LEGISLATIVE COUNCIL

Thursday 15 November 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:03): I move:

That standing orders to be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

SANTOS LIMITED (DEED OF UNDERTAKING) BILL

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:04): I move:

That this bill be now read a second time.

I seek leave to have the second reading report and explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

A 15 per cent shareholding restriction was placed on Santos Limited in 1979 to prevent a hostile takeover of Santos by Alan Bond. The basis for this original legislation was to secure the State's gas supplies in the Cooper Basin.

Significant developments have occurred in energy markets since the introduction of the 1979 Act. The Cooper Basin is now a mature asset and the State is no longer totally reliant on the Cooper Basin for its energy supplies with competing gas supplies now available from Victoria through the SEAGas pipeline and from Queensland through the gas hub at Moomba.

The 1979 Act was replaced in 1989 with the Santos Limited (Regulation of Shareholdings) Act 1989, which applies while Santos Limited produces petroleum in South Australia. Santos has matured significantly as a company since that time, it is now a global gas producer with projects throughout Australia and overseas. The Cooper Basin, while accounting for around 80 per cent of Santos' South Australian based staff, now only accounts for 23 per cent of Santos production and 17 per cent of its reserves.

Santos has substantially increased its corporate presence in South Australia over the years. This has been a commercial decision by the company as there are no restrictions in existing legislation which require Santos to maintain its head office in South Australia.

Santos Limited requested earlier this year that a formal review be undertaken into the Act on the basis that they believed the shareholding restriction was limiting their ability to grow.

A review was undertaken with the assistance of the Economic Development Board and consideration was given to the original intent of the legislation, the impact of the cap on the future growth of Santos, potential risks from the removal of the cap, energy security issues and regional development implications.

The review recommended the removal of the cap on the basis that the original basis for the introduction of the legislation in 1979 was no longer valid.

The Government has consistently stated that it would only consider the removal of the share cap if the State could be assured that it was in the interests of the people of South Australia.

As Members would be aware, Santos is an outstanding corporate citizen in South Australia investing millions in oil and gas exploration and production each year, employing well over a thousand people and providing substantial corporate sponsorship.

To reinforce Santos' ongoing commitment to the State they have provided a Deed of Undertaking in relation to their ongoing corporate presence in South Australia.

The Deed of Undertaking offered by Santos provides three fundamental commitments, these include:

- Guarantees that effectively 90 per cent of the current South Australian-based roles stay here, which includes all of the roles at our major South Australian operational sites. This equates currently to approximately 1700 jobs in South Australia.
- A Social Responsibility and Community Benefits fund of some $60 million over 10 years, to be applied to a range of sponsorships, including support for the Royal Institution, indigenous programs and educational scholarships; and
- These commitments are supported by a $100 million legally enforceable compensation mechanism, should there be a significant reduction in corporate presence.

The shareholder cap will be removed 12 months after assent has been given to the passage of this Bill. This is at the request of Santos, which sought a period of orderly transition.

This is a good outcome for South Australia and for Santos, which ensures a continued strong corporate presence by Santos to South Australia and provides the company with the flexibility to grow and pursue new opportunities.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

This clause is formal.

2—Commencement

The commencement of the measure is to operate in a manner consistent with clause 1 of the Deed. In particular, the Bill provides for the removal of the Share Cap to be effective 12 months from the date on which it receives assent as an Act. The removal will be effected by the repeal of the Santos Limited (Regulation of Shareholdings) Act 1989.

3—Interpretation

This clause provides for a definition of the Deed, being the Deed of Undertaking made by Santos Limited (ACN 007 550 923) in favour of the Premier for and on behalf of the Crown in right of the State of South Australia, as tabled in the House of Assembly.

4—Ratification and effect of Deed

The Bill provides for the Deed to be ratified and approved by the Parliament. The measure will also expressly provide that the Deed will have full force and effect and will ensure that it is binding and enforceable by virtue of the enactment of this law. The Deed will be enforceable by the Premier acting for and on behalf of the Crown in right of the State.

5—Effect of Act

This clause will ensure that the enactment of this measure does not in itself give rise to a termination of the Deed under clause 3.2(a)(2) of the Deed.

6—Evidence

This is an evidentiary provision.

7—Repeal

This clause provides for the repeal of the Santos Limited (Regulation of Shareholdings) Act 1989, subject to the operation of clause 2.

Debate adjourned on motion of Hon. D.W. Ridgway.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NATIONAL ELECTRICITY LAW—MISCELLANEOUS AMENDMENTS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: In the interests of managing the committee stage, I propose to respond to some of the issues to which the minister replied at the end of the second reading and canvass some general issues in relation to the committee stage on clause 1. Yesterday the minister provided answers to questions raised by members during the second reading, and I want to pursue a number of matters with the minister at this stage. The first matter relates to a question I asked in the second reading debate about government policy on the Essential Services Commission having emergency reserve powers to cap retail prices if it found that tariffs were unjustifiable and excessive. I quote the response from the government:

The ESC Act was established with price-setting powers under section 25, which established a safeguard to ensure all South Australian customers, both existing and new, were guaranteed at least a standard contract upon the commencement of full retail competition on 1 January 2003.

Does the minister say that this was a new power placed in legislation, or did not that power already exist under the preceding act which governed the Independent Industry Regulator that existed prior to the Essential Services Commission?

The Hon. P. HOLLOWAY: My advice is that specific explicit price justification procedures were put in the Essential Services Commission Act in 2003. Prior to that there had been some

powers, but they had not been prescribed. There were general powers in the Electricity Act, but they had not been proclaimed.

The Hon. R.I. LUCAS: My question specifically is that, under the old South Australian independent industry regulator (the old regulatory authority that existed prior to the Essential Services Commission), is it not correct that under that legislation there were price setting powers that established a safeguard to ensure all South Australian customers, both existing and new, were guaranteed at least a standard contract upon the commencement of full retail competition?

The Hon. P. HOLLOWAY: My advice is that it was not specifically in the prior legislative arrangements. It is of historical interest more than prospective interest as far as the bill is concerned, but if the honourable member wants that information we can dig it up. We do not have that legislation here, but my advice is that it was not explicitly in that act.

The Hon. R.I. LUCAS: I thank the minister for that undertaking. I am happy not to delay the proceedings any further. It was certainly my understanding that there existed a safeguard prior to the establishment of the Essential Services Commission legislation of 2003. If it was not in that legislation my belief is that it existed somewhere in some piece of legislation. I am happy for the minister to take it on notice and provide an answer by correspondence some time in the not too distant future. If that did not exist, that is, that there was some sort of guarantee prior, I would have thought that there would have been an even greater controversy at the time of the debates in early 2000—just prior to and after the 2002 state election—in relation to the actions of the former government with regard to retail pricing. The whole issue is a very sensitive one and there will be further debate in committee on that issue. I will not further delay the committee at this time.

The further part of the minister's response was that ESCOSA is in the process of undertaking its review for the electricity standing contracts tariffs to operate from 1 January, and the government has made submissions to the review. Is the minister indicating that, with this legislation passing in the next week or so, ESCOSA will be the body that will continue and conclude that task, or will it transfer to the Australian Energy Regulator?

The Hon. P. HOLLOWAY: No, ESCOSA will continue to be the price setting regulator for retail prices.

The Hon. R.I. LUCAS: The minister's reply says that ESCOSA is due to commence its review of gas standing contract tariffs, which will operate from 1 July 2008. Will the minister confirm that ESCOSA will continue to implement that task and have responsibility and not the Australian Energy Regulator?

The Hon. P. HOLLOWAY: I can confirm that.

The Hon. R.I. LUCAS: During the second reading debate I broadly canvassed the issue of the transition arrangements, if any, in relation to the regulatory reset for the distribution companies in the national electricity market. We are talking about ETSA in South Australia and the equivalent bodies in other states. I understand that the regulatory reset is a fair way down the path in New South Wales, I think, from my discussions with the Australian Energy Regulator earlier this year. With the passage of this legislation can I just clarify whether the Australian Energy Regulator will conclude that particular task or will it will be the state-based regulatory authority in New South Wales?

The Hon. P. HOLLOWAY: My advice is that the Australian Energy Regulator will be undertaking that task; that is one of the reasons we need this bill to be passed fairly quickly. I have been advised that the Australian Energy Regulator will actually begin consultation on it tomorrow, so I guess that is one of the reasons this bill is needed.

The Hon. R.I. LUCAS: I must admit that in my discussions with the Australian Energy Regulator (which, as I said, were initially conducted earlier this year) I thought one of the options being canvassed related to New South Wales because they were so far down the path. Whilst the minister indicates that the Australian Energy Regulator is commencing discussion stages tomorrow, when one looks at a regulatory reset one sees that a large amount of work is done over a very considerable period of time—certainly much longer than the period between, say, November this year and June or July next year. That is, my advice is that the state-based regulator had already commenced a lot of the initial work being done. Even if that is the case, I assume all the work that has been done by the state-based regulator in New South Wales will just be handed over to the Australian Energy Regulator.

The Hon. P. HOLLOWAY: Yes. Indeed, my advice is that there are actually specific provisions in the rules' transitional provisions to facilitate that.

The Hon. R.I. LUCAS: Similarly, in relation to the South Australian regulatory reset, which is further away than the New South Wales regulatory reset, can I confirm that it is the intention that any work that has been done by ESCOSA here in South Australia would be handed over to the Australian Energy Regulator, and that it would be solely the responsibility of the Australian Energy Regulator to implement and manage the total consultation and decision-making process for the next regulatory reset for the distribution company in South Australia?

The Hon. P. HOLLOWAY: My advice is that there are provisions to enable the transfer of confidential information from ESCOSA over to the energy regulator. Given the time, the AER should be able to undertake the entire task, but there are other provisions so that they can get the base information.

The Hon. R.I. LUCAS: Are those provisions actually in the national electricity law that we are looking at, or are they in the rules?

The Hon. P. HOLLOWAY: They are in both; I am told they are in the law and also in chapter 9 of the rules.

The Hon. R.I. LUCAS: Another one of the replies the minister gave yesterday was in response to a question I asked about the power of ESCOSA to impose penalties on ETSA Utilities in relation to maintenance standards, and I want to clarify this with the minister. His response was that 'section 25(1) of the...act makes it an offence to contravene licence conditions, with a maximum penalty of $1 million'.

Well, that is unexceptional and I understand that particular provision, but my question specifically related to the issue of maintenance standards, which is quite different to licence conditions. Is the minister suggesting that the government has in some way made it a licence condition; that is, if maintenance standards are not maintained to the level required, that it is a breach of licence conditions and there is a maximum penalty of $1 million for that breach?

The Hon. P. HOLLOWAY: My advice is that there is a safety, technical, reliability and maintenance plan which is required to be maintained. On the advice of the technical regulator it is approved by the regulator, and that is what the participants have to abide by; it is a licence condition to abide by that.

The Hon. R.I. LUCAS: I think the understanding of those involved in this debate has always been that there are what I would call thresholds or essential conditions that have to be maintained in terms of the safety and reliability of the networks, and I accept the argument that that is a licence condition. My understanding is that that existed prior to the changes of 2003, but I am happy to get advice from the government on that. However, the debate at the time was really about the humdrum—although that is not entirely correct when we are talking about the essential safety of the system—or the actual maintenance standards in relation to blackouts. That was the debate that raged at the time of these particular statements made by the now minister—the public debate about blackouts, their frequency and the maintenance of the system, etc.

As I said in my second reading contribution (as well as on previous occasions), it was my understanding that the debate was about maintenance standards at that particular level—not at the threshold level of the safety and reliability of the system in terms of ensuring that basic things required to be done by a distribution company are done to continue the operation of its service. My understanding, and the advice I have received, is that maintenance issues are not licence conditions in relation to performance; they are governed by performance incentive schemes and a variety of other mechanisms that the regulators have to encourage better performance in terms of fewer minutes off-line and other measures of the maintenance standards of the distribution companies.

It remains my view that maintenance standards do not involve a licence condition breach: that is an issue in terms of the general performance of the company which is governed by incentives and performance management schemes the regulatory authorities have, as opposed to being a $1 million penalty for a breach of licence conditions.

The next issue I will comment on briefly relates to the vexed issue of whether or not the former government had set high transmission and distribution pricing systems to try to ratchet up the sale price of the assets. Without revisiting that whole debate, the government's reply has been,

'Well, the initial pre-tax, real weight and average cost of capital was higher than what occurred on regulatory resets here in South Australia.'

I make the point that that was the case in all other states. With the passage of time, the regulatory resets reduced during that particular period, when one compared it with the period in and around 1999-2000 and then for the years afterwards, whether it be 2003, 2004 or 2005, whenever the resets came. Certainly, that was the experience in Victoria and, from my recollection, in other states as well.

So, I think the issue should be one of comparing the debate on what was occurring at the time and acknowledging what the minister put on the record in the committee stage in the other place, that is, the particular circumstances that relate to our distribution company in South Australia. As I highlighted during the second reading debate, many of the things minister Conlon highlighted in the committee stage in the House of Assembly mirrored statements we made at the time about the particular circumstances that related to South Australia: the peaking nature and geographic spread of our system, and a variety of other issues like that relating to the challenges for a distribution company having to provide and maintain a service for a state like South Australia.

The other point I would make relates to the minister's answer on additional increments of generation capacity. It is worth noting that the only non-wind capacity increments that have been noted by the government since 2002 involve a small 50 megawatt peaking plant at Angaston, and Origin Energy has announced the construction of a 120 megawatt expansion at the quarantine station here in Adelaide.

Companies Australia-wide—it is not just a South Australian situation—announce new plants and then 12 or 18 months later, because of changed circumstances, they do not proceed with them all the time. Can I just clarify that Origin Energy's 120 megawatt expansion is actually going ahead and, if it has not yet gone ahead, can the minister indicate what the commitments from the company are and what is the government's understanding regarding the likelihood of that expansion going ahead?

The Hon. P. HOLLOWAY: My advice is that Origin is going ahead with its project and that it has engaged in some preliminary works. I am advised that Origin has negotiated a contract to provide the generator itself.

The other point I would like to make relates to the honourable member's comments about what happened in 2003—and it is more for historical interest. As I understand it, before 2003 there was a requirement for a safety and technical management plan. The changes in 2003 not only added the $1 million penalty but also extended the scope of those plans to include reliability and maintenance, in addition to the safety and technical standards. So, prior to 2003, there were requirements for management of the safety and technical perspective, but the scope was specifically extended to include reliability and maintenance, and that $1 million penalty was provided at the time.

The Hon. R.I. LUCAS: I am happy for the minister to take the following question on notice. Can the minister undertake to perhaps send me the detail of exactly what was added in 2003 in terms of maintenance and reliability standards into that plan the minister is talking about?

The Hon. P. HOLLOWAY: Yes.

The Hon. R.I. LUCAS: I thank the minister for that undertaking. The other issue that is, I guess, one of the more significant aspects of our regulatory regime here in South Australia is the issue I canvassed (and we certainly had a long debate about it in 2005) in my second reading contribution. The minister has provided a brief response, which I want to explore. I thank the minister for a copy he has provided to me and to other members of the amendment to the Australian Energy Market Agreement between the commonwealth government and all the states—a signed agreement by the Premier of South Australia on the state's behalf.

I refer to the section on retail price regulation in that agreement, which as I have said is an agreement, signed by the Premier on our state's behalf, with the commonwealth government and all the other states. The clause states:

> The parties reaffirm their commitment to full retail contestability in accordance with the National Competition Policy agreements.

Members should note that full retail contestability in and of itself means for the householders' electricity market and also assumes that there will be retail price deregulation. Clause 14.11 of the agreement states:

All parties agree to phase out the exercise of retail price regulation for electricity and natural gas where effective retail competition can be demonstrated and that:

(a) the AMC will access the effectiveness of competition for the purpose of retention, removal or reintroduction of retail energy price controls, whereby:

(i) the criteria for assessing the effectiveness of competition was developed by the MCE in consultation with the AEMC and other interested parties based on the principles set out in annexure 3;

(ii) the assessment process will commence from 1 January 2007 starting with those jurisdictions most likely to have effective competition; and

(iii) reviews will be conducted biennially, unless the AEMC recommends otherwise, until all retail energy price controls are phased out or at the request of a party thereafter;

(b) social welfare and equity objectives will be met through clearly specified and transparently funded state or territory community service obligations that do not materially impede competition; and

(c) The AEMC will publicly report on its assessments of effective competition in which it will provide advice to each jurisdiction on their compliance with clauses 14.10-14.14 and on:

(i) ways to phase out the exercise of retail price regulation if competition is determined to be effective and an appropriate timeframe; or

(ii) ways to promote the growth of effective competition for those users or areas of jurisdiction which do not enjoy effective competition.

Clause 14 then goes on with some other subclauses which are not as important as the ones that I have just outlined. That agreement was signed in May or June last year. Some of the signatures are actually in March and April. Mike Rann's signature was on 10 May 2006, and some of the other premiers signed as early as March and April.

The Hon. P. HOLLOWAY: The Prime Minister signed it in June, I am told.

The Hon. R.I. LUCAS: The Prime Minister cannot sign it, as I understand it, until all states have signed it.

The Hon. P. HOLLOWAY: It is a long process.

The Hon. R.I. LUCAS: Yes. The first premier signed it in March, our Premier signed it in May and then ultimately the Prime Minister signed in June. As I said, this was soon after the last state election, or only a couple of months after it. Our Premier had signed this clear commitment on our behalf that if certain conditions are met—and I want to explore those—he would hand over retail price regulation to the national regulatory authority, which is the Australian Energy Regulator. During the second reading debate, when I asked what had been agreed to, this was the minister's response:

The Australian energy market agreement provides that the Australian Energy Market Commission will assess the effectiveness of competition for the purposes of retention, removal or reintroduction of retail energy price controls commencing from 1 January 2007. In March 2007, the Ministerial Council on Energy agreed to the sequential review for competition assessment of jurisdictional retail energy markets by the AMC, commencing with Victoria in 2007, South Australia in 2008, New South Wales in 2009 and, if required, the ACT in 2010. Whilst it is yet to be determined, it is expected that the AEMC's final report on the South Australian review will be due in December 2008. The South Australian government needs to provide a public response to the AEMC's advice within six months of receiving the final report.

It is clear from the signed agreement—as I said, signed soon after the state election, and the minister interjected and said that these things take some time—that all of these issues had been discussed by officers and ministers prior to the March 2006 election. Certainly, in discussions I have had with representatives from other states and territories, it is clear that these agreements—although not formally signed until soon after the election—had all been notionally signed off on and agreed to prior to the state election in March 2006.

The minister will remember that in 2005 (prior to the state election), I spent many hours in this chamber pursuing exactly what the state government's position was on retail price regulation. The minister may want to strike it from his memory but I asked him a long series of questions about the government's policy, because minister Conlon had given an exclusive interview to the *Sunday Mail* in which he indicated that he had agreed to handing it over. In essence, minister Conlon let the cat out of the bag about what is in this agreement in an exclusive interview with Kevin Naughton of the *Sunday Mail*. There was an exclusive story in the *Sunday Mail* indicating that the state had agreed to hand over powers in relation to retail price regulation.

That was potentially a hugely controversial issue for a Labor minister and a Labor government, given the statements they had made prior to 2002 and particularly in the period leading up to the 2006 election. The minister might recall that he went through an agonising process of trying not to respond to questions that were put to him about why the minister had made these statements to the *Sunday Mail*. Eventually, he said that the minister had been taken out of context (even though they were direct quotes), and he had not taken up at all the issue of seeking a retraction by the *Sunday Mail*. I will not go through all of that debate again.

It was an important issue in terms of transparency: what this government was doing in the ministerial council. As I said, my information from other jurisdictions was that Mr Conlon's statements to the *Sunday Mail* were entirely accurate; that is, he had agreed but he was not going to formally sign off on it—and the state would not formally sign off on it—until after the state election. The hope was that, if they signed the agreement straight after the election, there would be another four years before the next state election.

In a political sense, that is correct, Mr Acting Chairman, as you realise but, in terms of the openness and transparency of this particular issue—which has been a controversial one—certainly minister Conlon, in particular, and the government have been left exposed in terms of having, with a nod and a wink, secretly agreed to most of these issues and then left the formal signing off until straight after the state election.

As I said, when you look at this particular agreement—and the minister, very helpfully in his interjection, said these things take some time—the first signatures were, I think, 25 March, which was—

An honourable member interjecting:

The Hon. R.I. LUCAS: Exactly. It was just days after our state election. So, this agreement had been ready for signing and was being signed by various state leaders in that March period, soon after our state election, and we then signed it in May. My information—and I am sure this is now backed up by the dates of these particular signatures—is that this had all been agreed notionally by minister Conlon, although he was not honest enough to tell the people of South Australia or to provide the people of South Australia with the sorts of decisions that he had taken, and that if re-elected he was going to recommend to his government that it implement it straight after the state election. However, I guess we get used to that with this minister and with this government.

