

**WATER RESOURCES MANAGEMENT (ADMINISTRATION) BILL 2003**

*Second Reading*

Resumed from 29 October.

Question put and passed.

Bill read a second time.

*Consideration in Detail*

**Clause 1: Short title -**

Mr B.K. MASTERS: It has been put to me that the minister's second reading speech refers to the commission's powers and functions being transferred to the minister and to the CEO of the Department of Environment. However, I am told that the relevant words are not contained in any clause. Will the minister refer me to the appropriate clause or can she explain the way in which the legislation will operate? I think I can guess that other clauses automatically confer those powers. How will the powers be conferred on the minister and the CEO?

Dr J.M. EDWARDS: This sets out the principles by which the operation will be undertaken. Like a number of other Acts, the powers are assigned to a particular minister. This Act will be assigned to the Minister for the Environment.

Mr B.K. Masters: Where in this Bill is that provided?

Dr J.M. EDWARDS: It does not have to be in a clause. As the Governor did for the contaminated sites legislation, for example, he will make the order assigning the legislation and giving responsibility.

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Terms used in this Act -**

Mr P.D. OMODEI: The definition of "CEO" is "chief executive officer of the Department". I presume that means the Department of Environment.

Dr J.M. EDWARDS: Essentially, the question is answered by referring to the definition of "Department".

Mr P.D. Omodei: The question was very simple. I asked the minister if the "Department" meant Department of Environment. All I needed was a yes.

Dr J.M. EDWARDS: Yes.

**Clause put and passed.**

**Clause 4 put and passed.**

**Clause 5: The Water Resources Ministerial Body -**

Mr P.D. OMODEI: I presume that the Water Resources Ministerial Body is a new body and it is obviously a body corporate. What other powers will it have other than those in this Bill? It seems to me that the Water Resources Ministerial Body has powers over the administration of lands. Has the minister the power to direct the ministerial body?

Dr J.M. EDWARDS: The ministerial body is a body corporate through which the minister can perform any of the minister's functions that are conveniently dealt with by a body corporate, such as dealings in land, property and other assets. It does not employ any staff and it is not an organisation. The minister may delegate administrative matters to do with it to the CEO or other officers as specified.

Mr P.D. OMODEI: It is unusual that the body does not need any staff. Will the people involved be so expert that they can deal with matters themselves without requiring any backup staff?

Dr J.M. EDWARDS: I am not sure whether the member for Warren-Blackwood is confusing the advisory council with the body.

Mr P.D. Omodei: I am not.

Dr J.M. EDWARDS: The ministerial body is the entity that is the body corporate that can deal in land, property and other assets.

Mr P.D. Omodei: Do you have power to direct the body?

Dr J.M. EDWARDS: Basically, it is the minister.

Mr B.K. Masters: You are the body.

Dr J.M. EDWARDS: Yes.

**Clause put and passed.**

**Clauses 6 and 7 put and passed.**

**Clause 8: Delegation by the Minister -**

Mr J.P.D. EDWARDS: Who is “another person” in clause 8(1)? Will the minister explain the meaning of subclause (4) in a little more detail please? It reads -

A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

Dr J.M. EDWARDS: The meaning of subclause (4) is obvious. If a person has been delegated a duty, he or she cannot delegate that further down the line. Therefore, a person who is delegated a power or duty cannot delegate that to someone else. With regard to the question about other persons having functions under this Act or a water resources Act, I indicate that members of staff will have various functions under this legislation. For example, they may carry out duties to do with a ministerial body. The minister will have the capacity to make a delegation for that. The duty may be concerned with catchment management. The minister will be able to make a delegation for some of the responsibilities to do that. The other water resources Acts are defined at the front of the Bill, on page 2. A number of Acts that are, for the purposes of this Bill, defined as water resources Acts are listed there. The minister could delegate powers to people employed under those Acts, but those powers could not be further on-delegated.

