**SOIL CONSERVATION AND LAND CARE (APPEAL TRIBUNAL) AMENDMENT BILL 1999**

**Legislative Assembly, 11 March 1999, pages 1145-6**

Second reading

**The Hon. R.G. KERIN (Deputy Premier):** I move: That Standing Orders be so far suspended as to enable me to introduce a Bill forthwith. A quorum having been formed:

The Hon. R.G. KERIN obtained leave and introduced a Bill for an Act to amend the Soil Conservation and Land Care Act 1989. Read a first time.

The Hon. R.G. KERIN: I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

Current provisions for the handling of appeals under the Soil Conservation and Land Care Act 1989 have not proven to be sufficiently flexible to allow for the ongoing operation of the Tribunal in certain circumstances.

This Bill proposes amendments that will ensure the timely and effective convening of the Tribunal and minimise the risk of potential conflicts of interest.

The Tribunal is currently comprised of three members, of whom two are appointed by the Governor and the other being a District Court Judge. Should one of the appointed members not be available for service, then the Tribunal cannot be convened. A recent example was the disqualification of the PIRSA member of the Tribunal through a perceived conflict of interest. Without this member the Tribunal could not convene and the appeal cannot be heard.

It is therefore proposed to establish two panels of lay members, one panel made up of persons with practical experience in land management, and the other of persons with formal scientific training. Panel members who are available at the relevant time will be selected by the Judge to sit on the Tribunal for a particular appeal. To deal with deadlocks caused by the non-availability of a lay member once a Tribunal has commenced to hear an appeal, the Bill provides that the Tribunal may continue with the Judge and the remaining lay member, providing that the Judge so allows.

Other provisions deal with the issue of conflict of interest and allow persons to be appointed to panels despite being past or present Public Service employees engaged in the administration of the Act, or past or present members of certain bodies.

It is also proposed that the Presiding Member, who is a Judge, be able to determine certain procedural matters while sitting alone. This is currently not provided for.

A transitional provision will allow the current appeal before the Tribunal to proceed once the Bill is assented to.

I commend the Bill to honourable members.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

This clause provides that the Act will come into operation on assent except for sections 3 and 4, which will be brought into operation by proclamation.

*Clause 3: Amendment of s. 47—Constitution of the*

Tribunal This clause provides for the Soil Conservation Appeal Tribunal to be constituted of a District Court Judge (as at present) and two other members selected by the Judge (the presiding member), from each of the two panels to be established by the Minister. One panel will be comprised of persons with appropriate tertiary qualifications and the other of persons with extensive practical experience in soil conservation or land management. As far as it is practicable to do so, there is to be a reasonable representation of both men and women on the panels. Public Service employees (past or present) engaged in the administration of this Act are not debarred from being appointed to a panel, nor are past or present members of the Soil Conservation Council or of a soil conservation board. A panel member is disqualified from sitting on the Tribunal for a particular appeal if he or she has a direct or indirect interest (personal or pecuniary) in the matter. If the presiding Judge allows, an appeal may be completed by the Judge and one member if the other member dies or is for any other reason (e.g., illness or disqualification) unable to continue. The presiding Judge is empowered to deal with certain non-substantive matters (e.g., adjournments) while sitting alone.

*Clause 4: Amendment of s. 48—Determination of questions*

This clause is a consequential amendment.

*Clause 5: Transitional provision*

This transitional provision enables the current Tribunal to complete any part-heard appeal with only two members, if the Judge so allows.

Ms HURLEY secured the adjournment of the debate.