

**NORFOLK ISLAND
FOURTEENTH LEGISLATIVE ASSEMBLY
MINUTES OF PROCEEDINGS
WEDNESDAY 20 MAY AND 17 JUNE 2015**

**NORF'K AILEN
DIISEM MENETS LARNEN WATHING HAEPN
INAA
FORTIINTH LEJESLIETEW 'SEMBLE
WEDNESDAY 20 MIEH EN 17 JUUN 2015**

1 The Legislative Assembly met at 10.03 am, and the Speaker, Hon David Buffett AM MLA, took the Chair and read Prayers.

2 **CONDOLENCES**

Mr Evans recorded the passing of –

Leslie Richard Nobbs

As a mark of respect to the memory of the deceased all Members stood in silence.

3 **REPORT ON THE REFERENDUM – 8TH MAY 2015**

The Speaker read the Report on the process and outcomes of the 8 May 2015 Referendum

- 1) **Paper tabled:** Speaker Buffett – Declaration of Poll
- 2) **Paper tabled:** Speaker Buffett – Result of Referendum Gazette Notice
- 3) **Paper tabled:** Speaker Buffett – Instrument Directing a Referendum Gazette Notice

4 **QUESTIONS WITHOUT NOTICE (10.09 – 10.30 AM)**

5 **PRESENTATION OF PAPERS**

The following papers were presented:

- 4) Mr Sheridan – **Virements for the period 5-30 of April 2015**
- 5) Mr Sheridan – **ANI Financial Indicators March 2015**
- 6) Mr Sheridan – **NIHE Financial Statement April 2015**
- 7) Mr Sheridan - **NIGTB Financial Statement April 2015**

6 **STATEMENTS OF AN OFFICIAL NATURE**

The following statements were made –

- 1) Chief Minister and Minister for Tourism, Mr Snell – **Report on Visit to Canberra by Chief Minister, Speaker and self funded delegates Andre Nobbs and Chelsea Evans**
- 8) **Paper tabled:** Mr Snell – **Letter to Her Majesty The Queen**
- 9) **Paper tabled:** Mr Snell – **Letter to Governor-General of Australia**
- 10) **Paper tabled:** Mr Snell – **Letter to Senators seeking Senate Select Enquiry**
- 11) **Paper tabled:** Mr Snell – **Letter to all Australian Senators**

Ms Adams moved –

**THAT the letter to the Governor-General be taken
as read and included in Hansard**

Question put and agreed on the voices

2) Minister for Cultural Heritage and Community Services, Ms Adams – **Licence to cultivate medicinal cannabis in Norfolk Island May 2015**

- 12) **Paper tabled:** Ms Adams – **Minutes of Meeting re Cannabis**
- 13) **Paper tabled:** Ms Adams – **Letter to Dr Mal Washer, AUSCAN Group Holdings Pty Ltd**
- 14) **Paper tabled:** Ms Adams – **Letter from Administrator Hardgrave re Dangerous Drugs Act**
- 15) **Paper tabled:** Ms Adams – **Producer's Licence to AusCann Group Holdings**

- 3) Minister for Cultural Heritage and Community Services, Ms Adams – **Health Services Plan for Norfolk Island**

16) **Paper tabled:** Ms Adams – **Administrator’s Press Release re Health Services**

7 **MESSAGES FROM THE OFFICE OF THE ADMINISTRATOR – NO 25**

The Speaker to report the following Message from the Office of the Administrator
 Message No. 25 from the Administrator advising that on 13 May 2015, acting pursuant to section 21 of the *Norfolk Island Act 1979*, he reserved the following proposed law passed by the Legislative Assembly for the pleasure of the Governor-General - **Standard Time Bill 2015**

