

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): 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 terrorist attacks in New York on September 11, the devastating attacks in Bali, the bombings in Jakarta and on the transport system in Madrid and the murder of one of our most senior public officials, have highlighted the fact that these types of events have no geographic or state loyalty, and do not recognise state or international boundaries. In addition, major floods and bushfires interstate have also demonstrated the significant human and financial costs of such events.

This Government is committed to ensuring that South Australia has in place the best possible emergency management and protective security measures to prevent, respond and recover to a full range of potential emergencies, from natural events to human initiated or terrorist activities and to ensure the safety of our community and the infrastructure.

At the present time the principal statute for managing emergencies, including disasters, in South Australia is the State Disaster Act. Whilst this Act has served the State well since its inception in 1980, the Government realised that, planning must be more sophisticated and required a shift in focus from 'disaster management' towards an 'all hazards' framework that encompasses prevention, preparedness, response and recovery.

As the Parliament was advised on 16 October 2002, the Government commissioned a review of every aspect of our State's disaster legislation and associated disaster management arrangements to look at issues including:

- the role of government agencies in all aspects of emergency management and protective security;
- the governance arrangements for emergency management;
- recommendations to ensure South Australia is best positioned to manage a full range of potential emergencies.

The review identified a number of inadequacies in the existing arrangements including:

- insufficient clarity of governance arrangements between the Emergency Management Council, the Emergency Management Council Standing Committee and the State Disaster Committee;
- a lack of focus towards issues surrounding terrorism and protective security;
- a need to increase the involvement by local government and the owners and operators of key infrastructure services such as electricity, gas and oil;
- a lack of accountability on government chief executives for emergency management and protective security planning.

As a result of the Review, the Government has introduced an Emergency Management Bill to replace the State Disaster Act.

The Emergency Management Bill will facilitate the required shift in culture from "disaster management" towards an "all hazards" framework and ensure appropriate strategies and systems are in place to enable a seamless emergency management transition from minor emergencies through to a disaster.

The Emergency Management Bill includes an additional level of emergency to be known as an "Identified Major Incident". This level will provide a new transitional step between a day to day emergency and a declared Major Emergency. It may be used for emergencies where, because of the complexity of co-ordination or the magnitude of the event, a higher degree of management and co-ordination is appropriate.

Whilst this Bill will be the peak legislation for any emergency that is declared as an Identified Major Incident, Major Emergency or Disaster, it will complement the Fire and Emergency Services Bill, also currently before the Parliament. The Bill will in no way curtail the specific roles and responsibilities of control authorities that are identified in current legislation.

To improve the governance arrangements for emergency management and protective security, the Government will replace the Emergency Management Council Standing Committee and the State Disaster Committee with a State Emergency Management Committee which will report directly to the Emergency Management Council.

EMERGENCY MANAGEMENT BILL

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

Because of the importance this Government places on the role of the State Emergency Management Committee, it will be chaired by the Chief Executive of the Department of the Premier and Cabinet and include membership at Chief Executive level from other Government Departments. Also included will be Senior Executives from the Police, Ambulance and other Emergency Service agencies and a senior representative from the Local Government Association.

The State Emergency Management Committee will be accountable for the development and continual improvement of the State Emergency Management Plan. This Plan will incorporate the South Australian State Counter-Terrorism Plan and the South Australian Government Protective Security Manual.

In addition, the Committee will provide strategic policy advice and leadership across the whole of government in relation to emergency management, protective security and counter-terrorism issues.

To assist the State Emergency Management Committee, a series of "Hazard Leaders" will be identified to develop State level hazard plans in areas that pose risks to the community of South Australia and may have a major impact on the emergency management needs of the State. Specific hazards include such issues as bushfires, flood, failure of an essential service, animal or plant disease, transportation and storage of hazardous or dangerous goods, human disease including pandemic or epidemic, transport infrastructure failure, information technology failure or natural disasters such as earthquake.

To further enhance the Government's commitment to emergency management and protective security, Emergency Management Zones will be established across the State, including the metropolitan area. The Zone Emergency Management Committees will, through their membership, enhance the close working relationship that already exists between the Local Government, Police and Emergency Services and the community.

The Commissioner of Police will continue to be the State Co-ordinator and have the ability to exercise a wide range of powers once an emergency is declared at Identified Major Incident or greater.

It is essential to the future well-being of South Australia to ensure that there is a robust capability to recover from emergency incidents, not only in terms of personal issues, but also economically and environmentally.

The Emergency Management Bill emphasises this capability and fixes accountability to the State Emergency Management Committee and Zone Emergency Management Committees to ensure that all plans include recovery strategies.

This Government is committed to ensuring that South Australia is best positioned and has the best possible plans in place to manage a full range of potential emergencies that may confront our State in the 21st century.