Mr P.D. OMODEI: Is the minister saying that the minister may delegate powers to the chief executive officer or another officer, but the CEO cannot then delegate that authority? Is that the situation? When the wonderful new Labor Party policy comes into effect under which only one minister will govern the State, I can foresee a situation in which that minister will delegate the authority to the CEO of every government department, and as only one government minister will be needed, a large amount of money will be saved. I am just being ridiculous. Seriously, I will ask the minister this question: does this clause allow only the minister to delegate the power to the CEO, or does it also mean that the CEO may delegate powers as well? Will only the minister delegate powers to the CEO and another person, or will the CEO be able to delegate powers to another person?

Dr J.M. EDWARDS: This clause deals with the minister’s delegations, so there is a separate clause for the CEO. Under this clause, the minister may delegate to the CEO or to other people who have functions under this Act or a water resources Act, but they cannot further delegate that power or duty.

**Clause put and passed.**

**Clause 9 put and passed.**

**Clause 10: Membership of the Council -**

Mr J.P.D. EDWARDS: I understand that the Water Resources Council is an advisory body only. With that understanding, I suppose the minister could totally ignore this advisory council and run his or her own agenda. Therefore, what relevance will this advisory council have?

Mr P.D. OMODEI: Rather than the minister answering two questions separately, I will ask my question now. The council will have four, five or six members. Obviously, that is a reflection of the current Water Resources Council. I presume that clause 10(1)(c) will allow for a person from the agricultural industry or from among water users to be nominated. The explanatory notes on the clause state -

The members and chairman of the Council are to be selected based on the criteria outlined. The listed areas of expertise will ensure that members selected have expertise and experience in water resources management, and sustainability aspects including community and economic development.

They are all flowery words. Sustainability is a new Labor Party word, and we will all adopt it, because the public demands that we be sustainable. However, will the minister explain to me whether a sustainable farmer will be a member of the council?

Dr J.M. EDWARDS: As a farmer’s daughter, I would argue that all farmers are sustainable, so I hope that a farmer will be a member of the council. This spells out the sensible types of advice that are needed in making water resource management decisions. We need to make sure that people have expertise in water resources management. Recently, I appointed to the board of the Water and Rivers Commission an eminent hydrogeologist, because I believe his is an area of expertise of which we did not have enough -

Mr B.K. Masters: Who is that?

Dr J.M. EDWARDS: Tony Allen. If people want to talk about sustainability, often they talk about the triple bottom line, which is social, economic and environmental considerations. By chance, they are covered in this clause. However, at the moment they are covered by people on the board of the Water and Rivers Commission anyway.

Mr P.D. OMODEI: The minister did not answer the question about whether a farmer will be a member of the council. She said that she is a farmer's daughter and that she hopes a farmer will be on the council. Will it be one farmer? Farmers are, by the way, well educated. Today, young farmers in particular are as much at the forefront of technology and academic qualifications as anybody else in the community. The Water Resources Council will make very important decisions about water management. The people who will be most impacted by those decisions are the users of water. I understand that the majority of water is used for irrigation - 40 per cent plus. Therefore, I would expect that at least 40 per cent of the members of the council would be farmers. Will this be reflected in the council membership?

Dr J.M. EDWARDS: As I said earlier, I intend to advertise to fill these positions. We will look at the responses to those advertisements and how people fit into the categories listed in the clause. However, I would want someone with practical expertise in water management. Similarly, some people in the mining sector have argued that they are very big users of water, and they need a voice as well. All those matters will be taken into account, because we must make sure that we are getting advice that literally comes from the field, so to speak; and by "the field", I mean people who are operating in it.

Mr J.P.D. EDWARDS: The minister did not quite answer my question.

Dr J.M. EDWARDS: I will answer it. The member's question was: if it is an advisory council, what is to stop the minister ignoring the advice? Ministers can ignore advice from any entity. However, I believe they ignore that advice at their peril, because the whole reason for having these types of bodies is to make sure that ministers get a broad range of advice that is not always available or synthesised within government, and that advice is available by appointing good people who know what they are talking about, experts in certain areas and other people with practical management expertise.