NOTICES

8 **THE ABOLITION OF SELF-GOVERNMENT**

Chief Minister and Minister for Tourism, Mr Snell moved -

THAT this House resolves to note that –

1. **The Australian Parliament has passed legislation which abolishes the Legislative Assembly of Norfolk Island and the limited self-government granted to Norfolk Island in 1979**
2. **In 1978 the then Commonwealth Minister, Mr Ellicott, announced that although Norfolk Island was part of Australia and would remain so, this did not require the Island to be regulated by the same laws as regulate other parts of Australia. But in 2014 an Australian Parliamentary Committee recommended that self-government should be abolished. That recommendation was reflected in the title of the Committee’s report, “Same Country: Different World”. The logic of the report was that because Norfolk Island was part of the Commonwealth of Australia it should be governed in the same way as other parts of Australia.**
3. **The shift from Mr Ellicott’s position to the Committee’s position is contestable, and contested. The shift was driven by a great number of reports by Australian authorities since 1979 that have in general been critical of the governance of Norfolk Island. But they did not adequately take into account the real and concrete achievements of the Norfolk Island community under self-government.**
4. **Those achievements include many infrastructure and social initiatives, for example the takeover of the airport; a new airport terminal; extension of the electricity reticulation network; the water assurance scheme; a replacement police station; the Bicentennial Centre; a new library and broadcasting station; a replacement works depot; a new waste management centre; a new telecommunications centre, satellite arrangement, internet and mobile phone service; the maintenance of Commonwealth assets such as the Cascade pier; and a new landing platform for cruise ships. Some initiatives were contributed to by the Commonwealth (such as the Kingston Arthur’s Vale Historic Area). The majority were not.**
5. **Social issues addressed during self-government included a statutory social security system; no fault worker’s compensation; a healthcare scheme (originally instituted as an emergency response to the withdrawal without notice of Commonwealth legislation); modernisation of numerous laws, especially relating to criminal justice; the introduction of land planning; guaranteed land titles; and education to Year 12.**
6. **The outcome of all of these measures – and many more – differed from Australian laws. But they vindicated Mr Ellicott’s expectation that the Island could develop an appropriate form of government involving its elected representatives.**
7. **As well, they allowed room for recognition of the heritage of the Pitcairn descendants, in a way which cannot – and will not – operate in a system where Australian laws and practices are introduced wholesale. The preamble to the Norfolk Island Act 1979 included Parliamentary recognition of the special relationship of the Pitcairn decedents with Norfolk Island, but we find from the explanatory memorandum to the Commonwealth’s legislation that "the preamble no longer reflects the Parliament's intention".**
8. **At the heart of the self-government experience was the recognition that Norfolk Island is different from Australia. The present intent of the commonwealth is to**

make it the same. The debate about whether Norfolk Island is “part of” the Commonwealth reflects that tension. It is not an empty slogan, but the foundation of the nature of Norfolk Island as a polity. And it is not the case that that debate has ended. Many authoritative commentators, ranging in time from Sir Robert Garran to Professor James Crawford, have expressed the view that Norfolk Island is not part of the Commonwealth but a dependency of it. The High Court of Australia itself said in 2007 that “the answer to the question whether an external territory is ‘part of the commonwealth’ may depend upon the purpose for which the question is asked. There are different senses in which a place, or a community, or a body politic, may be said to be, or not to be ‘a part of’ another place, or community, or body politic”. And until now the Commonwealth has itself recognised that, even if the Island is part of the Commonwealth, it should be treated in many respects as if it were not. But it seems that that viewpoint is now to be abandoned.

9. Why is this important? It is important because good government proceeds from lived experience of the nature of the polity concerned. It is important because without that experience it is unlikely to operate satisfactorily: as is seen from Federal attempts to govern the Indian Ocean territories, and indeed the experience of Norfolk Island itself prior to self-government. It is important because democracy not only confers legitimacy - it works.
10. The Commonwealth’s proposals will not enhance democracy in Norfolk Island. They will not preserve the right or opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives. Instead, they will remove that right and deny that opportunity at the vital level of state-type functions, including the delivery of health services; education and many others.
11. And self-government is not just an expression of democracy, it is also feasible at a practical level. Contrary to uninformed opinion, small communities with small populations can and do exercise wide-ranging powers: St Helena (approximately 5,000 people); Montserrat (5,000); Falkland Islands (2,500); Niue (1,600); Tokelau (1,400). There are many other examples.
12. Mr Ellicott in 1978 recognised the truth of this. His recommendation to the Australian cabinet was that a referendum of the Island’s electors should be held if it were proposed to integrate Norfolk Island into Australia. And last Friday, 8 May 2015, the electors overwhelmingly expressed their opinion that they should be consulted, by means of referendum or plebiscite, on the future model of governance for Norfolk Island before the Australian Parliament proceeds further.
13. The people of Norfolk Island have the right to freely determine their political status, and their economic, social and cultural development.
14. For the peace, order and good government of Norfolk Island, that right should be pursued by all possible means.

