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ELECTRICITY SUPPLY AMENDMENT (BUSH FIRE HAZARD REDUCTION) BILL 2014

Second Reading

The Hon. NIALL BLAIR (Parliamentary Secretary) [3.28 p.m.], on behalf of the Hon. Matthew Mason-Cox, I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The bushfire season is upon us once again. It commenced on 1 October and ends on 31 March next year.

The Minister for Emergency Services has advised the people of New South Wales to be ready for the bush fire season. The Rural Fire Services Commissioner, Shane Fitzsimmons, has said that forecasts indicate this season will be more problematic than the last.

Australia is one of the most bushfire-prone countries on Earth.

With more than 30 million hectares of bushfire-prone land, ranging from forested areas along the coastal strip to expansive grass and scrubland areas west of the Great Dividing Range, New South Wales has its own history of fire.

Bushfires pose a risk to life, property and the environment in rural and urban areas throughout New South Wales.

They can be caused by deliberate or negligent actions or incidents like lightning strikes, sparks from farm machinery and electrical incidents such as trees falling on powerlines.

In 2013 New South Wales experienced one of its most challenging bushfire seasons yet. Fires began well before the officially declared bushfire danger period, starting with emergency declarations in early September 2013. Between 1 July 2013 and 31 December 2013 some 5,700 bush and grass fires burnt across the State.

A total of 1,157 of those fires occurred in October alone, resulting in the destruction of almost 7,000 hectares of vegetation and the loss of 217 residential properties and damage to another 129.

The New South Wales Government is committed to ensuring that everything is being done to minimise the risk from bushfires to human life and property.

In November 2013, in response to the early and ferocious start to the bushfire season, we announced a package of measures to streamline hazard reduction processes, strengthen offence provisions and protect emergency services workers.

These included the introduction of offence provisions for littering involving cigarettes and matches, including an aggravated offence of littering on days when a total fire ban is in place and the removal of obstacles to enable home owners to better manage fire risks on their properties.

In June this year, amendments were made to the Rural Fires Act to allow landowners to undertake other vegetation clearing works to better protect their properties from the threat of bushfire, while balancing legitimate environmental objectives.

The bushfires last year remind us that maintaining our electricity infrastructure requires constant vigilance and action to ensure that it does not become a source of danger.

The October 2013 Salt Ash fire near Port Stephens may have been started by a fault in a high voltage "private" powerline.

It has also been alleged that the Springwood/Winmalee fire may have been sparked by vegetation on private property falling onto powerlines.

We often take for granted the safety of our electricity system.

We are so used to the sight of poles and wires that bring electricity into our homes, workplaces and businesses that we forget that electricity, although safe when carefully maintained, is an extremely powerful form of energy.

Overhead powerlines can clash with vegetation or be brought down by strong winds, falling trees or branches. Power poles and their fittings, for example cross-arms, can fail due to these reasons also, as well as through lack of maintenance.

All of these conditions can create a serious safety and bushfire risk.

Electricity assets coexist with trees and other vegetation under normal conditions but in certain circumstances, the interaction of trees and electricity infrastructure can have serious consequences.

Electricity assets can be owned by both network operators and private landowners. It is the responsibility of the person who owns the electricity asset, whether a network operator, or a private landowner, to maintain that asset.

Network operators are generally responsible for the poles and wires in our streets which deliver electricity to homes and businesses across the State.

As part of their operations, the network operators monitor and maintain their infrastructure and take active steps to ensure that potential threats including faults, trees and vegetation are identified and managed.

Just as network operators must maintain the powerlines and poles that they own, customers with privately owned powerlines and poles are required to do the same.

Private electricity infrastructure starts at and includes the first low-voltage pole on a landowner's property. All the wires, poles, fittings and attachments beyond this are usually considered "private" and part of the property's electrical infrastructure, including those between different buildings and structures on the same property.

Property owners have a legal obligation to maintain their electrical infrastructure to ensure that they are free from any defects that may cause a fire or any other safety hazard.

This may include deteriorated or overloaded wires, damaged poles and fittings or trees too close to powerlines. If powerlines or poles cause injury or damage to property, the landowner may be held legally responsible.

