

**NORFOLK ISLAND  
TENTH LEGISLATIVE ASSEMBLY  
MINUTES OF PROCEEDINGS  
WEDNESDAY 13 NOVEMBER 2002**

**NORF'K AILEN  
DIISEM MENETS LARNEN WATHING HAEPN  
INAA  
TENTH LEJESLIETEW 'SEMBLE  
WENSDI 13 NOWEMBA 2002**

1 The Legislative Assembly met at 10.05 am. The Speaker (Hon D.E. Buffett) took the Chair and read the Prayer

2 **SUSPENSION OF STANDING ORDERS**

Mr Gardner (Chief Minister) moved –

**THAT so much of standing orders be suspended as would prevent the House  
from only dealing with the matters listed on the Programme**

3 **PLANNING BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

**Mr Brown joined the meeting at 10.16 am**

Question put

Bill agreed to in principle on the voices

**Detail stage:**

Mr Ivens Buffett (Minister for Land and the Environment) moved the following amendments:

**Clause 6** – insert –

“performance security” has the meaning as prescribed by Regulation.

**Clause 8** – delete the clause, insert the following new clause:

The Norfolk Island Plan made by instrument by the executive member consequent upon the Final Draft Norfolk Island Plan, having been tabled in the Legislative Assembly on 20 February 2002 and approved subject to its being altered in a specified manner, is deemed to be the Plan under this Act, and the Plan shall commence on the date notice of its making is gazetted.

**Subclause 79(2)** – delete

**Subclause 79(3)** – delete

**Subclause 88(2)** – delete

**Subclause 88(6)** – delete

**Clause 101** – delete the full stop after the word repealed and add the following:

“subject to Section 103”

**Clause 103** – delete and replace with the following:

“103. (1) A planning application in respect of land made under the *Planning Act 1996* before the commencement of this Act and not determined, shall remain an application under the 1996 Act as if it had not been enacted.

(2) In determining an application pursuant to subsection 1, the *Planning Act 1996* together with the Regulations shall be applicable”

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 Ivens Buffett moved –

**THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices

**4 NORFOLK ISLAND PLANNING AND ENVIRONMENT BOARD BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

**Detail stage:**

Mr Ivens Buffett (Minister for Land and the Environment) moved the following amendments:

**Clause 3**

- delete the definition of “additional member” and replace with definition of “specialist member” –  
“specialist member” means a specialist member of the Board appointed under paragraph 7(1)(c)”
- in the definition of “delegate member” – delete “section 8” and substitute with “paragraph 7(1)(b)”
- in the definition of “member” – delete “additional member” and substitute with “specialist member”.

**Subclause 5(6)** – The reference to “For subparagraph 5(1)(a)(iv)” to now read “For subparagraph 5(1)(a)(vi)”

**Clauses 6 to 14 are deleted and replaced with –**

**“Constitution of the Board**

**6. (1)** The Board shall comprise –

- (a) for development applications that are required to be referred to it under the *Planning Act 2002* – the permanent members;
- (b) for heritage matters listed pursuant to section 26 of the Heritage Act 2002 and referred to it – the permanent members and one heritage adviser nominated by the Chairperson;
- (c) for other matters referred to it under the *Planning Act 2002* – the permanent members and such number of specialist members as the Chairperson nominated; or
- (d) for all other matters – the permanent members and such number of specialist members as the Chairperson nominates.

- (2) In making a nomination under subsection 6(1), the Chairperson shall take into account the particular expertise and experience of the specialist member and the interests represented by the specialist member relevant to the matter under consideration by the Board.

#### **Appointment of members**

7. (1) The executive member shall, by notice published in the Gazette, appoint –

- (a) 5 permanent members of the Board;
- (b) a delegate (“delegate member”) for each permanent member;
- (c) specialist members of the Board.

(2) The permanent members of the Board shall recommend to the executive member which one of the permanent members he should appoint as Chairperson of the Board.

(2A) The executive member may or may not accept the recommendation of the permanent members to appoint a particular permanent member as Chairperson.

(3) However, a member of the Legislative Assembly cannot be appointed or remain the Chairperson.

(4) Before making an appointment of members of the Board, the executive member may invite nominations for appointment as members of the Board, by notice published in the Gazette indicating how, where and when the nominations are to be made.

(5) Failure to comply with subsection 7(4) does not affect the validity of an appointment of a member.

(6) A heritage adviser, on nomination pursuant to paragraph 6(1)(b) becomes, without further appointment, in relation only to the matters listed pursuant to section 26 of the Heritage Act 2002 for which the nomination was made, a member of the Board.

#### **Term of appointment**

8. A member holds office for 3 years, or for such lesser period as is specified in the instrument of appointment, and is eligible for re-appointment subject to this Division.

#### **Attendance at Board meetings etc, by delegate members**

9. A delegate member is entitled to –

- (a) notice of meetings of the Board to which the permanent member for whom the delegate member is delegate member, is entitled to attend; and
- (b) in the absence of the permanent member for whom the delegate member is delegate member, to attend and vote at the meetings to which the member for whom the delegate member is delegate member, is entitled to attend; and
- (c) at meetings so attended, exercise powers, authorities and discretions vested in or otherwise exercisable by the permanent member for whom the delegate member is delegate member.

