understand the difficulty with the Bill seeing that all of Mr Walker's amendment was defeated and I agree with Mr Smith that to tidy it they must be placed into the Bill and I was wondering myself how we can do that if we have to bring it back as an amendment at the next sitting or whether it can be done now, and if that is what Mr Smith proposes he would have my support to reinsert I and ii but not iii or the darkened one. Thank you Mr Acting Deputy Speaker.

MR ACTING DEPUTY SPEAKER Thank you Mr McCoy. My understanding is that Mr Walker's clause amendment No. 4 as circulated, Mr Smith is moving that everything in that amendment except that part under little iii under B iii be agreed to. Is that correct Mr Smith.

MR SMITH Mr Acting Deputy Speaker that is correct. It could have been done the other way but I did look to Members earlier that we could have actually just removed the 2 paragraphs from Mr Walker's amendment but because that didn't happen we have to put everything else back in but those 2 pieces. Well that's what I'm moving to do anyway.

MR ACTING DEPUTY SPEAKER Thank you Mr Smith. Is there any further debate on Mr Smith's amendment.

MR WALKER Yes thank you Mr Acting Deputy Speaker. I'm not quite sure if I'm right here but by doing what the Minister is now proposing, he is putting in all those who have registered tourist accommodation houses, registered under the principle Act which are constructed and operating as at the 5th of February and he is adding to that all those tourist accommodation houses registered under Section 7 (4a) of the principle Act for which planning approval, under the Planning Act 1996 has been lodged, approved and not expired. There is some doubt as to whether that is 76 or 97 and I would be putting forward that there will be some legal argument as to whether it is 97 or 76 because I stated before and I stand by my statement that the 21 units which Mr Smith has just taken out, or I should say Mr Nobbs took out and Mr Smith agreed to because of the inclusion of that paragraph are listed in the Gazette as being tourist accommodation houses registered under Section 7 (4a) and they do have those conditional registrations pending, and we have really come down to whether they go in or come out, because I'm not quite sure whether the Minister is intending it that way and I would like him to comment on that

as to whether he is talking about the list as I presented it or as the list as Mr Nobbs presented it.

MR SMITH Mr Acting Deputy Speaker the way I've moved this is that it would include registered tourist accommodation houses registered under the principle Act which are operating. Secondly tourist accommodation houses registered under Section 7(4a) which is the conditional registration in the principle Act for which planning approval under the Planning Act has been lodged, approved and not expired as at the 5th of February 2001 which was the original intention of the Bill.

MR NOBBS I might be lost on this but I thought that on page whatever it is in the original Bill that this was covered in the new paragraph 8(1c) precisely what Mr Smith had read out and we had deleted one section in relation to, that was on Wednesday. Excuse me, excuse me. I thought we had deleted on Wednesday the roman numeral v which relates to registered under Section 7(4a) that's conditional registration and not in operation for which planning approval has been sought but not approved under the Planning Act. I thought that was the part that was taken out of the original 8(1c) of the Bill. Am I not correct in that. Can we get some..

MR ACTING DEPUTY SPEAKER Sub paragraph 8(1c) 5 has been deleted by Mr Walker's amendment No. 2 which was passed by this House on Wednesday.

MR NOBBS Thank you. So in actual effect this new paragraph 8(1c) is still in the Bill less sub-paragraph 5. The difference in what's proposed now is not really relevant I don't think is it Mr Smith. I'm a bit lost here.

MR ACTING DEPUTY SPEAKER Mr Smith do you need more time to consider this proposed amendment or do you want to proceed with it.

MR SMITH My advice Mr Acting Deputy Speaker was by including back in those parts would be appropriate to put the Bill back into to make it make sense, but if we are not clear around the table about it maybe we need to consider that.

MR ACTING DEPUTY SPEAKER It's your amendment I'm just turning to you for..

MR SMITH I think I have moved the amendment be agreed but if Members are not sure whether it's right or wrong maybe we need to explore that from the Members.

MR ACTING DEPUTY SPEAKER Well Mr Nobbs has registered his..

MR NOBBS Thank you. What you'd call the sinking lid proposal which was in Mr Walker's amendment is out and that may need to be included if Mr Smith so desires and that is 8(1b) c and it says in respect of those tourist accommodation houses. Silence reins supreme Mr Acting Deputy Speaker at this particular point in time but the sinking lid proposal went out with Mr Walker's. I don't know whether that's the idea now to bring that back in again. I would have thought not

ACTING DEPUTY SPEAKER Mr Nobbs it's been suggested to me that perhaps we should suspend the sitting for half an hour to clarify this. I have the option of putting this amendment, but if we are not going to do that then we do need to suspend until we sort it out. If Members agree ...