Protecting the State from bushfire hazards arising from electricity infrastructure and the potentially devastating consequences of those bushfires is a massive task requiring constant vigilance and timely responses from the time that a risk is identified to its removal.

All network operators in New South Wales have in place Bushfire Risk Management Plans.

In implementing these plans, network operators do a lot to minimise the bushfire risk from electricity infrastructure, including undertaking land and helicopter patrols across bushfire zones to check for hazards from powerlines.

Operators regularly undertake action to maintain safe distances between powerlines and trees on public property in their distribution area through tree trimming and vegetation management programs.

They provide detailed information to customers on electrical safety and bushfire risk management via brochures, customer notifications and websites.

At the beginning of each bushfire season, operators place bushfire safety brochures in the letterboxes of thousands of residents across New South Wales.

When undertaking their own bushfire mitigation and powerline maintenance work, network operators' staff and contractors often identify defects and vegetation risks on private powerlines and poles and notify owners or occupiers that the hazards need to be removed or repaired.

The Government is aware of the need to ensure that the State is not threatened by unnecessary hazards from electricity infrastructure which may spark bushfires.

The fires last year identified that existing measures in place to minimise the risks of bushfires started by electricity infrastructure are not sufficient.

At present, under the Electricity Supply Act, network operators are empowered to direct landowners to remove trees and vegetation that threaten electricity assets owned by network operators which are located on private property.

Under the Electricity Supply (Safety and Network Management) Regulation, network operators are able to disconnect the electricity supply in order to avert the threat of fire or other danger to people and property.

In most circumstances, before disconnecting, a network operator is required to notify the landowner of the faults in their electricity assets and any steps they could take to rectify these faults to avoid disconnection.

However, while disconnection may avert the threat, it is not usually a desirable outcome for the owner or occupier of the property.

The Government is of the view that these arrangements need to be updated. This is because of the significant threat of bushfires created by trees and vegetation interfering with electricity assets or faults in private electricity assets in bushfire-prone areas of the State.

In particular, other than disconnection, nothing in the Electricity Supply Act allows network operators to take any action where they can see that private electricity infrastructure poses a bushfire threat.

Instead, action is only available if a bushfire threat is posed by a network operator's assets on private property.

Further, for instance, the current provisions dealing with network operators' assets do not impose a clear and enforceable time frame for work to be undertaken once a hazard has been identified.

The Act simply allows landowners a "reasonable time" to undertake work to remove a threat to electricity infrastructure located on their property.

Whilst this may be appropriate under certain circumstances, it is simply insufficient when we are facing the potentially catastrophic threat of bushfire.

If a landowner fails to remove a hazard, the rights of the network operator to step in and undertake the required work are not sufficiently clear. This is particularly so in relation to the ability of the network operator to enter onto private property to undertake work on and around private electricity assets.

This bill proposes a new notification and bushfire hazard reduction system in bushfire-prone areas of New South Wales. The new system will enable action to be taken quickly and efficiently to remove bushfire threats associated with electricity assets on private property, irrespective of who owns the asset.

The amendments address concerns raised by network operators about accessing privately owned land for the purposes of hazard reduction and rectification work and for confirming when work to manage bushfire risks has been completed. They also make clear who should bear the cost of such work.

I will now turn to a more detailed discussion of the bill.

The new measures proposed in the bill will apply to bushfire-prone areas of the State.

Bushfire-prone areas are identified under the Environmental Planning and Assessment Act 1979.

The current arrangements for vegetation management and fault rectification will continue unchanged for the remainder of the State.

The bill will empower network operators to issue a notice to the occupier or owner of a property to remove hazards on their property which represent a bushfire risk from electricity infrastructure.

This includes the trimming or removal of vegetation which endangers electricity infrastructure and work to repair a fault in private electricity infrastructure which has the potential to spark a bushfire.

The amendments do not change any existing liabilities for the cost of repairing faults or removing vegetation to avoid bushfire threats. They simply ensure that the work will be done.

The bill requires a notice issued by a network operator to a landowner to include specifics of the required work. This includes why the work needs to be done and the standard to which the work must be completed. The notice must also identify whether the owner or the network business is responsible for the cost of the work.