**Clause put and passed.**

**Clause 11: Functions of the Council -**

Mr B.K. MASTERS: I will follow on from the question previously asked by the member for Greenough. Under this clause the council has the following functions -

- (a) advising the Minister . . .
- (b) advising the Minister . . .
- (c) advising the Minister . . .
- (d) consulting with persons, or bodies . . .
- (e) advising the Minister . . .

An important role for the Water Resources Council is also advising the public. I do not see any clause allowing the council, without the minister's approval, to go out to the public. If the minister were to go to the trouble of creating an advisory body and tying its hands behind its back by not allowing it, at a time of its own choosing, to go to the public to, for example, start a community debate on an important issue, or maybe when it disagrees with something the Government has done, that would be less than satisfactory. Can the minister provide any assurance along the lines of encouraging the council to make public statements on issues that fall within its area of expertise, or is the minister tempted to say no, it is primarily a council that will advise the minister and a council that has no function other than consulting with bodies or persons involved in water resources issues?

Dr J.M. EDWARDS: There is no intention to fetter or censor that advisory council. I personally think it is a very good notion that these types of council be able to articulate what they are thinking on a particular issue. That will not always be the same as the thoughts of Governments or departments, and it is useful to have that opinion out in the ether. I will give further consideration to this clause, with a view to amending it in the other place, to make sure it is clear that this council has every right to reach outwards as well as gather information and give advice to the minister.

**Clause put and passed.**

**Clauses 12 to 22 put and passed.**

**Clause 23: Delegation by the CEO -**

Mr B.K. MASTERS: Clause 23 states that the CEO may delegate any power or duty conferred on him by this Act to an officer of the department, or another person having functions under this Act or a water resources Act. Can the minister briefly outline what other persons might have functions under this Act or under a water resources Act? A concern has been raised with me that the CEO may be able to delegate powers quite widely and significantly beyond those that most CEOs, as I understand it, currently have the power to delegate. Can the minister provide some background information?

Dr J.M. EDWARDS: I was trying to get a practical, live example, because it is easier to explain that situation. When the CEO is administering a duty under an Act, there may be times when he delegates certain functions under that Act to other staff members. That could happen with catchment management or in a range of areas. Under a water resources Act, I use the example of the Country Areas Water Supply Act 1947 as defined in this Bill. Under that Act there is the capacity to use the Water Corporation Act to appoint people as inspectors. The CEO may delegate the tasks of being an inspector all the way down to that person employed under the Country Areas Water Supply Act but going on through the Water Corporation Act.

Mr B.K. Masters: Is there any intention at all of this delegation of powers by the CEO extending to ministerial staff?

Dr J.M. EDWARDS: No, there is absolutely no intention of that. I believe that would be in conflict with some aspects of clause 23.

Mr B.K. Masters: You do not think it is possible that that could happen?

Dr J.M. EDWARDS: No, I do not. It is not desirable. It would be outrageous if it happened.

Mr B.K. Masters: It is a concern that has been raised with me.

Dr J.M. EDWARDS: I am not sure where that concern comes from, but as minister I have absolutely no interest in doing anything like that. I doubt that a CEO would do that because it would be political suicide.

**Clause put and passed.**

**Clause 24 put and passed.**

**Clause 25: Advisory committees -**

Mr P.D. OMODEI: I presume the advisory committees are committees that already exist under the Rights in Water and Irrigation Act, and that those committees - some of which have already been established - will be maintained. I notice that a number of those committees that were being proposed have not yet been proclaimed. There is one in the Busselton area known as the -

Dr J.M. Edwards: Whicher Range.

