PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 1 November 2007

(Extract from book 15)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Assembly committees

Privileges Committee — Mr Carli, Mr Clark, Mr Delahunty, Mr Lupton, Mrs Maddigan, Dr Napthine, Mr Nardella, Mr Stensholt and Mr Thompson.

Standing Orders Committee — The Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell.

Joint committees

Dispute Resolution Committee — (*Assembly*): Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr McIntosh, Mr Robinson and Mr Walsh. (*Council*): Mr P. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik.

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Delahunty, Mr Haermeyer, Mr McIntosh, Mrs Maddigan and Mr Morris. (*Council*): Mr Leane and Ms Mikakos.

Economic Development and Infrastructure Committee — (*Assembly*): Ms Campbell, Mr Crisp and Ms Thomson. (*Council*): Mr Atkinson, Mr D. Davis, Mr Tee and Mr Thornley.

Education and Training Committee — (*Assembly*): Mr Dixon, Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras. (*Council*): Mr Elasmar and Mr Hall.

Electoral Matters Committee — (*Assembly*): Ms Campbell, Mr O'Brien, Mr Scott and Mr Thompson. (*Council*): Ms Broad, Mr Hall and Mr Somyurek.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh. (*Council*): Mrs Petrovich and Mr Viney.

Family and Community Development Committee — (*Assembly*): Mr Noonan, Mr Perera, Mrs Powell and Ms Wooldridge. (*Council*): Mr Finn, Mr Scheffer and Mr Somyurek.

House Committee — (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Delahunty, Mr Howard, Mr Kotsiras, Mr Scott and Mr K. Smith. (*Council*): The President (*ex officio*), Mr Atkinson, Ms Darveniza, Mr Drum, Mr Eideh and Ms Hartland.

Law Reform Committee — (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mr Foley. (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Scheffer.

Outer Suburban/Interface Services and Development Committee — (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith. (*Council*): Mr Elasmar, Mr Guy and Ms Hartland.

Public Accounts and Estimates Committee — (*Assembly*): Ms Graley, Ms Munt, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells. (*Council*): Mr Barber, Mr Dalla-Riva, Mr Pakula and Mr Rich-Phillips.

Road Safety Committee — (*Assembly*): Mr Eren, Mr Langdon, Mr Mulder, Mr Trezise and Mr Weller. (*Council*): Mr Koch and Mr Leane.

Rural and Regional Committee — (*Assembly*): Ms Marshall and Mr Northe. (*Council*): Ms Darveniza, Mr Drum, Ms Lovell, Ms Tierney and Mr Vogels.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr Languiller and Mr R. Smith. (*Council*): Mr Eideh, Mr O'Donohue, Mrs Peulich and Ms Pulford.

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JENNY LINDELL

Deputy Speaker: Ms A. P. BARKER

Acting Speakers: Ms Beattie, Ms Campbell, Mr Eren, Mrs Fyffe, Ms Green, Dr Harkness, Mr Howard, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Mr Lupton, Ms Marshall, Ms Munt, Mr Nardella, Mrs Powell, Mr Seitz, Mr K. Smith, Mr Stensholt and Mr Thompson

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The Hon. J. M. BRUMBY (from 30 July 2007)
The Hon. S. P. BRACKS (to 30 July 2007)

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. R. J. HULLS (from 30 July 2007)
The Hon. J. W. THWAITES (to 30 July 2007)

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Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

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Brumby, Mr John Mansfield	Broadmeadows	ALP	Munt, Ms Janice Ruth	Mordialloc	ALP
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Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
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Carli, Mr Carlo Domenico	Brunswick	ALP	Noonan, Wade Mathew [4]	Williamstown	ALP
Clark, Mr Robert William	Box Hill	LP	Northe, Mr Russell John	Morwell	Nats
Crisp, Mr Peter Laurence	Mildura	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
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Dixon, Mr Martin Francis	Nepean	LP	Perera, Mr Jude	Cranbourne	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Eren, Mr John Hamdi	Lara	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
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Graley, Ms Judith Ann	Narre Warren South	ALP	Scott, Mr Robin David	Preston	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Seitz, Mr George	Keilor	ALP
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Hardman, Mr Benedict Paul	Seymour	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Ryan	Warrandyte	LP
Helper, Mr Jochen	Ripon	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [3]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kosky, Ms Lynne Janice	Altona	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Weller, Mr Paul	Rodney	Nats
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Lim, Mr Muy Hong	Clayton	ALP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 6 August 2007
[4] Elected 15 September 2007

CONTENTS

THURSDAY, 1 NOVEMBER 2007

CONTENTS

Thursday, 1 November 2007

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.34 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 49 to 59 will be removed from the notice paper on the next sitting day. A member who requires the notice standing in his or her name to be continued must advise the Clerk in writing before 2.00 p.m. today.

PETITIONS

Following petitions presented to house:

Unsworn evidence: legislation

To the Legislative Assembly of Victoria:

The petition of Stephen Daunt of 58 Foxes Lane, Kyneton, Victoria, draws to the attention of the house that section 12 of the Evidence (Unsworn Evidence) Act 1993, Victoria, (assented to 11 May 1993) is unethical and unconstitutional.

The purpose of this act is to abolish the right of an accused to give unsworn evidence or to make an unsworn statement in a criminal proceeding.

It is unethical because it undermines the ability of any person to speak in their own defence legally without duress of cross-examination.

It is unconstitutional because it discriminates against all citizens of the state of Victoria (i.e. as against citizens of other states).

Your petitioner therefore requests that the Legislative Assembly of Victoria reintroduce the right of an accused to give unsworn evidence or to make an unsworn statement in a criminal proceeding.

By Mr HOWARD (Ballarat East) (1 signature)

Wind energy: Lal Lal

To the Legislative Assembly of the Parliament of Victoria:

We, the undersigned, are in opposition to the wind-farm development in the Yendon/Elaine area of Victoria and believe that the state government should not approve the Lal Lal wind farm proposal.

By Mr HOWARD (Ballarat East) (1290 signatures)

Water: desalination plant

To the Legislative Assembly of Victoria:

The petition of residents of Victoria points out to the house that, given the lack of information and consultation with the public, we are totally opposed to the proposed desalination plant on the following grounds:

Desalination is an energy-intensive and unnecessarily costly means of addressing water shortages. Any renewable energy offsets need first to be directed to reducing the impact of current levels of energy use.

The construction of the plant poses potential risks to marine and marine park environments. Aboriginal heritage sites are also at risk. Detailed environmental effects studies have not been undertaken.

Inappropriate siting of the plant has potential detrimental effects on coastal space, with the likelihood of destroying the very values which attract visitors and residents to Bass Coast.

The development is at conflict with state and local government policies, especially marine protection, Victorian coastal strategy, Victorian coastal spaces study and Bass Coast strategic coastal framework.

The petitioners therefore request that the Legislative Assembly of Victoria directs immediate consultation between government and the local community's representative committee to address the issues as listed above.

By Mr K. SMITH (Bass) (101 signatures)

Livestock: roadside grazing

To the Legislative Assembly of Victoria:

The petition of the undersigned citizens of the state of Victoria sheweth that we the undersigned are advising that we strongly support the abolishment of all fees charged by VicRoads and any shire councils for roadside grazing in the state of Victoria.

The petitioners therefore request that the Legislative Assembly of Victoria abolish all fees charged by VicRoads and any shire councils for roadside grazing in the state of Victoria.

By Mr TILLEY (Benambra) (428 signatures)

Water: north–south pipeline

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to develop a pipeline which would take water from the Goulburn Valley and pump it to Melbourne.

The petitioners register their opposition to the project on the basis that it will effectively transfer the region's wealth to Melbourne, have a negative impact on the local environment, and lead to further water being taken from the region in the future. The petitioners commit to the principle that water

savings which are made in the Murray–Darling Basin should remain in the MDB. The petitioners therefore request that the Legislative Assembly of Victoria rejects the proposal and calls on the state government to address Melbourne's water supply needs by investing in desalination, recycling and capturing stormwater.

By Mrs POWELL (Shepparton) (556 signatures)

Tabled.

Ordered that petition presented by honourable member for Shepparton be considered next day on motion of Mrs POWELL (Shepparton).

Ordered that petition presented by honourable member for Bass be considered next day on motion of Mr SMITH (Bass).

PREMIER'S DRUG PREVENTION COUNCIL

Report 2006–07

Mr BATCHELOR (Minister for Community Development), by leave, presented report.

Tabled.

DOCUMENTS

Tabled by Clerk:

Alexandra District Hospital — Report 2006–07 (three documents)

Alpine Health — Report 2006–07 (three documents)

Altona Memorial Park, Trustees of — Report 2006–07

Ambulance Service Victoria — Metropolitan Region — Report 2006–07

Austin Health — Report 2006–07 (two documents)

Australian Centre for the Moving Image — Report 2006–07

Bairnsdale Regional Health Service — Report 2006–07 (two documents)

Ballarat Health Services — Report 2006–07

Barwon Health — Report 2006–07

Bass Coast Regional Health — Report 2006–07 (two documents)

Bayside Health — Report 2006–07

Beaufort and Skipton Health Service — Report 2006–07 (two documents)

Beechworth Health Service — Report 2006–07 (two documents)

Benalla and District Memorial Hospital — Report 2006–07 (two documents)

Bendigo Health Care Group — Report 2006–07

Boort District Hospital — Report 2006–07 (three documents)

Casterton Memorial Hospital — Report 2006–07 (two documents)

Central Gippsland Health Service — Report 2006–07 (two documents)

Cheltenham and Regional Cemeteries Trust — Report 2006–07

Cobram District Hospital — Report 2006–07 (two documents)

Cohuna District Hospital — Report 2006–07

Colac Area Health — Report 2006–07

Dental Health Services Victoria — Report 2006–07

Djerriwarrh Health Services — Report 2006–07 (two documents)

Dunmunkle Health Services — Report 2006–07

East Grampians Health Service — Report 2006–07

East Wimmera Health Service — Report 2006–07

Eastern Health — Report 2006–07

Echuca Regional Health — Report 2006–07 (two documents)

Edenhope and District Memorial Hospital — Report 2006–07

Fawkner Crematorium and Memorial Park Trust — Report 2005–06

Fawkner Crematorium and Memorial Park Trust — Report 2006–07

Financial Management Act 1994:

Report from the Minister for Environment and Climate Change that he had received the 2006–07 report of the Alpine Resorts Co-ordinating Council

Report from the Minister for Public Transport that she had received the 2006–07 report of the Victorian Rail Heritage Operations Pty Ltd

Reports from the Minister for Health that he had received the 2006–07 report of:

Anderson's Creek Cemetery Trust

Ballaarat General Cemeteries Trust

Bendigo Cemeteries Trust

Chinese Medicine Registration Board

Chiropractors Registration Board

Dental Practice Board

Geelong Cemeteries Trust

Infertility Treatment Authority

Lorne Community Hospital

Maldon Hospital

Nathalia District Hospital

O'Connell Family Centre

Omeo District Health

Optometrists Registration Board

Osteopaths Registration Board

Pharmacy Board

Physiotherapists Registration Board

Podiatrists Registration Board

Templestowe Cemetery Trust

Tweddle Child and Family Health Service

Wyndham Cemeteries Trust

Food Safety Council — Report 2006–07

Geelong Performing Arts Centre Trust — Report 2006–07

Gippsland Southern Health Service — Report 2006–07 (two documents)

Health Services Commissioner, Office of — Report 2006–07

Hepburn Health Service — Report 2006–07

Hesse Rural Health Service — Report 2006–07

Heywood Rural Health — Report 2006–07

Human Services, Department of — Report 2006–07

Inglewood and Districts Health Service — Report 2006–07

Keilor Cemetery Trust — Report 2006–07

Kerang District Health — Report 2006–07

Kilmore and District Hospital — Report 2006–07

Kyabram and District Health Service — Report 2006–07

Kyneton District Health Service — Report 2006–07

Latrobe Regional Hospital — Report 2006–07

Library Board of Victoria — Report 2006–07

McIvor Health and Community Services — Report 2006–07

Mansfield District Hospital — Report 2006–07

Maryborough District Health Service — Report 2006–07

Melbourne Health — Report 2006–07

Melbourne Recital Centre Ltd — Report 2006–07

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns 30 September 2007 — Ordered to be printed

Mercy Public Hospital Inc — Report 2006–07 (two documents)

Moyne Health Services — Report 2006–07

Mt Alexander Hospital — Report 2006–07

Museums Board of Victoria — Report 2006–07

National Gallery of Victoria, Council of Trustees — Report 2006–07

Necropolis Springvale, Trustees of — Report 2006–07

Northeast Health Wangaratta — Report 2006–07

Northern Health — Report 2006–07 (two documents)

Numurkah District Health Service — Report 2006–07

Nurses Board of Victoria — Report 2006–07

Ombudsman — Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters — Ordered to be printed

Orbost Regional Health — Report 2006–07

Otway Health and Community Services — Report 2006–07

Peninsula Health — Report 2006–07 (two documents)

Peter MacCallum Cancer Centre — Report 2006–07

Preston Cemetery Trust — Report 2006–07

Queen Elizabeth Centre — Report 2006–07 (two documents)

Radiation Advisory Committee — Report 2006–07

Recreational Fishing Licence Trust Account — Report on Revenue and Disbursements 2006–07

Rochester and Elmore District Health Service — Report 2006–07

Royal Children's Hospital — Report 2006–07

Royal Victorian Eye and Ear Hospital — Report 2006–07

Royal Women's Hospital — Report 2006–07

Rural Ambulance Victoria — Report 2006–07

Rural Northwest Health — Report 2006–07

Seymour District Memorial Hospital — Report 2006–07

South Gippsland Hospital — Report 2006–07

South West Healthcare — Report 2006–07

Southern Health — Report 2006–07

Special Investigations Monitor, Office of — Report under s. 86ZM of the *Police Regulation Act 1958* and s. 105M of the *Whistleblowers Protection Act 2001*

St Vincent's — Report 2006–07 (four documents)

Stawell Regional Health — Report 2006–07

Swan Hill District Hospital — Report 2006–07

Tallangatta Health Service — Report 2006–07 (two documents)

Terang and Mortlake Health Service — Report 2006–07

Timboon and District Healthcare Service — Report 2006–07 (two documents)

Upper Murray Health and Community Services — Report 2006–07 (two documents)

Victorian Arts Centre Trust — Report 2006–07 (two documents)

West Gippsland Healthcare Group — Report 2006–07

Western District Health Service — Report 2006–07

Western Health — Report 2006–07 (two documents)

Wimmera Health Care Group — Report 2006–07

Wodonga Regional Health Service — Report 2006–07

Yarram and District Health Service — Report 2006–07 (two documents)

Yarrawonga District Health Service — Report 2006–07 (two documents)

Yea and District Memorial Hospital — Report 2006–07.

ENERGY LEGISLATION FURTHER AMENDMENT BILL

Clerk's amendments

The SPEAKER — Order! Under joint standing order 6(1) I have received a report from the Clerk of the Parliaments informing the house that he has made corrections in the Energy Legislation Further Amendment Bill. The report is as follows:

> Under joint standing order 6(1), I have made corrections in the Energy Legislation Further Amendment Bill 2007, listed as follows:
>
> Clause 14 of the bill inserts a new division 6 into the Gas Industry Act 2001. In the heading to the new division I have deleted '8' and inserted '6' so that the heading now reads 'Division 6 — Supplier of last resort'.
>
> In clause 6, line 20, I have deleted 'approve' and inserted 'approves' so the line now reads '(A) approves (or not approves)'.

The document is signed by the Clerk of the Parliaments.

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Community Development) — I move:

> That the house, at its rising, adjourn until Tuesday, 20 November 2007.

Motion agreed to.

MEMBERS STATEMENTS

Portarlington Mill: 150th anniversary

Ms NEVILLE (Minister for Mental Health) — On Saturday I was pleased to commence the celebrations of the 150th anniversary of the Portarlington Mill. I had the honour of joining the chairman of the Portarlington Mill Committee, Ron West, and Martin Purslow, chief executive officer of the National Trust, in unveiling the commemorative plaque.

Built in 1857, the mill is a significant historical Portarlington landmark and an important part of the heritage of the Bellarine Peninsula. The site is said to have been a camp for the local Wautharong people. It has also been used for various purposes, including as a flour mill, for seaweed processing and a holiday retreat for the Gordon Boys Home. The building was saved from demolition, thanks to the intervention of the National Trust, the local council and the local community in the 1960s, and thanks to the efforts of many volunteers it is now open to the public.

It was a great celebration that provided an opportunity to acknowledge the dedication and hard work of the Portarlington Mill Committee, the work of a wonderful team of committed and enthusiastic volunteers and the support of the National Trust.

Disability services: Bar None campaign

Ms NEVILLE — On another matter, I was pleased on Monday to be part of the Bar None celebrations. This is an innovative campaign tackling the perceptions of people with a disability in the community and in the media. It highlighted practical actions that can change the way we work as a community to ensure that everyone can take part — bar none. Leader community newspapers partnered with the government to run a campaign across Victoria. Disability communication experts Stella Young and George Taleporous worked in collaboration with the Leader group to develop editorial guidelines.

Water: desalination plant

Mr K. SMITH (Bass) — Yesterday I had the great honour of addressing hundreds of people from the Bass Coast area who had come to Melbourne to protest on the steps of Parliament about the contempt the Brumby government has shown for the local community by forcing it to accept a huge industrial development — that is, the desalination plant on the pristine coastline between Wonthaggi and Kilcunda.

This arrogant Brumby government has told the people they are going to get it and they will have no say in its position or whether there will be an EES (environment effects statement). There is no doubt in my mind that this proposed site is wrong and that there should be an EES. If it were the private sector that was proposing this development, it would be mandatory to have an EES, not like it is now with one government department doing a review and then giving the results to another government department to make a decision on a recommendation without any input from the locals.

What a farce! This government has treated the people with absolute contempt. The Premier, Minister Madden in the other place and Minister Holding have visited the site but have not listened to the genuine concerns of the local people. The Premier particularly has secretly crept into town, not spoken to the people and then left after telling the local media, 'You are going to get the plant whether you want it or not'. What contempt, what arrogance! For seven years the Bracks-Brumby government ignored the water crisis, and at the last minute the decision was made to put two massive proposals up to the people so that at the next election the government could say that something had actually been done. What a joke! What a farce! What absolute contempt for the people of Victoria!

Brandon Park Children's Centre: 20th anniversary

Ms MORAND (Minister for Children and Early Childhood Development) — I was very pleased to visit the Brandon Park Children's Centre in Glen Waverley during Children's Week to celebrate the centre's 20th anniversary. Brandon Park Children's Centre runs a long-day-care program and kindergarten for up to 60 children each week. The centre has offered integrated children's services to local families and children in the city of Monash for the past 20 years. The celebration last Wednesday was a fitting tribute to the dedication of the whole community at Brandon Park Children's Centre. I would particularly like to acknowledge the wonderful director, Tamika Hicks, the president of the parents committee, Sof Andrikopoulos, and dedicated staff Shelley Duggan and Susmita Chakrabarty.

The celebration was a great opportunity to acknowledge the centre's highly successful Chinese learning discovery program, which last week received the children's services award from the City of Monash. Every Thursday two assistants teach the kindergarten children Chinese language and songs. The Chinese community is growing significantly in Waverley and the surrounding suburbs, and this program is a great reflection of our local cultural diversity. Brandon Park has had a great year, also winning the Leader business achievement award for professional and community services, the Golden Plate award from Monash council for its healthy eating options, and a Start Right Eat Right award under the Go for Your Life program. The great work and dedication of everyone at Brandon Park Children's Centre is ensuring that all the children at the centre are receiving programs which give them a high-quality, rewarding, stimulating and healthy start to life.

Water: Wimmera–Mallee pipeline

Mr DELAHUNTY (Lowan) — Water is the lifeblood of the Lowan electorate, and with our reserves holding only 6.1 per cent the completion of the Wimmera–Mallee pipeline is vital to the economic, social and environmental health of western Victoria. The $250 million cost blow-out in this project has been devastating for water customers, who simply cannot afford to pay any more. These people already have to pay $167 million, and that does not include the on-farm costs, which could be another $130 million. In this chamber on 23 August I said that western Victorians cannot afford this blow-out and that they have hit their affordability cap. This has now been supported by a Wimmera Development Association report which says that the community cannot afford to contribute any more because of the impact of the continuing drought.

Unlike the Minister for Regional and Rural Development, I, on behalf of western Victorians, congratulate Mr John Forrest, the federal member for Mallee, on his stand on the Wimmera–Mallee pipeline. He is reflecting the views of the community by stating that it is unrealistic to expect this extra financial commitment. Water is a state responsibility, and I call on this government to increase its contribution. I also call on the federal government's support to fully fund the cost blow-out.

Water is a finite resource, and the Wimmera–Mallee pipeline is an iconic project. The state and federal

governments must come to the party and fully fund the extra $250 million not only to save water but more importantly for the sake of the health and wellbeing of the residents of western Victoria, who are languishing under the intolerable burdens placed on them because of 10 years of drought.

Water: Plug the Pipe group

Ms ALLAN (Minister for Regional and Rural Development) — The decision announced this week by Eril Rathjen, a member of the Plug the Pipe group, to stand for the federal seat of Bendigo has exposed the Plug the Pipe organisation as a front for the Liberal Party. Ms Rathjen lives outside the electorate of Bendigo, in the Murray electorate. She is a Sharman Stone candidate and is, of course, linked to the Plug the Pipe campaign. Ms Rathjen's Plug the Pipe campaign is a Liberal manoeuvre to lock up the Goulburn River. That also makes it a campaign to plug Bendigo's super-pipe and hang Bendigo out to dry. Ms Rathjen is doing nothing more than parroting the lines of country Victoria's most senior Liberal Party member, Sharman Stone, the federal Minister for Workplace Participation, who will not let a drop of water out of the Goulburn system and would rather see Bendigo run dry than let Bendigo get a share of it via the super-pipe.

Honourable members interjecting.

Ms ALLAN — The federal electorate of Bendigo now has two Sharman Stone candidates: the remote-controlled Independent candidate from the seat of Murray and the official Liberal Party candidate. During last year's state election we saw Sharman Stone oppose Bendigo getting water via the super-pipe every single step of the way. The Sharman Stone Liberals have been trying to pull the plug on Bendigo's super-pipe since Labor first announced it last year. They opposed Bendigo buying water from the Goulburn system. They said they would let the state have access to the water only if we fixed the Goulburn irrigation system, but now that the state is doing just that, they are opposing that as well. This is a campaign to lock up the Goulburn and is a disaster for — —

The SPEAKER — Order! The minister's time has expired.

Police: Boroondara

Mr McINTOSH (Kew) — Earlier this year I was contacted by a couple of my local police, concerned that the new people allocation model (PAM) would produce a reduction in front-line police in the Boroondara police service area. As a concerned local representative would, and should, I raised this in my own electorate and spoke about my concerns in Parliament. In response to my concerns Victoria Police was quoted in the local press as saying there would be no reduction in front-line police. As usual, I was subject to criticism by the Labor member for Burwood, who accused me of scaremongering and misleading my electorate.

Honourable members interjecting.

Mr McINTOSH — Last week, I was again contacted by several local police who confirmed that the PAM model would be implemented and that Boroondara would now lose six front-line police officers over the next four to five months. I contacted Superintendent Graham Collins in Nunawading, who confirmed that these cuts would take place.

Front-line police numbers in Boroondara must not be cut, particularly when total crime has gone up by 9.7 per cent, property crime has gone up by 12.5 per cent and drug crime has gone up by 25 per cent in Boroondara over the last 12 months. No doubt the member for Burwood will join me in expressing his concern about the cut to police numbers in Boroondara and will, with me, use his good offices to help change this appalling policy.

The SPEAKER — Order! With the few seconds available to me before calling the member for Seymour I ask members to restrain themselves when it comes to the volume of their injections. It is not fair for me to have to interrupt members on their feet delivering their 90-second statements. During the last two members statements the members on their feet have had to shout across the chamber. It is not appropriate.

Tallarook Primary School: young leaders award

Mr HARDMAN (Seymour) — I rise to congratulate the Tallarook Primary School students who have recently won a statewide young leaders award. They are Jordan Cole and Brittney Goodger, the captains; Mitchell Webster and Keily Brown, the vice-captains; and Shanelle Ingle, Cameron Williams, Sammy Fenwick-Lawn and Aidan Perta, the house captains. The young people won the regional Tidy Towns schools award for zero waste. The reason is that the school's zero-waste program is run by the students. They have a sustainable school program, a chook farm — the chooks get to eat some of the scraps — and composting facilities. They participate in the rubbish-free lunch program and work together to count the amount of waste produced each week. That award

is presented to the school each Wednesday. As I said, the zero-waste program is being run by the students, which is why they won the award for zero waste.

As for the statewide awards, the students won the young leaders prize. This reflects the work they do, not just on the zero-waste program but also many other things such as taking feedback from students and reporting back to the school about ways the school's policies might change. They carry out fundraising, and not just on a local level. They sit down and look at statewide or community-wide issues, participate in fundraising for them and carry out those kinds of activities. The students have an active voice — —

The SPEAKER — Order! The member's time has expired.

Rail: service reliability

Mrs VICTORIA (Bayswater) — The Brumby Labor government says it is committed to providing safe and reliable public transport to all Victorians. To me 'reliability' means providing services that are running when they are needed. In fact the *Seniors Travel Guide 2007* states that train services run at a minimum of 20-minute intervals, but that is not so.

Recently a local lady was waiting at Parliament railway station for 1 full hour for a train to Bayswater. She never saw any sign of the scheduled 12.05 p.m. train — there was not even an announcement. The next train was due at 12.20 p.m. That was also cancelled, leaving her to wait for the 12.35 p.m., arriving at her destination much later than planned. Two days later the same lady waited for the same 12.05 p.m. train, but again it did not appear. Four days after that there was another cancellation. This is hardly what one would call a reliable service.

I recently travelled on the Belgrave and Lilydale lines with a newspaper news editor, who was astounded at the commuter crush we had to endure. This is not a safe way to travel. What would happen to passengers in the event of an accident? Labor wants us to use more public transport, but it is managing to turn many commuters off. We need more services on the Belgrave and Lilydale lines, and this government needs to order all the additional trains it promised. Maybe then we will get the services we pay for and expect.

Heathmont Bowling Club: water-saving initiatives

Mrs VICTORIA — I take this opportunity to congratulate the Heathmont Bowling Club for its water-saving initiatives, leading the way in my area. The club is a dedicated group of people, and I thank them for introducing me to their fun sport.

Federal Minister for Health and Ageing: conduct

Ms D'AMBROSIO (Mill Park) — I wish to express my displeasure at the latest round of gaffes by the federal Minister for Health and Ageing, in particular his unforgivable insult to Mr Bernie Banton, who is terminally ill with asbestos-related mesothelioma. Mr Banton has been the public face of the long and tough campaign by the union movement to draw just restitution from James Hardie for its role in the spread of this terrible disease.

Mr Banton deserves Mr Abbott's respect, not cheap shots. Yet on Tuesday we heard Mr Abbott say this about Mr Banton when he attempted to present the Minister for Health and Ageing with a case for public subsidy of the mesothelioma drug, Alimta. This is what Mr Abbott said:

> I know Bernie is very sick but just because a person is sick doesn't necessarily mean that he is pure of heart in all things.

This is not the only incidence of insensitivity from the federal health minister. A couple of years ago, in the context of the then New South Wales Liberal leader John Brogden's suicide attempt, Mr Abbott made this comment with respect to a proposal put to him at a Liberal fundraiser:

> If we did that we would be as dead as the former Liberal leader's political prospects.

To add insult to injury, this is what he said of himself later when he sought to make a correction:

> I have never claimed to be the world's most sensitive person.

That is not what we expect from a federal minister. What we expect is due respect to people who are sick and people who are advocating for the sick.

The SPEAKER — Order! The member's time has expired.

Human Services: capital grant scheme

Mrs POWELL (Shepparton) — On 11 October this year Ms Diane Baglin came to my office to complain about being rejected by the capital grant scheme administered by the Department of Human Services (DHS). Ms Baglin's fridge and hot water service had broken down and needed to be replaced. Ms Baglin had lost her job six weeks before and had no money, so she

purchased the fridge and hot water service on credit as she needed them replaced urgently.

She spoke to Mr Mark O'Sullivan, a financial counsellor at Goulburn Valley Community Health. Mr O'Sullivan believed Ms Baglin should be eligible for the government's capital grant scheme as she was unemployed, had no savings, had not received any Centrelink payments and was a concession card holder, therefore meeting all the criteria for the grant. DHS told Mr O'Sullivan and Ms Baglin that her money would not be reimbursed. This assessment was made over the phone. My office then contacted the DHS concessions unit and was advised by a very unhelpful staff member that Ms Baglin was ineligible because she had already bought the items on credit. She should have filled out an application form which takes at least two weeks to process.

What was Ms Baglin supposed to do without a fridge or hot water while waiting with no guarantee of success? If someone wishes to replace a hot water service, they must acquire two quotes from plumbers. This is difficult in country Victoria because there is a shortage of plumbers. Mr O'Sullivan advised my office that he has been submitting applications to this scheme for four years and can only recall one application actually ever being successful. What is the use of having a scheme if no-one can access it? I ask the minister to reimburse Ms Baglin and to review the scheme so people genuinely needing help can be assisted.

Northcote High School: global citizenship centre

Ms RICHARDSON (Northcote) — Northcote High School has a rich tradition of academic excellence and innovative teaching. The latest innovative initiative undertaken by the school is the establishment of a global citizenship centre for year 9 students. I was privileged to join in the celebrations to mark the official opening and would like to take this opportunity to congratulate all those involved who worked to secure the success of this remarkable project. Principal Gail Davidson, school council president John Butera, and Lisa Saillard, teacher and Leading Schools Fund project manager, all worked alongside teachers, parents and students to bring their vision of a centre of excellence for year 9 students to fruition.

The year 9 students now have a great new centre where most of their teaching and learning takes place. The centre includes flexible open learning spaces that can be easily transformed into larger or smaller spaces. Not only have the buildings been transformed but so has the learning that is taking place inside the centre. At the official opening, year 9 captains, Marissa Butera and Verun Khatter, explained that the curriculum had been redesigned to help students to develop their understanding, knowledge and skills of what it means to be a global citizen.

The school received funding of $440 000 through the Leading Schools Fund and the equivalent of three teachers over three years for this project. In addition, the school contributed a further $200 000 to assist with the development of this centre. As a leading school, Northcote has a brief to develop and share best and innovative practice with other secondary schools in Victoria, and this is one such initiative that should be shared and replicated across the state. The project at Northcote High School demonstrates the great partnership that exists between the school, the community and government. This is what education is all about — all of us working together to give young Victorians a great head start in life.

Federal member for McMillan: performance

Mr BLACKWOOD (Narracan) — I take this opportunity today to congratulate the federal member for McMillan, Russell Broadbent, for the outstanding commitment he has made to his electorate and the success he has had in gaining federal government funding for many projects in my electorate of Narracan, which falls within the boundaries of McMillan. Russell has worked tirelessly on behalf of farmers who are enduring the worst drought in their lifetime. Russell took the fight for the declaration of exceptional circumstances directly to the Prime Minister, and as a result our farmers are now able to access income support and interest rate subsidies.

The Regional Partnerships program has been hugely successful, and thanks to Russell our area has received at least its fair share. A1 Asphalting, Radfords abattoirs and the Shire of Baw Baw are examples of the recipients of significant funding under this initiative, collectively receiving in excess of $1 million over the last three years. Blackwood Annexe, a fantastic facility doing amazing work with students at risk, has received over $200 000. State government schools have received on average $100 000 under the Investing in our Schools program. The water grants initiative has pumped over $2 million into our area for a vast range of projects designed to improve water utilisation, and Russell has won wide admiration for his principled stand on the detention of asylum seekers.

I am proud to have the opportunity to work with Russell Broadbent, a man held in high regard by his colleagues and very popular in his electorate, a man

with great experience and an excellent member for McMillan.

Agriculture: genetically modified crops

Ms LOBATO (Gembrook) — Yesterday I was pleased to join a demonstration outside Parliament organised by Mothers Against Genetic Engineering. MADGE and GeneEthics Network presented Jenny Mikakos, a member for Northern Metropolitan Region in another place, the member for Albert Park and me with 8000 signed postcards calling for Victoria to extend the genetically modified (GM) crop ban until 2013 and demand that all foods made using genetic modification be labelled, including vegetable oils, meat, milk, eggs, honey and animal feed. These postcards feature celebrity chef, Margaret Fulton, epidemiologist, Judy Carman, managing director of the Digger's Club, Clive Blazey, Liberal Party farmer, Geoffrey Carracher, and Western Australian canola farmer, Julie Newman. These postcards will be delivered to all MPs today, so I ask members to be sure to look out for them.

We were also presented with petitions with 3487 signatures calling on the state of Victoria to extend the ban on GM canola until 2013. We also received petitions with 199 signatures specifically from residents within the city of Port Phillip calling for an extension of the moratorium. I trust that all members have received their copy of *Genetic Roulette* by Jeffrey Smith, who is the author of the no. 1 international bestseller *Seeds of Deception*. The foreword is written by Rosemary Stanton, OAM, Australia's most trusted nutritionist, who comments that the health concerns surrounding GM foods need to be exposed and resolved before we allow governments to bow to pressure from industry and let GM foods invade our farms, supermarkets and kitchens.

Frankston bypass: funding

Mr MORRIS (Mornington) — This morning I want to draw the attention of the house to the shocking state of the access roads that serve the Mornington Peninsula. When EastLink is finished in less than a year's time, new streams of traffic will pour onto the Frankston freeway, and reliable sources estimate that an extra 10 000 vehicles a day will be dumped onto the already clogged intersection at Cranbourne Road. As the recent access study concluded, we need a Frankston bypass and we need it now. The government announced in June that an environment effects statement would be required. I welcome that; it is an essential part of the process. It is important to keep improving opportunities, and it is important to keep growing jobs. But it is equally important that we do those things in an environmentally responsible way.

This project must not be diverted into an unnecessary debate about the impact of splitting the Pines Flora and Fauna Reserve. The government should rule out that irresponsible option right now, go for the eastern alignment, use the Department of Primary Industries site on Ballarto Road and protect the Pines reserve for future generations. When the Bracks government broke its Scoresby promise not to build a tollway, Ringwood, Knox and Dandenong all got major projects to compensate. The Mornington Peninsula missed out again. It has taken Bruce Billson, the local federal member, and the Howard government to find the $150 million to get the project running. It is about time the Brumby government stopped whingeing about road funding, kicked in its share and got on with the job of building the bypass.

Housing Week: scholarships

Mr LANGUILLER (Derrimut) — I was very happy to attend the Housing Week Scholarships 2007 award ceremony presentation. The Minister for Housing has approved the continuation of the Housing Week scholarships initiative in 2007. Under the program scholarships are made available to students of Victorian state schools and TAFEs who will be under 20 years of age at 1 February 2008, who are studying in year 11 or 12, or the TAFE equivalent, and who live in social housing that is public or community-managed housing or who are at risk of homelessness. The Education Foundation Australia, a not-for-profit, non-government organisation that administers its own philanthropic scholarship fund, has been engaged to assist in the administration of the program.

The aim of the scholarship program is not to reward academic excellence but to provide incentives and support for vulnerable students to remain in school and complete their education. The Housing Week scholarship program provides students with an opportunity to access a $1000 scholarship. Initially 50 scholarships were going to be available in 2007; however, while in previous years the number of scholarships has generally matched the number of applicants, this year 121 applications have been received, including 31 from the Loddon–Mallee region. An independent panel consisting of a public tenant, two departmental representatives and a retired schoolteacher were responsible for selecting the scholarship recipients.

Bushfires: Croydon land

Mr HODGETT (Kilsyth) — I rise to highlight the safety concerns of my constituents living on the Hillsborough estate next to the Healesville Freeway corridor in Croydon and to condemn the minister for allowing that poorly managed tract of land to get to the point that it has.

I recently visited this rubbish-strewn wasteland, at some points wading up to my waist in the long grass abutting the fence line of adjacent properties. It was physically impossible to get more than 3 metres from the actual fence because the grass was so high. Whilst I note that some work has been done to cut down this grass in the last two days, residents along that corridor are still worried. What is of most concern is the threat of fires in the area. Within the last 12 months fires have been reported in the grassland, with two Metropolitan Fire Brigade tankers attending a fire in November of last year. The minor slashing undertaken in the last day or two is inadequate to avert a grassfire engulfing the fence line. Add high temperatures and a northerly wind, and we are looking at homes, lives and livelihoods at risk of being destroyed.

The minister must ensure his department takes responsibility for the ongoing management and maintenance of this land. VicRoads needs to work for local residents to ensure that proper land management techniques are carried out on the site so we can avoid any hint of a disaster in this beautiful part of Croydon. I seek the minister's intervention in this matter.

Casey Kidz Klub: funding

Mr HODGETT — On another matter I wish to condemn the Brumby government for ignoring the Casey Kidz Klub's call for funding to run its groundbreaking, Australia-first respite and social activities program for disabled children. It is a state government responsibility to fund disability services, and the Premier should note the leadership taken by our local and federal government colleagues and match the federal funds so that this program can continue to provide this valuable service for disabled children and their families.

Palorus Jack: Be Heard competition

Mr HERBERT (Eltham) — I rise to congratulate the live music band Palorus Jack on making it to the finals of the prestigious Nokia Be Heard competition. The Be Heard competition invites unsigned but highly talented bands to submit one song for national recognition. The finalists were announced on Monday, 29 October, with Palorus Jack making it through to the final six with its debut single *Give It In*.

Palorus Jack beat thousands and thousands of enthusiastic bands from across the nation. I am sure all members in this house will wish the band every success in the finals, which will take place later today. In particular singer-songwriter for the band, Julian Hardy-Smith, is to be congratulated for his outstanding song and for the support he is giving to Melbourne's live music industry. The winner of the competition will enjoy a cash prize and industry credibility and will support a major act on tour around Australia. It is a position from which many famous bands have begun their music careers.

In this competition the finalists were chosen by a panel of 10 highly regarded industry professionals, spanning artist and repertoire representatives, management, radio presenters and music journalists. The one-off final performance will occur at the Take 40 Live Lounge and will be broadcast as part of the competition promotion through MTV and the band's single, *Give It In*, will also be on rotation through the NOVA FM radio network.

The overall winner of the Nokia Be Heard competition will be decided by the public, and I hope all patriotic Victorian music lovers will have their mobile phones at the ready to support Palorus Jack.

Rail: Wodonga bypass

Mr TILLEY (Benambra) — The lack of progress and commitment to the single largest infrastructure project for Wodonga, the Wodonga rail bypass, greatly concerns me. There are disturbing indications and reports of further protracted delays. Historically the government committed $30 million to the relocation of the rail line through Wodonga in May 2001. In 2002 planning approval was granted. In 2003 the master plan was adopted, and the mayor of Wodonga at that stage, Lisa Mahood, said requests for meetings with the transport minister — at that time the present Minister for Community Development — were continually ignored.

In 2004 the federal government came on board and committed $20 million. That was the same year the chief executive officer of the Wodonga council said, 'The last train could go through Wodonga in June 2006'. In May 2005 Lisa Mahood, the former mayor of Wodonga, was quoted as saying 'the Victorian government has run out of excuses' for delaying the start of this project. Lisa Mahood is currently the adviser to the Premier on north-eastern Victoria. She is

nothing short of an agent provocateur. She should be standing up and fighting this government to see that these delays no longer take place.

The federal government has supported this project. It continually supports it through the work of federal member for Indi, Sophie Mirabella, who was secured an additional $25 million to support the project.

Macleod: Avenue of Honour

Mr BROOKS (Bundoora) — I would like to commend all those involved in the working group endeavouring to improve the Avenue of Honour in Cherry Street, Macleod. The Cherry Street Avenue of Honour is a dual row of large sugar gums planted in 1919 by returned World War 1 soldiers who were patients at the No. 16 Australian General Hospital, which later became the Mont Park Hospital.

Much of the old hospital site has recently been developed as a residential estate. However, the Avenue of Honour has been retained, and improvement works to vegetation and fencing have been undertaken by Darebin council, with funding from the state government. The working group, which has met several times, is ably chaired by Geoff Burrows from the Watsonia RSL and includes representatives from the Greensborough, Heidelberg, Heidelberg West and Ivanhoe RSL sub-branches. The working group has also benefited from the input of both the Darebin and Banyule councils, and the developer of the Springthorpe estate is also supporting this initiative.

I have been honoured to be part of this working group. I acknowledge the contribution of the member for Ivanhoe, whose electorate is adjacent to the Avenue of Honour and who has many constituents living in the Victoria Cross estate, which is next to the avenue. The working group is planning to construct a memorial and flagpole at the western end of the avenue to better highlight and commemorate the site's significance. I also commend the Macleod Progress Association, which, while not part of the current working group, has in the past sought to improve the Avenue of Honour and organised a dedication ceremony in 1990. I congratulate all those who are involved and look forward to the completion of this great local project, which will serve to remind the local community of the sacrifice of our men and women.

Brunswick Secondary College: Rock Eisteddfod

Mr CARLI (Brunswick) — Brunswick Secondary College had some fantastic successes at the grand final of the 2007 Rock Eisteddfod Challenge. It was an enormous success by Brunswick Secondary College. I know of the Acting Speaker's long association and that of his family with Brunswick Secondary College. This is very good news. This school had terrific success in a competition with metropolitan, regional and independent schools and students from all over the state. It is in fact the largest youth performing art program in Australia, and Brunswick did extremely well. It won awards for choreography, for stage use, for performance skills, for concept, for drama, for design and function, and for visual enhancement, lighting and design, and it won the Rock Eisteddfod Challenge entertainment award. It was an enormous success.

I congratulate Catherine Weatherhead and all the team and all the students on this fantastic result. It is much appreciated by the school community at Brunswick Secondary College and, I must say, by the local community. It was a terrific night and a terrific event. We are already looking forward to the Rock Eisteddfod for 2008 and further success for Brunswick Secondary College.

VICTORIAN WORKERS' WAGES PROTECTION BILL

Second reading

Debate resumed from 30 October; motion of Mr CAMERON (Minister for Police and Emergency Services).

Mr HUDSON (Bentleigh) — As I was saying prior to the adjournment of the debate on this bill, the Victorian Workers' Wages Protection Bill is absolutely essential if we are to overcome some of the worst features of the federal government's hated WorkChoices legislation. Members of the opposition have worked themselves into a bit of a lather about this bill, and in particular about clause 6, which they claim only allows employers to pay their employees in cash.

The reality of the situation is that the clause is almost word for word the same as section 48 of the Kennett-government-era Employees Relations Act, which covered deductions and the way in which wages were to be paid. It is almost exactly the same as the legislation that exists in New South Wales, in South Australia and in Queensland. All the clause is designed to do is ensure that employers pay their employees wages rather than by way of allowances or in kind. This provision has been very well understood by the Australian courts, and employers are very familiar with

it. However, the opposition has created an enormous amount of confusion about it.

The reality is that if you are an employer and you go into a workplace and you want to pay your staff by electronic funds transfer, you have to get their authorisation and you have to get their bank details. You cannot do an electronic funds transfer without their bank details. You cannot transfer wages into the accounts of employees without their details. What usually happens with an employment contract is that an employer specifies in the contract what the mode of paying the wages of that employee will be. When employees sign that employment contract, they are giving written authorisation to the employer to pay them in that form. Given the concerns raised by the opposition about the effects of this provision and despite its long history in Victoria's industrial law as well as in other jurisdictions, I understand the minister will be introducing house amendments to overcome any doubt about how employers can pay their staff.

The member for Box Hill in his contribution to the debate also claimed that the provisions in relation to deductions are completely unnecessary because the law at the commonwealth level, he says, already makes it clear that a deduction cannot be made from a worker's pay without authorisation. That would be very reasonable if the Australian government workplace ombudsman were able to deal with that in relation to all deductions, but the fact of the matter is that the commonwealth workplace ombudsman cannot do that because he can only take action under section 182 of the Workplace Relations Act if the deductions are made in such a way that they take the employee's minimum wage below the specified applicable legal wage. If the deductions do not take it below the specified legal minimum wage, then the commonwealth workplace ombudsman has no authority — none whatsoever — to investigate the matter and to rule that deduction unlawful.

The federal act does not deal with the question of reasonableness. That is quite understandable, because we know the WorkChoices legislation is unreasonable. It would not have a clause in relation to reasonableness, unlike this legislation, which requires that a deduction must be reasonable. Let us take, for example, an employee who gives an employer an authorisation to deduct the cost of their board from their wages. If the employer deducts board which is unreasonable and unrelated to the actual cost of that accommodation and the deduction does not take the wage below the legal applicable minimum wage in the federal legislation, the commonwealth workplace ombudsman has no authority at all to act on that matter. That is the fundamental flaw in that argument.

Subclauses (2) and (3) of clause 9 provide examples of where deductions may be considered unreasonable or reasonable in all of the circumstances. Let us have a look at it. For example:

> (2) A deduction for the direct or indirect benefit of an employer or a related party of an employer may be unreasonable in all of the circumstances if —
>
> (a) it would result in the employee being paid less than the minimum wage applicable to the employee —

a point missed by the member for Box Hill. It also provides, for example, that where no consideration is given by the employer for the deduction it may be unreasonable.

Unlike members of the opposition, we live in the real world. We understand that employers can make deductions that result in the exploitation of workers and that there are situations where employees lose wages they should not lose. This legislation will not allow that to happen. There are plenty of examples from the Office of the Workplace Rights Advocate that show that this is happening. Let me give you an instance. There are two petrol stations, one outside Melbourne and one in suburban Melbourne, that are deducting from employees' wages money for petrol that has not been accounted for at the end the day. As it happens, the petrol bowsers are not in the view of the operators.

They are subject to people stealing the petrol and driving away, yet what the employer is doing — and a complaint has been made — is reduce the wages of those two employees by $60 a week. We have a situation, which has also been commented on by the Western Australia workplace employment advocate, where these people are driving away with someone else's pay. Of course it does not take them below the applicable legal minimum, so presumably the opposition thinks that is okay — but we do not. We are saying that it has to be a reasonable deduction, and that is not a reasonable deduction by anyone's measure.

There are also many examples under the 457 visa program, including the example of a Victorian printing business where printers have been brought out from China with their families. What we have found is that the employer has been deducting monthly instalments from their pay over their first year of employment, totalling $10 000, to cover their visa applications. That is why these laws are necessary, and that is why we are introducing them.

Government amendments circulated by Ms NEVILLE (Minister for Community Services) pursuant to standing orders.

Mr WAKELING (Ferntree Gully) — I have never seen such an appalling handling of a bill as the manner in which the government has handled the bill before the house. The reputation of the Minister for Industrial Relations is in tatters. We have a bill which has come before the house, after having gone through the minister's office, through the department and through the backbenches, and more importantly having gone through the cabinet, but not one person recognised the problems with it until the member for Box Hill recognised them and flagged them in the *Herald Sun*, after which — surprise, surprise! — the minister said, 'I am going to go away and look at this'.

What has happened since? With his tail between his legs we have seen him introduce amendments to fix the problem. Obviously I have not had an opportunity to read the amendments, but what it demonstrates is that this is a government that does not understand how to handle industrial relations. It cannot even handle its own legislation. Members opposite describe themselves as being part of a competent government and a government that is in control, but it is an absolute unmitigated disgrace.

