

fight on with respect to this measure. I indicate Democrat support for this bill, which was introduced by Dr Duncan McFetridge MP in another place and which is the latest in a number of attempts by him to ban the practice of tail docking in South Australia. I am pleased to say that our impression is that this time he will succeed.

The Democrats are strongly opposed to cruelty to animals, particularly when it is for no reason other than human entertainment or vanity. Late last year, our state parliamentary leader (Hon. Sandra Kanck) called for the end to duck season, and challenged the Rann government to enter the 21st century and halt the practice. Our federal parliamentary leader (Senator Andrew Bartlett) has perhaps the strongest record on animal rights of all Australian parliamentarians, and has fought long and hard against the battery farming of chickens. Currently, the legislation gives power to the minister in regard to prohibiting surgical procedures on animals. In the past, these provisions have been used to allow the docking of a dog's tail where the dog is under 10 days old and to allow the docking of an older dog's tail if anaesthetic is used.

I note that the minister used his power late last year to expand these provisions and, effectively, ban tail docking. This means that the bill before us will, essentially, transfer the section banning tail docking from the regulations to have it entrenched in the act. The Democrats support this move. I think an observation could be made that it is unusual, and normally undesirable, that regulations are accepted outside the head powers that are authorised in the act. But at least now we are catching up.

Many veterinarians refuse to carry out the procedure of tail docking. The Australian Veterinary Association strongly advocates the banning of cosmetic tail docking. It stated:

The fashion-driven modern procedure is usually performed without any anaesthetic, normally when a pup is between three and five days of age, using scissors or a very tight rubber band. The cut goes through many highly sensitive nerves.

The RSPCA agrees. It believes 'that cosmetic tail docking is a painful and totally unnecessary tradition', and it has long campaigned for a ban on this cruel practice. In a landmark decision by ministers from each state and territory government, the RSPCA's call has now been heeded. Tens of thousands of newborn puppies who would have had their tails cut off in the name of this pointless fashion will now be relieved.

The practice is outlawed in Norway, Sweden, Switzerland, Cyprus, Greece, Luxembourg, Denmark, Austria and Finland. In England, the procedure can be carried out only by a registered veterinarian. I note that the proposed legislation will still allow tail docking for medical reasons relating to the health of the dog. This is a sensible exception. Earlier in this session we were dealing with legislation addressing the treatment of dogs, and I think it is germane to make the observation that not only does it cause unnecessary pain but also the lifelong deprivation of the pleasure that a dog has in expressing its feelings with tail movement. Therefore, this legislation has a lifelong benefit for the dogs that are spared that operation. We indicate support for the second reading and the passage of the bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

NATURAL RESOURCES MANAGEMENT BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): 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.

Integrated natural resources management – the Government's commitment

The *Natural Resources Management Bill 2004* is a measure of significant importance. As many Members well know and appreciate the integration of natural resources management in South Australia has been a key objective of this Government over the past two years. It has taken an almost unprecedented amount of public consultation to bring together all stakeholders and agree on a final position. The Government would like to particularly acknowledge the co-operative efforts of both the Local Government Association and the SA Farmers Federation, along with the Chair of the NRM Council, Mr Dennis Mutton. We also thank the efforts of the many hundreds of people across the State who gave so much of their time to be part of this process.

Lack of integration in natural resources management inevitably has caused great frustration to communities, particularly farming communities. Over the years there has been a certain lack of coordination, and sometimes even outright inconsistency, in the projects and objectives of the different arms of Government in administering responsibilities for natural resources management. Community resources have been stretched amongst numerous different boards, committees and other bodies and programs operating under different legislation or none at all. While many of these bodies do collaborate, their strategies and priorities are not always well coordinated or aligned. National programs such as the National Landcare Program, the Natural Heritage Trust and the National Action Plan for Salinity and Water Quality, add a further layer of complexity.

This Government resolved at the last election to commit unequivocally to make the necessary administrative and legislative changes to reform both institutional arrangements and legislation for natural resources management. We promised to develop new arrangements that would support skills-based regional boards to coordinate regional programs for natural resources management. We promised that these new arrangements would bring together water management and allocation, soil conservation and management issues, and animal and plant control matters. We also promised that the new arrangements would incorporate the development and implementation of re-vegetation and biodiversity plans, and works to manage salinity as components of both the State and regional NRM plans.

Administrative changes to natural resources management were made almost immediately upon winning Government, with the creation of the Environment and Conservation Portfolio. The Portfolio includes the new Department of Water, Land and Biodiversity Conservation, responsible for administration of the main pieces of natural resources legislation.

We also created an interim Natural Resources Management Council, which is made up of representatives from the major natural resources management organisations to help steer the reform process. The Council comprises an independent Chair (Mr Dennis Mutton, well known and respected across natural resources management sectors both within and outside of Government), and representatives from the National Parks and Wildlife Council, the Landcare Association of SA, the Conservation Council, the Native Vegetation Council, the Water Resources Council, the Animal and Plant Control Commission, the Local Government Association, the Regional INRM Group Chairs, the Pastoral Board, the SA Farmers Federation, the Soil Conservation Council and Aboriginal landholding bodies. The Chief Executives of the Department of Water, Land and Biodiversity Conservation, Department of Environment and Heritage, Primary Industries and Resources SA, the Executive Director of Planning SA, the Chief Executive of the Environment Protection Authority and SA Water work closely with the Council, but are not voting members.

The Council has played a key role in coordinating and overseeing a comprehensive program to develop the new legislation. The

Council has worked with existing catchment, regional and local bodies to develop appropriate arrangements to suit the unique circumstances of each region, and has provided advice on developing and implementing the new arrangements. A Natural Resources Management Council is to be formally established by the Bill.

Development of the new legislative framework

Preparation of the Bill commenced in mid 2002. By November 2002, the Government had released a comprehensive discussion paper, outlining the need for the reforms and seeking feedback from stakeholders. A full community engagement process followed release of the paper, and a consultation draft Natural Resources Management Bill was subsequently released in July 2003.

Peak bodies under current natural resources management legislation were engaged very early in this process, and have remained closely involved, both through membership on the Council, and on an individual basis. The Water Resources Council, Soil Conservation Council, and the Animal and Plant Control Commission, together with soil conservation, catchment water management and animal and plant control boards across the State, have made many valuable contributions.

Other consultation included:

- ongoing participation by relevant State and Commonwealth Government agencies;
- meetings with key stakeholder groups including the South Australian Farmers' Federation, the Local Government Association of South Australia and representatives of individual councils;
- a series of regional and State agency information forums and workshops;
- use of existing natural resources management networks for information distribution and communication;
- establishment of a natural resources management reform website;
- the opportunity for stakeholder and community submissions; and
- discussions with relevant unions including the Australian Services Union and the Public Service Association, specifically relating to transitional arrangements.

The interim Natural Resources Management Council provided expert guidance, support and assistance throughout.

What is integrated natural resources management, and why is it important?

Natural resources do not occur in isolation of each other – water and land form the basis of every ecosystem and the health of ecosystems is inextricably linked to the management of those resources. Complementary management of natural resources is the only way to ensure ecological sustainability. And ecological sustainability is the most basic necessity to safeguard the communities that rely on the productive capacity of our land and water resources – that means all South Australians; our society and economy.

An integrated approach to natural resources management is therefore vital to achieving sustainable development – healthy ecosystems and the current and future prosperity of all South Australians.

Despite the efforts of many South Australians to date, and the sometime successes that have resulted, the condition of many of the State's natural resources continues to decline. Many river systems are in fair to poor condition, affected by water extraction, declining water quality and loss of riparian vegetation. Groundwater use in some areas is either at or above resource capacity. Less than half the pre-European settlement wetlands remain. Large areas of near-shore seagrass meadows have been lost along the metropolitan coast. Soil erosion, salinity and acidification persist across the State with consequent losses in productivity and impacts on water quality and biodiversity. Despite efforts to halt the decline in biodiversity, many species are rated as endangered or vulnerable. Primary production and conservation values continue to be negatively affected by existing pests and diseases, and threatened by the incursion of new exotic species. These problems pose considerable challenges.