Debate ensued

- 17) **Paper tabled:** Ms Adams – **Media Release on Human Rights**
- 18) **Paper tabled:** Ms Adams – **Statement of Compatibility with Human Rights**
Speaker gave leave to insert Paper into Hansard
- 19) **Paper tabled:** Ms Adams – **Letter to Governor-General of Australia**
- 20) **Paper tabled:** Ms Adams – **Letter to residents from Hon Jamie Briggs**

Question – **THAT the motion be agreed to** - put and agreed on the voices.

SUSPENSION OF SITTING

The Speaker suspended the sitting of the House at 12.53 pm

RESUMPTION OF SITTING

The Speaker took the Chair and resumed the sitting at 2.18 pm

9 MOTION BY LEAVE REMONSTRANCE

Minister for Cultural Heritage and Community Services, Ms Adams sought leave to move the foreshadowed motion of Remonstrance

Question – **THAT leave be granted** – put and agreed on the voices

Minister for Cultural Heritage and Community Services, Ms Adams moved –

THAT this Assembly calls on the -

(a) Chief Minister to write to the Prime Minister of Australia requesting that the Australian Government respect the view of the Assembly and initiate action to re-examine those aspects of the *Norfolk Island Legislative Amendment Bill 2015* that results in the removal of the Norfolk Island Legislative Assembly; and

(b) Speaker of the Legislative Assembly to present to the President of the Senate and the Speaker of the House of Representatives of the Commonwealth Parliament copies of a Remonstrance which will read as follows –

REMONSTRANCE

The Legislative Assembly for Norfolk Island respectfully addresses itself to –

The Honourable The President of the Senate and Members of the Senate,

The Honourable The Speaker of the House of Representatives and Members of the House of Representatives in Parliament assembly.

Preamble

The passage, in the commonwealth parliament, of the Norfolk Island Act 1979 conferred on Norfolk Island a limited grant of self-governing powers with its own legislature (the Legislative Assembly of Norfolk Island) with a plenary grant of legislative powers to legislate for the peace, order and good government of the territory established, with its own body politic under the Crown with a wide grant of executive powers and with its own judicial system. The Legislative Assembly for Norfolk Island is constituted of 9 representatives of the people of Norfolk Island; duly and democratically elected pursuant to the Legislative Assembly Act 1979. The Norfolk Island Legislation Amendment Act 2015 passed by the Commonwealth Parliament in May 2015 removes the self-government powers of Norfolk Island. It has been passed without genuine consultation and negotiation with the Norfolk Island Government, the Legislative Assembly of Norfolk Island or the people of Norfolk Island. The Statement of Compatibility with Human Rights contained within the Explanatory Memorandum for the Norfolk Island Legislation Amendment Bill 2015 asserted that proposal to remove self-government powers from Norfolk Island was the result of an extensive consultation process that found significant support for change within the Norfolk Island community. Norfolk Island voters in a referendum conducted on 8 May 2015 under the Referendum Act 1964 voted by a 68% majority that the people of Norfolk Island should have the right to freely determine their political status, their economic, social and cultural development and be consulted at referendum or plebiscite on the future model of governance for Norfolk Island before such changes are acted on by the Australian Parliament. **GRIEVANCES** – The Legislative Assembly of Norfolk Island presents its grievances to the Commonwealth Parliament. These are that: (1) The people of Norfolk Island having been granted self-governing powers, the duly elected representatives of the people of Norfolk Island are aggrieved that self-government should be removed without genuine consultation and negotiation. (2) The removal of self-government in Norfolk Island breaches one of the conventions of self-government in the Westminster tradition that once self government is granted to a political entity, it should not thereafter be taken away except in the most extreme circumstances, for example, war or civil disturbance. See submission of the Commonwealth Attorney-General's Department to the Joint Parliamentary Committee on the Northern Territory, page 8 of Parliamentary Paper No.281 of 1974 where it also states that it would be politically unthinkable to take away such powers after they had been granted. **PETITION** –The Legislative Assembly of Norfolk Island and its democratically elected Members respectfully request that the Commonwealth Parliament affirm the rights of the people of Norfolk Island to self-government by repealing the Norfolk Island Legislation Amendment Act 2015 and call on the Prime Minister to confer on the people of Norfolk Island the right to freely determine their political status, their economic, social and cultural development and be consulted at referendum or plebiscite on the future model of governance for Norfolk Island before such changes are acted on by the Australian Parliament.