Like yesterday's equal opportunity amendment bill, this demonstrates that the government does not understand the needs of small business. If it were not for the member for Box Hill, from the day this legislation received royal assent it would have forced every business, if it had not had written authorisation from a staff member, to pay them in cash. I ask the member for Bentleigh, who has just spoken: when was the last time he received his wages in cash? I am sure it was a long time ago, because everybody knows that in this day and age people receive their wages via electronic funds transfer. I congratulate the member for Box Hill for raising the issue and for forcing the Minister for Industrial Relations, with his tail between his legs, to go away and fix the problem. Where is the minister? He is not here. He has brought in other ministers to do his bidding, because he knows he has stuffed up and he does not want to show his face in this place.

The Liberal Party will still be opposing this bill, because it demonstrates that the government does not understand exactly what it is doing with respect to wages in this state. I will start with one main tenet. For years unauthorised deductions from wages have been dealt with through common law. Prior to the introduction of this bill it was illegal to make unauthorised deductions, and there is a legal precedent with regard to that.

Mr Nardella interjected.

Mr WAKELING — This has nothing to do with WorkChoices, because there was a precedent prior to that. In fact the precedent stood even before Mr Howard was elected as Prime Minister. It operated under the former Cain government, and I know that because I worked under the old system. This bill does not identify anything; it just introduces more red tape and puts more of a burden on business in this state. This is not a government that likes small business, and it is not a government that likes big business. This is a government that likes increasing the pressure on Victorian businesses. The member for Melton does not like business — —

Mr Nardella interjected.

The ACTING SPEAKER (Mr Languiller) — Order! The member for Ferntree Gully does not need the assistance of the member for Melton.

Mr WAKELING — Thank you, Acting Speaker, I will take that on board. Let me just say that this government does not stand up for business, and what we are going to see with this bill is various amendments with respect to unauthorised deductions.

I would like to raise this point: many businesses make overpayments, and the standard practice is that in the following weekly pay that situation is remedied. That is a common practice and is accepted by the community, but this legislation will create greater uncertainty as to how businesses will handle that situation. More importantly, clause 7 proposes that deductions can be made if they are authorised by 'law, court order or an industrial instrument'. We understand what a court order is, and we understand what an industrial instrument is, but why would you have deductions authorised by law? I thought that was the purpose of this legislation. Why would you have laws operating separately to the bill? The legislation makes it very unclear. We do not understand whether it will be under common law or other statute law.

Consequently this is going to provide greater uncertainty for business. It will force more businesses to go before the court system. Instead of providing certainty for business in this state, and instead of helping small business, as the government likes to say during question time it is doing, it introduces ridiculous bills like this that put further burdens on business with respect to equal opportunity and the payment of wages. The government relies on opposition spokespersons to

identify its problems. Ministers then go away with their tails between their legs and have to remedy the problems with the legislation — and at the end of the day the government still does not have the support of the business community.

With respect to the pre-1 November legislation, because we are now looking at an amended bill, the Victorian Employers Chamber of Commerce and Industry has said that the cash payment of employees wages went out with the ark. Obviously comments like that demonstrate how out of touch the government is. The Victorian Farmers Federation has come out and slammed the legislation as well. When you have senior business groups coming out and openly attacking legislation it demonstrates how out of touch this government is.

Another problem with the bill is that it talks about deductions from pay with respect to damage to property. The bill states that deductions can only occur with respect to loss or wilful damage. Negligence by an employee does not count. Members opposite will try to defend the indefensible. They will try to say how wonderful the 1 November bill is, as opposed to the 31 October bill. But this is a bill that is letting down businesses in this state. Actions that constitute gross negligence or incompetence will not count. An employer can only deduct money if an employee loses equipment or if there is wilful damage or there is loss, damage or destruction. What we might have is a situation where someone negligently leaves something in a car and loses thousands of dollars worth of equipment, but that will not count anymore.

That is because this bill specifically outlines how you can only make deductions. It is an absolute disgrace and demonstrates how out of touch the government is. I would have thought that if the minister did not have the time — I understand he spends a lot of time at the races — his staff would have had the time to sit down with business representatives, small business operators and medium and large business operators. They would have told the minister's staff what business is like, what it is like in the real world and how unrealistic and how unworkable this bill is.

In the time I have left I would like to draw attention to the provisions for board and lodging. Clause 9(3)(iii) of the bill refers to the fact that board and lodging — which is common practice in the bush, and country members would be clearly aware of that — can now only occur if an adequate alternative arrangement is offered. Farmers operating in Benambra will not only have to offer accommodation on their property but they will have to organise accommodation in Wodonga and have the rooms reserved. They will have to tell their employees, 'Here are your options; you can stay with me, we have 4-star accommodation here, or 2-star accommodation there, or 5-star accommodation there' — just to meet the requirements of this bill! How many farmers did this government speak to? I am sure none, because this government does not understand the impact that it will be putting on the business community and on the farming sector in this state.

I do not need to say this bill is a disgrace, because the proposed amendments say it. This bill is a disgrace, and it demonstrates how out of touch the Brumby government is with Victoria's business community.

The ACTING SPEAKER (Mr Languiller) — Order! The member's time has expired.

Ms NEVILLE (Minister for Mental Health) — I move:

That the debate be now adjourned.

House divided on motion:

Ayes, 40

Allan, Ms	Lim, Mr
Andrews, Mr	Lobato, Ms
Barker, Ms	Maddigan, Mrs
Batchelor, Mr	Marshall, Ms
Beattie, Ms	Merlino, Mr
Brooks, Mr	Morand, Ms
Carli, Mr	Munt, Ms
Crutchfield, Mr	Nardella, Mr
D'Ambrosio, Ms	Neville, Ms
Donnellan, Mr	Noonan, Mr
Duncan, Ms	Overington, Ms
Eren, Mr	Pallas, Mr
Foley, Mr	Pandazopoulos, Mr
Graley, Ms	Pike, Ms
Hardman, Mr	Richardson, Ms
Harkness, Dr	Robinson, Mr
Howard, Mr	Scott, Mr
Hudson, Mr	Stensholt, Mr
Langdon, Mr	Thomson, Ms
Languiller, Mr	Trezise, Mr

Noes, 33

Asher, Ms	Northe, Mr
Baillieu, Mr	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Burgess, Mr	Ryan, Mr
Clark, Mr	Shardey, Mrs
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Ingram, Mr	Victoria, Mrs
Jasper, Mr	Wakeling, Mr
Kotsiras, Mr	Walsh, Mr
McIntosh, Mr	Weller, Mr
Morris, Mr	Wells, Mr

Mulder, Mr Wooldridge, Ms
Napthine, Dr

Motion agreed to and debate adjourned.

Debate adjourned until later this day.

Mr McIntosh — On a point of order, Speaker, I note that the Minister for Industrial Relations is not in the chamber. I was wondering whether you would be prepared to counsel the minister to ensure that we do not get this sort of garbage legislation that changes people's rights and liberties. It should not be used as a political stunt!

Honourable members interjecting.

The SPEAKER — Order! There is no point of order, as the member for Kew well knows!

PORT SERVICES AMENDMENT BILL

Second reading

Debate resumed from 11 October; motion of Mr PALLAS (Minister for Roads and Ports).

Opposition amendments circulated by Dr NAPTHINE (South-West Coast) pursuant to standing orders.

Dr NAPTHINE (South-West Coast) — This bill puts in place a range of provisions to facilitate the proposed channel deepening project. The state Liberals support channel deepening because of the significant economic benefits the project will deliver to Victoria and Australia. But we have serious concerns about the rush to push this legislation through within 24 hours of the release by the Minister for Planning in the other place of the response to the supplementary environment effects statement (SEES), which is 144 pages long, plus 84 pages of appendices, as well as two reports from the inquiry panel into the SEES totalling over 300 pages.

This has been done in such a rush that when the minister released his assessment yesterday, 31 October, it was dated November 2007 because he was actually planning to release it on the day before Cup Day. He was planning to release it next week on the day before Cup Day, but because of pressure from the Liberal Party the government was embarrassed into releasing the report before debating this legislation.

Honourable members interjecting.

The ACTING SPEAKER (Mr Languiller) — Order! Government members will have the opportunity to make a contribution to the debate.

Dr NAPTHINE — It was embarrassed and was forced to rush the release of this report. It was rushed to the point where it did not even change the front cover. It still had 'November 2007' on a report released on 31 October 2007.

State Liberals are also concerned about the failure of the government to agree on appropriate compensation packages for the fishing and tourism industries, which will be affected significantly by channel deepening and the failure of the government to properly outline to the Victorian community a robust, independent environmental monitoring scheme to oversee this project and ensure that the precious Port Phillip Bay is protected. While the Liberals support the channel deepening project, we want to do everything possible to make sure that we do not bugger the bay. We cannot afford to ruin the environment of Port Phillip Bay. Therefore, I wish to move a reasoned amendment. I move:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to:
>
> (a) incorporate the establishment of an independent expert environmental panel to monitor and oversee any dredging and disposal of dredged material in Port Phillip Bay;
>
> (b) ensure the independent expert environmental panel is required to publicly report on a regular basis on the environmental effects of any dredging and disposal of dredged material in Port Phillip Bay;
>
> (c) provide the necessary powers for the independent expert environmental panel to be able to immediately stop any dredging and disposal of dredged material to protect the environment of Port Phillip Bay; and
>
> (d) provide for a system of fair and reasonable compensation for commercial businesses, such as tourism and fishing businesses, which are significantly adversely affected by operations involving dredging and disposal of dredged material in Port Phillip Bay'.

I refer to the assessment the minister put out on 31 October and quote from the foreword:

> … I have identified the need for refinement of the environmental management plan (EMP) for implementation of the CDP to ensure the effective protection of bay assets. It will be desirable for the independent expert group to provide advice in relation to the EMP. Further, to assist the transparent and successful implementation of the CDP EMP this assessment supports the appointment of an independent monitor to advise PoMC and relevant government ministers.

The minister says there should be an expert independent panel, but what he is saying is that it should only advise the Port of Melbourne Corporation (PMC) and the government ministers. It should not tell the public of Victoria; it is not subject to legislation; it is not subject to the Parliament. What we are saying is: go the step further; protect the bay and protect it properly. Introduce it in legislation. Withdraw this legislation and amend — —

Mr Nardella interjected.

Dr NAPTHINE — The member for Melton says that is democracy, and I agree with him. That is what democracy is about. Bring it into Parliament and put it into the legislation so that this independent expert environmental group has the power to protect the bay. That is what we want.

I note that the minister says in his foreword to the report that consideration will also be given to the provision of an environmental performance bond or similar mechanism. That is an absolute joke and a farce, because what the minister knows and what the public of Victoria needs to understand is that the Port of Melbourne Corporation is wholly owned — 100 per cent owned — by the state government. If the government imposes a $10 million or a $20 million or a $100 million performance bond and anything goes wrong, the people who will have to pay in the end are the Victorian taxpayers, because they are the ones who own the Port of Melbourne Corporation. It is a front, it is a cover-up, and that performance bond is an absolute farce.

What we need is to have legislative protection for the bay that is legislated by taking this bill away, redrafting it and incorporating in the new legislation before the Parliament, through a democratic process, a requirement to have an independent, expert environmental panel overseeing this channel-dredging project so that it can report regularly to the Parliament and to the people of Victoria. The panel should have the full powers of the Parliament through legislation to put an immediate stop to any dredging and disposal of spoil if any problems arise. That is what should happen. That is the right thing to do, and that is what we are calling on the government to do in the reasoned amendment.

We have also proposed some specific amendments to the bill, including amendments to clauses 5 and 6, which relate to the disposal of dredged material. This gives permission for the channels authority and the Port of Melbourne Corporation to dispose of dredged material, much of which in the channel deepening project will be contaminated with heavy metals, with organochlorides, with DDT (dichlorodiphenyltrichloroethane) and with other toxic substances. It gives them permission to dump that dredged spoil in the bay itself. What we are saying is that that needs to be properly monitored and reported on so that the people of Victoria know what is happening.

We have proposed amendments to clauses 5 and 6 which provide that when this dredged material is dumped there should be a report to Parliament within a short space of time, and that is specified in our amendments. We are saying that there should be a report on a weekly basis on how much is being dumped, where the material is being disposed of, where it has come from, what the nature of that material is and what its contamination levels are. We are saying that the Port of Melbourne Corporation should have to report that information to the Parliament and to the Environment Protection Authority.

Under our proposed amendments the Environment Protection Authority would then have to provide a certificate to the Port of Melbourne Corporation and the Parliament saying that that disposal is being undertaken in a manner which is safe for humans and environmentally sound. That is a reasonable amendment to this legislation to provide protection to Victorians and to the bay. I urge the Minister for Roads and Ports, in the interests of our support for the channel deepening project — and our commitment to do it right and to protect the bay — to take on board the contents of our reasoned amendment and proposed amendments to clauses 5 and 6. If the minister takes on board those issues then we can have a channel deepening project which will provide the right outcomes for Victoria.

I address briefly some other clauses in the legislation. Clauses 8 and 9 implement recommendations from the Essential Services Commission to deregulate prices for towage and connection of water and electricity to vessels berthed in the ports of Geelong, Portland and Hastings. The Liberals support these amendments, and in passing I note the enormous success of the ports of Geelong and Portland since they were privatised. They have really blossomed under privatisation. It would be great to hear the minister applaud the former Kennett government on the privatisation of those great ports that have grown significantly in trade and diversity of trade.

However, although those ports have grown under privatisation, they are being hampered by a lack of support by this government. Let me give some examples of that lack of government support. In May 2001 this government promised rail standardisation that would help the port of Portland and enable it to be competitive on the grain and mineral sands markets.

Nothing has happened. The government promised it in 2001 and has done nothing. In July 2002 this government promised a rail connection to the Lascelles Wharf in Geelong. Five years later, absolutely nothing has happened.

As for the port of Hastings, the government-sponsored 2006 *Port of Hastings Land Use and Transport Strategy* proposed some ridiculous rail links along the Melbourne–Frankston–Stony Point corridor and the Gippsland corridor. Those ought to be rejected out of hand. While the Liberals support the redevelopment and expansion of the port of Hastings as absolutely essential for the future of port operations in Victoria, the transport links proposed in that study were just ludicrous.

Clauses 16 and 17 seek to improve compliance with and the effectiveness of environmental safety management plans, and they are supported.

The other clauses are particularly linked to the channel deepening project. Clauses 5 and 6 provide the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the power to dispose of dredged material. I believe our proposed amendments to clauses 5 and 6 would significantly enhance the protection of the bay and the reporting mechanism in our democratic Parliament. If this government is genuinely honest, open and accountable, it will adopt those amendments and make sure that there is fair reporting on the channel deepening project to the people of Victoria.

Clauses 11, 12 and 13 relate to a regime of fees and charges for wharfage and channel usage to help the government extract more dollars from the users of the deeper channel to help pay for the whole project. There is a fundamental change to the charging system to disguise the massive increase there will be in charges. The member for Box Hill will speak more about that.

Clause 14 is interesting. It introduces a raft of powers for the Minister for Roads and Ports to ban people, vessels, jet skis, kayaks, fishermen and yachts — virtually anyone and anything — from any area that the minister decides. The areas can be up to 12 square kilometres in size. He can also declare a ban on access to anywhere within a 1.4-kilometre radius of any designated vessel. These powers are not subject to any checks and balances. They give the minister virtual carte blanche to ban people from areas of our magnificent Port Phillip Bay. This attack on free movement in the bay is clearly designed to keep concerned citizens, independent environmental monitors, the media and any potential protesters away from dredging operations and areas where dredged material is dumped or proposed to be dumped.

Let us come to the channel deepening project itself because the bill is fundamentally about that. The port of Melbourne is the no. 1 container port in Australia and 38 per cent of Australia's container trade goes through it. In 2006–07 it was the first port in Australia to handle more than 2 million TEUs (twenty-foot equivalent units) of trade. In 2006–07, the 16th consecutive year of growth, container trade grew by 8.5 per cent and the average growth was 7.8 per cent. It is interesting to note that in the past 12 months imports were up 10.4 per cent, but under the Brumby government exports were up only 4 per cent — because under the Brumby government exports have a disappointing performance compared to that under the previous coalition government, when exports were promoted and developed. The value of total trade through the port is about $75 billion a year. It is an absolutely vital part of the infrastructure and economy of Victoria and Australia.

At the moment the draught in the port of Melbourne is 11.6 metres at all tides and 12.1 metres at high tide. The aim of the channel deepening project is to ensure that there is a 14-metre clearance or draught at all tides. The project will involve the removal of 550 000 cubic metres of rock from Port Phillip Heads and dredging at the Heads to at least 17 metres, although now it is being suggested that the depth could be up to 21 metres in some areas. In addition, 14.6 million cubic metres of sand will be removed from the south channel; 2.4 million cubic metres of clay, including 43 000 cubic metres of contaminated silt, will be removed from the Port Melbourne channel; and 5.4 million cubic metres, which will include 2 million cubic metres of contaminated sediment, will be removed from the river channels.

Mr Pallas interjected.

Dr NAPTHINE — I just have to get the facts right. It is important.

Why do we need the channel deepening? I quote the Port of Melbourne Corporation:

> The project is expected to generate economic benefits of almost $2 billion, create more than 2000 jobs and will ensure Melbourne remains Australia's most cost-effective port per container in Australia, thus protecting jobs and keeping Victorian exports competitive.

Stephen Bradford, the chief executive officer of the Port of Melbourne Corporation, told an ABC forum in Williamstown in April this year that 41 per cent of vessels leave Melbourne underloaded, due to draught

restrictions. What happens is that many of our imports are high volume and light weight, so they do not need the deeper draught as much as our exports, which often are dairy products, wheat and grain and are low volume and high weight. Therefore, often there are situations where vessels come in and have to leave underloaded simply because of draught restrictions. What we need to run an efficient port and reduce costs for exporters is a deeper channel. In addition, 50 per cent of new ships being built need at least a 14-metre draught.

According to the Port of Melbourne Corporation, as at March the cost will be $763 million. But it is interesting to note that in July 2004 the government said that it would cost $400 million. So in three years the cost has almost doubled. I will bet my bottom dollar that before this project is finished its cost will be well over $1 billion. Who pays? We do not know. Clearly there will be a significant impost on the users. The government keeps saying that the PMC will contribute. Where does the PMC get its money from? The answer is the users. If the users and the PMC pay, then the users are paying twice. What the minister should come clean on is: what will be the government contribution? How much will the state government put in for this important economic project for the state of Victoria? In this debate the minister ought to tell us how much the government will put in.

The Liberal Party has a number of concerns about the project. While we understand the economics of it and support it, we are concerned about the process, the environment and the lack of adequate consultation with and compensation for affected businesses.

In terms of the process, in May 2002 the Minister for Planning required the Victorian Regional Channels Authority, which has been succeeded in law by the Port of Melbourne Corporation, to prepare an environment effects statement (EES). This was released in July 2004. There was an inquiry into that EES, and it identified significant flaws, problems and environmental issues. The government then went back to the Port of Melbourne Corporation and said, 'We want you to provide a supplementary environment effects statement, and we want you to do some trial dredging to test the system'. The supplementary environment effects statement was published in May 2007, and a new inquiry was set up to look at that.

It is interesting that the panel members who worked on the first EES were all sacked, and not one of them was appointed to the new inquiry. Cross-examination, which was allowed in the first inquiry, was not permitted in the second inquiry, and there was a lack of access to transcripts. It was a very stage-managed process — there is no doubt about it.

I will quote from a couple of articles in the *Age*. An *Age* article of 10 April says:

> Doubt surrounds the state government's crucial choice of experts to review the environmental impact of dredging in Port Phillip Bay, and especially its failure to appoint any members of the panel that rejected an earlier study.
>
> … the state government chose a panel with little scientific experience, and excluded a four-member panel that found the original environmental effects statement … overlooked important environmental questions.
>
> This was despite a government promise last year that 'if practicable' members would be appointed to the new panel.

On 23 April the *Age* published an article headed 'Outrage at dredging probe ban'. I quote from the article:

> Some of Victoria's most senior legal figures have warned that in its haste to start the $763 million dredging project, the government is in danger of riding roughshod over the proper public examination of environmental risks.
>
> Legal sources have confirmed that Chris Canavan, QC, a top planning lawyer who was to represent the Port of Melbourne Corporation at hearings to start in June, has withdrawn because he does not believe the government's processes are fair.

There are real problems with the whole process. To add to that concern about the process, members who sat in the previous Parliament will remember that in December 2004 the government introduced a piece of legislation called the Channel Deepening (Facilitation) Bill. That bill lay deeper on the notice paper than the channel will be dredged at the Heads. It lay there and lay there, and it was never debated in two years. It never saw the light of day in terms of public debate in the Parliament.

There are ongoing concerns when it comes to the environment. With due respect to the publication put out yesterday by the Minister for Planning in the other house, I must say I was disappointed that the minister's response to a number of those environmental concerns was, 'Don't worry, she'll be right. We'll look into it. We are confident it will be okay'. That was fundamentally what the minister said in response to just about every one of the dissertation of issues raised. That seems to be the content of the legislation. With respect to the environment, there are real concerns about the delayed access to the supplementary environment effects statement (SEES) and the government's response, which was only released yesterday.

The environmental concerns cover a whole range of issues, but I will concentrate on only a couple because of the time constraints. One is the disposal of contaminated sediment. Over 2 million cubic metres of clay, silt and sand from the river mouth areas is contaminated with heavy metals — arsenic, lead, mercury and nickel — dichlorodiphenyltrichloroethane (DDT), dieldrin, organochlorides and a whole range of other toxic material. The proposal is to dig up, and thereby stir up, the sediment that has been there for decades, take it out into the middle of Port Phillip Bay and dump it. The proposal involves using a system called bund and sand capping. I attended an ABC forum on channel deepening at Williamstown in April.

Mr Nardella — Who organised it?

Dr NAPTHINE — Jon Faine organised the forum. He is not known as a great friend of the Liberal Party, let me assure you. At the forum Dr Jeff Bazelmans, who is the environmental manager for the channel deepening project, said in respect of the proposal to use bund and sand capping that it had not been done before in Victoria or in the world. So it has never been done before, yet we will do it with contaminated material in the middle of one of our most precious environmental assets. This is a huge risk, and the government still refuses to put in — —

Mr Nardella — What is your alternative?

Dr NAPTHINE — Put a proper environmental monitoring process in the legislation. That is the alternative, that is what you have to have, and that is what we have called for. That is the sort of thing we need to protect the bay.

On the topic of contamination, let us refer to the assessment report that the minister issued yesterday:

> The SEES identified that the potential for mobilisation and bio-availability of contaminants in the Yarra River and Hobsons Bay area during —

channel deepening —

> could have effects on ecosystems and human health. If contaminants are bio-available, bio-accumulation or bio-magnification through successive stages of the food chain may occur. Thus a key risk of bio-accumulation of contaminants to the ecosystem is to predators at the top of the food chain, e.g. flow-on effects from plankton to fish to birds.

It identified this as a real problem.

What was the minister's response? 'Additional monitoring is needed'. Yet the monitoring he proposes is a secret monitoring process. We do not even know who will be on the expert panel, how it will be constructed, how it will work and how it will report. We only know that it will report to the Port of Melbourne Corporation, which is in charge of the project, and the minister, who has given the green light to the project. I do not think that is good enough, and I do not think the people of Victoria think that is good enough.

While we support channel deepening, we say, 'Let's have a proper, independent, environmental monitoring process. Let's put it in legislation, and let's do it right to protect our great asset, Port Phillip Bay'. Let us look at the issue of the Rip, or the Heads. I could talk about seagrass, I could talk about the penguins and I could talk about a number of other environmental issues, but I do not have time. Let us talk about the Heads. It is proposed to use a hydrohammer to smash through the rocks at the Heads. It is interesting that the hydrohammer was not used in the trial dredging project. Frans Uelman, the alliance technical manager of the channel deepening project from Boskalis Australia, said to the SEES inquiry about the hydrohammer, 'It was not used during the trial'. When he was asked by Allan Hawke, the chair of the inquiry, 'Why was the hydrohammer not used during the trial dredge?', Mr Uelman said:

> Because we did not have time for it. The thing has to be built and the time we had for it, the few months just before the trial started, were too short to get it into place.

So in one of the most significant, sensitive areas of this whole dredging project — the Heads — they are going to use a technology, the hydrohammer, that was not even trialled in the trial dredging project. The reason was that they did not have time for it. They did not get it ready in time. Under further questioning, as part of the SEES process, about where else it had been used around the world the answer fundamentally was, 'We have trialled it in a quarry'. They have not trialled it under water anywhere else in the world, they have trialled it in a quarry — and we are going to use in the most sensitive area of Port Phillip Bay.

We know there have been ongoing problems, even with the old technology, at the Heads. I refer to the submission from Jeremy Gobbo, QC, the Port of Melbourne Corporation barrister at the SEES inquiry, who said on 18 June:

> Recent inspections of the entrance confirm observations that erosion is continuing to occur in the area of Rip Bank affected by the trial dredging project (TDP).

There were further submissions by experts saying that there was ongoing monitoring. They were not sure what was happening. We had a situation through the whole trial dredging process acknowledging that there have

been ongoing problems at the Heads. We are now going to use a technology which has never been used anywhere else in the world and has not been tested and we have no independent, legislated monitoring process. The minister's report released yesterday says:

> PoMC identified that part of this area —

this is the Heads area, at the entrance —

> as well as some adjacent areas, had deepened due to erosion since the TDP.

What is the minister's response?

> … it is my assessment that:
>
> (1) in order to limit consequential effects, dredging in the GSC is to minimise the deepening of the GSC beyond the depth needed for safe navigation, including by:
>
> (i) minimising overdredging …
>
> (ii) minimising rock-spill and maximising spill recovery …

I am sure that gives people confidence that the minister is going to minimise overdredging and minimise the spill. It does not say how he is going to do it. It does not say how the hydrohammer is going to go when we have never tested it before, so we have real problems. This is a very important project for Victoria, but it needs to be done properly because Port Phillip Bay is unique and precious for Victoria. That is why the government should take a deep breath, withdraw this legislation and redraft it according to the proposals the Liberal Party has put forward.

Mr Nardella interjected.

Dr NAPTHINE — It would not be delayed if the government had got it right in the first place. It has had five years, and it has still got it wrong — five years of incompetent ministers and incompetent government delaying this project. If they had got it right in the first place, we would not be in this situation, but now we cannot put the bay at risk simply because this government wants to rush this through. What we need is for the government to adopt the reasoned amendment put by the Liberal Party and the amendments put by the Liberal Party. We need to redraft this legislation. We need an independent expert authority, but we need it set in legislation.

This is an important project for the economy of Victoria, for exporters, for our businesses and for all Victorians, because our jobs and our future depend on it. It is also important that we get it absolutely right, because we cannot afford to bugger the bay.

Mr WELLER (Rodney) — I rise to speak on the Port Services Amendment Bill 2007. The Nationals have been great supporters of getting our products from the farm to the markets around the world as efficiently as we can, and we see an efficient port as an important part of delivering that. However, we also see that in Victoria we should have open and accountable government. Releasing a supplementary environment effects statement the day before the bill is to be debated in the house probably tends to suggest that we are not running an open and accountable government here.

The reasoned amendment the Liberal Party has moved would contribute to there being a more open and accountable government. The first proposal makes a lot of sense. It is to:

> incorporate the establishment of an independent expert environmental panel to monitor and oversee the dredging and disposal of dredged material in Port Phillip Bay.

It would make it open and accountable, as we want the government to be. The second one is to:

> ensure the independent expert environmental panel is required to publicly report on a regular basis on the environmental effects of any dredging and disposal of dredged material in Port Phillip Bay.

I think the public has a right to know what contaminants are in the spoil that has been dredged, where it has been placed and how it has been covered. The third one makes eminent sense. It is to:

> provide the necessary powers for the independent expert environmental panel to be able to immediately stop any dredging and disposal of dredged material to protect the environment of Port Phillip Bay.

The fourth one is to:

> provide for a system of fair and reasonable compensation for commercial businesses, such as tourism and fishing businesses, which are significantly adversely affected by operations involving dredging and disposal of dredged material in Port Phillip Bay

I would hope that the government would take the appropriate steps and ensure that the fourth proposal would never need to come into effect.

The thing is if we get it right, we do not have to go down that path. We want it to be open and accountable. Let us take time and get it right. Tell everyone what is going on and have none of this skulduggery and keeping it behind the scenes.

Another problem with this bill and the government being open and accountable is that we all know this government cannot manage major projects. The report talks about costs of $763 million. The cost of Southern

Cross station blew out, plus we had the fast rail project. This government cannot manage to a budget and to a time. An article in the *Age* only yesterday claimed that the cost of the project was already at $1 billion. There is no commitment from the government as to what its contribution is to be — no commitment at all.

We had the Minister for Regional and Rural Development in this place only yesterday talking about the commitment the government has to growing the dairying industry in this state. I say, why does the government not walk the talk and actually make a commitment here and now and tell us its contribution to the port so that the dairy industry in this state knows what each tonne that it puts through the port is going to cost and so it can see the benefits of the deepening? The fear of the dairy industry at this stage is that we will have a deeper port, but the costs will be passed on to the dairy industry and will have risen to a stage where the industry will get no advantage from the port being deepened.

There are a lot of other issues to do with the port; it is not just the dairy industry. The weekend papers reported that Toyota, one of the major employers here in Victoria, is looking at relocating because of the costs of employing people here in Victoria and other costs of doing business. Surely a Victorian government that wishes to keep industry in Victoria would say to a manufacturer, 'Here is what it is going to cost you across the port'. But it is left up in the air, and we do not know what the costs are going to be.

There was a dispute at the port back in the late 1990s involving the National Farmers Federation. The company P & C Stevedores was brought in to run the port more cheaply and break the union monopoly on the port. That was successful in bringing efficiencies at the port. Everyone likes to talk about the efficiency of the port. Since that campaign and the successful developments at the port afterwards, we have seen a halving of employment numbers on the port and a doubling of the number of crane lifts per hour. That is a substantial improvement; however, we still have a long way to go to compete with the likes of Singapore and Rotterdam. We need to get those efficiencies at the port so we can get the product from the farm to the markets around the world as efficiently as we can. We need to have an efficient system from farm to port.

This bill will affect a wide range of people in regional Victoria. We have export meat industries including Midfield Meat International at Warrnambool. There is Greenhams at Tongala, which is in my electorate, with its hot-boning process; the cow comes in, gets slaughtered and is in a box in 45 minutes, in a freezer.

Mr Pallas interjected.

Mr WELLER — Through you, Acting Speaker, the minister says he used to work in an abattoir, so he would understand the absolute importance to a manufacturer or an abattoir such as Greenhams that they know what it is going to cost in the future for their containers to go through the port and to America. When my cows go to the local abattoir they are in a box and ready to go after 45 minutes, and they end up as prime hamburger beef on the American market — and the Americans like their hamburgers. We also have Ralphs at Seymour and Poowong Abattoirs.

The economy of regional Victoria depends on an efficient port. For the government to bring in this bill without knowing whether there is going to be a blow-out in the cost of pushing the product from the farm to the markets of the world shows it is not being open and accountable. The government should walk the talk and make a commitment to rural Victorians and to rural industries. We should also remember that the government should make a commitment to industries as well. Last night I was at a presentation where it was pointed out that the government's moratorium on genetically modified products has cost the canola industry $45 million over the last three years. We need a full commitment to rural Victorians.

The construction of this channel will create 2300 jobs. It is a very important project for Victoria. During the 18-month construction phase required to build it there will be 2300 jobs. That is a good reason to support it. There will be an additional 500 jobs created in the state of Victoria to work with the port once it has been deepened. Five hundred jobs is a good reason for the government to say it is going to support it. We should also think of the infrastructure in warehousing and other facilities around the port. What happens if we do not do it? Those warehouses and global distribution centres will be replaced. They will be taken elsewhere. This has to go through, but the government should be accountable and open about what it is actually going to cost us.

The bill raises other concerns besides cost. It will affirm the powers of the port of Melbourne and the Victorian Regional Channels Authority to deposit and place dredged material and undertake works for that purpose. They need to have that power, but we need to make sure it is done in a sustainable manner that causes no detriment to our fishermen. We must make sure there is minimal impact on fishermen and that there is an environmentally sound cover over the top.

The bill also talks about restricting access to certain areas. This indeed makes sense, particularly in the construction phase when there could well be people opposed to the project. In order to save them from themselves, restricting access to the area would be an appropriate thing to do. Restrictions will apply not just through the construction phase. If you read the bill, you will see that they apply when warships and vessels like the *Queen Elizabeth II* visit. Areas will be restricted so that people who are keen to go and have a look do not cause danger to themselves or to public health.

We also need to remember that cost is the important part of this. We have grave concerns about Labor's ability to manage a major project. The report that came out yesterday says the cost will be $763 million. The *Age* is saying it has already blown out to $1 billion.

Mr Pallas interjected.

Mr WELLER — Might I say, the government probably does not know what it is going to cost, and yet here we are debating the bill. It received the supplementary environment effects statement only yesterday, so that it could have done the figures by today to say it is going to cost $763 million leaves a little bit to be believed.

Mr Pallas interjected.

Mr WELLER — The minister says, 'What price should we set it at?'. If he does not know, why are we debating the bill? If the government wants to be open and accountable, it should do the figures and put them on the table. It has had extra time to do that while this study has been going on.

We also need to recall what the Victorian Employers Chamber of Commerce and Industry has said. VECCI has said it would be appropriate to have the funding divided into thirds — a third from the federal government, a third from the state government and a third from the users. The *Age* yesterday reported the chief executive officer of VECCI as saying that that would be a way of doing that. The government has not even come up with a percentage. The government does not know what the figure should be. Instead it says, 'You put a figure on it', which I think is a very poor thing for it to be saying.

VECCI has quite clearly said that the funding needs to be based on thirds. That is one figure out there. Industry needs to know what the cost is and whether there is going to be a benefit for it or whether it is just going to be loaded up with extra costs. We will be supporting the amendment, which is all about having open and accountable government.

The proposed amendment to clause 5 states in part:

> (5) Within 3 days of receiving a report from the Port of Melbourne Corporation under subsection (4), the Environment Protection Authority must certify whether or not the excavated or dredged material has been disposed of in a manner that is —
>
> (a) safe to humans; and
>
> (b) environmentally sound.
>
> (6) The Port of Melbourne Corporation must —
>
> (a) within 3 days after preparing a report under subsection (2), cause the report to be laid before each House of Parliament …

That means it comes to the Parliament so that the whole of Victoria can have faith in the system and can know that it is open and accountable and is being done properly. Then there will be no questions asked. If it is all open and accountable, everyone will know and there will be no aspersions cast about there being something wrong or there being any skulduggery. Everyone will have confidence that it is open and accountable.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak on the Port Services Amendment Bill. It is a bit difficult to work out the position of the various members in the house, including the Liberal Party. Opposition members say they support the channel deepening but then seem to say, 'Today we don't, but tomorrow we will. The day afterwards we will again, but the day after that we won't'.

Obviously channel deepening is incredibly important for exports and for the growth of this state, but we also need a very clear statement from various members of the opposition. If you look at statements of the opposition in the past, you find they are pretty much all over the place. In the 2006 election campaign the Liberal Party provisionally supported channel deepening, stating:

> We've said that we think the channel deepening needs to proceed, but as far as we're concerned it is not going to proceed unless there is unequivocal evidence that it won't damage the bay.

Unless there is unequivocal evidence, they will not support it and nothing will happen. I do not know how you can support deepening the channel and then say, because you are going to be moving soil, that if anything happens you are not going to support it. It is a pretty difficult position to hold in the public domain. The opposition is sort of saying, 'We half support it, we half don't support it. We are not really sure what we are doing'. Let us look at what one Liberal upper house member for Eastern Metropolitan Region has said:

> I indicate to the house that I will not vote in favour of … dredging of Port Phillip Bay.

That is on page 207 of *Hansard* of 13 February 2007. He is very clear: he is saying no, he does do not support it. Let us look at what the member for Nepean said:

> I will say it again: I cannot support this project …

That is on page 281 of *Hansard* of 16 August 2005. We have pretty strong statements from those Liberal Party members saying they are not supporting it, but then we have their leader saying that he sort of half supports it and we have a Melbourne Cup field of options from the member for South-West Coast, who wants every position. He obviously has a very detailed knowledge of this, but he is not sure what position he wants.

Mr Nardella interjected.

Mr DONNELLAN — What the opposition seem to want is — —

The ACTING SPEAKER (Mrs Fyffe) — Order! I am sorry to interrupt the member for Narre Warren North, but if the member for Melton wishes to make any comments, he should put his name on the list of members speaking on the bill.

Mr DONNELLAN — It concerns me that the opposition has been taking shots at ALP members this morning in debating other legislation, accusing us of being antibusiness, but here we have the supposed business party, the Liberal Party, having all types of positions on the channel deepening. The public is going to find it very difficult to understand what members of the Liberal Party support. At the end of the day they do not seem to understand the importance of this port. It would horrify various people in the Western District or the south-west coast to see that their member does not want channel deepening for the port of Melbourne.

My relatives actually came up with refrigerated shipping for exports out of Geelong. The Harrison family understood the importance of exports and shipping, but for some reason the Liberal Party does not. It is vital that we get this bill moving so we can deal with some of the serious issues in the channel deepening process, whether it be transparency and charges or whether it be dealing with no-go zones and with what we dredge up from the bay.

As many people have said, the port handles about 40 per cent of the nation's trade. That amounts to about $75 billion each year, or about $200 million every day. It is vital that we get on with the job. It is fine for people to continually say they want another and another process. We will be waiting for the second coming of Christ at the rate we are going, and by the time we get there, the dredging could have been done. But you never know — the second coming of Christ might happen sooner.

However, if you look at what still needs to be obtained, you will see there are very good protections in this process. Approval is still to be sought under the Planning and Environment Act 1987. Two permits must be obtained under section 113 of the Heritage Act 1995 in relation to shipwreck debris. Still needed are two permits under section 67 of the Heritage Act; three consents under section 129 of the Heritage Act in relation to Stony Creek, Ballast Wharf, Lower South Wharf and the South Channel Pile Light; consent from the Minister for Environment and Climate Change under the Coastal Management Act 1995; a licence under section 17B of the Crown Land (Reserves) Act 1978; and a licence under section 53 of the Flora and Fauna Guarantee Act. There are still other things that need to be sought.

I would have thought that was enough to provide people with comfort that this is being done properly. However, what we have here today is a stunt from the Liberal Party. The Liberals do not want this to go ahead. These are cheap political shots. The member for South-West Coast wants all positions. He wants to support everybody and be loved by everybody. But sometimes you cannot be loved by everybody because you have to make a decision about issues like this. It is very easy to be cheap. It is very easy to say to everybody that you love them all — like Jeff Fenech would say, 'I love youse all'. Sometimes you are going to annoy some people because you are going to have to get on with the job of actually dealing with this. At the end of the day this is far too important for Victoria and for the workers and businesses of Victoria for it to be treated like it is some type of joke.

If you look at the trade growth at the port of Melbourne, you will see it has been extremely strong, with average growth of 7.8 per cent since 1991–92. We have strong growth, and it is continuous. The government is very supportive of it, but we call on the opposition to get on with the job of supporting this proposal. In the House of Representatives in July 2007 the chair of the Standing Committee on Transport and Regional Services, Paul Neville, MP, member for Hinkler in Queensland — a Nationals member — released a report entitled *The Great Freight Task — Is Australia's Transport Network Up to the Challenge?* In this report the committee recommended:

> … that, in the national interest, the Australian government assist the port of Melbourne to complete its channel deepening project as soon as possible.

That is a very positive contribution from the federal Nationals. Unfortunately they have not passed on that message to the member for South-West Coast or the Deputy Leader of the Opposition or any of their other members. I thought they were in coalition federally. It would be nice if someone would pass the message down to Victoria. At the end of the day it is important that the Liberal Party not play games with this. It is important that the member for South-West Coast not play games with it. His community is reliant on this port, including the port of Geelong and the port of Portland, which we spent a lot of money on for the live sheep trade and so forth.

Dr Napthine interjected.

Mr DONNELLAN — At the end of the day it is very important for the member for South-West Coast to stand up for his community, instead of letting it down with cheap political shots. The live sheep trade was going to be shut down because of the Prime Minister. Where were the member for South-West Coast and the federal member for Wannon, David Hawker? They were all over the place. While the live sheep trade was in real trouble, none of the people down that way supported it.

Dr Napthine — Bunkum. What lies!

Mr DONNELLAN — I speak to the live sheep trade, Denis, and at the end of the day you need to stand up for your people. I commend the bill to the house.

Mr Nardella — On a point of order, Acting Speaker, the member for South-West Coast called the honourable member for Narre Warren North a liar. I request he withdraw his comment.

Mr Donnellan — On the point of order, Acting Speaker, I would like the member to withdraw that comment, because at the end of the day I deal with the live sheep trade on an ongoing basis and know it very well.

Dr Napthine — On the point of order, Acting Speaker, the member has misled the house.

Mr Nardella — You called him a liar.

Dr Napthine — I withdraw the term 'liar', but he did tell untruths to the house.

Mr Donnellan — On the point of order, Acting Speaker, I ask the member to withdraw those comments unconditionally. I did not mislead the house.

The ACTING SPEAKER (Mrs Fyffe) — Order! The member for Narre Warren North has asked the member for South-West Coast to withdraw the comments.

Dr Napthine — I withdraw, in deference to the Chair.

Mr DIXON (Nepean) — The Minister for Roads and Ports has been at great pains to say that this bill has absolutely nothing to do with channel deepening but is actually a ports services bill. He has said that again and again, but all the parliamentary secretary talked about was channel deepening and channel deepening. Let us get real about this. What we heard from the Parliamentary Secretary to the Premier and learned from the name of this bill is the crowning glory of a farcical, undemocratic process full of standover tactics and spin. This bill is the crowning glory of that long and miserable process.

The bill is called the Port Services Amendment Bill. At least the last time the government brought in a channel deepening facilitation bill it called it by the right name and had the guts to say what it was about. But the old spin has kicked in and now we have a Ports Services Amendment Bill. The government is not even prepared to call it what it is.

As I said, it has been a shocking process. The member for South-West Coast went through the whole process and the issues very well in his contribution. It is so obvious to the public that the process has not been democratic, has not been rigorous and has not been thorough. The majority of those who wanted to contribute to the process, especially the supplementary environment effects statement process, went along to that hearing, but there was no cross-examination allowed. Where is the democracy in that? The panel was a dictatorship. Not one member of the original panel was asked to participate. They had learnt so much, they understood the process, they understood the technical terms, but none of them were asked to sit on the panel again. Another panel was very conveniently formed. Many of the people who wanted to make submissions to the so-called independent panel were not allowed to make those submissions. And, as I said, there was no cross-examination in that process. How can you call that democratic?

The people of my electorate will be the ones most affected by this bill. If anything goes wrong with this

project, it will affect the people of my electorate the most, but the people of my electorate have not been able to have a real say in this process. I am here to stand up for them and tell this government that they have been left out. There are further examples of how my electorate is going to be shabbily treated.

I fully support the reasoned amendment put forward by the member for South-West Coast. I wish to explain what it is about it that I fully support. I support the independent expert environmental panel — that ongoing, independent panel — which will monitor the process throughout and afterwards. It will regularly report, publicly and to this Parliament, on the process and what is happening, how much is happening, where it is happening and the effect it is having. I support that panel having the necessary powers to be able to stop the dredging at any stage if any environmental concerns are raised. Most importantly I support the provision of a system of fair and reasonable compensation. That is what I am most concerned about.

My electorate is based around tourism and tourism-associated industries, either directly or indirectly. They are the businesses that are going to cop it in the neck here. When you look at this bill, you see the inclusion of exclusion zones to facilitate the operation of the dredgers. There is a 12-square-kilometre exclusion zone. There is a 1.5-kilometre exclusion zone around the actual dredge, wherever it might be working. If you look at the geography of the southern peninsula and the southern end of the bay, and if you look at activities such as diving, fishing, boating and dolphin swims, you see that all of them occur in quite a small area, all of which will be within that exclusion zone.

A most important part of the tourism industry — a fundamental industry in my electorate which employs the most people and the flow-on effects of which affect the most people — is actually directly affected by this bill and by that exclusion zone. It is also directly affected by the fact that there is absolutely no compensation at all for the people of my electorate and their businesses. How can the minister say that the diving industry can just stop for 18 months and then just pick up and go on again?

The Minister for Planning's report says it is only going to cost the industry $4.1 million and the commercial fish harvesting industry $1.5 million. Those figures are just ridiculous. How can that be when the bulk — 99 per cent — of the diving industry in Victoria, which according to the government's own figures is worth $45 million to $60 million a year, happens in the southern peninsula, where this dredging is happening? It is going to close down for 18 months. The basic maths show that that comes to $60 million — and that is just the diving industry. What about the dolphin swim industry? What about the charter fishing operators? What about anyone who wants to go out and enjoy recreation in the bay? What about all the businesses that supply those businesses? They are all going to be affected. It is going to cost the people of my electorate tens of millions of dollars.

This government does not care. The minister had the cheek a couple of weeks ago to say that those people could sue the Port of Melbourne Corporation. How can a dive shop owner afford to put his whole business into hock? This government and this minister have no idea about business. How could that person possibly afford to take the Port of Melbourne Corporation to court? It would take two years, and he would be out of business anyway. He would have no income. How could he possibly fight a court case? That is a farce and an insult to the people of my electorate.

Talking about insults to the people of my electorate, I nearly choked yesterday during question time. The minister, in talking about all the wonderful benefits for the agricultural industry around Victoria from channel deepening, had the gall to mention the Mornington Peninsula. How can he possibly say that when he is going to hamstring and ruin the tourism industry in my electorate? He has a cheek to say that, and it is an absolute insult. I think he should apologise to the businesses in my electorate.

When you look at what the Minister for Planning says the project is going to cost the industry, and when you look at the total cost of this billion-dollar project, the compensation figures are chicken feed. Why can the people and businesses of my electorate not be compensated for that amount? If it is only this amount, which I totally disagree with, I challenge the minister to come up with the money. When you are looking at $5 million, according to the Minister for Planning, compared to a $1 billion project, why can they not compensate those businesses?

An honourable member interjected.

Mr DIXON — It is up to the businesses to prove it, and that is fair enough. They can look at their balance sheets last year, this year and the year after and show the differences. That is what the compensation can be about, but there is absolutely no talk of compensation.

According to the minister's report there is talk about a bond. There is a bit of debate in the paper this morning about whether it should be millions of dollars or tens of

millions of dollars. I think a bond is probably a good thing, but a bond is payable only when a whole lot of damage has been done. What sort of protection is that? It is too late.

Dr Napthine interjected.

Mr DIXON — Yes, the money is just going to go round. The Port of Melbourne Corporation is going to give the money to the state, and the state will actually own the business. It is farce and spin, and that is all that is happening with this whole project. As I said, the whole concept is wrong. Compensation is going to be paid when the bay has been ruined. A fat lot of good that is going to do! The report says that some aspects of environmental damage could take 30 years to recover. That is an incredible indictment of this whole process, of the so-called safeguards and of the claim that 30 years of damage is worth $2 billion of good over 10 or 20 years, or whatever the government is saying.

Finally I wish to raise an issue which has not been raised in the debate, although it got a bit of an airing earlier this week in the *Age*, regarding the near-grounding of the cruise vessel *Statendam* in December last year. If that ship had had a larger draught than a cruise liner — I think it drew only about 8 metres rather than a larger ship's 14 metres — it would still be there. The deepening of the Rip will actually create a gutter. The actual width of the track through the Heads is going to be one-third of what it is now. There will be no margin for error. Four recently retired pilots all agree that there is no margin for error at all in all this.