The question that now remains is: where to from here? We have one tranche of legislation before us. We certainly have another tranche of legislation—the minister has conceded—in relation to non-price retail regulation, if I can describe it that way. So, that is definite. If the government agrees to hand over retail price regulation to the AER, we will potentially have another tranche of legislation to implement that. That means we have this debate, we certainly have one more, then we have another one on gas and then we have the non-price retail regulation. So, we definitely have two more to come after this one, and then potentially we might have retail price regulation as a third tranche of legislation to come over the next two years or so.

The question remains now as to what the government—having signed this agreement—believes its commitments are. It is quite clear from this agreement that the government has agreed to phase out retail price regulation for electricity under certain conditions. Premier Rann has signed this agreement which says, 'We reaffirm our commitment to full retail contestability and we agree to phase it out subject to certain conditions'. The condition is that the AEMC will conduct a study of the retail price market in South Australia next year, and it is assumed there will be a report by the end of the year.

I indicated, I think in my second reading contribution, that the AEMC has conducted the study in Victoria already and it has recommended that there is healthy price competition in Victoria and that, therefore, under these provisions the agreement will be implemented, one would assume, in relation to Victoria, although obviously that question has to go to the Victorian government.

It is my view that when the AEMC does its study of South Australia in 2008—given that the minister has been highlighting that we do have a competitive market in South Australia, and the government has often quoted that there has been significant movement away from the dominant retailer to other competitive retailers (I do not have the exact figures, but I am sure the government does)—it will find that, as with Victoria, there is effective retail competition for electricity in South Australia.

My question to the minister is: what is the government's understanding? I accept that the minister will say, 'Look, we do not know what the AEMC will find', but I put the question: if the AEMC conducts its review and finds that under this agreement there is effective retail price regulation, does the government agree that this agreement it has signed means that it is therefore required by this agreement to hand over retail price regulation to the AER?

The Hon. P. HOLLOWAY: The requirement is that if it is found that there is a competitive market then the state is obliged to hand over the responsibility for that. What is important to understand is that the AEMC will present its final report on the review of South Australian retail competition, including recommended policy responses, in December 2008—in 12 months. The government would then need to provide a public response to the AEMC's advice within six months of receiving the final report. As I said yesterday, it is possible that the government could come to a different view than the AEMC on the effectiveness of retail competition and the appropriate policy responses.

In the event that that were to happen, I guess that would then be in the sphere of a political negotiation as to what exactly the agreement requires. One would expect, given that the procedure has been set out that there has to be a detailed report first of all, taken over the next 12 months, then the state responds within six months, there would be some argy-bargy as to an agreement as to what competition actually means. My advice is there is no formal dispute resolution process, but I am sure that the procedure with these reports—the report first of the AEMC and then of the state—will lead to those issues being clarified. As to what ultimately happens, we will have to wait and see.

The advice I have, in fairly broad terms, is that we know that about 60 per cent of customers have moved to market contracts, so that leaves about 40 per cent still on standard contracts. That is just a snapshot, if you like, of the broad measure of competition.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: My advice is that it is a bit lower, but we can probably check that. It is possibly a bit lower but comparable.

The Hon. R.I. LUCAS: I want to clarify the government's position. Is it arguing that, even though it has signed this agreement, if the AEMC reports that there is effective retail competition under this agreement, the government still has the right, under the process he has indicated, to come to its own conclusion that the AEMC is wrong and therefore refuse to hand over retail price regulating powers?

The Hon. P. HOLLOWAY: Essentially, that is correct. Obviously, the parties have signed an agreement, and I suppose that, in good faith, they will try to reach some resolution and common understanding. After all, the core issue is: what is effective competition? You can assess that in different ways. One would hope that the process would lead to some common agreement as to whether or not effective competition exists.

The Hon. R.I. LUCAS: If that is the government's interpretation of the agreement (which is interesting, I must say), I remind the minister what the government has signed, as follows:

> 14.11 All parties agree to phase out the exercise of retail price regulation of electricity and natural gas—

that is clear—

> —where effective retail competition can be demonstrated and that:
>
> (a) the AEMC will assess the effectiveness of competition for the purposes of retention, removal or reintroduction of retail energy price controls...

There is no mention of the state government and the state minister assessing the effectiveness of competition. It is quite clear and quite explicit that the AEMC will make the judgment. Again without binding the persons I spoke to (because it was an informal discussion), my understanding from the Australian Energy Regulator's office was that this particular understanding and agreement was that it was the AEMC independently that made the decision. Given the agreement the Premier has signed, can the minister explain how he believes that, even though it states that the AEMC will be responsible, the minister can disagree and therefore not be bound by the terms of this signed agreement?

The Hon. P. HOLLOWAY: Clause 14.15 of the agreement states:

The parties further agree that, for the purposes of the phase-out of the exercise of retail price regulation under clause 14.13, the process for responding to advice from the AEMC, under clause 14.11(c)(i), will be as unanimously agreed by the MCE by 1 July 2006.

As I have indicated, the states have six months to respond. That has been agreed by the MCE but, as I indicated earlier, no further dispute resolution process has yet been agreed. As with all these things, presumably the MCE would consider it if it were necessary to do so.

The Hon. R.I. LUCAS: All clause 14.15 is saying is that the process for responding to advice from the AEMC will be as unanimously agreed by the MCE by 1 July 2006. Is that right—by 1 July or on 1 July?

The Hon. P. HOLLOWAY: My advice is that we are not sure that we have met the exact detail of agreeing the process, but the process that has been agreed is that the states will respond in six months.

The Hon. R.I. LUCAS: Can I clarify this: is clause 14.15 in error? It states 'will be as unanimously agreed by the MCE by 1 July'. Is that meant to be 'on 1 July 2006'?

The Hon. P. HOLLOWAY: Yes; we believe so.

The Hon. R.I. LUCAS: That probably makes more sense. I take it that the unanimous agreement of the MCE on 1 July 2006 was that the jurisdiction would have six months to respond: is that correct?

The Hon. P. HOLLOWAY: My advice is that that is the process that has been agreed by the MCE, although it may not have been on 1 July. It is certainly the process that has been agreed.

The Hon. R.I. LUCAS: Is the minister telling us that it is not just that the word 'by' is wrong; it may well be that the date is also wrong?

The Hon. P. HOLLOWAY: We do not know when the agreement was finalised, but I am sure that the signatories to the agreement all fully understand their obligations in relation to this six-month period of response to the recommendations of the AEMC. Clause 3.2 of the agreement states:

The parties will use all reasonable measures to comply with the dates in this agreement but acknowledge that any date may be altered by the unanimous agreement of the MCE ministers.

When you are getting these things signed over three or four months, as suggested, I guess that is why you have to have those flexibility clauses. When you have seven or eight jurisdictions, or whatever it is, sticking rigidly to those time controls is always a problem.

The Hon. R.I. LUCAS: This is one of the things I found curious in the agreement. As I say, I am pleased that the minister gave it to us yesterday. Bearing in mind that this document was signed by some premiers in March 2006, and our Premier signed it in May 2006, how do our Premier and other premiers sign an agreement that states:

The process of responding will be as unanimously agreed by the MCE on 1 July 2006—

which is actually three months later? How do you know that it is unanimously agreed on a date that is later than when you actually signed the agreement?

The Hon. P. HOLLOWAY: As my adviser says, it is really just a date by which you seek to get unanimous agreement—that is, by that time. I assume the premiers and the Prime Minister and other chief ministers do so on the advice of their ministers, departments and advisers negotiating these things, in the expectation that an agreement will be reached.

The Hon. R.I. LUCAS: This is getting curiouser and curiouser, to use a phrase. I could understand if the minister 'fessed up and said, 'Hey; the draft has got this wrong and the date is actually 2005,' or something. That at least, whilst an error, would make some sense, but his purported explanation—based on advice, I accept—does not make any sense at all. Again, it provides, 'will be as unanimously agreed by the MCE' on a date three months after some premiers have already signed it.

I know of no lawyers who would knowingly draft an agreement along those lines, providing for unanimity. You have no idea whether it will be unanimously agreed, yet I am assuming that this six month right for the jurisdictions to respond is probably something on which most of them will have notionally signed off during the 2005 negotiations. If the minister were to stand up and say, 'This is wrong; there is obviously an error and it should have been a date preceding when the minister signed it,' I could perhaps understand it, but I cannot accept or understand the minister's

latest explanation, which is, 'Hey, look; they signed it three months before a date which is mentioned in the agreement.'

The Hon. P. HOLLOWAY: The point here is really that it is a statement of intention to try to get these things in place. My advice is that there are probably other dates in there that have not been met either, but when you have these sorts of agreements they are signed on the best information and intentions at the time and the time lines by which you can expect to achieve certain milestones. I mentioned earlier clause 3.2, which indicates that, whereas the jurisdictions undertake to use their best endeavours (if I am paraphrasing correctly), they will not necessarily meet those objectives. I am told that there are some other deadlines in there as well where there has been some slippage.

The Hon. R.I. LUCAS: Again, one accepts with this debate (I highlighted in the second reading debate that we were expecting to discuss this tranche of legislation two years ago) that there has certainly been slippage, but that is not the slippage we are talking about here. This provision came as a result of the questions I was asking earlier about the AEMC investigation or review, and the government's response was, 'Look; we do have the power to respond.' The minister indicated that there was a six month period, and the reference was, 'Okay; this is as has been explained or described in section 14.15.'

I ask the government to take on notice to get formal advice from whoever has drafted this agreement to confirm the position, that is, that this was not an error in terms of the date, that there had been a unanimous agreement by the MCE on an earlier date than 1 July 2006 and that by error the wrong date had been put in the agreement. As I said, that would be, whilst sloppy, at least an understandable explanation.

I accept that the minister was not party to all these decisions, and perhaps the officers themselves might not have been engaged in this issue as well, but I ask whether the minister would be prepared at least to take this issue on notice and state specifically what the error is—I think the officers have already conceded that the word 'by' should not be there: it should be 'on'—and whether or not there is an error in relation to the actual date that is listed there.

The Hon. P. HOLLOWAY: It is important to explain that clause 14.15 provides that 'the parties further agree that for the purposes of the phase-out…will be as unanimously agreed by the MCE by 1 July 2006'.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Whether it is 'on' or 'by' does not really matter: the important thing is that it provides, 'will be as unanimously agreed'. It is signed before the date; it is an intention that the states will work together to get a unanimous agreement by that time. However, you read that with clause 3.2, which provides that, as much as we might try as jurisdictions, there will be some slippage on occasions. What I can say is that my advice is that the Ministerial Council on Energy has unanimously agreed on those conditions that are relevant to that clause 14(15), that is, that there will be six months.

As to the date when that was done, whether it was by, on or after 1 July, probably does not matter, given clause 3.2. The important thing is that the MCE has unanimously agreed that there will be the six months for the government to respond. However, what the agreement does not have is any dispute mechanism should there not be agreement. I think we have already covered that. I hope that answers the fact that the agreement is really a statement of intention to try to get something agreed by that date. The important thing is that there has now been that unanimous agreement, and therefore I would argue that under the terms of the agreement that arrangement applies. However, there is no agreement about what should happen in relation to any dispute over it.

The Hon. R.I. LUCAS: I am happy to take this on notice if the minister is prepared to undertake to provide a copy of the agreement that the MCE entered into on whatever date it was; if the minister was prepared to provide a copy of the actual agreement between the ministers on this issue and the date on which that was entered into.

The Hon. P. HOLLOWAY: The minutes would give the dates. I do not know whether there is any confidentiality but, subject to that—I am not sure whether we can provide that; it would depend on whether for some reason it might be confidential. I am sure we can at least get the date; that should not be a problem anyway.

The Hon. R.I. LUCAS: I take it that the minister is indicating that he will at least inquire as to whether it can be provided. Having had some experience with this body, I can see no rational reason why this particular decision would be confidential, given that it is obviously providing powers to jurisdictions to comment, but I will await advice on that.

In the agreement that has been signed it is quite clear that it is the AEMC that does this review; it does not say that the minister will do it. The minister is now saying, 'At some time the ministers have agreed that there is a process for responding to the advice from the AEMC.' Will he indicate what else is in this resolution? That is, it says that there will be six months to respond to the advice of the review by the AEMC. What else does it say, other than that the jurisdiction has six months to respond to that advice?

The Hon. P. HOLLOWAY: The only advice that I can provide at this stage (that my advisers give me) is that, really, it is essentially just restricted to what we have said; that there will be six months to provide that advice. However, we are already looking at whether we can make it available. If there is anything further, we can provide that information when we get a date on it. However, for the purposes of this debate, the information we have now is that it really does not go much beyond indicating that there is six months for the states to respond.

The Hon. R.I. LUCAS: My discussions with the Australian Energy Regulator officers and officers in other jurisdictions have led me to believe something quite contrary to what the government is putting at this stage. That is, that the Australian Energy Market Commission is the body which independently assesses whether or not there is competition. There was a view from those pushing the national market that if you leave it up to the politicians and the jurisdictions, they will make judgments which are politically saleable or manageable within their own jurisdictions. So, the view was that you had to have an independent body to do the assessment and, therefore, the AEMC, and that is why it is drafted this way.

The minister is indicating that there is six months for the jurisdiction to then respond to the AEMC advice. That could be entirely consistent with the advice that I have had: that is, the independent body makes an assessment or a judgment and the jurisdiction can then have six months—a period of time—to say, 'We think it is fantastic,' or, 'We disagree,' but that it is the independent body that eventually has the final decision, which is consistent with this particular agreement. The minister, however, is saying, 'No, it's not just that; it's also that the politician can say, "No, we don't think there is competition within the six months",' and disagree, and that there is no dispute-handling resolution.

What the minister is saying is that the Australian Energy Market Commission says there is competition, therefore, you have to hand over your retail pricing powers; that is what this agreement also says. The minister is now saying, 'The jurisdiction can have six months to comment, but not just comment on that and acknowledge that the AEMC makes the judgment as to whether or not there is price competition in the market and, therefore, you have to hand over your powers.'

The minister is now saying that it is the South Australian government's view that if the jurisdiction disagrees—that if the minister says, 'No, no, there isn't competition; we don't want to hand over our powers,' therefore, the AEMC cannot implement this particular agreement, there is no dispute-handing resolution and, therefore, it will be ultimately an issue for either negotiation or for the courts in terms of resolving the particular dispute.'

As I said, the minister's construction of the circumstances is entirely different to my understanding of discussions I have had with a range of others involved in this particular issue. It is a critical issue. As I have highlighted, the sensitivity of this issue meant that the government and the minister were less than honest with us, prior to the 2006 election, as to what they had agreed. They signed all of this up within days and weeks after the 2006 election. This issue is potentially controversial. It is sensitive for the Labor government, given what it has said on previous occasions.

This agreement, to me, is quite clear. The minister is, however, saying that it is not; that there is this other resolution of the MCE which we at this stage do not have and which therefore throws it in doubt; that is that the minister can say, 'No, I disagree with that and, therefore, this agreement cannot be implemented.' I think it is fairly fundamental to this whole debate about the national electricity market. This is not some trifling issue that does not have widespread impact. This is the issue as to which body (the state or the federal regulatory authority) will actually control retail pricing through all of our consumers in South Australia. It is a fundamental issue in terms of the national electricity market.

The Hon. P. HOLLOWAY: The price-setting powers are contained in the Electricity Act. My advice is that for them to transfer over to the AEMC it would have to be done through a change to the act. It is not just the minister or the MCE: it is a matter for this parliament ultimately agreeing to a change. We are moving towards a national electricity market. We have the MCA, and all states and territories and the Commonwealth are agreeing to move in a particular direction. Whereas the intention expressed by that agreement is that we should move towards this regulator, clearly there are these provisos in there, and the key issue is whether or not there is effective competition: that is a key part of that agreement. Within the terms of that agreement, that is the condition on which the transfer takes place.

In the first instance the state would have to be satisfied. It has six months to respond and take up the issue with the AEMC if it does not believe that there is effective competition. That is something about which we can all have different views and debate, but there are lots of objective measures of what effective competition is. However, at the end of the day, this parliament would have to be satisfied before the Electricity Act could be changed to give effect to that transfer of powers.

The Hon. R.I. LUCAS: That is a touch cute for the minister, and he knows it. I think the frustration expressed by a number of members—the Hon. Mr Xenophon, the Hon. Sandra Kanck (in the past) and others—is that, by and large, the government and the alternative government have accepted this notion or convention that these agreements have been negotiated between governments and it is well nigh impossible for an individual jurisdiction, after that has occurred, to actually amend the agreement. He will be the first minister who has stood up and said we have spent months and years negotiating this.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I accept that, but the minister will also come to us and say that the Premier of the state actually signed an agreement on behalf of the state which said, in essence—

The Hon. P. Holloway: Subject to effective competition.

The Hon. R.I. LUCAS: But the Premier signed an agreement that said 'subject to effective competition, which would be assessed by the AMC'. I can understand it if he had a rider in there that said 'and the jurisdiction has to agree that there is effective competition'.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It does not say that. The minister is saying that there is another decision that says that the states have a right to respond. By responding, it does not mean that they have the power to overturn the decision. They can put a response to the body that makes the decision, the AEMC, but ultimately under this agreement it is the AEMC that makes the decision.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: But the Premier of the state has signed an agreement that says he will. The Premier and the minister will come to the parliament and say, 'Hey, we have negotiated these things; I have signed an agreement on the state's behalf which says that is what will occur', and by and large that is how most of the legislation has been passed. It is not a criticism in relation to the legislation of just this government. The former government as the lead legislator brought legislation that was equally criticised by minor parties and independents saying, 'You've entered into this, but what say does this parliament have in relation to some of the issues?'

In the last debate the Hon. Nick Xenophon moved a series of amendments that the government and the opposition opposed on the basis that this would be the national agreement that had been entered into and, even if some of us might have thought that some small aspects of what Mr Xenophon moved might have made some sense, we were not in a position at that stage to be able to do it. I will not revisit all that debate again, but the principle is evident to the minister. When in opposition I am sure he probably expressed similar views and frustrations about the national electricity laws and other national laws imposed on state parliaments.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, the opposition is similarly supporting issues in the national interest. Obviously there is a fundamental disagreement in terms of the position. Post this debate I intend to raise the issues with the Australian Energy Regulator and other jurisdictions and people familiar with it to confirm the position. It will be interesting to speak with the commonwealth minister although, if there is a change of government, there will be a new commonwealth minister who will

need to come up to speed. I will be surprised if the commonwealth minister shared the view the state minister has put in relation to this issue, given the well known and public views that he has expressed on any number of occasions in terms of the importance of a national market and the removal of state-based regulators, and so on.

Nothing much more can be resolved at this stage on that. In relation to the position of the state-based regulator, I asked the question in 2005 and the minister's response was that it was still a bit too early to tell. One of the major pushes in terms of the legislation before us and the whole legislative package was that ministers Macfarlane and Conlon have been running around saying that we have too many regulatory authorities in Australia and we need to reduce the number. I highlighted at the time that we were not reducing the number but either maintaining or increasing the number with the establishment of the AER, the AEMC and a continuing role for ESCOSA.

Has the government come to a landing two years later from the 2005 debate as to when the next two tranches of legislation have been resolved and on whether we still need an ESCOSA of the size and shape we have currently?

The Hon. P. HOLLOWAY: I seem to recall the answer a couple of years ago and I think we talked about residual functions and there is certainly rail, ports and other areas. Some staff will be transferred and that is in the information I provided in the second reading that currently ESCOSA staff working in the energy area have been guaranteed positions in the AER, with the ability to stay in Adelaide. The current expectations for Adelaide are a staffing compliment of 15 to 20 people once all the energy functions are transferred. There will still be some role for ESCOSA in other areas, so there are residual responsibilities.

The Hon. R.I. LUCAS: In relation to the current operations of ESCOSA, because one of the major tasks it is involved with is the regulatory reset for the distribution company. It is a huge task and takes up enormous resources. Do we still have four commissioners at ESCOSA or has the government reduced the number of well paid commissioner positions within ESCOSA?

The Hon. P. HOLLOWAY: We still have four commissioners.

The Hon. R.I. LUCAS: Why would we still need four positions on ESCOSA when the major task it undertakes is being handed over to the Australian Energy Regulator and, even if there are residual functions within ESCOSA, surely it is capable of being handled by one commissioner, as originally the independent regulator constituted just a single individual?

The Hon. P. HOLLOWAY: As I understand it, the Essential Services Commission Act is assigned to the Treasurer, so it is something the Treasurer would ultimately have to consider. I do not think the current Treasurer, like previous treasurers, is given to spending money if it is not necessary.

ESCOSA still has significant functions up until at least the end of next year—and possibly longer with these transitional phases. Obviously, that would be a matter for the Treasurer to consider at some time over the next year or two when these functions are transferred.