#### **Voting powers of specialist members**

10. Each specialist member has a right to vote at meetings of the Board to which they are appointed.

#### **Remuneration**

11. (1) The executive member may, by instrument, determine an amount of remuneration for members by way of a sitting fee.

- (2) The executive member may determine an amount of remuneration for heritage advisers by way of payment for professional services in addition to a sitting fee.

### **Resignation**

12. A member may resign from office by writing signed by the member and given to the executive member.

### **Disqualification from office**

13. (1) Subsection 13(2) applies where the notice of appointment specified that a member is a member because the person –

- (a) has a specified qualification; or
- (b) is a member of a specified organisation.

(2) The appointment of the person ceases if the person –

- (a) ceases to hold the qualification; or
- (b) ceases to be a member of the organisation.

### **Termination of appointments**

14. (1) The executive member may terminate the appointment of a member for any of the following reasons –

- (a) inability;
- (b) inefficiency;
- (c) misbehaviour;
- (d) physical or mental incapacity;
- (e) failure to comply with section 17;
- (f) the member no longer represents interests specified in the notice of appointment as interests the member represents.

(2) Before terminating the appointment under subsection 14(1), the executive member shall give the member a reasonable opportunity to respond to the allegations forming the basis of the proposed termination.

(3) Despite subsections 14(1) and 14(2), the executive member may terminate the appointment of a permanent member who is absent, except on leave granted by the Board, from 3 consecutive Board meetings.

(4) The executive member cannot terminate the appointment of a delegate member if the appointment of the permanent member, for whom the delegate member is delegate member, is terminated.”

### **Subclause 21(1) to be deleted and substituted with –**

- (1) A member or heritage adviser is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.”

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 Ivens Buffett moved –

### **THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices

**5 HERITAGE BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

**Detail stage:**

Mr Ivens Buffett moved the following amendment:

**Subclause 28(2) – delete**

Question – That the amendment 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 Ivens Buffett moved –

**THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices

**6 SUBDIVISION BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

Leave granted to dispense with the detail stage

Mr Ivens Buffet moved –

**THAT the Bill be agreed to**

Question put

Bill agreed to on the voices

**7 ROADS BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

**Detail stage:**

Mr Ivens Buffett (Minister for Land and the Environment) moved the following amendments:

**Subclause 26(2) – delete**

**Clause 40** – replace clause 40 with:

**“40. (1)** A claim for compensation shall –

(a) be in writing;

(b) set out particulars of the claimant’s private interest, the amount of compensation claimed and the grounds for the claim of that amount; and

(c) subject to subclause 40(2), be given to the Chief Executive Officer no later than 21 days after the dedication of the relevant land is published in the Gazette.

- (2) The claim for compensation may be given, only with the written approval of the executive member, to the Chief Executive Officer no later than 60 days after the dedication of the relevant land is published in the Gazette.”

**Clause 41** – insert subclause 41(3) –

“(3) If the Administration:

- (a) does not give the claimant a written notice of acceptance under subsection 41(1) no later than 21 days after the Chief Executive Officer has been given the claim for compensation; and
- (b) does not give the claimant a written notice of rejection under subsection 41(2) no later than 21 days after the Chief Executive Officer has been given the claim for compensation,

the Administration shall be deemed to have rejected the claim for compensation under subsection 41(2).”

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 Ivens Buffett moved –

**THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices

## **8 TREES AMENDMENT BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

Leave granted to dispense with the detail stage

Mr Ivens Buffet moved –

**THAT the Bill be agreed to**

Question put

Bill agreed to on the voices

## **7 LAND TITLES AMENDMENT BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices

**Detail stage:**

Mr Ivens Buffett (Minister for Land and the Environment) moved the following amendment:

**Subclause 11(b) second occurring – change to 11(c)**

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 Ivens Buffett moved –

**THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices

**8 BUILDING BILL 2002**

Debate resumed (Mr Ivens Buffett, Minister for Land and the Environment) on the question – That the Bill be agreed to in principle

Question put

Bill agreed to in principle on the voices, Mr Brown abstaining

**Detail stage:**

Mr Ivens Buffett (Minister for Land and the Environment) moved the following amendments:

**Paragraph 10(3)(a)** – the reference to “paragraph 9(2)(b)” to now read “paragraph 10(2)(b)”

**Paragraph 10(3)(b)** – the reference to “paragraph 9(2)(a) and 9(2)(b)” to now read “paragraph 10(2)(a) and 10(2)(b)”

**Subclause 10(4)** – the reference to “paragraph 9(3)(b)” to now read “paragraph 10(3)(b)”

**Subclause 10(5)** – the reference to “paragraph 9(2)(c)” to now read “10(2)(c)”

**Subclause 53(2)** – delete

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 Ivens Buffett moved –

**THAT the Bill as amended be agreed to**

Question put

Bill as amended agreed to on the voices, Mr Brown abstaining

**9 FIXING OF THE NEXT SITTING DAY**

Mr Donaldson (Minister for Finance) moved –

**THAT the House at its rising adjourn until Wednesday  
20 November 2002 at 10 am**

Question put and agreed to on the voices

**10 ADJOURNMENT**

Mrs Jack moved –

**THAT the House do now adjourn**

Question put and agreed to on the voices

**AND THEN the House at 10.50 am adjourned until Wednesday 20 November 2002 at 10 am**

Robin-Eleanor Adams

**Clerk to the Legislative Assembly**

**MEMBERS PRESENT:** All Members were present