Ms THOMSON (Footscray) — I rise to speak in support of the bill. I do so saying from this side of the house that we understand the importance of economic development and environmental sustainability. There is not one member on this side of the house who does not support a process which ensures that we minimise any environmental impact upon the bay. In fact we are going through a long and very detailed process to ensure that we protect the bay for the longer term. I do not believe this bill has been brought into the chamber for the purposes of channel deepening only, although it certainly may facilitate some aspects of channel deepening when and if it occurs. It is primarily about safety, and it is also about streamlining processes at the ports.

My electorate neighbours the port of Melbourne. I have a very good relationship with the Port of Melbourne Corporation, and I hope that continues. I would certainly like to see the Port of Melbourne Corporation continue to work on its relationships with its neighbouring municipalities. It is crucially important that those communities have a good relationship with the port authority and the way it works — and that means that the Maribyrnong River is dealt with in a way which works for both the community and the port. Let us be clear about this: there is not one member of this house who does not realise the significance of the traffic of containers through the port of Melbourne. There is no doubt that we can play politics all we like, but the future of the export of our products out of the port of Melbourne is crucial. The truth is that the ships are getting bigger, and they require the deepening of the channel. If we are going to be honest about it, we also know that we have to become more efficient.

I want to go back to the issue of safety. I have actually spent a bit of time down at the rail yards around the docks in a job I had in another life. I spent time working on the way the yards work and the way containers are moved off and onto rail and into the port. One of the biggest issues in and around the port is safety — the personal safety of the workers who are in there at any given time and of anyone who might come in and out of the port. Of course that extends to the water. I think we have to look at why and where you might want to put on restrictions to ensure that you are taking care of the safety of the people who are utilising the port for business activities, and if you have warships coming in for any purpose, or cruise ships, to ensure that they are safely brought into port. You might want to put some restrictions and checks on the waterways and on the people who utilise and have access to the port for the sake of navigational lanes and for a whole lot of other reasons besides channel deepening. These powers to restrict must be used in an appropriate way, and I think the appropriate balances have been put into the legislation to ensure we are measured in the way this is exercised. Within the legislation there are requirements to use these powers sparingly and only when necessary.

I also want to talk a little bit about the notion that we can play politics with this issue. I watched the member for South-West Coast give his address. It was passionate. We are used to those kinds of things from the member for South-West Coast. But let us be honest about this: he is having an each-way bet. He knows channel deepening needs to happen; he has accepted that. It is vitally important for the economy of Victoria and for Australia as a whole, but he sees an opportunity to play politics with the environmental components of this. You could have no more detailed a process for channel deepening than the environmental processes this government has gone through, and they are not finished yet. The member for Narre Warren North explained the processes we have gone through to get to this point and the processes we still have to go through

to get a tick-off from the commonwealth government, and again from the Minister for Environment and Climate Change here in Victoria. This process is by no means over, and it is being taken very seriously indeed.

The technology for dredging is now far more sophisticated than it has been in the past. It takes into account the need to be far more environmentally sensitive. We now understand the greater impacts that occur to our ocean environment, but it was this government that put in place marine national parks to protect our environment. We are not going to treat our marine environment lightly now. I can say without a doubt that I have every confidence in the processes that are being gone through by this government to ensure that people have had adequate opportunity to provide input on the environmental impact on the bay of potential dredging that may or may not occur. I have no doubt that by the time we get through all the processes and obtain all the authorities that have to be given before we can even commence dredging, we will have covered off on ensuring the protection of our marine environment for the long term.

The issue of compensation was raised, but it has nothing to do with this bill. This bill is not about the dredging and the processes of dredging; it is about ensuring the long-term viability of the port and enabling it to go about its business. I hope the business of the port increases, because in the west it means jobs for the people of my electorate. It means that businesses will want to come and set up in and around the port, and as a person who is now involved in the Footscray transit city project I want to see businesses come and set up in the west, and the very best of businesses to come to the west are the ones that have a connection to the port and to freight and logistics. This is an opportunity to secure the economic future of Victoria and the movement of our goods out of the port, as well as goods coming into the port, but it is fundamentally about jobs. It is about jobs for the people of the west and jobs for the people of Victoria. I commend the bill to the house.

Mr K. SMITH (Bass) — It gives me some pleasure to be able to speak on this Port Services Amendment Bill, but I have to say that I have some concerns. I was astounded to hear the former minister talk about the processes that have been gone through. The truth is that the processes have been a farce. We know that the first environment effects statement (EES) that was done showed that there should be great concern about the damage that is going to be done to Port Phillip Bay. We know the government set up a second review — the supplementary environment effects statement — which was released yesterday. What a coincidence that it was released on the day this bill was brought into the house. What a joke! The minister has had ample opportunity to get it to us, to allow us to read it and to allow us to have confidence in being able to say, 'Yes, we support this legislation going through'.

We have stated right from the very start that we understand the importance of dredging the bay. We understand the importance to the port of Melbourne, to container traffic for Australia — not just for Melbourne but for Australia. We had confidence enough to say that we supported this so long as an environment effects statement states that we are not going to damage the bay. I do not feel confident at all that what has come up now is a true reflection of the damage that is going to be done to Port Phillip Bay. I do not have confidence in that. Let me make it clear to the minister that as time goes on he will be reminded about the damage that is going to be done to the bay.

My colleague the member for Nepean is very much on the ball in talking about compensation. The member for Footscray said that compensation is not part of this bill. Let me say that compensation is part of this bill, and it should be part of the bill because a lot of businesses are going to be very much affected by the dredging that is going to go on in Port Phillip Bay. The minister should not bury his head in the sand in regard to this. He is going to affect a lot of businesses that are operating around the bay, and a list of those was given by my colleague the member for Nepean.

Let me mention one sector that he did not talk about, and that is the aquaculture leases that this government has let right around Port Phillip Bay, particularly the seven new leases that were made available around last July. I wonder if the government said to the people that were taking out those leases, 'You have to remember that you are going to be put out of business for a couple of years because you are not going to be able to operate in the areas that are going to be affected by the problems created by the sand and by some of the noxious waste that will be generated from this dredging process'. I bet the government never said that. It is more than happy to take the money off the people, but it is going to put them out of business for a period of time. Not only that, many of the aquaculture businesses rely on having fresh, clean water flowing through them. We are talking mussels or oysters or that type of aquaculture, which is what these leases have been set up for. Those businesses are going to be ruined; there is no doubt about that, but there is no talk of any sort of compensation.

I also think the reasoned amendment put forward by the member for South-West Coast is a very good one. It is to the point and in fact says that we have to establish an

independent environmental panel to monitor and oversee any dredging and disposal of dredged material from Port Phillip Bay. Who else will be able to look at the problems that have been caused? This has to be monitored and reported to Parliament so that we know what is being placed in the bay. We need to know what is being brought in from the Yarra River, where all that noxious waste is, where that is being put in Port Phillip Bay, where the dredges will put all this junk and where they will put some of the other stuff. Where are they going to put some of the rock that is being moved? What will be done with it? Will it be used to create an island, or will they just spread it out so that it fills up the bay a little bit more? We do not know, because no information has been given.

We want proper monitoring to take place, and we parliamentarians who represent that particular area want to know where this waste is being dumped. As members of Parliament we have an entitlement to know all about that. Compensation is important, and our being able to monitor what is going on is also important. The minister has to understand that he has to get himself covered for all these things, because when it goes wrong we are going to hang him out to dry, because this should not be happening. He is certainly not covering himself in glory. He is not covering himself for the damage that will be done; in fact he is leaving himself open to the problems that will occur in the future. There is no doubt about that.

As for the processes that have been gone through, what are they? We have had two environment effects statements, the second of them because the government did not agree with the first. It has now brought in the second one, dropping it in the house the day before the debate on this bill.

It was interesting to hear the member for Footscray talk about the movement of containers. We remember what happened down on the wharves with the bastard boys, as they were described in the television show of the same name. God bless Peter Reith for the great job he did in getting the wharves sorted out. They are now sitting on a rate of 25 boxes an hour, up from 11 boxes an hour. That is fantastic! It was not all that long ago that I was in Shanghai, which, let me say, is a modern port with modern wharves.

Ms Asher — They are communists.

Mr K. SMITH — They may be communists, but I tell you what, they know how to work, they know about safety issues and they pay their people on the wharves well — and they are among the best-trained and best-paid people.

Ms Thomson interjected.

Mr K. SMITH — Let me tell you. Do not go wandering off, former minister!

Ms Thomson interjected.

Mr K. SMITH — They are moving 57 boxes in the same time that 25 are being moved in Melbourne. It is not good enough. The people at the port of Melbourne have to be fair dinkum. It might be good for the stevedores, the wharfies and some of the others, but the truth of the matter is that they have to lift their game. They should be doubling their capacity. If they want to be fair dinkum about it, they will. I tell you what, there are people in China who could teach them a few lessons about how to move those big boxes.

One thing I cannot quite understand about all this is that the minister has had an opportunity to look at the port of Hastings. The port of Hastings has a deeper capacity to bring in big ships than the capacity Port Phillip Bay is looking at being dredged to. It is sitting there now. Already the biggest oil tankers in the world come into Western Port and just float straight up to the wharf. It is a greenfield site. There is a chance to establish a port in Hastings that would be able to handle much more than Melbourne has the capacity to handle. I understand the importance of Melbourne — I do not have a doubt about that — but the minister has to be fair dinkum about looking at Hastings and developing that port. I know the government has said that it is on a 20-year plan, but it has to look at bringing that forward. The devastation that the dredging in Port Phillip Bay will cause will be a problem for future generations. We cannot afford or allow the damage that I believe will occur, because I do not believe what has been put into the supplementary EES.

The minister has a very important job. We have legislation here to which a reasoned amendment has been put forward. I plead with people on both sides of this house to have a read of it. We are looking at guaranteeing some safety in terms of the dredged material that is taken out of the bay. I ask members to read the amendment that has been moved by the member for South-West Coast. This is a good piece of legislation that could be improved dramatically by the adoption of that amendment. The minister should have a look at it, because if he does not we will come back and will haunt him over the damage he will do to Port Phillip Bay.

Mr CARLI (Brunswick) — It is with great pleasure that I rise in support of the Port Services Amendment Bill. It is a bill that makes provision for further powers

in relation to dredging, makes further provision for port fees, and makes provision for powers to restrict access to certain port lands and waters. It provides increased powers to the Port of Melbourne Corporation, and there are good reasons for that. Melbourne is a major industrial port. The reason Melbourne was settled is that it has a port. It is the largest container port in Australia and is growing at a very fast rate. It is therefore incredibly significant to the economies of Melbourne, Victoria and Australia.

Port Phillip Bay and the port of Melbourne have been dredged for over 100 years. When you think of the dredging that used to happen there, you do not have to go back too many years to the time when depth charges were exploded at the Heads and dredges created enormous plumes. There was very little consideration of the environmental impacts of that. I must say, though, that Port Phillip Bay recovered, and recovered rather quickly, from that. But the dredging that was done in those days was not best practice.

On the whole issue of dredging, not only capital dredging but also maintenance dredging, this government will conduct a best practice process in Port Phillip Bay, and great consideration will be given not only to the environment but also to the users of the bay. The industrial port of Melbourne and the industrial port of Geelong share Port Phillip Bay. The bay is also shared by those two very large cities, both of which have large populations. It is also shared by lots of recreation users, lots of fishermen and those in the tourism industry. It is very important that we find the ability to do that, and do it well.

The issue of channel deepening is clearly the issue that is confronting Parliament at the moment. It is the issue which has drawn the ire, if you like, of opposition members, who on the one hand seem to suggest that they might support the port of Melbourne but on the other hand seem not be convinced that dredging is either appropriate or can be done successfully — even though we have a long history, as I said before, of dredging in Port Phillip Bay and in the Yarra River.

The member for Hastings suggested that we should move off to Hastings straightaway because it has a deeper draught capacity, without taking into consideration the massive investment that is currently going into the port of Melbourne in rail, road and warehousing. Basically there is investment worth billions of dollars around the port of Melbourne, and it simply cannot be moved in the way the member for Hastings suggested.

This piece of legislation not only provides further powers in relation to dredging but also makes further provision for port fees, because we have to consider how the capital needs of the port are paid for and how to diversify the opportunities for the government and the port to ensure that there is a regime for capital investment. These ports are essential for the economy of this state, and it is important that there is sufficient economic investment in local infrastructure to make that possible.

The legislation also provides powers to restrict access to certain areas, and that particularly applies, as one would expect, to access by protesters to areas and vessels in port waters and land. The question from the Scrutiny of Acts and Regulations Committee, which I chair, was whether this is proportionate and appropriate.

Obviously we have section 15(2) of the Victorian Charter of Human Rights and Responsibilities Act, which gives every person the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds. That gives the right to peaceful assembly, which is a very important right. The question then is when is it appropriate to put some restrictions on those rights. There is no doubt that when you have a project of the magnitude of this channel deepening there will be events and there will be vessels in port waters or on land that may attract protesters. It is important that we have protection for the protesters to ensure their safety and for the vessels at the time when works or other activities are being carried out.

While there is no doubt that the legislation engages section 15(2), the Scrutiny of Acts and Regulations Committee (SARC) observed that it was appropriate to allow for that level of restriction and that it was a reasonable limit, as demonstrably justified in a free and democratic society, which is what is stated in the charter. We have a situation where there are competing rights. We have to protect people's rights to peaceful assembly and to voice their concerns, but we also have to protect the safety of individuals, whether they be workers on the site or protesters. So the bill provides a very restricted right to declare an area, and it enables the port to make those declarations. It is a reasonable limit, as SARC observed, on the right to freedom of expression and the right to peaceful assembly.

Another issue that has been raised in the house is potential compensation for tourism firms or fishing firms. That is something that will obviously be handled sensitively. There is an opportunity for them, if they can demonstrate damage, to go to the court. That ability is

available to anyone affected by this project, unlike what happened with the grand prix legislation that was passed by the previous Kennett government, which took away the ability of people to seek compensation for damages that were caused by works related to the establishment of the grand prix. People have a right to seek compensation where they can demonstrate damage.

However, the important thing about the work that has been done not only on this bill but also on the supplementary environment effects statement (SEES), on which the Minister for Planning in the other house yesterday delivered an assessment, is that the government has done far more than just simply consider the environmental effects. It has acted comprehensively to ensure that there will be no long-term effects and that the effects that do occur are localised and minimised.

It is very important to recognise that we are following world's best practice. We are dealing with an extraordinary amount of research and investigation, including a trial dredge. I recall that when the trial dredge came to the port of Melbourne the opponents of channel deepening said that the whole bay was going to become an environmental and ecological disaster. They said it would cause an enormous shock to the bay, but it did not — and it did not because what was being done was being done in the most appropriate and effective way. I am very pleased to support this bill and its passage through this house.

Mr MORRIS (Mornington) — I am delighted to have the opportunity to contribute to the debate on this bill, the purpose of which is to make provision for further powers as to dredging, to make further provision for port fees, to make provision for power to restrict access to certain port lands and waters, and for other matters.

It sounds fairly innocuous, does it not? It sounds like the sort of bill you might introduce for maintenance dredging, which I think was basically the message from the minister in the second-reading speech. The reality is that this is one of the most draconian pieces of legislation ever placed before this Parliament. Unfortunately this process has turned into a soap opera. It has become a saga, a long-running saga that has now descended into farce. It has become a classic display of the ineptitude of this government.

We have had various things by turn. We have had the ostrich syndrome. We had the Victorian Ports Strategic Study (VPSS), which was virtually complete when the Kennett government left office, but when the Bracks government took office it was just a little bit too difficult to handle, so it was basically ignored for a while. When it could not be ignored any longer, the government looked into it — and we know how many examples of that there were. When that excuse started to wear thin and the government was forced to do something, it had to consult. So it went through the consultation process, had public meetings all over the place, printed voluminous reports of what went on and then hoped that no-one noticed that they were being ignored.

Then we had years of procrastination and years of indecision. Then we had the incompetence of the first EES (environment effects statement). So many issues were raised, and so many of the questions that were posed in the terms of reference could not be answered, that the whole thing had to be dumped. Then we had the Channel Deepening (Facilitation) Bill that sat on the notice paper for two years and could only be removed by proroguing the Parliament.

We then had the supplementary EES. I did not bring it with me, but even without all the guff around it and without the folders and the glossy presentation, when it is just printed off it is 3 inches of double-sided paper. Once that was released there was the panel hearing, which was scheduled so quickly that most of the community did not even have time to go through the EES, let alone respond and contribute to the deliberations of the panel in a constructive manner. Then we had silence for a little while it went off to the Minister for Planning in the other place, and in the last sitting week we had the introduction of this bill. Even then the government could not quite get the lines right.

We had the minister at the table saying it was about maintenance dredging and dredging in general terms and ongoing actions in the port and we had the Leader of the House admitting that the reality is that it is about channel deepening Until yesterday afternoon we had no sign of the response from the Minister for Planning. Then finally we had less than 24 hours to consider the report before we were asked to debate legislation affecting one of the most important infrastructure projects this state will every undertake. Once again, it is a very strong indication of this government's contempt of the Parliament. The whole process has been an absolute disgrace. It would be laughable if the stakes were not so high for the port of Melbourne and the future of the Victorian economy.

Mr Crutchfield — Do you support it?

Mr MORRIS — To respond to the interjection asking whether I support it, let me make my position

very clear. The future of the port of Melbourne is critical to the future of Victoria. Make no mistake about it: if we lose our maritime trade we will become a second-class economy. Not only will we lose tens of thousands of jobs and just a little bit of the container trade, as a few of the opponents of this process have suggested, but we will lose the lot. We will drop off the map of the trading world.

For years and years, since the late 1990s — and this was the very reason that the Victorian Ports Strategic Study was commissioned by the former Kennett government — we have had pressure from Adelaide and Brisbane because of the investment in those ports where money has been spent on deepening channels and trying to knock off our trade. Yet this government has done nothing, until finally we are at the point where 41 per cent of vessels leave the port of Melbourne less than fully loaded, and many well less than fully loaded. Clearly we have to act or the future of this state will be compromised. Unfortunately, as happens so often with this government, we have been presented with a third-rate solution. It is possible to undertake this project properly, without compromising the health of the bay, without dumping millions and millions of metres of spoil into the bay and putting at risk the spawning grounds, and without putting at risk the livelihood of tourism operators around the bay.

It is no wonder that the Minister for Planning dumped his response at the last minute, because the assessment does absolutely nothing to protect the ecology of the bay. In fact, on page 105 of the assessment he specifically rejects using dredged materials for beach renourishment. The response does nothing to protect the livelihood of the tourism, fishing, diving and aquaculture businesses, many of the operators of which could and almost certainly will be bankrupted by this project. The government could do something about it but it just refuses to act.

I will not go into too many of the specifics of the legislation, because unfortunately the 10 minutes each of us has available does not permit me to do so. While I am on that subject, it is interesting to note that, despite the importance of this bill, members will probably have less than 3 hours to deal with it. But there are considerable logistical difficulties, apart from the principles. If we look at clause 14, the only one to which I will refer specifically, it in part inserts section 88F(a), which allows police to take charge of a vessel if it is in the wrong place at the wrong time and move it to an appropriate place or direct another person to move it to an appropriate place. The clear intention of that clause is to make the boat unavailable for use by protesters.

I understand that already discussions have been had with Victoria Police on the implementation of this provision and that the police have given considerable thought to it. However, the police do not have any space to store boats — there is nowhere else to store boats — so what is intended is that the boats will be confiscated, taken in to shore and then made available to protesters again. Once again, legislation has been drafted without any thought having been given to its practical impact and how it will work. I mention that shortcoming only because I suspect that the bill has many, many other shortcomings that are not yet evident.

The amendments proposed to be moved by the member for South-West Coast seem to provide for the best possible outcome from an absolute shocker of a bill. We must have an independent expert. The minister suggests that the Environment Protection Authority is an independent expert. While the EPA is a good organisation and I value the work of its officers, the EPA is part of the government. It is not independent of government and it cannot be because of its structure, apart from anything else.

We need frequent reporting, particularly on the impact of the spoil dumping. We also need that big red stop button. We must have the power to stop this project in its tracks, if need be. That power does not exist under the provisions of the current legislation. Lastly, and very importantly, we have a responsibility to compensate those people who will be adversely affected by the project. As I said earlier, if the bill goes ahead in its current raw form, a number of those people will be bankrupted. If we cannot do those things, the project should not proceed. I commend the amendments to the house.

Mr TREZISE (Geelong) — I am also pleased to speak in very clear support of the Port Services Amendment Bill. I also clearly support channel dredging.

Having listened to the contribution from members of both The Nationals and the Liberal Party, I am still absolutely bewildered about where they stand. In reality they do support the dredging, but they are just not prepared to say it. At the present time they want to be everything to everybody. Members have just heard a contribution from the member for Mornington. Despite prompts from the member for South Barwon, we did not get an answer on whether he supports the dredging. As I said, members opposite do support the dredging, but at the present time they want to be everything to everybody. They want to be in opposition for opposition's sake.

As a former employee of the former Port of Geelong Authority and then of Toll Geelong Port, I fully appreciate the importance of a world-competitive port industry, as does every member in this house. That applies especially to the port of Melbourne, given its position in relation to container trade movements in Australia. Someone mentioned before that we see something like 40 per cent of Australia's container trade coming through the port of Melbourne. Hence the absolute importance of the bill before us today and of this entire house supporting dredging.

Of course members of the government understand that there are community concerns. I have met with many people who have raised their concerns with me. All members understand that there are concerns about the environment. I also understand that business operators are concerned about the immediate effects on their businesses. Members of the government understand that very clearly.

In the tourism industry, for example, I have met with people who have tourism businesses and are genuinely concerned about the project. At the same time, as a member of this government I know that this government has effectively addressed all the issues — for example, on the environment, the state government has just completed a very detailed supplementary environment effects statement and dozens of other reports have been prepared into issues connected with these concerns. What members have really seen with the dredging is probably the largest consultation process that has ever taken place within Victoria.

In relation to businesses, the government will be working with business operators who do have concerns. At the same time the government will not, as a previous speaker alluded to, be stripping rights from the businesses, as did the former Kennett government under previous legislation relating to the Melbourne grand prix, as one example.

As I said, I fully appreciate the paramount importance of the port of Melbourne. This dredging project is vitally important to the future wellbeing of our economy. I therefore support the dredging. I also support this bill and wish it a speedy passage through the house.

Mr WALSH (Swan Hill) — This is the Port Services Amendment Bill 2007. It is interesting to note that we in this house have waited probably more than two years — —

Mr Pallas — For this speech!

Mr WALSH — No, not for this speech. You would have heard a different speech last time.

Mr Pallas interjected.

Mr WALSH — The Minister for Roads and Ports, who is at the table, says he is here now. Perhaps it is to the minister's credit that finally we have before this house something on such an important project as the channel deepening of the port of Melbourne. It is interesting that the channel deepening bill sat on the notice paper for something like two years in the previous Parliament while the government made an absolute botch of implementing a major project — and I will come back to its ability to manage major projects later.

This bill affirms the power of the Port of Melbourne Corporation and the Victorian Regional Channels Authority to deposit and place dredged material and undertake works for this purpose. It enables the creation of restricted access areas in respect of which the abovementioned port managers can manage access to facilitate the carrying out of their respective powers or functions and give effect to their objectives — I will come back to that later as well. It clarifies the imposition of wharfage and channel fees and increases the flexibility of the Port of Melbourne Corporation and other channel operators to charge channel fees. It makes a range of other unrelated amendments, including those regarding the auditing of safety and environment management plans and the deregulation of certain non-infrastructure prescribed services.

As all other speakers have said, everyone in this house understands the importance of maintaining a competitive, world-class port in Melbourne. As I said before, we are disappointed that it has taken two years to finally bring this matter before the house. Something in excess of $75 billion worth of trade goes through the port of Melbourne, and it handles around 40 per cent of the total Australian container trade. It is the gateway to Australia in some ways. However, we have to make sure this gateway stays competitive and that it stays open.

Yesterday the Minister for Regional and Rural Development espoused the importance of the dairy industry and how it is the single largest user of the port of Melbourne. It is a pity that she does not want to walk the talk when it comes to the dairy industry. She is very happy to take the credit for the fact that it is the biggest user of the Melbourne container port and for the wealth and jobs it creates for Victoria. However, when it comes to water, the government that the minister is part of is very keen to take water away from that industry

and bring it to Melbourne. You cannot have it both ways. You cannot have a world-class dairy industry, particularly in northern Victoria, producing what it does, being the single biggest user of the Melbourne port, and then — —

Mr Ingram — It is not just in northern Victoria. What about Gippsland?

Mr WALSH — I will pick up the interjection of the member for Gippsland East. The issue here is about the irrigated dairy industry in northern Victoria and the fact that the government will take the water away from that industry to bring it to Melbourne. If you take away its water, you will take away that economic activity and its ability to be the great industry it is. The facts have started to come out regarding the food bowl modernisation project. It will effectively close down half the irrigation area of northern Victoria, which will have a major impact on the dairy industry in that area and mean it will not be the industry it is today.

One of the things that a lot of people do not bear in mind when talking about the number of containers going through the port of Melbourne is that the vast majority of those containers are packed or unpacked in close proximity to the port. It is not just about the particular industries involved in what goes in and out; it is also about the jobs associated with the port itself. If we lose the ability to be the gateway to Australia for container traffic, we will lose a lot more than just the jobs at the port — we will lose jobs right throughout Melbourne because of the economic activity that is created by the port.

As those who read trade magazines or have seen it on television may know, Port Botany in Sydney and the Port of Brisbane Corporation are advertising for business. They are very keen to take business away from the Melbourne port, so we need to make sure that the port is world competitive and that we maintain the traffic through the port. I know the Minister for Roads and Ports, who is at the table, is committed to that.

One of the concerns The Nationals have is that, while the environment effects statement is out there, there is no detailed business case regarding what the channel deepening project will cost and who will pay for it.

Mr Ingram — It is in the bill.

Mr WALSH — It does not say what percentage the government will pay, what percentage industry will pay and what increase there may be in the box fee into the future. We do not know how that will all be managed. I was extremely disillusioned during previous discussions about this project. Kim Edwards was running some information sessions around country Victoria. The overheads that came up in those information sessions were very much along the lines of, 'This is the price in Victoria, this is the price for the port of Melbourne; this is what Sydney charges; this is what Brisbane charges. We have this capacity to increase the box fee by so much and still maintain competitiveness compared with Brisbane and Sydney'. What we do not want to happen is for the government to believe there is a certain amount of slack in the box fee and use the project to price it up to just under Sydney's and Brisbane's box fees. As we know, this government cannot manage major projects. If we price the box fee at just under the threshold, we will find that with a cost blow-out we will have an uncompetitive port in Victoria.

The government has form when it comes to managing major projects. We all know of the infamous fast train project. When in opposition the present Premier said that project would cost $80 million. He said in 1999, before the state election, that it would be a fantastic project for Victoria. What has it ended up costing? It has cost in excess of $800 million. There was a tenfold increase in the cost of the project, and it has not delivered what it was supposed to deliver anyway. We do not want to see the cost of a project as important as this channel deepening project blow out by a multiple of 10, 5 or 2, or even by 50 per cent, because if it does it will take away the great advantage we have in Victoria — a competitive port that creates all the economic activity we have seen.

The same applies to the Spencer Street railway station redevelopment. It was another great project, but it came in at more than double its budget. The government thought it was smart. It changed the name of the railway station from Spencer Street station to Southern Cross station in the belief that people would then not notice that the project had cost more than double the original budget. The Nationals have major concerns about this, as people who represent country Victoria. Country Victoria generates a lot of the economic activity that goes through the port, because it is our gateway to the world for trade. We have major concerns about who is going to pay for this project, what percentage split is in the project and how much the government is actually going to put on the table for part of this project, so we do not see a major blow-out in the cost per container in wharfage fees at the port.

There are amendments proposed to be moved by the Liberal Party. My understanding is that the intent of those amendments is to hold the government

accountable for doing what it always said it would do, and that is to be open and accountable to the people of Victoria. The government is making a lot of noise about this, but we have seen very little action. It is about time the Brumby Labor government started to walk the talk about being open and accountable to the people of Victoria. The people of Victoria have a right to know and to be told about what goes on.

It is not about executive government, as this government likes to think it is. It is about it being accountable to the people of Victoria, particularly through the Parliament of Victoria. This is not a plaything of the Labor Party. The institution of the Parliament of Victoria, as part of the Westminster system, is critical to how a democracy works and whether people actually feel engaged in the process. The government believes that the Parliament of Victoria is its plaything to treat as it wants, rather than being open and accountable to the people of Victoria.

The Nationals have a real concern about who is going to pay for this project and how those costs are going to be distributed. We want to make sure that the government is open and accountable about the environmental issues as this project goes forward.

Mr CRUTCHFIELD (South Barwon) — I rise to support unequivocally the Port Services Amendment Bill 2007. Unlike some who are equivocating opposite, I am unequivocal in my support. I certainly have an expectation and a hope that the environmental approvals from both the state minister — —

Mr Ingram interjected.

Mr CRUTCHFIELD — You couldn't; you are a joke.

The ACTING SPEAKER (Mr Kotsiras) — Order! The member for South Barwon will address his remarks through the Chair. The member for Gippsland East will have his turn.

Mr CRUTCHFIELD — Acting Speaker, I apologise. My expectation is that the state and federal environment ministers will support this project. I acknowledge the two years of work, the 40 studies and the 15 000 pages of investigations by independent panels, all of which resulted in where we were a couple of days ago with respect to the Minister for Planning in the other place supporting the project. I have absolutely no doubt that the expectation of the people in my electorate is for the channel deepening project to proceed as quickly as possible. I am hopeful that it can begin at some stage in the new year.

This is not a new experience. Geelong had a rather vigorous debate over dredging back in 1992, and there were some Henny-Pennys around at that time that suggested the level of the sea would rise and be up near Market Square, amongst other environmental issues that they raised. None of those concerns were ever realised. There is a similarity to some of the extreme claims that are being made regarding environmental issues and businesses that will be affected. There are irresponsible claims that all businesses which relate to the bay will be bankrupt. There is a process for compensation that I am confident they can explore if they believe they need to be compensated. I feel a stunt coming on at 4 o'clock, so I will keep my contribution very brief.

Mr INGRAM (Gippsland East) — I rise to speak on the Port Services Amendment Bill 2007. It is interesting to hear some of the commentary on this piece of legislation, as it was to hear the department staff at their briefing on the bill. Much of the discussion in the chamber today has been about channel deepening, which is understandable considering it has been a reasonably contentious process and project over a number of years. I think we all understand why that is.

Dredging in particular is very contentious in a lot of areas. A couple of years ago I went through the process of looking at the management and dredging of Lakes Entrance. As someone with a strong interest in making sure we had good and safe access at Lakes Entrance, I went through all the documents in a lot of detail. I will admit from the outset that I have not studied this environment effects statement (EES) documentation to the same extent as I did those documents. Port authorities have to go through a range of processes to get approval for dredging. In relation to Lakes Entrance we had to identify areas where the spoil was to be deposited, and there are commonwealth and state approvals to be obtained regarding that. The Lakes Entrance proposal, like the Port Phillip Bay dredging proposal, was affected by the existence of contaminants in the sediments. Some samples from the Gippsland Lakes had breached the mercury levels required to trigger particular processes within government. There is an increased level of scrutiny when contaminants are present, and that is an important process to go through. The community loves our lakes, bays and coastal areas, and that is why there is always strong interest in any development or activity that potentially threatens coastal areas.

As members of this place we have established legislation for environment effects statement processes. It is easy to come in here and criticise a particular

process, but as members of Parliament it is our duty, once we pass legislation, to stand by it. If we continue to question particular processes, it will almost be impossible to get through the approval stages. I make the comment that I recognise why the opposition is proposing amendments to the bill, and I will support those proposed amendments if we get the opportunity to go into the consideration-in-detail stage.

But I support the bill before the house, and therefore I cannot support the reasoned amendment, although I understand that that is probably the only thing we are going to get a chance to vote on. My view is that as members of Parliament it is our obligation to support the EES process. Otherwise we will end up with a continual debate about a particular process that theoretically all members of this Parliament agree with. It has been a detailed study. Do we believe the process was right? Do we believe an EES is required to develop this project? If we do, then theoretically we should support the outcome, but I understand the concerns of members opposite.

How important are the Melbourne port and our port systems to our economy? They are incredibly important. I suppose it is about pecuniary interests. I am a member of the Abalone Fishermen's Co-op at Mallacoota. All our product is exported through the port of Melbourne in containers, and a large proportion of the products from the Gippsland dairy industry is exported through the ports. Most of our rural industries export their products through the Melbourne ports.

I was recently in Singapore, where a lot of our product from Victoria goes. I had the opportunity to look at what happens in the Singapore ports, and the amount of boat traffic and port traffic is incredible. There is no way we would ever be able to do in Australia what has been done in Singapore, because theoretically there are no environmental guidelines there at all. They have stuff going everywhere, and they are building new islands and new port areas through dredging. That is why in Australia we have high-quality environment effects processes. I know there is opposition to that. I have done a fair bit of diving, so I understand the concerns of the diving industry, and I have a history as a commercial fishermen and understand those concerns, but my view is that we need to support the EES process.

Yesterday in the house I asked the Premier a question about the Bastion Point EES. That likewise has attracted strong local opposition. The majority of the community supports the project, but there is also strong local opposition, and I know what the council is having to go through to try to get the EES approved, including the number of submissions it has to deal with. It has to defend itself, if you like, through the panel process. There is a lot of interest in this potentially contentious project, and a lot of energy and money is going into the approval processes. There is a saying in the country that a man standing with a foot on either side of a barbed wire fence usually ends up castrated, and I think a few people in this house need to think about that. You cannot say it is important that we improve the operation of our ports and then say you oppose everything else that is around it.

In relation to the specifics of the bill, a couple of things are interesting. People have flagged that it potentially breaches some of the freedoms we have in this state. I am sure that when dredging occurs there will be protests, and I think it is important that the people undertaking the work have the ability to go about that work safely. If it means moving protesters or making sure protesters stay out of specific areas, that is an important power to give to the port authorities. As a diver the last thing you want to be doing is having someone in the water when you are drilling or taking part in dredging operations around the Heads. That would be incredibly unsafe.

We have seen over the last couple of decades that protesters have become much more aggressive. It is all about trying to get images of what they are doing on the TV that night. The last thing we need is some diver, who by protesting in the bay is trying to get their head on national television, being injured by the process. We need to have that ability in the legislation. I understand that some people might say it is a breach of human rights, but I think it is important that we weigh that up so that we give the people who have the responsibility to do the dredging the capacity to move protesters on.

I have listened to the comments about whether those powers are appropriate, and in the briefing I asked about this particular aspect. What happens if Joe Blow, a fisherman who does not read the *Government Gazette* and does not know a particular area is identified as a no-go zone, strays into that area? I am comfortable that the safeguards within the legislation will mean that if someone accidentally finds themself in there and is asked to move on, they will not be prosecuted. But when the minister gets the opportunity to sum up, I think that aspect should be covered, because it is important to make sure that individuals who happen to get through into what they do not realise is a no-go zone are not unnecessarily impacted by that. I hope we will go into the consideration-in-detail stage to discuss the amendments.

Ms ASHER (Brighton) — I too want to make a couple of comments on the Port Services Amendment Bill 2007. In particular I want to address the reasoned amendment moved by the member for South-West Coast and focus my comments on paragraph (d) of that amendment.

The bill before the house gives the government powers to dispose of dredged material and the capacity to charge port fees and channel fees, and it establishes restricted access zones. The fact of the matter is the bill is a follow-up to the channel deepening bill that lay on the notice paper for two years in the last Parliament. I know members have different views on how closely targeted this bill is to channel deepening, but in my head it is a bill about channel deepening, and I intend to address my comments to that effect.

The Liberal Party strongly supports channel deepening. We believe it is possible to effect it without environmental damage. Whether this government has the capacity to effect that project without environmental damage is another issue altogether. The fact of the matter is that the port of Melbourne is integral to the economic strength and wealth of this community. I agree with the previous speaker from The Nationals that it is absolutely vital to the farming sector to get its product out.

At the moment a number of ships are constrained. The channel deepening project will increase the capacity of the bay to take a draught of a ship from 12.1 metres to 14 metres. It will allow larger ships to access the port of Melbourne, as is needed in order to remain economically competitive. The advice we have received is that there are 80 000 jobs directly or indirectly associated with the port of Melbourne and this project, and this project is vital to those jobs, but there is obviously a broader economic role for the port for Victoria.

My position is very clear; however, I want to make a number of comments in addition to the broad indicator of economic support. The first comment I wish to make is in relation to the cost of the project. Today that cost has been put at $763 million. This was not the original cost when the government first flagged the project in its economic statement a number of years ago. The key question that I would ask the minister to address in summing up is to confirm that cost. I would like the minister to indicate who is picking up which sections of the tab.

The bill enables the costs to be spread as thinly as possible, which is a move away from the user-pays regime. I would ask the minister to spell out who is paying what element of the cost, so we can all understand the government's long-term view of where the costs will be — and obviously we know where the benefits will be. I call on the minister to do that.

The second point I wish to raise is the matter of environmental concern. I have had a number of discussions with people who have very significant environmental concerns. From my perspective, I believe it is possible to embark on this economic project and still address any environmental concerns. However, because there are very deep-seated concerns, and people have a right to hold those concerns, the Liberal Party has moved a reasoned amendment which refers to the establishment of an independent expert environmental panel; a public reporting system, which is very important; and a capacity for termination if the government's guarantees about environment are not brought into effect. There are many people concerned about those issues.

I particularly want to focus on the aspect of the reasoned amendment which calls for fair and reasonable compensation for commercial businesses, such as tourism and fishing businesses, which are significantly adversely affected by operations involving dredging and disposal of dredged material in Port Phillip Bay. Whilst I and a number of other people will always acknowledge the economic benefit of this project to the state of Victoria, there will be losers. Those losers, perhaps in the short term only, will be in the small business and tourism business sector. I put these concerns on the table not only in my capacity as shadow Minister for Small Business and shadow Minister for Tourism and Major Events, but I too share those concerns. The estimates are that losses of $14.6 million will be absorbed by diving businesses and significant other business losses of around $4.1 million will be experienced by other businesses that rely on the bay.

The Tourism Alliance Victoria, which would be the major peak association for tourism businesses in the state of Victoria, has raised with me a number of concerns. Tourism Alliance has indicated that the effect on a number of businesses may well be up to two years. These are businesses such as dolphin swim businesses, seal swims, fishing businesses, businesses associated with looking at whales, diving businesses and so on.

In essence what the tourism industry is relaying to me — and obviously they are right — is if there is murky water, there will be an impact on these businesses. What we are saying in section (d) of the reasoned amendment is there must be compensation to these business operators as part of the process. I do not

think it is justified for the minister at the table and indeed for other members of his party to say, 'These small businesses can go to court'. How out of touch are members of the Labor Party if they think a small business can take on the Port of Melbourne Corporation through the courts while the small business has been adversely affected. They are completely out of touch with the way in which these businesses work.

I also flag that many tourism operators have concerns, because they know how badly this government has managed major projects. They know the record of failure of this particular government. There are many businesses based around the bay itself. I hope this government will manage this project properly and that those businesses are not in the next tier of businesses that will need to apply for compensation. We wish the government to deal with the issue of compensation of businesses that will be affected because of the channel deepening project.

The broad economic benefits of the channel deepening project are not disputed by me, but the fact is there will be losers. The losers primarily are going to be in the small business sector and in the tourism industry. Those compensatory arrangements need to be worked out now not later. It is a nonsense of the Labor Party to say those businesses can take on the Port of Melbourne Corporation in court.

In conclusion I ask the question I asked yesterday: where is the Minister for Tourism and Major Events? Has he spoken up around the cabinet table on behalf of these businesses? I understand the minister is overseas on some jaunt. He should be here protecting the interests of the tourism industry. Likewise, where is the Minister for Small Business in this government? Is that minister voicing concerns for small business around the cabinet table? While the minister runs a small section of that department, primarily his job is one of advocacy. We are relying, unfortunately, on this new Minister for Small Business to put the case for small business and tourism operators on the issue of compensation. We have heard nothing of any definitive nature from the government about compensation.

I note that this week of all weeks two other pieces of legislation that adversely affect small business have been debated in this chamber — the Victorian Workers' Wages Protection Bill and the Equal Opportunity Amendment (Family Responsibilities) Bill. This government has very little regard for small business. I understand it is focused on the project itself. I understand it is focused on union demands. I understand it is focused on some of the demands of big business. But the reality is that there will be losers as part of this project, and those losers are the small businesses that rely on the bay to produce their income. I urge the minister in summing up to give us some assurances on a definitive compensation regime and not force these small players to take on the Port of Melbourne Corporation in the courts, which is pie in the sky.

Ms BEATTIE (Yuroke) — It gives me great pleasure to stand and support the Port Services Amendment Bill 2007, and support it unequivocally I do. It is absolutely vital for the good running of our port that this piece of legislation go through. The purpose of the bill is to amend the Port Services Act to make provision for further powers in relation to dredging, but it will also do other things. It will make further provision for port fees, and it will make provision for powers to restrict access to certain port lands and waters.

We have talked about business. I would like members opposite to come out to the other side of town, to the western and northern suburbs, and talk to businesses out there and talk to the manufacturers about their need to get those big ships into ports. I would also like them to come out to that area and talk to those businesses about the need for further flexibility in the channel. However, I do not want to focus on channel deepening, because there are further processes to be gone through in the channel deepening assessment by the Minister for Planning in another place. He has put forward some terrific recommendations to be looked at. The safeguards he wants people to look at include the introduction of an independent monitor; a $2.5 million cool-temperate reef community recovery search; and $300 000 for the Australian grayling recovery program. These are just a few of the things proposed. The Minister for Planning has also recommended that ongoing community consultation take place.

This really is necessary. The member for Gippsland East highlighted a fact about some projects and some demonstrators trying to get themselves on the news and what have you. We heard yesterday the Minister for Regional and Rural Development talking about some extremists who were going to set fire to things and who were making all sorts of threats in relation to the north–south pipeline. It is important that people are protected when work is being done and that they can go about their work unimpeded.

This is a really important bill. Many members on this side of the house would like to talk about their support for the bill. In conclusion, I think this is a good bill. Members opposite should stop sitting on the fence, if you like, and tell people what they are really doing.

They are just trying to have a foot in every camp, as usual. I commend this bill to the house.

Sitting suspended 1.00 p.m. until 2.04 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Western Health: investments

Mr BAILLIEU (Leader of the Opposition) — My question is to the Minister for Health. I refer the minister to Western Health's financial accounts, which show its United States subprime investments lost more than $2 million in just six weeks between 30 June and 9 August 2007, and I ask: given that the Auditor-General — —

Mr Stensholt interjected.

The SPEAKER — Order! The member for Burwood!

Mr Hulls interjected.

The SPEAKER — Order! The Deputy Premier!

Mr BAILLIEU — Given that the Auditor-General signed off on these accounts on 17 August, when did the minister first become aware of these losses? How much more has been lost since 9 August, and what action has the minister taken to recover taxpayer funds?

Mr ANDREWS (Minister for Health) — I thank the Leader of the Opposition for his question. As I have repeatedly said, investments are the appropriate responsibility of individual health services. The Health Services Act deals with that; the Financial Management Act deals with that; the Trustee Act deals with that; and the guidelines issued by the Department of Treasury and Finance deal with that also. There is a note — —

Mr Baillieu interjected.

Mr ANDREWS — I would have thought that if one member of this place would know that the notional value of investments fluctuates from hour to hour, it would be the Leader of the Opposition.

The SPEAKER — Order! The minister will come back to the question.

Mr ANDREWS — The Leader of the Opposition can talk about losses all he likes. Western Health is properly empowered to make investment decisions. It is accountable for those investment decisions. It is a matter for it, but at the same time part of that accountability is ensuring that at all times and in all things it follows the frameworks as laid down.

Honourable members interjecting.

Mr ANDREWS — They don't like the answer.

Honourable members interjecting.

The SPEAKER — Order! When the member for Lara, the member for Forest Hill and the member for South-West Coast have finished their discussion, we can continue with question time.

Dr Napthine interjected.

The SPEAKER — Order! My apologies to the member for South-West Coast if I was incorrect. Is he suggesting it was the member for Scoresby?

Mr Baillieu — On a point of order, Speaker, the minister is debating the question. The question asked when he became aware of these losses. He has failed again to address the fundamental premise of the question.

The SPEAKER — Order! As the Leader of the Opposition knows, the Speaker cannot direct how the minister answers the question. So long as the answer is relevant to the question, the answer complies with standing orders. I have already called the minister back to answering the question, but I do not believe that since then he has been irrelevant to the question. I ask the minister to continue his answer.

Mr ANDREWS — Thank you, Speaker. As I was saying, any notional movements in the value of investments made or held by health services are a matter for them, provided, of course, that the frameworks that are well established — and, might I add, tightened up under this government — are followed. I can say to all honourable members, through you, Speaker, that I am confident that all frameworks relevant to these investments, and indeed to all investments at Western Health, have been fully adhered to.

Questions interrupted.

ABSENCE OF MINISTER

The SPEAKER — Order! I advise the house that the Minister for Public Transport is absent from question time today. Questions regarding the public transport portfolio will be answered by the Minister for Roads and Ports. Any questions for the arts portfolio will be answered by the Premier.

Questions resumed.

Equine influenza: Spring Racing Carnival

Mr FOLEY (Albert Park) — Can the Premier update the house on the Victorian government's efforts to ensure that the Melbourne Cup stops the nation like never before?

Mr BRUMBY (Premier) — I thank the member for Albert Park for his question and for his interest in the success of the Spring Racing Carnival in Victoria. This morning, with the Minister for Racing and the Minister for Agriculture, I visited the Flemington racetrack. In the company of the Victoria Racing Club's chairman, Rod Fitzroy, the head of Racing Victoria, Graham Duff, the chief veterinary officer and the chief steward, we inspected the arrangements that have been put in place for the Victoria Derby on Saturday, the Melbourne Cup on Tuesday, Oaks Day on Thursday and Emirates day, of course, on Saturday.

I am pleased to advise the house that we are now in a position to say with 100 per cent certainty that the remainder of the Spring Racing Carnival will be completed. Because of the steps that have been put in place by the Victorian government and the racing industry, even if there were an outbreak of equine influenza (EI) — which I think is highly unlikely — or any entrance into Victoria over the next few days, the quarantine arrangements that are in place around Flemington, Caulfield and Sandown are such that all these race meetings will be able to proceed.

I remember back two months to the first race meeting of the season — the Makybe Diva Stakes day at Flemington — which I attended with the Minister for Racing. At that time we announced additional support, through the Victorian government, to protect the state from equine influenza. I know there have been some critics of our package around the place, but we have succeeded, with the racing industry, in keeping EI out of this state.

The initiatives that have been put in place have been warmly welcomed by the industry and by groups ranging from the Royal Agricultural Society through to veterinary associations and pony clubs and other horse clubs. They have supported the initiatives we have put in place, including, of course, the half a million dollar grants that we have put aside to help those industries.