The notice must advise the owner of the network operator's hardship policy for assisting customers who are having difficulties paying the cost of the work. The notice must also advise the owner that any complaint or dispute regarding the notice can be referred to the Energy and Water Ombudsman NSW.

The amendments allow a notice to be issued to either the owner or the occupier of a property. This will save operators the time and cost of having to track down the owner of a property and will facilitate the swift removal of hazards.

However, once a notice has been issued, the duty to respond to the notice is with the owner of the property. Also, if the liability for the cost of the work is not with the network operator, it is the property owner who will be responsible for the cost of the work, not the occupier.

These obligations already exist but are not clearly defined in the current Act.

Importantly, the new system will impose, for the first time, clear time frames for the owner to respond to a notice and to undertake the required work.

Upon receipt of a notice, the owner will have 30 days to advise the operator that he or she is willing or unwilling to undertake the work. The owner can arrange for the work to be done privately or engage the network operator to do the work for them.

Alternatively, if an owner does not want the work to be done, he or she can nominate to have the electricity supply to the premises disconnected.

If the owner undertakes to do the work, a further 30 days is allowed for completion of the work, allowing a total of 60 days from the date of the notice to the removal of the hazard.

But if the owner is unwilling to undertake the work or does not respond to the notice within 30 days, then the network operator is authorised to enter onto the premises to carry out the required work without providing further notice.

The amendments allow for some flexibility in the time provided for completion of the work at the discretion of the network operator.

The express time frames in the bill have been formulated in recognition of the fact that when it comes to removing threats of bushfire time is of the essence. Until action has been taken to remove the risk, the danger remains.

The proposed changes are a careful balance between the rights of landowners and the interests of the broader community in minimising the risk from bushfire, which we all know is real and has potentially catastrophic consequences for human life and property.

The amendments allow for a network operator to recover the reasonable cost of the work from the owner if it undertakes work on the owner's behalf.

The allocation of costs arising from bushfire hazard reduction work under the new system is consistent with the current arrangements, under which landowners are responsible for the costs of maintaining their own electricity assets.

The Government is firmly of the view that the cost of doing bushfire hazard reduction work around private electricity assets should not be borne by network operators—as these costs would be passed on to electricity consumers across the State in the form of higher electricity charges.

To protect those suffering financial hardship, the amendments require all network operators to have in place a hardship policy to assist owners who are experiencing difficulties in paying the cost of the work.

Landowners' concerns in regards to notices can be referred to the Energy and Water Ombudsman NSW. To support this, the amendments direct that every notice issued includes a clear reference to the Ombudsman.

The bill also includes exemptions from approvals requirements under other legislation. This will free both landowners and network operators from the need to obtain approvals which may otherwise be required before the necessary bushfire mitigation work could be undertaken.

The justification for the exemptions is to facilitate the swift removal of bushfire hazards within the 60 day time frame for the completion of work. Without the exemptions, this may not be possible.

Legislation for which exemptions would be provided includes the Environmental Planning and Assessment Act 1979 and the Native Vegetation Act 2003. The exemptions are in line with those recently introduced under the Rural Fires Amendment (Vegetation Clearing) Act 2014.

There a number of safeguards in the bill to prevent the misuse of the exemptions. Firstly, a landowner must receive a notice from a network operator before the exemptions are available to them. Secondly, the notice will specify the exact work to be done. In the absence of a notice, landowners wishing to undertake bushfire hazard reduction work around electricity assets work must either rely on the provisions introduced under the Rural Fires Amendment

(Vegetation Clearing) Act 2014 or obtain the approvals required under relevant legislation.

Broad consultation with stakeholders has been undertaken on the bill. Network operators, the Local Government and Shires Association, the NSW Farmers Association and the Energy and Water Ombudsman NSW have been consulted on the proposals and have indicated support for the objectives.

The amendments in this bill create a more efficient and effective system for bushfire hazard reduction around electricity infrastructure in bushfire-prone areas of New South Wales.

The measures in the bill give the highest priority to bushfire mitigation activity and the interests of the broader community over that of landowners who have, for whatever reason, failed to undertake the necessary action.

The Government does not apologise for that. In the face of the devastating power of bushfires, the interests of the many outweigh the interests of the few.

I commend the bill to the House.