The Emergency Management Bill will provide the basis from which the State's emergency management and protective security strategies and plans can be developed. In addition, it will provide an improved holistic framework to enable the State to mitigate against, plan for, respond to and recover from any emergency, whether minor in nature or catastrophic.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines certain terms used in the measure. In particular, *emergency* is defined broadly as an event that causes, or threatens to cause—

- the death of, or injury or other damage to the health of, any person; or
- the destruction of, or damage to, any property; or
- a disruption to essential services or to services usually enjoyed by the community; or
- harm to the environment, or to flora or fauna.

It should be noted that this is not limited to naturally occurring events (such as earthquakes, floods or storms) but would, for example, include things like epidemics, hi-jacks, sieges and acts of terrorism. A note to this effect is included in the measure. The measure provides a framework for emergency planning and management in the State, so the breadth of this definition would allow those planning and management functions to be exercised in relation to a broad range of

incidents or types of hazards. The measure then provides for more serious emergencies (described in the measure as *identified major incidents, major emergencies, and disasters*) to be declared under the measure and for special powers to be exercisable in relation to such declared events.

4—Application of Act

This clause ensures that the Act would not apply to industrial disputes or the control of civil disorder.

5—Interaction with other Acts

The measure does not derogate from other Acts but would prevail in the event of inconsistency with another Act.

Part 2—State Emergency Management Committee

6—Establishment of State Emergency Management Committee

This clause establishes the State Emergency Management Committee (*SEMC*) and outlines its membership.

7—Terms and conditions of membership

This clause provides the terms and conditions of membership of SEMC.

8—Vacancies or defects in appointment of members

This clause provides for vacancies to be filled and ensures that an act or proceeding is not invalid by reason only of a vacancy or a defect in appointment.

9—Functions and powers of SEMC

Under this clause, the main functions of SEMC are—

- providing leadership and maintaining the oversight of emergency management planning in the State;
- preparation of the State Emergency Management Plan;
- providing advice to the Minister relating to the management of emergencies in the State;
- undertaking risk assessments relating to emergencies or potential emergencies;
- liaising with those agencies who are given functions under the State Emergency Management Plan;
- co-ordinating the development and implementation of strategies and policies relating to emergency management (including strategies and policies developed at a national level and agreed to by the State);
- monitoring and evaluating the implementation of the State Emergency Management Plan during any identified major incident, major emergency or disaster and the response and recovery operations taken during or following the emergency.

For the purposes of preparing and implementing the State Emergency Management Plan, SEMC can create offices and appoint persons to those offices and can assign functions to the State Co-ordinator (appointed under Part 3 of the measure) or, with the approval of the State Co-ordinator, to any Assistant State Co-ordinator.

10—Proceedings of SEMC

This clause includes various provisions relating to the manner in which the proceedings of SEMC are to be conducted (eg. in relation to who is to preside at meetings, the quorum, manner of making a decision, telephone conferences etc.)

11—Establishment of advisory groups by SEMC

Under this clause SEMC can establish advisory groups, and is compelled to establish an advisory group in relation to recovery operations.

12—Delegation

This clause provides for delegations by SEMC.

13—Annual report by SEMC

This clause provides for an annual report by SEMC.

Part 3—The State Co-ordinator

14—Appointment of State Co-ordinator

This clause provides that the Commissioner of Police is to be the State Co-ordinator. Note that the *Police Act 1998* provides that when the Commissioner is absent from duty, or during a vacancy in the position of the Commissioner, the Deputy Commissioner may exercise and perform all the powers, authorities, duties, and functions conferred or imposed on the Commissioner by or under that Act or another Act or any law.

15—Functions and powers of State Co-ordinator

The functions of the State Co-ordinator are—

- to manage and co-ordinate response and recovery operations;
- to ensure SEMC is, in the case of a declared emergency, provided with adequate information in order to fulfill its monitoring functions under the measure;

to carry out other functions assigned to the State Co-ordinator.

16—Assistant State Co-ordinators

The State Co-ordinator may appoint Assistant State Co-ordinators at any time and must, as soon as practicable after the declaration of an emergency under the measure, appoint an Assistant State Co-ordinator to deal with issues relating to recovery operations for that emergency.

17—Authorised officers

Police officers are (by virtue of the definition in section 3 of the measure) authorised officer for the purposes of the measure and the State Co-ordinator may appoint other authorised officers under this clause. The clause also provides a requirement for identity cards to be issued to, and produced by, such authorised officers.

18—Delegation

This clause provides a power of delegation for the State Co-ordinator.

Part 4—The management of emergencies

Division 1—Co-ordinating agency

19—Co-ordinating agency

The co-ordinating agency in an emergency is responsible for—

- consulting with the relevant control agency and taking action to facilitate the exercise by the control agency of its functions or powers in relation to the emergency;
- determining whether other agencies should be notified of the emergency or called to the scene of the emergency or otherwise asked to take action in relation to the emergency;
- advising the State Co-ordinator in relation to the emergency;
- exercising any other functions assigned to the co-ordinating agency under the measure or the State Emergency Management Plan.

This clause identifies South Australia Police as the co-ordinating agency for all emergencies (not just those declared under Division 3) unless the State Emergency Management Plan designates a different body as the co-ordinating agency in relation to a particular kind of emergency.