All through the debate we have heard the Leader of the Opposition and the Liberal Party say that EI would come into Victoria, that the government had not done enough and that the Spring Racing Carnival was at risk. The fact is that this will probably be the greatest Melbourne Cup, because there has never been such a challenge to the Spring Racing Carnival. The racing industry in Victoria has come through this challenge with flying colours. We saw huge crowds at Caulfield for the cup and Master O'Reilly's great win. I think we saw a record crowd last week at Moonee Valley for the Cox Plate win by El Segundo, and the race fields coming up in the next few days are as good as they have ever been. Last year we had 770 000 attend the Spring Racing Carnival. It generated something like $630 million to the Victorian economy. We have been determined to make sure that the carnival proceeds, and it will, I think, in great style.

The final point I would make just briefly is that the federal government has now committed more than $220 million worth of aid and support for the racing industry. Not a cent of that has come to Victoria. I appeal to the federal government. There are costs that have been experienced right across Australia because of equine influenza, and I appeal to the better nature of the federal government and the federal Minister for Agriculture, Fisheries and Forestry, Peter McGauran, to ensure that Victoria receives its fair share of funding under the federal government's EI package.

Weeds and pest animals: control

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Agriculture. I refer to the fact that the minister is soon to assume responsibility for weed and vermin control across Victoria, and I ask: will the minister ensure that the same legal requirements and sanctions for such controls of weed and vermin which apply to private landowners also apply to public land managers such as the Department of Sustainability and Environment and Parks Victoria?

Mr HELPER (Minister for Agriculture) — I thank the Leader of The Nationals for his question. It gives me the opportunity to reiterate the commitment the Premier made to farmers in Victoria some weeks ago. He recognises the fact that agriculture in Victoria, and rural land-holding in Victoria, has a great part to play in the vibrancy of this state, in the economic prosperity of this state and in the forward direction of this state.

Of course weed and pest management is a crucial issue to farmers and to land-holders right across this state. I acknowledge with gratitude the work that I have been able to do, with the Minister for Environment and Climate Change, to streamline the service delivery of weed and pest services to land-holders across the state. We will continue to work in partnership. Of course, the Minister for Environment and Climate Change is

responsible for Crown land management. Crown land makes up a significant part of Victoria's land, and I will be responsible for — as will the Department of Primary Industries — extending services so that we can now better integrate with private landowners in terms of weed and pest management.

I think farmers will benefit tremendously from this partnership and the focus which it can bring to weed and pest management.

Mr Ryan — On a point of order, Speaker, the minister is debating the issue. I would have him answer the question as to whether the same rules are going to apply to private landowners and to the Department of Sustainability and Environment and Parks Victoria. What is good for the goose is good for the gander. That is basically the question.

The SPEAKER — Order! I am not prepared to uphold the point of order at the moment. I was listening to the minister, and I believe he was talking about the management of Crown land.

Mr HELPER — These changes to the arrangements within government for the management of weeds and pests will indeed allow the Department of Primary Industries to integrate more fully with the services we provide to farmers already. We will be better able to integrate with those services the support we provide to them regarding weeds and pests. I think these changes will see a continued rigorous commitment to the management of weeds and pests in this state. I look forward to the new responsibilities, and I look forward to the continuing partnership with my ministerial colleague.

Schools: technical education

Mr HERBERT (Eltham) — My question is to the Minister for Education. Can the minister advise the house on how the Brumby government is delivering for education in Victoria through school-based training opportunities for students and how this relates to the Australian technical colleges?

Ms PIKE (Minister for Education) — I thank the member for Eltham for his question. The Brumby government is providing very significant training opportunities for students in our schools. This of course includes the introduction of the very successful Victorian certificate of applied learning (VCAL) in 2003. We know that VCAL is a very hands-on option for young people in years 11 and 12 which provides them with practical, work-related opportunities for learning. Given the growth in employment opportunities in our state and the skill shortages that we are experiencing, it is important that we have programs that link students' learning to potential skill shortage areas. The government allocated a further $47.2 million over four years in the last budget to VCAL providers. It is terrific that a further 1600 students have now participated in this program, bringing the enrolment in VCAL to 12 000.

We also have VET in Schools, which includes school-based apprenticeships and traineeships. Again this is another fantastic story, with 38 000 students now undertaking nationally accredited vocational subjects in our schools, either through VCE or VCAL or as part of the VET program. In the last budget, on top of these initiatives, we announced $50 million to build or modernise technical education wings in 30 government secondary schools and provide further equipment grants, and we also provided $32 million for four new technical education centres across the state — in Ballarat, Wangaratta, Berwick and Heidelberg.

This is a very considered approach to the provision of technical education within our school system. In fact our approach is upheld by international thinking and research. The *Australian* of 31 October reported that the Dusseldorp Skills Forum chairman had said that the OECD (Organisation for Economic Cooperation and Development) had identified a move to further integrate vocational and general education to allow students to move freely between these sectors and to broaden the base of their skills.

I was asked to also comment on the Australian technical colleges, because there is a stark contrast between the approach of the Brumby government to developing technical skills within our education system and the approach of the federal government, which has a very unilateral methodology regarding a number of its educational initiatives. In fact the same Dusseldorp Skills Forum chairman said that there were real problems with this approach and is reported as saying:

> John Howard's scheme for a vastly enlarged technical colleges program runs contrary to international evidence of successful skills formation.

As we know, the Australian government had announced six of these technical colleges previously and has now said it will extend these independent stand-alone technical colleges as part of its election campaign. Even its own Australian National Audit Office report of June 2007 calls into question the establishment of these stand-alone technical colleges. We know from evidence here on the ground that by and large these schemes are failing because they are not

integrated into the broader education system that is provided by the state.

The planning times have been shortened and applications have been limited. In fact the whole scheme has been so poorly planned that it is very much a Johnny-come-lately approach to education.

Honourable members interjecting.

Ms PIKE — One of the problems, of course, is that these particular technical colleges are really an unnecessary duplication of the system. They are poorly coordinated and they lack integration. There are alternative policies that — —

Honourable members interjecting.

Ms PIKE — I thought I had made it quite clear that international best practice had identified that stand-alone technical colleges that were not integrated into a broadbased education system were poor international public policy. That is exactly what the Howard government is seeking to extend: poor public policy. Our government, of course, takes heed of what works — —

Mr Ryan — On a point of order, Speaker, ministers responses are intended to be succinct, and I would ask you to have the minister complete her answer.

The SPEAKER — Order! The minister has been speaking for some time, and I ask her to conclude her answer.

Ms PIKE — We are interested in proposals that deliver more places for young people and really do assist our young people in moving into areas of skill shortages. That is why we believe the alternative proposal of a federal Labor government, which would see a trade wing in every school, is something that we can work with.

Port Phillip Bay: channel deepening

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. How much will the state government contribute to the channel deepening project?

Mr BRUMBY (Premier) — As I have pointed out, I think publicly, on a number of occasions, there is a series of legislative steps in place for the final approval of the channel deepening project. The Minister for Planning made his announcement this week and gave his approval to the panel report, and his conclusion was that the project could proceed, subject of course to some further environmental improvements, including the environmental monitor.

There are a number of other processes. The project has to be approved by the state minister for the environment under the Coastal Management Act, the project has to be recommended for approval by the minister for ports, subsequent to the announcement made this week by the Minister for Planning, and of course the federal minister for the environment must also give his approval under relevant commonwealth acts. So the government will make its decision about a contribution to the project when the full range of legislative requirements has been met, and at that time — —

Mr Baillieu — On a point of order, Speaker, this was a very narrow and simple question. We have read in the paper that the Premier wishes and intends that this project proceed in just a few weeks.

Honourable members interjecting.

The SPEAKER — Order! I ask for cooperation from the member for Burwood and other government members. It is the same requirement as applies every day: I need to hear points of order in silence.

Mr Baillieu — The Premier has indicated in the media in the last 24 hours that he intends this project to proceed in the next few weeks. It would be amazing if the Premier had no idea whatsoever of the contribution the state was going to make. The question was simple and narrow, and I invite you, Speaker, to ask the Premier to address the question.

The SPEAKER — Order! The Premier was being relevant to the question and was as I understood it at the time addressing the state government's thought process and the processes behind how it would come to the conclusion that would answer the member's question.

Mr BRUMBY — I think we have gone from the subprime to the ridiculous.

Honourable members interjecting.

The SPEAKER — Order! The Premier will continue with his answer.

Mr BRUMBY — We will make an announcement on this at the appropriate time when we move further through the approvals process, as I have consistently said. I have consistently said that the state will make a contribution to this project, but the bulk of the cost of the project will be met by port users.

Housing: affordability

Dr HARKNESS (Frankston) — My question is to the Minister for Housing. Can the minister update the house on the state government's continuing work on housing affordability and any future challenges to its efficacy?

Mr WYNNE (Minister for Housing) — I thank the member for Frankston for his question. The Victorian government remains the national leader in addressing housing affordability. Melbourne is the most affordable city on the eastern seaboard. We have the highest proportion of first home buyer activity of any state in Australia, and we are the only state that has consistently grown social housing stock since we came to government in 1999. This is a very proud record, but it has not happened by chance; it has happened through good policy.

We have ensured that land supply is available for the next 25 years in all of our growth corridors. The house, of course, would be well aware that this government has made cuts to stamp duty worth $600 million, has extended the first home buyers bonus and is the first state to have abolished stamp duty on mortgages. I was very proud some weeks ago through the budget to have received a record one-off investment by this state government of $510 million in public and social housing outcomes. This is a policy framework which puts us in the position of being the most affordable state on the eastern seaboard.

That does not mean that there are not challenges ahead; there are very significant challenges ahead. Yesterday I was with the Deputy Premier at a function where we were talking to representatives of the Real Estate Institute of Victoria. They again indicated to us the crisis that still remains in the private rental market. Private rental vacancy rates in the Melbourne metropolitan area are now at 1.4 per cent, one of the lowest vacancy rates in 25 years. What this effectively means is that the inner and middle-ring suburbs of metropolitan Melbourne are no-go zones. They are no-go zones for anyone on a low income, and that is not a good public policy outcome.

This is a very critical situation that we find ourselves in. We have seen rent auctions and speculation in that market, and that is a very dangerous situation. This, coupled with what many economic forecasters suggest is going to be an interest rate rise next week when the Reserve Bank of Australia meets, puts double pressure on the economy. There are suggestions of an increase in interest rates of between 25 basis points and 50 basis points potentially tipping people over the edge into a housing crisis. As many people in this house would know, if a family is paying more than 30 per cent of its income on housing costs, it is starting to move into housing stress. This really puts to shame the prognostications of the Prime Minister, who says that we have never had it so good. That is certainly the view of the federal government.

Mr K. Smith interjected.

The SPEAKER — Order! I ask for some cooperation from the member for Bass.

Mr WYNNE — I believe there are options that have become available through this election campaign. Federal Labor announced this week — —

Honourable members interjecting.

The SPEAKER — Order! The minister must not debate the question and must refer to state government business.

Mr WYNNE — With respect, I am dealing with state government business, because if I am allowed the opportunity, I am going to — —

Honourable members interjecting.

The SPEAKER — Order! I warn the Minister for Health. I also warn the member for Kilsyth and the member for Warrandyte, and I ask the member for Polwarth to cease interjecting in that manner. I am absolutely not going to have that behaviour in this chamber.

Mr WYNNE — I have spoken in the house in the past about the failure of the current federal government to re-endorse a commonwealth-state housing agreement.

Honourable members interjecting.

Mr WYNNE — This is exactly state government business.

The SPEAKER — Order! The commonwealth-state housing agreement is state government business.

Mr WYNNE — I have spoken in the house about this before, and I am pleased to indicate that the alternative government has agreed to a new affordable housing agreement going forward.

Honourable members interjecting.

The SPEAKER — Order! It is not appropriate for the minister to answer in such a manner as to refer to what may happen with a future government. The minister, confining his comments to state government business.

Mr WYNNE — When you have tens of thousands of people battling to get into the private rental market and commonwealth rent assistance, which again is a commonwealth subsidy to tenants, which has only been indexed and has not kept pace with the increases in the private rental market, they are the sorts of issues that I would have thought this house might be interested in getting addressed.

This is a tipping point in the election. We look forward to future policy directions that are going to address affordability in the private rental market, that are going to address affordability in terms of home ownership and that are going to ensure that we have a proper social safety net for people in public and social housing — and that will be from a Labor government.

Honourable members interjecting.

The SPEAKER — Order! Before calling the member for South-West Coast, I again ask the member for Derrimut to not pound on the desk in front of him.

Emergency services: south-western Victoria helicopter

Dr NAPTHINE (South-West Coast) — My question without notice is to the Premier. I refer to the fact that the south-west is the only area of Victoria which is not protected by a locally based emergency helicopter service and to the Premier's reported comments to take a personal interest in this matter, and I ask: will the Premier now commit to funding this essential, life-saving service?

Mr BRUMBY (Premier) — I thank the member for South-West Coast for his question. I can assure him that the government is committed to continually improving emergency services across rural and regional Victoria. As the member is aware, during a recent visit to western Victoria I met with a number of representatives — —

Ms Asher interjected.

Mr BRUMBY — Well, I did not see you there!

The SPEAKER — Order! The Premier will ignore interjections, and I ask for some cooperation from the Deputy Leader of the Opposition.

Mr BRUMBY — I indicated during those discussions that I had an open mind on this issue but that the case would need to be made out. All the information and the evidence I have seen — and I made an amount of that available at the meeting at the time — suggest that the case cannot be made out and that the case cannot be justified in terms of appropriate value for money and the benchmarks which are set in other parts of the state.

Honourable members interjecting.

The SPEAKER — Order! The Deputy Leader of the Opposition!

Mr BRUMBY — I did indicate at the meeting that I would seek further information in relation to this matter. That information is being provided. I am advised, again in relation to the case and the potential use of such an ambulance, that, in terms of other benchmarks that have been set across the state, it would not meet those requirements.

In terms of the overall assessments which governments make, they have to make assessments about where best to make those investments. We have increased funding to the hospital system by 96 per cent since we have been in office. We have done that because it provides good patient care and better hospitals, which save lives.

Honourable members interjecting.

The SPEAKER — Order! The member for South-West Coast has asked his question.

Mr BRUMBY — I am advised also that we have increased funding for ambulance services by over $140 million, which has more than doubled. We have upgraded 45 ambulance stations and we have built 23 new ambulance stations in Victoria. We have also put in place 700 new paramedics and put 100 new vehicles on the road.

Finally, can I say that, in relation to air ambulance services generally, in the budget this year we allocated an additional $8 million for stage 2 of the new emergency services precinct at Essendon Airport, which of course provides new facilities for Air Ambulance Victoria.

Mr Baillieu — On a point of order, Speaker, the Premier is clearly debating this question. It required a simple yes or no answer. The Premier has done his absolute best to avoid saying no, which seems to be the Premier's response. If it is no, say no.

The SPEAKER — Order! I believe that in my ruling earlier this week I spoke of the instance where the same point of order is taken day after day, simply as a waste of time and an interruption to debate. There is no point of order. The Premier was being relevant to the question.

Mr BRUMBY — Finally in relation to this matter and how best to invest those funds, we take advice from the experts, including the rural ambulance service. We have taken advice from it, and as I said, its view and that of Air Ambulance Victoria at this stage is that the case cannot be made out.

Honourable members interjecting.

The SPEAKER — Order! The Minister for Health and the member for Ferntree Gully will stop yelling at one another across the chamber, or they can both leave the chamber and yell outside.

Mr BRUMBY — In relation to the south-west coast, we approved in this year's budget $90 million towards the hospital extensions at Warrnambool, so we are making significant new investments in that region, which will of course improve the health and safety of all the people who live and work there.

Energy: clean coal technology

Ms LOBATO (Gembrook) — My question is for the Minister for Energy and Resources. Can the minister outline alternative energy sources that could be used to implement Victoria's strategy for lowering greenhouse gas emissions from energy generation?

Mr BATCHELOR (Minister for Energy and Resources) — I thank the member for Gembrook for this question. The member for Gembrook is well known as a person who cares for the environment, and it is not a surprise that she has asked such a question.

The Victorian government is committed to reducing greenhouse gas emissions. We are committed to a 60 per cent reduction by the year 2050 compared to 2000 levels. Energy generation is of course a key focus of that. Cheap electricity here in Victoria has driven our economy for many years, but as we all know, brown coal, the source of the bulk of that energy, is very emissions intensive, and we cannot continue to operate in the same way as we have in the past.

Fortunately for Victoria the Brumby government has a lot of plans to make our electricity cleaner via alternative generation methods. We have already introduced our Victorian renewable energy target, VRET, which has led to projects worth over $2 billion in investments and more than 2200 jobs for Victoria. We are turning our back on nuclear energy, because we want to support the powerhouse of Victoria, the Latrobe Valley.

In fact we believe the Latrobe Valley has a big future and a clean future. We think that clean coal technologies, together with carbon capture and storage, will play a big part in the state's future energy supplies as clean sources of energy for Victoria. We are not just talking about it. Through its energy technology innovation strategy this government has committed over $100 million to the development of technologies that will enable coal-fired generation to produce electricity with near-zero emissions.

However, our plan does not include generating nuclear energy or installing nuclear power plants in Victoria. Nuclear energy is not the answer to climate change. It would create a new set of problems, not solve problems, and it would create a legacy of health, safety and security issues to be managed by our children and future generations.

We believe nuclear energy is a major threat to the Latrobe Valley. I am very worried about the future of jobs in the valley if a re-elected Howard government were to put some of its proposed 25 nuclear power plants in the valley. Nuclear power is baseload generation, and recent modelling by McLennan Magasanik Associates for the Climate Institute shows that the biggest threat to the coal industry, and hence the Latrobe Valley, is John Howard's plan for nuclear reactors in Australia. MMA's modelling shows that by including nuclear power — —

Honourable members interjecting.

The SPEAKER — Order! I warn the member for Polwarth. He has been warned twice during this question time.

Mr BATCHELOR — This report shows that including nuclear power in the proposed clean energy target will decrease coal-fired generation by some 20 per cent. This would have a disastrous impact on workers and families in the Latrobe Valley. We know that nuclear power is part of the federal government's plan; it is not part of our plan. My federal colleague on the ministerial council thinks it is not possible to reduce greenhouse gas emissions — —

Mr Clark — On a point of order, Speaker, the minister is both debating the question and not being relevant to the question. The question related to what alternative energy sources could be used to decrease

greenhouse emissions in Victoria, and the minister is not being relevant to that question.

Mr BATCHELOR — On the point of order, Speaker, I have been talking about nuclear energy, which is an alternative power source. Nuclear energy does reduce greenhouse gas emissions. That is exactly what I am talking about.

The SPEAKER — Order! I have been trying to listen to the minister's answer very carefully. The minister has been talking about an alternative energy source — that is, the preference of the Victorian government for clean-coal technology rather than nuclear technology. I ask the minister, who has now been speaking for more than 4 minutes, to conclude his answer.

Mr BATCHELOR — Thank you, Speaker, I will do that. This government supports the Latrobe Valley. We support initiatives to help make electricity generation there clean and viable. We support alternatives, but we do not support nuclear energy. It is disappointing to see that the first in the queue for the ribbon-cutting ceremonies for the nuclear power plants is the nuclear club — —

The SPEAKER — Order! I ask the minister to conclude his answer.

Mr BATCHELOR — It is disappointing to see that there are people who are in that club, and they are based in the Latrobe Valley.

Minister for Education: leaflet

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Education. I refer to a leaflet headed 'A special water message' distributed by the minister to her electorate constituents regarding the government's proposals to supplement Melbourne's water supply. I refer particularly to that part of the document that says, 'I have enclosed an information card detailing plans' — I note the plural — 'to secure Melbourne's water supply', and I ask: is the fact that the card only refers to the desalination plant while failing to even mention the north–south pipeline reflective of the minister's embarrassment at this element of the government's flawed proposals, or is she simply misleading constituents?

Honourable members interjecting.

The SPEAKER — Order! I know we are heading towards the end of Thursday's question time, and it is always more raucous than any other question time in the week, but I ask for the cooperation of members so that we can conclude question time in an orderly manner.

Mr Hulls — On a point of order, Speaker, I noticed that when the Leader of The Nationals stood up he addressed his question to the Minister for Education. I refer you to page 155 of *Rulings from the Chair — 1920–2007*, which makes it quite clear that a member may only ask a question relating to a minister's current responsibility. This question has nothing to do with the minister's current responsibility, and I therefore ask you to rule it out of order.

Mr Ryan — On the point of order, Speaker, the minister, as part of the government and as part of the cabinet which is involved in these proposals, clearly has a responsibility in a whole-of-government sense — —

Honourable members interjecting.

The SPEAKER — Order! The Leader of The Nationals is taking a point of order. I would like to have the opportunity to hear points of orders in silence.

Mr Ryan — The minister clearly has a responsibility in a whole-of-government sense, as well as for this document, which on its face is described as an educational document for her constituents. She should have to answer the question. Why is she misleading them, Speaker?

Mr Batchelor — On the point of order, Speaker, to assist you in resolving this issue can I address you to the rulings by former Speaker Plowman on 20 May 1997 and 22 May 1997, where he stated quite clearly that a member may only ask a question relating to a minister's current responsibility. There has been no change in the Minister for Education's responsibility, and this issue of water cannot and should not be directed to her. If the Leader of The Nationals has directed that question to her, that is his choice. He has been here long enough to know these standing orders and the rulings of the Speaker. He has been here well and truly long enough! He is trying to get away with it, but it will not work. I think you, Speaker, should rule the question out of order, as it clearly is.

The SPEAKER — Order! I rule that the question is not in the minister's portfolio responsibility and rule it out of order.

WorkChoices: effects

Mr CRUTCHFIELD (South Barwon) — My question is for the Minister for Industrial Relations. I refer the minister to the government's commitment to Victorian working families, and I ask him to update the

house on the effects of having the workplace rights advocate to protect these families from the federal government's extreme industrial relations regime.

Mr HULLS (Minister for Industrial Relations) — As we all know in this house, since the introduction of WorkChoices we have seen example after example of how the federal coalition's callous attitude to working families is actually eroding basic working conditions. In contrast, the Brumby government recognises the harm that WorkChoices is doing, and it will continue to do what it can — —

Honourable members interjecting.

The SPEAKER — Order! The answer to this final question will not become the time for a shouting match.

Mr HULLS — We will continue to do what we can to protect Victorian working families against the onslaught of WorkChoices. One of the things that we have done is set up a workplace rights advocate in this state. This office is all about restoring some critically needed balance and also fairness to workplaces around this state and to the workplace relations system. The advocate's annual report shows that more than 6200 complaints were received between March 2006 and June of this year. The workplace rights advocate has made investigations in relation to 80 cases of illegal, unfair or otherwise inappropriate workplace behaviour.

The office has also launched an inquiry into the impact of WorkChoices on the retail and hospitality industries. It has also launched a whole range of other research that shows that typical Victorian workers on AWAs (Australian workplace agreements) actually earned 23 per cent less than Victorian workers on collective agreements. Almost 80 per cent of employer greenfield agreements reduced or removed overtime, penalty rates, breaks and casual loadings — —

Mr Wakeling interjected.

The SPEAKER — Order! The member for Ferntree Gully!

Mr HULLS — Low-paid workers have also lost job security and have had their work and rosters changed without any negotiation or notice. Workers in the retail and hospitality industries have lost up to 30 per cent of their earnings under WorkChoices.

The number of complaints coming into the workplace rights advocate has increased substantially from an average of 80 calls per week to 120 a week since May of this year — 120 complaints per week.

Honourable members interjecting.

The SPEAKER — Order! I again seek the cooperation of the members for Kilsyth, Warrandyte, Ferntree Gully, Bass, Bulleen and Scoresby.

Mr HULLS — The study undertaken by the workplace rights advocate has identified the top four local government areas — the final four, if you like — from which complaints have been received on its hotline.

In fourth place comes the Yarra Ranges. Many complaints have come out of the Yarra Ranges, which incidentally, as we know, is in the federal seat of Casey. In third place is Knox. Many complaints have been received by the workplace rights advocate from the Knox area. In second place is Casey. Many complaints have been received in relation to unfair practices in workplaces in Casey, which, as we know, is in the federal seat of La Trobe. And in first place, receiving more complaints than any other municipality in Victoria — particularly in the area, might I say, of underpayment and workplace fairness, where working conditions and entitlements were changed without consultation thanks to John Howard and Joe Hockey — is the city of Greater Geelong. It has been handed a premiership cup that it did not want to win!

I conclude on this note, Speaker. The federal member for Corangamite — —

Honourable members interjecting.

The SPEAKER — Order! I did omit the member for Nepean in my last warning. I have now included him and send a reminder to the members for Kilsyth and Ferntree Gully.

Mr HULLS — The federal member for Corangamite should hang his head in shame.

Mr Clark — On a point of order, Speaker, the minister is commencing to debate the question. He should confine his answer to Victorian government business.

The SPEAKER — Order! I accept the point of order. The Deputy Premier is beginning to go down a path that the Speaker would not appreciate.

Mr HULLS — I conclude on this note, and that is that working families in Geelong — —

Honourable members interjecting.

The SPEAKER — Order! I am serious. The member for Ferntree Gully is skating on thin ice, as is the member for Kilsyth. Enough is enough!

Mr HULLS — For the third time, I conclude on this note, Speaker: working families in Geelong are now the premiership victims of WorkChoices for the entire state of Victoria, and that is because of the federal member for Corangamite supporting WorkChoices.

The SPEAKER — Order! The member for Gippsland East, on a point of order.

Mr Ingram — On a question.

The SPEAKER — Order! The time set aside for questions has expired.

Mr Ingram — On a point of order, Speaker, standing orders clearly state that 10 questions are required to be answered. As we have only had 9 questions answered, I would like to have the call for the 10th question.

The SPEAKER — Order! Unfortunately for the member for Gippsland East, standing order 55(2)(i) states that:

> where a question is ruled out of order it is, for the purposes of this standing order, deemed to have been answered …

The time set aside for questions has expired.

PORT SERVICES AMENDMENT BILL

Second reading

Debate resumed.

Mr THOMPSON (Sandringham) — The Port Services Amendment Bill, which is before the house this afternoon, is a significant bill. But the government needs to respond to a range of concerns within the wider community regarding the channel deepening process. The port of Melbourne is the gateway for the south-east of Australia to overseas markets. At the same time it is recognised by many that the biodiversity of Port Phillip Bay is greater than that of the Great Barrier Reef.

A range of other stakeholder interests and businesses is affected by the channel deepening project, including the tourism industry, dive operators, boat operators, fishing charter boat operators and a range of boating organisations. Included in the bay's biodiversity are over 60 identified fin species of fish and an aquaculture industry that generates a return to the Victorian economy. It has been stated that, unless we as a community respond to the environmental challenges of the bay, we will ultimately destroy its economic and tourism value across many frontiers.

The shadow minister for ports has moved a reasoned amendment to the second reading of the bill. It is a very important amendment, and I would like to focus on it because it responds to the concerns of a range of stakeholder submitters to the process. I note that the keywords of the reason amendment are that:

> … this bill be withdrawn and redrafted to:
>
> (a) incorporate the establishment of an independent expert environmental panel to monitor and oversee any dredging and disposal of dredged material in Port Phillip Bay;
>
> (b) ensure the independent expert environmental panel is required to publicly report on a regular basis on the environmental effects of any dredging and disposal of dredged material in Port Phillip Bay;
>
> (c) provide the necessary powers for the independent expert environmental panel to be able to immediately stop any dredging and disposal of dredged material to protect the environment of Port Phillip Bay; and
>
> (d) provide for a system of fair and reasonable compensation for commercial businesses, such as tourism and fishing businesses, which are significantly adversely affected by operations involving dredging and disposal of dredged material in Port Phillip Bay.

This is a very important amendment that, if implemented, would go part of the way towards responding to a range of concerns that have been raised. Graham Harris, a leading Australian expert on Port Phillip Bay and its delicate ecosystem, wrote a report to the Association of Bayside Municipalities (ABM), saying:

> In my report to you on the initial EES I wrote: 'The present publicly available EES documents are, in my opinion, deficient in respect of their integration and systems overview in respect of their lack of consideration of the proposed works on ecosystem services provided by the bay, and in respect of the lack of detail about the hydrodynamic modelling and potential impacts on ecosystems and biodiversity in the bay. Overall there does not yet appear to be an adequate risk management tool by which both the proponents of the project and other interested parties may judge the risks of the proposed dredging works. Coastal embayments like Port Phillip Bay are subject to long-term (sometimes irreversible) change arising from individual extreme events, so it is necessary to he able to assess both the short-term risks arising from the resuspension of sediments and spoil disposal during dredging activities, as well as the long-term risks of irreversible ecosystem impacts. This is a very challenging task that will require integration and synthesis of the many EES tasks as well as sophisticated modelling of dredging activities, plume dispersal, water movements and potential ecosystem damage'. This conclusion stands today. Only the

> shortcomings in the hydrodynamic modelling appear to have been rectified — and over $100 million has been spent to get us very little further. The requirements of the SEES guidelines appear to have been ignored, and we are instead presented with a restatement of the proponent's intentions wrapped up in ever more impenetrable prose.
>
> It is now accepted that the CDP is a risk to the integrity of the bay ecosystem. This SEES has, once again, failed to correctly assess that risk. The bay is a valuable asset to the community, both in terms of aesthetic and community values and in terms of its provision of a number of valuable ecosystem services. Given that the risks and values are not adequately assessed and costed in these documents, I do not believe that we have an adequate case for the project to proceed.

The Association of Bayside Municipalities, in its report, recommended that there should be an adaptive management approach providing public confidence. One of the key comments by Graham Harris was that:

> Overall there does not yet appear to be an adequate risk management tool by which both the proponents of the project and other interested parties may judge the risks of the proposed dredging works.

The amendment proposed by the shadow minister, that the bill be withdrawn and redrafted to incorporate the establishment of an independent expert environmental panel to monitor and oversee any dredging and disposal of dredged material in Port Phillip Bay and to ensure that the panel be required to publicly report on a regular basis on the environmental effects of any dredging and disposal of dredged material in the bay, with necessary powers to stop any dredging and disposal of dredged material, would go a long way towards addressing the concerns raised by Dr Harris.

The Association of Bayside Municipalities in its adaptive management approach noted that:

> In the ABM's previous position on this project, we highlighted the need for a highly considered and stringent application of an adaptive management approach … We are of the view that there are still unknowns and many projections, some of which have been extensively extrapolated off each other in this project.
>
> As a result, there should be a confident capacity and ability to amend operations, cease works, shift to alternatives, or undertake rescheduling, should monitoring information through the construction of the project reveal that detrimental results other than those predicted are being observed.

That is a very important point by the Association of Bayside Municipalities, and it is one that the fine amendments proposed by the shadow minister would work to address. I call on the government to incorporate these amendments into the bill. The opposition is aware of the importance of the port of Melbourne to economic activity in this state. The opposition is also aware of the process, in my own case on a first hand basis, having observed the dredging processes on the *Noordzee*, the Dutch suction dredger that transported some 187 000 cubic metres of sand as part of the $3 million rebuilding of Hampton beach.

As I understand it, the present project would involve the movement of some 40 million cubic metres of the spoil between the Fawkner beacon point and the mouth of the Yarra River. In that particular area there rests over 160 years of urban stormwater run-off and waste. A range of metals and other pesticides are dormant within the sediment, which, if disturbed, could have an impact on the ecosystem. The amendments proposed by the shadow minister would enable that to be regularly monitored so that if a problem arose, as determined by the expert panel, it would have the opportunity to halt the operation to ensure the sensitive ecosystem of the bay was not disturbed.

There is another issue that has not been addressed in this particular project, and it is a very important one around the bay. With the leaching of sand along the coastline we have seen the loss of beaches at Point Lonsdale over recent years. There is significant erosion at Blairgowrie, and at North Aspendale there has been a significant loss of sand. A number of years ago the beaches at Hampton that I alluded to were renourished, and that was an outstanding success. At the present time there is what seems to be an apparent failure of an outcome, based on disputed expert advice regarding the rebuilding of the beach at Sandringham to protect the area north of Red Bluff as a consequence of the undercutting of the cliff face through wave action.

The rock groyne that has been installed there has created a range of other water movements based upon different tidal patterns and wind movements that have eroded significantly the beach to the north of the groyne. This would have been a marvellous opportunity for the government to have seized the moment and incorporated a beach renourishment program as part of the movement of the spoil, which would have gone a long way towards rebuilding the eroding coastline around Port Phillip Bay.

Mr BROOKS (Bundoora) — It is a pleasure to rise in support of the Port Services Amendment Bill 2007, which is a very important bill in terms of improving the efficiency and the operations of the main port in Victoria. Obviously that will also improve public safety and provide for a more efficient operation of the whole bay.

The bill deals with a number of matters. Much of the debate today has centred on the proposal to deepen the channel. Before moving on to that topic, I want to deal

with some of the other matters contained in the bill. One part of the bill amends the Port Services Act to clarify the legislative power of the port authority to place dredged materials within the bay, and I will come back to that in terms of the channel deepening discussion. There is also a part on the creation of restricted access areas. The bill allows the minister to declare restricted access around certain vessels or activities within these waterways.

The minister in his second reading-speech gave some examples that I think all of us would support. For example, he said that when a warship was visiting Melbourne he would be able to declare a restricted area around it to prevent protesters from getting too close, thereby improving the safety of not only protesters but also the authorities charged with protecting those vessels.

The other example would be the spectator flotilla that sometimes accompanies large cruise ships as they enter port. The bill will provide for safety areas around cruise ships, and where dredging activity is taking place safety areas will keep the general public at a safe distance from those activities. A question was raised in debate by a member of the opposition about the issue of access and whether it was a fair thing. It is interesting to note that the Scrutiny of Acts and Regulations Committee thoroughly discussed and reported on that matter. Its *Alert Digest* is available for members to read. While there was a significant discussion, the committee took advice from the human rights adviser on the committee, Dr Jeremy Gans, and made no adverse comment on the substance of the bill in relation to this matter.

As for the proposed channel deepening process — as I said, this bill deals with matters broader than just that particular project, although it covers some other aspects of the channel deepening — it is important to keep in mind the importance of the project. In the 2004–05 financial year the port generated $2.5 billion in economic output and supported 13 000 jobs. The Australian Bureau of Statistics report stated that Melbourne handled $53 billion in international trade in that financial year. The proposed channel deepening has a potential benefit, in net present value terms, of $2.2 billion.

It is a very important project, particularly when you consider the pressures that are being placed on the exporters at the moment in terms of the many problems associated with the severe drought and the high Australian dollar. Given the current channel depth 30 per cent of ships are not carrying full loads.

I have in front of me a press release that I am happy to make available to the house from Victorian Employers Chamber of Commerce and Industry:

> We do not have the luxury of waiting — competitor ports such as Adelaide, Auckland and Portland (Oregon, USA) have either just completed channel deepening projects or have projects under way.

So we have a critical project to the state's economy to get under way. The debate we have heard from opposition members today has been all over the place. I have heard some other speakers say this. I have been listening in. One of the opposition speakers said, 'We need the power to stop this project in its tracks if need be or businesses will go bankrupt'. Then they are saying they support the project. They say the process has taken too long. Anyone listening to the range of comments coming from members of the opposition would be confused as to what their position actually is.

The amendments which have been put forward by the opposition would stall the whole process for a number of months. I think that is one reason why Victorians see the opposition as not being fit to govern, and it probably will not be fit to govern for a long time. If the opposition is so concerned about some of the environmental issues, it will have the opportunity to put those concerns to the current federal environment minister if he is still in government after the federal election. The state Labor government has a mandate to continue with the process of pursuing the channel deepening project. I think this bill is a good bill, and I commend it to the house.

Mr CRISP (Mildura) — The Port Services Act 1995 is being amended here today. There are 19 amendments in seven categories, and I will go quickly through them. The powers to facilitate the dredging of the port have dominated much of today's discussions. The restricted access areas that come with that have also been well discussed. The wharfage fees and channel fees are of concern. As we move forward we do not want the cost of this channel deepening to raise the costs to the people who use the port and thus not have a net effect. There is also some concern as to how the removal of some price controls will work. The safety and environment management plans, the charter of human rights and some minor changes make up the seven categories.

My contribution to the debate will mostly be about the issues around Mildura, which is about as far away as you can get from the port of Melbourne. However, the port is still vital to my community. The link is the export commodities grown in Mildura and the railway line that connects Mildura to the port. That will be the

focus of my contribution. Mildura exports wine, fresh oranges, grapes, frozen orange juice and carrot juice, dried fruits and mineral sands, among other things. Considerable grain also moves from the Mildura area down to the ports.

A bill that came through the house recently deregulated and changed how some grain is handled, and as a result we will see increasing quantities of grain exported out of the Melbourne facilities. Similarly following some other deregulation we are seeing an increase in containerised wheat and bulk bag wheat moving to smaller markets. The link from Melbourne to Mildura will become ever so important. Last financial year 2.76 million tonnes of produce passed along the railway line between Melbourne and Mildura, and much of that went to port. Some 95 per cent of the wheat out of the area is transported by rail, and 12 per cent of the agricultural produce from Mildura is transported by rail.

An upgrade of the Mildura railway line is scheduled to begin very shortly. The commonwealth has put some money in; the state has put some money in. We have some cooperative federalism in place, and we will see the track improved. The upgrade will allow 80-kilometre-an-hour speeds and bring the travelling time for the produce down from 14 hours to 10 hours. This upgrade will increase the capacity to move freight from Mildura to Melbourne. However, we have some efficiency issues at the port. With all the work that has been done at the port, what Mildura really needs is a rail spur that enters the port. Currently containerised produce arrives at the rail yards, is transferred to a truck and is taken a short distance to the port where a straddle crane picks it up. This adds considerable cost. If we are rebuilding port infrastructure, let us keep in mind the need to have good rail access into the port area for produce from the north. The industries that would benefit from that include grain, horticultural produce and mineral sands. They would be as well served by that as they would by the proposed gains from dredging the channel. The two combined could have a significant impact on the economy of my region.

While we are doing the ports, there is other work to be done. Everybody is focused on the channel deepening, but let us not think for a moment that channel deepening will make this an efficient port. There is still much to be done to ensure that the freight is moved efficiently from the farms, to the ports and out to our customers. With that, I will conclude my comments on the port bill.

Mr HERBERT (Eltham) — It is a great pleasure to speak briefly on the Port Services Amendment Bill 2007. Despite the rhetoric of those opposite — not the last speaker, I might say — this bill will result in a substantial improvement in the operations of our ports and will better protect the environment of our bays and channels in regard to dredging activities. The bill will ensure that all commercial ports are set up to handle increasing volumes of trade in an efficient and effective manner. It is about ensuring that our port operators have sensible charging regimes and have the capacity to declare exclusion zones to enable capital and maintenance works to occur, and it is about formalising the legality of disposing of spoil from dredging, something that has occurred in Port Phillip Bay in a bit more of an ad hoc way over the last century.

While this bill is not specifically about the channel deepening, there has been much discussion of that proposal during the course of this debate in the house. I would like to make a brief comment on that matter. One thing is clear, and that is that, whether you live in the hills of Eltham, as I do, or on the coast of Port Phillip Bay, most Victorians have a view on the merits of channel deepening, as they should. After a $114 million environment effects statement (EES), after 40 substantial technical studies and 15 000 pages of research, it is clear that the EES for this project has been the most thorough ever undertaken in our history. It is probably one of the most thorough in the world for a project of this nature. It is also clear that channel deepening is not only crucial for our state's economic prosperity in the future but that it will not, despite the environmental changes, do any long-term damage to the bay.

Anyone who looks through the EES can see clearly that it has been an incredibly comprehensive process in terms of ensuring that the project will not damage our marine life or bay environment. The EES covers fish, it covers any potential impacts on deep marine communities. It covers birds, dolphins, penguins — a whole heap of whales. It covers underwater noise. It covers the impact on the orange-bellied parrot. It looks at rock spill and seagrass impact. It looks at rock scour at the entrance. It looks at Yarra River contamination and health and human contamination. It looks at the impact on cultural heritage sites, on divers and the diving industry, on the Newport power station, on commercial users and fisheries — and it goes on. It has been an incredibly complex and comprehensive EES. It is now clear from that EES that the channel deepening will not have a long-term impact on the port.

I will just look at a couple of other issues very briefly. One of them is about the environment. There is no doubt that people in the Eltham electorate have a strong commitment to the environment, as do I. I certainly would not be supporting this project if I were not

absolutely convinced about the technical credibility of the EES and the fact that the measures and safeguards mandated by the government will protect the bay. I am also absolutely convinced that this project has the support of Melbourne. There seems to be some suggestion from those opposite that the Port of Melbourne Corporation is just going on some random exercise. It certainly would not have been engaging in a project of this comprehensive nature unless it was absolutely convinced that channel deepening is absolutely crucial to our future trading prosperity.

In conclusion, I commend the bill to the house. On the issue of channel deepening, it is clear that the government has a win-win situation — a win for the economy and the future economic prosperity of this state and a win for the environment and the bay.

Mr CLARK (Box Hill) — I wish to speak on one specific aspect of the bill before the house, namely the changes that are being proposed to port charges through the substitution of new sections 74 and 75 for the sections that currently exist in the Port Services Act 1995. These changes dramatically extend the range, nature and structure of charges that can be imposed by the Port of Melbourne Corporation, both for land-based usage of the port and for use of the channels. These changes represent a further departure from the model of a commercially based and disciplined port corporation that was established under the Kennett government. Instead of a model that retained wharfage only under leases that predated the reforms, the amendment now being made by the bill will see an open-ended return to the capacity of the Port of Melbourne Corporation to charge wharfage fees subject only to whatever regulatory scrutiny may be applied to it.

The amendments made in new section 74 make it clear that a fee may be calculated by reference to the quantity, volume, weight or value of cargo loaded or unloaded at the site. In new section 74(4)(c) it becomes clear that it is also intended that fees can apply to the loading or unloading of empty containers.

In new section 75 explicit references are being inserted which make it clear that a fee for the usage of the channel may differ according to the nature of any vessel or cargo on any vessel, and may differ according to the length of time vessels are in the port waters. This is not only bad policy, it also sends some specific signals in relation to the government's intention on channel deepening. In relation to being bad policy, what we should have in the port of Melbourne is a regime for charging that is commercially based on the services being delivered by the corporation, not an open-ended taxing regime.

In the port the services being delivered on the land side are the services of the land and the major infrastructure being made available by the port corporation, together with all the port promotion and enhancement activities that the port corporation undertakes. If you allow a myriad of differently structured charges to be imposed by the port corporation without proper alignment to the services that are being provided to or for the benefit of various parties, then you get a severe muddling and diffusion of responsibilities, and you lose a proper assessment of proposals based on a proper link of costs to benefits.

It is clear the government has not understood how a properly structured landlord, such as the Port of Melbourne Corporation, should operate. You certainly do not find the private sector operators of highly successful facilities imposing myriad charges on end users. They generally find it is far preferable to collect charges by way of lease charges and other direct fee-for-service charges, rather than putting the bite on end users in a whole lot of small and irritating ways. Yet this is exactly the direction these amendments are taking revenue policy in relation to the port of Melbourne.

As I indicated, however, it goes beyond just bad policy across the board. This has been done as a cover for what can be expected to be some dramatic increases in charges that the government is going to have to impose on those who use the port or move cargo through the port in order to pay for the massive cost blow-out of the channel deepening project due to the bungling of the project by the Bracks and now the Brumby government. It is absolutely clear that the expected cost of the project has gone from an initial estimate of around $400 million in 2004 up to a conservative estimate of $763 million today, and it is quite likely to go even higher than that.

It is clear that the government's intention — and we saw it in question time today when the Premier ducked away from the issue of what contribution the state government was going to make to the project — is that it is looking to recoup this by putting the bite on as many different port users and port beneficiaries as possible. It is looking to rejig the charging regime so the charges imposed in future are not based on the benefits that users receive from the port — certainly not from the benefits they receive from a deepened channel — but in many respects linked simply to their capacity to pay. Unfortunately, because of the bungling of the project by the Bracks and Brumby governments, port users are going to have to look forward to some very substantial imposts indeed. The government is going to be looking for every line of port business that

it can slug for some extra amount in order to help pay for the costs of the blow-out to the project it has been responsible for.

It is absolutely clear that this project has been bungled by the Bracks government. I remember as far back as 2002 some discussions that took place at the Municipal Association of Victoria's offices. It was clear that the critical item for channel deepening was to get a decent environment effects study done, completed and out in the public arena so that everybody understood what the environmental implications were and intelligent decisions could be made on the basis of a proper and detailed study. We now know that that entire EES process was bungled by the Port of Melbourne Corporation and by the government. A large part of the responsibility for that needs to be borne by the shareholder minister for the port corporation at the time, the then Treasurer and now Premier of this state. He failed to properly exercise his role as a shareholder minister to make sure the port corporation behaved in an efficient, effective and commercial manner.

I raised one particular aspect of that in this house as far back as November 2004. I drew to the Treasury's attention serious difficulties and flaws in the process for the letting of the principal contract to carry out the dredging. Far too early in the process the Port of Melbourne Corporation entered into an alliance agreement with a company that was going to use unproven technology. It was going to use technology known as trailing suction hopper dredging instead of the more traditional technology known as cutter suction dredging. It had done that in a way that did not follow due process in the letting of the tender, and in particular it was taking an enormous risk that the new technology would be able to be implemented without adverse environmental consequences.

It was subsequently determined at the panel hearing that this new technology in fact did raise serious environmental concerns, and that was one of the key factors that required a supplementary environment effects statement and the very expensive carrying out of trial dredging. It was clear that the then Treasurer was not on the ball and was not properly supervising the corporation of which he was shareholder minister in making sure it did its job properly.

If the port corporation had gone through proper tender processes and had had regard to the risks of committing itself to an environmentally and technologically unproven approach, particularly in the context of the difficult situation at the head of the bay, and if the government and the port corporation had properly focused early on in the piece on carrying out a decent environment effects statement process, the delays and the additional costs that the community is now suffering could well have been avoided. This is yet another demonstration that the Brumby government does not have a clue about business. It does not have a clue about proper financial management, and that now means there is going to be a huge burden on the regulatory authorities to try to keep future charges sensibly structured and affordable for users of the port.

Mr LANGDON (Ivanhoe) — I wish to make a brief contribution to the debate on the Port Services Amendment Bill 2007. Having listened to quite a few speakers, it seems to me that the purpose of the bill may have been a little bit lost, but I will read its purposes as set out in clause 1 of the explanatory memorandum, which states that the bill is to:

> amend the Port Services Act 1995 to make provision for further powers as to dredging, make further provision for port fees, make provision for powers to restrict access to certain port lands and waters, and make provision for other matters.

The issue of dredging seems to be the largest aspect of the debate in the house today, and I wish to add a brief contribution on that. My electorate is not on the coast; it is in the north-east of Melbourne, which is quite some distance from the bay, but I know the electorate of Ivanhoe is very much green conscious and very conscious of the bay and the environment. My electorate would certainly like to see the environment protected.

In his contribution the member for Brunswick gave a history of all the dredging and the blasting and so on within the bay. I think he also said that landmines were used, so he certainly gave the history of how the works were done prior to this.

Our proposal has been through an independent process, undertaken by a panel of three appointed by the minister. I know other members have reported this fact to the house, but I wish to emphasise that it has taken into account more than 40 technical studies and 15 000 pages of research, which in turn was followed by a process of public hearings conducted by the independent panel and the draft of the detailed report provided to the minister on 1 October. I believe the state government has gone to enormous lengths to look after the bay like never before. The things we did in the past were clearly wrong, and the bay recovered. I believe with this process the bay can be improved to give access to the bigger ships we now need.