The Hon. R.I. LUCAS: My personal view (and it is not something we have discussed as a party) is that the South Australian independent industry regulator, constituting a single individual, has for some time had a very broad set of functions. It was then expanded (for reasons I understand), but we are in the process of handing back probably the biggest task of the Essential Services Commission, and the advice you gave in response to an earlier question was that all that work would be done by the Australian Energy Regulator as from the passage of this legislation. So there would appear to be no earthly reason why the government would want to continue with the same number of commissioners. Clearly the number of staff will be reduced (I assume) through this transfer process the minister has outlined.

The Hon. P. HOLLOWAY: I would like to correct one thing before we move on. I am advised that there will still be some residual functions. Whereas I agree with the Hon. Rob Lucas that most of the responsibilities will go to the AER, I am told that there are still some functions retained. These would be:

- distributed technical safety business licensing and authorisation schemes that require the demonstration of technical capability;
- small customer dispute resolution;
- the obligation for distributors and retailers to have internal dispute resolution schemes and participate in independent dispute resolution ombudsman-type schemes;

- a load shedding and curtailment customer supply reduction sequence to maintain system security;
- service reliability standards (which ensure network security and reliability);
- metering, and policies on the types of meters required for specific customer classes;
- accredited service provider arrangements and load profile arrangements; and
- distribution and retail service areas (specification of geographical areas in which responsibilities and obligations apply).

So, there are those residual functions, but pricing is obviously the key issue.

The Hon. R.I. LUCAS: In relation to the Adelaide office for the Australian Energy Regulator, the minister's reply to a question in the second reading was that staff currently deal mostly with market enforcement and compliance. Would the minister expand further on that? In particular, what role, if any, do they have in terms of the distribution sector of the national electricity market?

The Hon. P. HOLLOWAY: I am advised that there are none as yet; this act will transfer those functions.

The Hon. R.I. LUCAS: I need to clarify my question. I understand this act moves powers relating to distribution to the Australian Energy Regulator nationally. My question relates to the local office of the AER—that is, the local office in Adelaide. We are told that the staff currently deal mostly with market enforcement and compliance. Before I get to the second part of the question, and to assist the debate, can the minister indicate which particular sectors of the national electricity market that market enforcement and compliance are in? Is it generational retail in particular?

The Hon. P. HOLLOWAY: My advice is that under the current act the AER has responsibility for the monitoring and enforcement of laws. In particular, that relates to transmission, generation and the market operation systems.

The Hon. R.I. LUCAS: With the passage of this legislation, will it be the Adelaide office staff of the AER who will conduct the regulatory reset for ETSA Utilities or will that be conducted out of the Melbourne office?

The Hon. P. HOLLOWAY: That is a matter for the AER to determine. I think we did indicate that there would be significant staff but exactly how their functions are assigned is, I guess, up to the AER. I suppose they will use expertise where it can be best deployed.

The Hon. R.I. LUCAS: I ask the question because during the 2005 debates, and in the period leading up to them, the minister indicated that it would not make sense to have decisions relating to the distribution industry being made by people in an Eastern States office, and he lobbied strongly for a local office of the Australian Energy Regulator. As I said, I have been advised that the current staff within the local office of the AER have nothing to do with the key issues that relate to the distribution sector—that is, regulatory reset and maintenance standards, and all those sorts of issues. Those officers are probably in Melbourne or in other parts of the national electricity market.

I guess I am trying to clarify what commitments the minister gave in relation to what the local office of the AER would actually do and what would be its involvement in the distribution sector. As I said, obviously the key issues there will be the pricing and maintenance issues. Is the minister able to confirm that it is still the state government's position that the local office of the AER will have responsibilities in these areas and that these key decisions will be taken in Adelaide rather than in the Eastern States?

The Hon. P. HOLLOWAY: At present, if the AER does not have the functions of distribution and retail then, obviously, one would not expect them to have the expertise or that they would be doing it. What we have indicated is that staff will be transferring over, and the indications are that they will be based in Adelaide. So, there will be significant staff transfers, and that will give the AER the capacity to undertake these services here in Adelaide.

Ultimately, the AER will determine that, but it is obviously logical that, if those staff who have been undertaking that function are transferred over to the AER and they are located here in Adelaide, it makes sense that they would undertake that function here in Adelaide. However, if there are other people with expertise in other parts of the country, I suppose it is really up to the AER how it wants to arrange them. However, what is important—I guess, the bottom line, if you

like—is that the staff located here in Adelaide are familiar with the market and have the expertise to contribute to the process.

The Hon. R.I. LUCAS: I will leave the following question with the minister and, ultimately, I guess, it is for the minister responsible and his advisers to provide a response if the minister so chooses. What discussions is the minister having and what expectations does the minister still have in relation to the role of the local office of the Australian Energy Regulator in South Australia?

As I have said, I will not take up the committee's time by going back through the statements the minister made at the time, but I will summarise by saying that he indicated that it did not make much sense to be, in essence, running, managing or oversighting the distribution sector in South Australia from the eastern states, and he led everyone to believe that the local office would have a significant role in relation to that. So, I leave that question with the minister and, if there is a response that the Minister for Energy is prepared to provide by way of correspondence, I would certainly be interested in receiving it. However, if we do not, when the legislation comes before the parliament again in the next 12 to 18 months it will be an issue that we will pursue at that time.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. M. PARNELL: I move:

Page 10, after line 13—Insert:

(5A) NEL, section 2, definition of *electricity services*—after 'consumers of electricity' insert:

or that are relevant to the management of demand for electricity in association with the supply of electricity;

I have a total of 14 amendments to this bill, and they follow a number of themes. The first five amendments relate to the various definitions that are included in clause 5 of the bill, and my later amendments are changes that incorporate those new definitions.

The themes around my amendments, if I can speak briefly to them in toto, relate to demand management. I have some amendments in relation to greenhouse gas emissions, renewable energy and the creation of a renewable electricity and emissions intensity panel. These amendments come together most importantly in my amendment No. 6, but I will speak separately to a number of these amendments individually.

What I will say at the outset is that, as has been said before in all of the second reading contributions, we are talking about proposed national laws, but national laws for which South Australia is the lead agency. It does beg the question, when we debate bills like this, as to the role of the state parliaments, given various negotiations and agreements that have been reached between ministers. My view is that, whatever deals might have been done at the executive level through the various jurisdictions, we cannot and should not abrogate our responsibilities to the community.

I have taken as my primary guide for these amendments, including the first one, the amendment package which was provided to all members and, as I understand it, to all members of all state and territory parliaments (and I referred to this amendment package in my second reading speech) and which was put together by a large number of non-government organisations. I will not read through the whole list, but it represents the peak bodies in relation to the environment, community welfare and the peak bodies representing consumers.

What those groups have collectively done is to plead with all premiers, all energy ministers and all members of legislatures that we should accept some amendments to these national laws to make them fairer for consumers and more sustainable environmentally, particularly in relation to minimising greenhouse gas emissions and promoting renewable energy.

My amendment No. 1 proposes to include, after the definition of 'electricity services', the concept of the management of demand for electricity in association with the supply of electricity. In other words, it tries to bring together the fact that efficiency, as we think of it in common parlance, and particularly in relation to electricity, is not just about supply. There are two sides to the equation. There is a supply side and there is a demand side. Being more efficient in our use of electricity does not mean the same thing as increasing the supply of electricity. It can and should, especially in relation to greenhouse gas emissions, mean a reduction in demand for electricity as well.

The groups that I referred to—the conservation, social welfare and consumer groups—have pointed out that the demand side of the equation is almost completely absent from this legislation. What they say is that the national electricity market is a supply-side dominated market and that that is at the expense of consumers, the environment and efficiency. Inefficiency by consumers increases consumption and, therefore, the income of the energy providers; in other words, the suppliers. While the regulated networks are in a position to implement and benefit from demand management, many barriers exist under the code that prevent or fail to encourage demand management initiatives.

The national electricity law should make the development of demand management an objective; likewise, the immaturity of the demand management provider market should be addressed. It is not as sophisticated a market as the supply-side market. I will be seeking to incorporate the concept of demand management into the national electricity objective in a later amendment, but for now the important thing to do is to acknowledge the concept by including it in clause 5 in the definition.

Whether or not my later amendments in relation to the national electricity objective are accepted, I think that this first amendment should be supported. If it turned out that I am including definitions that subsequently are not required because they are not referred to anywhere else in the legislation, then we could remove them. But for now, I would urge all honourable members to support my first amendment, because including demand management in the legislation is an obvious and necessary inclusion because it is the flip side to supply in the meaning of efficiency.

The Hon. P. HOLLOWAY: The government opposes the proposed amendments, and I will speak to the first two in particular, which relate to demand management. The definition is already sufficiently broad to capture the appropriate management of the supply and use of electricity in the national electricity market. These amendments are not considered necessary in the context of the existing legislation and when read in conjunction with the proposed national electricity rules amendments, which established a foundation for the efficient uptake of demand management initiatives as well as renewable and distributed generation.

I would remind the committee that it must be kept in mind that all amendments to the National Electricity (South Australia) (National Electricity Law—Miscellaneous Amendments) Amendment Bill 2007 require the agreement of all state, territory and commonwealth energy ministers. The government does not believe they are necessary, in any case, given that we would have to renegotiate with all states, and the previous debate indicated how long that process can take. The government cannot accept these amendments.

The Hon. R.I. LUCAS: I intimated in earlier contributions that the frustration of members of state parliaments—not just in this jurisdiction but in others—is understandable.

As I said, when we were in government, similar frustrations were expressed by the opposition, as well as Independent and third party representatives. Nevertheless, it is our position in opposition (and it was also our position in government, so to that extent we are being consistent) that for us as a parliament to go down the path of making changes would not be a process that would assist the further development of the national electricity market.

Clearly, it required changes, which are already two years or at least 18 months late in arriving in this parliament. If we were to make changes, clearly there would be even further delays in terms of seeking agreement; even then, there is no guarantee that we would get agreement from the other jurisdictions to some or all the amendments we contemplate. I understand the frustration, but that is the business the majority of us have accepted, for better or worse. I will not be supporting this or, indeed, other amendments.

The only caveat I place on this is that if, ultimately, there were something that were just so fundamentally abhorrent to members of parliament (and I can only speak personally) there would be an argument to stand on your dignity as a state parliament and send the government back to the negotiating table. However strongly the Hon. Mr Parnell feels on this issue or, indeed, I have felt on other issues, I do not see them as meeting that definition—that is, so fundamentally abhorrent to what we ought to be doing. I put them in the category, in this case, of improvements or important needs that should be met that are not being met by the legislation.

The issues I raised earlier are even more fundamental in terms of exactly what the government intends in the future of retail pricing. Ultimately, I have accepted, and we have accepted as a party, that it has been a long and laborious process to get where we are. We will

express our views, and we will have another two or three endeavours to see whether or not we can express our view in future tranches of legislation.

The final point I make (and I will explore it later) is that, last time, I flagged some concerns in relation to the drafting of the law and the rules. I am interested in pursuing (because I am not a lawyer) whether or not any of those have been catered for in this current drafting and redrafting of the rules and the National Electricity Law. The only faint hope I hold out for the Hon. Mr Parnell and others is that, perhaps not on this amendment but on others he has, if there are issues, he might be able to obtain undertakings from the government at least to take them up in the discussions at the national level.

He need not limit himself to this debate; obviously, he can correspond with the Minister for Energy and say, 'We have another two tranches of legislation coming up. Your lot and the bloody opposition didn't support me this time. But I think this is sensible. Are you prepared to take up this issue at the ministerial council?' The minister may well still say, 'Nick off. I'm not going to agree with anything you say.' At least he has the capacity to take up the issues (and at the ministerial council level, we will have another two goes at the legislation) and see whether or not he can get agreement to some or all the issues the Hon. Mr Parnell has raised. I can only offer that as a suggestion, should the numbers not be with him on this occasion.

The Hon. P. HOLLOWAY: I think it is important that I briefly put on the record what we are doing in relation to demand management, because I would not want anyone to think this is an issue that has been neglected. The new National Electricity (Economic Regulation of Distribution Services) Amendment Rule 2007 represents a significant step forward in the development of the regulatory framework by establishing new rules to assist in the removal of barriers to the efficient uptake of demand management initiatives as well as renewable and distributed generation.

The purpose of the rules is to provide for consideration of a non-network, such as demand side response options, in meeting electricity distribution network investment, and these include provisions which ensure that embedded generators such as small scale photovoltaic units are not charged for exporting into the grid; to enable the AER to consider the extent to which the network businesses have considered and made provision for efficient non-network alternatives in forecasting capital and operating expenditure; to enable the AER to develop a demand management incentive scheme to encourage the implementation of efficient non-network alternatives; and also to ensure that customers with microgeneration facilities should not be treated less favourably than other customers in relation to the tariffs they are required to pay.

The Hon. Rob Lucas has indicated the constraints that are on us all, and the national electricity laws have been around for more than a decade now. It was a 1996 bill, I think, and all of us who have been here for that time understand the restraints on us. It is important that we record that these issues that the Hon. Mark Parnell has raised have not been neglected by the energy ministers.

The Hon. M. PARNELL: The Liberal opposition response has set the tone for this amendment and for the balance of my amendments. However, I will be moving each of them, but I will not be dividing on all of them. I will have a bit more to say about my amendment No. 6, which is at the heart of my amendments.

The Hon. Rob Lucas talked about seeking out fundamentally abhorrent aspects of this legislation. The reforms that I have pointed to: are they fundamentally abhorrent? I do not know; they are fundamentally flawed, and I accept what the minister has said about subsidiary documents such as rules incorporating things such as demand management. However, I believe, as do all of the environment, community and consumer groups that have written to me, that these issues are so important that they deserve to be in the legislation itself rather than being referred to subsidiary documents.

I am disappointed that I do not have the numbers on this first amendment, but I will proceed through my others and explain why I believe that they are important reforms. I should also say that, whether or not this parliament accepts them, I would have every confidence that every other state and territory jurisdiction that looks at these laws will be presented with amendments such as these, and I hope that those parliaments will have the courage to challenge the orthodoxy that these national regimes, written by various state and territory executives, are untouchable.

I hope some other parliament does have that courage, because what we are talking about in terms of energy is one of the most important debates of this century, and I will have some more to say about that when I get onto my greenhouse amendment. For now I am happy to test the will of the committee on my first amendment.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 10, after line 15—

Insert:

(6a) NEL, section 2, definition of electricity services—after paragraph (c) insert:

(d) the provision of measures in connection with the generation, supply or use of electricity to reduce demand for electricity;

This is effectively consequential, but it also relates to demand management and I will not speak to it further.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 10, after line 21—

Insert:

greenhouse gas emissions are emissions of—

(a) carbon dioxide; or

(b) methane; or

(c) nitrous oxide; or

(d) hydro fluorocarbons; or

(e) perfluorocarbons; or

(f) sulphur hexafluoride; or

(g) any other gas brought within the ambit of this definition by the regulations;

This is to include a definition of greenhouse gas emissions. This definition is identical to a definition that we have previously passed in this place, being the definition of greenhouse emissions in the Climate Change and Greenhouse Emissions Reduction Act 2007.

The need for this definition, in a technical sense, is because it is referred to in other amendments; in particular, my proposed amendment No. 6 which replaces the national electricity objective. I want to speak very briefly about why we need to put this in. It seems to me to be somewhat inconsistent for the state government to have sung its own praises so loudly about its commitment to the reduction of greenhouse gas emissions.

We had the Premier trumpeting the legislation that I have just referred to and pointing out the leadership that he says South Australia has in this area, and yet when we come to the single biggest source of greenhouse gas emissions in this country (namely, the production of electricity) we find that there is not a single mention of the importance of greenhouse gas emissions. We have been told by the Premier and others that this is the most important issue facing the planet today. It is an issue more important than terrorism and, yet, it is not referred to at all.

All members are familiar with the reports of the International Panel on Climate Change. Each report, as it comes out, shows the situation to be more dire than previously thought. However, there is a particular South Australian context here, as well. Whilst we might talk about the proportion of renewable energy that we have in this state (and I will have a bit more to say about that later on), we also have on the table the prospect of a brand new, dirty, coal-fired power station at Kingston in the South-East.

Greenhouse gas emissions will be a live issue for South Australia. We will have to deal with that proposed power station in relation to the Climate Change and Greenhouse Emissions Reduction Act 2007. I suspect that a brand new, baseload, coal-fired power station will blow our greenhouse emissions out of the water, in much the say way that big developments which are energy intensive (such as the Roxby Downs expansion and the Penola pulp mill, unless powered by renewable energy) will also blow our greenhouse targets out of the water.

It seems to me that we have a level of hypocrisy here and, certainly, inconsistency. This state has insisted on special treatment in some parts of these laws—for example, in relation to postage stamp pricing. There is no reason why we should not build on the pride that the government says we should have in our greenhouse legislation by insisting that these national

electricity laws include a reference to greenhouse gas emissions. It is an oversight of monumental proportions.

I cannot believe that all of the states and territories could sit down around the table and not include greenhouse gas emissions. Unless you have just flown in from Mars or some other planet, in the current election campaign all of the parties are talking about their credentials on greenhouse gas reductions. Yet, here we are, collectively, as a nation (with South Australia the lead legislating jurisdiction), completely ignoring this issue in our national electricity laws. I urge all honourable members to support its inclusion.

Whether or not my subsequent amendments are adopted, I still think this amendment can be passed. If it turns out that, having included the definition, there is no longer any reference to it anywhere else in the legislation, we can recommit and take it out. However, for now, I think we are sending entirely the wrong signal not just to the South Australian community but to the Australian public that we are not serious about greenhouse, unless we include it in this legislation.

The Hon. P. HOLLOWAY: The government opposes the amendments. The proposed amendments are inappropriately seeking to extend the ambit of the national electricity market to include carbon trading and other future renewable energy schemes.

While environmental objects are very important, the South Australian government is actively seeking to take leadership in responding to climate change. Clearly the Australian Energy Regulator, the Australian Energy Market Commission and market participants are not the most appropriate bodies to determine the environmental policy priorities of government across the energy sector, as with other policy objectives that are not the most appropriate bodies to determine the environmental policy priorities of government across the energy sector.

As with other policy objectives that are not directly addressed as part of the national electricity law—one can give examples such as industrial relations, occupational health and safety and specific environmental protection—they are best addressed by means of policy specific legislation. For example, the commonwealth government's mandatory renewable energy target (MRET) has achieved increased renewable energy and has indirectly impacted on the choices being made in the national electricity market without having changed the national electricity law.

I note there is now bipartisan support federally for increasing the level of mandatory renewable energy target and also that there is now bipartisan support federally for implementing an emissions trading regime by no later than 2012, which should provide the incentives to fundamentally transform over time the electricity supply industry towards low emission generation capacity. On 13 April 2007 the Council of Australian Governments agreed to establish a mandatory national greenhouse gas emissions and energy reporting system, and the issue of information reporting on greenhouse issues will continue to be developed under that national system rather than duplicated for the energy market.

While the issues raised by the honourable member are vitally important, it does not necessarily follow that one should put those policy objectives directly in the national electricity law any more than we would do so with other important issues such as occupational health and safety and industrial relations.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 1, after line 41—Insert:

(12a) NEL, section 2, definition of national electricity market—after paragraph (b) insert:

and

(c) any national market that provides for the trading of certificates or other rights created by statute to promote renewable electricity or reductions in rates of greenhouse gas emissions in connection with the generation of electricity;

This amendment includes in the definition section a reference to any national market that provides for the trading of certificates or other rights created by statute to promote renewable electricity or reductions in rates of greenhouse emissions in connection with the generation of electricity. Just as I said the issue of demand management was important to include in this legislation, so too is the issue of renewable energy. Certainly these laws provide, in a fairly traditional way, the regulatory framework for electricity supply and for some reliability aspects. However, other elements need to be included. The important issue here is the renewable components attributed to the renewable energy suppliers that enter the national market as renewable energy certificates and need to be

properly regulated. This bill is one method, if not of direct regulation, of at least acknowledging those issues.

The renewable energy certificates are purchased by those who have either mandatory obligations or those who voluntarily seek to choose renewable energy, for example, those of us who choose green power, which includes renewable energy certificates. It is important to note that the accounting of renewable electricity is based on the renewable energy certificates and not the wiring; in other words, it is the ownership of those certificates rather than the physical location of the generation. Some people have been surprised to find that their solar hot water service—whilst they would think of it as theirs, producing clean power through hot water to them—in fact may well be owned by someone else.

Clearly, there are different greenhouse gas emission intensities for different methods of producing electricity—whether it be from coal, natural gas or renewables—and customers are increasingly choosing electricity that is lower in greenhouse gas emissions. That is why I think it is important to make sure we deal with these issues in the national electricity laws in an integrated way. Regardless of state or federal policies for renewable electricity or present or future policies on restraining carbon, there are obvious benefits in having one national energy regulator to administer a single energy framework that incorporates supply (such as we have in the present bill), as well as renewable energy and the greenhouse intensity aspects of electricity. Those are the elements that are missing.