Past approaches to managing natural resources in South Australia have involved a significant level of specialisation to deal with particular elements such as soil, water, vegetation, wildlife, pests, pastoral land and public lands. Unfortunately, experience has taught us that the advantages of concentrating specialist effort on individual areas are countered by the disassociation resulting from resource management decisions being made in isolation.

We need a legal and institutional framework that will take a whole-of-landscape approach that draws together organisations and

individuals across a diversity of sectors, taking into account the links within and between natural systems, and the interaction of economic, social and environmental factors that influence decision making. We need a framework that will alleviate land use conflicts, maintain the ecological sustainability of each of our State's bioregions, and provide certainty of access to all resource users. We need a framework that will make more efficient use of community resources – including membership on regional bodies, and more efficient channelling of funds into regions for planning and on-ground works. We need to be able to coordinate and integrate the activities of the wide range of groups involved in natural resources management across the State, and that will facilitate the development of collaborative partnerships between land managers, natural resource users, all levels of Government and the community.

The *Natural Resources Management Bill 2004* establishes the institutional arrangements we need to deliver all these things: to deliver a strategic, integrated approach to natural resources management. This new legislation will create a transparent, consultative, robust and effective structure to manage and protect the environmental, economic and social values of the State's natural resources.

What is contained in the Bill?

The Bill is built fundamentally on the concept of ecologically sustainable development ('ESD'). It prescribes as its principal object, that the State's natural resources must be managed according to the principles of ESD. These principles require decision-making processes to integrate both long-term and short-term economic, environmental, social and equity considerations, to treat the conservation of biological diversity and ecological integrity as fundamental to environmental, social and economic welfare. It establishes a duty for all persons to act responsibly in the management of the State's natural resources for the present and future generations. It recognises that an important use of our natural resources is for primary production and also recognises the importance of incorporating biodiversity objectives into decision-making.

The institutional framework

The Bill repeals the *Water Resources Act 1997*, *Soil Conservation and Land Care Act 1989* and the *Animal and Plant Control (Agricultural and Other Purposes) Act 1986*. The Bill takes what is useful from each Act, and presents it within a single institutional framework. A Natural Resources Management Council (NRM Council), regional NRM boards, NRM groups, a Chief Officer (the Chief Executive of relevant Department) and authorised officers, all of which have a range of specified powers and functions, replace the existing institutional arrangements.

Overall responsibility for the direction of natural resources management rests with the Minister administering the Act. The Minister is responsible for the strategic frameworks and arrangements necessary to effectively oversee the management and protection of the State's natural resources. The Minister may delegate his or her functions under the Act.

The Natural Resources Management Council replaces the Animal and Plant Control Commission, the Soil Conservation Council and the Water Resources Council and provides strategic advice to the Government about natural resources policy, the State Natural Resources Management Plan and consistency with the State Planning Strategy, regional activities and administrative arrangements. The Council will also provide advice in relation to federal NRM funding programs in accordance with relevant bilateral agreements.

Regional boards and local groups will assume many roles and responsibilities of the current animal and plant control boards, soil conservation boards and catchment water management boards under the legislation to be repealed.

NRM regions and boards will be established by the Minister by notice in the Gazette.

Membership of the NRM Council, regional NRM boards and NRM groups is skills based and expressions of interest for membership will be sought through general public advertisement. Appointment of members of the NRM Council and regional NRM boards is to be by the Governor.

The Local Government Association, the Conservation Council, the SA Farmers Federation and Aboriginal bodies will be asked to nominate persons with any of the required skills for four of the nine positions on the NRM Council. In the case of board membership, there is a requirement for the Minister to consult with the LGA and with bodies representative of primary producers and conservation and Aboriginal interests before recommending membership. One member of each regional board is required to be active in local

government affairs and it also is stipulated that a majority should reside, and practice land management, in the region.

The Bill also provides for the Minister to authorise persons to attend the NRM Council and regional NRM board meetings, in a non-voting capacity to represent the interests of Commonwealth, State and Local Government. This arrangement will allow government representatives to participate in regional meetings without detracting from the autonomy of regional NRM boards.

NRM areas are parts of NRM regions and are established by gazettal by the Minister on the recommendation of regional NRM boards. NRM group membership is recommended by regional NRM boards and appointed by the Minister through a membership selection process, which again provides for consultation with local government.

Boards will be accountable to the Minister and responsible for regional natural resources planning and investment, delivery and decision-making. Boards may propose the establishment of local natural resources management groups to meet the specific requirements of each region. Local groups will deliver integrated natural resources management activities, undertake local compliance activities and provide local advice. Advisory committees with a regional perspective may also be established to advise the board on specific natural resource issues or matters (such as water allocation).

Regulations may be made to require advisory committees to be established to provide advice to the NRM Council or regional boards. The Government has given a specific undertaking to use these regulation making powers to require the establishment of an Aboriginal Lands Advisory Committee to the NRM Council and Aboriginal Advisory Committees to regional NRM boards as required. We have made this commitment to ensure that aboriginal interests and issues and indigenous knowledge of natural resource management will be considered and accommodated in the new NRM structure at peak and regional levels. Local government will continue to be an important partner in ensuring sound outcomes. The Bill involves local government in each tier of the framework (State, regional and local). Local government also plays a vital role in integrating natural resources management goals with land-use and development planning and decision making, and delivery of on-ground programs. Expertise in matters of local government is a required skill for the NRM Council and regional boards and a person active in local government affairs will be included in the membership of each regional board. In addition to this local government have expressed a desire to attend meetings of the regional bodies and of the Council. Their participation will be welcomed and the Minister will authorise local government representatives to attend meetings of the NRM Council and regional boards in a non-voting capacity along with representatives of the State and Federal governments.

State Government support for natural resources management activities will continue to be provided through the resources of a number of key agencies, notably the Department of Water, Land and Biodiversity Conservation, the Department for Environment and Heritage, Primary Industries and Resources SA and Planning SA.

The Commonwealth Government is also a major stakeholder in natural resources management in the State. Strong partnerships will be maintained with the Commonwealth so that national priorities can be incorporated and delivered through the new arrangements and we will ensure that the Council membership will be able to provide independent advice to the Commonwealth on its investment in natural resource management in South Australia.

Another aspect of ensuring the proper integration of activities is demonstrated by the amendments made by this Bill to the *Mining Act 1971* and the *Petroleum Act 2000*, which are designed to promote and enhance the regulatory controls under those Acts and to ensure appropriate linkages between the relevant systems.

Integrated planning as a natural resources management tool

The Bill establishes a hierarchy of natural resources management plans—the State NRM Plan and regional NRM plans incorporating water allocation plans. These plans allow for the appropriate level of input and management at a regional and local level while ensuring consistency of regional policy and plans with State-wide policy. Regional plans will incorporate existing catchment water management plans, district soil plans and water allocation plans. Integrated Natural Resource Management Plans, Animal and Plant Control policies and programs and Biodiversity Plans will be included in regional NRM plans through the process of preparing an initial NRM plan and budget. These initial NRM plans will detail how each regional NRM board will continue to deliver existing regional NRM programs and projects. A regional process of consultation and revision then will enable regional communities to develop more

comprehensive regional NRM plans and provide for more efficient and effective regional delivery in collaboration with regional partners. Plans will cover NRM regions right to the State boundary, including the marine and inner coastal area to ensure an ecosystem-based approach. This will ensure that regional NRM plans consider the effect of terrestrial based activities on the marine environment and the natural resource management requirements of the marine area. The Government will restrict the regulatory capacity of regional NRM plans and NRM authorities so that their role in compliance and enforcement will only extend to the low water mark by making a regulation to exclude areas between the low water mark and the State boundary from the Bill's regulatory provisions.

Work on stormwater management is being progressed by a Chief Executive's Group established by the Minister's Local Government Forum. The group comprises State and Local Government officers and is chaired by the CEO, of the Department of Water, Land and Biodiversity Conservation. Once the policy position of the State Government on stormwater management is established, any necessary amendments to the NRM legislation will be prepared in consultation with the Local Government Association.