The other aspect I wish to raise is something I am very conscious of. I ask those who are against the dredging or improving the access: what do we do about jobs? If

we do not do it, what do we do about jobs in the future in this great state of ours? A large number of members from rural Victoria have mentioned the dairy industry. I do not have a dairy industry in my electorate. There were dairies once in Ivanhoe, but that was a long time ago. I certainly take heed of what those members said. We need a very effective port, and I think the process that the bill makes provision for shows that we are getting our act together to make sure the port is improved and also protected.

Mr DELAHUNTY (Lowan) — On behalf of the Lowan electorate I rise to make a small contribution to the debate on the Port Services Amendment Bill 2007. The member for Rodney, the lead speaker for The Nationals, summarised the views of our party particularly in relation to the major parts of this bill.

The bill has four main purposes. They are to reaffirm the powers of the Port of Melbourne Corporation and the Victorian Regional Channels Authority; to enable the creation of restricted access areas; to clarify the imposition of wharfage and channel fees and increase the flexibility for the Port of Melbourne Corporation and other channel operators to charge channel fees, and I will come back to that briefly; and to make a range of other unrelated amendments. That is the area I want to cover in my presentation.

The bill talks about deregulation and a few other things, but the main concern that members of The Nationals have is about the new wharfage and channel fees after the channel deepening process goes through — and I am sure it will. The imposition of charges will mean that our exporters cannot be competitive in relation to other ports around Australia, and they will also make us uncompetitive in the global economy in which we operate. There is a lot of concern with the way this government operates. We need to make sure that it makes a contribution if the channel deepening process goes ahead. We need to make sure that we have a commitment from this government — which unfortunately has not been able to manage major projects well — that it will help fund this process and that it will not expect the federal government to bail it out every time there is a problem.

I am sure that some of the Labor members in the chamber will be handing out how-to-vote cards for the federal Treasurer, because he gives 26 per cent of the budget to the state — —

Mr Stensholt — I won't be handing them out for him!

Mr DELAHUNTY — I am sure you will be, because the state government relies on those GST payments to get it out of trouble.

I want to talk in particular about clause 9, which repeals sections 49(c)(iv) and (v) of the Port Services Act. These paragraphs respectively refer to the connection of water or electricity to berth vessels at Geelong and Portland. Both of those ports play a vital role in servicing the electorate of Lowan that I represent. We know the bill makes changes to towage fees. That provision comes about because the essential services commissioner was concerned about price control, and back in 2004 his recommendation noted that there was little evidence of market power in non-infrastructure prescribed services. There are major concerns in the electorate I represent about what is going to happen about towage and the connection of water.

I was not in the Parliament when the port of Portland was privatised, but my understanding is that it has gone ahead in leaps and bounds. There have been some challenges, but at least money has been invested in that area now. There has been a lack of commitment by this government, particularly in rail standardisation. The port of Portland is the deepest port — —

Mr Nardella — You closed them down!

Mr DELAHUNTY — We never closed down a railway line. The reality is that not one railway line was closed down. It was during the Keating days that the federal government — —

Mr Nardella interjected.

Mr DELAHUNTY — Lines were not closed. The reality is that when the Keating government put in money to standardise the line from Melbourne to Adelaide it disenfranchised the spur lines to the main trunk line going through to Adelaide. If it had not been for the state coalition government back in those days, through the support of the Honourable Bill McGrath and others, we would not have got $22 million out of a state government that was just about broke because the Labor government had gone through it. But there was still $22 million to standardise the spur lines from Dimboola up to Yaapeet, from Hopetoun down to Murtoa and also from Ararat down to Portland. That enabled a lot of the bulk produce that comes from that area of the state to get to Portland, which is the deepest seaport in Victoria. Whether it be grain or canola or aluminium, they can all get out of the port of Portland.

But we need other things to help. We know that the live sheep trade goes out through there. It is interesting to note that only two days ago the New Zealand

government stopped its live sheep trade. That is good news for Australians, because we can supply that market. We do it very well, and we do it very well through the port of Portland. Again we have not seen a commitment from this state government. Rail standardisation is needed. The government promised that back in 2001. It also promised $90 million. I think about $10 million was spent in Geelong to fix up a few problems there, but not one sleeper has been put on the ground to lay the new rail lines for the standardisation of the rail gauge.

We need a service up through to Mildura, because the mineral sands industry is exploding in that area. We need to be able to get mineral sands down to the deep-sea port of Portland or even to Geelong. There are also a lot more woodchips going through that area. But again we are not seeing a commitment by this state government to the infrastructure that is needed, whether it be for the standardisation of rail or for other requirements to service the port of Portland. There are major concerns, and this government says a lot but does not deliver.

I again highlight that the port of Portland is the deepest deep-sea port in Victoria, and I know that other goods go out through the port of Geelong. They are the two ports that export the bulk of the produce from country Victoria and even from New South Wales and South Australia. A lot of people ask me, 'Why can't the port of Melbourne facilities be moved to Portland?'. Unfortunately Portland is not a container port, and given that a lot of produce, including dairy produce from north-east Victoria, still goes through in containers, we need to make sure that we have a facility to enable it to get out through the Heads, whether through Melbourne or through Geelong.

Having expressed those few concerns I want to make sure that the port of Portland and the port of Geelong are not overlooked in this debate, because they are very important ports to the electorate I represent. We need a better commitment from this state government, from the Treasurer and from the responsible ministers to deliver for the people I represent in western Victoria.

Mr STENSHOLT (Burwood) — I would like to assure the house and the member for Lowan that there is no way I will be handing out how-to-vote cards for the federal Treasurer, Peter Costello. As the chair of the Labor campaign for Higgins I will be handing out for Barbara Norman.

But rather than speak on other matters I would like to speak on the Port Services Amendment Bill 2007, which makes provision for further powers in relation to dredging, makes further provision for port fees, and makes provision for powers to restrict access to certain port lands and waters, and other matters. Like the member for Lowan, I have a certain affection for the port of Geelong. My father was a chief engineer, and several of my uncles were Norwegian sea captains.

An honourable member interjected.

Mr STENSHOLT — No, not one of them was involved with the *Tampa*! I remember as a lad being at the wheel — someone else had their hands on there as well — when I was going down to Geelong on an oil tanker with one of my uncles. So I have always had a strong interest in these things, and our family has a very strong marine background, particularly in shipping. One of my uncles was actually the — —

Mr Cameron interjected.

Mr STENSHOLT — No, it was not fishing; he was in charge of maritime training in Norway. So my family has a pretty strong interest in port services and port charges.

This bill is aimed at improving the operation of Victoria's commercial ports — the port of Melbourne, of course, but also the ports of Geelong and Portland and others — as well as protecting public safety and looking to the more efficient operations of our ports. I would expect all members of the house would support such objectives to ensure, for example, the better development and auditing of safety and environmental management. I am sure that all members, including the member for Box Hill, would support clarifying the charging of wharfage and channel usage fees and removing the price control on services such as towage in Geelong, Portland and Hastings. If I remember rightly, in 2004 the Essential Services Commission produced a report on this matter, making some recommendations that this bill seeks to adopt.

The bill also provides for the declaration of restricted access areas around vessels to protect public safety and allow port authorities to carry out their functions. It is very important to ensure that there are proper safety procedures, given the increasingly large vessels that are now coming into our ports. The bill seeks to clarify certain matters in respect of the exclusion of people as well as vessels from those areas. This is a matter of improving local safety, and I am sure members of the house would support these parts of the bill.

They should support, as I certainly support, ensuring that harbourmasters, particularly at the port of Melbourne, the Port of Melbourne Corporation and the Victorian Regional Channels Authority, have sufficient

and appropriate powers in this day and age to enable them to properly carry out the jobs which have been assigned to them, particularly in regard to dredging but also in regard to safety. This bill is aimed at better management and at ensuring clarification. I note obviously the strong consideration of the proposal for channel deepening in Port Phillip Bay. I commend the bill to the house.

Mr BURGESS (Hastings) — I rise to speak on the Port Services Amendment Bill 2007 and in particular to support the amendments that have been put forward. The reasoned amendment asks that the bill be redrafted to:

(a) incorporate the establishment of an independent expert environmental panel to monitor and oversee any dredging and disposal of dredged material in Port Phillip Bay;

(b) ensure the independent expert environmental panel is required to publicly report on a regular basis on the environmental effects of any dredging and disposal of dredged material in Port Phillip Bay;

(c) provide the necessary powers for the independent expert environmental panel to be able to immediately stop any dredging and disposal of dredged material to protect the environment of Port Phillip Bay; and

(d) provide for a system of fair and reasonable compensation for commercial businesses, such as tourism and fishing businesses, which are significantly adversely affected by operations involving dredging and disposal of dredged material in Port Phillip Bay.

It is common sense, in looking at paragraph (c) in the reasoned amendment, to suggest that as we move forward to the dredging there needs to be a mechanism in place whereby the body that is empowered to look after the environmental effects of the dredging has the ability to stop the dredging if it is seen to be doing damage to the environment. To leave something so important out of the bill is really quite negligent of the government.

Having spoken about my support for the dredging, but with great apprehension and only after suggesting that the amendments proposed by the member for South-West Coast be adopted, I refer to the fact that in pushing forward with the development of Port Phillip Bay we need to consider very carefully what else we are doing. One of those things, as is mentioned in the bill, is the development of the port of Hastings, which is in the electorate I serve.

So many things have been wrong about the way this project has been approached by this government, including the secretive planning that has gone on, the lack of consultation and taking off the table at the last minute some of things that were suggested by the consultants that the government retained to come up with conclusions. I have not heard an explanation that has satisfied my curiosity in that respect. One of the suggestions that was brought forward by Maunsell Australia, the consultants employed by the government, was that Crib Point should never be part of the development of the port of Hastings. If you live in the Mornington Peninsula area, you would know that Crib Point has had a fairly chequered past, given the way it has been treated. It is now starting to find its feet and has the ability to turn into the wonderful little community that it is underneath, but that really needs to be developed. It takes a positive attitude.

In fact, one of the developments that has been suggested for the area has been the putting in place of the Western Port Oberon Association submarine. This would be a wonderful tourist facility. When these sorts of facilities have been put in place in other areas, such as Fremantle in Western Australia, they have garnered millions of dollars for the local community, but of course they had a supportive government. Here we have a government that has done everything it can to stop this wonderful facility going forward.

Most recently it replaced the chance to put the submarine in place at Crib Point with what it believes is a better plan, and that is to put a bitumen plant in. That is a disgusting plan that will haunt this government forever if it goes ahead with it. Currently we are told that that particular plan has gone off to VCAT (the Victorian Civil and Administrative Tribunal) even before the application to the Mornington Peninsula Shire Council has been considered. Some action needs to be taken over that. The Crib Point community deserves better treatment than it is getting from this government.

There is also the government's plans for the transport corridors to service the port of Hastings. One plan that was put forward was to put a brand new freight train corridor straight up through Pearcedale, Devon Meadows and Clyde. Anyone that has bought or sold land in the vicinity of the Western Port Highway over the last 50 years would have been made aware that there were plans to pursue the development of the port of Hastings and therefore to develop a transport corridor up that way. However, the people of the Pearcedale and Devon Meadows area have had no warning of this freight line. They have bought and sold properties in that area without any indication that they were going to have this inflicted upon them. This is another area where the actions of the government have been deplorable.

Another issue that needs to be discussed in relation to transport corridors is what the effect will be if the government goes ahead with its transport plan of putting the freight on the existing Stony Point train line. To anyone that lives in the area it is quite obvious that the Stony Point line is a one-line, one-direction-at-a-time train line, and it takes a considerable time to get from Frankston to Stony Point on that line and back. What has been suggested, depending on the figures you hear from the corporation, is that there could be anything up to 32 freight trains a day. Thirty-two freight trains a day just cannot be serviced on that line.

Mr Cameron — On a point of order, Acting Speaker, I know this is a wide-ranging debate, but in talking about trains on particular lines the member is very much straying away from the bill.

Dr Napthine — On the point of order, Acting Speaker, clause 7 and particularly clause 8 refer to the ports of Hastings, Geelong and Portland, the use of those ports and the ongoing opportunities for those ports. That is exactly what the member for Hastings is talking about. He is talking about the possibility for the expansion of the port of Hastings and the rail freight services that are needed for that. That is also linked very much to the channel deepening project, because an integral part of the channel deepening project is where we go for further expansion of container facilities to service Melbourne and Victoria in the future, and Hastings is an integral part of that.

It is very short sighted of the minister and shows a lack of understanding of the legislation that he does not understand that it specifically refers to the port of Hastings, and is integral to the long-term planning of port facilities that are consistent with this legislation before the house. The member for Hastings is well and truly in order.

Mr Batchelor — On the point of order, Acting Speaker, the point raised by the Minister for Police and Emergency Services is correct. The member for Hastings was talking about the Stony Point line, and in the context of channel deepening — —

An honourable member interjected.

Mr Batchelor — The Stony Point line does not go into the port of Hastings.

An honourable member — It is on your government's transport plan.

Mr Batchelor — One of the plans of the previous Liberal government was to close the Stony Point line, and if it had not been for the former member for Hastings, Rosy Buchanan, and her community activity in supporting that line against the desires of the previous government, that line would have been closed. It would not have been the subject of a debate here today because it would not have been in existence.

Business interrupted pursuant to standing orders.

The ACTING SPEAKER (Ms Green) — Order! Time has eluded us. I am not able to rule on the point of order, because the time set down for consideration of items on the government business program has arrived and I am required to put the question.

House divided on omission (members in favour vote no):

Ayes, 57

Allan, Ms	Langdon, Mr
Andrews, Mr	Languiller, Mr
Barker, Ms	Lim, Mr
Batchelor, Mr	Lobato, Ms
Beattie, Ms	Maddigan, Mrs
Brooks, Mr	Marshall, Ms
Brumby, Mr	Merlino, Mr
Cameron, Mr	Morand, Ms
Carli, Mr	Munt, Ms
Crisp, Mr	Nardella, Mr
Crutchfield, Mr	Neville, Ms
D'Ambrosio, Ms	Noonan, Mr
Delahunty, Mr	Northe, Mr
Donnellan, Mr	Overington, Ms
Duncan, Ms	Pallas, Mr
Eren, Mr	Pike, Ms
Foley, Mr	Powell, Mrs
Graley, Ms	Richardson, Ms
Green, Ms	Robinson, Mr
Haermeyer, Mr	Ryan, Mr
Hardman, Mr	Scott, Mr
Harkness, Dr	Stensholt, Mr
Helper, Mr	Sykes, Dr
Herbert, Mr	Thomson, Ms
Howard, Mr	Trezise, Mr
Hudson, Mr	Walsh, Mr
Hulls, Mr	Weller, Mr
Ingram, Mr	Wynne, Mr
Jasper, Mr	

Noes, 23

Asher, Ms	Napthine, Dr
Baillieu, Mr	O'Brien, Mr
Blackwood, Mr	Shardey, Mrs
Burgess, Mr	Smith, Mr K.
Clark, Mr	Smith, Mr R.
Dixon, Mr	Thompson, Mr
Fyffe, Mrs	Tilley, Mr
Hodgett, Mr	Victoria, Mrs
Kotsiras, Mr	Wakeling, Mr
McIntosh, Mr	Wells, Mr
Morris, Mr	Wooldridge, Ms
Mulder, Mr	

Amendment defeated.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

ANIMALS LEGISLATION AMENDMENT (ANIMAL CARE) BILL

Second reading

Debate resumed from 31 October; motion of Mr HELPER (Minister for Agriculture).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

AGENT-GENERAL AND COMMISSIONERS FOR VICTORIA BILL

Second reading

Debate resumed from 31 October; motion of Ms ALLAN (Minister for Regional and Rural Development).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

EQUAL OPPORTUNITY AMENDMENT (FAMILY RESPONSIBILITIES) BILL

Second reading

Debate resumed from 31 October; motion of Mr CAMERON (Minister for Police and Emergency Services).

The SPEAKER — Order! The question is:

That this bill be now read a second time and a third time.

House divided on question:

Ayes, 47

Allan, Ms
Andrews, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Brooks, Mr
Brumby, Mr
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Herbert, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Langdon, Mr
Languiller, Mr
Lim, Mr
Lobato, Ms
Maddigan, Mrs
Marshall, Ms
Merlino, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Overington, Ms
Pallas, Mr
Pike, Ms
Richardson, Ms
Robinson, Mr
Scott, Mr
Stensholt, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Noes, 33

Asher, Ms
Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Mulder, Mr
Napthine, Dr
Northe, Mr
O'Brien, Mr
Powell, Mrs
Ryan, Mr
Shardey, Mrs
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Mrs
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms

Question agreed to.

Read second time.

Third reading

Question agreed to.

Read third time.

VICTORIAN WORKERS' WAGES PROTECTION BILL

Second reading

Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Police and Emergency Services).

The SPEAKER — Order! The question is:

That this bill be now read a second time, that government amendments 1 to 8 inclusive be agreed to and that this bill be now read a third time.

House divided on question:

Ayes, 47

Allan, Ms	Hulls, Mr
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lobato, Ms
Brooks, Mr	Maddigan, Mrs
Brumby, Mr	Marshall, Ms
Cameron, Mr	Merlino, Mr
Carli, Mr	Morand, Ms
Crutchfield, Mr	Munt, Ms
D'Ambrosio, Ms	Nardella, Mr
Donnellan, Mr	Neville, Ms
Duncan, Ms	Noonan, Mr
Eren, Mr	Overington, Ms
Foley, Mr	Pallas, Mr
Graley, Ms	Pike, Ms
Green, Ms	Richardson, Ms
Haermeyer, Mr	Robinson, Mr
Hardman, Mr	Scott, Mr
Harkness, Dr	Stensholt, Mr
Helper, Mr	Thomson, Ms
Herbert, Mr	Trezise, Mr
Howard, Mr	Wynne, Mr
Hudson, Mr	

Noes, 33

Asher, Ms	Northe, Mr
Baillieu, Mr	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Burgess, Mr	Ryan, Mr
Clark, Mr	Shardey, Mrs
Crisp, Mr	Smith, Mr K.
Delahunty, Mr	Smith, Mr R.
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Ingram, Mr	Victoria, Mrs
Jasper, Mr	Wakeling, Mr
Kotsiras, Mr	Walsh, Mr
McIntosh, Mr	Weller, Mr
Morris, Mr	Wells, Mr
Mulder, Mr	Wooldridge, Ms
Napthine, Dr	

Question agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 3, page 5, line 30, after "indirect" insert "financial".

2. Clause 6, lines 7 to 14, omit all words and expressions on these lines and insert —

   "(a) in cash or by cheque, postal order or money order; or

   (b) by deposit into an ADI specified by the employee; or".

3. Clause 7, page 8, line 18, after "indirect" insert "financial".

4. Clause 8, page 10, line 6, after "indirect" insert "financial".

5. Clause 9, line 25, after "(b)" insert "the deduction is for the direct or indirect financial benefit of the employer or a related party of the employer,".

6. Clause 9, line 29, after "indirect" insert "financial".

7. Clause 9, page 11, line 1, after "indirect" insert "financial".

8. Clause 9, page 11, line 27, after "indirect" insert "financial".

Third reading

Question agreed to.

Read third time.

CRIMES AMENDMENT (RAPE) BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

PERSONAL EXPLANATION

Ms D'AMBROSIO (Mill Park) — I wish to make a personal explanation to the house. On Wednesday, 31 October, during members statements, the member for Bulleen made accusations that I or my electorate office staff undertook work on a publication written by Mr Ico Najdovski and Mr Robert Najdovski.

I wish to state categorically that the accusation made by the member for Bulleen is utterly incorrect and fictitious. No work on this publication was undertaken by me or my office staff. In fact, neither the text nor the design work of the publication became known to me or my staff until after the book was published and printed.

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL

Statement of compatibility

Mr BATCHELOR (Minister for Energy and Resources) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the National Electricity (Victoria) Amendment Bill 2007.

In my opinion, the National Electricity (Victoria) Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will facilitate further reform of the electricity sector consistent with the national energy market reform program under the Council of Australian Governments. In particular, the bill contains transitional provisions with respect to the transfer of responsibility for economic regulation of electricity distribution from the Victorian Essential Services Commission (ESC) to the Australian energy regulator (AER). Under those provisions, administration of the ESC's electricity distribution price determination 2006–10 will transfer to the AER on a specified date.

Human rights issues

The bill does not affect any human rights protected by the charter.

Conclusion

For the reasons outlined above, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

PETER BATCHELOR, MP
Minister for Energy and Resources

Second reading

Mr BATCHELOR (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The bill will facilitate implementation in the Victorian electricity sector of the next phase of the national energy market reform program under the Council of Australian Governments (COAG). In particular, the bill contains transitional provisions with respect to the transfer of responsibility for economic regulation of electricity distribution from the Essential Services Commission (ESC) of Victoria to the Australian energy regulator (AER).

The national energy market reform program is being implemented through the COAG Ministerial Council on Energy (MCE). In 2005, in the first phase of the program, the Australian Energy Market Commission (AEMC) and the AER were established as rule-maker and regulator respectively, a new national electricity law (NEL) was enacted by South Australia as lead legislator, and new national electricity rules (NER) were made. The law and rules currently apply to the wholesale market and to transmission.

In the second phase, a bill introduced in September into the South Australian Parliament will amend the national electricity law to provide for the AER to regulate all distribution networks in the national electricity market. Amendments to the national electricity rules have also been developed in consultation with industry and other stakeholders. The law and rules, as amended, will establish a single national regulatory framework for electricity networks — distribution as well as transmission.

The COAG Australian energy market agreement requires transfer of responsibility to the AER progressively as electricity distribution price reviews become due in the various jurisdictions. The AER will therefore be responsible for the next review in Victoria, which is scheduled to commence in January 2009.

The agreement also allows for earlier transfer of responsibility for current price determinations. Accordingly, this bill provides for the ESC to continue to administer the electricity distribution price determination 2006–10 until a nominated date and for the AER to assume responsibility on and from that date. It is anticipated that the transfer will occur by 1 January 2009 so as to coincide with the commencement of the next price review.

The bill further provides, for the avoidance of doubt, that the electricity distribution price determination 2006–10 will continue to apply for its term and will do so in accordance with the current Victorian framework under the Electricity Industry Act 2000 and the Essential Services Commission Act 2001.

Victoria continues to be a leader in the national energy market reform process. This bill, together with the

amendments introduced in South Australia, will streamline and improve the quality of economic regulation of the national electricity market to lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 15 November.

VICTORIAN ENERGY EFFICIENCY TARGET BILL

Statement of compatibility

Mr BATCHELOR (Minister for Energy and Resources) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Victorian Energy Efficiency Target Bill 2007.

In my opinion the Victorian Energy Efficiency Target Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to promote the reduction of greenhouse gas emissions by establishing the Victorian energy efficiency target (VEET) scheme. The VEET scheme operates so that individual consumers who undertake activities to abate the use of energy are entitled to create, or assign the right to create, energy efficiency certificates which can then be sold to retailers who are required to surrender a certain amount of certificates each year to the Essential Services Commission (commission).

The VEET scheme operates to promote activities that will contribute to a reduction in greenhouse gas emissions by consumers of electricity and gas and to encourage investment, employment and technology development in industries that supply goods or services which reduce the use of electricity and gas by consumers.

1. Human rights protected by the charter that are relevant to the bill

The VEET scheme will operate so that businesses, body corporates or sole traders may be accredited persons to whom entitlements to create energy efficiency certificates and obligations under the bill apply. Insofar as a natural person may, however, become an accredited person under the VEET scheme, a number of human rights issues arise.

Provision of information to the Essential Services Commission

The requirement that accredited persons provide personal information, such as their name and address, to the commission raises the right to privacy. Clauses 9 and 60 require that information be given to the commission, and clause 10 provides for the disclosure of information from another scheme prescribed by regulations. However, this information is relevant to the operation of the bill and the provision of such information under a regulated scheme such as this one, which has clear public purposes, is not arbitrary and is clearly lawful. Therefore, the right to privacy is not limited by the requirement that such information be provided to the commission. In addition, the energy efficiency certificate created under clause 21, the certificate surrender notice issued under clause 38 and the register of accredited persons and the energy efficiency certificate register under clauses 57, 58 and 59 may contain such personal information but, for similar reasons, it would not interfere with a person's right to privacy.

The bill also contains safeguards concerning the use of information obtained while exercising powers or performing functions in connection with the bill. For example, clause 60 makes it an offence to disclose confidential information except in limited circumstances. To the extent that the confidential information is also personal information, this safeguard will assist in ensuring that privacy rights are not unlawfully or arbitrarily interfered with.

Surrender of certificates

The bill requires that energy efficiency certificates be surrendered in certain circumstances (see clauses 38, 39 and 40). Insofar as a natural person may be required to surrender a certificate, which is registered and holds value under the VEET scheme, property rights under section 20 of the charter are raised. However, the deprivation of property (i.e. the surrender of the certificate) is in accordance with law. It is also not arbitrary as the bill sets out the precise and reasonable circumstances in which the surrender may occur: for example, where certificates have been improperly created or where an accredited person is in breach of an undertaking not to claim benefits under a prescribed greenhouse gas scheme. Therefore, property rights are not limited by the operation of clauses 38, 39 and 40 of the bill.

Powers of authorised officers

The requirement, under clause 42 of the bill, that an authorised officer must carry an identity card that contains their photograph and signature, is a reasonable requirement given the powers of an authorised officer and is not an unlawful or arbitrary interference with their right to privacy under section 13 of the charter.

Part 7 of the bill sets out the process for authorised officers to be appointed to monitor and inspect premises for the purpose of determining whether the bill has been complied with. That process enables the authorised officers to do the following:

enter any premises with the consent of the occupier or under a monitoring warrant (refer to clauses 44–48);

conduct a search of the premises for any thing that may relate to the creation or transfer of certificates or scheme acquisitions (refer to clause 48); as part of a search of premises, the authorised officer can examine property on

the premises, take photographs, take extracts of documents or make copies, secure any thing on the premises that may be evidence of an offence against the bill, until a warrant can be obtained to seize the thing, and can operate any equipment on the premises or remove devices which contain files/information; and

where the authorised officer has authorisation to enter premises by a monitoring warrant, require that a person in or on the premises answer any questions relating to the creation or transfer of certificates, scheme acquisitions or the provision of information under this bill and produce any document that is so related (refer to clause 50).

The power of the authorised officer to enter and search premises under clauses 44–48 engages the right to privacy and home under section 13 of the charter. The right is raised because the authorised officer may be entering private premises when conducting their duties under these clauses. It is relevant to note that the Human Rights Committee of the United Nations states, in its general comment on the right to privacy, that the term 'home' is to be understood to indicate the place where a person resides or carries out his or her usual occupation.

The powers of authorised officers under clauses 44–48 of the bill are lawful and not arbitrary for the following reasons:

Consent must be obtained from the occupier, or the authorised officer must have a monitoring warrant that is given by court order.

The bill provides numerous additional constraints around the exercise of the powers of authorised officers. Powers of search and seizure must be exercised reasonably and only in relation to the creation or transfer of certificates, scheme acquisitions or information provided under the bill. The bill also requires that in exercising powers, the authorised officer, must only enter at a 'reasonable' time of the day, must cause as little inconvenience as possible and must not remain on the premises any longer than is reasonably necessary. Where consent is obtained from the occupier, the authorised officer is also required to leave the premises if asked to do so (see clauses 43 and 44).

The VEET scheme must be monitored to ensure that it operates properly. Persons who participate in the VEET scheme are subject to the regulatory requirements of the regime and have obligations and responsibilities that must be discharged. It is therefore reasonable that they be subjected to the necessary audit processes.

Therefore, the right to privacy under section 13 of the charter is not limited by clauses 44–48 of the bill.

Clause 50 of the bill requires that any person in or on the premises answer any questions or produce any documents to the authorised officer. This raises the right to privacy under section 13 of the charter. However, for the reasons previously mentioned the right to privacy is not limited.

Clauses 48 and 50 also raise property rights under section 20 of the charter. The removal of, or the requirement to, produce documents (such as certificates of value under the VEET scheme or devices containing relevant information) may amount to a deprivation of property. However, any such deprivation would be in accordance with the law and would not be arbitrary as the production or removal of documents is only permitted where it relates to the creation or transfer of certificates, scheme acquisitions or the provision of information under the bill or for determining whether the bill has been complied with. As such section 20 of the charter would not be limited. For similar reasons, the production of documents to the commission under clause 60 of the bill would not limit property rights under the charter.

The right to freedom of expression under section 15(2) of the charter is also raised by clause 50 of the bill as that provision requires individuals to answer questions put by an authorised officer. The right to freedom of expression includes the right not to express. However, the right also contains an internal exception under section 15(3) of the charter. Section 15(3) of the charter provides that the right to freedom of expression may be subject to lawful restrictions including for public order. Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. It is considered that the requirement that persons provide certain information to an authorised officer for the purposes of administering the VEET scheme is for a public purpose and is reasonably necessary for the protection of public order. Therefore, any restriction on the right to freedom of expression by virtue of clause 50 is lawful under section 15(3) of the charter and the right is not limited.

Collection of information by the Essential Services Commission

The right to freedom of expression under section 15(2) of the charter is also raised by clause 60 of the bill as that provision requires individuals to provide certain information or produce a document either orally or in writing to the commission. For the reasons set out above it is considered that the limitation on freedom of expression is lawful as reasonably necessary for the protection of public order under section 15(3) of the charter.

Clause 60(2)(c) also enables the commission to require that a person appear before it at a time and place specified. This clause limits a person's freedom of movement under section 12 of the charter. However, such limitation is reasonable for the reasons set out below.

Clauses 63 and 64 also raise property rights under section 20 of the charter as copying of and retaining of documents may amount to a deprivation of property. However, any copying or retaining of documents would be in accordance with the law and would not be arbitrary. As such section 20 of the charter would not be limited.

2. Consideration of reasonable limitations — section 7(2)

The right to freedom of movement under section 12 of the charter is limited by the operation of clause 60(2)(c) of the bill.

(a) What is the nature of the right being limited?

The right to move freely within Victoria encompasses a right not to be forced to move to, or from, a particular location and includes freedom from physical barriers and procedural impediments.

(b) What is the importance of the purpose of the limitation?

The limitation is important because it enables the commission to interview or examine a person it reasonably believes has

information or documentation that is relevant to the operation of the bill.

(c) What is the nature and extent of the limitation?

The individual is required to physically appear before the commission to give information either orally or in writing. The limitation only extends to that individual who is required to attend before the commission at the specified time and date and the limitation only operates for the period of time that the person appears before the commission.

(d) What is the relationship between the limitation and its purpose?

The limitation is rational as it is integral to the operation of the bill that the commission has the ability to make inquiries when investigating matters under the bill. The limit is proportionate because the limitation only applies to a person that the commission has reason to believe holds information or documentation that is relevant to the operation of the bill.

(e) Are there any less restrictive means reasonably available to achieve its purpose?

A request for written information could be made before requiring attendance before the commission; however, attendance may be considered necessary in certain circumstances.

(f) Conclusion

The limitation is reasonable and necessary to achieve a legitimate aim, namely the effective operation of the VEET scheme which aims to encourage the reduction of greenhouse gas emissions within the community.

Conclusion

I consider that the bill is compatible with the charter because, even though it does limit a human right, that limitation is reasonable and proportionate.

PETER BATCHELOR, MP
Minister for Energy and Resources

Second reading

Mr BATCHELOR (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The Victorian government recognises that climate change is the most serious environmental problem we face. Reductions in greenhouse gas emissions, which are contributing to climate change, are necessary to mitigate the impacts of climate change.

The stationary (non-transport) energy sector accounts for over 70 per cent of the state's greenhouse gas emissions. The government's *Greenhouse Challenge for Energy* position paper proposed a comprehensive policy framework to reduce greenhouse gas emissions from the stationary energy sector while continuing to ensure that Victorians have access to a secure, efficient and affordable supply of energy.

To prepare for a carbon-constrained future, the government recognised that it would need to pursue a range of policy initiatives including support for the introduction of a national emissions trading scheme, a renewable energy strategy, an energy efficiency strategy and the energy technology innovation strategy.

This bill gives effect to the government's commitment to introduce the Victorian energy efficiency target (VEET) scheme and drive reductions in household greenhouse gas emissions.

The VEET scheme will assist in preparing Victoria for a carbon-constrained future and builds on Victoria's leadership position in sound energy policy. Initially, the VEET scheme will set a target of 2.7 million tonnes of greenhouse gas emission abatement for each year between 2009 and 2011. This target has been set at a level based on abatement costs comparable to, or lower than, those expected under a national emissions trading scheme.

The bill provides for a market-based measure to promote activities which will contribute to the reduction of greenhouse gas emissions by consumers of electricity and gas through the establishment of a scheme for the creation of energy efficiency certificates and the surrender of these certificates by relevant entities. Relevant entities are essentially sellers of electricity and gas with more than 5000 customers in Victoria.

Importantly, the VEET scheme is a market-based measure which simultaneously achieves millions of tonnes of low-cost abatement, whilst lowering household energy costs. Evidence suggests that small energy users, such as households, are relatively unresponsive to energy price increases. Consequently an upstream carbon price signal, introduced through a national emissions trading scheme, cannot be relied on to motivate households to act on the full suite of available, cost-effective energy efficiency measures. The VEET scheme will provide a mechanism which addresses barriers to the uptake of energy efficiency activities by households. By reducing energy use and power bills, the VEET scheme will help households mitigate the impacts of a national emissions trading scheme.

The objects of the bill are as follows:

(a) reduce greenhouse gas emissions;

(b) encourage the efficient use of gas and electricity; and

(c) encourage investment, employment and technology development in industries that supply goods or services which reduce the use of electricity and gas by consumers.

Part 1 of the bill provides for the VEET scheme to come into operation on or before 1 January 2009. It is proposed to commence the scheme following the making of regulations under the bill.

Part 2 of the bill provides that the Essential Services Commission will administer the VEET scheme.

Part 3 of the bill provides for the accreditation of persons that may create a certificate in relation to activities prescribed by regulations. The activities that may be prescribed by the regulations are those that will result in a reduction in greenhouse gas emissions that would not occur without the VEET scheme. Examples of activities that may be prescribed include the installation of a high-efficiency gas water heating system or retrofitting or replacing existing windows with double-glazed windows.

Only an accredited person under the VEET scheme may create a certificate. An accredited person that may create a certificate may either be the electricity or gas consumer for prescribed activities or the holder of an assignment of the right to create a certificate from the consumer.

A certificate can only be created if the activity the certificate relates to was undertaken on or after the commencement of the VEET scheme and either undertaken in Victoria or in another state or territory in which an approved energy efficiency regime is in force. An interstate energy efficiency regime can be approved if, amongst other things, the approval would complement, and not detract from, the achievement of the purpose and objects of this bill and the approval would not impose unreasonable costs on purchasers of electricity and gas in Victoria.

Each certificate created with respect to an activity will represent a tonne of greenhouse gas emissions equivalent to be abated by that activity. The regulations will determine the calculation of the abatement attributable to prescribed activities. The minister may declare factors that are to be used to calculate the abatement attributable to prescribed activities.

Certificates will be electronic and will be traceable to the point of origin by the unique identification code allocated to each certificate. Once created, certificates may be registered by the commission. Certificates that have been registered may be transferred. A certificate may be surrendered, in which case the certificate ceases to be valid. The commission must update its register to show the transfer and surrender of certificates.

I will now focus on the obligations imposed by the bill on relevant entities, covered by part 4 of the bill titled 'Energy efficiency certificate shortfall and VEET scheme target'.

The greenhouse gas reduction rates will be used to determine the number of tonnes of greenhouse gas emissions that a relevant entity is liable for in a given year. It is therefore also the basis for determining how many certificates are required to be surrendered to meet each relevant entity's liability.

The bill provides that a relevant entity must surrender sufficient certificates to cover its liability each year. A relevant entity that has not surrendered enough certificates in a year is liable to pay a shortfall penalty.

The penalty payable by a relevant entity for a year is based on the number of certificates that have not been surrendered and the penalty rate for that year. The penalty rate will be prescribed by the regulations and will be set at a level to support compliance and at the same time impose reasonable limits on the costs faced by businesses.

Part 5 of the bill establishes requirements to record and report liabilities incurred under the bill and the surrendering of certificates to meet those liabilities. For example, the bill provides that a relevant entity must lodge a statement with the commission for the year on or before 30 April in the following year.

Part 6 deals with the enforcement regime under the bill and part 7 deals with the appointment and powers of authorised officers.

Part 8 of the bill:

establishes an internal merits review process;

addresses the administration of the VEET scheme, its registers and publication of key annual data;

provides for information gathering powers which will ensure the integrity of the VEET scheme;

provides for confidentiality; and

provides for the fixing and charging of fees, criminal offences and annual reports on the operation of the VEET scheme.

Part 8 of the bill also provides for an independent review of the operation of the VEET scheme by the end of 2011. The review will assess whether the VEET scheme is working effectively and achieving its objects. The matters to be considered in the review include whether the targets and the penalty rate are appropriate.

Part 9 of the bill provides for consequential amendments to the Essential Services Commission Act 2001 to empower the commission to administer the scheme.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 15 November.

STATE TAXATION AND ACCIDENT COMPENSATION ACTS AMENDMENT BILL

Statement of compatibility

Mr BATCHELOR (Minister for Community Development) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the State Taxation and Accident Compensation Acts Amendment Bill 2007.

In my opinion, the State Taxation and Accident Compensation Acts Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the State Taxation and Accident Compensation Acts Amendment Bill 2007 is to amend the Congestion Levy Act 2005, including by the introduction of an exemption for consulates and associated parties as per the government's international obligations and by changes to clarify the original intent of the pass through and aspects of the liability provisions. The amendments to the Land Tax Act 2005 centre mainly on the trusts provisions. These may also be described as ensuring the original intent of these provisions is more certain. They have arisen during the administration of these provisions since first introduced in 2005. The amendments to the Accident Compensation Act 1985 are designed to improve the scope for the Victorian WorkCover Authority to provide appropriate benefits to catastrophically injured workers.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The bill does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human right, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise a human rights issue.

MAXINE MORAND, MP
Minister for Children and Early Childhood Development.

Second reading

Mr BATCHELOR (Minister for Community Development) — I move:

That this bill be now read a second time.

This bill makes amendments to the Congestion Levy Act 2005, the Land Tax Act 2005 and the Accident Compensation Act 1985.

The changes to the Congestion Levy Act 2005 include introducing an exemption from the levy for parking spaces owned by consulates, consular officials, consular employees and members of their families forming part of their households. This exemption fulfils the government's obligations under the Vienna Convention on Consular Relations 1963.

There is an important amendment to ensure that car park owners can recover the full amount of the levy plus any GST payable from a tenant. In some circumstances, there are parking spaces that are subject to long-term leases which prohibit, or limit, fee increases during the life of the agreement. Accordingly, specific provisions were included in the Congestion Levy Act 2005 to require a tenant to pay to the owner the amount of levy payable for any parking spaces used by the tenant.

The wording of these 'pass through provisions' in section 34 of the Congestion Levy Act 2005 was meant to ensure that an owner was able to recover no more than the cost of the levy paid. However, under the GST legislation, this payment is consideration for a taxable supply in the hands of the owner and is subject to GST, which the owner must pay on the amount received from the tenant.

These amendments allow the owner to recover the GST component from the tenant, thereby ensuring that the levy in its entirety can be collected from the right party.

Earlier this year the Department of Treasury and Finance and the State Revenue Office conducted a review of the administration of the levy. Most findings from that review have flowed through into administrative changes, however, one aspect highlighted in the review was in regards to the joint and several liability provisions of the Congestion Levy Act 2005. This has led to amendments in this bill that are designed to ensure that an owner or operator of a public car park who pays the levy to the State Revenue Office, but who does not have the right to increase parking fees to recoup the cost of the levy, can be indemnified by the party who does have the right to increase parking fees.

The remaining measures in the bill amend the Land Tax Act 2005.

These include a proposal to counter comment on the use of valuations in a recent Supreme Court decision. These amendments will:

clarify that the State Revenue Office was entitled to, and remains entitled to, use the site value valuations of occupancies made by councils (in accordance with the Valuation of Land Act 1960) for land tax assessment purposes,

deem such valuations to be valuations of land for the purposes of the Land Tax Act 2005, and

confirm that, when making land tax assessments, the State Revenue Office was always, and is, entitled to include council descriptions of such occupancies.

This will not impact on taxpayers as it merely confirms the established and practical way in which valuations of occupancies are used for the purposes of assessing land tax.

One of the most important exemptions in the Land Tax Act 2005 is that allowed for a principal place of residence (PPR). Those who enjoy a 'life estate' in a property used as their home are generally entitled to the PPR exemption. There is a small category of people who are granted a 'right to reside' in property on a similar basis as a person holding a 'life estate'. This bill extends the PPR exemption to those who enjoy a 'right to reside', subject to certain restrictions. This is consistent with other jurisdictions, and will provide (at minimal cost to revenue) equity to family (and some non-relative) members residing in the family home.

In late 2005 this government introduced new provisions to deal with the imposition of land tax on lands held by trusts. This was done after consultation with industry and was designed to overcome particular difficulties in dealing with land tax on land held by trusts as opposed to other forms of ownership. While the provisions are working well, there have been some anomalies with the intention and original policy identified. Some of these have been identified by industry. This bill will address these anomalies where it has been determined that legislative clarification is justified.

The proposed amendments include measures to:

(a) replace the definition of an excluded trust (in relation to 'trust established by a will') with a definition of 'administration trust' to ensure that deceased estates, whilst being administered by a personal representative, are not subject to the land tax surcharge for a specified period;

(b) extend the period of the PPR exemption beyond the first anniversary of the death of the deceased, on the basis that the administration of the estate of the deceased may take longer than one year;

(c) require a PPR beneficiary to use and occupy trust property;

(d) ensure that a nomination of a beneficiary by a trustee takes effect in the tax year the nomination is lodged so that the trust land is not subject to the surcharge rates; and

(e) enable the commissioner to approve a change of nominated PPR beneficiary.

Most of these changes will be welcomed by taxpayers; all of them are necessary to ensure the proper intent of the provisions will be met.

I turn now to an area of the Accident Compensation Act that is enhanced in this bill for the benefit of the state's most severely injured workers, and in particular those who suffer catastrophic injuries.

The Accident Compensation Act currently allows the Victorian WorkCover Authority to pay for the cost of those modifications to the home and motor vehicle of an injured worker required as a result of that worker's injury.

However, unlike the Transport Accident Commission, the authority is not currently able to pay for a replacement motor vehicle that can be suitably

modified, where either the injured worker did not possess a car or possessed a car unsuitable for modification.

Similarly, where an injured worker's existing home is not suitable for modification, the authority is, unlike the Transport Accident Commission, unable to pay a reasonable amount for either the cost of a portable semi-detachable home or the costs of relocating the worker to another suitable home.

The proposed amendment expressly allows the authority to meet reasonable costs connected with these benefits, and mirrors the benefits currently available to transport accident victims.

This amendment is well within the financial scope of the WorkCover scheme and will ensure that some of this state's most severely injured workers are able to be provided with the benefits required to assist them in actively integrating back into the community.

I commend the bill to the house.

Debate adjourned on motion of Mr WELLS (Scoresby).

Debate adjourned until Thursday, 15 November.

POLICE REGULATION AMENDMENT BILL

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Police Regulation Amendment Bill 2007.

In my opinion, the Police Regulation Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill establishes a scheme for drug and alcohol testing of police officers.

Human rights issues

The alcohol and drug testing scheme established by the bill represents a careful balancing of a number of competing rights and interests.

The bill enables testing of officers following a critical incident that results in death or serious injury, where the chief commissioner reasonably believes that an officer's ability to perform his or her duties is affected by alcohol or drugs, and where the chief commissioner reasonably believes that an officer ought to be tested for the good order or discipline of the force.

The bill gives effect to the right to life in section 9, the right to liberty and security of the person in section 21, the right to protection from torture and cruel, inhuman or degrading treatment in section 10, and the right to humane treatment when deprived of liberty in section 22 of the charter. These rights require that the state take measures to ensure proper treatment of detained persons and that the state does not arbitrarily deprive a person of their life or interfere with their liberty and security. The rights also require that the state undertake effective investigations where a person is killed or injured by actions of the state or while in the custody of the state. In Victoria, a number of investigatory mechanisms are available including coroner's inquests, criminal proceedings, civil proceedings and disciplinary proceedings.

On the other hand, by enabling the chief commissioner to direct that an officer undergo drug and alcohol testing, the bill has the potential to impact upon the rights of individual officers, including the right to liberty and security in section 21, the right not to be subjected to medical treatment without consent in section 10, the right to freedom of movement in section 12, and the right to privacy in section 13. The results of the testing can be used in disciplinary proceedings against the officer. In the case of a critical incident the results can also be used in any proceedings arising out of the incident, including criminal proceedings and coronial inquests. However, I consider that the privilege against self-incrimination incorporated within sections 24 and 25 of the charter is not engaged. To the extent that these provisions of the charter protect the privilege against self-incrimination, the rights apply only to persons charged with a criminal offence and do not extend to the collection of real evidence during an investigation.

I consider that the bill represents an appropriate balance between these competing rights and any limitation upon the rights of individual officers is reasonable and justifiable under s. 7(2) of the charter.

The nature of the right being limited

The rights of the officers are important and must be respected. However, they are rights that can be limited and must be balanced against the rights of the broader community.

The importance of the purpose of the limitation

Police officers are charged with protecting the community and are given a broad range of powers in order to do so. These include the ability to use force and to detain persons. The exercise of these powers can limit or interfere with the rights of individuals, including the rights to life, liberty and security. It is essential to the protection and promotion of those rights that the chief commissioner has sufficient powers to effectively investigate cases where police action has resulted in death or serious injury, to investigate and take action in cases where alcohol or drug use may be affecting the ability of an officer to carry out his or her duties, and to investigate and manage the performance of police officers. The provisions also serve to enable identification of officers with alcohol or drug problems so that treatment and rehabilitation can be provided.

Enabling alcohol and drug testing of officers also assists in maintaining the integrity of the police force, including risk of corruption, and the public's confidence in it.

The nature and extent of the limitation

The limitations on the individual officers' rights are minimal. An officer's right to liberty and freedom of movement may be limited by requiring him or her to attend for the purpose of drug or alcohol testing. An officer's right to security of the person and not to be subjected to medical treatment without full, free and informed consent may be limited by a direction to allow a blood sample to be taken. Although the officer can refuse to comply with the direction of the chief commissioner, given that such a refusal could result in disciplinary proceedings, consent cannot be regarded as truly free. Further, section 85D(4) enables a blood sample to be taken without consent where an officer involved in a critical incident is unconscious, although the officer can subsequently refuse consent for the use of any evidence obtained from such a sample. The right to privacy is not limited as the circumstances in which such testing can be directed cannot be regarded as unlawful or arbitrary, and sections 85F and 85G protect the confidentiality of the test results.

The relationship between the limitation and its purpose

To the extent that the rights of officers are limited, those limitations are directly connected to the purposes of the scheme. The power to direct officers to undergo testing following a critical incident and the ability to use the results in any proceedings arising out of the incident is necessary to ensure an effective investigation into a death or serious injury arising out of or connected with police actions. The powers of the chief commissioner to direct an officer to undergo drug or alcohol testing in other circumstances are broader, but are also directly connected with the purposes of the limitation. The powers apply only where there are concerns that a member's ability to perform his or her duties is affected by drugs or alcohol, or where it ought to be undertaken for the good order of the force. Pursuant to section 85B(3), a direction can only be given where testing may be relevant to the management of the member's performance of his or her duties, an investigation in respect of the member, or a proceeding arising out of or in connection with such an investigation.