The bill currently supports only one of those elements to be regulated through the Australian Energy Regulator—that is, supply. It does nothing to acknowledge how it supports or how it can integrate with the functions of other agencies, such as the Office of the Renewable Energy Regulator, particularly in relation to how that organisation regulates the national renewable energy certificates market in supporting the national mandatory renewable energy target—the MRET, as the minister referred to it. Our policy in this area is largely disintegrated between the supply side and the emissions and renewable energy side; we are treating those things as separate when they should be dealt with together.

At the national level we have the Australian National Energy Market Commission, which is focussed on the supply side, whilst the federal government, through the Australian Greenhouse Office, is the agency driving the emissions and renewable side of the electricity policy—but they are doing so in isolation. This approach to electricity policy and regulation fails to identify and address some of the significant emerging issues in the national electricity market.

I have mentioned one of those issues in this place previously, and that is this widespread double accounting of renewable electricity which is evident in a number of problems we have seen. For example, the South Australian government supports state-based renewable energy suppliers selling their energy certificates to the national market—and those are mostly sold interstate. Yet the state government claims that all this renewable electricity is used in South Australia because the location of the facilities and the wires happen to be in South Australia, ignoring the fact that the true ownership is elsewhere. It seems that there is no tracking or summary reporting of the interstate trade of renewable energy certificates at all, and if the minister believes that such reporting or tracking is taking place I would be interested to hear it.

The different state-based renewable energy policies and schemes vary widely in their value, the claims they make and the rules that govern them. For example, we have non-accredited renewable energy from old hydro-electric schemes dominating the voluntary renewable energy market despite the benefit of these sources still being included in the aggregated state greenhouse emissions. Because we have a lack of disclosure rules, households that install solar PV systems or solar hot water systems often do not realise that their renewable energy certificates have already been claimed by another person (as I have said). My information is that this double accounting is of such a magnitude that it now extends to something like 20 per cent of the entire mandatory renewable energy target scheme.

For those reasons I believe it is important to ensure that renewable energy is treated distinctly and separately in this regulation rather than just being referred to other bodies, other regimes, or, as with the minister 's response in relation to demand management, buried within the rules. I urge all honourable members to support this amendment.

The Hon. P. HOLLOWAY: For the reasons I outlined in the previous amendment, the government opposes the amendment.

Amendment negatived.

Progress reported; committee to sit again.

STATUTES AMENDMENT (YOUNG OFFENDERS) BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (13:01): 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.

This Bill makes some amendments to our juvenile justice laws as a result of the Cappo Report 'To Break the Cycle'. The Government has decided to take action in response to every one of the 46 recommendations in the Report. Not all of them, however, require legislation: most do not. This Bill derives from recommendations two, seven and eight of the Report.

Recommendation eight of the Cappo report concerns adults who commit crimes in the presence of young people. The report finds that 'the notion of imposing harsher sentences on adults who commit crimes in the presence of minors is sound', although individual circumstances need to be considered.

Based on recommendation eight, clause 4 amends the aggravated-offence provision of the Criminal Law Consolidation Act. It is already an aggravating factor that an offence is committed in company. The amendment makes clear that this includes the company of a child. The effect of the aggravated-offences laws is that, where an aggravating factor exists, for an offence that is susceptible of aggravation, a higher penalty can be imposed. Thus, for example, robbery committed in circumstances that do not include an aggravating factor carries a maximum penalty of 15 years. If an aggravating factor applies, the maximum penalty is life. That, then, is the potential penalty if a person commits the offence of robbery in company with a child.

Clause 5 likewise makes it a factor relevant in sentencing that the offence was committed in circumstances where it could be seen or heard by a child, other than a child victim. The latter exclusion is because it is a separate, aggravating factor, that the offence is committed against a child under 12 or a child living with the offender.

The Bill also addresses Cappo's recommendation two, which has 'urgent action' status. That recommendation proposed that the objects of the Young Offenders Act be amended to strengthen the requirement to take account of public safety when sentencing serious repeat offenders. The strengthening of these provisions, Cappo said, should occur in the context of a stronger focus on rehabilitation.

The objects of the Act already refer to public safety. Section 3(2)(c) embodies the statutory policy that 'the community, and individual members of it, must be adequately protected against violent or wrongful acts'. That is a general policy that must be applied in exercising any of the powers conferred by the Act, including the choice of sanctions for offences.

There is no need to restate this policy, but it is useful to make specific reference to the case of the young offender who, because he poses a risk to public safety or for other reasons, is being tried as an adult. That can occur under section 17 of the Act and will also be possible under proposed new section 17A. Thus, clause 6 amends section 3 to provide expressly for the case where a court is to sentence a youth who is being dealt with as an adult. The clause directs the court to consider general deterrence, public safety and rehabilitation. This is an attempt to balance two key factors noted by the Cappo's recommendation: protection of the public and rehabilitation of the youth.

Recommendation seven considers the circumstances in which a youth should be tried in the adult courts. It is already the law that youths can be tried as adults in some cases, as provided in section 17 of the Young Offenders Act. This can occur where the youth is charged with homicide or attempted homicide. It can occur at the youth's own request where the offence is indictable. It can also occur on the application of the prosecution, for grave offences or where the offence is part of a pattern of repeat offending.

The Cappo Report recommends the use of these provisions where there is serious concern that the actions of a young person are putting the public at risk but does not recommend a change to section 17.

The Government has considered this recommendation. Clearly, we need to be cautious about any amendments that could result in young people being treated more harshly by the justice system. There are good reasons to prefer diversionary measures if the youth is likely to respond to them. The fact is, however, as the Cappo Report notes, that a large share of youth offending is attributable to a small group of serious repeat offenders. For whatever reason, and the Government accepts Cappo's finding that a background of abuse or neglect may play a part, some of these young people fail to respond to the cautionary and diversionary measures that characterise the youth-justice system. They go on offending, time after time, heedless of warnings and of consequences. These youths present a serious risk to public safety. There are cases in which this risk is so serious that the youth ought to be tried directly in the adult courts without the involvement of the Youth Court.

This Bill would therefore, by clause 8, permit the Director of Public Prosecutions, in the case of a major indictable offence alleged against a youth who presents a risk to the public, to lay charges directly in the Magistrates Court. A preliminary examination will be held in the ordinary way and the youth may, if the Magistrates Court sees fit, be committed for trial just like an adult defendant. The Bill sets out the factors that the Director of Public Prosecutions and the magistrate must consider in deciding whether to take this action. Those factors deal with

whether the offence is serious, whether it is part of a pattern of repeat offending and whether the youth has a history of non-compliance with legal requirements.

The Bill has, then, both protective and punitive aspects. By clauses 4 and 5, the Bill seeks to protect children from being drawn into or witnessing offences. It is wrong to involve children in crime. It harms children if the adults around them, to whom they look for guidance, send the message that crime is acceptable. It sets them on a path that will only cause harm to them and to the public. Therefore, under this Bill, anyone who involves a child in the commission of an offence and any adult who commits an offence in the presence of a child can expect that to be reflected in a higher penalty.

By clause 6, the Bill seeks to address the special case of the serious repeat young offender who is being tried as an adult. It directs the court as to the factors to be weighed in sentencing in that case. As always, it is a matter for the sentencing court to work out how those factors should be weighed in the particular case.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Criminal Law Consolidation Act 1935

4—Amendment of section 5AA—Aggravated offences

Section 5AA of the principal Act sets out the circumstances surrounding the commission of an offence that make an offence an aggravated offence. One such circumstance is that the offender committed the offence in company with one or more other persons. It is proposed to clarify this provision by adding the phrase including persons who are children.

It is also proposed to include in this section an additional aggravating circumstance. In the case of an offence constituted under Part 7B (Accessories) of the principal Act where the principal offence is an aggravated offence, the fact that the principal offender was, to the knowledge of the offender under that Part, a child will be an aggravating circumstance.

Part 3—Amendment of Criminal Law (Sentencing) Act 1988

5—Amendment of section 10—Matters to be considered by sentencing court

It is proposed to include an additional matter in the list of matters to which a court when sentencing should have regard. When sentencing an adult offender for an offence committed in circumstances where the offending conduct was seen or heard by a child (other than the victim, if any, of the offence), the court should have regard to those circumstances.

Part 4—Amendment of Young Offenders Act 1993

6—Amendment of section 3—Objects and statutory policies

Current subsection (2a)(b) provides that when imposing sanctions for illegal conduct on a youth who is being treated as an adult, regard should be had to the deterrent effect the proposed sanction may have on any other youths. It is proposed to reconfigure paragraph (b) to add the direction that regard should also be had to the balance to be achieved between the protection of the community and the need to rehabilitate the youth.

7—Insertion of Part 4 Division A1

It is proposed to insert a new Division A1 (Interpretation) at the beginning of Part 4. This Division would provide that, for the purposes of Part 4, the matters listed in new section 15A must be taken into consideration by the Director of Public Prosecutions (DPP) or the Magistrates Court (as the case requires) in deciding whether a youth poses an appreciable risk to the safety of the community. Those matters are as follows:

- the gravity of the offence with which the youth is to be charged;
- if the offence to be charged is part of a pattern of repeated offending by the youth—that fact and the circumstances surrounding the alleged offence;
- the degree to which the youth has previously complied with any undertaking entered into by, or requirement or obligation imposed on, the youth under the principal Act or any bail agreement;
- if the youth has previously been detained, the behaviour of the youth, and any rehabilitation of the youth, while so detained;
- if the youth has previously been released on licence—the degree to which the youth complied with any condition specified in the licence;
- any other matter that the DPP or Magistrates Court (as the case may be) thinks fit in the circumstances.

8—Amendment of section 16—Where charge is to be laid

It is proposed to add to current section 16 an additional subsection to allow the DPP to lay a charge of a major indictable offence against a youth before the Magistrates Court rather than the Youth Court if the DPP is of the opinion that the youth should be dealt with as an adult because of the appreciable risk the youth poses to the safety of the community.

9—Amendment of section 17—Proceedings on charge laid before Youth Court

The amendments proposed to this section are consequential.

10—Insertion of section 17A

17A—Proceedings on charge laid before Magistrates Court

If a charge of an offence against a youth has been laid before the Magistrates Court (see the proposed amendments to section 16), Part 5 of the Summary Procedure Act 1921 will apply to those proceedings.

At the conclusion of the preliminary examination, the Magistrates Court may—

(a) if of the opinion that the youth poses an appreciable risk to the safety of the community—commit the youth for trial or sentence (as the case requires) to the Supreme Court or the District Court;

(b) in any other case—commit the youth for trial or sentence (as the case requires) to the Youth Court.

11—Amendment of heading to Part 4 Division 2

This amendment is consequential.

Debate adjourned on motion of Hon. J.M.A. Lensink.

[Sitting suspended from 13:02 to 14:17]

WATER ALLOCATIONS

The Hon. SANDRA KANCK: Presented a petition signed by 75 residents of South Australia, concerning water allocations and River Murray environmental flows. The petitioners pray that this honourable house will do all in its power to promote the buy-back of water allocations by state and federal governments in order to improve environmental flows and support sustainable agriculture.

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2006-07—
- District Council of Kingston
- Wattle Range Council

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Reports, 2006-07—
- Balaklava and Riverton Health Service Incorporated
- Chiropractic and Osteopathy Board of South Australia
- Department of Water, Land and Biodiversity Conservation
- Eastern Eyre Health and Aged Care Incorporated
- Eudunda and Kapunda Health Service Incorporated
- History Trust of South Australia
- Libraries Board of South Australia
- Mid North Health
- Murray-Darling Basin Commission
- Occupational Therapy Board of South Australia
- Physiotherapy Board of South Australia
- Podiatry Board of South Australia
- Quorn Health Services Incorporated
- Repatriation General Hospital Incorporated
- State Theatre Company of South Australia
- Waikerie Health Services Incorporated
- Windmill Performing Arts Company

SA Ambulance Service 2006-07 Erratum

QUESTION TIME

TRANSPORT, ENERGY AND INFRASTRUCTURE DEPARTMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Department of Transport, Energy and Infrastructure's proposed new building.

Leave granted.

The Hon. D.W. RIDGWAY: By way of background for this question, the proposed department of transport and infrastructure building was part of the redevelopment proposed by that body that involved the sale of the former Transport SA property in Walkerville. In fact, I am advised that cabinet approved the sale of that property to the Walkerville council some time in 2004 for $4.7 million. That site was then subject to a ministerial plan amendment report conducted by the minister's office, and that report was gazetted as having been approved on 27 July 2006.

In October 2006, the Department of Transport, Energy and Infrastructure published a document entitled 'Expressions of interest for the provision of a site for an office building complex for DTEI,' which stated that the DTEI wished to consolidate staff from up to seven of its key sites into a single location in the Adelaide CBD—preferably in the City West precinct—and it called for expressions of interest to be launched. I understand that the process was also approved by cabinet.

I am advised that 19 companies expressed an interest at that time. It was not a formal tender at that point, but I am advised that the expressions of interest cost about $50,000 to prepare. I am advised that five companies were shortlisted, and those companies then prepared some more formal expressions of interest, almost like tender documents. I am also advised that one other developer was added to that list but was not part of the original list. He was added to make up the six companies that tendered.

Unfortunately, some time after the middle of this year, that project was scrapped, leaving the 19 companies embarrassed after having spent at least $50,000. So, the development industry in this state spent at least $1 million, and some much more. My questions to the minister are:

1. Why was the project scrapped?

2. What was the estimated cost of that project?

3. What message does the shoddy management of this project send to the development industry in the state?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:23): They are matters for my colleague the Minister For Transport, Energy and Infrastructure in another place. I will refer the question to him and bring back a response.

GLENSIDE HOSPITAL RURAL AND REMOTE UNIT

The Hon. J.M.A. LENSINK (14:23): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about the practices at the rural and remote unit at Glenside.

Leave granted.

The Hon. J.M.A. LENSINK: I refer to the case of a mother who has contacted me concerning her son, who has been within the rural and remote unit at Glenside. I wrote to the minister on 8 October and received an acknowledgement dated 11 October. The situation is that the son absconded from the rural and remote unit for the second time during the week of 23 September this year and, as far as I am aware, has not yet been located. I understand that the mother has also written to the minister directly about her concerns.

Apart from this mother's obvious very great concern for the safety of her son, she is also concerned about the response she has had from Glenside in dealing with this situation. She has advised my office that she was informed by Glenside that those patients who abscond and then return to Glenside are not necessarily returned to a secure bed. She was informed that there are no secure beds in the rural and remote unit and her son will not receive secure care.

Given that this person has a history of absconding and his mother believes he would benefit from being in a secure unit, can the minister advise whether this is actually the policy of the rural and remote unit, and what is her view of it?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:25): I thank the honourable member for her question. Indeed, I do recall the correspondence that the honourable member sent me, and I believe I have responded to that. I do not know whether or not she has received my response yet, but I have responded. I have also had the matter followed up with the department, which I understand has also been in contact with the mother of this particular client.

People with mental health illness are put into secure wards only if it is deemed clinically necessary for that to occur, and that is usually assessed to be necessary only if the person is at risk to themselves or to others. Obviously, I will not discuss any individual details of particular patients here in this chamber, as I have indicated on many occasions before, but that is the principle of the way that patients are clinically cared for. So, only those people who need to be placed in secure wards are placed in secure wards.

Many of the patients receiving care are voluntary patients. Many of them are not forced to have treatment and care, and on occasions we find that some of those voluntary patients choose not to continue with their care. Unless their removing themselves from treatment constitutes a risk to either themselves or others, then that is their choice to do so, although it might not be a particularly good choice, and clearly our mental health services strive very hard to follow up on those clients and ensure that they do participate in ongoing care and treatment.

The particular person to whom the Hon. Michelle Lensink refers has been located. I also remind members that, in the case of adults with any medical history or condition, particularly if the person concerned is competent, that person can choose who their personal and medical information is shared with. Sometimes patients choose not to share, or allow that detailed information to be shared, with family members. If they are an adult and if they are competent then, again, it is their right to choose to do that. I understand and acknowledge that that can be very frustrating for some family members but, after all, just because a person is mentally ill does not mean that we strip them of all their rights.

GLENSIDE HOSPITAL RURAL AND REMOTE UNIT

The Hon. SANDRA KANCK (14:28): Since the review at the beginning of this year into absconding persons at Glenside was conducted, what operational changes have been made to reduce the incidence of patients absconding, and has there been any improvement in the numbers; that is, fewer of them?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:29): I believe that I have previously reported in this place a number of initiatives that were put in place around improving security and such like. I do not have those details with me today, but I believe that I have reported them here before. As I said, in terms of many clients using mental health facilities, not just those at Glenside, most of those clients, or many of them, are in fact voluntary and can choose not to continue treatment if they so desire. Our wish is always to re-engage those people and to keep them hooked into and participating in services. After all, people have rights.

KING STREET BRIDGE

The Hon. S.G. WADE (14:30): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the King Street Bridge.

Leave granted.

The Hon. S.G. WADE: On 8 August this year, *The Advertiser* reported that the King Street Bridge over the Patawalonga at Glenelg North was suffering from the rusting of internal rods, commonly referred to as concrete cancer. The Mayor of the City of Holdfast Bay is reported as promising to ban heavy vehicles on the bridge by the end of the year. He said:

> We want to reduce its 24-tonne load limit to five tonnes. We are urgently looking at stopping heavy transport from using it, including buses and fire brigade engines.

The government's emergency response plan for the 600 homes accessed over the King Street Bridge states:

The King Street Bridge provides access to the western part of the suburb and connects Adelphi Terrace south with Military Road, creating a major north/south road transport link.

My question to the minister is: as the end of the year approaches, does the Glenelg North community face a fire engine ban on the King Street Bridge; if so, what will be the increased response time from the Metropolitan Fire Service to the area?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:31): I thank the honourable member for his question in relation to the King Street Bridge. As in all these cases, the emergency services—in this case, the Metropolitan Fire Service in particular—would have a contingency plan. I do not have that with me today in the chamber, but I have full confidence that an alternative route would be worked out in this case. I will bring back some advice for the honourable member.

ROXBY DOWNS

The Hon. B.V. FINNIGAN (14:31): My question is to the Minister for Urban Development and Planning. Will the minister provide the chamber with an update on the planning framework proposed to guide development within Roxby Downs?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:32): As members would appreciate, Roxby Downs is growing quickly and, with the planned expansion of the Olympic Dam mine, the population is expected to more than double from its current 4,000 to 10,000 plus. It is vital that this rapid pace of growth is properly planned.

Following a request from the Roxby Downs council, I initiated a development plan amendment report to address the future development of the Roxby town centre. The development of the town centre must be orderly and accommodate desirable features, such as more enhanced community shopping and commercial and entertainment facilities. As the town centre is currently already experiencing significant development pressures, independent of the decision on the potential Olympic Dam mine expansion, it was important that action was taken to ensure that future development was well managed and a sound and vibrant outcome delivered.

The development plan amendment was released for two months of public consultation from April to June this year, with the consultation process being conducted by the Development Policy Advisory Committee (DPAC). Having now considered the advice of DPAC and the submissions received, I have now approved the development plan amendment, with a number of amendments in response to the submissions received.

Importantly, the development plan amendment provides the land use framework for the orderly and proper expansion of the town centre, reflecting the strong growth being experienced. As part of the government's commitment to the orderly growth of the area, the government has allocated $8 million to expand the Roxby Downs police station. The new facility is to be located in the township, and it will eventually accommodate an additional 23 officers. A further $4.4 million has been allocated by the Rann government to meet the needs of employee housing, transport and location costs in relation to the heightened police presence.

Similarly, in response to the strong growth being experienced by other parts of regional South Australia as a consequence of the mining boom, this government has introduced an updated policy for areas of the state's Far North, the West Coast and the Riverland that do not fall within council boundaries. These recently introduced planning policy changes address waste water treatment issues associated with development in the region, including in Andamooka, and adopt coastal conservation policies to protect the sensitive coastal areas that are not situated within council boundaries along the Eyre Peninsula coastline. These changes are contained in a ministerial development plan amendment which was issued for two months of public consultation from August to October.

The planning changes are an appropriate response to the significant development push being experienced in regional and remote areas of South Australia, including Andamooka which, of course, is just 35 kilometres or so away from Roxby Downs by bitumen road. These changes have led to the introduction of planning controls to ensure that new development has the capacity to accommodate suitable on-site wastewater disposal facilities. They also include minimum site area requirements for dwellings and minimum allotment sizes.

Sensitive coastal land on Eyre Peninsula which is not situated within council boundaries will also be subject to appropriate planning controls. I am awaiting a report from the Development Policy Advisory Committee which is overseeing this public consultation process. That committee is due to report on the development plan amendment, including an assessment of any submissions received as part of the public consultation process. Such actions demonstrate this government's commitment to facilitating economic development within South Australia in a manner that is both well planned and responsive to the concerns of the general public.

DEEP CREEK

The Hon. SANDRA KANCK (14:35): I seek leave to make a brief explanation before asking the Minister for Environment and Conservation questions regarding advice from departmental officers about the drying of Deep Creek.

Leave granted.