Debate ensued

Ms Adams sought leave to move the following amendment –

**THAT the word “repeal” be deleted and the word “re-examine be inserted and
The word “repealing” be deleted and the word “re-examining” be inserted**

Speaker granted leave

Debate on the matter was paused to a later hour in the Sitting

10 PUBLIC SERVICE ACT 2014 – APPOINTMENT OF PUBLIC SERVICE COMMISSIONER
Chief Minister and Minister for Tourism, Mr Snell moved -

THAT this House, in accordance with section 15(1) of the *Public Service Act 2014* (the Act), resolve that —

Michael Francis Moore

being a person who has qualification, skills, experience, knowledge, independence and aptitude as expected of a person holding a position such as described in Schedule 2 of the Act and who is not ordinarily resident in Norfolk Island and who is not a former employee of the Administration or an employee of a territory instrumentality be appointed by the Administrator as a Public Service Commissioner commencing on the date the notice of appointment is published in the Gazette.

Debate ensued

Ms Adams moved –

**THAT the words ‘and ending on 30 June 2016’ be added
after the words ‘published in the Gazette’.**

Question – **THAT the motion be amended** - put and agreed on the voices

Question – **THAT the motion as amended be agreed** - put and agreed on the voices

11 MUSEUM TRUST ACT 1987 - APPOINTMENT OF MEMBERS OF THE MUSEUM TRUST
Minister for Cultural Heritage and Community Services, Ms Adams moved –

THAT this House resolve for the purposes of subsections 5(1) and (2) of the *Museums Trust Act 1987* that the Minister re-appoint the following as members of the Norfolk Island Museum Trust:

**Albert Fletcher Buffett;
Jeanette Elizabeth Calder;
Peter Russell Horrocks;
Ronald Coane Nobbs; and
Jodie Therese Williams**

and appoint the following as members of the Norfolk Island Museum Trust:

**Lisa Richards; and
Brian McGrath**

for the period 9 May 2015 to 30 June 2016.

21) **Paper tabled:** Ms Adams – **NI Museum Trust Annual Report 2013-2014**

22) **Paper tabled:** Ms Adams – **NI Museum Trust Audit Report 2015**

Debate ensued

Question – **THAT the motion be agreed** - put and agreed on the voices

12 IMMIGRATION ACT 1980 - APPLICATION FOR GENERAL ENTRY PERMIT

Minister for Cultural Heritage and Community Services, Ms Adams moved –

THAT for the purpose of paragraph 17A(1)(e) of the *Immigration Act 1980*, this Legislative Assembly resolve that -

Rujirawan Hongsalerk

be authorised to make an application for a general entry permit under the Act.

Debate ensued

Question – **THAT the motion be agreed** - put and agreed on the voices

**13 DECLARATION OF URGENCY
NORFOLK ISLAND HOSPITAL (AMENDMENT) BILL 2015
DAA HOSPETL (CHIENJEN) BIL 2015**

The Speaker advised that in accordance with standing order 158 the Business Committee had declared that the Norfolk Island Hospital (Amendment) Bill 2015 / Daa Hospetl (Chienjen) Bil 2015 shall pass through all stages at this sitting.