The Bill (and proposed consequential amendments to the Schedule of the *Development Regulations 1993*) maintain the links between natural resource management and the development planning system, which exists in the current water resources legislation. The NRM Bill also enables regional NRM boards as well as councils and the Minister responsible for the *Development Act 1993* to prepare amendments to development plans. However, the Government has agreed to make consequential amendments to the NRM legislation in due course as part of the proposed amendments to the *Development Act 1993*, which will introduce improvements to development plan amendment provisions. These consequential amendments to the NRM legislation will replace the capacity of regional NRM boards to prepare plan amendment reports in isolation with the capacity of the boards to participate with councils in preparing amendments to development plans. In addition, regional NRM boards will be designated as bodies that must be consulted on council or Ministerial amendments to development plans.

The regulatory framework

The Bill incorporates the regulatory components of the current *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*, *Soil Conservation and Land Care Act 1989* and *Water Resources Act 1997*. The provisions have been rationalised where possible and streamlined into the new arrangements.

Funding natural resources management activities

Reaching an acceptable framework for funding of regional natural resources management has been a challenging issue.

Under current legislative arrangements, constituent councils within a catchment water management area under the Water Resources Act collect a levy component based on land ownership. The Government's water licensing mechanisms collect a levy component based on ownership of water licences. All councils make a contribution to their respective animal and plant control boards under the Animal and Plant Control Act.

At the initiation of the Local Government Association, a joint state and local government group was established to advise whether it was appropriate to continue these arrangements, and to develop a proposal for an efficient and transparent levy mechanism.

The levy collection mechanism now included in the Bill is simple and transparent, and provides a process to regularise reimbursement of reasonable levy collection costs and minimise collection costs to the community.

The Bill provides for regional boards to identify funding needs and sources in their regional plans. The Bill provides for a natural resources management levy to provide one source of necessary funds. The levy will replace both the existing catchment levy under the Water Resources Act and local government contributions to animal and plant control boards under the Animal and Plant Control Act. A regional NRM levy will be approved by the Governor on the basis of the budget included in each regional plan. New levy proposals will be referred to the NRM Committee of Parliament for consideration and hence will be subject to scrutiny and disallowance in Parliament. Levies will be collected by councils within the area of each regional board as if they were separate rates under the Local Government Act and will be recognised for the purposes of State government council rates concessions under the Rates and Land Tax Remission Act. Should it be found in the future that there is conflict between Chapter 10 of the Local Government Act and the collection of the levy, regulations may be made modifying that Chapter to the extent necessary. Councils will be given a specific power to recover

an amount on account of costs incurred in the collection of the levy. The amount to be recovered will be determined under the regulations. Work on the scheme to be established by the regulations is being undertaken by a joint State and Local Government working party. This remains the subject of further negotiation with the LGA. The objective is to provide an easy to administer process by which councils are able to recover the costs they incur in collecting the NRM levy.

Existing State Government funding for natural resources management purposes will continue, subject to standard Government budget processes. Allocations will be consolidated into a single natural resources management appropriation to assist transparency and accountability. Regional boards established in areas that will not have the capacity to fully fund themselves via natural resources management levies will be assisted through the Environment and Conservation Portfolio, as is presently the case with some existing boards. Funding sources such as Commonwealth grants and corporate sponsorship will continue to supplement this core funding and allow boards to progress priority initiatives. Both the Natural Resources Management Council and regional boards will have a significant role in determining the appropriate use of Commonwealth-State NRM funding programs. This role already forms part of the Commonwealth/State Bilateral Agreement. Levies will not be increased as a direct result of this reform but appropriate levy amounts will be considered by each regional NRM board and the regional community through the regional planning process.

The transitional arrangements

Developing appropriate transitional arrangements has also been a significant challenge. Planning a move from the numerous boards created under the Water Resources Act, Soil Conservation and Land Care Act and Animal and Plant Control Act, with their different functions, boundaries, staff, programs and property, has required a great deal of trust, commitment and patience from all involved.

Following passage of this Bill, we intend establishing the NRM Council and NRM regional boards before bringing the Act into operation to allow preparation for transition to the new arrangements to occur. The Bill's transitional provisions also allow the membership, powers and functions of existing boards to continue during the period when the new NRM boards are being established. This period of duplication will ensure that existing NRM programs and projects can continue to be delivered by existing bodies until the new NRM boards are ready to take on full responsibility. It will also allow sufficient time for the complex process of negotiating the winding up the existing boards and assigning assets and liabilities with regional bodies, including local government, and to explore partnership arrangements for future delivery.

Transitional arrangements have been provided to ensure continuity in relation to the existing plans and processes and the transfer of levies and contributions, assets, staff and contracts.

The Bill also makes consequential amendments to related legislation, predominantly to update references to the new institutional arrangements.

Staff employed by existing boards under the repealed Acts will be offered employment by the regional boards and will not be disadvantaged by the new arrangements. Existing staff will have the opportunity to remain employees of legal entities, which represent their existing employers, or to transfer to employment by the new regional boards. Consultation with the industrial representatives of existing employees has been an ongoing element in development of the new arrangements, and will continue through the implementation period, so that employment issues are understood and appropriately accommodated in the transition.

Within State Government, staff currently administering the repealed Acts will administer the new legislation.

The transitional provisions contained in Schedule 4 of the Bill also provide for the carry-over of relevant rights and liabilities into the new arrangements.

The recently passed *River Murray Act 2003* made a number of changes to each of the *Water Resources Act 1997*, *Soil Conservation and Land Care Act 1989* and *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*. All of those changes are either retained verbatim in the Bill, or their intent reflected in wording appropriate to the new legislation.

Review

A legislative review is required by this Bill by 2006/07. A number of stakeholders have sought the inclusion of other related NRM legislation into this reform. Closer coordination, better linkages and/or incorporation into this legislation are all options for achieving greater integration. The required review will provide an

opportunity to assess early experience with the current reform and appropriate means of achieving better integration with other NRM legislation including native vegetation, coast and marine, South-East drainage, pastoral land management and dog fence. The review date will ensure that such assessment occurs in a timely manner. In addition to this the Minister will continue to work to fine tune this legislation, if necessary, through subsequent legislation amendment, on an ongoing basis from commencement of the Act.

Key changes arising from the consultation process

Consultation on the draft Bill resulted in 158 written submissions being received. These were in addition to the valuable input received during stakeholder workshops and public meetings, which more than 600 people attended throughout the 8 proposed regions. Numerous amendments were made to the consultation draft Bill as a result of comments received. Most were not of major policy significance, but contributed to the overall sense and accessibility of the legislation, and filled in some gaps or loopholes.

Officers of the department and the Minister have continued to work closely with representatives of key stakeholders including the South Australian Farmer's Federation and the Local Government Association to achieve mutually acceptable arrangements. We are grateful for the contributions of all stakeholders and believe that this Bill will provide a stable, robust and secure legislative framework for NRM for the whole South Australian community. It is a Bill that provides regional decision making, community input and support for land managers and also recognises the need for balanced approach to conservation and development to achieve sound economic, social and environmental outcomes now and for future generations.

The period since the Bill was tabled has provided further opportunity for consideration of the proposed legislation by stakeholders and agency staff, and some suggested changes were forwarded to the NRM reform team during December 2003 and January 2004. Where the changes proposed have fallen within the scope of NRM reform they have been incorporated into the Bill. A number of amendments moved by the Opposition in the House of Assembly were also accepted by the Government. We have undertaken to consider a range of issues in connection with the passage of this Bill through this Chamber and we look forward to constructive discussions and debate so that this important measure can be passed by the Parliament.

Conclusion

It has no doubt been due to the long and very thorough consultation process, and to the good will, manifest commitment and willingness to compromise that has been shown by all involved, that the Bill represents a significant step in this continuing process for better management of our natural resources.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Chapter 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the Bill.

4—Interaction with other Acts

This clause provides that the Bill is in addition to, and does not limit or derogate from the provisions of any other Act. The clause also provides that the Bill is subject to certain other Acts and agreements described in the clause. Further, subclause (3) provides that Chapter 2 Part 2 and Chapter 6 do not apply in relation to certain substances and activities associated with mining Acts.

5—Territorial and extra-territorial operation of Act

This clause provides that the Bill applies to the whole of the State, however the Governor may, by regulation, exclude parts of the State. The Bill also applies outside of the State if an activity or circumstance undertaken or existing outside the State may affect the natural resources of the State.