MR McCOY Thank you Mr Acting Deputy Speaker I was going to save us sitting in silence and say that we do suspend for half an hour

ACTING DEPUTY SPEAKER Yes Honourable Members we will suspend until 3.30

Honourable Members we resume on the question of Mr Smiths proposed amendment which I think he is going to read out for clarity

MR SMITH Thank you Mr Acting Deputy Speaker. In that short suspension one of the things we thought is that we had best read this into the Hansard so that there is no uncertainty about it. 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.”.

That is the amendment word for word. I think it would be appropriate at this stage because to some that may sound like a lot of gobbledegook, but what it actually means is that these places will be included in the proposed quota besides the operating registrations of 521 which is already up and operating in tourist accommodation, there are these following names in the name of the persons and the amount of units. That will be Bookie McCowan, 5 units; Callum Court 3 units; Governor’s Lodge 55 units; John Forrester 3 units; Joy and Borry Evans 5 units; Ponderosa 2 units; Tau Gardens 2 units and Tintola 1 unit. That gives a total of 76. that is the list that we have always been working to. I think every Member of the Legislative Assembly has agreed with all of those because they all have their

planning approval and their conditional approvals. I think I'll leave it at that and see if there are any comments on the proposed amendments

ACTING DEPUTY SPEAKER Thank you Mr Smith. Is there any further debate on that proposed amendment. There being no further debate I put the question that the amendment be agreed to

QUESTION PUT
AGREED

MR WALKER

NO

The ayes have it.

Mr Smith do you wish to move a motion to determine the quota number

MR SMITH Thank you Mr Acting Deputy Speaker, yes I would like to move that for the 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). This quota number as I've said all along, can be adjusted. Some Members may sit uncomfortably with that but I feel that the way the rest of the Bill is this is the fairest way for people on both sides of this whole issue and I have no difficulty even if at the very next sitting for me to propose an adjustment to the quota. It may only be one, or it may be five or whatever it may be. This quota has been compared with the Immigration quota. It is nothing like the Immigration quota. This is on the realities of what we are doing here. The amendment we made to Mr Walker's amendment, really the major difference as far as these units are concerned, there are another 60 units that would be included in Mr Walker's amendment. What I've done is removed that and we can do those as they get through their Planning Approvals. If they get their Planning Approvals while they still have their conditional registration, I have no difficulty in coming back to the House and saying the quota should adjust by x. If the Members don't agree with that, that's how it is. The quota will not allow them to come in and I commend that that quota be accepted

MR COOK Thank you Mr Acting Deputy Speaker I hope Mr Smith doesn't move it at the next sitting of the House because that doesn't allow for the 45 days and I think it is important that that's understood

MR WALKER Thank you Mr Acting Deputy Speaker. I would like to correct the Minister that if my amendment had been passed an additional 81 units would have been on the quota. Mr Smith referred to my knocking out an additional 60 but that is not true because we have now taken 21 in addition to that out, which were in my amendment. It would have been 81 more

MR SMITH Thank you Mr Acting Deputy Speaker I stand corrected because the 21 units that is of some concern to all Members around here who do not have conditional registration had been removed from the list and quite rightly Mr Walker did have a separate part to the amendment not the part that I was referring to, where that number would indeed if his amendment had succeeded would have been more than the number I mentioned. If I offended him in any way I retract that

ACTING DEPUTY SPEAKER Thank you Mr Smith. Is there any further debate on that proposed amendment. There being no further debate I put the question that the amendment be agreed to

QUESTION PUT
AGREED

MR WALKER NO

The ayes have it. Honourable Members if there are no further proposed amendments I need to have a motion that the clauses as amended be agreed to

MR SMITH I so move

QUESTION PUT
AGREED

MR WALKER NO

We now require a motion that the remainder of the Bill be agreed to

MR SMITH I so move once again

QUESTION PUT
AGREED

Honourable Members we need a final motion that the Bill as amended be agreed to

MR SMITH I so move

QUESTION PUT
AGREED

The ayes have it

FIXING OF THE NEXT SITTING DAY

MR BUFFETT Thank you M Acting Deputy Speaker. I move that the House at its rising adjourn until Wednesday the 21st March 2001 at 10.00am

ACTING DEPUTY SPEAKER Thank you Mr Buffett. The question is that the House at its rising adjourn until Wednesday the 21st March 2001 at 10.00am. Is there any debate. There being no debate I put the question

QUESTION PUT
QUESTION AGREED

ADJOURNMENT

ACTING DEPUTY SPEAKER We move now to the adjournment and I look to Mr McCoy .

MR McCoy Thank you Mr Acting Deputy Speaker. I move that the House do now adjourn.

ACTING DEPUTY SPEAKER
that the House do now adjourn

Is there any debate. Then I put the question

QUESTION PUT
AGREED

The ayes have it. This House stands adjourned until Wednesday the 21st March 2001
and 10.00am

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