Less restrictive means reasonably available to achieve the purpose

To the extent that the rights of officers are limited, the interference is necessary to achieve the purposes of the scheme. Less restrictive means, such as further limiting the circumstances in which testing can be undertaken or enabling an officer to refuse consent without any disciplinary consequences, would not be as effective in achieving the purposes of the provisions.

Other relevant factors

It should also be noted that police officers are subject to the same alcohol and drug testing schemes as other road users under the Road Safety Act.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

BOB CAMERON, MP
Minister for Police and Emergency Services

Second reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

Victoria Police members have a difficult job to do. For the vast majority of members this job is carried out with expertise and integrity. But some police members, as do some members of the broader community, suffer from drug or alcohol dependencies.

This bill contains some important initiatives to further promote the highest ethical and professional standards within Victoria Police. It will support internal occupational health and safety and ultimately improve community safety and public confidence in policing. It recognises that organisational ethical health must be continuously reinforced and supported.

The bill provides legislative power for the Chief Commissioner of Police to direct Victoria Police members to undergo drug and alcohol testing. Most other Australian police jurisdictions have testing regimes. New South Wales, Queensland, the commonwealth (in relation to Australian Federal Police) and Tasmania have legislative provisions supporting drug and alcohol testing of police officers.

The power to direct testing will be a broad one that will ensure that the testing regime is flexible enough to meet current and future operational purposes. Testing may be carried out in circumstances including but not limited to:

testing for welfare treatment purposes where a member is incapable of, or inefficient in, performing his or her duties;

testing following a critical incident. A critical incident is defined in the bill as where a person dies or suffers serious injury as the result of the use of a motor vehicle, the discharge of a firearm or the use of force by a member whilst on duty, or while in the custody of the police member; or

testing where the chief commissioner reasonably believes it is necessary for the good order and discipline of the force.

Police members cannot be forcibly tested under the bill; however, a failure to comply with a direction may lead

to a range of actions including treatment, discipline or management action as in other states.

Treatment information and test results must be dealt with in accordance with the charter of human rights, information privacy principles and health records legislation. Accordingly, a range of measures in the bill will support members seeking welfare treatment for an alcohol or drug dependence, and also protect the privacy of members. The bill creates an offence for disclosing information that identifies a member who has been directed to undergo testing, except in accordance with the purposes set out in the act or regulations. The bill also prevents the identity of a member being released in public reports.

Treatment information and test results will be protected from admissibility in unrelated legal proceedings. This is important to protect the administration of justice being substantively and unreasonably delayed or blown out through irrelevant 'fishing' expeditions by criminal defence teams. For example, a police member may be involved in a critical incident during a search, and then test positive to a drug of dependence. It is not intended that the drug test result could be used by the party subjected to the search, to attempt to discredit a charge against him or her such as possession and handling of stolen goods resulting from the search. The test results are not related to the other proceedings in this context.

Importantly however, test results created after a critical incident will be admissible in civil, criminal and coronial proceedings arising directly from the critical incident. So the person injured in the critical incident may issue civil proceedings against the member, in which the drug test result could be admissible. And, if criminal charges were laid against the police member arising from the critical incident, the drug test results would be admissible in those proceedings.

Some other exceptions to this inadmissibility of test results will also operate. This includes certain proceedings under occupational health and safety or WorkCover legislation.

Secondly, the bill separates the offices of the Ombudsman and the director, police integrity.

The original decision to establish the office and to appoint the director, police integrity, to be the same person as the Ombudsman, meant that the Office of Police Integrity was able to rapidly build its operational capacity using the established infrastructure of the Ombudsman. It also meant intelligence gained by the Ombudsman in monitoring and reviewing police complaints over the years would not be lost but would transfer seamlessly to the new agency. As a result the Office of Police Integrity was able to start achieving results much faster than it would otherwise have done. However, the office is now an effective, proactive and fully operational police anticorruption body, comparable, in general terms of its powers and resources, to similar bodies in other Australian jurisdictions.

It is therefore timely to make the amendments allowing the separation of the two offices.

Lastly, the bill removes a 'sunset' clause that would otherwise come into effect in early 2008, thereby preventing the director, police integrity, from accessing 'contempt' powers. The Police Regulation Act 1958 provides that a person attending an investigation in answer to a summons issued by the director may be guilty of a contempt in certain circumstances, such as failing without reasonable excuse to produce documents or things or failing to attend and give evidence or refusing to be sworn and answer questions. The director may issue a certificate charging the person with contempt and the person so charged may be arrested and brought before the Supreme Court to be dealt with.

This provision attracted some interest when it was introduced and a 'sunset' provision was therefore included to ensure that the process could be evaluated over a three-year period. Although it has not been utilised to date, its retention is supported by the director.

The measures in this bill will support police integrity and assist in maintaining community confidence in our police.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 15 November.

ROAD LEGISLATION FURTHER AMENDMENT BILL

Statement of compatibility

Mr PALLAS (Minister for Roads and Ports) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I table a statement of compatibility for the Road Legislation Further Amendment Bill 2007.

In my opinion, the Road Legislation Further Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Part 1 — Overview of bill

The Road Legislation Further Amendment Bill 2007 ('bill') amends the following acts:

Road Safety Act 1986

Transport Act 1983

Melbourne City Link Act 1995

EastLink Project Act 2004

Road Management Act 2004

Chattel Securities Act 1997

The bill will amend these acts as follows:

Road Safety Act 1986

To implement the National Transport Commission's model legislation on fatigue management for drivers of heavy vehicles.

To introduce a new offence for drivers who deliberately or recklessly enter level crossings when warning devices are operating or a train or tram is approaching, and providing for the impoundment, immobilisation or forfeiture of the relevant vehicle in certain circumstances.

To allow VicRoads' records to be used and disclosed for the purpose of locating missing persons, facilitating road safety related research projects and enabling infrastructure managers to issue or defend civil proceedings arising out of their statutory functions under the Road Management Act 2004 or damage resulting from road accidents.

To enable VicRoads to delay serving a further demerit points option notice if the initial notice is returned undelivered.

To enable regulations to be made allowing for different procedures or requirements to be imposed on a driver licence depending on the person's age or experience, and allowing VicRoads to grant a probationary licence to a person under the age of 21 years for a longer term than usually applies to a probationary driver licence issued to an older driver.

Chattel Securities Act 1997

To make various amendments regarding the registration of security interests in motor vehicles, including clarification of the power to make regulations imposing fees, and the ability to waive or reduce those fees for account holders and the Sheriff.

Melbourne City Link Act 1995

To apply the 'operator onus' provisions of the Road Safety Act 1986 to tolling charges, so that a recipient of a tolling invoice who was not driving at the relevant time may nominate the 'responsible person' in relation to the vehicle.

To convert the expression of the amount of a City Link infringement penalty to monetary units, thereby allowing such infringements to be indexed each year.

EastLink Project Act 2004

To make the tolling provisions in relation to EastLink more consistent with those that apply to City Link, thereby ensuring that persons who drive vehicles on either Melbourne City Link or EastLink without being registered to do so are treated equally with respect to the enforcement of offences.

Road Management Act 2004

To make compliance with a road management plan a defence to civil proceedings arising out of the exercise of road management functions generally (that is, not limited to road maintenance).

To establish new arrangements for the funding and management of street lighting on arterial roads.

Part 2 — Human rights protected by the charter that are engaged by the bill

Section 8 — recognition and equality before the law

Section 8 of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination.

Driver licences

The following provisions of the bill engage the right to recognition and equality before the law under section 8(3) of the charter:

Clause 5 provides that regulations may be made to ensure that procedures and requirements that a person must comply with before VicRoads can grant a driver licence may differ depending on a person's age.

Clause 6 provides that VicRoads may grant people under the age of 21 years a driver licence for different terms than the terms that usually apply to people who are aged 21 years or more.

The provisions engage a person's right to enjoy his or her human rights in Victoria without discrimination in that they enable the making of regulations that may restrict a person's right to obtain a driver licence, or to obtain a licence for a different term than would otherwise apply, on the basis of that person's age.

The reasonableness of the limitation on the right for the purposes of section 7(2) of the charter is considered in part 3 below.

Section 12 — freedom of movement

Section 12 of the charter provides that 'Every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live'.

Driver licences

Clause 5 engages, but does not limit, the right to freedom of movement under section 12 of the charter. It provides that regulations may be made to ensure that procedures and requirements that a person must comply with before VicRoads can grant a driver licence may differ depending on a person's age.

Clause 5 enables the making of regulations that may restrict a person of a certain age from applying for a driver licence, and therefore restricts the person's ability to move freely in Victoria. However, the provision only limits the mode of that movement. Courts in Canada and New Zealand have considered arguments that restrictions on the ability to drive represent a limitation on the right of freedom of movement. The balance of judicial opinion in both jurisdictions suggests that this is not the case.

Accordingly, clause 5 does not interfere with, and therefore does not limit, the right to move freely within Victoria under section 12 of the charter.

Level crossing safety

The following provisions engage, but do not limit, the right to freedom of movement under section 12 of the charter.

> Clause 9 inserts new section 68B into the Road Safety Act 1986, which creates a new offence of 'deliberately or recklessly entering a level crossing when a train or tram is approaching'.
>
> Clause 15 inserts a new paragraph (ea) into the definition of 'relevant offence' with the effect that repeated breaches of the offence created by new section 68B are punishable by the impoundment, immobilisation or forfeiture of the offender's motor vehicle.

If the right of freedom of movement encompasses a right to drive or use highways, it might be argued that the right would be limited by the removal of the person's vehicle. Courts in Canada and New Zealand have considered arguments that restrictions on the ability to drive represent a limitation on the right of freedom of movement. However, the balance of judicial opinion in both jurisdictions suggests that this is not the case.

Accordingly, clauses 9 and 15 do not interfere with, and therefore do not limit, the right to move freely within Victoria under section 12 of the charter.

Fatigue management: substantive provisions

Clause 20 inserts several new sections into the Road Safety Act 1986 which engage a person's right to freedom of movement.

> New sections 191ZZJ and 191ZZK authorise an inspector under the Road Safety Act 1986 who believes the driver of a fatigue-regulated heavy vehicle has worked a period in excess of the maximum period allowed under a maximum work requirement, or who has taken a rest period that is shorter than the rest period required under a minimum rest requirement, to issue a written notice requiring the driver to take a rest or to work for a shorter period.
>
> New section 191ZZL authorises an inspector under the Road Safety Act 1986 to issue a written notice requiring a driver to stop work immediately and not work again for a stated period if the inspector believes the driver is impaired by fatigue. An inspector may authorise a person who is qualified to do so to drive the vehicle to a suitable rest place.

These provisions engage a person's right to freedom of movement in Victoria because they enable an inspector to require a person to rest before continuing to drive a fatigue-regulated heavy vehicle until certain requirements of rest are satisfied.

The reasonableness of the limitation on the right to freedom of movement for the purposes of section 7(2) of the charter is considered in part 3 below.

Fatigue management: application of part 11 of the Road Safety Act 1986

Clause 23 substitutes for section 192(2)(a) of the Road Safety Act 1986 a new section 192(2)(a), which extends the operation of the section to cover contravention of a maximum work limit, a minimum rest requirement, or a work diary requirement.

The effect of this amendment is to apply the provisions of part 11 of the Road Safety Act 1986 to the fatigue management requirements inserted in new part 10A. Part 11 of the act sets out a range of compliance and enforcement provisions which apply to a 'relevant heavy vehicle offence'.

Part 11 includes provisions which allow inspectors to issue improvement notices to persons believed to be committing or to have committed a relevant heavy vehicle offence. An improvement notice can direct the person to take specified action to stop the offence or prevent it from recurring.

This provision also limits a person's right to freedom of movement in Victoria because it enables an inspector to direct a person to not drive a vehicle until certain action is taken.

The reasonableness of the limitation on the right to freedom of movement for the purposes of section 7(2) of the charter is considered in part 3 below.

Section 13 — privacy and reputation

Section 13 of the charter provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with.

Tolling provisions

Clauses 10 and 11 amend sections 84BB and 84BE of the Road Safety Act 1986. The clauses expand the existing definition of a 'responsible person' to include a person who has been nominated in an effective tolling statement under either the Melbourne City Link Act 1995 or EastLink Project Act 2004 and the provisions relating to nomination of drivers.

To avoid liability for tolls and fines arising out of the use of CityLink or EastLink, a vehicle operator may need to nominate the driver or another person who may have been responsible for the vehicle, and in doing so divulge personal information (such as name, address and date of birth).

The amendments made by clauses 10 and 11 allow vehicle operators to provide personal information about a 'responsible person' they wish to nominate for the purposes of collecting a relevant toll under part 4 and part 5 of the bill which amend the EastLink Project Act 2004 and the Melbourne City Link Act 1995, respectively.

Under amendments made by part 4 and part 5, the operator of a vehicle will have default liability to pay tolls charged to it, unless it can nominate another person as the person responsible for that payment. Making such a nomination will involve divulging personal information and will allow an enforcement agency to use that information to pursue the nominated person.

These provisions engage, but do not limit, the right to privacy under section 13 of the charter.

Any interference with privacy authorised by these provisions is lawful and not arbitrary.

It is lawful because it is authorised by the legislation as amended by these provisions. They contain a number of procedural and substantive safeguards which prevent the interference from coming about in an arbitrary manner. The safeguards include:

The operator of the vehicle is required to provide reasons for the belief that the person they are nominating had control and/or possession of the vehicle at the relevant time.

The enforcement official must accept the nomination as effective in order for it to have any consequence (under section 199 of the EastLink Project Act 2004 and section 72(3C) of the Melbourne City Link Act 1995).

The making of false and misleading statements is prohibited by way of criminal sanctions (in both section 199B of the EastLink Project Act 2004 and section 72AB of the Melbourne City Link Act 1995).

Accordingly, to the extent that these provisions do provide for the collection or disclosure of personal information, they do not limit the right to privacy under section 13 of the charter.

Use and disclosure of information obtained by VicRoads

Clause 16 amends section 92 of the Road Safety Act 1986 by inserting three further exemptions to the prohibition on the release of personal and commercially sensitive information kept by VicRoads. The new provisions will allow VicRoads to release information:

to an authorised body for the purpose of contacting and locating missing persons or facilitating family reunion (section 92(3)(ic)),

for the purpose of road safety research and the dissemination of information and advice in relation to road safety (section 92(3)(id)),

to a road authority or utility as defined in the Road Management Act 2004 for the purposes of issuing or defending civil proceedings relating to the road authority or utility's functions as defined under that act or damage to infrastructure resulting from road accidents (section 92(3)(ie)).

These provisions engage a person's right to privacy in that they allow VicRoads to release information of a personal nature which it has collected as part of its statutory functions without obtaining specific authority from the individuals to do so.

Any interference with privacy authorised by the clause is lawful and not arbitrary.

It is lawful because it is authorised by the act as amended by the clause. Section 92 of the act provides for disclosure for limited purposes and contains a number of procedural and substantive safeguards, both of which prevent the interference from coming about in an arbitrary manner.

The purpose of new paragraph (ic) is to facilitate reunion programs which will assist in re-establishing contact between separated family and friends as well as helping find missing persons by accessing personal information held by VicRoads. The exception contains a safeguard in requiring that disclosure can only be to bodies or persons approved by the minister.

The purpose of the new paragraph (id) is to allow VicRoads to access personal information or commercially sensitive information for the purpose of road safety research and disseminating and advising in relation to road safety.

The purpose of the new paragraph (ie) is to assist road authorities and infrastructure managers to carry out their statutory functions under the Road Management Act 2004. The efficient carrying out of these functions is also important to all road users in Victoria and the greater public of Victoria generally.

Existing safeguards in section 92 of the Road Safety Act 1986 for the protection of personal information used or disclosed by VicRoads will apply to use or disclosure for the purposes specified in clause 16. Those safeguards are as follows:

It is a serious offence to use or disclose information in contravention of the section.

Persons to whom information is disclosed must enter into a confidentiality agreement with VicRoads, which must amongst other things set out how the confidentiality of the information is to be protected.

Accordingly, to the extent that clause 16 provides for the use or disclosure of personal information, it does not limit the right to privacy under section 13 of the charter.

Section 20 — property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

Clauses 9 and 15 of the bill engage, but do not limit, the right set out in section 20 of the charter.

Clause 9 inserts new section 68B into the Road Safety Act 1986, which creates a new offence of 'deliberately or recklessly entering a level crossing when a train or tram is approaching'.

Clause 15 inserts a new paragraph (ea) into the definition of 'relevant offence' with the effect that repeated breaches of the offence created by new

section 68B are punishable by the impoundment, immobilisation or forfeiture of the offender's motor vehicle.

These provisions raise, but do not limit, the right to not be deprived of property under section 20 of the charter. The charter allows deprivation of property 'in accordance with law'. A deprivation of property will be in accordance with law when it is in conformance with a set of procedures established by law. Deprivation of property under these provisions must follow the set of procedures established by part 6A of the Road Safety Act 1986.

Temporary deprivation of property, in the form of impoundment and immobilisation, is made by the police. The procedures set out in the act allow for notification, internal review, appeal rights and possible costs consequences against the Crown. Permanent deprivation of property, in the form of forfeiture, can only be ordered by a court.

Therefore, these provisions provide for deprivation of property in accordance with law and do not interfere with the right to not be deprived of property.

Section 21(8) — imprisonment for inability to perform contractual obligations

Section 21(8) of the charter provides that a person must not be imprisoned only because of his or her inability to perform a contractual obligation.

Operator onus for tolling

Parts 4 and 5 of the bill engage, but do not limit, the right to liberty under section 21(8) of the charter.

These clauses amend the EastLink Project Act 2004 and Melbourne City Link Act 1995 respectively, by applying the operator onus provisions of the Road Safety Act 1986 to the liability to pay tolls and administration fees.

The provisions have the effect that a person who drives a vehicle on EastLink or City Link without the vehicle being registered for that purpose will commit an offence for which they may be liable for an infringement penalty as well as for payment of the toll and any administration charge.

The ultimate consequences of a failure to pay an infringement penalty include that a person may be imprisoned. Hence, it appears that the provisions have the potential to impose an imprisonment penalty for failure to comply with a contractual obligation.

However, the relevant provisions (section 204 of the EastLink Project Act 2004 and section 73 of the Melbourne City Link Act 1995) only impose a criminal liability on a person who is not registered for the purpose of using one of the relevant toll roads. They therefore only impose a criminal liability in the absence of a contractual relationship with the operator of the tollway.

Accordingly, the provisions in parts 4 and 5 engage, but do not limit, the right to protection from imprisonment for an inability to perform contractual obligations under section 21(8) of the charter.

Section 25(1) — presumption of innocence

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

A number of provisions engage the presumption of innocence under section 25(1) of the charter.

Fatigue management

Clause 20 of the bill inserts new sections 191A to 191ZZZD into the Road Safety Act 1986.

The intent of the new provisions is to establish a scheme to properly manage fatigue in the drivers of heavy vehicles on an industry-wide basis, thus improving safety on Victorian roads. It aims to do so by imposing criminal liability, in cases where the driver of a heavy vehicle contravenes maximum work or minimum rest requirements, and in some cases work diary requirements, on a 'chain of responsibility' basis.

New section 191B defines 'fatigue regulated heavy vehicle'. The requirements set out in new part 10A will generally apply to such vehicles. A 'fatigue regulated heavy vehicle' is a motor vehicle or combination with a gross mass of more than 12 tonnes, or a bus. Expressly excluded from the definition are trams, motor homes and vehicles that primarily operate off public roads, such as agricultural machinery and road building plant.

New sections 191D–191K impose duties on various persons ('parties in the chain of responsibility') who may be liable for an offence where a driver of a fatigue-regulated heavy vehicle contravenes a maximum work requirement, a minimum rest requirement or a work diary requirement.

These provisions also provide defences for parties in the chain of responsibility. A person (other than an operator) who was in a position to influence the conduct of the driver will be able to invoke the reasonable steps defence set out in new section 191ZZP.

New section 191ZZP provides that for a person who has the benefit of the reasonable steps defence, it is a defence if the person charged establishes that:

the person did not know, and could not reasonably be expected to have known, of the contravention; and

either the person took all reasonable steps to prevent the contravention or there were no steps the person could reasonably have taken to prevent the contravention.

New section 191ZZQ sets out various matters to which a court may have regard when deciding whether things done or omitted to be done by a person charged constitute reasonable steps.

New section 191ZZO(2) provides that a court must consider a person to have taken reasonable steps to prevent an act or omission that led to a contravention if the person establishes that they did certain things to prevent the act or omission. In general terms, those things include identifying and assessing (at or within specified times) aspects of their activities that may lead

to a contravention of a fatigue management requirement, and taking steps to eliminate or minimise the risk.

New section 191ZZS enables a person charged with a fatigue management offence to establish that they took all reasonable steps to prevent the contravention by providing proof that they complied with relevant standards and procedures, including an industry code of practice.

New section 191ZZX provides that proceedings can be taken against more than one person who is liable to be found guilty of a fatigue management offence. Proceedings may be taken against a person regardless of whether proceedings have been taken against anyone else, and regardless of the outcome of those proceedings.

Effectively, a number of people including the owner and persons involved in the scheduling of trips and the loading and consigning of goods may be deemed to have committed the same offence as the driver, unless they can establish the existence of the reasonable steps defence.

The scheme is intended to place an evidential onus on parties in the chain of responsibility to establish their innocence. The offences carry penalties.

The provisions engage the right to be presumed innocent until proven guilty under section 25(1) of the charter because various influencing persons and their associates are effectively deemed to be guilty until they establish that they are innocent. Overseas jurisprudence indicates that this kind of reverse onus provision has been widely held to amount to a limitation on the right to be presumed innocent.

Therefore, these provisions limit the right to the presumption of innocence. The reasonableness of the limitation on the right to the presumption of innocence for the purpose of section 7(2) of the charter is considered in part 3 below.

Operator onus for tolling

Clause 10 will amend section 84BB of the Road Safety Act 1986 to expand the existing definition of a 'responsible person' to include a person who has been nominated in an effective tolling statement under either the Melbourne City Link Act 1995 or EastLink Project Act 2004. By doing so, it makes persons nominated in such tolling statements subject to the 'operator onus' provisions of part 6AA of the Road Safety Act 1986.

The operator onus provisions in part 6AA have the effect that 'a responsible person' is liable for an infringement and for certain purposes will be deemed to have committed an offence unless that person establishes that he or she was not in control of the vehicle at the time.

The person must do so by providing a statement in a particular form and with prescribed particulars.

While the provisions in clause 10 appear to have the effect of attributing guilt to a nominated person, these provisions also allow a person so nominated to identify another person as responsible for the vehicle. Subject to certain procedural requirements being satisfied, the person so nominated then becomes liable. Various provisions allow a nominated person to dispute the nomination, and the effect is that the nomination under these provisions is akin to an 'allegation' rather than a conclusive attribution of guilt.

Accordingly, the provisions in clause 10 do not limit a person's right to be presumed innocent until proven guilty under section 25 of the charter.

Part 3 — Consideration of reasonable limitations under section 7(2) of the charter

This part of the statement considers, for each of the provisions that are identified in part 2 as limiting one or more charter rights, whether the limitation is reasonable as required by section 7(2) of the charter.

Section 8 — recognition and equality before the law

For reasons set out above, the following provisions limit the right to recognition and equality before the law under section 8 of the charter:

Clause 5 provides that regulations may be made to ensure that procedures and requirements that a person must comply with before VicRoads can grant a driver licence may differ depending on a person's age.

Clause 6 provides that VicRoads may grant people under the age of 21 years a driver licence for different terms than the terms that usually apply to people who are aged over 21 years of age.

(a) The nature of the right being limited

The right to equality before the law without discrimination on the basis of age is an aspect of section 8 of the charter. This right is not an absolute right in international human rights law. Under the charter, the right may be subject to reasonable limitations that are demonstrably justified.

(b) The importance of the purpose of the limitation

The purposes of clauses 5 and 6 are to provide for measures to be put in place (through regulations) that will ensure that drivers have the appropriate levels of experience and ability to drive a vehicle safely, having regard to the conditions under which they are permitted to drive.

A driver licence is a privilege that is available to people who satisfy the necessary prerequisites of age, driving experience and ability, medical fitness, and compliance with the road rules.

There is a well-established correlation between age and experience of a driver and the risk of involvement in a collision. Unfortunately, young people are significantly overrepresented in road accident statistics in Victoria. In particular:

one-third of the road toll (120 people) results from crashes involving drivers aged 18 to 25 years;

drivers aged 18 to 25 years make up 13 per cent of licensed drivers, but account for 27 per cent of all driver deaths;

people aged 15 to 25 years are more likely to die as a result of a car crash than any other cause;

the relative risk of casualty crash involvement per million kms driven in Melbourne for probationary drivers is three times greater than that for full licence holders.

These provisions provide a framework to make regulations which will allow measures to be targeted to specific risk groups, whether the risk relates to age, experience or other factors intended to address this.

In addition, allowing for different licence terms for people under the age of 21 is necessary to maintain consistency between the total period of probation for these drivers (one year on P1 and three years on P2), and the term of their licence.

(c) The nature and extent of the limitation

Clauses 5 and 6 apply to the making of regulations that establish procedures and requirements to be complied with before VicRoads can grant a full driver licence to a person.

Clause 5 enables regulations to be made which impose different requirements for obtaining a driver licence depending on the person's age.

Clause 6 will allow drivers under 21 years of age to be placed on a probationary licence for a longer period than drivers over 21. A probationary licence contains conditions and restrictions (including a condition that the driver maintain a zero BAC) that are designed to minimise risks associated with inexperience.

(d) The relationship between the limitation and its purpose

It is well established at international law that the limitation can be fully justified in specific circumstances. Here, the limitation is justified in light of the risks associated with having people at different ages, and accordingly having different physical coordination and cognitive skills, in charge of a vehicle.

In relation to clauses 5 and 6, the limitations are rationally connected to the purpose they seek to achieve by ensuring that people who are granted driver licences have satisfied necessary prerequisites to ensure that they are capable of driving a vehicle safely. By providing a framework to make regulations, they allow measures to be taken which are targeted and proportionate to particular risks.

(e) any less restrictive means reasonably available to achieve its purpose

Age is one of a number of prerequisites that must be satisfied before a driver licence may be granted. There are no other means reasonably available to achieve the purpose of the limitations and restrictions imposed.

Section 12 — freedom of movement

As noted, clause 20 inserts new sections into the Road Safety Act 1986 and clause 23 amends section 192(2)(a) of that act. These provisions limit a person's right to freedom of movement.

(a) Nature of the right being limited

The right to move freely in Victoria is an aspect of the right to freedom of movement provided in section 12 of the charter. This right is not dependent on any particular purpose or reason for a person wanting to move or to stay in a particular place.

This right is not an absolute right at international human rights law. Under the charter, the right may be subject to reasonable limitations that are demonstrably justified.

(b) The importance of the purpose of the limitation

In clause 20, the purpose of new sections 191ZZJ to 191ZZL is to ensure that people who drive fatigue-regulated heavy vehicles comply with rest requirements and therefore that they can drive a heavy vehicle safely. The amendment to section 192(2)(a), to the extent that it makes the power to issue an improvement notice available for fatigue-related offences, has a similar purpose.

It is well established that driver fatigue is a significant contributing factor to vehicle incidents in Victoria. The new sections 191ZZJ and 191ZZK contain powers which can be used to prevent a vehicle being driven when an enforcement officer suspects a driver may be fatigued or where the driver is unable to provide the information required to satisfy the enforcement officer that he or she is not impaired by fatigue.

New section 191ZZL is also necessary to ensure that drivers of fatigue-regulated heavy vehicles are parked in a designated rest place so as not to cause congestion to road traffic or risk to other road users on the road network.

(c) The nature and extent of the limitation

The power to require a person to rest or to direct a fatigue-regulated heavy vehicle to a designated rest place is limited to circumstances where an inspector reasonably believes that the driver of a fatigue-regulated heavy vehicle:

has worked for a period in excess of the maximum period allowed under a maximum work requirement; or

has taken a rest period that is shorter than the minimum rest period required under a minimum rest requirement; or

is impaired by fatigue.

The provisions limit the movement of drivers of fatigue-regulated heavy vehicles in limited circumstances. The limitations apply only to driving fatigue-regulated heavy vehicles. Drivers of fatigue-regulated heavy vehicles are unlikely to be restricted in their movement because of the availability of private vehicles and public transport for private travel.

(d) The relationship between the limitation and its purpose

The limitations are rationally connected to the purpose they seek to achieve as they establish an effective means of ensuring that drivers of heavy vehicles are not impaired by fatigue.

Importantly, the limitations do not restrict the right to freedom of movement any more than is necessary to achieve the purpose. In this regard, the restrictions are only applicable to the driving of fatigue-regulated heavy vehicles. Accordingly, the limitations are narrow and focused on the purpose and objective of the bill. In this regard, the limitations are proportionate to the risk associated with incidents involving heavy vehicles as a result of driver fatigue.

(e) Any less restrictive means reasonably available to achieve its purpose

No other means are considered reasonably available to achieve the purpose of the restrictions imposed.

Section 25(1) — right to be presumed innocent until proven guilty

As noted above, the insertion by clause 20 of the bill of sections 191A to 191ZG into the Road Safety Act 1986, which establish a 'chain of responsibility' scheme to properly manage fatigue in the drivers of heavy vehicles, limits the right to be presumed innocent.

Under the charter the right may be subject to reasonable limitations that are demonstrably justified.

(a) The nature of the right being limited

The right to the presumption of innocence is aimed to ensure that the burden is generally on the prosecution to prove, beyond reasonable doubt, that a defendant committed the relevant elements of the offence.

The presumption of innocence is not an absolute right. Jurisprudence in other jurisdictions has confirmed that the right may be limited.

(b) The importance of the purpose of the limitation

The limitations in these provisions are generally intended to improve road safety by better regulating fatigue in the drivers of heavy vehicles. They give effect to fatigue management policies developed by the National Transport Commission ('NTC') for implementation on a uniform basis by all states and territories. In developing the policies, and the 'chain of responsibility' principles under which influencing persons and their associates are made liable for fatigue-related offences, the NTC consulted widely with transport regulators, unions and the transport industry.

It is well established that there is a clear correlation between driver fatigue and road safety. In the transport industry, a combination of factors such as shift work, long consecutive shifts without a day off, work in unfavourable conditions and an older workforce provide the preconditions for a fatigue problem. The impacts of this problem extend beyond the immediately affected transport workers to the community in general when fatigue interferes with tasks such as driving on the public road network.

Fatigue is an occupational health and safety issue, a commercial issue, a public safety issue and can be an environmental issue. Fatigue has both direct and indirect economic consequences not only for workers in the road transport industry and for the industry itself, but for the community as a whole.

The road transport sector has a work-related fatality rate per 100 000 workers nearly eight times the average for all industries.

From the consultations conducted by the NTC it appears that there is a widely held view that a range of persons involved in road transport other than drivers can and do influence driver behaviour, in particular by encouraging or providing incentives for drivers to contravene regulatory requirements designed to combat driver fatigue, or by failing to prevent or discourage such conduct when they are in a position to do so.

It is accordingly considered appropriate to seek to impose liability on such persons where they engage in conduct which encourages, rewards or fails to deter such contraventions on the part of drivers.

Therefore, the importance of this limitation satisfies the tests enunciated in overseas jurisdictions, including the strict test enunciated by Canadian courts that the limitation must address 'societal concerns which are pressing and substantial'.

(c) The nature and extent of the limitation

The limitation on the presumption of innocence is effected by various sections in new part 10A. The effect of those sections is summarised above.

(d) The relationship between the limitation and its purpose

The purpose of the provisions which place the onus of proof on a person to demonstrate that they took reasonable steps to prevent it is to ensure that such persons are not found guilty of offences in circumstances where such a person could not be said to bear any culpability for the contravention of the driver.

A person who is seeking to establish the defence has the burden of proving that they took reasonable steps to prevent the contravention. If they seek to establish that they took reasonable steps, they will in most cases have to lead evidence to address at least some of the matters specified in new section 191ZZQ.

Many of the matters that might need to be put to the court by the defendant are matters for which evidence would not readily be available to the prosecution. For example, in the absence of detailed admissions, the prosecution would not ordinarily be able to establish that a person did not know of the contravention, nor that it took all reasonable steps to prevent the contravention.

Other matters that might need to be put to the court by the defendant are matters for which evidence would be no less readily available to the defendant than to the prosecution. For example, both the prosecution and the defence would (assuming they have equivalent resources for the purpose of conducting the proceedings) be equally able to establish the cost of measures available to prevent or eliminate a risk, or to give evidence of accreditation schemes, expert opinion, standards or other relevant knowledge.

Taken as a whole, the matters that would ordinarily need to be put before a court to satisfy it that the defendant was not in a position to influence, or took reasonable steps to prevent, a fatigue-related offence are matters which are more readily able to be proven by the defendant than by the prosecution.

It is therefore considered that imposing the onus on the defendant in these circumstances serves the legitimate purpose of providing a proper balance between:

> the objectives of the chain of responsibility approach to compliance (that is, to ensure that persons who are in a position to influence or prevent conduct of the driver are held responsible where that conduct gives rise to a breach); and

the need to ensure that influencing persons are not found liable where they could not be said to bear any real culpability for the conduct of the driver.

It should also be noted that:

The availability of this defence avoids the potentially harsh impacts of what would otherwise be absolute liability offences. There is UK case law to suggest that a reverse onus is not incompatible with the charter where the incompatibility could be removed simply by removing the defence altogether (*AG of Hong Kong v. Lee Kwong-kut* (1993) AC 951 and *Sheldrake v. DPP* (2003) 1 WLR 1736).

It is expected that proper exercise of prosecutorial discretion will ensure that persons who fall within the definition of 'influencing persons' but who in no sense could have influenced or prevented the offence, are not prosecuted.

While the offences carry potentially high maximum fines, they are not directly punishable by imprisonment.

The amount of fine that may be imposed is a matter of judicial discretion which will take into account the degree of culpability.

In light of the above factors, it is considered that the limitation on the presumption of innocence is an appropriate and proportionate means of addressing the purpose sought to be achieved by the fatigue management provisions.

(e) Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

It is considered that the implementation of a 'chain of responsibility' scheme which imposes liability on parties in the transport chain other than the driver is a reasonable and appropriate way of achieving the purpose of combating driver fatigue.

An alternative to the approach taken in new part 10A would have been to make all persons guilty of an offence on an absolute liability basis, in effect depriving them of any defence, thereby relying on prosecutorial discretion and the sentencing discretion of courts to avoid or ameliorate any unfair operation of the provisions.

Another alternative approach would have been to make all persons guilty of an offence on a strict liability basis, with the effect that persons charged would have recourse to the honest and reasonable mistake defence but otherwise be relying on prosecutorial discretion and the sentencing discretion of courts to avoid or ameliorate any unfair operation of the provisions.

The proposed reasonable steps defence is considered to provide greater scope for an influencing person to avoid being found guilty inappropriately than either of these alternatives.

An alternative to imposing a burden on the defendant to establish the reasonable steps defence would have been to impose a burden on the prosecution to prove that the defendant did not take reasonable steps, and to rely on section 130 of the Magistrates' Court Act 1989, which only requires the defendant to point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the excuse. However, many of the matters specified as relevant to whether a person took reasonable steps are matters that are peculiarly within the knowledge of that person, and on which the prosecution could not reasonably be expected to gather and adduce evidence, and accordingly it is considered reasonable to frame the defence in the manner provided for in this bill.

Part 4 — Concluding statement

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

Provisions of the bill engage but do not limit rights conferred by sections 8(3), 12, 13, 20, 21(8) and 25(1) of the charter.

Provisions of the bill engage and limit the rights conferred by sections 8(3), 12 and 25(1) of the charter, but none of those rights is an absolute right, and the limitations are reasonable and demonstrably justifiable having regard to the matters set out in section 7(2) of the charter.

TIM PALLAS, MP
Minister for Roads and Ports

Second reading

Mr PALLAS (Minister for Roads and Ports) — I move:

That this bill be now read a second time.

This bill makes a number of amendments to road transport legislation in Victoria. The most important of these relate to heavy vehicle driver fatigue, the legal effect of road management standards, the funding and management of street lighting, driver behaviour at level crossings, extension of recent operator-onus reforms to toll roads and access to VicRoads records.

Heavy vehicle driver fatigue

The National Transport Commission has undertaken a comprehensive review of the regulatory approach to managing fatigue in drivers of heavy vehicles. In February 2007 the Australian Transport Council approved new national laws based on the NTC's recommendations. The bill before the house implements those agreed reforms.

The key elements of the agreed reforms are:

new work and rest limits;

flexible driving hours, using a three-tiered approach;

a risk-based categorisation of offences;

a general duty to avoid driver fatigue;

enhanced enforcement powers;

a chain of responsibility, in which a duty is imposed on persons who share, with drivers, the responsibility for fatigue management;

strengthened record-keeping requirements, with a work diary replacing the current log book.

The catalyst for the reforms is the recognition of three interrelated factors:

crashes in which the heavy vehicle driver is fatigued are reasonably prevalent and are costly;

levels of compliance with driving hours requirements are unacceptably low;

current driving hours limitations have little basis in the scientific understanding of fatigue.

The NTC's findings, on which the reforms are based, recognise that although work produces fatigue, the length of time working is less important than the time of day in which work takes place and the length of time awake. Fatigue can be managed better if there is some flexibility in the way work and rest is managed.

Based on these findings, the bill provides for a more flexible, performance-based approach that includes standard hours, basic fatigue management and advanced fatigue management options. The latter two options require accreditation with VicRoads, which will be subject to conditions relating to compliance with the relevant fatigue management standards and business rules.

The bill departs from the national model bill in that the 'reasonable steps defence' will not be available to heavy vehicle drivers and operators. Other parties in the chain of responsibility who have been charged with an offence will have a defence available that they can establish that they did not know, and could not reasonably be expected to have known, of the contravention concerned, and either they took all reasonable steps to prevent the contravention or there were no steps they could reasonably be expected to have taken to prevent the contravention.

Not allowing drivers and operators to have access to this defence is consistent with the approach taken in relation to heavy vehicle mass, dimension and load restraint chain of responsibility offences introduced in 2005, and with the level of control drivers and operators have over the freight task. Furthermore, introducing this defence would mean that under the government's infringements policy, it would not be appropriate to deal with driver and operator offences under the proposed fatigue laws by an infringement notice. This is because the question of whether a defendant took reasonable steps requires a subjective assessment which should normally be left to the courts.

Another departure from the national model bill concerns the outer limit for the advanced fatigue management module not exceeding 15 hours work in any 24-hour period, when the national model bill allows for an outer limit of 16 hours. This is based on expert advice regarding fatigue management received by Victoria which suggests that 16 hours work in any 24-hour period imposes an unacceptable risk to the safety of the driver and other road users.

Road management standards

The bill includes amendments to the Road Management Act 2004 to allow compliance with a road management plan to be a defence to all civil actions in relation to the exercise of road management functions, not just road maintenance.

The Road Management Act enables a road authority to set a standard in relation to the performance of a 'road management function'. A road authority has a duty to carry out these road management functions to such a standard, and may incur civil liability if it does not.

Conversely, compliance with the standard constitutes a defence against civil actions arising from alleged negligence or breach of statutory duty in relation to the performance of road management functions.

The current civil liability provisions in the act are ambiguous as to whether compliance with road management standards is an acceptable defence only in relation to the maintenance of a road, or also in relation to the performance of other road management functions, such as design, construction, inspection and traffic management functions.

The proposed amendments clarify that the legal defence for compliance with appropriate standards is available to road authorities in relation to the manner of performance (or non-performance) of road management functions generally, and not only in relation to maintenance.

The proposed amendments do not restrict the rights of a person to bring actions against road authorities, but clarify the standards to be applied in such cases.

Street lighting

The bill will establish new arrangements for the management and funding of street lighting on arterial

roads. These arrangements have not been changed over the last few decades and are now outdated.

The bill does not change the arrangements for street lighting on municipal roads or freeways. The responsibilities for these remain with municipal councils and VicRoads respectively.

Arterial roads are administered by VicRoads for the purposes of managing transport on key routes. Street lighting on these roads serves an important road safety role for through traffic. It also serves a local community purpose for the safety and security of residents, businesses and local road users. The benefits of street lighting on arterial roads accrue to both through traffic and local constituents.

The proposal is to implement a new cost-sharing arrangement for street lighting on arterial roads, in which the state (through VicRoads) will bear 60 per cent of the ongoing operational and maintenance costs, and local government will bear the remaining 40 per cent. Street lights on service roads adjacent to arterial roads would remain fully funded by local government. It is proposed to phase in this new arrangement over six years, beginning on 1 July 2008.

Driver behaviour at level crossings

On 25 June 2007, the government announced a package of measures to improve railway level crossing safety. One part of this package was an enforcement boost, including the introduction of a new traffic offence.

This bill introduces a new traffic offence for drivers who recklessly or deliberately disregard traffic controls such as signs, boom gates and lights at level crossings. These drivers may engage in risky behaviours such as racing to beat a train to a crossing, weaving around boom gates, and ignoring lights and bells at level crossings.

While there are existing offences that regulate these behaviours, those offences do not provide an appropriate punishment for drivers who deliberately or recklessly behave in a manner that could cause a catastrophic collision.

The new offence will be punishable by a maximum fine of 30 penalty units. The offence will also be a relevant offence for the vehicle impoundment scheme, and police may impound the motor vehicle driven by the offender for a minimum of 48 hours. The motor vehicle will only be released once towing and storing costs are paid. In addition, if the driver commits a second offence within three years, a court order for impoundment of the motor vehicle for up to three months may be made. If the driver commits a third offence within three years, then the court has the power to order that the motor vehicle be forfeited. Drivers who are prepared to place others at risk by engaging in this reckless behaviour will risk losing their motor vehicles.

It should be noted that the vehicle impoundment scheme incorporates safeguards to ensure that innocent parties are not unfairly affected. If the driver of the motor vehicle is not the owner of the motor vehicle, the police have the discretion to release the motor vehicle to that owner. Also, the owner has a right to be heard if an application for long-term impoundment or forfeiture of his or her motor vehicle is made by the police. Owners of motor vehicles however have a responsibility to ensure that they are driven responsibly, and owners who do not take reasonable steps to ensure that this occurs are at risk of having their vehicles impounded or forfeited.

Tolling offences

Last year the government introduced amendments to the owner-onus system in relation to traffic and parking offences. Those amendments are operating effectively. This bill now extends the new provisions to tolling offences on CityLink and EastLink. The major features of the amended procedure are as follows:

A registered operator may nominate the person or company who had possession or control of the vehicle at the time of the offence, as well as the actual driver. The nominated person then becomes the ‘responsible person’ for the offence.

A nomination must be accompanied by supporting information sufficient to enable that person to be identified and located. The nominated person can avoid liability by showing that their nomination was incorrect, in which case responsibility reverts to the person who nominated them. Responsibility may also be avoided by showing that the vehicle was stolen at the time of the offence.

A ‘responsible person’ has the same options as the registered operator. They can nominate another person as the driver or person in charge, and that person becomes then the ‘responsible person’.

The nomination process repeats until the actual driver is ultimately located.

A ‘responsible person’ will be required to assist police to identify the driver of a vehicle, in the same way as an owner must at present.

There is an offence of providing a false statement in relation to the operator onus system.

In addition, the offence provision under the EastLink Project Act 2004 is being altered to make it consistent with the CityLink offence provisions. The existing offence is based on the failure by the driver of a vehicle on EastLink to pay a tolling invoice. This is being amended so that the offence is driving on a toll road without being registered as a user of that road. As for the equivalent CityLink offence, it will be a defence if the responsible person subsequently pays the toll within 14 days or transfers responsibility under the operator onus system I have just outlined.

Use of VicRoads records

The Road Safety Act 1986 provides important restrictions on the manner in which personal information provided to VicRoads as a licensing and registration authority may be used. There are exceptions to these restrictions, such as use of the information for law enforcement or ensuring that information may be exchanged with interstate registration and licensing authorities to prevent the issue of multiple licences. When these exceptions allow the use or disclosure of personal information, the Road Safety Act imposes strict confidentiality obligations on the recipient of the information.

Victoria has been a world leader in the introduction of road safety initiatives, such as alcohol interlocks and the testing of motorists for illicit drugs. This leadership has been achieved in part as a result of VicRoads and other Victorian agencies conducting road safety research and communications programs. While the Road Safety Act already permits the use of personal information for the administration of that act, it is not certain that road safety research and communication programs can be described as administration of the act. To ensure that road safety research and communications are not unnecessarily hindered, it is necessary to introduce an exception to the restrictions on use of personal information in the VicRoads registration and licensing databases. This exception will only permit the use of this information for road safety research or for disseminating information or advice on road safety, and existing controls will be used to prevent misuse of the personal information.

The bill also allows for the disclosure and use of information from VicRoads records to or by a road authority or utility for the purposes of issuing or defending civil proceedings relating to their road management functions or damage to infrastructure resulting from road accidents.

Finally, the bill will facilitate the reunification of families and friends by allowing approved bodies to use VicRoads records to help locate missing persons. There are a variety of community organisations such as the Red Cross which provide a valuable service helping people affected by wars and other social tragedies to regain contact. The privacy provisions in the Road Safety Act currently prevent VicRoads from providing information, such as addresses, that may be of assistance to these organisations. Therefore this bill amends the Road Safety Act to introduce an exception to allow VicRoads to disclose personal information to community organisations approved by the minister for the purpose of facilitating these missing people services.

The measures in this bill contribute to the effective and efficient use of the Victorian road network.

I commend the bill to the house.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until Thursday, 15 November.

FAIR TRADING AND CONSUMER ACTS FURTHER AMENDMENT BILL

Statement of compatibility

Mr ROBINSON (Minister for Consumer Affairs) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Fair Trading and Consumer Acts Further Amendment Bill 2007.

In my opinion, the Fair Trading and Consumer Acts Further Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill furthers the government's commitment to make markets work better by ensuring that consumers are well informed and protected; and supports the government's commitment to secure investment and jobs in Victoria. In particular, it does so by:

(a) amending the Fair Trading Act 1999 to ensure that consumer documents are clear, and supports enforcement of the act by removing an impediment in the act to the director conducting proceedings under the Trade Practices Act 1974 (Cth) in the Federal Court, allowing the director or an inspector to seek a court order enforcing notices requiring information or

documents under the act, and providing qualified privilege for complainants under the act; and

(b) amending the Partnership Act 1958 to recognise and allow the registration in Victoria of a new form of investment vehicle recognised by the commonwealth, known as an early stage venture capital limited partnership ('ESVCLP').

The bill also contributes to the government's commitment to modernising the statute book by repealing the now largely redundant Hire-Purchase Act 1959, repealing and re-enacting in clearer language but otherwise without changing the legal effect of, the Frustrated Contracts Act 1959 in the Fair Trading Act 1999, and repealing the unused provisions of the Shop Trading Reform Act 1996 that provide for local area polls to restrict Sunday trading.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The relevant rights under the Charter of Human Rights and Responsibilities Act ('the charter') which the bill will engage are:

Section 13: privacy and reputation

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) provides that a person has the right not to have his or her reputation unlawfully attacked.