6—Act binds Crown

This clause provides that the Bill binds the Crown, and that agencies and instrumentalities of the Crown must endeavour to act consistently with the State Natural Resources Management Plan, along with all other relevant natural resources management plans under the Bill.

Chapter 2—Objects of Act and general statutory duties

Part 1—Objects

7—Objects

This clause sets out the objects of the Bill.

8—Administration of Act to achieve objectives

This clause provides that, in administering the Bill, or performing, exercising or discharging a function, power or duty under the Bill, the Minister, the Court and a person must have regard to, and seek to further, the objects of the Bill.

Part 2—General statutory duties

9—General statutory duties

This clause requires a person to act reasonably in relation to natural resources management within the State, and to take into account the objects of the Bill. The clause also sets out factors to be taken into account in determining what is reasonable for the purposes of the section. The clause provides that a person acting in pursuance of a requirement under this or any other Act, in a manner consistent with the regional NRM plan, or in circumstances prescribed by the regulations, will be taken not to be in breach of the section. A person who breaches subclause (1) is not, on account of the breach alone, liable to civil or criminal action, but the person may be required to do certain things, or certain orders may be made, as set out in subclause (4). The clause also provides that a person is not to be held responsible for any condition or circumstance existing before the commencement of the clause.

Chapter 3—Administration

Part 1—The Minister

10—Functions of Minister

This clause sets out the functions of the Minister.

11—Powers of delegation

This clause provides that the Minister may delegate a power of the Minister under the Bill, or any other Act, to a body or person, and sets out requirements for such delegations. However, the Minister may not delegate the function of making recommendations to the Governor, nor the functions or powers of the Minister under Chapter 5. The clause also provides for an offence where a delegatee fails to disclose an interest in certain matters.

Part 2—The NRM Council

Division 1—Establishment of Council

12—Establishment of Council

This clause establishes the Natural Resources Management Council, and provides that the Council is subject to the general direction and control of the Minister.

Division 2—The Council's membership

13—Composition of Council

This clause sets out the requirements relating to the composition of the Natural Resources Management Council.

14—Conditions of membership

This clause sets out the conditions relating to membership of the Natural Resources Management Council, including procedures for removal of members, and casual vacancies.

15—Allowances and expenses

This clause provides that a member of the Natural Resources Management Council is entitled to fees, allowances and expenses approved by the Governor.

16—Validity of acts

This clause provides that an act or proceeding of the Natural Resources Management Council is not invalid simply because there is a vacancy in its membership or a defect in the appointment of a member.

Division 3—Functions of Council

17—Functions of Council

This clause sets out the functions of the Natural Resources Management Council.

18—Committees

This clause provides for the setting up of committees by the Natural Resources Management Council, and for the procedures of those committees.

19—Power of delegation

This clause provides that the Natural Resources Management Council may delegate a function or power of the Council under this Bill, or any other Act, and sets out requirements for such delegations.

Division 4—Related matters

20—Annual report

This clause requires the Natural Resources Management Council to provide an annual report to the Minister, and sets out requirements for those reports.

21—Use of facilities

This clause provides that the Natural Resources Management Council may use staff, facilities and equipment of an

administrative unit of the Public Service, or of a public authority.

Part 3—NRM Regions and boards

Division 1—Establishment of regions

22—Establishment of regions

This clause provides that the Minister may, by notice in the Gazette, divide the State into Natural Resources Management regions, and sets out the procedure and requirements for doing so, including the requirement for consultation with the Local Government Association.

Division 2—Establishment of regional NRM boards

23—Establishment of boards

This clause requires the Minister, by notice in the Gazette, to establish a regional Natural Resources Management board for each Natural Resources Management region, and sets out related procedures and requirements.

24—Corporate nature

This clause provides that a regional NRM board is a body corporate, sets out the corporate nature of the boards and provides that a board is subject to the direction and control of the Minister.

Division 3—Membership

25—Composition of boards

This clause sets out requirements relating to the composition of regional NRM boards.

26—Conditions of membership

This clause sets out the conditions relating to membership of a regional NRM board, including procedures for removal of members, and casual vacancies.

27—Allowances and expenses

This clause provides that a member of a regional NRM board is entitled to fees, allowances and expenses approved by the Governor.

28—Validity of acts

This clause provides that an act or proceeding of a regional NRM board is not invalid simply because there is a vacancy in its membership, a defect in the appointment of a member or a situation where a majority of its members do not reside within the relevant region.

Division 4—Functions of boards

29—Functions of boards

This clause sets out the functions of a regional NRM board.

Division 5—Powers of boards

30—General powers

This clause sets out the general powers of a regional NRM board in relation to the Bill.

31—Special powers to carry out works

This clause sets out special powers that a regional NRM board has to carry out the works specified in the clause.

32—Entry and occupation of land

This clause provides that a regional NRM board may enter and occupy land for the purpose of carrying out a function or exercising a power under the Bill. The clause also sets out the procedures required in the exercise of the power conferred by this clause. A person must not use the power conferred by the clause except with a warrant issued by a magistrate, or in circumstances requiring immediate entry upon the land.

33—Special vesting of infrastructure

This clause enables the Governor by proclamation to vest certain things in regional NRM boards, and sets out procedures for such vesting.

Division 6—Staff

34—Staff

This clause sets out the staffing arrangements for regional NRM boards.

Division 7—Committees and delegations

35—Committees

This clause provides for the setting up of committees by regional NRM boards.

36—Power of delegation

This clause provides that a regional NRM board may delegate its powers or functions.

Division 8—Accounts, audit and reports

37—Accounts and audit

A regional NRM board must cause proper accounts to be kept and prepare financial statements for each financial year. The Auditor-General is to audit those accounts and statements.

38—Reports

This clause requires a regional NRM board to provide an annual report to the NRM Council.

39—Specific reports

The Minister or the NRM Council may require a regional NRM board to report in any aspect of its operations.

Division 9—Appointment of administrator

40—Appointment of administrator

This clause enables the Minister, in specified circumstances, to appoint an administrator of a regional NRM board.

Division 10—Related matters

41—Use of facilities

This clause allows a regional NRM board to make use of the services, staff, equipment or facilities of an administrative unit of the Public Service, or a public authority.

42—Board's power to provide financial assistance etc

This clause allows a regional NRM board to provide financial (or any other) assistance to specified persons or bodies.

43—Assignment of responsibility for infrastructure to another person or body

This clause allows a regional NRM board to assign responsibility for the care, control or management of infrastructure to specified bodies. An assignment to a owner or occupier, or to a third party, is effected by agreement. The clause also provides for the assignment to be noted against (and a note of rescission or amendment entered if requested) the instrument of title by the Registrar-General.

44—Appointment of body to act as a board

This clause provides that the Governor may, by regulations made on the recommendation of the Minister, appoint a body specified in the regulations to be a regional NRM board, and sets out requirements attaching to such an appointment.

Part 4—NRM groups

Division 1—Establishment of areas

45—Establishment of areas

This clause provides that the Minister may, after consultation with or on the recommendation of the relevant NRM board, designate an area as the area in which an NRM group will operate, and also provides for the variation or abolition of such an area. The area may, if the Minister considers the circumstances justify such an approach, include parts of the areas of 2 or more regional NRM boards.

Division 2—Establishment of NRM groups

46—Establishment of groups

This clause requires the Minister to establish, on the recommendation of or after consultation with the relevant NRM board or boards, a Natural Resources Management group for each area established under Division 1, and also provides for the variation of a notice under this clause or the abolition of an NRM group.

47—Corporate nature and responsibility at regional level

This clause sets out the corporate nature of an NRM group, and provides that an NRM group is, if the area of the NRM group lies wholly within the region of 1 regional NRM board, subject to the direction of the regional NRM board, and also sets out procedures to be adopted when an area of an NRM group includes parts of the regions of 2 or more regional NRM boards.

Division 3—Membership

48—Composition of NRM groups

This clause provides for the composition of NRM groups, and sets out the certain requirements for appointment and membership of the group.

49—Conditions of membership

This is a standard clause relating to the conditions on which a member of an NRM group holds office.

