**UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT (EXTENSION OF PERIOD OF SCHEME) AMENDMENT BILL 2006**

**Legislative Council, 31 August 2006, pages 605-6**

Second reading

**The Hon. G.E. GAGO (Minister for Environment and Conservation)** obtained leave and introduced a bill for an act to amend the Upper South East Dryland Salinity and Flood Management Act 2002. Read a first time.

The Hon. G.E. GAGO: I move: That this bill be now read a second time.

The Upper South East Dryland Salinity and Flood Management (Extension of Period of Scheme) Amendment Bill 2006 seeks to extend the scheme being implemented under the Upper South East Dryland Salinity and Flood Management Act 2002 for a three-year period, and to make consequential amendments as a result. The Upper South East (USE) Project was developed in the early 1990s to address community concerns about dryland salinity, waterlogging and ecosystem fragmentation and degradation. On 19 December 2002, the USE project was given specific enabling legislation: the Upper South East Dryland Salinity and Flood Management Act 2002 (USE Act). The USE act has an expiry date of 19 December 2006. However, it is now apparent that the construction of the drainage network for the USE project will be incomplete at this time. It is necessary to extend the USE act for a three-year period (and to provide for ongoing rights with respect to compensation) to ensure that all provisions continue for the short term to enable the completion of the drainage work.

The bill essentially proposes to extend the USE act by three years to enable the USE act to continue until 19 December 2009, at which time USE project works will be completed. This will provide assurance for the completion of the USE project and it will ensure the continuation of all provisions that are necessary to ensure that the integrity of the USE project is maintained.

The completion of the drainage network is essential for meeting the environmental, economic and social components of the USE project, including the control and management of surface water, the removal of saline groundwater and the provision of fresh water to meet wetlands and threatened species management requirements.

Consequential amendments are required to compensation provisions as a result of the proposed amendment to extend the USE act for a three-year period. Currently, the USE act provides that landholders may seek compensation from 19 June 2006 until 19 December 2006 if they believe they have experienced a net loss of land value. This was based on the assumption that works would be completed and land returned to landholders by 19 June 2006 thereby allowing a six-month period in which compensation claims could be made.

The bill includes provisions that will ensure that the existing compensation provisions continue and are extended. Landholders who believe they have suffered a net loss in land value due to the works undertaken will be able to make a claim for compensation by 18 June 2007 where land is officially returned to the landholder between 18 June 2006 and 17 December 2006. Where land is officially returned on or after 18 December 2006, the landholder will be able to make a claim for compensation within six months from the return of the land. This provides greater flexibility in approach for landholders.

Furthermore, amendments have been included to take into account that, while drainage construction will be completed by December 2009, it can take some time after completion of construction to return all surplus land to landholders. The amendments provide that land can be returned up to one year after the expiry of the USE act, that is 19 December 2010, or up to 19 December 2011, by proclamation by the Governor. Landholders will continue to be able to seek compensation for a six month period from the date the land is officially returned. The bill provides that the expiry of the act will not affect these compensation provisions.

Some additional consequential amendments are also contained within the bill to tidy up and remove provisions within the act that are obsolete and do not need to remain once the USE act is extended. I commend the bill to members.

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

EXPLANATION OF CLAUSES

Part 1—Preliminary 1—Short title 2—Commencement 3—Amendment provisions These clauses are formal.

Part 2—Amendment of Upper South East Dryland Salinity and Flood Management Act 2002 4—Amendment of section 13—Entitlement to compensation This clause (which is to be taken to have commenced on 18 June 2006) amends section 13 of the principal Act to reflect the extension of the operation of that Act by this measure. In particular, the amendments contemplate an entitlement to compensation arising at one of two times, namely on the issuing of a land transfer finalisation declaration by the Minister, or (if no such declaration is issued) on the land transfer finalisation date in relation to the relevant parcel of land. The date that applies is the relevant date. The definitions of land transfer finalisation date and land transfer finalisation declaration are inserted by the clause. The time limits for making a claim for compensation under the section have been amended accordingly by the clause. Two time limits within which a claim for compensation must be made are established. The first relates to a claim where the relevant date occurs between 18 June 2006 and 17 December 2006. Such a claim must be made on or before 18 June 2007. This period addresses those landowners with claims under the section prior to its amendment by this measure, and preserve the right of those who would otherwise be affected by the amendment to access compensation within a timeframe consistent with (or, in terms of the time available to make a claim, more favourable than) that currently provided by the principal Act. The second time limit, reflecting the extension of the operation of the principal Act by this measure, requires a claim for compensation where the relevant date falls on or after 18 December 2006 (and hence beyond the end date originally envisaged) to be made within 6 months after the relevant date. This provides a rolling time limit to accommodate the ongoing nature of the transfer of the land back to its original owners during the extended period, but does not require the landowner whose land has been returned to wait until the expiration of the Act to be able to claim compensation under the section. The clause also inserts into section 13 procedural provisions related to the above. 5—Amendment of section 43—ERD Committee to oversee operation of Act This clause repeals an obsolete provision. 6—Amendment of section 45—Expiry of Act This clause extends the operation of the Act, previously due to expire on the fourth anniversary of its commencement, to 19 December 2009. The clause also inserts new subsection (6a), which provides that the expiration of the Act does not apply in relation to the operation of section 13 (as amended by this measure) until all of the steps envisaged by the section have been completed, all dates under the section have occurred and all claims for compensation under the section have been finalised. Hence, the expiration of the Act will not adversely impact upon a claimant who has complied with the Act.

The Hon. D.W. RIDGWAY secured the adjournment of the debate