Mr Speaker, Sir,

I move that the Environment and Land Use Appeal Tribunal Bill (No. IV of 2012) be read a second time.

Mr Speaker, Sir,

This Government’s motto, as is evident from the Government Programme 2012 – 2015 is “Moving the Nation Forward”. And one of the means of achieving this objective and making sure that our society does truly and effectively move forward.

Paragraph 31 of the Government Programme states and I quote “Several existing tribunals, including the Environment Appeal Tribunal where major projects are currently the subject of litigation, will be consolidated to enable them to sit full time so that cases are heard and disposed of expeditiously while ensuring cost effectiveness and rationalization in the use of resources”. Unquote.

In the budget speech 2012, it was mentioned at paragraph 326 that to speed up decisions on appeal cases, Government will be consolidating twelve Appeal Tribunals into three, namely an Environment and Land Use Appeal Tribunal, a Revenue and Valuation Appeal Tribunal and a Regulatory Authority Appeal Tribunal.

Mr Speaker, Sir,

This Bill when voted and proclaimed will set up the Environment and Land Use Appeal Tribunal.

As Members of the House are probably aware, Mr Speaker, Sir –

- the Environment Appeal Tribunal (“EAT”) established under the Environment Protection Act in order to hear and determine appeals relating to Environmental Impact Assessment (EIA) licences and Preliminary Environmental Reports (PER) provided for in the Environment Protection Act; and
secondly, the **Town and Country Planning Board ("Board")**, established under the Town and Country Planning Act and which, inter alia, hears appeals relating to Outline Planning Permissions and Building and Land Use Permits, presently operate on a part-time basis given that the Environment Appeal Tribunal is chaired by a Magistrate of the Intermediate Court on assignment by the Public Service Commission to perform duties on a part-time basis, and the Board, as per section 3(1)(a) of the Town and Country Planning Act, is chaired by a person not below the rank of Principal Assistant Secretary.

Mr Speaker, Sir,

In view of the fact that tribunal is not operating on a full-time basis, appeals lodged before the EAT and also before the Board are taking longer to be heard and disposed of. Indeed, Mr Speaker, Sir, several major projects are currently the subject of litigation before these “tribunals”. In fact, there are presently 14 appeals before the EAT and about 300 outstanding appeals before the Board. There is therefore a real urgent need to expedite the hearing and determination of cases given that time is of the essence for such type of appeals.

This Bill, Mr Speaker, Sir, therefore aims at merging the Environment Appeal Tribunal and the Town and Country Planning Board into a single Tribunal with a full-time Chairperson and Vice-Chairperson, with a view to expediting the determination of appeal cases lodged in relation to environment and land use-related issues. This will also allow the Town and Country Planning Board to devote more time to its other major functions, such as the preparation of outline and detailed schemes.

The Bill thus provides for the establishment of a single Tribunal - i.e the **Environment and Land Use Appeal Tribunal ("Tribunal")** - which shall operate on a full-time basis and shall hear appeals relating to matters that are directly or indirectly related to the environment and the manner in which land is made use of. The Tribunal will accordingly deal with –

- Building and Land Use Permits and Outline Planning Permissions issued or refused by Municipal City Councils, Municipal Town Councils and District Councils under the Building Act, the Local Government Act 2011 and the Town and Country Planning Act;

- morcellement permits granted or refused under the Morcellement Act;
Mr Speaker, Sir,

I must point out that the draft Bill was circulated among various stakeholders, including the Honourable Chief Justice, the Ministry of Housing and Lands, the Ministry of Environment and Sustainable Development, the Ministry of Local Government and Outer Islands, the Town and Country Planning Board and the Environment Appeal Tribunal for their views and comments, and due consideration has been given to the representations made in the finalisation of the Bill.

I shall now, Mr Speaker, Sir, take the House through the salient features of the Bill.

The Tribunal, which is established under clause 3 of the Bill, shall in fact consist of –

- firstly, a Chairperson, who shall be a barrister of not less than 10 years’ standing, appointed by the Public Service Commission;

- secondly, one or more Vice-Chairpersons (which is a totally new provision), who shall be a barrister or barristers of not less than 5 years’ standing, appointed by the Public Service Commission;

- and thirdly, such other members as may be necessary to enable the Tribunal to discharge its functions under the Act and the relevant Acts as defined in the Bill.

Moreover, under clause 3(4) of the Bill, where the subject matter of an appeal relates to a technical field, the services of a suitable expert can be enlisted in the field, to act as member of the Tribunal on an ad hoc basis for such period as is necessary.

It is also to be noted that by virtue of clause 3(2) of the Bill, the Chairperson and a Vice-Chairperson may be called upon by the Public Service Commission to act as Chairperson or Vice-Chairperson of any tribunal established under any other enactment.