50—Allowances and expenses

This clause provides that a member of an NRM group is entitled to certain fees, allowances and expenses.

51—Validity of acts

This is a standard clause.

Division 4—Functions of NRM groups

52—Functions of groups

This clause sets out the functions of an NRM group.

Division 5—Powers of NRM groups

53—General powers

This clause sets out the general powers of an NRM group, and also sets out certain limits on the activities of an NRM group.

Division 6—Committees and delegations

54—Committees

This clause enables an NRM group to establish committees in certain circumstances.

55—Power of delegation

This clause provides that an NRM group may make certain delegations of its functions or powers under this measure.

Division 7—Accounts, audit and reports

56—Accounts and audit

An NRM group must cause proper accounts to be kept and prepare financial statements for each financial year. The Auditor-General is to audit those accounts and statements.

57—Reports

This clause requires an NRM group to provide an annual report to the relevant NRM board or boards.

58—Specific reports

The Minister or a regional NRM board may require an NRM group to report in any aspect of its operations.

Division 8—Related matters

59—Staff

This clause provides that the Minister or a regional NRM board may provide staff to assist an NRM group.

60—Use of facilities

This clause allows an NRM group to make use of the services, staff, equipment or facilities of an administrative unit of the Public Service, or a public authority.

61—Appointment of body established by or under another Act

This clause allows the Governor, by regulation, to appoint a body specified in the regulations to be an NRM group, and sets out certain requirements in relation to the making of a regulation under this clause.

62—Regional NRM board may act as an NRM group

This clause allows a regional NRM board to perform any function and exercise any power of an NRM group.

Part 5—The Chief Officer

63—Chief Officer

This clause provides that the Chief Executive of the Department will be the Chief Officer for the purposes of this Bill.

64—Functions of Chief Officer

This clause sets out the functions of the Chief Officer.

65—Power of delegation

This clause provides that the Chief Officer may make certain delegations of his or functions or powers under the measure.

Part 6—Authorised officers

66—State authorised officers

This clause provides for the appointment of State authorised officers.

67—Regional authorised officers

This clause provides for the appointment of regional authorised officers.

68—Identity cards

This clause requires authorised officers be issued with identity cards.

69—Powers of authorised officers

This clause sets out the powers of authorised officers under the Bill.

70—Provisions relating to seizure

This clause sets out provisions applying when a thing has been seized under clause 71.

71—Hindering etc persons engaged in the administration of this Act

This clause creates certain offences relating to persons engaged in the administration of the measure.

72—Self-incrimination

This clause provides that a person may refuse to provide information under the provisions relating to investigations set out in this Part on the grounds of self-incrimination.

73—Offences by authorised officers

This clause creates certain offences in relation to authorised officers.

Chapter 4—NRM plans

Part 1—State NRM Plan

74—State NRM Plan

The NRM Council will prepare and maintain a plan to be called the State Natural Resources Plan. The plan will set out principles and policies for achieving the objects of the measure throughout the State. The plan will be reviewed at least once in every five years.

Part 2—Regional plans

Division 1—Regional NRM plans**75—Regional NRM plans**

Each regional NRM board will prepare and maintain a regional NRM plan. The plan will need to address a number of specified matters and to be consistent with a variety of other plans and policies.

Division 2—Water allocation plans**76—Preparation of water allocation plans**

Each regional NRM board will also prepare a water allocation plan for each of the prescribed water resources in its region. A water allocation plan will be taken to form part of the relevant regional NRM plan.

Division 3—Preparation and maintenance of plans**77—Application of Division**

This clause is an application provision.

78—Concept statement

A regional NRM board will, in relation to a proposal to complete a plan, prepare a concept statement. A board must consult on the concept statement.

79—Preparation of plans and consultation

The board will then prepare a draft plan based on the concept statement and result of the board's investigations. The board must then consult on the draft plan.

80—Submission of plan to Minister

A draft plan will be referred to the Minister, who may adopt the plan with or without amendment, or refer the plan back to the board for further consultation. A plan that proposes raising the amounts under Chapter 5 must be referred to the Natural Resources Committee of the Parliament. A disallowance mechanism is included.

81—Review and amendment of plans

This clause provides for the periodic review and amendment of plans.

82—Time for implementation of plans

A plan cannot be implemented unless or until it has been adopted by the Minister.

83—Availability of copies of plans etc

This clause provides for the public availability of plans and submissions.

84—Time for preparation and review of plans

The initial regional NRM plan prepared by a board need not satisfy all the requirements of this Act but the board must seek to have a comprehensive plan as soon as practicable.

Division 4—Related matters**85—Application of Division**

This clause is an application provision.

86—Validity of plans

A regional NRM plan will not be invalid because it is inconsistent with the State NRM plan.

87—Promotion of River Murray legislation

A plan that applies to the Murray-Darling Basin or in relation to the River Murray must seek to further the objects of the *River Murray Act 2003* and the objectives under that Act, and must be consistent with the Agreement under the *Murray-Darling Basin Act 1993*.

88—Associated Ministerial consents

The Minister will be required to seek the consent of other Ministers in certain circumstances. Any disagreement between the Ministers will be referred to the Governor in Executive Council.

89—Amendment of plans without formal procedures

This clause sets out the cases where a plan may be amended without following the formal procedures set out in Division 3.

90—Plans may confer discretionary powers

This clause makes it clear that a plan may confer discretionary powers.

91—Effect of declaration of invalidity

This clause is a severance provision.

Chapter 5—Financial provisions**Part 1—NRM levies****Division 1—Levies in respect of land****92—Contributions by constituent councils**

This clause establishes a scheme under which councils may be required to contribute an amount determined by a regional NRM board in its plan towards the costs of the regional NRM board in their areas and, following consultation with the relevant councils, provides for the shares in which the councils will pay that contribution.

93—Payment of contributions by councils

This clause sets out the time for payment by a council of its share.

94—Funds may be expended in subsequent years

This clause makes it clear that money paid by a council under this Division in one financial year may be spent by a regional NRM board in a subsequent financial year.

95—Imposition of levy by councils

This clause enables a council to impose a levy on ratepayers to recover the amount of the share paid by the council. The levy will be recoverable as if it were a separate rate under Chapter 10 of the *Local Government Act 1999*.

96—Costs of councils

This clause provides that a regional NRM board must pay an amount on account of the costs of councils in complying with the requirements under this Part, subject to any provision made by the regulations. The Minister will consult with the LGA before a regulation is made under this provision.

97—Outside council areas

This clause will allow a levy relating to the costs of a regional NRM board to be imposed with respect to land outside council areas. The levy will be declared by the Minister with the approval of the Governor. The Minister will be able to arrange for assessment notices to be served by another authority or person, and for another authority or person to collect the levy on behalf of the Minister.

98—Contributions towards work of NRM groups

This clause makes it clear that the costs of NRM groups will be taken to form part of the costs of regional NRM boards for the purposes of this Division.

99—Application of levy

This clause makes it clear that nothing in this Division prevents a levy raised in one part of the State being applied in another part of the State by the relevant board, or a group.

Division 2—Levies in respect of taking water**100—Interpretation**

This clause defines terms used in Chapter 5 Part 1 Division 2.

101—Declaration of levies

This clause will allow the Minister to declare a levy or levies to be paid by persons who are the holders of water licences, are the holders of imported water permits, or are authorised to take water under clause 130. The scheme is based on the current provisions of the *Water Resources Act 1997*.

102—Provisions applying to water (holding) allocations in declared water resources

This clause will allow special provision to be made with respect to water (holding) allocations for water resources specified by the Minister.

103—Special purpose water levy

This clause will allow the Minister to declare a special purpose water levy. The Minister will only be entitled to declare a special purpose water levy under this clause if a majority of people named in the relevant declaration have given their consent to it.

104—Liability for levy

This clause sets out provisions relating to liability for levies.

105—Notice of liability for levy

The Minister will serve a notice of the amount payable by way of a levy under this Division.

106—Determination of quantity of water taken

This clause sets out provisions as to the determination of the quantity of water taken for the purposes of determining the amount payable by way of levy.