**14 NORFOLK ISLAND HOSPITAL (AMENDMENT) BILL 2015
DAA HOSPETL (CHIENJEN) BIL 2015**

Minister for Cultural Heritage and Community Services, Ms Adams, pursuant to notice presented a Bill for an Act to amend the *Norfolk Island Hospital Act 1985* and moved –

THAT the Bill be agreed to in principle

Debate ensued

23) **Paper tabled**: Ms Adams tabled the Explanatory Memorandum to the Bill

24) **Paper tabled**: Ms Adams tabled the Regulator Impact Statement to amend the NI Hospital Act 1985

Question put and agreed to on the voices

Detail stage dispensed with

Ms Adams moved

THAT the Bill be agreed to

Question put and agreed to on the voices

**15 DECLARATION OF URGENCY
PROVIDENT ACCOUNT CLOSURE AND DISTRIBUTION BILL 2015
DISTREBYUSHASN DEN D SHETEN UDAA PROEWEDENT 'KAUNT BIL 2015**

The Speaker advised that in accordance with standing order 158 the Business Committee had declared that the Provident Account Closure and Distribution Bill 2015 / Distrebyushasn den d sheten udaa Proewedent 'kaunt bil 2015 shall pass through all stages at this sitting.

**16 PROVIDENT ACCOUNT CLOSURE AND DISTRIBUTION BILL 2015
DISTREBYUSHASN DEN D SHETEN UDAA PROEWEDENT 'KAUNT BIL 2015**

Chief Minister and Minister for Tourism, Mr Snell, pursuant to notice presented a Bill for an Act to provide for closure and distribution of the Provident Account and related purposes and moved –

THAT the Bill be agreed to in principle

Debate ensued

25) **Paper tabled**: Mr Snell tabled the Explanatory Memorandum to the Bill

26) **Paper tabled**: Mr Snell tabled a letter dated 24 April 2015 from NI Public Service Association

Question put and agreed to on the voices – Mrs Ward abstaining

Detail stage dispensed with

Mr Snell moved -

THAT the Bill be agreed to

Question put and agreed to on the voices – Mrs Ward abstaining

ORDER OF THE DAY

17 KINGSTON AND ARTHURS VALE HISTORIC AREA (KAVHA) – REVIEW

Resumption of debate (Mr Nobbs) from 25 June 2014 on the question – **THAT the motion be agreed to**

Debate ensued

Mr Nobbs moved -

THAT debate be adjourned and the item be made an order of the day for a subsequent day of sitting

Question put and agreed on the voices

18 REMONSTRANCE

Resumption of debate (Ms Adams) from the morning

Speaker gave leave to move an amendment

Ms Adams moved –

THAT this Assembly calls on the -

(a) Chief Minister to write to the Prime Minister of Australia requesting that the Australian Government respect the view of the Assembly and initiate action to re-examine those aspects of the Norfolk Island Legislation Amendment Bill 2015 that results in the removal of the Norfolk Island Legislative Assembly; and

(b) Speaker of the Legislative Assembly to present to the President of the Senate and the Speaker of the House of Representatives of the Commonwealth Parliament copies of a Remonstrance which will read as follows –

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future model of governance for Norfolk Island before such changes are acted on by the Australian Parliament. **GRIEVANCES** – The Legislative Assembly of Norfolk Island presents its grievances to the Commonwealth Parliament. These are that: (1) The people of Norfolk Island having been granted self-governing powers, the duly elected representatives of the people of Norfolk Island are aggrieved that self-government should be removed without genuine consultation and negotiation. (2) The removal of self-government in Norfolk Island breaches one of the conventions of self-government in the Westminster tradition that once self government is granted to a political entity, it should not thereafter be taken away except in the most extreme circumstances, for example, war or civil disturbance. See submission of the Commonwealth Attorney-General's Department to the Joint Parliamentary Committee on the Northern Territory, page 8 of Parliamentary Paper No.281 of 1974 where it also states that it would be politically unthinkable to take away such powers after they had been granted. **PETITION** –The Legislative Assembly of Norfolk Island and its democratically elected Members respectfully request that the Commonwealth Parliament affirm the rights of the people of Norfolk Island to self-government by re-examining those aspects of the Norfolk Island Legislation Amendment Bill 2015 that result in the removal of the Norfolk Island Legislative Assembly and call on the Prime Minister to confer on the people of Norfolk Island the right to freely determine their political status, their economic, social and cultural development and be consulted at referendum or plebiscite on the future model of governance for Norfolk Island before such changes are acted on by the Australian Parliament.