The Hon. SANDRA KANCK: When departmental officers appeared before the Natural Resources Committee's Deep Creek inquiry, conflicting and unhelpful answers were given. Dr Deering at one point stated that he could not pre-empt the outcome of the water allocation process that was under way but that forestry 'may well be treated as a water-affecting activity', but then he said, 'the allocation of volumes of water for use for different activities is very clearly a water allocation planning process.'

Mr Harvey told the committee that the department does not know how many dams were in the area in the past, whilst Dr Deering told us that they have 'quite extensive aerial photos and surveys of a whole range of dams,' which was then tempered by Mr Harvey's statement that, 'Our interpretation was based on two sets of aerial photographs. This is the best information we have.'

The minister's response to the committee states, 'Government considers the impact of rainfall, dams and any further development of forestry are a more significant issue than the removal of plantation area.' Yet Mr Harvey told the committee that 'interpretation of those dam findings is speculative, and those aggregate volumes could vary by plus or minus 50 per cent.'

Asked about providing the committee with up-to-date research, Mr Harvey said, 'I do not think we can provide you with anything that will be particularly helpful in this discussion at this time.' When pressured, he referred to what he described as a 'technical report' that was 'considered not necessarily appropriate'.

That so-called technical report is most likely a 30-page CSIRO report by Casanova and Zhang entitled (and listen to the title) 'Fleurieu Peninsula Swamp Ecology, Swamp Hydrology and Hydrological Buffers'. The information about the existence of this report was not volunteered to the committee and only came about through private citizens making us aware of it.

Mr Harvey told the committee that people within the department had dismissed it because they preferred something called a 'water balance' theory and 'they did not feel it was useful in our environment in South Australia'.

This report, although rejected by the bureaucrats, disproves the minister's statement that there is no scientific evidence that the Upper Deep Creek catchment was a perennial stream. Asked whether it was the case that all the bureaucrats could offer us was 'an educated guess' as to what is going on down there, Mr Harvey simply replied, yes. Dr Deering described the departmental view as 'informed speculation'. My questions are:

1. What is the minister's explanation for the conflicting points of view of the departmental advisers?

2. Why did the departmental officers not volunteer information to the committee of the existence of the Casanova and Zhang report? Were the authors of that CSIRO report placed under any pressure by bureaucrats to alter that report?

3. Given that the minister claims that there is no scientific evidence that the Upper Deep Creek catchment was a perennial stream, how does she account for the existence of the Foggy Farm swamp? Is she aware of any scientific evidence, anywhere in the world, of swamps forming and existing without an all-year round supply of water? Will the minister advise the parliament how many years it takes for a swamp to become a climax ecosystem?

4. On the basis of conflicting statements and a knowledge base described as or admitted to by the bureaucrats as being either an 'educated guess' or 'informed speculation', what

is the scientific basis of the minister's conclusion that dams are more the cause of the creek drying than forest plantations? Is her view also based on informed speculation?

5. Did any of the departmental officers mislead the committee, and has the minister herself been misled by them?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:40): I thank the honourable member for her questions. The land use in that area has changed considerably over the years and so, too, the land use has impacted on the watercourse and on the water catchment area. That has changed over the years from native vegetation to being cleared for farm use—which a lot of that area still is–and some of it is now used for forestry. The land use has changed and, as the land use has changed, so, too, has the impact on the watercourse.

The bottom line is (and I have talked about it in this place before) that the government does not agree with all of the outcomes of the parliamentary committee's report. We have, in fact, supported eight out of 10 of the recommendations made by the Natural Resources Committee; so eight out of 10 we have agreed with or support, and there are two we do not. One is outside our jurisdiction and the other one relates to the buffer zones, which is clearly the issue that the Hon. Sandra Kanck is concerned about.

We do not support the recommendation to create buffers by removing portions of existing plantation forestry in the Foggy Farm area. We have indicated that, in terms of the NRM water allocation planning process, we believe that, as our science has improved and been fed into our planning processes, the water allocation planning process will pick up a lot of the new science, and the rules about buffer zones and suchlike will change. That is a good thing. Nevertheless, we are talking about a forest that was legally planted at a time when the particular science we have now was not available.

Forestry occupies only six per cent of the total Deep Creek catchment area, and it is not considered that forestry has been the principal reason for stream flow decline, as reported by the committee. On this matter, the technical conclusions that I had been advised of within the report appear not to have taken into account all the available technical information. That is the best technical advice that I have received from my people. The Natural Resources Committee appears to have based its observations—this is the information I have been given—in respect of the Deep Creek inquiry particularly on the Foggy Farm area in the upper Deep Creek catchment.

Foggy Farm is located on a very small tributary at the lower end of the upper catchment area. Unlike some of the suggestions in the report and some of the comments made by other members, Foggy Farm is at the lower end of the upper catchment and not the upper end of the lower catchment. Everything that occurs goes from east to west and north to south, so everything that occurs at the top of the catchment area occurs at the lower end of that upper catchment area.

This particular area does not necessarily typify the broader Deep Creek catchment, nor the overall risks for that particular catchment area. I have been advised that Foggy Farm is about 200 hectares and is less than five per cent of the total Deep Creek catchment of 4,128 hectares. The committee reported that there were no dams in the upper Deep Creek catchment and ignored the impact of dams on flows in the total Deep Creek catchment.

An honourable member interjecting:

The Hon. G.E. GAGO: I have been there and have seen the dams: there are 37 of them. I have driven around there and seen those dams in the upper end of the catchment area that feeds into the Foggy Farm area. To suggest that there are no dams there, members need to get out of their seats and go and have a really good look around—not a biased and skewed look around: they should open their eyes and look at all the facts and not at just their own personal biases. Based on aerial imagery from 2001, there are 37 dams located in the upper Deep Creek catchment, with an estimated capacity of 50 megalitres, according to the advice I have been given. We can give or take a megalitre here or there, but nevertheless there are dams there of a significant number and of significant volume.

The total Deep Creek catchment dam number has nearly doubled and the dam volumes have increased four-fold, according to my advice, since 1972. That advice also indicates that in 1972 there were only approximately 106 dams, with an estimated capacity of 185 megalitres; in 1989 this had increased to 126 dams, with an estimated capacity of 333 megalitres, which increased further in 2001 to 157 dams, with an estimated capacity of 744 megalitres. So we can see that the volumes estimated for these dams have significantly increased over time.

I am advised that the current modelling by CSIRO indicates that a relatively small reduction of 15 per cent in rainfall, an estimation, can reduce catchment water yield by 30 per cent. Obviously the current drought is most likely to have a significant impact on this catchment area as well. I am further advised that the committee failed to adequately consider the technical advice from the agencies, and the official rainfall record at the nearest official recording station indicates a significant trend of reducing rainfall since 1991. These things must be monitored over periods of time, and it is important that single yearly calculations are not considered in isolation but are trended over periods of time.

Over the past 10 years there has been significantly below average rainfall for that area, according to my advice. This has been accompanied by an increase in the diversions to dams since 1980. It is important to stress that since 1980 only in seven years has rainfall reached or exceeded the long-term mean. We can therefore see the significant impact of climate and rainfall patterns in this area. This is in contrast to the decade of the 1970s, when seven of the 10 years had rainfall in excess of the long-term mean. So we can see that there have been significant patterns of change in rainfall.

Moreover, I am advised that potentially removing up to 126 hectares of plantation forestry along the Foggy Farm tributary, as recommended by the committee, is unlikely to ensure perennial stream flows in the Upper Deep Creek or Deep Creek catchments. That is the advice I have received with the best science available to me. I am further advised that the removal of plantation forestry from less than 3 per cent of the Deep Creek catchment area alone is unlikely to have a significant impact on run-off in that catchment area.

In summary, whilst the government acknowledges that forestry has impacted on flow regimes it also recognises that other important factors—including rainfall decline and, in particular, the reduction in summer rainfall and the amount of water captured by dams—have also had a significant impact in further reducing flow duration.

DEEP CREEK

The Hon. M. PARNELL (14:50): I have a supplementary question. If the minister does not accept two of the recommendations of the committee, are the other recommendations that the minister is supporting also supported by the commonwealth environment department—which administers the Environment Protection and Biodiversity Conservation Act under which the wetlands of Fleurieu Peninsula are listed as being a critically endangered ecosystem—or the CSIRO?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:51): I am happy to take that question and bring back a response. It is likely but, as I said, I will seek clarification.

DEEP CREEK

The Hon. SANDRA KANCK (14:51): I have a further supplementary question. The minister says that there is no scientific evidence that the Upper Deep Creek catchment was a perennial stream; how does she account for the existence of a swamp and for the existence of plants that are adapted to swamp conditions along that upper catchment?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:52): We can only go on the information, advice and science that we have at the time, and that suggests it is unlikely that it was a perennial stream. It is not absolute, and no-one has said it is absolute; all we can go on is the best science available to us. That is the evidence before us, and that is the advice I have been given.

JUDICIARY, APPOINTMENTS

The Hon. R.D. LAWSON (14:53): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about judicial appointments.

Leave granted.

The Hon. R.D. LAWSON: Members will recall the famous occasion in July 2005 when the government failed to comply with the law in relation to the appointment of a judge. That error had to be corrected and a new appointment made, and the subsequent gazettal acknowledged that the

initial appointment had not been effectual. The error was an embarrassment to the Attorney-General because he was responsible for it, and it was doubly embarrassing because he is the first law officer and is expected to know the law of this state. It was triply embarrassing to the Attorney-General, in particular, because the surprise appointee was none other than the sister of Don Farrell.

More recently, the Attorney-General's conduct in relation to the appointment of solicitor Ms Julie McIntyre to the District Court has given rise to widespread concern in the legal fraternity. I make it clear that I am not for a moment questioning the integrity or competence of Judge McIntyre, but my questions are:

1. Will the Attorney-General deny reports that he recommended the appointment of the highly qualified barrister Mark Griffin QC to the District Court to fill the vacancy that was subsequently filled by Judge McIntyre?

2. Will the Attorney-General deny reports that during the course of consultations about the appointment of a new District Court judge it was stated by him or his representative that the appointment had to be a woman?

3. Does the Attorney-General agree with the federal Labor Party's shadow attorney-general Joe Ludwig that there ought to be independent oversight of the process of appointing judges?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:54): I think the third question is relevant to the Attorney-General; the other two are really just about gossip, and I think the Attorney-General has much better things to do in this state than respond to the gossip of members opposite. As I said, in relation to the broader policy question I will see whether the Attorney-General wishes to make a response. I will refer it to him.

URBAN SEARCH AND RESCUE TASK FORCE

The Hon. R.P. WORTLEY (14:54): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the training of the Urban Search and Rescue taskforce.

Leave granted.

The Hon. R.P. WORTLEY: On 7 December last year, the minister informed members of the development of a highly trained group to deal with any major structural collapse, such as that which occurred following the Oklahoma city bombing, recent earthquakes, and 11 September. Is the minister able to provide an update on that program of training?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:55): I thank the honourable member for his important question. Members may recall that when I spoke on this matter previously it was on the occasion of the first South Australian USAR exercise conducted as part of an intense three-week USAR training course.

I was pleased to be invited to attend the third USAR training course graduations on Thursday 1 November 2007 and to present certificates to graduates of the category 2 technicians course. Members may recall that the majority of emergency services personnel (over 850) are currently trained to category 1 USAR, the surface search level. A smaller, more highly trained group of over 100 personnel will be trained at the category 2 level.

This course sees around 100 personnel now trained at the category 2 level and available for deployment should they be required. The USAR task force members come not only from my portfolio agencies of the Metropolitan Fire Service, State Emergency Services and Country Fire Service but also from SA Ambulance Service, the Department of Health and the Department of Transport, Energy and Infrastructure.

While we hope we never have to use those skills, it is essential that we are prepared and have a highly trained multi-agency task force ready to respond. The course aims to train members to remove trapped and often injured victims from collapsed structures or environments and to provide emergency medical care. These skills could be required following an earthquake, terrorist incident, an aircraft crash or any other structural collapse incident.

This really is another step towards qualifying our USAR task force, a project which has been undertaken through a cost-sharing agreement with the commonwealth government. I congratulate the 24 graduates of the course who are members of the South Australian Ambulance Service, SES and MFS, and two of whom are members of the ACT Fire Service.

The development and delivery of this course also sees close collaboration with interstate and specialist agencies, with the Queensland Fire Service, Melbourne Fire Service, New South Wales Fire Service, and Victorian Australian Search Dog Association members in attendance.

In times of emergency, these close cross-agency relationships may well play an important part in the success of any national, and possibly international, participation and cooperation. The USAR task force operates under the leadership of the MFS at the Angle Park Training Centre, with the SES and SAAS members playing a key role in the delivery of the training program.

JUDICIARY, SALARIES

The Hon. D.G.E. HOOD (14:58): I seek leave to make a brief explanation before asking the Minister for Police, representing the Attorney-General, a question about the exorbitant salaries and pensions paid to judges in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: According to the Auditor-General's Report of 2006-07, there was a huge increase in pay for judicial officers in the last financial year. Indeed, the salary paid to the highest paid judge went up in only one year from a very high $440,000 a year to an exorbitantly high $530,000, an increase of some 17 per cent, and overall total judicial benefits went up by some 8.9 per cent across the board—and that was on top of 8.5 per cent the previous year.

Furthermore, the Auditor-General's Report disclosed that, by calculation, on average judicial pensions are approaching $115,000 per year per judge, to which judges are not required to make any contribution whatsoever during their working life. My questions to the Attorney-General are:

1. How can such huge increases in salaries be justified, especially in light of the overwhelming public opinion that judges impose sentences that are well out of step with public expectations?

2. How are huge lifelong taxpayer-funded pensions for judges justifiable when they are paid to no other taxpayer-funded employees, including politicians? In short, why are judges so special?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:59): Perhaps I can answer most of that question. The fact is that judicial salaries and benefits are set by an independent tribunal. I think it is interesting that a former member of this chamber, Mr Xenophon, in his attacks on the salaries of members of parliament suggested that they should be set by an independent tribunal. I think perhaps there is a hidden benefit for those who wish those salaries to be set by an independent tribunal, if they are getting those sorts of wages.

Under the remuneration provisions in relevant acts that cover judges' salaries, superannuation and the like, it is an independent tribunal that makes those determinations. It is not a matter over which the government has any say. If the honourable member wishes to change it, it can be done only through a change in the act of parliament that governs those conditions.

ROAD SAFETY

The Hon. R.I. LUCAS (15:00): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about road safety.

Leave granted.

The Hon. R.I. LUCAS: Members will recall the sometimes acrimonious debates in the middle of last year in relation to the minister's and the government's drug driving legislation and testing program. In recent weeks, the minister released a review of the operations of the Road Traffic (Drug Driving) Act prepared in September 2007, in which it is reported that only nine drivers have tested positive for ecstasy (MDMA); 10 have tested positive for both MDMA and methyl amphetamine; and five have tested positive for MDMA, methyl amphetamine and THC. So, in total, 24 drivers in a period of less than a year, or approximately a year, tested positive for MDMA (ecstasy) by itself or, indeed, for MDMA in combination with other drugs.

In June last year, there was quite a controversial debate when the opposition raised the issue that the government was not including MDMA in its drug-testing regime. The minister made a number of what some observers have described to me as extraordinary comments—and I will quote some of them. On ABC Radio on 19 June the minister, in defending her decision not to include ecstasy in the testing regime, said:

> The detection of ecstasy is extremely rare. It is not what's out there in the street. It is not what is killing our people on the roads.

Then in the council, when challenged on 20 June last year, the minister said:

> The advice was that, in its pure form, MDMA (and we are talking about ecstasy in its pure form) is not readily available; and, if my recollection serves me correctly, in the past five years one person (post mortem) in South Australia had consumed it.

Then, further on, the minister said:

> Pure MDMA is apparently quite rare in South Australia. That is the advice that we received from the experts.

My question to the minister now is: with the benefit of hindsight, is she prepared to concede to the council that she was wrong in her opposition to including MDMA? I should say that after two months of intense public pressure, in the parliament as well, the government reversed its position and included MDMA, or ecstasy, as part of the drug testing regime. My questions are:

1. Is the minister now prepared, with the benefit of hindsight, to acknowledge that she was wrong?

2. Is she now prepared to table the advice that she received from persons that she described as experts in the area, who told her that the use of ecstasy was extremely rare and that it is not what is out there in the street, that it is not what is killing our people on the roads, and that there had been only one occurrence of ecstasy detected in a driver in the past five years? So, will she table the advice that she has received from particular persons that led her to the statements that she made in the middle of last year?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:04): I am certain that the honourable member—having been here for so many years—would remember that the legislation in relation to the drug driving trial was passed in the last parliament, and it was indeed the parliament, based on scientific information provided to it, that decided to proscribe those two drugs, in particular cannabis and, of course, methyl amphetamine.

Without any waste of time, the trial got under way, involving the two drugs considered by this parliament and prescribed in the regulations. The information provided to me concerning MDMA was the same as that provided to the parliament; that is, that in—

The Hon. R.I. Lucas: From whom?

The Hon. CARMEL ZOLLO: Well, clearly, via the department. One does not make these things up. In 2006, 24 per cent of driver and motorcycle rider fatalities tested post mortem had either THC and/or methyl amphetamine in their blood at the time of the crash. Between 2003 and 2005, 23 per cent of driver/rider fatalities tested post mortem had detectable levels of one or a combination of THC, methyl amphetamine and MDMA in their blood at the time of the crash. So, in relation to the several months that it took to include MDMA, as good governments and responsible ministers do, they go off and find a budget to ensure that we could include a new drug.

We also had to ensure that the police, who were actually conducting the testing, had the capability and, with the assistance of my colleague the Hon. Paul Holloway, we ascertained that was the case and another regulation was passed to ensure that we could actually expiate for MDMA. I told the honourable member on several occasions that the—not the footprint, or the ingredients—what is the word I am trying to think of?

The Hon. R.I. Lucas: I have no idea. Can't you admit that you are wrong?

The Hon. CARMEL ZOLLO: No, there is nothing wrong with the parliament having passed legislation and with my ensuring that the will of the parliament was implemented in relation to the two prescribed drugs. Essentially, the makeup of methyl amphetamine and MDMA is so similar that you cannot detect the difference until you come to the forensic stage.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: I have spoken to Forensic Services. You cannot tell the difference at the street level stage. So, had anybody been tested for MDMA they would have also been taken off the road. As it happens, there were no detections between 1 July, when we commenced the trial, and 8 September, when the regulation commenced in relation to persons having only MDMA in their system. I think there was one who had a combination, and as to be expected not only were they taken off the road at the time when they were tested on the road—because, as I said, you cannot detect at the road level testing the difference between methyl amphetamine and MDMA—but they were also expiated because they had another drug, as well, in their system.

As the minister, I did the responsible thing, which is what ministers do. I ensured that the will of the parliament was enacted. The trial started at the time with the two drugs that were prescribed and regulated. I then went off, as responsible ministers do, and ensured that the police had the capacity to test for MDMA, and when we did that we passed the regulation.

ROAD SAFETY

The Hon. R.I. LUCAS (15:09): I have a supplementary question arising out of the answer. Which department provided the advice to the minister? Was it the police department or was it her own department, whatever that is—the road safety section of the transport department, or wherever it is that she gets advice from? Which specific department provided the advice to her?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:09): Clearly, I was not the responsible minister at the time but, nonetheless, the information would have been provided to—

The Hon. R.I. Lucas: Who from?

The Hon. CARMEL ZOLLO: From DTEI.

SCHOOLIES WEEK

The Hon. I.K. HUNTER (15:09): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about schoolies.

Leave granted.

The Hon. I.K. HUNTER: November is the time of year many year 12 students complete their high school education. It is now something of a tradition for young people to head to Victor Harbor for the schoolies festival to celebrate.

The Hon. R.I. Lucas interjecting:

The Hon. I.K. HUNTER: I am sure that the Hon Mr Lucas will be joining them. Will the minister inform the council of measures being taken—

Members interjecting:

The Hon. I.K. HUNTER: I apologise, Mr President. I lost my train of thought at that horrible idea. Will the minister inform the council of the measures being taken to ensure the health and safety of our young people who attend the festival?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:10): As the honourable member mentions, it is indeed time for many South Australian year 12 students to celebrate the end of their high school education. A number of these students will head off to Victor Harbor to celebrate the three days of the schoolies festival. I extend my congratulations to all our students, and I hope that they have a fantastic time.

It is an opportune time to point out some of the potentially more serious issues for students who may attend the schoolies celebrations. I do not want to rain on their parade, of course, but some risks can be quite easily overcome. Drug and Alcohol Services South Australia (DASSA), along with other government agencies, such as SAPOL, the Department of Education and Children's Services, SHine SA, and the Office for the Liquor and Gambling Commissioner, has had a key role in the preparations leading up to this festival.

Emergency services will be operational at the festival to deal with any medical issues. I am also pleased to inform the council that a variety of alcohol-free activities and barbecues have been

planned for each day of the festival. Health Services will also have a presence and will be on site to meet with young people to provide them with information, free food, sunscreen and bottles of water.