107—Cancellation etc of licence or permit for non-payment of levy

The Minister will be able to cancel, suspend or vary a licence or permit if a levy is not paid.

108—Costs associated with collection

A regional NRM board may be required to pay to the Minister an amount relating to the costs incurred by the Minister in collecting a levy under this Division. However, an amount payable by a board cannot exceed an amount to be determined in accordance with the regulations.

Division 3—Special provisions**109—Application of Division**

This Division is to apply to an out-of-council NRM levy or to an NRM water levy.

110—Interest

Interest will accrue on unpaid levy, and on unpaid interest, in accordance with the regulations.

111—Discounting levies

The Minister will be able to discount a levy to encourage early payment of a levy, in accordance with a scheme to be prescribed by the regulations.

112—Levy first charge on land

A levy will be a first charge on the relevant land.

113—Sale of land for non-payment of a levy

This clause sets out a scheme for the sale of land if a levy is not paid. The Minister will be able to assume title to the land if it cannot be sold.

Division 4—Related matters

114—Refund of levies

A regional NRM plan, or the regulations will be able to set out schemes that may form the basis of an application for a refund of the whole or a part of a levy.

115—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

This clause provides for the declaration of a penalty in relation to the unauthorised taking of water. The other provisions of this Chapter may be applied to a penalty under this provision as though it were a levy.

116—Appropriation of levies, penalties and interest

This clause provides for the application of levies and other amounts declared under this Part.

Part 2—Statutory funds

Division 1—The Natural Resources Management Fund

117—The Natural Resources Management Fund

There is to be a Natural Resources Management Fund in connection with the operation of this measure.

118—Accounts

The Minister must cause proper accounts to be kept of money paid into and out of the fund.

119—Audit

The fund will be audited by the Auditor-General.

Division 2—Regional NRM board funds

120—Regional NRM board funds

Each regional NRM board will be required to establish and maintain a fund for the purposes of this measure.

Chapter 6—Management and protection of land

121—Interpretation

This clause defines terms used in Chapter 6.

122—Special provisions relating to land

This clause will enable a relevant authority to require the owner of land to prepare an action plan if the relevant authority considers that the owner has been (or is likely to be) in breach of the general statutory duty with respect to land and there has been (or is likely to be) unreasonable degradation of the land. The relevant authority will be required to attempt to resolve the matter by voluntary action on the part of the owner before resorting to the requirement to prepare an action plan.

123—Requirement to implement action plan

An action plan will be imposed by notice. An owner of land must be given a reasonable period to prepare the action plan. A requirement to prepare an action plan will be subject to review by the Chief Officer.

Chapter 7—Management and protection of water resources

Part 1—General rights in relation to water

124—Right to take water subject to certain requirements

This clause sets out rights in relation to the taking of water. It is important to note the broad definition of "to take" water under this Bill.

125—Declaration of prescribed water resources

This clause provides for the declaration of water resources by the Governor on the recommendation of the Minister. The Minister must undertake a process of public consultation before making a recommendation.

Part 2—Control of activities affecting water

Division 1—Determination of relevant authority

126—Determination of relevant authority

This clause defines the relevant authority for the purposes of granting a water licence or a permit.

Division 2—Control of activities

127—Water affecting activities

This clause controls activities that affect water by requiring a water licence or an authorisation under clause 128 for the

taking of water or a permit for other activities specified in the clause.

128—Certain uses of water authorised

This clause enables the Minister, by notice in the Gazette, to authorise the taking of water from a prescribed water resource.

129—Activities not requiring a permit

This clause sets out activities for which a permit is not required.

130—Notice to rectify unauthorised activity

This clause enables a relevant authority to direct a person who has undertaken an activity without authority to rectify the effects of that activity.

131—Notice to maintain watercourse or lake

This clause enables a relevant authority to direct the owner of land to maintain a watercourse or lake that is on or adjoins the land.

132—Restrictions in case of inadequate supply or overuse of water

This clause enables the Minister to prohibit or restrict the use of water in certain cases.

133—Specific duty with respect to damage to a watercourse or lake

This clause places a specific duty on the owner of land to take reasonable measures to prevent damage to a watercourse or lake on or adjoining the land.

134—Minister may direct removal of dam etc

This clause will enable the Minister to take action if a dam or other obstruction is affecting water. Compensation will be payable if a dam or other obstruction must be removed.

Division 3—Permits

135—Permits

This clause provides for the granting of permits. The granting of a permit must not be inconsistent with the State NRM plan.

136—Requirement for notice of certain applications

This clause requires public notice of applications if an NRM plan provides for such notice. The clause then allows interested persons to make representations to the relevant authority before a decision is made on the application.

137—Refusal of permit to drill well

This clause allows an authority to refuse a permit to drill a well if the water is so contaminated as to create a risk to health.

138—Availability of copies of permits etc

The relevant authority must make permits, and written representations received with respect to permits, publicly available.

Division 4—Provisions relating to wells

139—Well drillers' licences

This clause provides for the granting of well driller's licences.

140—The Water Well Drilling Committee

The Water Well Drilling Committee is to continue.

141—Renewal of licence

This clause provides for the renewal of well driller's licences.

142—Non-application of certain provisions

This clause enables wells of a class prescribed by proclamation to be excluded from provisions of this Division.

143—Defences

This clause provides a series of defences relating to drilling, plugging, backfilling or other activities with respect to wells.

144—Obligation to maintain well

This clause imposes an obligation to maintain wells.

145—Requirement for remedial or other work

This clause enables the Chief Officer to direct that certain action be taken with respect to wells.

Part 3—Licensing and allocation of water

Division 1—Licensing

146—Licences

This clause provides for the granting of a water licence. Subclause (3) sets out the grounds on which the Minister can refuse to grant a licence. A licence may be granted subject to conditions.

147—Variation of water licences

This clause provides for the variation of water licences.

148—Surrender of licence

This clause enables a licensee to surrender his or her licence, subject to obtaining the consent of any person with an interest in the licence noted on the register.

149—Availability of copies of licences etc

Copies of licences will be available for public inspection.

Division 2—Allocation of water

150—Method of fixing water (taking) allocations

This clause provides that a water (taking) allocation may be fixed by reference to the volume of water that may be taken, the purpose for which the water may be taken and used, or in any other manner.

151—Allocation of water

This clause sets out the methods by which water may be allocated under a licence. An allocation may be obtained from the Minister, from the holder of another licence, by conversion of a water (holding) allocation, or under an Interstate Water Entitlements Transfer Scheme. An allocation by the Minister may be subject to conditions. The Minister may refuse to allocate water to a person who has acted in contravention of the Bill.

152—Basis of decisions as to allocation

This clause makes specific provision in relation to the Minister's decisions to allocate water or set conditions. In particular, an allocation of water must be consistent with the relevant water allocation plan and the conditions attached to a licence must not be seriously at variance with the relevant water allocation plan.

153—Water (holding) allocations

This clause continues the scheme for the endorsement of water (holding) allocations on water licences.

154—Conversion of water (taking) licence

It will be possible to apply to convert a water (taking) allocation to a water (holding) allocation.

155—Allocation on declaration of prescribed water resource

This clause provides for the allocation of water on the declaration of a water resource. The main purpose of this provision is to preserve the rights to water of existing users.

156—Reduction of water allocations

This clause relates to the ability of the Minister to reduce water allocations in specified circumstances.

Division 3—Transfer of licences and water allocations

157—Transfer

158—Application for transfer of licence or allocation

159—Requirement for notice of application for certain transfers

160—Basis of decision as to transfer

161—Endorsement and record of dealings

These clauses set out a scheme for the transfer of water licences and for the transfer of part of the water allocation of a licence separately from the licence.

Division 4—Breach of licence

162—Consequences of breach of licence etc

This clause sets out the consequences of a breach of a licence, or of certain other requirements under this Chapter. The Minister will be able to cancel, suspend or vary a licence in certain circumstances. A right of appeal will lie to the ERD Court.

163—Effect of cancellation of licence on water allocation

A water allocation, endorsed on a licence that has been cancelled will be forfeited to the Minister. The Minister must endeavour to sell the allocation and, on a sale, the proceeds will be applied in the manner specified by this clause.