Question – **THAT the amendment be agreed** – put and agreed to on the voices

Question – **THAT the motion as amended be agreed** - put

The House voted –

AYES, 7	NOES, 2	ABSTENTIONS, 0
Mr Buffett	Mr Porter	
Mr Ward	Mrs Ward	
Ms Adams		
Mr Snell		
Mr Nobbs		
Mr Evans		
Mr Sheridan		

The motion was agreed

19 **SUSPENSION**

Minister for Cultural Heritage and Community Services, Ms Adams, moved –

THAT this House stands suspended until a date and time to be determined by the Speaker

Debate ensued

Question – **THAT the motion be agreed to** – put and agreed to on the voices

The House suspended at

17 JUNE 2015

1 **RESUMPTION OF SITTING**

Speaker Buffett at 10.10 am resumed the Sitting from 20 May 2015

2 **MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 26**

The Speaker to report the following Message from the Office of the Administrator

Message No 26 from the Administrator advising the following -

“I acknowledge the Members and Staff of the Norfolk Island Legislative Assembly on this occasion of its final sitting.

Today follows many years of discussion about reform to governance arrangements on Norfolk Island. Changes passed the Australian Parliament with unanimous support for the Norfolk Island Legislative Amendment Bill 2015 on 14 May 2015.

The Bill received Royal Assent the same month and following this, the Norfolk Island Legislation Amendment Act 2015 which will commence later this day by proclamation, allows for transition of the Legislative Assembly to a Regional Council.

The Regional Council will be elected by residents in the first half of next year and will be responsible for all local issues from July 2016. Until the Regional Council is formed, a Norfolk Island Advisory Council has been established to assist the transition process.

I acknowledge and thank all of those who have taken on the responsibility of public office to represent their community over the past 36 years. I wish the Members of this last Assembly, the fourteenth, all the best for their future. “

The Message was signed by Gary Hardgrave, Administrator and dated 17 June 2015.

3 **MATTER OF PUBLIC IMPORTANCE**

The Speaker, Hon David Buffett, advised that a matter of public importance was lodged by the Chief Minister and Minister for Tourism, Mr Snell, within the required time frame and the Speaker had determined that the matter was in order and read the written statement provided by the Chief Minister.

All Members rose from their places to support the motion (Standing Order 81).

The Speaker, by invitation of the House, led the discussion in relation to the closure of the Norfolk Island Legislative Assembly to a Norfolk Island Regional Council and all members discussed the matter of public importance

Debate ensued

27) **Paper tabled:** Mr Snell tabled a **Ministerial dated 2009 – Joint Task Force on Revenue**

28) **Paper tabled:** Mr Snell tabled **JSC Extract “Compatibility of the measure with the right to equality and non discrimination”**

29) **Paper tabled:** Mr Snell tabled the **NIGTB Tourism Visitor Statistics 2005-2015**

Deputy Speaker took the Chair at 11.50 am

12.02 pm The Sitting paused to allow Members to acknowledge a gathering of community members objecting to the removal of the Norfolk Island Legislative Assembly as an institution

12.23 pm The Sitting continued with debate

In accordance with Standing Order 82, the Speaker Mr Buffett, moved –

THAT discussion be now concluded.

Question – **THAT the motion be agreed to** - put

The House voted –

AYES, 6

Mr Buffett

Mr Porter

Ms Adams

Mrs Ward

Mr Evans

Mr Sheridan

NOES, 3

Mr Ward

Mr Nobbs

Mr Snell

ABSTENTIONS, 0

The Motion agreed to

13 **ADJOURNMENT**

Mr Snell moved –

THAT the House do now adjourn

Question – **THAT the motion be agreed to** - put
The House voted –

AYES, 6

Mr Ward
Ms Adams
Mr Snell
Mr Nobbs
Mr Evans
Mr Sheridan

NOES, 3

Mr Buffett
Mr Porter
Mrs Ward

ABSTENTIONS, 0

AND THEN the Speaker adjourned the House at 12.40 pm

Gaye Evans
Clerk to the Legislative Assembly

MEMBERS PRESENT: All Members were present