The government is committed to working with a variety of services, such as the Red Cross, St Johns and SA Ambulance, who will be on site at the festival and in caravan parks, where large numbers of young people stay during the festival. They are there to ensure that young people are safe and can obtain help should they need it. As members may know, excessive alcohol consumption remains the most significant factor impacting on individual and community health and safety during this event.

Parents can educate their teenagers about the dangers of binge drinking and the likely effects of excessive alcohol consumption on their health and wellbeing and particularly their personal safety. Parents can also provide transport for their teenager and their friends. Obviously, the message is: do not get into a car with a person who is under the influence of alcohol or other drugs.

The government has also had a role in promoting knowledge about the dangers of substance abuse. For example, it is important to consider the issue of drink spiking. With my colleague in the other place, we launched an awareness campaign involving the dangers of drink spiking, and coasters, drink umbrellas, colourful whistles and so on, featuring an anti drink spiking message, will be visible and widely available at the schoolies festival. We want all young people to beware of the possibility and to keep the safety of themselves and their friends at the forefront of their mind. The message is: look after yourself and keep a close eye on your mates.

Again, I congratulate our year 12 students, and I encourage all young people who attend the festival to make safety and health a priority. Let us remember that safe partying and looking out for friends should be the priority for our 10,000 young people who may take part in the Schoolies Week celebrations at Victor Harbor this month. Most of all, I say to our students: have a fantastic time. You have earned it and deserve to celebrate your achievements.

SCHOOLIES WEEK

The Hon. S.G. WADE (15:14): Following on from the question and the minister's answer, has the event organiser, Encounter Youth, approached the government for any financial assistance? What was the response of the government?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:15): I do not have the answer to that question. I am not aware whether there has been any approach. I am happy to take that question on notice and bring back a response but, in terms of the Drug and Alcohol Services—the agency I am responsible for—it has quite an outstanding role in the planning up to this event and also in providing support and assistance at that event.

GREENHOUSE TARGETS

The Hon. M. PARNELL (15:15): I seek leave to make a brief explanation before asking the Minister for Environment and Conservation, representing the Minister for Sustainability and Climate Change, a question on interim greenhouse targets.

Leave granted.

The Hon. M. PARNELL: Members will be aware that the media in the past day have highlighted the problem of global warming and that the predictions that we have previously relied on have turned out to be unreasonable. If we take, for example, *The Advertiser* for today under the heading 'Global warming quickens', we read that a report shows that climate is changing faster than predicted by the United Nations Intergovernmental Panel on Climate Change.

The article also refers to the former head of the CSIRO's Division of Atmospheric Research, Dr Graeme Pearman, who said that whilst it was not all doom and gloom the latest science simply highlighted the need for swift action. 'Policy needs to match the degree of urgency that has been considered by the science,' he said. 'What we do know suggests that actually we really are exposed and we need to manage the risks.'

There are similar articles in other newspapers today, such as the *Sydney Morning Herald*, with the heading 'Greenhouse gases: we are among worst polluters', and some of the online news services as well, including *Crikey*. One of the online reports, again referring to Dr Pearman, states that his estimate is that the world has only five to 10 years to take drastic action. Similarly, John

Connor, the CEO of the Climate Institute, says that pressure must be placed on political and business leaders to act now.

That background leads me to a statement that was made by the Premier back in July under the heading 'Climate change—now it's law'. This was the Premier's press release on the passage of legislation through the parliament. This release stated:

> Mr Rann said that the Government was now looking at an extra interim target to be established by regulation. 'The act allows for this and will enable us to fill the gap left when the Upper House defeated an interim target to achieve 1990 levels of greenhouse gas emissions by 2020 which would have brought us into line with Arnold Schwarzenegger's law in California'.

I will not go back over that debate about increasing our greenhouse gas emissions. I have almost forgotten it, Mr President, but my question for now is: what has happened to these interim targets that we were going to get through regulation? Where are they, what is their stage of development and when might we see them?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:18): I am happy to refer this question. However, obviously, it is worthwhile acknowledging that greenhouse gas emissions and the impact they have on climate change are one of the most significant life threatening challenges that our planet currently faces, and the Rann Labor government has been a leader in response to this. We were the first state in the nation to introduce climate change legislation and set greenhouse emission targets. We have also introduced a range of really important initiatives—again, leading the nation.

Our new feed-in provision for solar residential units (where they feed power into the grid in a two to one trade-off) provides leadership to the nation. In respect of the specific questions around the interim greenhouse gas emissions targets, I am happy to refer them to the appropriate minister in another place and bring back a response.

NATURAL RESOURCES MANAGEMENT

The Hon. C.V. SCHAEFER (15:20): My questions to the Minister for Environment are as follows:

1. Will she detail how many NRM boards are holding unspent NHT funding due to a failure to appoint project officers?

2. How much funding is involved?

3. How long has this money been available without being spent?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:20): I am more than happy to provide the detail of that. I do not have those figures with me today, but I am happy to take the question on notice and bring back the details. It is worthwhile reminding the chamber that we are in the midst of one of the worst droughts on record, and that has significantly impacted on the NRM boards' ability to complete a number of their projects; it is having a significant adverse impact. In terms of the figures, I am happy to get that information and bring back a response.

ANSWERS TO QUESTIONS

ST MARGARET'S REHABILITATION HOSPITAL

In reply to the **Hon. SANDRA KANCK** (21 June 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): The Health Care Plan includes both enhanced and new rehabilitation services to meet the growing clinical demand that accompanies South Australia's ageing population.

St Margaret's Rehabilitation Hospital is a significant part of South Australia's rehabilitation services. As such, it is also part of the Rehabilitation Clinical Network that will plan and design the detail of how rehabilitation services will be delivered in this state.

The Rehabilitation Clinical Network has begun its work by examining the future service delivery configuration of South Australian rehabilitation services. No decision has been made and any changes to future service delivery will only occur after consultation and if the outcome would be an improvement in service delivery outcomes.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NATIONAL ELECTRICITY LAW—MISCELLANEOUS AMENDMENTS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 907.)

Clause 5.

The Hon. M. PARNELL: I move:

Page 13, after line 19—

Insert:

renewable electricity means electricity generated from renewable energy sources;

Renewable Electricity and Emissions Intensity Panel means the panel of persons established by the AEMC under section 38A;

This covers the same ground as amendment No. 4 that we have already dealt with, so I do not propose to speak to that amendment further.

The Hon. P. HOLLOWAY: The government has indicated its opposition and the reasons for it when we spoke to the previous amendment.

Amendment negatived.

The Hon. R.I. LUCAS: Clause 5 refers to the definition of AEMC-initiated rules and then talks about additional minister-initiated rules and various other issues. I have a series of questions in relation to the National Electricity Rules, and this is as good a clause as any to resolve them. First, what is intended in this legislation for what is called in the definitions 'additional minister-initiated rules'?

The Hon. P. HOLLOWAY: Essentially these are the rules we distributed yesterday (the final draft), which relate to distribution regulation. They are entitled National Electricity Economic Regulation of Distribution Services Amendment Rules 2007. Copies have been distributed to interested members and they are the ones referred to under this clause of the bill.

The Hon. R.I. LUCAS: This may neatly segue into the other question I raised in the second reading, but I needed to clarify the government's response. When we debated this legislation in 2005, we were told explicitly then that the ministers were taking a once only opportunity of establishing a set of rules. The minister then stated:

> ...placing these principles in the law rather than the rules ensures they cannot be changed by the normal rule change process and instead must be changed by legislation, thereby providing greater certainty for the industry consumers on the regulatory practice of the Australian Energy Regulator.

The minister also said in the 2005 debate:

> It is important to note that this initial rule-making power can only be exercised once.

The argument was that the minister had to have the capacity to initiate these rules on one occasion only, and after that we could be assured that there would be an independent and transparent process through the AEMC and other regulatory bodies without interference by the politicians and jurisdictions in terms of the rules. The minister said that we were only doing this once, that the industry needs certainty and that we have to provide greater certainty for the industry and consumers on regulatory practice. It was on that basis that a number of us accepted the assurances of the minister.

The arguments were that, if there were to be further changes, they would require legislation and the parliaments would therefore have to make legislative change, and that we would not in essence be sneaking changes in through the minister's rule-making process, but there would at least be a process whereby you have to come back to legislation or go through the transparent process of the AEMC.

The minister is saying that the book he has given me contains the additional minister-initiated rules. Having promised parliaments generally that there would be only a once-off use of this provision—a provision which has no parliamentary oversight at all (albeit I am sure my friend the Hon. Mr Parnell will indicate that it is of somewhat restricted or limited parliamentary oversight; nevertheless, we have the opportunity to raise issues in the debate)—we as members do not have an opportunity to participate at all in the process involving the rules.

I now understand from the government that, having given a commitment in 2005, it has broken that commitment and come back with 120 pages of minister-initiated rules, which have not been through the transparent process they talked about. I ask the minister to either agree or disagree with the proposition I am putting, and we will see where it takes us.

The Hon. P. HOLLOWAY: The rules the honourable member referred to and the debate that occurred back in 2005 related to the transition and market rules that were the subject of that legislation. My advice is that, apart from some consequential minor changes, those rules that provide the transmission market essentially have been unchanged. Here we are providing the rules relating to distribution, and it has been agreed that in future we would do the same in relation to gas and retail, so you would have the rules that would cover those new areas. Apart from some minor consequential changes, there have not been any changes to those transition and market rules that were part of the 2005 package.

The Hon. R.I. LUCAS: Are the minor changes the minister talks about incorporated in these additional minister-initiated rules, or have they been amended through some other process?

The Hon. P. HOLLOWAY: As the honourable member said in his earlier comments, there is the capacity for changes through the AEMC, but what we were talking about here is in relation to the minister-initiated changes. Those in this particular set of rules are, I am advised, minor and consequential, and they come through the extension of the new rules to cover distribution.

The Hon. R.I. LUCAS: Without wanting to delay this debate, is the minister prepared to undertake to provide advice regarding these 120 pages of rule changes or new rules? Which particular rules are designated by the minister as being minor or consequential changes to the existing rules? If the minister is prepared to give an undertaking, I am happy to accept that; otherwise I could work my way through them and ask the minister to outline which particular changes are consequential—which is probably not productive. Is the minister prepared to give that undertaking?

The Hon. P. HOLLOWAY: We can do that fairly quickly. I understand it is those on pages 88 to 90 of the rules circulated.

The Hon. R.I. LUCAS: So, that is pages 88, 89 and 90?

The Hon. P. HOLLOWAY: Yes.

The Hon. R.I. LUCAS: Is that all?

The Hon. P. HOLLOWAY: If there is any further information that is relevant we will provide that.

Amendment negatived; clause passed.

Clauses 6 and 7 passed.

Clause 8.

The Hon. M. PARNELL: I move:

Page 17, lines 19 to 26—Delete section 7 and substitute:

7—National electricity objective

(1) The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interest of consumers of electricity with respect to—

(a) price, quality, safety, reliability and security of supply of electricity; and

(b) the reliability, safety and security of the national electricity market,

while taking into account the principles set out in subsection (2).

(2) The following principles are relevant to the objective of this Law:

(a) decisions under this law should take into account principles of ecologically sustainable development;

(b) recognition should be given to the long-term environmental and economic costs associated with greenhouse gas emissions arising from the generation or use of electricity;

(c) steps should be taken to achieve a reduction in greenhouse gas emissions arising from the generation or use of electricity, especially taking into account any targets to reduce greenhouse gas emissions that apply under a law of a participating jurisdiction;

(d) reasonable and reliable access to electricity should be viewed as an essential service within the community.

(3) For the purposes of subsection (2), principles of ecologically sustainable development will be taken to be the principles of ecologically sustainable development applying under the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth.

As I alluded to before, this is the most important of my amendments—in fact, it goes to the heart of the whole regime of the national electricity market. The amendment deletes section 7 and substitutes a new section 7.

Section 7, as it currently exists, provides that the objective of this law is to promote efficient investment in and efficient operation and use of electricity services for the long-term interests of consumers of electricity with respect to (a) price, quality, safety, reliability and security of supply of electricity, and (b) the reliability, safety, and security of the national electricity system. They are fine as far as they go but, for the reasons I have already mentioned, they do not go far enough.

My amendment proposes the additional words 'while taking into account the principles set out in subsection (2)' after those I just read out. I then add proposed new subsection (2), which provides that 'The following principles are relevant to the objective of this law', and it then lists four additional principles which generally fall into three categories. The first, proposed new paragraph (a), provides that 'decisions under this law should take into account principles of ecologically sustainable development.'

The term ecologically sustainable development, or ESD, is not new to this place; we insert that concept into almost every piece of legislation that deals with the environment, natural resources, or the way the economy relates to the environment and to natural resources. So, it is not an unusual concept.

The importance of ESD in relation to this bill is that enshrined in ESD is a number of important concepts, not the least of which is the taking of a long-term economic approach; in particular, the long-term impact of externalities, which are currently not counted at all. We need to take into account long-term costs such as relate to the mining, in particular, of coal and the extraction of gas, land uses, thermal pollution and climate change. None of these things is currently accounted for. By incorporating into the national electricity objective a requirement to take into account the principles of ESD, we would be taking those things into account, in particular, externalities. My new paragraphs (b) and (c) provide:

(b) recognition should be given to the long-term environmental and economic costs associated with greenhouse gas emissions arising from the generation or use of electricity;

(c) steps should be taken to achieve a reduction in greenhouse gas emissions arising from the generation or use of electricity, especially taking into account any targets to reduce greenhouse gas emissions that apply under a law of a participating jurisdiction;

It is pretty clear from those words that what I am talking about is enabling us to enshrine into our interpretation of the national electricity law the target we have already agreed to in this parliament to reduce our greenhouse gas emissions by 60 per cent by 2050.

We have taken some pride as a state in having a target. We could argue whether it is adequate, which we will not go into here, but we do have a target. Why, then, do we not seek to incorporate that target into the national law as a target that applies in a participating jurisdiction? If we are serious about greenhouse, we need to include it in all relevant laws, and this law is more relevant than most, given that the majority of greenhouse emissions come from the generation of electricity.

The incorporation of an objective that relates to greenhouse is one of the amendments proposed by the environment community and consumer groups in their amendment package to which I have referred already. The third additional principle, which is included in paragraph (d), is that 'reasonable and reliable access to electricity should be viewed as an essential service within the community'.

At present, the objectives do not properly reflect the importance of energy as an essential part of daily life. Just reflect for a moment on low-income households; many of them are in below standard accommodation or housing with inadequate insulation and energy-inefficient appliances. Also, there are people who are not in gainful employment or who are involved in the caring business at home, and they are also likely to be at home for longer periods and therefore using more of their own electricity during the day, which means that they miss out on the hidden subsidy that people like us rely on when we are in full-time employment. We receive our energy provided at

the workplace; none of us is personally paying for the air-conditioning that is keeping us cool on a hot day here in Adelaide. It is effectively a hidden subsidy. If we were at home in our inefficient and uninsulated houses, we would be more exposed to energy costs and to the market.

What that means is that low-income people and people with constrained cash flows, such as people on fixed incomes, are marginalised and they are not able to fully participate in the national electricity market.

Electricity is an essential service and, without it, the safety, health and welfare of a community, or sections of the community, would be endangered or seriously prejudiced. Governments should recognise this fact by subsidising electricity through community service obligations imposed on corporations, concessions and a safety net, including supply and price obligations. The likelihood of those things happening is greatly increased when we make explicit in the objectives of the national electricity law requirement that electricity should be viewed as an essential service within the community.

As I alluded to earlier, this amendment goes to the heart of what I have been calling for today, and what these peak community groups around Australia have been calling for, so I will divide on this amendment.

The Hon. P. HOLLOWAY: First, I want to deal with a couple of matters that came out of the previous debate. In relation to those consequential amendments, it may be that there are a few others from page 85—the entire changes to the rules, as I understand it. They are all consequential. Essentially, they just change the definition of jurisdiction to the AER, so there may be some that appear in those pages between 85 and 112 but, essentially, they are of a minor nature.

The other matter that the Hon. Rob Lucas asked about this morning was in relation to the process that the Ministerial Council on Energy agreed on. As I understand it, we cannot release the minutes of the meetings unless all the jurisdictions agree to it; however, I can provide the honourable member and anyone else who is interested with a copy of the Victorian Competition Review. This review sets out some of the answers and information, in particular, that the MCE process agreed to on 19 May 2006, which is before 1 July, or whatever the date was in the agreement. If one looks at the second page of this document, Advice/Background, it announces how the Ministerial Council on Energy has agreed to the process in clauses 14.11 to 14.15.

The other relevant page I would draw the honourable member's attention to is page 21. A couple of paragraphs above the heading at 4.3.2, it states:

> The commission will consult with the relevant jurisdictional government as part of the process of developing its assessment and advice on the implementation options and an appropriate timeframe. In accordance with the AEMA, the jurisdiction would provide a public response within six months of receiving the commission's advice.
>
> Each review will be limited to a period of no more than 12 months. As noted above, subsequent reviews would be conducted on a biennial basis, when needed.

So, whereas I said we cannot release the exact minutes without asking the jurisdictions, the document in relation to the Victorian review—which we can release—contains the answers. Hopefully, that will satisfy the honourable member.

To get back to the Hon Mark Parnell's amendment No. 6, the government does oppose this amendment concerning the addition of greenhouse to the objective. The objective is designed to promote efficiency to benefit the long-term interest of consumers with respect to price, quality, reliability and security of supply. The objective guides the Australian Energy Regulator and the Australian Energy Market Commission in performing their functions.

As part of the 2005 debate, it was highlighted that having a single overriding objective has the benefit of being clear and avoiding the potential conflict that may arise where a list of separate and sometimes disparate objectives are specified. As previously indicated, principles for ecologically sustainable development, the reduction of greenhouse gas emissions and other broader environmental objectives are best addressed by means of policy specific legislation.

The principle that reasonable and reliable access to electricity should be viewed as an essential service within the community is an accepted policy standard of all state and territory governments that is redressed through specific community service obligation mechanisms rather than the national electricity market, which is appropriately focused on energy market issues.

We talked about one of the honourable member's earlier amendments, we talked about industrial laws, occupational health and safety and the like, and whereas we certainly accept that

these issues are extremely important in relation to broad energy policy within the country, we believe that these important issues should be addressed through policy-specific legislation rather than through this electricity bill.

The Hon. SANDRA KANCK: The minister has said that it is better addressed through policy-specific legislation. When might we expect such policy-specific legislation?

The Hon. P. HOLLOWAY: Just as we have legislation in relation to matters like occupational health and safety and the like, we do have the commonwealth government's mandatory renewable energy target (MRET). It has achieved increased renewable energy and has indirectly impacted on the choices being made in the national electricity market without having changed the national electricity law itself. I note that there is now bipartisan support at the federal level for increasing the level of MRET.

As I indicated earlier, there is also now bipartisan support federally for implementing an emissions trading regime by no later than 2012, which should provide the incentive to fundamentally transform over time the electricity supply industry towards low emissions generation capacity. So, that is how one should address these issues, rather than doing it within the national electricity law, which is already voluminous.

The Hon. SANDRA KANCK: I hope that opposition members are listening at the moment, because when this bill was debated in the other house there was a great deal of discussion about the fact that we are being prevented from really having any say in this. This amendment is something that I invite the opposition to support because here is probably one of the most fundamental clauses in this bill and this amendment to it. If the opposition asserts that it is being prevented from doing anything, then I ask it to support this. We are the lead legislators and if we can get a provision like this inserted into this bill it will then pave the way for the other states to do anything.

The minister referred to the policy specific idea: for instance, the national emissions trading scheme, which he said will be in place by 2012. A little bit of mathematics says that that is five years away, and yet yesterday figures came out to show that on a per capita basis Australia is the worst greenhouse gas emitter in the world. Today Professor Graham Pearman has come out to say that the worst case scenarios of the IPCC are not accounting for where we are headed at the present time. He is saying five to 10 times worse. So, how can anybody not support an amendment like this? This is crucial if we are serious about the forms of electricity and the way our market proceeds.

The committee divided on the amendment:

AYES (2)

Kanck, S.M.	Parnell, M. (teller)

NOES (16)

Bressington, A.	Evans, A.L.	Finnigan, B.V.
Gago, G.E.	Gazzola, J.M.	Holloway, P. (teller)
Hood, D.G.E.	Hunter, I.K.	Lawson, R.D.
Lensink, J.M.A.	Lucas, R.I.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.
Zollo, C.		

Majority of 14 for the noes.

Amendment thus negatived; clause passed.

Clauses 9 to 18 passed.

Clause 19.

The Hon. R.I. LUCAS: A series of sections are being inserted that give significant further powers to the regulatory authorities, such as search warrants, the announcement of entry, details of warrants, the seizure of documents, etc. Will the minister outline whether there have been problems with the existing powers of the energy regulator in terms of policing the National Electricity Market and its participants?