Clause 9 of the bill inserts new section 163A which engages section 13(b) of the charter because it offers qualified protection from legal proceedings (such as defamation) to a person who makes a complaint or produces or gives a document or evidence in good faith under the Fair Trading Act 1999, which results in damage, loss, or injury to another. This protection is invoked where a person makes a complaint to the director of Consumer Affairs Victoria under section 103 of the Fair Trading Act; or produces or gives a document or any information or evidence to the director, an inspector or the Victorian Civil and Administrative Tribunal regarding a matter that constitutes or may constitute a contravention of the act or another consumer act.

However, this protection only applies where the relevant conduct is in good faith. It would not extend to circumstances where the person makes details of their complaint public via other forums such as radio or newspaper publications. It would also not protect a person from making complaints without foundation, or for personal or other reasons, such as to gain a personal or financial advantage against another person such as a competitor. The protection does not, therefore, allow the complainant to unlawfully attack the reputation of another, and there is no limitation on the right.

Section 25: rights in criminal proceedings

Clause 6 of the bill inserts new section 152A to provide for an enforcement procedure where a person fails or refuses to comply with a requirement to provide information under sections 106HA, 106I, 118 or 131 of the act. It enables the court to inquire into the case and make an order that the person comply with the requirement within the period specified by the court. Non-compliance with the court's order could have significant consequences. Equivalent provisions to section 152A are provided for in other consumer acts in the amendments made in the schedule to the bill.

Section 25(2)(k) of the charter provides that a person charged with a criminal offence has the right not to be compelled to testify against himself or to confess guilt. This is a very limited protection of the right to silence as it applies only to persons charged with an offence. However, similar rights in other jurisdictions and the broader right to a fair hearing protected by section 24 of the charter have been interpreted to provide some limited protection in respect of information obtained pursuant to compulsory powers of questioning. In particular, in some circumstances, use of that information in a subsequent trial has been found to breach the right to a fair trial.

Section 118 enables the director or an inspector to require production of information for the purpose of monitoring compliance with the act and regulations. Section 131 enables an inspector exercising a power of entry to require the giving of information, production of documents and the giving of reasonable assistance. The enforcement procedure in proposed section 152A to be inserted by clause 6 and the equivalent provisions inserted by the schedule apply only where a person does not have a reasonable excuse for the failure or refusal to comply with the requirement.

Section 133(1), and equivalent provisions in other consumer acts amended by the schedule, expressly provides that it is a reasonable excuse for a person to refuse or fail to provide information on the basis that it would tend to incriminate him. Accordingly, it gives effect to the right to silence protected by sections 24 and 25 of the charter. This does not extend to failure or refusal to produce documents. However, the right to silence protected by the charter does not extend to production of documents or real evidence.

Section 106HA enables the director to require production of information or documents that may assist the director in monitoring compliance with the act or the regulations. (Section 106HA also applies to a number of consumer acts as indicated in the schedule.) Section 106I enables the director to require provision of information or documents from persons he or she believes are capable of providing information or producing documents relating to a matter that constitutes or may constitute a contravention of the act. Persons directed to provide information or documents under these sections cannot refuse to do so on the basis of the privilege against self-incrimination. However, pursuant to sections 106HA(4) and 106I, the information produced cannot be used against the person in criminal proceedings, other than proceedings for failing to comply with the requirement. These provisions give effect to the right to silence to the extent it is protected by sections 24 and 25 of the charter.

Further, the power of the court to make an order pursuant to proposed section 152A to be inserted by clause 6 of the bill is a discretionary one. The court is able to inquire into the case and ensure any exercise of its powers is compatible with the charter.

Accordingly, clause 6 is compatible with sections 24 and 25 of the charter.

Section 15: freedom of expression

Section 15 of the charter protects a person's freedom of expression, including the right not to express. Clause 6 of the bill may engage the right to freedom of expression, because it inserts new section 152A into the Fair Trading Act 1999 which provides that persons may be compelled to provide information by a court if the director certifies failure to comply with a requirement of the act to a court. Equivalent amendments are also made to other consumer acts by the schedule.

However, section 15(3) of the charter qualifies the right to freedom of expression and provides that special duties and responsibilities attach to this right. The right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality.

The new section 152A and the equivalent provisions inserted by the schedule propose enforcement of notices to produce information and documents that may lead to the prevention of public harm by traders and licence-holders and others who have not complied with the Fair Trading Act 1999, or other consumer acts. Without the director's or inspector's ability to enforce such notices, the recipients may simply ignore such notices and thus frustrate the utility of the director's or inspector's role to monitor non-compliance with the relevant legislation.

Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. Clause 6 constitutes a lawful restriction on the freedom of expression under section 15(3) of the charter for the purpose of public order as it is necessary to allow the director to monitor compliance with the act and to prevent traders, licensees and others from engaging in conduct that causes harm to others.

Therefore, this clause is compatible with section 15 of the charter.

2. Consideration of reasonable limitations — section 7(2)

The bill does not limit any human right, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it raises human rights issues but does not limit human rights.

HON. TONY ROBINSON, MP
Minister for Consumer Affairs

Second reading

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

One of the Brumby government's key priorities is to act to make markets work better by ensuring that Victorian consumers, particularly the vulnerable and disadvantaged, are well informed and protected.

Since the passage of the Fair Trading (Enhanced Compliance) Act in 2004, there has been a progressive strengthening of consumer protection provided in the Fair Trading Act 1999. This bill continues this strengthening process by clarifying font size in consumer documents, removing an impediment to the director of Consumer Affairs Victoria commencing proceedings in the Federal Court of Australia, and enabling the director or fair trading inspectors to obtain court orders to support investigatory notices under not only the Fair Trading Act, but other consumer acts.

Importantly, also, the bill provides that persons who make complaints to the director or provide evidence to support an investigation cannot be the subject of legal proceedings for having done so, provided their actions were in good faith.

The bill also amends the Trade Measurement Act 1995 and the Trade Measurement (Administration) Act 1995 to implement in Victoria a range of reforms to the model uniform trade measurement legislation agreed by the Ministerial Council on Consumer Affairs. The reforms will clarify that a packer of pre-packed articles is also liable for short measure; prescribe how an inspector will measure firewood when it is sold by volume; enable the legislation to address a partnership holding a public weighbridge licence; and replace public weighbridge licences and associated certificates of suitability with licences for each public weighbridge that has a suitability statement on each licence. The reforms will also make other minor or technical amendments of a machinery nature.

The other important feature of the bill is that it furthers the government's objective of modernising and streamlining the statute book. The Hire-Purchase Act 1959, the application of which has been declining over the last 10 years following its review by the Scrutiny of Acts and Regulations Committee of this Parliament, is repealed. The Frustrated Contracts Act 1959 is repealed and re-enacted with updated language, but to the same effect, as part 2C of the Fair Trading Act 1999.

The bill also repeals provisions of the Shop Trading Reform Act 1996 that provide for polls in local communities to restrict Sunday trading. A poll is triggered by a petition to the local council of 10 per cent of voters in a local municipality. Over the last 10 years only one poll has been held, in Bendigo in 1998, and the outcome was overwhelmingly in favour of Sunday trading. The repeal responds to stakeholder feedback that with Sunday trading having been in place for over 10 years, the potential for community polls has become increasingly remote.

The bill makes a range of minor amendments to the Owners Corporations Act 2006 and part 5 of the Subdivision Act 1988 as part of the implementation of the review of the operation of bodies corporate in Victoria. These amendments include broadening the class of persons who may act as chair and secretary of general meetings, and permitting owners corporations to apply to the registrar of titles to alter their purposes.

Further, section 32AI(1) of the Subdivision Act 1988 (to come into operation on 31 December 2007) allows a lot owner to increase the area of the lot by adding land from outside the plan equivalent to 10 per cent of the area of the plan without the knowledge or consent of other lot owners. This could mean that a significant tract of land could be added, which could be converted into new lots without the approval of other lot owners. The section is amended to change the threshold to 10 per cent of the lot rather than the subdivision.

Finally, the bill amends the Partnership Act 1958 to allow the incorporation in Victoria of a new venture capital investment vehicle recognised under commonwealth law.

This early stage venture capital limited partnership is a new form of incorporated limited partnership, registrable under the Venture Capital Act 2002 of the commonwealth, which is intended to further stimulate the development of venture capital in Australia. Its recognition in Victoria will ensure the opportunity for this in Victoria, in the longer term facilitating investment in innovative firms and job growth.

Victoria led the way nationally with the initial VCLP reforms in 2002 and as a result hosted the first operational investment fund under the regime. Since that time Melbourne's Starfish Ventures has invested tens of millions of dollars into early stage, high-tech Victorian firms. This amendment builds on the state's leadership in providing an optimal business environment for increasing private investment into innovation.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 15 November.

LIQUOR CONTROL REFORM AMENDMENT BILL

Statement of compatibility

Mr ROBINSON (Minister for Consumer Affairs) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Liquor Control Reform Amendment Bill 2007.

In my opinion, the Liquor Control Reform Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill establishes two schemes directed at reducing alcohol-related violence or disorder. One enables immediate action to be taken by police officers, through the giving of notices banning persons from designated areas, or from licensed premises within a designated area, for up to 24 hours. The other enables the courts to impose orders excluding persons from designated areas for up to 12 months.

The bill also makes a number of amendments that strengthen liquor licensing penalties and enforcement powers and facilitates and supports voluntary liquor accords.

Human rights issues

Human rights protected by the charter that are relevant to the bill

1. Banning notices and exclusion orders — freedom of movement

The issuing of a banning notice by police or an exclusion order by the courts imposes limitations upon an individual's right to move freely within Victoria, as protected by section 12 of the charter. However, the limitation is reasonable and justifiable under s. 7(2) of the charter.

(a) The nature of the right being limited

The right to move freely within Victoria is one that can be subject to restrictions. The International Covenant on Civil and Political Rights expressly recognises that the right may be subject to restrictions that are necessary to protect public order, public health or morals or the rights and freedoms of others.

(b) The importance of the purpose of the limitation

The purposes of the banning notices and exclusion orders are to reduce alcohol-related violence and disorder. They are aimed at protecting public order and the rights and freedoms of others, including the right to life in section 9, the right to privacy in section 13, the rights in respect of property in section 20 and the right to liberty and security of the person in section 21 of the charter.

(c) The nature and extent of the limitation

Banning notices and exclusion orders impose restrictions upon a person entering a designated area or licensed premises within a designated area. A banning notice can be imposed for up to 24 hours. An exclusion order can be made for up to 12 months.

The director is empowered to designate areas. The director must believe that alcohol-related violence or disorder has occurred in the immediate vicinity of licensed premises in the area and that the giving of banning notices and/or exclusion orders is likely to be an effective means of reducing alcohol-related violence or disorder in the area. No restrictions are placed upon the size of the area, but it is anticipated that the areas will be relatively confined. Some potential areas have already been identified.

The right to free movement within Victoria is important to the exercise of a number of other rights that are not included in the charter, such as the right to work. However, there are a number of safeguards contained in the bill to prevent or minimise interference with such rights.

The power to give a banning notice is discretionary. The officer can give a notice in respect of the entire area, or only in respect of licensed premises in the area and the ban need not be for the full 24 hours. The officer is directed to take account of a number of factors in determining whether to give a notice.

Section 148B(6) prohibits the giving of a banning notice in respect of the designated area if the police officer believes or has reasonable grounds for believing that the person lives or works in the designated area. In those circumstances, a notice can only ban the person from the licensed premises in the designated area. Section 148B(7) ensures that this more limited notice cannot affect the person's ability to work or to live where they choose, by providing that if the person lives or works in licensed premises in the designated area, the banning notice does not prevent him or her from entering those premises.

Section 148E enables variation or revocation of a banning notice by a relevant police member above the rank of sergeant.

In making an exclusion order section 148I enables the court to make the order subject to any conditions the court thinks fit. This broad discretion ensures the court can reduce the adverse effects that could otherwise arise from an order that can last for up to 12 months, such as through the imposition of a condition enabling the offender to travel through the area to attend work. Section 148M enables the offender to apply for a variation of an exclusion order where circumstances have changed, such as the offender now working in the designated area.

(d) The relationship between the limitation and its purpose

The limitation imposed on freedom of movement is directly and rationally connected with the purpose of the provisions.

Banning notices can only be made where:

> An area has been designated by the director and, accordingly, where the director believes that alcohol-related violence or disorder has occurred in the immediate vicinity of licensed premises in the area and that the giving of banning notices and/or exclusion orders is likely to be an effective means of reducing alcohol-related violence or disorder in the area.
>
> The officer suspects on reasonable grounds that a person is committing or has committed a specified offence wholly or partly in a designated area.
>
> The officer believes on reasonable grounds that the giving of the notice may be effective in preventing the person from continuing to commit the specified offence or committing a further specified offence.
>
> The officer considers that the offence or further offence may involve or give rise to a risk of violence or disorder in the designated area.

Exclusion orders can only be made where the court finds an offender guilty of a specified offence within the designated area and is satisfied that the order may be an effective means of preventing the commission by the offender of further offences in the designated area.

(e) Less restrictive means reasonably available to achieve the purpose

Any less restrictive means would not achieve the purposes of the provisions as effectively.

(f) Other relevant factors

A further safeguard exists in that the power to give banning notices is given only to 'relevant police members' as defined in section 4. The intention is that only officers who have received training in liquor licensing or have been authorised by such officers, will be able to give a banning notice.

2. Banning notices and exclusion orders — liberty and security

Sections 148H and 148L enable police officers to use reasonable force to enforce banning notices and exclusion orders. This power involves an interference with the right to liberty and security of the person in section 21 of the charter. However, for the reasons already set out above and the fact that the force used can be no more than is reasonably necessary, I consider that the limitation is reasonable and justified pursuant to section 7(2) of the charter.

3. Banning notices and exclusion orders — privacy

Section 148P enables the disclosure of certain information for the purpose of enforcing banning notices and exclusion orders. Whilst this may well interfere with a person's privacy, the interference is neither unlawful nor arbitrary and does not violate the right to privacy in section 13 of the charter.

4. Strict liability offence provisions — presumption of innocence

Sections 148F and 148J

Sections 148F and 148J prescribe offences in respect of breaching a banning notice or exclusion order and for failing to comply with direction given by a police officer to leave a designated area or licensed premises. Express defences are prescribed in sections 148F(3) and 148J(4). These enable a defendant to escape liability if the defendant satisfies the court on the balance of probabilities that:

the defendant was under a mistaken but honest belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence; or

the conduct constituting the offence was caused by circumstances beyond the control of the defendant and the defendant had taken reasonable precautions to avoid committing an offence.

By placing the burden of proof on the defendant, the provisions limit the right to be presumed innocent in section 25(1) of the charter. However, I consider that the limitation is reasonable and justified pursuant to section 7(2) of the charter.

(a) The nature of the right being limited

The right to be presumed innocent is an important right and one that has long been recognised well before the enactment of the charter. However, the courts have recognised that it may be subject to limits particularly where, as here, the defences are enacted for the benefit of the accused in respect of what would otherwise be an absolute liability offence.

(b) The importance of the purpose of the limitation

The purpose of the imposition of a burden of proof on the defendant is to provide the defendant with an opportunity to escape liability in circumstances of honest and reasonable mistake or total absence of fault, without undermining the ability to enforce compliance with banning notices and exclusions orders. The defences involve facts that are within the knowledge of the accused and it would be difficult for the prosecution to prove absence of those matters. If the burden were on the prosecution, it would be too easy to escape liability.

(c) The nature and extent of the limitation

The onus only applies where a defendant seeks to rely upon one of the defences. It does not apply to any essential element of the offence. Further, the onus relates to matters that are within the knowledge of the defendant.

(d) The relationship between the limitation and its purpose

The imposition of a burden of proof on the defendant is directly related to its purpose.

(e) Less restrictive means reasonably available to achieve the purpose

Less restrictive means would not achieve the purpose of the provisions as effectively. An evidential onus would be too easily discharged by a defendant and the prosecution would have difficulty in proving the absence of the defence beyond reasonable doubt. Removing the defences altogether would not infringe the right to be presumed innocent. However, this would not achieve the purpose of enabling the defendant to escape liability in appropriate cases. The enactment of the defences with a burden on the defendant to prove the matters on the balance of probabilities achieves an appropriate balance of all interests.

(f) Other relevant factors

It is also relevant that this offence is one that carries a relatively small fine only.

Sections 148F(4) and 148J(4)

In respect of the offences of failing to comply with a direction of a police officer, sections 148F(4) and 148J(4) expressly provide that it is not an offence if the officer fails to comply with the obligations in section 148G or 148K, such as where the officer fails to produce proof of his or her identity. Although the defendant will need to point to or adduce evidence that raises this issue, provisions do not require any proof by the defendant on the balance of probabilities. If the issue is raised, the prosecution will have to prove compliance with the requirements beyond reasonable doubt. Accordingly, the right to be presumed innocent is not limited.

Section 108(4)

Clause 21 amends section 108 of the act by inserting an offence of a licensee or permittee permitting drunken or disorderly persons to be on licensed or authorised premises. Express defences are prescribed enabling a defendant to escape liability if the defendant satisfies the court on the balance of probabilities that:

the defendant did not know that drunk or disorderly persons were on the premises; or

the defendant had taken all reasonable steps to ensure that drunken or disorderly persons were not on the premises.

By placing the burden of proof on the defendant, the provisions limit the right to be presumed innocent in section 25(1) of the charter. However, I consider that the limitation is reasonable and justified pursuant to section 7(2) of the charter.

(a) The nature of the right being limited

The right to be presumed innocent is an important right and one that has long been recognised well before the enactment of the charter. However, the courts have recognised that it may be subject to reasonable limits. Courts in other jurisdictions have consistently recognised that such limits may be appropriate in the area of public welfare regulatory offences, such as that in clause 21.

(b) The importance of the purpose of the limitation

The purpose of the offence provision is to ensure that licensees and permittees do not allow drunk or disorderly persons in their premises and to take reasonable steps to ensure this does not occur. It would be very difficult for the prosecution to prove beyond reasonable doubt that a licensee knew a drunk or disorderly person was on the premises or failed to take reasonable steps to prevent it.

(c) The nature and extent of the limitation

The provision imposes on the defendant the burden of proving, on the balance of probabilities, that he or she did not know that the person was on the premises or that he or she took all reasonable steps to prevent this. These are both matters that are within the knowledge of the defendant.

(d) The relationship between the limitation and its purpose

The imposition of a burden of proof on the defendant is directly related to its purpose. The prosecution must prove that a drunk or disorderly person was on the premises. Given the obligations of the licensee or permittee not to allow such

persons on the premises, it is reasonable to presume that inadequate steps have been taken to prevent this.

(e) Less restrictive means reasonably available to achieve the purpose

Less restrictive means would not achieve the purpose of the provisions as effectively. An evidential onus would be too easily discharged by a defendant and the prosecution would have great difficulty in proving the absence of these matters beyond reasonable doubt. The matters are within the knowledge of the defendant and there would likely be difficulties for the prosecution in obtaining the cooperation of potential witnesses, such as staff members.

(f) Other relevant factors

It is also relevant that this offence is one that carries a relatively small fine only.

5. Restriction on use of licensed premises — freedom of expression

Clause 13 imposes a limit on the use of licensed premises outside ordinary trading hours for the performance of live music or playing of recorded musical works. Outside of trading hours music must be kept at a background music level, unless the music is part of a private function.

This amounts to a limit upon the freedom of expression in section 15 of the charter. However, as set out in section 15(3) of the charter, special duties and responsibilities are attached to the right and may be subject to lawful restrictions in certain circumstances. These restrictions are necessary to limit the adverse impact upon the rights of others, including the privacy rights of neighbours, of loud music.

Accordingly, the provisions do not breach section 15 of the charter.

6. Prohibited advertising or promotion — freedom of expression

Clause 23 inserts new section 115 and enables the director to give notice to a licensee banning advertising or promotions he or she considers are likely to encourage irresponsible consumption of alcohol or is otherwise not in the public interest.

This amounts to a limit upon the freedom of expression in section 15 of the charter. However, as set out in section 15(3) of the charter, special duties and responsibilities are attached to the right and may be subject to lawful restrictions in certain circumstances. The circumstances in which the advertising or promotion may be banned come within the scope of section 15(3) as the restrictions are necessary to respect the rights of others and for the protection of public order, public health or public morality. Accordingly, the provisions do not breach section 15 of the charter.

7. Suspension of licence by police — property rights

Clause 18 inserts a new provision enabling a senior police member to suspend a licensee's licence for up to 24 hours if the member believes on reasonable grounds that:

> the licensee has engaged in conduct that would constitute grounds for an application for an inquiry into the licensee;
>
> it is likely that the licensee will continue to engage in that conduct; and
>
> there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.

As the clause involves interference with a licence, by a person other than the person granting the licence, it engages the property rights in section 20 of the charter. However, the interference is neither unlawful nor arbitrary and does not limit the right.

8. Liquor accords

Liquor accords are a mechanism by which private persons in the liquor industry are able to reach agreement to take measures to ensure appropriate and responsible supply and consumption of liquor, for the purpose of minimising harm arising from the misuse and abuse of alcohol.

Section 146B enables persons to be banned under a liquor accord. The exercise of this power will be subject to the Equal Opportunity Act and cannot be operated in a discriminatory way. Accordingly, the right to equality in section 8 of the charter is not limited.

Section 146D facilitates the disclosure of information relating to persons who are subject to a ban under a liquor accord. Such disclosure is limited to information that is necessary to give effect to the ban. It is neither unlawful nor arbitrary and, accordingly, does not limit the right to privacy in section 13 of the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

TONY ROBINSON, MP
Minister for Consumer Affairs

Second reading

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

This bill will implement a range of initiatives to enhance community safety in and around licensed venues.

The bill implements one of the government's 2006 community safety election policy commitments: to reduce the incidence of violence in the community by giving police the power to ban troublemakers from entertainment precincts. The bill also strengthens liquor licensing enforcement powers.

The bill fulfils the Premier's commitment in August to introduce legislation to address a rise in assaults in and around licensed venues. The amendments proposed in

this bill will complement recent amendments to the Control of Weapons Act 1990, which doubled penalties relating to the possession of either prohibited or controlled weapons, and strengthened the balance of penalties in that act, particularly clamping down on crimes involving weapons in and around licensed venues.

To deter alcohol-related violence in and around licensed venues, the bill will enable police to ban troublemakers from designated entertainment areas for a period of 24 hours where police reasonably suspect that person has committed a specified offence involving violent or disorderly behaviour. The bill will also allow courts to issue exclusion orders from specific entertainment areas of up to 12 months to repeat offenders.

The bill will enable the director of liquor licensing to declare an area to be a designated entertainment area where the director believes that alcohol-related violence has occurred in a public place that is in the immediate vicinity of licensed premises. The director must also believe that the exercise of the new banning powers will be effective in reducing or preventing the occurrence of alcohol-related violence or disorder in the area proposed for designation.

The director must consult with the chief commissioner prior to making an order to designate an entertainment area. The areas to be designated will be discrete, localised areas, and will be published in the *Government Gazette*. Areas currently under consideration are King and Queen streets in Melbourne and Chapel Street in Prahran.

To deter alcohol-related violence in and around licensed venues, the bill will enable police to ban troublemakers from either all licensed premises in a designated entertainment area, or from the designated entertainment area, for a period of 24 hours where police reasonably suspect that person has committed a specified offence involving violent or disorderly behaviour.

The bill requires police to consider a number of matters prior to issuing a banning notice, such as, whether the person is likely to continue to commit the specified offence or commit a further specified offence, or whether the person is capable of comprehending the nature and effect of the notice.

These measures are intended to ensure that in circumstances where a person is not able to comprehend the nature and effect of the banning notice, for example where the person may be too drunk; police members will not issue a notice and will take alternate actions to address the situation. Similarly, if the person lives or works in the designated entertainment area in which the offence was committed, the police member may not issue an order that encompasses the entire designated area but will be limited to banning the person from all licensed premises in the designated area.

The police-issued banning notice will contain information relating to the specified offences that the police member suspects the person has committed and the grounds for the suspicion, the name, rank and place of duty of the relevant member, the designated area in which the banning notice applies and the specified period for which the notice applies. The notice will also clearly indicate whether the notice bans the person from the entire designated area or from all licensed premises within the designated area, and will specify that it is an offence not to comply with the notice or with a direction of the police member to leave the designated area or licensed premises.

The bill creates a number of new offences to support the police-issued banning notices, including penalties for entering, or attempting to re-enter the designated area or licensed premises from which the person who is the subject of the order is banned, or failing to comply with a police direction to leave the designated area or licensed premises.

The bill will also allow courts to issue exclusion orders from specific entertainment areas of up to 12 months to repeat offenders. The court may make such an order if the court finds the offender guilty of a specified offence committed in the designated area and does not sentence the offender to a term of imprisonment of 12 months or more in respect of the specified offence, and is satisfied that the order may be an effective and reasonable means of preventing the commission of further specified offences.

In determining whether the court is satisfied as to the effectiveness of the order in preventing the commission of further specified offences, the court must consider the nature and gravity of the offence, whether the offender has previously been found guilty of a specified offence committed in the designated area and whether the offender is, or has been, the subject of an exclusion order in relation to another specified offence committed in the designated area, or another designated area.

The court must also consider the likely impact of the exclusion order on the offender, the victim of the specified offences and public safety and order, and any other matters the court considers relevant.

The court may make an exclusion order excluding the offender from the designated area, or all licensed premises within the designated area, or a specified licensed premises or a class of licensed premises, for a period of up to 12 months. The bill specifically provides that the court order may exclude the offender from the designated area or licensed premises for all times during the period of the order, or for specified times. Similarly, the court order may allow the offender to enter the designated area or licensed premises for specified purposes subject to conditions specified by the court. The court may otherwise make the order subject to any other conditions the court thinks fit.

The offender who is the subject of an exclusion order may apply to the court to vary the conditions of the order. Such variation may also be sought by the Director of Public Prosecutions or a member of the police force.

The bill creates a number of new offences to support the court-issued exclusion orders, including penalties for entering, or attempting to re-enter, the designated area or licensed premises in contravention of the conditions of the order, or failing to comply with a police direction to leave the designated area or licensed premises.

To aid in the enforcement of the regime, the director of liquor licensing or a relevant police member may disclose to a licensee or permittee relevant information in relation to a banning notice or exclusion order, including the fact that a banning notice or an exclusion order has been made that excludes the person from the licensed premises and the name of the person to whom the notice or order applies, and if available, a photograph of that person.

It will be an offence for a licensee or permittee, or an employee or agent of the licensee or permittee, to knowingly permit a person to whom a banning notice or exclusion order applies to enter or re-enter the premises in contravention of the notice or order.

The range of specified offences for the purposes of the banning notices and exclusion orders are specified in schedule 2 of the bill and include offences involving violent or disorderly behaviour, such as destroying or damaging property, offences against the person, such as assault, and a range of sexual offences, and other offensive or obscene behaviour offences, and carrying a prohibited weapon in or around a licensed premises.

The bill provides that the Chief Commissioner of Police must annually report on a range of information in relation to the banning notices and exclusion orders. This will assist in determining the effectiveness of the regime.

The bill also provides a range of measures to strengthen the existing liquor licensing regime to deal with the minority of licensees who do not behave in a responsible manner.

The bill amends the definition of associate for the purposes of the act to explicitly include any person with a relevant financial interest, or who is or will be entitled to exercise any relevant power, or significant influences over or with respect to the management or operation of any business of the person applying for a licence involving the sale of liquor. The bill also requires that the date of birth of the associate be supplied. This is critical in undertaking appropriate probity-related checks.

This will strengthen the ability of the director to consider the appropriateness of any person who may exercise any significant influence over the conduct of the licensed venue.

The bill also addresses an increasingly disturbing trend where restaurants are operating late as bars and nightclubs outside ordinary trading hours. The concern with such activity is the impact upon amenity and the public safety risk posed by the operation of such venues late into the night or early morning without appropriate security measures that would otherwise apply to such venues.

On-premises licenses are currently granted under the act to a range of premises, including restaurants, where permitted under the Planning and Environment Act 1987. The predominant activity of such premises is the preparation and serving of meals for consumption on the licensed premises. The bill will amend the conditions applying to such premises to require that the licensee must not permit the live performance of any musical works, or the playing of any recorded musical works on the premises, at higher than background music level at any time outside ordinary trading hours.

The act currently allows the director to make a late-hour entry declaration (lockout) by way of written notice to each of the licensees within the area or locality to which the declaration is proposed to apply. The act provides a 21-day period after the notice is issued for the licensee to give the director notice of objection to the proposed declaration. This process does not enable the director to act decisively and quickly in circumstances where the director believes on reasonable grounds that there exists alcohol-related violence in an area or locality, and that a declaration is

likely to be an effective means of reducing or preventing such violence.

The bill therefore amends the act to enable the director to make a late-hour entry declaration without the 21-day notice period where the director believes that such declaration will address alcohol-related violence or disorder in the area or locality. Such declarations will take effect on the day specified in the notice provided to the licensees by the director. Such declarations will expire when either the declaration is revoked by the director, or a period of three months elapses after the day on which the declaration is made.

It is not intended that the new power would be used to circumvent the existing consultation requirements in the act, or to issue annual late-hour entry declarations in relation to a particular event. It is expected that the power to make temporary late-hour entry declarations will be exercised when circumstances require a speedy response.

The act currently enables the director to apply to the Victorian Civil and Administrative Tribunal to conduct an inquiry into the licensee or permittee where the director (or the chief commissioner, a licensing inspector or the local council) consider that a licensee or permittee has contravened the act, the regulations, or specific conditions of their licence or permit, or have been convicted of specific offences. The amendments extend the range of conditions upon which an inquiry may be sought to include circumstances where a licensee or permittee is a body corporate a director of which has been convicted in Victoria or elsewhere of an offence punishable by a term of imprisonment of three years or more, or is a club that is not a body corporate, a member of the committee of management of which has been convicted of such offence. These amendments address a gap in the existing conditions upon which an inquiry may be sought where the licensee or permittee is a body corporate or a club.

The bill will also enable an assistant commissioner of Victoria Police to immediately suspend a liquor licence for a period not exceeding 24 hours. This will enable police to respond to immediate threats to public safety.

The amendments provide that the senior police member issuing the notice must believe on reasonable grounds that a licensee has engaged in conduct that would constitute grounds for an application for an inquiry into the licensee, and that the licensee will continue to engage in that conduct, and that there is a danger that a person may suffer harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.

To further strengthen licensing enforcement and compliance, the bill will amend the act to enable the director to serve a breach notice against a licensee if the director believes on reasonable grounds that the licensee has engaged in conduct which would be grounds for an inquiry into the licensee's suitability to hold a licence under the act. The notice to be served by the director will set out the steps the licensee must undertake to rectify the breach and will state the time period within which the licensee must respond to the notice, being a period of not less than 14 days.

The notice will also set out the consequences for the licensee for not responding to the notice including potential suspension of the licence or variation of conditions, including reducing trading hours for a period of 7 days.

The bill also addresses a gap in the existing act with respect to the operation of 'party buses'. The bill will introduce a provision to specifically prohibit permitting or allowing the consumption of liquor on a 'party bus' without a licence or BYO permit.

There have been a number of instances where the nature of liquor advertising or promotion or conduct in relation to liquor consumption has caused community concern. A recent case has been the inappropriate promotion of free alcohol supply to those women prepared to wear a bikini to the venue. The bill addresses such inappropriate promotions by enabling the director to ban the licensee from advertising or promoting liquor supply, or conduct of licensed premises by the licensee, if the advertising or promotion is likely to encourage irresponsible consumption of alcohol, or is otherwise not in the public interest.

The bill will also enable the director to accept a written undertaking from a licensee in connection with any matter in relation to which the director has a power or function under the act or in relation to a contravention of this act. The written undertakings provide a mechanism for the director and the licensee to agree on the steps that must be undertaken to comply with the requirements of the act.

Voluntary liquor accords have been a feature of the liquor licensing regime in Victoria since the early 1990s. Provisions are included in the bill to place these voluntary accords on a statutory footing and to allow the director or a member of the police force to disclose information to licensee members of the accord, to assist in effective enforcement of the accord provisions.

An accord allows licensees to make agreements on conduct but without the conduct offending the provisions of the Trade Practices Act 1974 and the competition code.

The bill also doubles the penalties for certain offences under the act, including supplying liquor to a person in a state of intoxication or permitting drunk and disorderly persons to remain on licensed premises. The bill also clarifies that the existing offence of an unlicensed person selling liquor includes offering liquor for sale. This addresses an emerging trend of unlicensed sale of liquor on the internet.

The bill contains amendments that will strengthen the existing liquor licensing regime and it delivers on the key election commitment of government to further combat alcohol-related violence and disorder by introducing 24-hour bans for individuals from licensed premises in designated areas and exclusion orders for offenders. This will make attending entertainment precincts a safer and more enjoyable experience for all law-abiding members of the community.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 15 November.

GAMBLING LEGISLATION AMENDMENT (PROBLEM GAMBLING AND OTHER MEASURES) BILL

Statement of compatibility

Mr ROBINSON (Minister for Gaming) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill 2007.

In my opinion, the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The objectives of the Gambling Legislation Amendment (Problem Gambling and Other Measures) Bill 2007 are:

(a) to amend the Gambling Regulation Act 2003 —

(i) to require venue operators to conduct self-exclusion programs; and

(ii) to require various licence-holders and others under that act to have a responsible gambling code of conduct; and

(iii) to make it an offence for a venue operator or the holder of the wagering licence or the wagering operator to knowingly allow an intoxicated person to gamble in a venue; and

(iv) to require the removal of any automatic teller machine from a gaming venue if that machine allows a customer to withdraw more than $400 in total within a period of 24 hours; and

(v) to require the removal of any automatic teller machine within 50 metres of an entrance to a gaming machine area of venues that are racecourses that allows a customer to withdraw more than $400 in total within a period of 24 hours; and

(vi) to impose further limits on venue operators with respect to the cashing of cheques by customers; and

(vii) to ensure that the Victorian Commission for Gambling Regulation does not specify a gaming machine area that is located outdoors; and

(viii) to amend the requirements relating to the order that the minister makes in respect of community benefit statements; and

(ix) to improve the operation and effectiveness of the restrictions on the use of Victorian race fields by wagering service providers; and

(b) to amend the Casino Control Act 1991 —

(i) to require the removal of any automatic teller machine within 50 metres of an entrance to the casino gaming floor that allows a customer to withdraw more than $400 in total within a period of 24 hours;

(ii) to require the casino operator to have a responsible gambling code of conduct;

(iii) to make it an offence for the casino operator to knowingly allow an intoxicated person to gamble in the casino;

(iv) to make it an offence for the casino operator to provide gaming machines outdoors; and

(c) to make a consequential amendment to the Liquor Control Reform Act 1998.

Human rights issues

Human rights protected by the charter that are relevant to the bill

Section 12: freedom of movement

Every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The bill also introduces new requirements for gaming venue operators to:

> have a self-exclusion program which has been approved by the Victorian Commission for Gambling Regulation (VCGR); and
>
> ensure that intoxicated people do not play gaming machines at their venues.

Clause 23 of the bill introduces a new requirement to ensure that the wagering operator and the holder of the wagering licence do not accept bets from intoxicated people.

These new obligations may limit the right of individuals to move freely in two distinct ways.

The effect of self-exclusion programs is to restrict participating individuals' access to nominated venues where gambling occurs.

The effect of the new offence of knowingly allowing an intoxicated person to gamble may also result in licensees removing people from premises in order to ensure compliance.

Consideration of reasonable limitations — section 7(2)

The limitations contained in the two sets of provisions are separately considered in turn.

Firstly, with respect to the requirement for self-exclusion programs, the limitation is reasonable principally because it is confined to affecting only those individuals who have voluntarily opted into the self-exclusion program and have freely sought to have their capacity to enter and remain on certain premises restricted. I consider any such limitation is demonstrably justified for this and the following reasons.

The nature of the right to move freely is not an absolute right. As with all human rights enshrined in the charter, it can be subject to reasonable limitations in accordance with our democratic society.

The importance of the purported limitation of this right is a critical plank in the government's strategic approach to establishing a regulatory framework that fosters responsible gambling. The legislative requirement that gaming venue operators provide self-exclusion programs is an important responsible gambling measure that will, in confluence with a range of other measures, serve to minimise the harm caused by problem gambling thereby serving the broader public interest.

In practical terms, it will enhance existing protections for vulnerable individuals who have self-identified as problem gamblers and who require additional assistance to refrain from participating in gambling activities.

It is also important to note that the nature and extent of the limitation of this right is partial. As previously mentioned, the limitation only applies to those individuals who freely elect to participate in the scheme. Furthermore, individuals nominate the specific locations that they wish to be excluded from and the exclusion pertains to those venues only.

Importantly, the bill also requires approved self-exclusion schemes to contain a mechanism to enable individuals to opt out of the scheme.

There is a direct relationship between the partial limitation on an individual's right to move freely and the objective of ensuring self-identified problem gamblers have structured support to refrain from participating in gambling activities. There is no other less restrictive means available to achieve that objective.

Secondly, the new offences prohibiting licensees to knowingly permit intoxicated persons to gamble also involves a potential partial curtailment of the right to freedom of movement. However, there is a direct correlation between the partial limitation and the objective of the offences.

I consider that the limitations are outweighed by the broader public interest served by minimising the harm caused by problem gambling. Those harms are real and impact upon problem gamblers, their families and friends. Existing research indicates that problem gamblers often have other health and lifestyle problems such as alcohol abuse. In introducing measures that will reduce the likelihood of intoxicated people being able to gamble, I believe the right balance has been struck between protecting individuals' rights and achieving a broader purpose of protecting vulnerable consumers.

The new offences do not give licensees any new powers. Rather, they place an obligation on the licensees to ensure intoxicated persons do not participate in gambling activities. The restriction is extremely narrow and limits licensees from permitting individuals from either playing a gaming machine or placing a bet.

The new offences specifically prohibit licensees from allowing intoxicated persons to gamble. Accordingly, the partial limitation of the right to move freely is inextricably linked with the objective of restricting such persons from participating in gambling activities. There is no other less restrictive means available to achieve that objective.

Accordingly, I consider that the new provisions of the bill are compatible with the right to move freely. Any limitation on the right of problem gamblers who opt into a self-exclusion program or intoxicated persons to move freely, is reasonable and demonstrably justified.

Human rights protected by the charter that are relevant to the bill

Section 20: property rights

A person must not be deprived of his or her property other than in accordance with the law.

A deprivation of property is in accordance with law where the deprivation occurs under powers conferred by legislation and the law is precise and not arbitrary.

Clause 7 of the bill introduces a new requirement that the VCGR not approve gaming machines being placed outdoors in gaming venues. There is a marginal possibility that this new requirement may engage the property rights of licence-holders because it restricts them from applying for

authorisation to use their property and/or deriving profits from their property. However, the conclusion that this clause places such limitations on property rights is difficult to sustain. That is essentially because the right to use gaming machines, and the terms of the licence that is issued, are already highly regulated by the VCGR. Accordingly, it is doubtful that the new restrictions amount to a deprivation of property that would engage the rights protected under section 20 of the charter. Even if it does engage the right, the deprivation is in accordance with law and the right is not limited.

Similarly, clause 56 of the bill introduces a new offence for the casino operator to allow a person to play a gaming machine outdoors. This new offence raises the same marginal possibility that property rights may be engaged because the casino operator will be restricted from using gaming machines in a certain way — that is, placing them outdoors. I consider that my assessment of this offence is precisely the same as my assessment of clause 7 insofar as to whether it amounts to a deprivation of property. Again, even if the offence does engage the right, it is in accordance with law and the right is not limited.

Clauses 13 and 58 introduce new requirements prohibiting the placement of automatic teller machines (ATMs) that permit withdrawals in excess of $400 over a 24-hour period, in gaming venues or within 50 metres of the casino gaming floor. These requirements may raise individual leaseholders' rights to use their property (being the actual ATMs). Nevertheless, any such restriction is in accordance with law and is not arbitrary and therefore does not amount to a limitation of property rights.

Clause 14 prohibits gaming venue operators from cashing more than one cheque per customer per day, up to a maximum of $400. While these new offences may raise individual property rights, they do not amount to any form of deprivation of property as individual consumers are free to cash their cheques elsewhere.

Human rights protected by the charter that are relevant to the bill

Section 13: privacy and reputation

A person has the right to not have his or her privacy unlawfully or arbitrarily interfered with.

Clause 6 of the bill provides that applications made by wagering service providers to publish race fields must be accompanied by any additional information the controlling body requires.

Clause 54 provides in part that an application for a casino licence must contain, or be accompanied by, any additional information that is required by the VCGR. This requirement is already contained in section 8(3) of the Casino Control Act 1991. It is restated in the bill so that the new requirement that an application for a casino licence be accompanied by a responsible gambling code of conduct can be included in that section. Clause 29 also provides for an equivalent power by the VCGR with respect to applications for interactive gaming licence applications. This requirement is already contained in section 7.3.1 of the Gambling Regulation Act and it is restated for the same reason I have just outlined.

Similar provisions exist throughout the Gambling Regulation Act, affording the VCGR the power to require additional information with respect to licence applicants. These provisions are prescribed in legislation and are consistent with the objectives of ensuring licence applications are granted to applicants who conduct themselves honestly and are free from criminal exploitation. Accordingly, the right to privacy is not limited in these circumstances.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, to the extent that it limits human rights, those limits are reasonable and proportionate.

HON. TONY ROBINSON, MP
Minister for Gaming

Second reading

Mr ROBINSON (Minister for Gaming) — I move:

That this bill be now read a second time.

This bill has three main objectives.

Firstly, the bill implements the next phase in Taking Action on Problem Gambling, the government's five-year strategy to combat problem gambling. It introduces new responsible gambling measures that will form part of the government's coordinated approach to addressing problem gambling which integrates consumer protection measures with prevention, early intervention and treatment of gambling-related harm.

Secondly, the amendments to the existing race fields legislation introduced by this government in November 2005 will strengthen the capacity of the Victorian racing industry to effectively monitor all interstate and overseas wagering service providers and ensure that they make a fair economic contribution to the industry on which their businesses are based.

The third objective of this bill is to further amend the provisions relating to the requirement that a club make an annual community benefit contribution from its net gaming revenue. This will enhance the ability of the government to ensure that all clubs make an appropriate contribution direct to the community.

I will now turn to the provisions of the bill.

Responsible gambling measures

The bill amends the Gambling Regulation Act 2003 and the Casino Control Act 1991 to include a number of additional responsible gambling measures.

Firstly, the bill includes amendments to the Gambling Regulation Act 2003 and the Casino Control Act 1991 to reduce the availability of cash at gaming venues.

The bill prohibits an automatic teller machine in a gaming venue if it does not limit the amount that a customer can withdraw to a total of $400 in a 24-hour period. It also prohibits the placement of an automatic teller machine (ATM) within 50 metres of an entrance to the gaming area of the casino and the entrance of a gaming machine area in a racecourse, unless the machine is limited in the same way.

The bill also prohibits a gaming venue operator from cashing more than one cheque per customer per day up to a maximum of $400. I consider that there is merit in reviewing the practice of cashing cheques in venues altogether. Accordingly, I will direct my department to review this practice by 2010.

The bill also amends the Gambling Regulation Act 2003 to include in that act the existing prohibition on the placement of automatic teller machines in the gaming machine area of a venue. This prohibition is currently contained in rules made by the Victorian Commission for Gambling Regulation.

Recent research has shown that:

- regular and problem gamblers tend to access ATMs at gaming venues more frequently than do recreational and non-problem gamblers;
- access to cash is a ‘common trigger’ to overspend limits;
- moderate risk and problem gamblers make significantly more withdrawals from ATMs than non-problem or low-risk players;
- most gaming machine players access an ATM at least once during a gambling session.

Findings such as these show why it is imperative that the government act to reduce the availability of cash at gaming venues. It is clear that this measure has the potential to deliver a vital responsible gambling measure that will:

- reduce the harm caused by problem gambling by limiting the amount of money a person can spend in one continuous session of play;
- help all gamblers to keep to any precommitment decisions they might have made before entering the gaming venue or casino.

Those wanting to obtain additional cash will be required to break their play and leave the venue. Breaks in play are an important harm-minimisation measure. They provide gamblers with a valuable opportunity to reappraise their decision to continue to gamble.

The bill will not require the removal of ATMs altogether. This ensures that the measure to restrict cash can be introduced in a way that minimises the inconvenience to recreational gamblers and non-gambling patrons while still providing an important safety net for those who are at risk.

Secondly, the bill amends the Gambling Regulation Act 2003 and the Casino Control Act 1991 to require a range of licence-holders to have a responsible gambling code of conduct approved by the Victorian Commission for Gambling Regulation.

The government acknowledges that many industry participants already have a voluntary responsible gambling code of conduct. This amendment recognises the important role responsible gambling codes of conduct can play in achieving the objective of providing gambling products in a manner that fosters responsible gambling.

While government can do much to achieve its objective of fostering responsible gambling by establishing an appropriate regulatory environment, the active involvement of the gambling industry is also important. Industry has a responsibility to ensure that the gambling environments they provide encourage responsible gambling and that consumers understand the risks of excessive gambling.

Government has already done much to encourage a responsible gambling industry by:

- establishing the Responsible Gambling Ministerial Advisory Council to engage industry participants in the debate surrounding problem gambling;
- making training in the responsible service of gambling compulsory for all staff employed in the gambling machines area of a venue or the casino;
- supporting the staging of Responsible Gambling Awareness Week.

The government’s next step is to require industry participants to develop and implement a responsible gambling code of conduct. Making this requirement mandatory will enhance the effectiveness of this responsible gambling measure.

Industry participants will be required to develop codes that are appropriate for the nature of their business and the type of gaming that they provide. This approach acknowledges that there can be more than one means of

achieving the objective of responsible gambling and that a degree of flexibility is appropriate.

It is the government's intention that this policy will be made to apply to the licensing arrangements for the provision of gaming, wagering and Keno after the current licences expire in 2012. Subject to this exception, the requirement to have a responsible gambling code of conduct will apply to new licences captured by this bill as well as to existing licences.

The bill also requires gaming venue operators to have an approved self-exclusion program. These licensees already operate self-exclusion programs on a voluntary basis.

The establishment of an effective self-exclusion program has been recognised across Australian jurisdictions as an important harm-minimisation measure that can help and support problem gamblers. The government acknowledges the importance of this harm-minimisation measure and will ensure that it applies to the playing of gaming machines.

The Casino Control Act 1991 requires self-excluded persons who enter Melbourne casino to forfeit any winnings. By virtue of section 78B of that act, those winnings are paid into the Community Support Fund. Money in the fund may be applied for a range of purposes including conducting research into the causes of problem gambling, and the provision of problem gambling services. Forfeiture provisions are appropriate in this context, as they are enforceable by virtue of Melbourne casino's tailored loyalty program. However, such a model could not easily be rolled out with respect to all other gaming venue operators. Substantial enforcement issues would be raised with respect to each individual venue.

Making the requirement to have a self-exclusion program mandatory will provide consistency with the mandatory requirement to have a responsible gambling code of conduct and will ensure that an appropriate approval process and enforcement regime can be put in place.

While the requirement to have a mandatory self-exclusion program will not apply to wagering, the government recognises that wagering is another form of gambling where self-exclusion could play an important harm-minimisation role. Consultation with industry has indicated however that a more flexible approach is required to accommodate the range of ways in which wagering is delivered.

As the bill provides the minister with the power to issue directions about responsible gambling codes of conduct, I will consider making a direction that requires the holder of the wagering licence to develop a self-exclusion program that can be applied to those aspects of its business where such a program can be effectively implemented.