Division 5—Schemes to promote the transfer or surrender of allocations

164—Schemes to promote the transfer or surrender of allocations

This clause preserves the ability of the Minister to establish certain schemes to promote the transfer or surrender of allocations, or the surrender of water licences, that relate to a specified area within the Murray-Darling Basin. There will be no obligation to accept an offer under a scheme.

Part 4—Reservation of excess water by Minister

165—Interpretation

166—Reservation of excess water in a water resource

167—Allocation of reserved water

168—Public notice of allocation of reserved water

These clauses continue the specific scheme under which the Minister may reserve excess water.

Part 5—Water conservation measures

169—Water conservation measures

This clause continues the scheme under which the Governor can introduce specific water conservation measures by regulation under this measure.

Part 6—Related matters

170—Law governing decisions under this Chapter

This clause makes specific provision with respect to the law to be applied, and the provisions of the relevant regional NRM plan to be applied, when a matter falls to be determined under this Chapter.

171—Effect of water use on ecosystems

An assessment of the quantity of water available during a particular period must take into account the needs of ecosystems that depend on the relevant resource for water.

172—By-laws

This clause continues the scheme under which a board may make by-laws for the purposes of these provisions. However, the matters with respect to which by-laws may be made will be prescribed by regulation.

173—Representations by SA Water

This clause allows SA Water to make representations in respect of water discharged into a watercourse or lake.

174—Water recovery and other rights subject to board's functions and powers

Certain rights will be subject to the performance or exercise of the functions and powers of boards under this Bill.

Chapter 8—Control of animals and plants

Part 1—Preliminary

175—Preliminary

This clause will enable the Minister to declare that specific provisions of the Chapter apply to specified classes of animals or plants, and also to declare control areas and prohibitions for those classes of animals or plants. Such a declaration cannot, except in specified circumstances, be made in respect of a class of native animals. The clause further provides for the establishment of three different categories of animals or plants subject to a declaration under this clause.

Part 2—Control provisions

Division 1—Specific controls

176—Movement of animals or plants

This clause creates offences relating to the movement of certain animals or plants into or within control areas. There is a defence available where the movement was carried out in accordance with a written approval given by an authorised officer, or the circumstances constituting the offence were not the result of a wilful or negligent act on the part of the defendant.

177—Possession of animals or plants

This clause creates offences relating to the possession of certain animals and plants within a control area, with the penalties graduated according to the category of animal or plant.

178—Sale of animals or plants, or produce or goods carrying plants

This clause creates offences relating to the sale of certain animals and plants (and other things carrying certain plants), with the penalties graduated according to the category of animal or plant. There is a defence available where the movement was carried out in accordance with a written approval given by an authorised officer, or the circumstances constituting the offence were not the result of a wilful or negligent act on the part of the defendant.

179—Sale of contaminated items

This clause creates offences relating to the sale of certain animals and plants (and other things carrying certain plants), with the penalties graduated according to the category of animal or plant.

180—Offence to release animals or plants

This clause creates offences relating to the release of certain animals and plants within a control area. There is a defence available where the movement was carried out in accordance with a written approval given by an authorised officer, or the circumstances constituting the offence were not the result of a wilful or negligent act on the part of the defendant, however the defence does not apply where an authorised officer furnished the defendant with a notice warning the defendant of specified matters. The clause also provides that the certain costs incurred as a result of a contravention of the clause can be recovered.

181—Notification of presence of animals or plants

This clause requires an owner of land within a control area to notify within a specified period the NRM group, or the regional NRM board if no such group exists, of the presence of certain animals and plants. The clause further requires an NRM authority to notify the chief officer, and the chief officer to notify the NRM group, in the event that the NRM authority becomes aware of the presence of certain animals and plants other than by notification under subclause (1).

182—Requirement to control certain animals or plants

This clause requires the owner of land within a control area to comply with the instructions of an authorised officer in relation to keeping certain animals and plants, with the penalties linked to the category of animal or plant.

183—Owner of land to take action to destroy or control animals or plants

This clause requires the owner of land within a control area to destroy certain animals and plants. The clause also requires the owner to control and keep controlled certain animals and plants. A relevant authority may, however, exempt a person from those requirements. Whilst breaching a requirement under this clause does not, in itself, make the person liable to civil or criminal action, a person may be liable if they fail to comply with the relevant requirements under clause 186. The clause also requires NRM groups to carry out proper measures for the destruction of certain animals and plants on road reserves within a control area.

184—Requirement to implement action plan

This clause enables an authorised officer to require an owner to prepare an action plan to address a breach of clause 183(1), (2) or (3), and sets out requirements for such a plan. It is an offence for an owner to fail to comply with an action plan. The Chief Officer, or an NRM authority may carry out appropriate measures in view of the failure of the owner. The clause confers certain powers on the Chief Officer and NRM authority, and reasonable costs and expenses may be recovered from the owner.

185—Native animals

Only a State authorised officer can issue a protection order or notice to prepare an action plan in relation to a native animal.

186—NRM authorities may recover certain costs from owners of land adjoining road reserves

This clause allows an NRM authority, under certain circumstances, to recover costs for the destruction or control of certain animals or plants on road reserves within a control area from owners of land adjoining the road reserve. An unpaid amount may be recovered (with interest) as a debt against the owner, and may also be remitted in whole or in part by the NRM authority.

187—Destruction or control of animals outside the dog fence by poison and traps

This clause allows an owner of land bounded by and inside the dog fence to lay poison or set traps in accordance with approved proposals on adjoining land immediately outside the dog fence for the purposes of destroying or controlling animals pursuant to this Part, and sets out the process for the approval of a proposal.

188—Ability of Minister to control or quarantine any animal or plant

This clause allows the Minister, for the purpose of controlling, or preventing the spread, of certain animals or plants, to declare a portion of the State to be a quarantine area. The clause sets out what requirements and prohibitions a notice under this clause can contain. It is an offence to contravene or fail to comply with a notice under this clause.

Division 2—Permits**189—Permits**

This clause allows the relevant authority to issue a permit to a person authorising the movement, keeping or possession or sale of certain animals and plants. A permit may be subject to conditions, but may not be issued if a provision of Division 1 acts as an absolute prohibition of the conduct for which a permit is sought. In issuing a permit, a relevant authority must take into account and seek to further the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act. The clause also sets out consultation requirements for certain circumstances. It is an offence to

contravene or fail to comply with a provision or condition of a permit.

Division 3—Related matters**190—Animal-proof fences**

This clause provides that a certificate of the Minister is admissible as proof of certain matters in relation to the *Fences Act 1975*.

191—Offence to damage certain fences

This clause creates an offence for a person to interfere with an animal-proof fence except with the permission of the owner of the land on which the fence is situated. The court may order a person convicted of an offence under this clause to compensate the owner.

192—Offence to leave gates open

This clause creates an offence for a person to leave open a gate in an animal-proof fence except with the permission of the owner of the land on which the fence is situated.

193—Protection of certain vegetation and habitats

This clause creates an offence in relation to the clearance of native vegetation. A person must take all reasonable steps to ensure that clearance is not done except in accordance with the guidelines under the *Native Vegetation Act 1991*, and that damage or destruction to other vegetation is kept to a minimum. The clause also requires compliance with certain requirements set out in the regional NRM plan or prescribed by the regulations relating to the protection of native animals and their habitats.

Chapter 9—Civil remedies**Part 1—Orders issued by NRM authorities****Division 1—Orders****194—Protection orders**

This clause enables an NRM authority or a State authorised officer to issue a protection order to secure compliance with the requirements of Chapter 2 Part 2, clause 133 or 183, a management agreement or any other prescribed requirement. The clause sets out the requirements and procedures in relation to making such an order. A protection order may be appealed to the Court within 14 days. An authorised officer may issue an emergency protection order orally in certain circumstances, but must then confirm the order in writing. It is an offence to refuse or fail to comply with an order.

195—Action on non-compliance with a protection order

This clause allows a relevant authority to take the action required by a protection order in the event that the requirements of the order are not complied with. The authority may recover as a debt from the person who failed to comply with the order the reasonable costs and expenses incurred in taking action under this clause.