The Hon. P. HOLLOWAY: My advice is, no; the motivation for changing is really just to bring the provisions in line with current criminal law policy. So, it is not based on any particular problem with it; it is simply to make them consistent with current policy.

While I am on my feet I will give some more information following this morning's debate. The Hon. Rob Lucas will recall there was some discussion about what clause 14.15 meant when it provided that the parties further agree that for the purposes of the phase-out of the exercise of retail price regulation under clause 14.13 the process of responding to advice from the AEMC under clause 14.11(c)(i) will be as unanimously agreed by the MCE by 1 July 2006. Our advice is on checking that is correct: it is by 1 July 2006. As I previously indicated, in fact that agreement was reached on 19 May 2006, so it was correct as originally published.

Clause passed.

Clauses 20 to 27 passed.

Clause 28.

The Hon. M. PARNELL: I move:

Page 42—

After line 24—

Insert:

(1a) NEL, section 34(3)(c)—after 'the Reliability Panel' insert:

, the Renewable Electricity and Emissions Intensity Panel

After line 32—

Insert;

(3) NEL, section 34—after subsection (3) insert:

(4) Without limiting a preceding subsection, the AEMC must ensure, by 1 July 2009 or a later date that is prescribed by the regulations, that the Rules include provisions that are aimed at promoting—

(a) management of demand for electricity; and

(b) reductions in greenhouse gas emissions arising from the generation or use of electricity; and

(c) the interest of financially disadvantaged or low-income consumers of electricity; and

(d) the status of the supply of electricity as an essential service within the community.

(5) In addition, the AEMC must, when considering a proposal to make a Rule (whether initiated by the AEMC or requested by another entity or person), specifically assess the extent to which the Rule would be likely to result in a benefit, or cause a detriment—

(a) to consumers of electricity; and

(b) to the public more generally.

I will not speak at any length on these. My amendment No. 7 refers again to the renewable electricity and emissions intensity panel. We have discussed it before. Amendment No. 8 reflects the additional objectives that I sought to include in the legislation, and it requires rules and regulations to be made to give effect to demand management, greenhouse and the status of the supply of electricity as an essential service. Given that we have not inserted those as objectives in legislation, I can see that the will of the committee is not to have them as a requirement of rules or regulations either.

Amendment negatived.

The Hon. R.I. LUCAS: I have a question relating to page 36 of the bill, clause 28V—Preparation of network service provider performance reports, which provides that, subject to this section, the AER may prepare a report on the financial performance or operational performance of one or more network service providers. Is this a new provision in the national electricity law, or is it just a reworking of the old? In particular, under the existing national electricity law, does the AER have the power to prepare a report on the financial performance of a network service provider as opposed to its operational performance?

The Hon. P. HOLLOWAY: My advice is that it is a new provision—a new initiative—and that it is to ensure that performance reports that are undertaken by ESCOSA and the Victorian regulatory authority, the Central Services Commission of Victoria, can be explicitly performed by the AER.

The Hon. R.I. LUCAS: I take it that what the minister is saying is that this power will allow the AER to produce reports similar to the reports already produced on ETSA Utilities by ESCOSA here in South Australia. Is that correct?

The Hon. P. HOLLOWAY: Yes.

Clause passed.

Clause 29.

The Hon. R.I. LUCAS: On page 42, I think of clause 28—amendment of section 34—in checking what the change is in relation to this, it appears to be the insertion in subclause (1) of a new paragraph (b): 'any matter or thing contemplated by this law or is necessary or expedient for the purposes of this law'. Why do the minister and the jurisdictions want this additional provision added? Is there a problem with the existing drafting that has necessitated this additional paragraph (b)?

The Hon. P. HOLLOWAY: My advice is that it is in there simply to provide some flexibility. By analogy, if one takes regulations which need to be changed, obviously you need the head powers there to do it in relation to the rules. I understand that this is simply to enable some flexibility in relation to changing the rules.

The Hon. R.I. LUCAS: I have expressed this view privately to parliamentary counsel and I will express it publicly here—although the issue I raised with parliamentary counsel was, I think, more significant than this. There is, in my experience in this parliament, an increasing tendency to draft catch-all provisions in as many different ways as possible. As I am a suspicious person, I always believed that it was the ministers and the government who wanted to do it, but I understand, in some cases, it may well be that it is becoming parliamentary counsel or legal drafting practice.

The issue I raised was a particular provision in the SABSSA legislation which talked about, in essence, 'any other function that the board might contemplate', so that you could change the functions of a board through the decisions of that particular board. The advice I received was that there had been an increasing tendency in recent times to draft those sorts of provisions rather than having to come to the parliament to change particular functions. As I said, I think that is a more significant issue to be addressed at another time.

I highlight that this sort of drafting (which we are seeing increasingly in many pieces of legislation) has kernels of concern from the parliament's viewpoint in that we, as a parliament, should not, in drafting, open up the floodgates in terms of these sorts of catch-all provisions. In essence, they allow anything else that a minister or a board, or someone other than parliament, might deem to be relevant to the legislation and they can write their own rules.

Ultimately, it ought to be parliament that makes the particular decisions, to the extent that it is possible. Then, of course, you have regulations and, under this regime, of course, we do have the particular problem of the rules that exist. I raise that as a general issue. I then come to the next section, 28(2), which seems to have added another three lines at the end. The existing drafting says that 'it confers a function on', etc., and then the last three lines seem to have been added on:

> ...including guidelines, tests, standard procedures and any other document...that leave any matter or thing to be determined by the AER...or jurisdictional regulator...

Was there a problem with the existing drafting and, if so, what was it? Can the minister explain why there has been this amendment to this provision?

The Hon. P. HOLLOWAY: In relation to clause 1, it is a common drafting practice to enable any incidental changes to the rules that are required to be made—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: —or as necessary or expedient for the purposes of this law. It is constrained if you read the lot. Similarly with this clause my advice is that it is there to provide that flexibility in case some issue arises.

The Hon. R.I. Lucas: So there hasn't been an issue yet?

The Hon. P. HOLLOWAY: We will correspond with the honourable member in that regard.

The Hon. R.I. LUCAS: Given that South Australia is the lead legislator, has South Australian parliamentary counsel been responsible for the drafting, or has the government employed private consultants to be involved in the drafting of the national electricity law?

The Hon. P. HOLLOWAY: The Parliamentary Counsel's Committee (PCC) was responsible for the drafting and allocated this legislation to the Victorian parliamentary counsel.

The Hon. R.I. LUCAS: Why was that? We have extraordinarily competent parliamentary counsel in South Australia. They have always, as I understood it, been responsible for drafting the national electricity law. We were the lead legislators. I had been led to believe that not only was it not South Australian parliamentary counsel involved but that at one stage (perhaps not this stage) the jurisdictions had employed a leading national private firm to be involved in the drafting. If the minister does not have that answer, will he take that question on notice and indicate whether or not I have been misled in my belief in terms of the involvement of a national legal firm in the drafting of national electricity laws?

The Hon. P. HOLLOWAY: The first draft in 1996 was drafted by Victoria, as they were in 2005. In relation to private drafting of the rules, I am advised that that was not the case. I think Mr Hackett-Jones in a private capacity has drafted the rules. I am sure that they are thoroughly drafted.

The Hon. R.I. Lucas: The current rules?

The Hon. P. HOLLOWAY: Yes.

The Hon. R.I. LUCAS: The minister may check that I have been misled. Will he check that at no stage through the various tranches of national electricity law have jurisdictions employed a private legal firm to assist in the drafting? I take it that that is the minister's reply.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: So Mr Hackett-Jones is the only example of what you are talking about; I was not talking about him.

The Hon. P. HOLLOWAY: My advice is that a private legal firm has been hired, but for consultancy advice and not in relation to the drafting itself.

The Hon. S.G. WADE: Minister, is it normal practice for parliamentary counsel interstate to deal with matters where we are the lead legislator? I think the Hon. Mark Parnell has rightly highlighted the awkward position this parliament is put in because it is expected to be the lead legislator for decisions made elsewhere—not only are we expected to be lead legislator but the parliamentary counsel who drafted the legislation is not even available to us. With the greatest respect for all his skills, if the parliamentary counsel present has not been involved in drafting the legislation, how can they advise us effectively?

The Hon. P. HOLLOWAY: The answer to that is that parliamentary counsel here was involved in the process; he is a member of the National Parliamentary Counsels Committee and he also signed off on the legislation that came through, so Mr Dennis is thoroughly familiar with the legislation. I assume there would be reverse cases where South Australia drafts lead legislation for other jurisdictions, so it is really up to that national committee. I guess it depends on who is available and the relevant expertise.

The Hon. S.G. WADE: To clarify my point, I am not actually objecting to, shall we say, outsourcing to interstate parliamentary counsel. My primary concern is that whatever parliament is asked to be the lead legislator has the best advice available to it—whether that be officer level or parliamentary counsel level advice. I concur with the expressions of concern made earlier by the Hon. Mark Parnell; I think that we, as a parliament, need to be vigilant and make sure that bureaucrats and ministers do not usurp the authority of parliament through processes such as this.

The Hon. R.I. LUCAS: Having opened that can of worms, and given that we have another two or three tranches of legislation, I indicate that the South Australian government might change its position and lobby furiously for the South Australian parliamentary counsel to be responsible for the drafting of the next two or three tranches of legislation that are coming.

The Hon. M. Parnell interjecting:

The Hon. R.I. LUCAS: At least the Hon. Mr Parnell and I can agree on that issue. My next question relates to clause 29, which is on the same page. This deletes sections 25 and 36 of the

current national electricity law. Can the minister indicate why the existing sections have been deleted?

The Hon. P. HOLLOWAY: It has been consolidated under section 7, revenue and pricing principles.

The Hon. R.I. LUCAS: Is the minister assuring the committee that all the provisions that existed under sections 35 and 36 have been incorporated under section 7 of the legislation, that there has been no removal of any particular provision that currently exists in the transference?

The Hon. P. HOLLOWAY: We can have a look at it and give a written answer, but the advice I have is that an expert panel looked at it and its requirement was that the pricing principles of the previous legislation be incorporated in the new legislation. However, as I said, if the honourable member wishes, we can have our legal advisers check that out more thoroughly but, certainly, that is our belief.

The Hon. R.I. LUCAS: I am happy to take that assurance, but I would like that by correspondence if I can. The government then seeks to incorporate new clause 35, which provides that 'The AEMC must not, without the consent of the MCE, make a rule that confers a right or function'.

First, I assume that is the unanimous consent of the MCE; I want to confirm that point. Secondly, can the minister indicate whether there has been a particular issue or problem as to why, without the consent of the MCE, that has been incorporated?

The Hon. P. HOLLOWAY: The AEMC has conferred a power to the ministerial council under their rules, and that is the reason for this rule, namely, to require written consent before they do that in future.

The Hon. R.I. LUCAS: Can the minister explain what that rule is? I am assuming from this drafting that the ministerial council objected to the AEMC conferring a right or a function or duty on the ministerial council without their having agreed to it.

The Hon. P. HOLLOWAY: We believe it is to do with metrology, which is the science of metering. But, again, we would probably have to check that to get any further details.

The Hon. R.I. LUCAS: The issue of metering, of course, is a not insignificant issue in terms of the national electricity market at the moment. I would be interested to know what decision the AEMC took in relation to metering to which the ministerial council objected, and I am happy to accept that assurance from the minister.

The Hon. P. HOLLOWAY: My advice is that it was not the specifics of the decision; rather, it was the principle that they could impose that obligation on the ministerial council that was objected to.

Clause passed.

Clause 30 passed.

New clauses 30A and 30B.

The Hon. M. PARNELL: I move:

Page 43, after line 23—insert:

30A—Amendment of the NEL—New section 38A inserted

NEL—After section 38 insert:

38A—Renewable Electricity and Emissions Intensity Panel

(1) The AEMC must establish a panel of persons to be known as the Renewable Electricity and Emissions Intensity Panel, the composition of which must be in accordance with the rules.

(2) The functions and powers of the Renewable Electricity and Emissions Intensity Panel are—

(a) to monitor, review and report, in accordance with the rules—

(i) accounting principles or practices associated with any trading within the national electricity market that is relevant to the production or transfer of renewable electricity or to reductions in rates of greenhouse gas emissions; and

(ii) the quantity of renewable electricity that forms part of the national electricity market (distinguishing between the various parts of the market); and

(iii) the amount of greenhouse gas emissions arising from the generation or use of electricity as part of, or in connection with, the national electricity market; and

(iv) the quantity and quality of any certificates or other rights created by statute to promote renewable electricity or reductions in rates of greenhouse gas emissions that are traded as part of, or in connection with, the national electricity market; and

(b) at the request of the AEMC, to provide advice in relation to the integration of supply and reliability policies associated with the national electricity system with renewable electricity and greenhouse gas emission policies of the governments of the participating jurisdictions; and

(c) any other functions and powers conferred on it under this law and the rules.

(3) At the completion of a review, the Renewable Electricity and Emissions Intensity Panel must give a report to the AEMC.

Section 39—After the 'Reliability Panel' insert:

or the Renewable Electricity and Emissions Intensity Panel

This amendment incorporates a new body, the Renewable Electricity and Emissions Intensity Panel, which I believe is important for the reasons I have already given.

The Hon. P. HOLLOWAY: Because the Hon. Mr Parnell's amendments Nos 9 to 14 are all consequential on a previous amendment, we oppose the amendment.

New clauses negatived.

Clause 31 passed.

Clause 32.

The Hon. R.I. LUCAS: The drafting of clause 32 includes the wording 'any matter relating to any other market for electricity'. The current draft talks about 'national electricity market'. I am just wondering what jurisdictions parliamentary counsel has in mind here when it has already covered the national electricity market, which is what our legislation is about; yet they are talking about 'any other market for electricity'.

The Hon. P. HOLLOWAY: My advice is that it is there just to provide legal clarity so there can be no doubt in relation to it. It is being done, but this simply makes it absolutely crystal clear that it can do it. As I said, the honourable member has the correspondence that we had from Ian McFarlane relating to the Victorian review. This simply establishes it in the national electricity law and makes it crystal clear that there is the power to do that.

The Hon. R.I. LUCAS: This raises an interesting legal question, because it is a bit late if there is any doubt about it, given that the AEMC has already conducted—as the minister has acknowledged—a review of the Victorian market under some power that exists within the national electricity law. I can only assume that someone may challenge the authority (the AEMC) to undertake these reviews.

One does not draft these things and then add an additional function after having already done something unless somebody has raised a question or a concern that there is an existing authority within the national electricity law for the AEMC to have done this particular review of the Victorian market. Is the minister aware of any participant in the industry raising legal concerns about the authority of the AEMC?

The Hon. P. HOLLOWAY: No, we are not aware of any. My advice is that there is no problem with that. Section 41 of the existing act provides:

The MCE may give a written direction to the AEMC that the AEMC conducts a review into:

(a) any matter relating to the national electricity market; or

(b) the operation and effectiveness of the rules; or

(c) any matter relating to the rules.

So, it is a fairly broad general power. I assume that what we have here with—

The Hon. R.I. Lucas: Why do you need (d)?

The Hon. P. HOLLOWAY: As I said earlier, it is simply to clarify it. This relates to the ministerial council directing power. So, this head of power would give the ministerial council the power to direct the AEMC to undertake such a review. The AEMC already has the power to

undertake a review. The question here is really about the ministerial council's power to direct the review rather than about the AEMC's power to undertake the review. So, the AEMC can undertake the review. My advice is that it has sufficient powers to do that without this clause, but this specifically enables the ministerial council to require the AEMC to undertake such a review.

The Hon. R.I. LUCAS: The ministerial council already has the power to give a written direction to the AEMC to conduct a review on any matter relating to the national electricity market. Whilst I am not a highly paid QC or parliamentary counsel, any matter relating to the national electricity market, to me, would include one of these market reviews. Clearly, someone has given legal advice that it does not or that there is some doubt.

I accept the fact that the ministerial advisers here might not have the answer to that if it is Victorian parliamentary counsel that has been drafting the provisions. The minister has given an assurance that he has no knowledge—and his advisers have no knowledge—of anyone raising a legal question as to whether or not the current drafting of 41.1 does not allow such an AEMC review. He has given an assurance based on his advice, so I guess there is not much more we can do at this stage.

Clause passed.

Clauses 33 to 52 passed.

Clause 53.

The Hon. M. PARNELL: I move:

Page 64, after line 8—Insert:

(d) the Renewable Electricity and Emissions Intensity Panel;

This is a reference to the Renewable Electricity and Emissions Intensity Panel, and I do not propose to speak to it further.

Amendment negatived; clause passed.

Clauses 54 and 55 passed.

Clause 56.

The Hon. R.I. LUCAS: I want to clarify this provision. It may well be caught up with the debate that we had earlier. This provision inserts a new section: the South Australian minister to make further rules relating to distribution determinations, consumer advocacy and other matters. Is this the provision that covers the 120 pages of rules that the minister gave me earlier?

The Hon. P. HOLLOWAY: Yes, that is correct.

Clause passed.

Clause 57.

The Hon. M. PARNELL: I move:

Page 67—

After line 6, insert:

(1) NEL, section 91(1)—delete 'or the Reliability Panel' and substitute:

, the Reliability Panel or the Renewable Electricity and Emissions Intensity Panel

After line 15, insert:

(3) NEL, section 91—after subsection (4) insert:

(5) The Renewable Electricity and Emissions Intensity Panel may only request the AEMC to make a rule that relates to its functions.

Note—

Section 38A(2) describes the functions of the panel.

These amendments are consequential, and I will not speak to them further.

Amendments negatived; clause passed.

Clauses 58 to 74 passed.

Clause 75.

The Hon. M. PARNELL: I move:

Page 76, after line 37—Insert:

122A—Immunity from personal liability of Renewable Electricity and Emissions Intensity Panel

(1) No personal liability attaches to a person appointed to the Renewable Electricity and Emissions Intensity Panel for an act or omission in good faith in the performance or exercise, or purported performance or exercise, of a function or power of the Renewable Electricity and Emissions Intensity Panel under this law, the regulations or the rules.

(2) A liability that would, by for subsection (1), lie against a person appointed to the Renewable Electricity and Emissions Intensity Panel lies instead against the AEMC.

This, again, is consequential.

Amendment negatived; clause passed.

Clause 76.

The Hon. M. PARNELL: I move:

Page 93, after line 21—Insert:

(11a) Schedule 1 to the NEL, item 33(b)—after 'the Reliability Panel' insert:

, the Renewable Electricity and Emissions Intensity Panel.

This is, again, consequential. I will take the opportunity—this being my last amendment—to thank parliamentary counsel—

The Hon. R.I. Lucas: South Australian.

The Hon. M. PARNELL: —South Australian parliamentary counsel for pulling these amendments together. I thank parliamentary counsel on behalf of my colleagues in other jurisdictions where I will be sending these amendments and the *Hansard* record of their fate. I fully expect that Greens members of parliament in other states and territories will be moving very similar, if not identical, amendments to the fine work done by South Australian parliamentary counsel.

Amendment negatived; clause passed.

Remaining clauses (77 to 92) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

AUSTRALIAN ENERGY MARKET COMMISSION ESTABLISHMENT (CONSUMER ADVOCACY PANEL) AMENDMENT BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I advise the committee that this bill was drafted by Mr Richard Dennis, so it should be a speedy committee stage. I take the opportunity to respond to the Hon. Dennis Hood who asked several questions to which I undertook to get more information. In relation to his first question, he asked:

> Family First is concerned that there is scope for an abuse of this advocacy support system. Namely, that with such high limits at the upper end big business could well take over the advocacy, pretending to be advocating for the small to medium end users. On my understanding, for instance, there was only one small user representative on the panel, which sees them clearly out voted by industry representatives and big business combined, which is a significant problem that will need to be addressed in the summing up.

I have been provided with the following answer. The Consumer Advocacy Panel members will not be representing sectoral interests. Further to the response to the Hon. Mark Parnell to a similar question, panel members are appointed by the minister on the recommendation of the Ministerial Council on Energy and are to be selected on the basis of their skills and expertise, including knowledge of the energy sector, the ability to assess applications for funding against criteria, awareness of public interest advocacy, and the ability to identify areas of research that would benefit customers of electricity or natural gas.

The second question asked by the Hon. Dennis Hood was as follows:

How will the Energy Consumers' Council, which seems to have more than doubled in size, from four to nine members, according to the recent 2006-07 Auditor-General's Report, interface with the Consumer Advocacy Panel created by this bill? Will it recommend or even make appointments to the Consumer Advocacy Panel?

I have been provided with the answer that the Energy Consumers' Council (ECC) has no role in making recommendations or appointments to the Consumer Advocacy Panel; that is the responsibility of the Ministerial Council on Energy. However, the ECC (or any of its individual members) is able to make a grant funding submission to the panel for advocacy and research projects. The current membership of the ECC is 10, and this has been the case since its inception in 2002. The Consumer Advocacy Panel will have five members, including the chair.