Mr P.D. OMODEI: The other is the Gingin group. Is it intended that they be extended? I referred to one called the Warren-Lefroy advisory committee, which has existed for a long time. Is it intended that that committee be gazetted as an advisory group, and what area will it cover? Will it cover Warren-Blackwood? These matters have been around for a number of years and I wonder whether they will be concluded in the near future? Clause 25 states -

- (2) A member of a committee is entitled to the remuneration and allowances . . .
- (3) The terms and conditions . . .
- (4) This section does not limit the Minister's powers to establish committees for any other purpose.

It does not state what those committees can do, what their powers are, whether their advice to the minister is binding in any way or how much notice the minister has to take of those committees. I am concerned that the committees may just be a rubber stamp for something that the new Department of Environment intends to carry out. In the past they have performed a very significant role in being the buffer between the Government and the community, and in a lot of cases they have resolved disputes between water users and other parties. They perform a very useful function. This clause is a little short on detail.

Dr J.M. EDWARDS: The minister can establish a range of advisory committees. Firstly, I want to reiterate my previous comments. Two of the committees that are currently working very well - the Cockburn Sound Management Council and the Geographe Bay Management Council, for example - will be transferred across. Regional water allocation advisory committees will continue. All those committees that are in place will be rolled on. In respect of the member's question about the proposed Warren-Lefroy committee, I am informed that the south west regional staff are currently talking to stakeholders and other people about the timing of the

formation of the committee and the processes, and generally consulting with those people about how to go about it.

Mr P.D. Omodei: They have been doing it for 10 years.

Dr J.M. EDWARDS: As the member has raised it, I will make sure there is a hurry on. The member asked about whether the committees would be extended; what did he mean by that?

Mr P.D. Omodei: The clause does not say what the powers of the committee will be, apart from giving advice to the minister. Will the minister take any particular notice or is that just a sop to the community?

Dr J.M. EDWARDS: No. The main purpose of these committees is to have the capacity to pull together people to give advice to the minister on the water resource Acts that are listed at the front of the Bill. This clause does not affect committees under some other Acts that, in a sense, have more power and responsibility; for example, the local water resource management committee, which is set up under the Rights in Water and Irrigation Act. Any sensible minister would take on board the advice of all these committees. This clause does not take away the power of other committees established under other Acts that are generally referred to as water resources Acts.

Mr P.D. Omodei: Do we presume you are a sensible minister?

Dr J.M. EDWARDS: Like you were!

**Clause put and passed.**

**Clauses 26 to 29 put and passed.**

**Title put and passed.**

*Third Reading*

**DR J.M. EDWARDS** (Maylands - Minister for the Environment) [10.22 pm]: I move -

That the Bill be now read a third time.

Question put and a division taken with the following result -

Ayes (27)

Mr P.W. Andrews	Mr S.R. Hill	Mr M. McGowan	Mr J.R. Quigley
Mr J.J.M. Bowler	Mr J.N. Hyde	Ms S.M. McHale	Ms J.A. Radisich
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Dean	Mr R.C. Kucera	Mr N.R. Marlborough	Mr P.B. Watson
Mr J.B. D'Orazio	Mr F.M. Logan	Mrs C.A. Martin	Mr M.P. Whitely
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr M.P. Murray	Ms M.M. Quirk ( <i>Teller</i> )
Mrs D.J. Guise	Mr J.A. McGinty	Mr A.P. O'Gorman	

Noes (15)

Mr R.A. Ainsworth	Mr J.P.D. Edwards	Mr W.J. McNee	Mr M.W. Trenorden
Mr C.J. Barnett	Mr B.J. Grylls	Mr B.K. Masters	Mr T.K. Waldron
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr J.L. Bradshaw ( <i>Teller</i> )
Mr M.F. Board	Mr R.F. Johnson	Mr R.N. Sweetman	

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Pairs

Mr A.J. Carpenter	Mr A.D. Marshall
Mrs M.H. Roberts	Mr D.F. Barron-Sullivan
Mr D.A. Templeman	Mr M.G. House

Independent Pair

Dr J.M. Woollard

Question thus passed.

Bill read a third time and transmitted to the Council.

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