196—Reparation orders

This clause enables an NRM authority or State authorised officer to issue a reparation order, if satisfied that a person has caused harm to a natural resource by contravention of the requirements of Chapter 2 Part 2, clause 133 or 183, a management agreement or any other requirement prescribed by the regulations for the purposes of this clause. A reparation order may require specific action be taken, or certain payments to be made, or both. The clause sets out requirements and procedures in relation to making such an order. A reparation order may be appealed to the Court within 21 days. An authorised officer may issue an emergency reparation order orally in certain circumstances, but must then confirm the order in writing. It is an offence to refuse or fail to comply with an order.

197—Action on non-compliance with a reparation order

This clause allows a relevant authority to take the action required by a reparation order in the event that the requirements of the order are not complied with. The authority may recover as a debt from the person who failed to comply with the order the reasonable costs and expenses incurred in taking action under this clause.

198—Reparation authorisations

If satisfied that a person has caused harm to any natural resource by contravention of Chapter 2 Part 2, clause 133 or 183, a management agreement or any other requirement prescribed by the regulations for the purposes of this clause, a relevant authority may issue a reparation authority, under which authorised officers or other authorised persons may take specified action on the authority's behalf to make good damage to the natural resource. The clause also sets out

procedures and requirements in relation to making such an authorisation.

199—Related matter

This clause provides that a person cannot claim compensation from the Crown, an NRM authority, the Chief Officer, an authorised officer or other authorised person in respect of a requirement imposed by or under this Division, or an act or omission undertaken or made in good faith in the exercise of a power under this Division.

Division 2—Registration of orders and effect of charges

200—Registration

This clause allows the relevant authority to have the Registrar-General register an order or authorisation issued under Division 1 relating to an activity carried out on land, or requiring a person to take action on or in relation to land. Such an order or authorisation is binding on each owner and occupier from time to time of the land. The Registrar-General must, on application by the relevant authority, cancel the registration of such an order or authorisation and make appropriate endorsements to that effect.

201—Effect of charge

This clause sets out the priority of a charge imposed on land under Division 1.

Part 2—Orders made by ERD Court

202—Orders made by ERD Court

This clause sets out the orders that the ERD Court can make in relation to this measure, and requirements and procedures in relation to such orders.

Chapter 10—Appeals

203—Right of appeal

This clause sets out specific rights of appeal to the ERD Court. An appeal will, in the first instance, be referred to a conference under section 16 of the *Environment, Resources and Development Court Act 1993*.

204—Operation and implementation of decisions or orders subject to appeal

The making of an appeal will not, in itself, affect the operation of any decision or other action to which the appeal relates. However, the Court, or the relevant authority, may suspend the operation of the decision or other action if it thinks fit. A suspension may be granted subject to conditions.

205—Powers of Court on determination of appeals

The Court will have a range of powers on the hearing of an appeal, including to confirm, vary or reverse any decision, or substitute any decision, to order or direct a person or body to take such action as the Court thinks fit, and to make consequential or ancillary orders or directions.

Chapter 11—Management agreements

206—Management agreements

The Minister will be able to enter into a management agreement relating to the protection, conservation, management, enhancement, restoration or rehabilitation of any natural resources, or any other matter associated with furthering the objects of the Bill. The management agreement will be entered into with the owner of the land. The agreement will not have any force or effect under the Bill until a note relating to the agreement is entered on the relevant instrument of title or against the land.

Chapter 12—Miscellaneous

Part 1—Avoidance of duplication of procedures etc

207—Avoidance of duplication of procedures etc

This clause will allow an authority to accept a document or recognise a procedure under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth for the purposes of this measure.

Part 2—Other matters

208—Native title

Nothing done under this measure will be taken to affect native title in any land or water, unless the effect is valid under a law of the State or the *Native Title Act 1993* of the Commonwealth.

209—Service of notices or other documents

This clause provides for the service of notices or documents.

210—Money due to Minister

Money that is due to the Minister or another authority may be recovered as if it were unpaid levy.

211—Compulsory acquisition of land

This clause confers on the Minister a specific power to acquire land under the *Land Acquisition Act 1969* for the purposes of the measure.

212—Compensation

This clause provides for the payment of compensation in certain circumstances.

213—Immunity from liability

This clause provides specific protection in relation to an owner of land, the Minister, a person engaged in the administration of the Bill, or another authority or person who destroys an animal or plant, captures or removes an animal, or takes other action in relation to the control of animals or plants.

214—Vicarious liability

For the purposes of this measure, an act or omission of an employee or agent will be taken to be an act or omission of the employer or principal unless it is proved that the person was acting otherwise than in the course of the employment or agency.

215—False or misleading information

It will be an offence to provide false or misleading information under the measure.

216—Interference with works or other property

This clause sets out offences relating to interference with infrastructure, works and other property.

217—Criminal jurisdiction of Court

Certain offences will lie within the criminal jurisdiction of the ERD Court.

218—Proceedings for offences

This clause provides for the commencement of offences against the measure.

219—General defence

220—Offences by bodies corporate

These clauses are standard clauses.

221—Additional orders on conviction

This clause will allow a court on recording a conviction under the measure to require a person to take specified action to rectify the consequences of any contravention of the measure or to ensure that a further contravention does not occur, or to pay to the Crown an amount assessed by the court to be equal to any financial benefit that has been gained, or can reasonably be expected to be gained, as a result of the commission of the relevant offence.

222—Continuing offence

A person convicted of an offence will be liable to a penalty with respect to any continuing act or omission.

223—Constitution of Environment, Resources and Development Court

This clause deals with the constitution of the ERD Court when it is exercising jurisdiction under the measure.

224—Evidentiary

This clause provides for the proof of certain matters and the application of various presumptions.

225—Determination of costs and expenses

This clause makes it clear that the costs of an authority under the measure are the full costs that could be charged by an independent contractor.

226—Minister may apply assumptions and other information

The Minister will be able to apply various assumptions for the purposes of the measure.

227—NRM Register

This clause requires the Minister to keep a register of licences, permits, action plans and other prescribed matters.

228—Confidentiality

A person engaged in the administration of the measure will be required to keep certain information confidential unless he or she is acting in the performance of official duties or as required by law or authorised by the Minister.

229—Annual report

The Department will be required to provide specific information on the operation of this measure on an annual basis. This information will be included in the annual report of the NRM Council.

230—Damage caused by non-compliance with a notice etc

A person who suffers loss as a result of a failure on the part of another person to comply with a requirement relating to an action plan, or an order under Chapter 9 Part 1, may recover damages from that other person.

231—Recovery of technical costs associated with contraventions

This clause will allow a specified authority to recover costs and expenses in taking samples or conducting tests, examinations or analyses, in the course of investigating a contravention of the measure.

232—Incorporation of codes and standards

A notice, regulation or by-law under the measure may apply, adopt or incorporate, with or without modification, any code, standard or other appropriate document.

233—Exemption from Act

The Governor will be able to make regulations with respect to exemptions from the operation of the measure.

234—Regulations

This is a general regulation-making clause.

235—Review of Act by Minister

The Minister will be required to initiate a review of the operation of the measure. The review, and the report on the outcome of the review, must be completed by the end of the 2006/2007 financial year.

Schedule 1—Provisions relating to NRM Council, regional NRM boards and NRM groups

This Schedule sets out common provisions for the NRM Council, regional NRM boards and NRM groups.

Schedule 2—Classes of wells in relation to which a permit is not required

This Schedule sets out classes of wells that are exempt from the requirement for a permit.

Schedule 3—Regulations

This Schedule sets out various matters for which regulations may be specifically made.

Schedule 4—Related amendments, repeals and transitional provisions

This Schedule sets out related amendments to other Acts. The *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*, *Soil Conservation and Land Care Act 1989* and *Water Resources Act 1997* are to be repealed. Part 18 of the Schedule sets out various provisions addressing a number of transitional issues associated with the enactment of this new legislation.

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

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That the council at its rising adjourn until Monday 3 May 2004.
Motion carried.

STATUTES AMENDMENT (COURTS) BILL

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

PROBLEM GAMBLING FAMILY PROTECTION ORDERS BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT

At 5.37 p.m. the council adjourned until Monday 3 May at 2.15 p.m.