Mr Speaker, Sir,

Another major improvement which this Bill seeks to bring about is that by virtue of clause 3(5) of the Bill, the Tribunal shall sit in one or more divisions. Furthermore, provision is made under clause 3(5)(c) of the Bill, for a division to be set up on a temporary basis for a period not exceeding one year, where there is a backlog of cases
before the Tribunal. This will ensure that the Tribunal is not, from the day of its establishment, hampered in its functioning due to such backlog of cases.

Provision is also made, in the Bill, for the appointment of a Secretary to the Tribunal, and for the Secretary to Cabinet and Head of the Civil Service, at the request of the Chairperson, to designate such public officers as may be necessary to enable the Tribunal to discharge its functions under the Act.

As regards the jurisdiction of the Tribunal, it is, under clause 4(1) of the Bill, given jurisdiction to hear and determine appeals under the Environment Protection Act, the Local Government Act 2011, the Morcellement Act and the Town and Country Planning Act. Moreover, I would here like to draw the attention of the House to the fact that power is also given, under clause 4(2) of the Bill, to the Chairperson or, in his absence, the Vice-Chairperson, in respect of any matter which is due to be heard by the Tribunal, on application made to him by a party, to sit alone for the purpose of making such orders, including an order in the nature of an injunction, as he thinks fit, where he is of opinion that, for reasons of urgency and the likelihood of undue prejudice, it is necessary to do so pending the hearing of the matter.

Mr Speaker, Sir, given that as matters presently stand, parties have to lodge an application for an injunction before the Judge in Chambers in order to stay an Environment Impact Licence and Preliminary Environment Report, the above provision will consequently render remedies like injunctions more easily accessible and ensure speedier justice.

As far as proceedings of the Tribunal are concerned, they are, subject to clause 5 of the Bill, to be regulated by the Tribunal itself. The procedure for the holding of proceedings and the lodging of appeals before the Tribunal, and the powers of the Tribunal are therefore set out in clause 5.

It is here worth noting that proceedings of the Tribunal are to be conducted with as little formality and technicality as possible and shall not preclude an endeavour by the Tribunal to effect an amicable settlement between the parties. Furthermore, by virtue of clause 5(5) of the Bill, a party before the Tribunal may be represented by a barrister or an attorney or, with the leave of the Tribunal, be assisted by a person having expertise in the subject matter of the appeal.

In so far as appeals are concerned, a time-limit of 90 days is provided for under clause 5(7) for the Tribunal to hear and make a determination, except where there is a valid reason, and with the consent of the parties.

Furthermore, clause 6 of the Bill, which relates to appeals to the Supreme Court, makes provision for any party who is dissatisfied with the final decision of the Tribunal in
relation to an appeal under clause 4 as being erroneous in point of law, to appeal to the Supreme Court. Such appeals are to be prosecuted in the manner provided by rules relating to appeals from final judgments of a District Court in civil matters.

As for clause 7, it provides for the making of rules by the Tribunal, for the purpose of the institution and hearing of appeals before it.

Clause 8, for its part, makes consequential amendments to the Environment Protection Act, the Local Government Act 2011, the Morcellement Act, the Planning and Development Act and the Town and Country Planning Act in order to give jurisdiction to the Tribunal to hear and determine the matters specified in that clause.

Finally, Mr Speaker, Sir, clause 9 of the Bill (which relates to transitional provisions) provides, inter alia, that where the hearing of any matter, or appeal from the decision of the Board or EAT has at the commencement of the Act started before the Board or the EAT, the Judge in Chambers or the Supreme Court, as the case may be, that matter shall continue to be dealt with by the Board or the EAT, the Judge in Chambers or the Supreme Court, as the case may be, until its determination.

As regards the hearing of matters which have not started, but are pending at the commencement of the Act, before the Board or the EAT, those matters shall, at the commencement of the Act, be taken up and determined by the Tribunal.

Mr Speaker, Sir,

The grouping of different tribunals under the umbrella of a sole Tribunal will not only reduce administrative costs and ensure an efficient and better use of resources and logistics, but will also impact favourably on future investment given that delay caused to the whole process of obtaining approvals, licences and permits will be considerably reduced. This will, therefore, undoubtedly lead to an environment more conducive to promote and enhance business and investments.

I am therefore of the opinion, Mr Speaker, Sir, that the Bill being proposed today should be favourably welcomed.

I will end by thanking colleague Ministers for their support in the finalisation of the Bill. A special thanks to my officers including Mrs Gaitree Manna the present Master & Registrar, for their unflinching support and cooperation.