Division 2—Control agency

20—Control agency

The control agency, in relation to an emergency, is the agency given that function in relation to such an emergency under an Act or law or under the State Emergency Management Plan (or, where no agency is given that function or multiple agencies are given that function or where it is unclear who is given that function, it will be the agency determined by the co-ordinating agency). This general position is, however, subject to an exception in the case of emergencies where terrorism is suspected, in which case, South Australia Police will be the control agency.

Division 3—Declaration of emergencies

21—Publication of guidelines

This clause allows the publication (by SEMC) of guidelines in relation to when it will be appropriate for an emergency to be declared as an identified major incident, a major emergency or a disaster under the measure.

22—Identified major incidents

This clause allows for the declaration by the State Co-ordinator of identified major incidents. Such a declaration remains in force for a maximum period of 12 hours and cannot be renewed.

23—Major emergencies

This clause allows for the declaration of major emergencies by the State Co-ordinator. Such a declaration remains in force for a maximum period of 48 hours and can be renewed or extended with the approval of the Governor.

24—Disasters

This clause allows for the declaration of disasters by the Governor. Such a declaration remains in force for a maximum period of 96 hours and can be renewed or extended only with the approval of Parliament.

Division 4—Powers that may be exercised in relation to declared emergencies

25—Powers of State Co-ordinator and authorised officers

This clause sets out the powers that can be exercised by authorised officers during a declared identified major

incident, major emergency or disaster. These include various powers to enter land, use property and issue directions. Only in the case of a major emergency or disaster is there a power to issue directions to a control agency.

26—Disconnection of gas or electricity

This clause requires a person or company supplying gas or electricity to a place to send a competent person to shut off the supply of gas or electricity when directed to do so under the Division.

Division 5—Recovery operations

27—Recovery operations

This clause deals with recovery operations (which must be carried out in accordance with the State Emergency Management Plan. Operations can only be carried out on private land with the consent of the owner of the land or if the State Co-ordinator is satisfied that it is not practicable to seek the consent of the owner (because the owner cannot be located or for some other reason) or that the consent of the owner is being unreasonably withheld.

The provision would also allow recovery of costs where work is carried out and some other person has a duty to carry out the work (eg. a body that has a statutory or contractual obligation to provide an essential service) or has a legal liability in respect of the work (eg. an insurance company).

Part 5—Offences

28—Failure to comply with directions

Under Part 4 there are various powers to issue directions in the course of response and recovery operations following a declared emergency. This clause makes it an offence to fail to comply with a direction, punishable by a fine of \$20 000 for a natural person or \$75 000 for a body corporate.

29—Obstruction

This clause makes it an offence to hinder or obstruct operations carried out in accordance with the measure. The penalty is a fine of \$10 000.

30—Impersonating an authorised officer etc

This clause makes it an offence to impersonate an authorised officer. The penalty is a fine of \$10 000.

31—Disclosure of information

This clause allows an authorised officer to require a person to state the person's name and address, and to produce evidence of identity where the authorised officer reasonably suspects the person has committed, is committing or is about to commit an offence against the measure. Failure to comply with such a direction is punishable by a fine of \$5 000.

Part 6—Miscellaneous

32—Protection from liability

This clause provides protection from liability for the State Co-ordinator and other persons exercising powers and functions under the measure.

33—Employment

This clause provides employment protection for persons exercising official duties under the measure.

34—Evidentiary

This clause provides various evidentiary presumptions to aid proof of certain matters under the measure.

35—Offences by bodies corporate

This clause provides for criminal liability for directors and managers where an offence is committed by a body corporate (unless it is established that the director or manager could not, by the exercise of reasonable diligence, have prevented the commission of the principal offence by the body corporate).

36—Insurance policies to cover damage

This provision mirrors a provision in the Fire and Emergency Services Bill 2004 and ensures that insurance policies covering the damage caused by an emergency would also cover any damage caused by the exercise of powers under the measure in dealing with the emergency.

37—State Emergency Relief Fund

This clause continues the current State Disaster Relief Fund as the State Emergency Relief Fund and is otherwise in the same terms as the existing fund provision in the *State Disaster Act 1980*.

38—Regulations

This clause is a regulation making power which, apart from the usual power to make regulations contemplated by or necessary or expedient for the purposes of the measure, also includes power to make regulations necessary in consequence of conditions directly or indirectly caused by a declared

emergency. This is the same as the current regulation making power under the *State Disaster Act 1980*.

Schedule 1—Related amendments, repeal and transitional provisions

The Schedule makes some minor consequential amendments to other legislation (to change references to the *State Disaster Act 1980* to references to the Emergency Management Act 2004, repeals the *State Disaster Act 1980* and includes a transitional provision allowing the State Disaster Plan to continue as the State Emergency Management Plan until such time as it is replaced in accordance with the measure.

The Hon. R.I. LUCAS secured the adjournment of the debate.