The Hon. M. PARNELL: I thank the minister for his response and I would like to tease it out a little further. Whilst I understand that the membership of the panel will not be representative in that it represents particular bodies, nevertheless I think it is important for the interests of very small consumers of electricity who are the vast bulk of consumers to be represented. How does the minister see that this panel will represent the interests of the smallest consumers?

The Hon. P. HOLLOWAY: I think the honourable member has been provided with the draft regulations. If we look at those, under clause 8 schedule 1, Criteria for Grant Allocation, one can see that the conditions there require diversity in the allocation of funding after it has taken into account the number and range of consumers that may benefit from relevant projects and the nature of the interests extended across the projects and the issue to which the projects will relate while recognising the general perspective the panel's objective set out in section 30B of the act. New section 30(b) provides:

(b) the Panel must seek to promote the interests of all consumers of electricity or natural gas while paying particular regard to benefiting small to medium consumers of electricity or natural gas.

So, one takes the criteria for a grant allocation in conjunction with the objectives the committee is required to observe. I trust that answers the honourable member's question.

The Hon. M. PARNELL: I accept that answer, but I make the point made by other honourable members, namely, that when small to medium consumers are defined as those who can spend up to $1 million on their energy I think that they are in a separate category. However, I accept the minister's answer.

Clause passed.

Clauses 2 to 10 passed.

Clause 11.

The Hon. M. PARNELL: I move:

Page 6, after line 25—Insert:

and

(c) without limiting the operation of paragraph (b), the Panel must, in its assessment processes, seek to provide an element of weighting in favour of projects that—

(i) promote the management of demand for electricity; or

(ii) prioritise energy sources according to the extent to which they are environmentally or socially sustainable.

Page 7, after line 2—Insert:

(e) an ability to provide advice on—

(i) energy demand management'

(ii) renewable energy.

I am under no illusion that these amendments may not suffer the same fate as the bill we have been just been discussing. I will not take the time of the council going through in detail again why I believe that demand management is a critical component of any debate in relation to energy and, similarly, why it is important to prioritise energy sources according to the extent to which they are environmentally or socially sustainable. Whilst these laws we have been debating may be national laws, I still think that these amendments are worth while, and I commend them to the committee.

The Hon. P. HOLLOWAY: The government opposes the amendments, which would expand upon the proposed objectives of the panel under new section 30. The government's

reasons for opposing them are similar, if not identical, to those in relation to the previous bill we debated when the Hon. Mark Parnell sought to increase the objectives under the Electricity Act.

While environmental objectives are very important, and the South Australian government is actively seeking to take leadership in responding to climate change, the Australian Energy Regulator, the Australian Energy Market Commission and the Consumer Advocacy Panel are not the most appropriate bodies to determine the environmental policy priorities of governments across the energy sector.

As with other policy objectives that are not directly addressed as part of this bill, such as industrial relations, occupational health and safety and specific environmental protection, broad environmental objectives are best addressed via policy specific legislation. I previously gave the example of the commonwealth government's Mandatory Renewable Energy Target (MRET), which has achieved increased renewable energy and directly impacted on the choices being made in the National Electricity Market without having changed the National Electricity Law.

The intention of the bill is to allow the Consumer Advocacy Panel to determine which areas of grant funding would benefit consumers of electricity and gas and to keep the scope of projects that can be funded as wide as possible. This amendment would unnecessarily constrain the members of the panel in their deliberations. This intention to ensure the wide scope of potential projects available for grant funding is also reflected in the draft regulations. As I said, I have covered my arguments against both amendments moved by the Hon. Mark Parnell in those comments.

Amendments negatived; clause passed.

Clause 12, schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

LAKE EYRE BASIN (INTERGOVERNMENTAL AGREEMENT) (RATIFICATION OF AMENDMENTS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (16:46): Obtained leave and introduced a bill for an act to amend the Lake Eyre Basin (Intergovernmental Agreement) Act 2001. Read a first time.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (16:47): I move:

That this bill be now read a second time.

The Lake Eyre Basin (the Basin) is a unique environment that is also important to South Australia's economy. Mostly arid, yet subject to some of the largest floods in the country, the Basin includes diverse landscapes, communities and economic activities. It is an area rich in Aboriginal heritage, which has continuing significance for the culture and well-being of the descendants of the early Aboriginal groups.

Environmentally significant, the South Australian portion of the Lake Eyre Basin includes the Ramsar listed Coongie Lakes wetland system. This mosaic of lakes is one of Australia's most spectacular natural attractions, and in 2005 the South Australian government declared the Coongie Lakes National Park in recognition of the importance of this area.

The rivers of the Basin sustain a variety of economic activities. Tourism, mining, pastoralism and service industries generate significant economic contributions to regional, state and national economies. This region attracts more visitor nights than any other tourism region outside of Adelaide and is an important tourism asset for South Australia. The area's marketing success relies heavily on a favourable public perception of its attractions and of how it is being managed.

The Lake Eyre Basin and surrounding area is rich in minerals and resources, development of which could contribute to meeting the major economic targets in South Australia's Strategic Plan. However, the largest economic sector in the Basin is pastoralism. In the South Australian portion of the Basin, gross annual value of pastoral production ranges from $47 million to $97 million and represents 22.5 per cent of South Australia's beef production and 4.5 per cent of sheep and wool production.

With significant economic production, fragile environments and communities' reliance on balancing the interaction between the two, the need for a system of managing the Basin as a whole is evident.

Experience in other parts of Australia and internationally has demonstrated that short-term, insular decision-making is not sustainable. Responding to the proposal for a large-scale cotton irrigation development at Cooper Creek in Queensland, South Australia became the driving force behind an initiative to develop an inter-jurisdictional agreement for the waters and related natural resources of the Lake Eyre Basin.

After some five years of negotiation, the Lake Eyre Basin Intergovernmental Agreement was signed by South Australia, Queensland and commonwealth ministers on behalf of their respective governments on 22 October 2000. All three jurisdictions undertook to legislate to give effect to the agreement, and the South Australian Lake Eyre Basin (Intergovernmental Agreement) Act 2001 was passed by the South Australian parliament on 3 April 2001.

The purpose of the agreement is to avoid or eliminate, as far as reasonably practicable, adverse cross-border impacts on the region's water and related natural resources. The agreement has been effective in bringing together governments, communities and scientists to address natural resource management issues in the basin. Specific achievements include continued cross-jurisdictional cooperation in natural resource management and water planning, installation of three new automatic stream-gauging stations to increase understanding of surface water hydrology, the compilation of an hydrological atlas for the basin, the development of the Rivers Assessment Program to track changes in resource conditions over time, and hosting the two Lake Eyre Basin conferences and the first Lake Eyre Indigenous Forum.

These initiatives have established the cooperative environment required for regional natural resources management bodies across jurisdictions to seek and secure funding for projects to address on-ground natural resources management issues. On 10 June 2004, and after significant consultation, the Northern Territory became a party to the Lake Eyre Basin Intergovernmental Agreement.

As a result, South Australia undertook to review the boundaries of the agreement area to complement the Northern Territory initiative. Initially, the review focused on those parts of the Lake Eyre Basin with the closest connection to the Northern Territory: Finke and Hamilton/Alberga/Macumba rivers and catchments, and Witjira National Park, Simpson Desert Conservation Park and Simpson Desert Regional Reserve.

Several individuals and organisations indicated that they were keen to see the Neales and other catchments to the west of Lake Eyre also included in the agreement. Subsequently, a second-stage review was undertaken with a view to including the Neales, Umbum, Sunny and Douglas rivers and their catchments. As there was general support for the inclusion of both the stage 1 and stage 2 areas within the Lake Eyre Basin Agreement, and following the approval of schedule 3 to the agreement by the Lake Eyre Basin Ministerial Forum in February 2007, the government is now pleased to introduce the Lake Eyre Basin (Intergovernmental Agreement) (Ratification of Amendments) Amendment Bill 2007. The inclusion of these additional areas demonstrates the commitment of South Australia to the agreement and provides opportunities for the cooperation and collaboration in managing catchments as a whole.

Debate adjourned on motion of Hon. J.M.A. Lensink.

TOBACCO PRODUCTS REGULATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clauses 1 to 3 passed.

New clause 3A.

The Hon. SANDRA KANCK: I move:

Page 2, after line 10—Insert:

3A—Amendment of section 30—Sale of tobacco products by retail

Section 30—after subsection (4) insert:

(5) A person must not sell a tobacco product by retail if the order for the tobacco product was placed by mail, telephone, facsimile transmission or internet or other electronic communication.

Members will note that this is basically the same content as was in a bill that passed this chamber last night. I am smart enough to know that that bill, which I hope has been picked up this morning in the House of Assembly, will face defeat because the government has the numbers there, so I have taken the identical content and moved it as an amendment to this bill, knowing that there is a better chance that it will survive that process between the houses.

For the record, the amendment deals with the issue of being able to order your tobacco products over the internet and then have them home delivered. As I commented and repeated last night, it is very easy for young people to lodge an order via the internet and then, with a few other grocery products, have that delivered at home and say when it turns up, 'Here's the money. Sorry, mum and dad are not here.' It is a very easy way for minors to get hold of tobacco products.

I remind the minister of some of the statements she made when she introduced this bill. One particular statement was:

> One key factor that influences the uptake of smoking is ready access to tobacco products.

So, the minister recognises how important it is to stop that ready access, and this amendment will assist the minister and the government in that particular aim.

The Hon. G.E. GAGO: The government does not support this amendment, although I acknowledge the worthy intentions of the Hon. Sandra Kanck. However, we cannot support this amendment. The government believes the issue should be dealt with at a national level, and I can advise that work is being done through the Ministerial Council on Drugs Strategy to regulate the sale of tobacco over the internet, so that work has already commenced.

The government would like to see an option explored in all jurisdictions in Australia to work collaboratively towards restricting the sale of tobacco products over the internet and banning sales to people under the age of 18 years, for example, by requiring them to provide proof of age at the time of receiving goods and tightening up that end of it.

Internet sales occur through web sites located anywhere in the world, making this an extremely difficult area to regulate. This amendment offers only a very short-sighted and limited solution to what is quite a complex issue and largely an Australian government responsibility. Further consideration needs to be given to how this amendment would affect people with disabilities, for instance, and country people.

Those people with disabilities who physically are not able to go to retail outlets, as well as people in rural and remote locations in South Australia, would be disadvantaged by such a regulation. People in rural and remote locations are often required to place a bulk order of goods, which includes cigarettes, by phone, email or fax at their supermarket. The station then sends out its own truck to the supermarket to collect the bulk order or, if there is a road train travelling in that direction, another option is that the order may be put on that truck and dropped at the station on the way. It is for these reasons that the government cannot support this amendment.

I acknowledge the worthy intentions behind the reasons for this, but I urge members to think carefully about it as it will have only a limited impact on these sort of sales, given that internet sales are predominantly nationally and internationally based. As it stands, this regulation could quite easily disadvantage some sectors of our community.

The Hon. J.M.A. LENSINK: I indicated previously that the Liberal Party supports these amendments. To briefly address some of the issues, there is a split in commonwealth/state jurisdictional issues over this area. As the minister stated, some of these sites are overseas, such as cheapsmokes.com, and I believe the ACCC has initiated some sort of action in an attempt to bring them to heel.

The Hon. Sandra Kanck sent me a link to a local grocery website, one that I have used myself (but not for cigarettes), Banana Blue. I am sure that it is a reputable firm. I followed the instructions given by the Hon. Sandra Kanck on how you would in theory purchase a packet of cigarettes, and it goes through a series of different prompts and comes up with a box giving the standard health warning.

The state jurisdiction relates to point of sale. We have now in this state gone through the process of changing point of sale displays for retail outlets, and it is specified as one square metre plus an A4 gory sign and, if you have the four metre displays, you have the larger sign. There is no comparison and it makes a mockery of point of sale display issues because the online services do not need to obtain them at all.

The Hon. B.V. Finnigan: They are still on the packets.

The Hon. J.M.A. LENSINK: That is fine, except they can get their packet jackets, because nothing is happening about that, either. The Hon. Sandra Kanck made the point very well about young people's take-up of technology and their ability to flout the laws. For retail outlets, there are hefty fines and it is a huge anomaly not to take action in this area.

The Hon. SANDRA KANCK: It is interesting to consider that this bill has been introduced by the Minister for Substance Abuse, which in itself tells us that we are dealing with a drug. We know it is a highly addictive drug—a very dangerous drug, with thousands of people dying from its use every year. I find it a little strange to have the minister arguing that it would be unfair for people in remote areas and with disabilities if they have some delay in getting their supply of this particular drug.

If there is any validity in the argument that we need to ensure supply of that drug, we need to consider that the internet is only a relatively recent innovation and for many decades people who did not have access to the internet were able to get it when they made their weekly trip into the nearest town, or for people with disability to get somebody else to buy it for them. It seems strange to have the Minister for Substance Abuse arguing that as a reason for this not to be supported.

I know it has limited application, but I am also very wary of waiting for something to be done nationally. As I said last night, when I introduced a bill in 1996 to require the advertising of genetically modified products I was told that we needed to take national action and 11 years later we are still waiting. It is not a good enough reason for us not to take action.

The Hon. J.M.A. LENSINK: The Hon. Sandra Kanck has jogged my memory. In relation to the defence of using a national approach, that is precisely what happened with the display advertising around Australia. The state government delayed—

The Hon. Sandra Kanck: How many years?

The Hon. J.M.A. LENSINK: I do not know. There was an announcement that we were going to have greater control of retail displays, then it was going to be a national approach and, finally, South Australia had to do it on its own; and I think that deserves a wooden spoon in terms of reform.

New clause inserted.

Remaining clauses (4 to 6) and title passed.

Bill reported with amendment.

Bill read a third time and passed.

LIQUOR LICENSING (CERTIFICATES OF APPROVAL) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (17:08): 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.

The Liquor Licensing Act 1997 gives the licensing authority (either the Liquor and Gambling Commissioner or the Licensing Court) the power to grant or refuse applications for new liquor licences for premises or proposed premises.

In the case of a premises that is not yet completed ('proposed premises'), it is open to the licensing authority to refuse an application and instead grant a 'certificate of approval'.

A certificate for a new licence is issued under section 59 of the Act. A certificate for removal of an existing licence to different premises is issued under section 62 of the Act.

Both sections 59 and 62 require that a certificate may only be issued if the licensing authority is satisfied of the following:

- any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained.
- that any approvals, consents or exemptions that are required by law for the carrying out of building work before the licence takes effect have been obtained.

The current legislation requires that both planning and building consent be obtained before a certificate is issued.

In 2000, the Act was amended to require that all relevant approvals be obtained prior to the issue of a certificate. At the time, the reasons for the amendments were given as follows:

the Bill deals with the current difficulty posed by the provision, in s59 and 62, for the licensing authority to issue a 'certificate of approval' for premises which have not yet been built. The licensing authority requires full information about the proposed premises before deciding whether a certificate of approval, which paves the way for a liquor licence, ought to be granted, and until recently it had been the practice of the authority to require this. However, it has been held by the Supreme Court that the Act does not require the applicant to have obtained development approval before applying for a certificate.

This result is undesirable. It is intended that applicants obtain development approval before obtaining approval for a liquor licence, because any conditions which might be attached to development approval could be relevant in determining whether a liquor licence should be granted. For this reason, the Bill amends sections 59 and 62 of the Act to make clear that, before a certificate of approval can be granted, the authority must be satisfied as to the matters as to which it is required to be satisfied in granting a licence, or in approving a removal of licence. These matters, set out in sections 57 and 60, include a requirement for any approval required under the law relating to planning.

In the matter of the Redlegs Club Inc, His Honour Judge Beazley suggested that the Liquor Licensing Act 1997 be amended to restrict the requirement that approvals be obtained at the certificate stage to provisional development planning approval.

His Honour Judge Beazley has highlighted a potential problem for applicants for certificates.

In almost every application for development approval, building consent is dealt with subsequent to planning consent. The costs involved in obtaining building consent can be significant and may take many weeks to months. In addition, plans and building specifications may change before they can be considered by planning authorities, and conditions of approval set, before the licensing authority can consider the licence application.

Applicants are reluctant to spend money on building consent until planning consent is obtained from the Council and licensing approval for the eventual grant, or removal, of licence has been obtained from the licensing authority.

It is proposed that the Act be amended to permit a certificate to be granted upon the applicant satisfying the licensing authority that he or she has obtained planning consent, as opposed to planning and building consent (development approval).

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Liquor Licensing Act 1997

4—Amendment of section 59—Certificate of approval for proposed premises

Currently, section 59(1) provides that the licensing authority may, instead of granting a licence for proposed premises that are uncompleted, grant a certificate of approval approving the plans submitted by the applicant in respect of the proposed premises if the licensing authority is satisfied as to the matters as to which it is required to be satisfied for the grant of the licence. Those matters as to which it must be satisfied are set out in section 57(2) and are—

- that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained; and
- that any approvals, consents or exemptions that are required by law for the carrying out of building work before the licence takes effect have been obtained; and
- that any other relevant approvals, consents and exemptions required for carrying on the proposed business from the premises have been obtained.

It is proposed to delete subsection (1) and substitute a new subsection that will provide that a certificate of approval may be granted in respect of proposed premises if the licensing authority is satisfied that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the proposed premises for the sale of liquor have been obtained.

5—Amendment of section 62—Certificate of approval for removal of licence to proposed premises

Current section 62(1) is similar to current section 59(1) except that it relates to the granting of a certificate of approval in relation to an application for the removal of a licence to proposed premises. The matters as to which

the licensing authority must be satisfied for the purposes of current section 62(1) are set out in section 60(2). As in the previous clause, it is proposed to delete current subsection (1) and substitute a new subsection that will similarly provide that a certificate of approval may be granted in respect of proposed premises if the licensing authority is satisfied that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the proposed premises for the sale of liquor have been obtained.

Debate adjourned on motion of Hon. J.M.A. Lensink.

PRIVATE PARKING AREAS (PENALTIES) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (17:09): 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.

This Bill amends the Private Parking Areas Act 1986.

The Bill proposes to increase the maximum penalties for parking offences under the Private Parking Areas Act 1986 from $200 to $1,250. This will enable the Private Parking Areas Regulations 2001 to, in turn, be varied so that the expiation fee for parking in a disabled persons parking space without a permit under this Act can become consistent with the expiation fee for a similar offence under the Road Traffic Act 1961.

In 2005 the Department for Transport, Energy and Infrastructure undertook a review of the disabled persons parking permit scheme relating to the level of compliance with, and enforcement of provisions of the scheme. One of the recommendations was to increase the expiation fee for the offence under the Australian Road Rules of parking in a disabled persons parking space without a valid permit. Consequently, the expiation fee under the Road Traffic (Miscellaneous) Regulations 1999 was increased from $72 to $210. This increase came into effect on 16 March 2006. The expiation fee has since been increased to $227 due to the annual adjustments to fees and charges.

As a result, there is now a significant inconsistency with the expiation fee for the same offence committed in a private parking area under the Private Parking Areas Regulations 2001, which is currently $78.

It has not been possible to increase the expiation fee for parking in a disabled persons parking space without a valid permit as provided for in the Private Parking Areas Regulations 2001 to bring it into line with the fee under the Road Traffic (Miscellaneous) Regulations 1999, because the maximum penalty for parking offences under the Private Parking Areas Act 1986 is $200. This penalty has not been increased since the Act was passed in 1986. Clearly an expiation fee cannot be greater than the maximum possible penalty.

The Government has approved amending the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999 to increase the maximum penalty for parking and stopping offences under the Australian Road Rules from $500 to $1,250.

The impact of the proposed increase (to $1,250) in the maximum penalty that a court might impose under the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999 and the Private Parking Areas Act 1986 is expected to be minimal because few parking or stopping offences are prosecuted. The vast majority are expiated.

It is desirable that maximum penalties and expiation fees for comparable offences be the same irrespective of the piece of legislation applicable. Accordingly, this Bill provides that the maximum fine for parking offences under the Private Parking Areas Act 1986 be brought into line with those under the Australian Road Rules.

Following the passage of this Bill it is intended that the Private Parking Regulations 2001 be varied to make the expiation fee for parking in a disabled persons parking space without a permit under this Act consistent with the expiation fee for the same offence under the Road Traffic Act 1961. The Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999 will also be varied thus making the maximum fine under both pieces of legislation consistent with the other.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Private Parking Areas Act 1986

4—Amendment of section 6—Offences

This clause amends section 6(2) to increase the maximum penalty for the relevant offences to a fine of $1,250, up from the current $200.

5—Amendment of section 8—Offences—driver and owner to be guilty

This clause amends section 8(9) to increase the maximum penalty for the relevant offence to a fine of $1,250, up from the current $200.

6—Amendment of section 15—Regulations

This clause amends section 15(2)(b) to increase the maximum penalty for an offence under the regulations to a fine of $1,250, up from the current $200.

Debate adjourned on motion of Hon. T.J. Stephens.

At 17:09 the council adjourned until Tuesday 20 November 2007 at 14:15.