The third responsible gambling measure introduced by the bill is a prohibition on the outdoor placement of gaming machines. This is a proactive measure to ensure that gaming venue operators and the casino operator are not able to reduce the effectiveness of smoking bans that have been introduced in Victoria by locating gaming machines in outside areas. The need for this amendment was highlighted by a media report earlier this year that reported several NSW gaming venue operators have received approval to place gaming machines in outdoor areas, the consequence being that patrons will be able to smoke while gambling. Such an occurrence would be a retrograde step in minimising the harm caused by both problem gambling and smoking and the government proposes to deal with this possibility before a similar situation develops in Victoria.

The fourth responsible gambling measure in the bill is to make it an offence for a venue operator to knowingly allow a person to play a gaming machine or for the holder of the wagering licence or the wagering operator to knowingly allow a person to place a bet while intoxicated. This measure will also apply to gambling and betting at the casino.

There is little doubt that the consumption of alcohol can have an adverse effect on a person's decision-making ability, including the ability to make appropriate decisions about precommitment and whether to continue to gamble. This measure will reduce the risk that a person who is cognitively impaired by the consumption of alcohol will continue to gamble.

Race fields

The bill includes amendments to the existing race fields legislation which, at the time, was the first of its kind anywhere in the world. The legislation seeks to ensure that all wagering operators based outside Victoria make a fair and reasonable economic contribution back to the racing industry on which their businesses are based.

First of all, the bill allows for a controlling body to impose or vary conditions on the grant of an approval to publish race fields and to revoke or suspend an approval. This provision will give the controlling bodies a tool in which to effectively manage the applications of interstate and overseas wagering service providers.

The next amendment allows for a person to apply to VCAT to review a decision made by a racing

controlling body to reject or cancel an application or vary the conditions of an approval. This enables any applicant to appeal to VCAT if they feel aggrieved by a decision made by a controlling body and ensures fairness. Applicants will however not be allowed to challenge the payment of fees to controlling bodies for the use of Victorian race field information.

The bill allows for a racing controlling body to impose a charge as a condition of granting an approval. The amended legislation clarifies the right of a controlling body to charge a fee and should prevent the threat of legal action by interstate and overseas wagering providers over the imposition of charges for the use of Victorian race field information.

Finally, the bill provides authorisation under the commonwealth Trade Practices Act 1974 for racing controlling bodies to enter into agreements for the purpose of collecting race field publication fees. This amendment will provide surety to interstate and overseas wagering service providers applying to use Victorian race field information as controlling bodies can now implement a consistent policy in relation to the charging of fees.

Community benefit statements

Under section 3.6.6(2)(c) of the Gambling Regulation Act 2003, gaming venues with a club licence pay 8.33 per cent less tax from their net gaming revenue than do gaming venues with a hotel licence. Clubs are required instead to make a direct community benefit contribution of 8.33 per cent of their net gaming revenue.

Activities and purposes that can be claimed as a community benefit are set out in an order made by the Minister for Gaming and clubs are required to lodge a community benefit statement annually showing what community benefit contribution they have made.

Hotel gaming venues were required to lodge a community benefit statement until the Gambling Regulation Amendment Act 2007 removed this requirement from the Gambling Regulation Act 2003. As hotel gaming venues are not required to make a direct community benefit, the requirement to lodge a community benefit statement was unnecessary.

The Gambling Regulation Amendment Act 2007 also varied the consequences for clubs that fail to lodge a community benefit statement as required, or fail to make the required community benefit contribution of 8.33 per cent of net gaming revenue.

The relevant amendments in the Gambling Regulation Amendment Act 2007 represented the first stage of the government's overall review of community benefit contributions.

The government also proposes to vary the types of contributions that clubs can claim as a community benefit by restricting claimable activities to those that provide a genuine community benefit. This will involve making a new ministerial order specifying the kind of activities or purposes that constitute a community benefit. A draft order was released in June 2007 and significant stakeholder consultation occurred.

The review process has shown that in order to ensure that a new ministerial order can be made that achieves the objective of ensuring that clubs are required to make a clear and direct community benefit contribution, an additional amendment of the Gambling Regulation Act 2003 is required.

For this reason, the bill will amend the Gambling Regulation Act 2003 to enable the minister to make an order that determines not only the kind of activities or purposes that constitute community purposes but can also specify:

activities or purposes that do not constitute a community purpose, and

the maximum amount or percentage of gaming revenue that can be claimed for any specified community purpose or activity.

Conclusion

The amendments contained in the bill form an integral part of the government's overall policy on the regulation of gambling in Victoria. They will:

help to ensure that the Victorian gambling industry operates in a balanced way that minimises the incidence of problem gambling while creating an environment where those who gamble safely are permitted to do so;

improve the operation and effectiveness of the restrictions on the use of Victorian race fields by interstate and overseas wagering service providers;

provide increased flexibility for making of ministerial orders about community benefit contributions.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 15 November.

MOTOR CAR TRADERS AMENDMENT BILL

Statement of compatibility

Mr ROBINSON (Minister for Consumer Affairs) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Motor Car Traders Amendment Bill 2007.

In my opinion, the Motor Car Traders Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Motor Car Traders Act 1986 to improve the operation of that act. The objective of these proposed amendments is to implement the recommendations from the Pullen report, which reviewed the operation of the Motor Car Traders Act 1986, and thereby achieve more effective and less burdensome regulatory arrangements for licensed motor car traders. The bill also amends the Interpretation of Legislation Act 1984 to insert a new definition of 'insolvent under administration' and makes consequential amendments to other acts (listed in the schedule of the bill).

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The relevant rights under the Charter of Human Rights and Responsibilities which the bill will engage are:

Section 13: privacy and reputation

Clause 12 of the bill imposes a positive obligation on motor car traders to obtain a certificate from the Chief Commissioner of Police and a prescribed declaration with respect to the criminal record of any potential employee who is to be employed in any customer service capacity. This raises the right to privacy under section 13 of the charter, in that it requires the collection of personal information.

To comply with section 13(a) of the charter, a person's privacy must not be unlawfully or arbitrarily interfered with. The circumstances in which the bill will authorise motor car traders to collect the information in question are precise and circumscribed. Motor car traders will only be required to collect the information in relation to persons who have applied for employment in a customer service capacity. The purpose of obtaining this information is to ensure that persons who are considered unsuitable to hold a licence do not enter the industry in a position where they may pose an equal risk to consumers. On this basis, the amendments cannot be said to be unlawful or arbitrary.

Clause 16 of the bill includes a new requirement for auctioneers to obtain and keep records of the names and addresses of motor car vendors and purchasers. The clause also requires that the records be available for inspection on request by an inspector appointed under the Fair Trading Act 1999 or the Motor Car Traders Guarantee Fund Claims Committee. The clause requires that a record relating to a particular vehicle or vehicles also be available on the request of a member of Victoria Police. This clause raises the right to privacy. However, this amendment does not limit the right to privacy because it is neither unlawful nor arbitrary. The circumstances in which the bill will authorise auctioneers to collect and store the information in question are precise and circumscribed. Auctioneers will only be required to collect and store the names and addresses of persons who have sold or purchased motor cars through that auctioneer. The purpose of obtaining and storing this information is to assist in any future investigations in relation to such transactions or vehicles. The specific purposes for which the information will be disclosed are investigation of unlicensed trading in motor cars by inspectors appointed under the Fair Trading Act 1999, determination of claims against the Motor Car Traders Guarantee Fund by the Motor Car Traders Guarantee Fund Claims Committee or the investigation of stolen vehicles by Victoria Police.

Clauses 18 and 19 of the bill, which deal with particulars that must be displayed on a car, also raise the right to privacy.

Clause 18 of the bill requires the display (on a motor car to be sold) of the name and business address of the current and previous owner of the motor car in question. Clause 19 provides that where the previous owner of the motor car is not a motor car trader or a special trader (i.e. the previous owner is an individual), such information need not be displayed but must be made available on request of a potential purchaser. These amendments raise the right to privacy. However, they do not limit the right to privacy because they are neither unlawful nor arbitrary.

The display (required by clause 18) and the exchange of information (required by clause 19) are neither arbitrary nor unlawful as the circumstances of display/exchange are precise and circumscribed, the information to be displayed/exchanged is confined to name and address details, and the display/exchange is for the legitimate purpose of informing prospective purchasers about the ownership and history of ownership of motor cars and to deter odometer tampering and misrepresentation of the history of motor cars.

Finally, clause 21 of the bill engages the right to privacy because it will allow the Motor Car Traders Guarantee Fund Claim Committee to require a claimant or any other party to a claim to provide information, and to seek relevant information from any other person or body or source as it thinks fit, for the purpose of determining a claim. This power is for the purpose of obtaining information relevant to the determination of a claim within a statutory guarantee fund scheme. Since it is within this scheme and is for a clearly specified purpose it is not an arbitrary or unlawful interference with a person's privacy.

Clause 21 further engages the right to privacy because it inserts a new section 69 which will enable the committee to request from a public body information

about any matter relevant to the determination of a claim, and disclose such information to a range of persons for the purpose of obtaining further information to determine the claim.

The clause does not require the specified public body to make the information available to the committee and this is a decision that the public body will make on a case-by-case basis, in accordance with the requirements relating to disclosure of personal information under the Information Privacy Act 2000. The exercise of this power is therefore not an unlawful or arbitrary interference with a person's privacy.

The power for the committee, if it obtains information in respect to a claim, to disclose it to others is also not an unlawful or arbitrary interference with a person's privacy because the circumstances in which information may be disclosed are specified and limited to instances in which it would be reasonable for the committee to release the information to that person for the purpose of obtaining information to determine the claim.

For the reasons set out above, clauses 12, 16, 18, 19 and 21 are compatible with the right to privacy and reputation provided for in the charter of human rights.

Section 20: property rights

Clause 9, which inserts a new section 29(1A) into the act, provides that an individual licence of a partner or director of a body corporate will be automatically suspended (unless, within 30 days of the claim, they apply to the licensing authority for permission to continue to trade) if the licence of the corresponding partnership or body corporate is suspended. This may raise the property right in section 20 of the charter, which establishes a right for an individual not to be deprived of his or her property other than in accordance with law. This right ensures that the institution of property is recognised and acknowledges that the state of Victoria is a market economy that depends on the institution of private property.

Although the right is raised, it is not limited because the potential suspension of an individual licence will be in accordance with law as set out in the bill. There is an implied limitation on the power to make laws depriving persons of property that the laws must not do so in an arbitrary manner. 'Arbitrary' in this context may mean 'capriciously', 'unpredictably' or 'inconsistently': in other words, lacking in reason or proper policy justification. The proposed law is not arbitrary because the effect of the provision is clear and applies equally to each licence-holder and is for a good policy reason. Persons who have been a director of a company licensee or a partner of a partnership licensee at a time when the company or partnership had its licence suspended might otherwise be in a position to cause detriment to consumers and to cause another claim on the fund. For example, a company may have a sole director or a partnership have all but one silent partner, which would be, in effect, the same as an individual licensee.

Section 15: freedom of expression

Clause 21, which inserts a new section 68 into the act, allows the committee to require a claimant or any other party to a claim to provide any information relevant to the determination of a claim. This may raise the right to freedom of expression in section 15 of the charter, which includes the right not to express. However, s. 15(3) of the charter provides that special duties and responsibilities attach to this right and it may therefore be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality.

Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. Clause 21 constitutes a lawful restriction on the freedom of expression under section 15(3) of the charter for the purpose of public order and rights and reputation of other persons by assisting claims to be determined on the basis of all relevant material.

Section 24: right to a fair hearing

On its face clause 25(3), which confirms that the committee is not required to conduct an oral hearing to determine whether to admit or refuse a claim against the guarantee fund, raises the right to a fair hearing. However, the right is not limited.

The committee considers applications for claims on the papers, and the trader concerned is always invited to make a response to the application. Thus the right to a fair hearing is not limited by this clause, as a hearing on the papers does take place.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it raises human rights issues but does not limit human rights.

HON. TONY ROBINSON, MP
Minister for Consumer Affairs

Second reading

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

The amendments in this bill flow from an extensive consultation process undertaken by the member for Higinbotham, Mr Noel Pullen, MP, in 2004 and respond to industry and other stakeholder concerns raised during this process. The bill will implement legislative recommendations from the December 2004 report on the Motor Car Traders Act consultations (the Pullen report) that were supported by the government in its response to the Pullen report published in 2006. The amendments are intended to achieve a more effective and less burdensome regulatory environment for licensed motor car traders.

The bill amends the Motor Car Traders Act 1986 to allow the licensing authority to consider certain associates when assessing licence applications, in order

to protect consumers from a person who uses an associate as a front to obtain a licence. The licensing authority has attempted to deal with such applications by accepting the application and imposing conditions on the licensee, but high-risk associates have ignored the conditions and substantial consumer harm has resulted. These decisions of the licensing authority are to be subject to appeal.

The amendments also require traders to check that potential employees are not prohibited prior to employing them in customer service positions, similar to the obligation imposed on estate agents under the Estate Agents Act 1980. The current Motor Car Traders Act 1986 prohibits traders from employing certain persons in customer service positions, but the Pullen report noted that there is evidence that this provision is not currently effective. There is a high degree of mobility amongst sales staff in the industry, and this positive obligation on traders to check that potential employees are not prohibited prior to employing them should in time achieve full compliance with the existing prohibition.

The bill will remedy an anomaly whereby directors of companies and partners in partnerships with claims against the guarantee fund admitted against them are not in the same position as individual licence-holders who have had claims admitted against them. It will do this by introducing an arrangement akin to that which currently exists in the Motor Car Traders Act 1986 for the situation where a partner or director is found guilty of a serious offence.

Currently, motor car traders are required to display the name and address of the last registered owner of a motor car, or the previous owner of the car, who was not a motor car trader or special trader. The amendment to remove the current requirement for the name and address of the previous owner to be displayed on used vehicles will reduce concerns about privacy that were expressed to Mr Pullen during his consultations. The amendment will also allow display of a trader or special trader's name instead of the previous owner's details in cases where the vehicle is acquired from a trader or special trader, as the information about the previous owner is nowadays sometimes not known. This will also reduce display of personal details of previous owners who were not traders or special traders in instances where the details are known.

The bill will extend cooling-off periods to all new cars sales. At present, they only apply to used cars and to certain new car sales. This will be done without disturbing the existing cooling-off rights in the act pertaining to used cars and off-premises sales of new cars. Improved information is to be provided to purchasers of light goods vehicles about the fact that such vehicles are not covered by a statutory warranty. This is to be done by extending the consumer protection of form 7 'window displays' to light goods vehicles, which include some utes and vans. The bill will also improve the information provided to consumers about their rights to a cooling-off period.

The bill prohibits dummy bidding at motor vehicle auctions. This amendment will provide greater transparency and clarity for traders as well as for consumers, since most vehicles at auction are sold to trader buyers.

The bill restricts the persons who may claim on the Motor Car Traders Guarantee Fund and makes other amendments to part 5 of the act to improve the efficiency of operation of the Motor Car Traders Guarantee Fund, which primarily receives revenue from licence fees for motor car traders. The bill excludes public statutory authorities from claiming on the fund, because as the government response to the Pullen report made clear, the government recognises that the purpose of the fund is for consumer protection and not to protect government revenue.

Clarifications of various provisions and miscellaneous minor amendments to update the act and to improve its clarity and efficiency will reduce the confusion about these provisions that many stakeholders reported in Mr Pullen's consultations.

Finally, the bill amends the Interpretation of Legislation Act 1984 to insert a new definition of 'insolvent under administration' and make consequential amendments to other acts.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 15 November.

CHILDREN'S SERVICES AND EDUCATION LEGISLATION AMENDMENT (ANAPHYLAXIS MANAGEMENT) BILL

Statement of compatibility

Ms MORAND (Minister for Children and Early Childhood Development) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Children's Services and Education Legislation Amendment (Anaphylaxis Management) Bill 2007 ('the bill').

In my opinion the bill as introduced to the Legislative Assembly is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill:

Amends the Children's Services Act 1996 to require the proprietor of a children's service to ensure that the service has in place an anaphylaxis management policy containing prescribed matters. The maximum penalty for an offence against this requirement is 30 penalty units.

Amends the Education and Training Reform Act 2006 to include as a requirement of registration of a school that the school has a developed anaphylaxis management policy containing matters required by a ministerial order to be included in the policy.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The following rights are engaged by the bill.

Right to life (section 9 of the charter) and protection of families and children (section 17 of the charter)

The right to life in the charter includes a positive obligation on government to protect the lives of persons in their care. The charter also provides that every child has the right, without discrimination, to such protection as is in his or her best interests as is needed by him or her by reason of being a child.

The bill is underpinned by the protection of these rights. Anaphylaxis management is a key issue in early childhood services and schools following publicised incidents where children have died from symptoms connected with anaphylaxis whilst attending early childhood services or schools. The bill provides enhanced protection of the health and safety of children diagnosed at risk of anaphylaxis by making it a requirement for early childhood services and schools to have an anaphylaxis management policy in place. It is intended that the policy will include minimum safety standards and mandatory training of staff.

Right not to be subjected to medical treatment without his or her full, free and informed consent (section 10(a) of the charter)

The above right is engaged by the bill in that the proposal anticipates that children will be administered with adrenaline via an adrenaline auto-injection device in emergency situations. Such medical treatment will occur with the full, free and informed prior consent of the parent or guardian of the child, which forms part of the child's individual plan. There is therefore no limitation on this right.

Right not to have one's information or bodily privacy unlawfully or arbitrarily interfered with (section 13 of the charter)

To the extent that a child's medical information will be attached to the child's school enrolment record, the child's right to information privacy is engaged because medical information is information of a personal nature. There will be no limitation of the right because this will occur with the consent of the child's parent or guardian and the information will be maintained in accordance with the requirements of privacy legislation.

The child's right not to have his or her bodily privacy unlawfully or arbitrarily interfered with is also engaged as the administration of an adrenaline auto-injection device prima facie constitutes an interference with bodily privacy. However, the interference will occur in confined circumstances set out in law according to the prescribed anaphylactic management policy and with the consent of the child's parent or guardian and the interference will be neither unlawful or arbitrary.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit any human rights.

MAXINE MORAND, MP
Minister for Children and Early Childhood Development

Second reading

Ms MORAND (Minister for Children and Early Childhood Development) — I move:

That this bill be now read a second time.

Anaphylaxis, or anaphylactic shock, is a severe allergic reaction and is most commonly caused by nuts, insect stings and some medicines.

There is now extensive evidence of increasing rates of anaphylaxis in the community.

Australia has one of the highest rates of children who suffer severe allergies.

What separates this disorder from other childhood illnesses such as epilepsy, asthma or diabetes is that anaphylaxis is sudden, severe and a potentially fatal allergic reaction if not treated urgently.

Honourable members will have read and heard about tragic incidents highlighting the real and very serious risks posed — particularly to children — by anaphylaxis.

Current research estimates that 1 child in 200 has been diagnosed as being at risk of anaphylaxis — which means around 5000 Victorian children are at risk.

Increasing incidence is also demonstrated by data collected between 2000 and 2006, which shows admissions to the Royal Children's Hospital for anaphylaxis tripled during that period.

As stated on the government's Better Health Channel website the severe allergic reaction associated with anaphylactic shock means that:

> Within minutes of exposure to the allergen, the person can have potentially life-threatening symptoms, which include:
>
> difficult or noisy breathing;
>
> swelling of the tongue;
>
> swelling or tightness in the throat;
>
> difficulty talking or a hoarse voice;
>
> wheeze or persistent cough;
>
> loss of consciousness or collapse;
>
> becoming pale and floppy (in young children).

To prevent severe injury or death, a person experiencing an anaphylactic shock requires swift action — with an injection of adrenalin.

The adrenalin is generally administered through an auto-injecting device, commonly known by the brand name EpiPen®.

As a consequence of the increased diagnosis, the management of anaphylaxis in schools and children's services has become a key issue for all Australian jurisdictions.

The bill before the house today fulfils a commitment made in October 2006 by the former Premier, Steve Bracks, to mandate minimum safety standards for children at risk of anaphylaxis while at school or an early childhood service.

Research shows that individual management plans, staff training and clear communication between staff, parents and doctors are essential to effective anaphylaxis management.

The Victorian government is committed to providing a safe and supportive environment in which children diagnosed at risk of anaphylaxis can participate equally in all aspects of school or a children's service.

We want parents who have a child at risk of anaphylactic shock to be reassured that staff at their child's child-care centre, kindergarten or school have been trained to handle such an emergency.

The bill will amend the Children's Services Act 1996 to require a children's service to have an anaphylaxis management policy containing the matters prescribed by the regulations.

The regulations may include plans and procedures; the development, implementation, maintenance and availability of the policy; the training of staff; and the storage and availability of anaphylaxis medication.

It is envisaged that the regulations will require all on-duty staff at a children's service to have comprehensive anaphylaxis management training where there is an enrolled child who has been diagnosed as being at risk of anaphylaxis.

It is also envisaged that all children's services staff, regardless of whether there is a child at risk enrolled at the service, will be required under the regulations to be educated in the use of an adrenaline auto-injecting device.

The bill will also amend the Education and Training Reform Act 2006 to impose similar requirements for schools.

Specifically, the bill will impose a new obligation on the Victorian Registration and Qualifications Authority to only register a school if it is satisfied that it has an anaphylaxis management policy in accordance with a ministerial order.

The ministerial order will require schools with a student enrolled who is diagnosed at risk of anaphylaxis to develop plans and procedures for anaphylaxis management and the training of the majority of staff.

It is proposed that the ministerial order will require all schools (both government and non-government) with a student diagnosed as being at risk of anaphylaxis to have in place an individual management plan for that student and a communication plan for staff, parents and students to inform them of the school's policies.

Staff responsible for the care of students diagnosed as being at risk of anaphylaxis will be required to have up-to-date anaphylaxis management training, including training in the use of an adrenaline auto-injecting device.

As part of the regular school review process, schools with a student diagnosed as being at risk of anaphylaxis will need to demonstrate compliance with the requirements in the ministerial order to the Victorian Registration and Qualifications Authority.

The bill provides that the act will commence automatically on 14 July 2008, the first day of term 3, 2008 for children's services and schools, if it has not

been proclaimed earlier. This will provide time for the regulations and ministerial order to be developed and for schools and children's services to comply with the new requirements.

The bill is consistent with and will build upon the work already undertaken by the Victorian government to manage and reduce the risk of anaphylaxis. This work includes:

the development and distribution of the *Anaphylaxis Guidelines for Victorian Government Schools* to all Victorian schools, including Catholic and independent schools, and the anaphylaxis resource kit to children's services;

funding to train staff in government schools and children's services in how to recognise and respond to an anaphylactic reaction, including the use of an EpiPen®;

the establishment of an allergy working party to report to the Minister for Health on issues related to the diagnosis, prevention and management of allergies;

support for the Royal Children's Hospital allergy unit;

introduction of training with 4800 staff in children's services and over 11 700 staff in schools already trained.

Victoria is leading the way in Australia in supporting children, young people and their families who live with severe, life-threatening allergies.

This bill continues that leadership and will increase the protection of the health and safety of children who are at risk of anaphylaxis and increase the confidence of parents and staff in minimising and responding to anaphylactic reactions.

In bringing this bill to the house I would like to commend the work of some key organisations who have worked in partnership with the government including:

the Australian Medical Association,

Anaphylaxis Australia,

the Ilhan Food Allergy Foundation,

the Royal Children's Hospital Department of Allergy and Immunology,

the Asthma Foundation of Victoria,

Ambulance Victoria First Aid, and

many parents whose children have been diagnosed with anaphylaxis.

And finally in introducing this bill, I would like to acknowledge Nigel and Martha Baptist whose son Alex tragically died while attending a Victorian kindergarten in 2004.

From that time Nigel and Martha have worked selflessly, and with great dignity, to raise awareness of anaphylaxis and its tragic consequences.

I would like to commend them for their commitment and their courage.

Victoria's children will now be better protected through this legislation.

I commend the bill to the house.

Debate adjourned on motion of Mrs SHARDEY (Caulfield).

Debate adjourned until Thursday, 15 November.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The DEPUTY SPEAKER — Order! The question is:

That the house do now adjourn.

Country Fire Authority: Ferntree Gully brigade

Mr WAKELING (Ferntree Gully) — The issue I rise to speak about is water usage by the Ferntree Gully fire brigade, and the action I seek is that the Minister for Police and Emergency Services provide necessary funding to the fire brigade to allow it to install water tanks at its station in Ferntree Gully. The Ferntree Gully fire brigade has been serving the Ferntree Gully community with distinction since the inception of the Ferntree Gully bushfire brigade in 1926. Since that date many hundreds of Ferntree Gully residents have given freely of their time to serve their community against the constant threat of fire, particularly from the Dandenong Ranges immediately to the suburb's east. Access to a reliable water supply is a significant issue for the Victorian community, and it is imperative that all efforts be made to ensure that water retention devices are implemented to reduce reliance on potable water. Furthermore, water as we all know is commonly used

in fighting fires, particularly bushfires. There is no way around using water; it is a necessity to protect life and property.

Firefighters require ongoing training to use their complex equipment, and training activities involving this equipment also require the use of water. Pump operators require 2 hours of training per month in order to maintain their pump skills. Ferntree Gully fire brigade has 10 pump operators, who require between them 20 hours per month of training. On average pump training uses 2000 litres of water per person per hour. Ferntree Gully fire brigade therefore needs to use 40 000 litres of water per month in training. Rainwater harvesting from tanks could reduce the need to use potable water in this training and ease the pressure on Melbourne's dwindling water supplies.

It is estimated that funding of $47 500 would provide tanks, pits and pumps to harvest rainwater and recapture water used in pump training. This funding would provide two, 22 500 litre storage tanks, a 5000-litre filter and pump collection tank, and a diversion pit to collect water from existing stormwater drains. A pump able to pump at various pressures would also be connected to the storage tanks to simulate water pressure in the area. The diversion pit would allow water used during pump training to be filtered and funnelled back into the tanks to be reused. The brigade's fire trucks could also be filled from these tanks to fight real fires. In addition to this, another eight brigades in the Knox area could undertake similar training activities, if they chose, at the Ferntree Gully station site. It is estimated that this initiative could potentially result in a saving of up to 320 000 litres of water per month.

I urge the minister to take action, to work with the management committee of the Ferntree Gully fire brigade and to ensure that the necessary funding is provided to the brigade to allow it to install water tanks as described.

Ballarat Sebastopol Cycling Club: achievements

Ms OVERINGTON (Ballarat West) — I raise a matter for the attention of the Minister for Sport, Recreation and Youth Affairs, and the action I seek is that the minister give very serious consideration to the Ballarat Sebastopol Cycling Club, which has been nominated in the amateurs achievement category of the sport and recreation awards to be held on 19 November. The club has been nominated for the award because it has developed into a successful and strong team despite facing severe obstacles in the past.

The history of the club dates back to 1869, when it was called the Sebastopol cycling club. An amalgamation with the Ballarat club occurred in the late 1970s. Unfortunately the club was on the brink of closure in 2006; however, a very enthusiastic team of people made up of local cyclists and parents with the attitude 'nothing ventured, nothing gained' turned it around. The new committee secured new sponsorship and funding and promoted the club, resulting in a dramatic increase in its membership.

Earlier this year the club received a $33 000 government grant, and the funds have been used to purchase track bikes and associated equipment for the junior riders of the club. In congratulating the club once again, can I say that it has also approached a number of the primary schools to include cycling in the sporting programs as part of the curriculum in those primary schools. It costs nothing for kids to attend and run these bikes around the velodrome.

I have to talk about the velodrome in Sebastopol. I was a member of the council of the Borough of Sebastopol when the velodrome was resurfaced in 1992. It cost the borough a lot of money in those days, but it was well worth it, and the club was very strong. As a result of this change of direction at the club it has also experienced success on the track, with several riders taking out state medals at the recent track and roadside championships. The sport and recreation awards are the largest held for the industry, and the category for which the cycling club has been nominated recognises outstanding achievement by an amateur sporting club or team. I believe that the Ballarat Sebastopol Cycling Club has demonstrated and made an outstanding achievement. I again urge the minister to give them serious consideration.

Preschools: drought support

Mr WALSH (Swan Hill) — I raise a matter for the Minister for Children and Early Childhood Development. The action I seek from the minister is for the government to continue to provide drought funding assistance to kindergartens in country Victoria's drought-affected areas.

As members of this house will be well aware, the drought is having a wide-ranging impact upon rural communities, and that stretches beyond the farming sector. Historically country kindergartens have had to raise substantial amounts of money to keep their kindergartens operating. This year that was made easier by an increase in the regular subsidy per child from $330 to $730 if parents have a health care card. As members of this house would know, with the federal

government exceptional circumstances program there are a lot more families in country Victoria — —

The DEPUTY SPEAKER — Order! I regret interrupting the member for Swan Hill, but asking a minister to continue to do something does not constitute an action. That is a ruling from the Chair. Will the member reword his adjournment matter?

Mr WALSH — Thank you, Deputy Speaker, I will have to rephrase it. I ask the Minister for Children and Early Childhood Development to provide drought assistance funding to kindergartens for the year 2008. There are a lot more families with health care cards because of the exceptional circumstances (EC) program run by the federal government. Access to the health care card is one of the key benefits a family gets from the Centrelink EC program. But on top of the increase in the regular subsidy for children at kindergartens there was at the end of 2006 additional drought funding of $2500 per kindergarten in designated areas, and an additional $5000 in January 2007 for kindergartens in designated areas.

I am finding that kindergartens in my area are now doing their budgets for 2008. This year, if it had not been for the drought funding, Manangatang preschool would have had to raise $9000, but with the assistance it received it was able to reduce that to $1500. The Boort preschool's funding goal was to raise $5000, but because of the assistance it received this year it was able to waive all the fees at that kindergarten. The Pyramid Hill kindergarten parents usually have to raise between $6000 and $10 000 per year, but this year, with the assistance it has received from the drought funding package from state government, it was able to waive the fees for children to attend kinder.

Research shows that the early years of a child's life have a substantial impact upon their capacity to learn throughout the rest of their life. The action I seek from the minister is to provide funding for kindergartens in 2008 for the kindergartens in country Victoria in the drought-affected communities.

Schools: illuminated speed signs

Mr BROOKS (Bundoora) — I raise a matter for the attention of the Minister for Roads and Ports. The specific action that I seek is that minister fund the installation of electronic speed signs at three school speed zones within my electorate. The three school zones that I refer to are the ones at St Mary's School in Greensborough, Greensborough Primary School and a school speed zone that includes Loyola College, Concord School and the nearby Watsonia North Primary School.

The schools that I have mentioned would have a combined student population of around 2000, so there is a large proportion of people not just in my electorate but across northern and north-eastern Melbourne who would have children attending these schools. The schools are all located on the very busy Grimshaw Street, which is an arterial road running east-west through my electorate. It is a 60-kilometre-per-hour road. School zones drop down to 40 kilometres an hour during those school drop-off and pick-up times.

As I drive along that road most mornings and most afternoons, I have noticed that there are some motorists who are not travelling at 40 kilometres an hour. I certainly am, but there are some who are not. Many of them do not pick up on the signage. It is a static 40-kilometre-per-hour sign on a busy road. I think illuminated electronic signage would certainly provide better awareness amongst drivers that they are approaching or are in a school zone. That would help reduce the speed of motorists as they pass those schools. This issue has been raised with me through local residents, and as I say, I have noticed it myself.

I note that before the last election the former Premier announced a $43 million road safety package funded by the Transport Accident Commission. Part of that was $10 million towards electronic signage. I would hope the minister would see fit to apportion some of that $10 million to the installation of these very important electronic signs along those streets in Greensborough.

The safety of children getting to and from school is of utmost importance. I think this is a very sensible approach to ensuring reduced speeds around these schools, thus providing a safer environment for children in the Bundoora electorate. In conclusion, I call upon the minister for roads to urgently fund electronic speed signs along Grimshaw Street in my electorate.

Disability services: supported accommodation

Mr TILLEY (Benambra) — I wish to raise an issue for the attention and action of the Minister for Community Services. The action I ask for is for the minister to provide more funding for supported accommodation facilities in the Hume region.

I first met Kerry Ferguson on 8 March this year. Ms Ferguson had been the primary caregiver for her disabled daughter, Chloe, for her entire 21 years. Ms Ferguson was emotionally and physically exhausted. I clearly recall her saying, 'I cannot do this

any more'. She had given up work because she could no longer maintain the care of Chloe and her physically demanding job. Chloe was 20 years old at the time and had developed a desire to be independent of mum. Independent living is certainly something that is not an option for Chloe. Initial contact was made with the Department of Human Services. What followed was a protracted series of phone calls, meetings and letter writing to establish Chloe's need and the availability of services.

On 15 March the Department of Human Services advised that it was in crisis mode in this case. A disability support request was completed and an individual plan formulated that would implement staged care for Chloe, beginning with weekend respite, leading to weekday respite and, finally, shared supported accommodation.

The final step to shared supported accommodation is dependent on the placement becoming available. All required paperwork was completed and forwarded to the department on 12 April. Chloe was identified as eligible under the criteria and identified for priority assistance. A response from the minister, dated 23 August, stated that the Hume regional office was aware of Ms Ferguson's identified need for permanent accommodation for her daughter and that she would be considered for any suitable vacancies as a priority. There have been no vacancies to be considered, and Ms Ferguson and Chloe continue to wait. Crisis mode can only work if there are resources to implement solutions to the crisis.

I appreciate the efforts of the Department of Human Services office and their workers, but I am aware that they are only able to work within the constraints and resources available to them. I believe there are something like 15 people awaiting priority accommodation in the Hume region, more than enough to justify the creation of new accommodation facilities and ongoing funding for staffing and operations.

Disabled people and their carers deserve assistance from this government. Chloe Ferguson is entitled, as a 21-year-old adult, to supported living, independent from her mother. She is entitled to the emotional and social growth that this would afford her. Kerry Ferguson, Chloe's mum, is entitled to have the expectation that this government can provide the emotional and physical support that she is in need of. She is entitled to plan for her own future, knowing that her daughter is happy and independent to the fullest possible extent. All other parents and primary care givers are entitled to this knowledge and to security — —

The DEPUTY SPEAKER — Order! The member's time has expired.

Yappera Children's Service: funding

Ms RICHARDSON (Northcote) — I wish to raise a matter for the attention of the Minister for Children and Early Childhood Development. Yappera Children's Service in my electorate provides a highly valued service to indigenous children and families in the northern suburbs of Melbourne. The centre provides a funded kindergarten program in an integrated long-day-care setting for 33 indigenous children. Over the past three years there have been ongoing blockages of the sewerage system at the service. The toilets in the kindergarten room are no longer operational, and the children currently have to use the junior toilets in an adjoining children's room. Significant costs have been incurred by the centre for ongoing repairs to keep the service operational. The sewerage system can no longer be repaired, and it is required to be completely replaced.

In August the minister announced that the Labor government had committed $73 000 to the project. John Brown, the chairman of the centre, Stacey Brown, the manager, and staff welcomed this announcement, and following months of negotiations the federal government finally agreed to match this amount with funding from both the Department of Families, Community Services and Indigenous Affairs and the Department of Education, Science and Training. However, these funds are yet to be forthcoming.

The action I therefore seek from the minister is that she ensure that the agreement that was struck at the time with the federal government comes to fruition in a timely manner in order that these necessary works can be completed. I think the need for this came home to me and in fact to the staff at the centre when Senator Julian McGauran sent me a letter asking me to lobby the state government for funds. I obviously wrote back to Senator McGauran and explained that he would perhaps be better placed to lobby his federal colleagues, because we had already committed the funds to this important project. I am sure that Senator McGauran was well meaning in his request, but I urged him in the future to consider lobbying his federal colleagues, because quite clearly the federal government was dragging its heels in respect of providing the funding for this important centre and the urgent works that are needed there in Thornbury in my electorate. I urge the minister to take action in a timely fashion to ensure that these works are concluded as soon as possible.

School buses: Nepean Special School

Mr BURGESS (Hastings) — I wish to raise a matter for the attention of the Minister for Education. I request that the minister urgently provide a response to representations made on behalf of the Wiseman family of Bittern. Communication outlining the hardships facing this family has fallen on deaf ears, with the minister failing to provide a response to the representations made by my office 10 weeks ago. This is a matter I also raised in this house on 23 August, and it is an issue that remains unresolved.

The Wiseman family is seeking assistance with transportation to the Nepean Special School in Frankston for their disabled son, Flynn. Flynn is severely intellectually and physically disabled. He needs constant supervision by either trained medical staff or his parents, as his seizures are life threatening and require rapid treatment. The family has requested that a medically trained chaperone be provided to accompany Flynn to and from school on the provided bus service and that the bus service that extends as far as Somerville be available to Bittern.

Currently the family drives Flynn to and from the Nepean school twice daily — a total of 140 kilometres a day. This amount of daily travel is a huge drain on the family, and that means that Flynn's parents are unable to spend sufficient time with their other children. The family is eligible for funding under the Family Choice program and will be able to fund costs associated with training and the regular assessment of a trained medical chaperone.

Despite the family's numerous attempts to obtain assistance for Flynn, the department has failed to respond properly to this family. This government has an appalling record of providing assistance to disabled students, with a shortage of speech therapists, integration aides and specialist teachers across the state.

This government proclaims education as its top priority, but the figures on education spending speak for themselves. Recent changes by this government to the criteria governing funding for children with severe speech disabilities has seen the number of children funded by the government plummet from 6000 to just 219. Victorian education spending per student is the lowest in the country, and the Auditor-General's report on the government's program for students with disabilities highlighted the lack of commitment to students with disabilities.

I urge the minister to intervene in her department's handling of this urgent matter and take action to ensure the plight of the Wiseman family is addressed as a matter of urgency.

Schools: illuminated speed signs

Mr NOONAN (Williamstown) — I wish to raise a matter for the attention of the Minister for Roads and Ports. Similar to the member for Bundoora, the action I seek from the minister is that he facilitate the installation of electronic speed signs outside some of my local schools in the Williamstown district. There are four schools in my electorate where significant volumes of traffic pass through in both the morning and afternoon peaks. Those schools include the Williamstown campus of Bayside Secondary College, Seaholme Primary School, Spotswood Primary School and Williamstown North Primary School. I might add that these schools are excellent educational institutions and serve our local students very well. Due to the high volumes of visitors to our great part of the state, the siting of local school precincts is not always obvious to approaching motorists. Of course it is the safety of our community which is critical in these situations, particularly the safety of children and the parents who serve to protect them.

In October 2006 the then Premier and my local member at the time, Steve Bracks, launched a $43 million road safety package to be funded through the Transport Accident Commission and designed to save lives on Victoria's roads. At that time Premier Bracks said that the new road safety measures would build on the measures already taken by the state government to reduce the road toll. From the initial $43 million, $10 million was specifically allocated to be spent on installing electronic speed signs, with a focus on schools near roads with the most traffic. In closing, I want to acknowledge that Victoria leads the way in Australia in reducing the road toll, and we should continue to improve road safety for all Victorians. I am sure that families who have lost loved ones on the road would agree that this issue should continue to be supported. I urge the minister to support the request before him.

Belle Vue Primary School: illuminated speed signs

Mr McINTOSH (Kew) — I have a matter for the attention of the Minister for Roads and Ports. The matter I wish to raise with the minister is the inadequate road signage around Belle Vue Primary School in Bulleen Road, North Balwyn. I might add at this stage that Belle Vue primary is my old school, so I have some familiarity with it. The action I seek from the minister is the installation of electronic, flashing

40-kilometre-an-hour speed signs that would operate during pick-up and drop-off times, as well as improved signage warning of a pedestrian crossing ahead. Bulleen Road is a major thoroughfare, being one of only three routes from the Kew electorate into the northern suburbs. In this case it connects North Balwyn to Bulleen. Added to this, Bulleen Road is also a major feeder road for the Eastern Freeway.

When a motorist approaches Belle Vue Primary School in either direction they are confronted with a number of distractions. When travelling south there are a number of trees, traffic lights and a shopping centre. When travelling north and downhill there is a significant bend, a shopping centre and traffic lights before you reach the pedestrian crossing adjacent to the school. These distractions make it difficult to distinguish the primary school ahead, particularly if a motorist does not slow down or is unfamiliar with the road.

As I said, Belle Vue primary is my old school, and I recently attended its 50th birthday. I spoke to a number of concerned parents who told me about numerous near misses involving school kids crossing Bulleen Road at the pedestrian crossing. Speed seems to be a significant contributor to the problem. It appears that people just do not understand their obligation to reduce their speed to 40 kilometres an hour during pick-up and drop-off times, despite the fact that there is a static sign in Bulleen Road. The parents expressed the view that if nothing is done to improve the situation, Bulleen Road is just an accident waiting to happen.

One parent wrote to me saying they had experienced on several occasions crossing the road with their two children and seeing that cars coming down the hill towards the freeway can also fail to notice the red light of the pedestrian crossing, putting children crossing the road at great risk. Upgrading the 40-kilometre-an-hour school speed zone signs to electronic flashing devices and improving the warning that a pedestrian crossing is ahead are a small price to pay to protect our kids. I urge the minister to take the necessary action.

I might add that I had the opportunity to raise this with the minister informally outside the house. I gave him a copy of the contribution I planned to make this evening, and I am very pleased that the minister indicated that he is strongly in support of the idea of flashing signs outside schools. I certainly urge him to take the necessary action to install these pieces of vital equipment.

Berwick Technical Education Centre: progress

Ms GRALEY (Narre Warren South) — There is a matter that I would like to raise with the Minister for Skills and Workforce Participation, and it concerns the progress of the next stage of the Berwick Technical Education Centre. I recall that when I raised the issue in the Parliament earlier this year, the minister was kind enough to update me with relevant information, which was that consultants had been appointed to the project and the design had commenced. I would now like to request further information about the progress of this technical education centre (TEC), which will be so important to the achievement of optimum education outcomes for the young people of my electorate and the whole of the south-eastern growth corridor.

As I have previously mentioned in Parliament, Narre Warren South is a fast growing area. It is centred upon the city of Casey, a municipality which at least 60 new families move to every week of the year and where there are 20 000 young people of secondary school age. There are more young people in the area than anywhere else in Victoria. It is essential that they have a variety of quality education and training opportunities.

I believe this investment by the Brumby government in a new TEC for our area will pay huge dividends, with strong enrolment numbers, enthusiastic participation by students and ultimately a better trained and educated local workforce for Victoria's future. Unlike the federal government's technical colleges, the Berwick TEC is up and running. Students and families are pleased that young people in the local area can access a quality technical education without having to travel across town. The TEC is also a boon for local businesses, which will benefit from having a pool of well-trained, skilled tradespeople available to work.

Enrolments in the Brumby government's new TECs are gathering momentum, with more than 300 students having enrolled so far. Some of the courses currently on offer include Victorian certificate of applied learning (VCAL) electrical, VCAL general, and VET (vocational education and training) in schools. I gather that next year this range will be supplemented with courses in VCAL multi-trade, VCAL children's services, VCAL hair and make-up and VCAL health and nursing, together with a pre-apprenticeship electrical course.

Therefore I would like to request that the Minister for Skills and Workforce Participation update the Parliament on the building progress of this project, which is vital to the residents of the Narre Warren

South electorate and good news for the Victorian economy.

Responses

Ms MORAND (Minister for Children and Early Childhood Development) — In response to the member for Swan Hill, the government recognises the extreme hardship this drought is causing in the affected areas. When the community cabinet visited the shires of Swan Hill, Buloke and Gannawarra we saw for ourselves the impact of the drought. I met with maternal and child health nurses in Kerang, and we talked about the incredible severity of the impact and the hardship that is causing families, particularly families with young children. I would have to say there is also a real problem there with access to GPs in Kerang; that is another problem that needs to be addressed.

The Premier last week announced a further $100 million in drought assistance. The package included water rebates for irrigators worth $55 million, a new $10 million program to assist farmers to undertake drought-proofing works and further support for mental health services. The government is providing considerable support for kindergartens in the areas worst affected by drought and a grants program has been rolled out in two stages over 2006 and 2007 for rural kindergartens in 15 targeted municipalities. The first round of grants, in 2006, provided one-off support of $2500 to 73 rural kindergarten services. This was followed in 2007 with a further grant of $5000 to 38 small rural kindergarten services.

As well, disadvantaged families right across the state, including those in drought-affected areas, are now benefiting from the increase in the kindergarten fee subsidy. From 1 July this year the fee subsidy increased from $330 per year to $730 per year. This means that 17 000 concession card holders can access free or low-cost kindergarten as part of our commitment to early childhood education. This has particularly benefited families in drought areas and the areas that the member has referred to in his own electorate, such as the rural city of Swan Hill. The government will continue to monitor the impact of the drought and particularly the impact on children's services.

In response to the member for Northcote, I thank her for her support and interest in early childhood services in her local area. She has been an outstanding advocate for her local community and has been absolutely instrumental in securing vital funding for the Yappera Children's Service. The member for Northcote has told me what a great service it is. I was delighted then, in August, to approve an in-principle allocation of $73 000 to ensure that the repair project would get under way as soon as possible.

I was pleased to also then hear that thanks to the lobbying of the member for Northcote and parents of the centre, the federal departments of Family and Community Services and Indigenous Affairs, and Education, Science and Training had agreed in principle to match this funding subject to the approval of the relevant commonwealth ministers. That was the last step that was missing. One would think that that approval would have been given fairly quickly, but we waited a very long time to get a response from federal ministers Mal Brough and Julie Bishop.

We have a fantastic service which is really treasured by the community and is essential for parents and children, and it was left a little bit high and dry. I am pleased to advise the house that thanks to the tireless advocacy of the member for Northcote, her constituents and the Brumby Labor government, the federal ministers have finally come to the party and agreed to match Victoria's contribution. This is a great victory for the Yappera Children's Service and a victory for common sense.

Mr WYNNE (Minister for Housing) — The member for Ferntree Gully raised a matter for the Minister for Police and Emergency Services in regard to fire brigade access to water for training purposes. I will refer that matter.

The member for Ballarat West raised a matter for the attention of the Minister for Sport, Recreation and Youth Affairs in relation to the Ballarat Sebastopol Cycling Club, which is a very old and distinguished club, advocating its nomination for a sporting award.

The member for Bundoora raised a matter for the Minister for Roads and Ports in relation to electronic speed zones outside some of his local schools. I will make sure the minister is aware of that.

The member for Benambra raised a matter for the attention of the Minister for Community Services in relation to the need for more supported accommodation in the Hume region. I will make sure that matter is passed on for the minister's attention.

The member for Hastings raised a matter for the Minister for Education in relation to the Wiseman family and a young child's school transport needs. I will refer that matter to the minister for her attention.

The members for Williamstown and Kew raised matters for the attention of the Minister for Roads and Ports — —

Mr McIntosh interjected.

Mr WYNNE — In particular, the member for Kew, in raising this matter, referred to the Belle Vue Primary School, his old alma mater.

The DEPUTY SPEAKER — His very old alma mater.

Mr WYNNE — I am not going there! They raised matters with the Minister for Roads and Ports about electronic speed signs outside schools in Williamstown, and particularly the Belle Vue Primary School. I will make sure the minister is aware of those matters.

The member for Narre Warren South raised a matter for the attention of the Minister for Skills and Workforce Participation seeking an update on progress of the capital program for the Berwick Technical College. I will make sure the minister is made aware of that matter as well.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 6.33 p.m. until Tuesday, 20 November.