PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 13 August 2009

(Extract from book 10)

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By authority of the Victorian Government Printer

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Cabinet Secretary	Mr A. G. Lupton, MP

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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 Lupton, Mr McIntosh and Mr Walsh. (*Council*): Mr D. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik.

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

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

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 P. Davis 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*): Ms Kairouz, Mr Noonan, Mr Perera, Mrs Powell and Ms Wooldridge. (*Council*): Mr Finn and Mr Scheffer.

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, Mr Foley and Mrs Victoria. (*Council*): Mrs Kronberg 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 Munt, Mr Noonan, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells. (*Council*): Mr Dalla-Riva, Ms Huppert. Ms Pennicuik and Mr Rich-Phillips.

Road Safety Committee — (*Assembly*): Mr Eren, Mr Langdon, Mr Tilley, 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

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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, Ms Munt, Mr Nardella, Mr Seitz, Mr K. Smith, Dr Sykes, Mr Stensholt and Mr Thompson

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Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
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Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
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Leader of The Nationals:
Mr P. J. RYAN

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

Member	District	Party	Member	District	Party
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Bracks, Mr Stephen Phillip [1]	Williamstown	ALP	Morris, Mr David Charles	Mornington	LP
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Cameron, Mr Robert Graham	Bendigo West	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Noonan, Wade Mathew [5]	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
Crutchfield, Mr Michael Paul	South Barwon	ALP	Overington, Ms Karen Marie	Ballarat West	ALP
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Delahunty, Mr Hugh Francis	Lowan	Nats	Pandazopoulos, Mr John	Dandenong	ALP
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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
Foley, Martin Peter [2]	Albert Park	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Ryan, Mr Peter Julian	Gippsland South	Nats
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
Haermeyer, Mr André [3]	Kororoit	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
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 [6]	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
Kairouz, Ms Marlene [4]	Kororoit	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice	Altona	ALP	Weller, Mr Paul	Rodney	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Wells, Mr Kimberley Arthur	Scoresby	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wynne, Mr Richard William	Richmond	ALP
Lim, Mr Muy Hong	Clayton	ALP			

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 2 June 2008
[4] Elected 28 June 2008
[5] Elected 15 September 2007
[6] Resigned 6 August 2007

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THURSDAY, 13 AUGUST 2009

Thursday, 13 August 2009

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.30 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 22 to 27, 122, 123, 171, 172 and 220 to 230 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:

Eastwood Primary School: upgrade

To the Legislative Assembly of Victoria:

The petition of the Eastwood Primary School community and the surrounding area draws to the attention of the house that Eastwood Primary School has again been overlooked for building renewal in the Building Futures program despite the poor and rapidly deteriorating state of the buildings.

The petitioners therefore request that the state government prioritises Eastwood Primary School for a complete upgrade/rebuild as a mater of urgency.

By Mr HODGETT (Kilsyth) (243 signatures).

Students: youth allowance

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house the proposal to change the independence test for youth allowance by the federal government.

The petitioners register their opposition to the changes on the basis that the youth allowance changes proposed in the federal budget place another barrier to university participation for students in regional areas; unfairly discriminate against students currently undertaking a 'gap' year; and contradict other efforts to increase university participation by students from rural and regional Australia.

The petitioners therefore request that the Legislative Assembly of Victoria reject the proposal and call on the state government to vigorously lobby the federal government to ensure that a tertiary education is accessible to regional students.

By Mr CRISP (Mildura) (107 signatures).

Rail: Mildura line

To the Honourable the Speaker and members of the Legislative Assembly of Victoria:

This petition of the citizens of the region known as Sunraysia, primarily in the state of Victoria but including cross-border citizens of New South Wales centred on the city of Mildura, brings to the attention of the house the many promises to return the Melbourne–Mildura passenger train, without delivery.

The undersigned petitioners therefore ask the Legislative Assembly to bring forward the reinstatement of the said Melbourne–Mildura passenger train, especially in view of:

1. the many undelivered promises;
2. the urgent need to promote public transport in a global warming context;
3. the pressing need to connect remote Mildura to both Melbourne and the national rail network; and
4. the geographic distance now requiring a rapid service (very fast train) to be competitive.

By Mr CRISP (Mildura) (161 signatures).

Police: Red Cliffs

To the Legislative Assembly of Victoria:

This petition of residents of Red Cliffs and surrounding communities in Victoria draws to the attention of the house the need to increase police presence in our district.

The petitioners register their dismay after a weekend of vandalism with damage estimated to be in excess of $60 000 to the local bowling club and private and public property.

The petitioners therefore request that the Legislative Assembly of Victoria take action to increase staff levels at the Red Cliffs police station as a proactive step in ensuring that this criminal activity is not repeated.

By Mr CRISP (Mildura) (16 signatures).

Equal opportunity: legislation

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws to the attention of the house our grave concern about many of the proposals contained in the *Exceptions and Exemptions to the Equal Opportunity Act 1995 — Options Paper* published by the Scrutiny of Acts and Regulations Committee in May 2009.

The petitioners therefore request that the Legislative Assembly of Victoria ensures that Victorians in future will continue to enjoy the freedom of choice that the current exemptions and exceptions provide for us in the exercise of our faith and values. In particular we would like to retain the freedom to educate our children in accordance with our faith and values. Removal or limiting of the provisions that allow

freedom of choice in regards to faith-based schools in particular must be avoided.

By Mr WELLS (Scoresby) (11 signatures).

Tabled.

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

Ordered that petitions presented by honourable member for Mildura be considered next day on motion of Mr CRISP (Mildura).

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

PARLIAMENTARY COMMITTEES

References and reporting dates

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

(1) Under section 33 of the Parliamentary Committees Act 2003, the following matters be referred to the joint investigatory committees specified:

(a) to the Drugs and Crime Prevention Committee for inquiry, consideration and report no later than 30 June 2010 into people trafficking for sex work including:

(i) the extent and nature of trafficking people for the purposes of sex work into Victoria from overseas;

(ii) the interrelationship — if any — between the unlicensed and licensed prostitution sectors in Victoria, and trafficking for the purposes of sex work;

(iii) the current and proposed intergovernmental and international strategies and initiatives in relation to dealing with trafficking for the purposes of sex work; and

(iv) the need for policy and legislative reform to combat trafficking for the purposes of sex work, in Victoria;

(b) to the Outer Suburban/Interface Services and Development Committee for inquiry, consideration and report no later than 31 August 2010 into farmers markets, and the committee should:

(i) identify the types of farmers markets operating in interface municipalities and peri-urban areas;

(ii) investigate the history and growth potential of this form of retail-agricultural activity and the demand created for products sourced from interface and peri-urban areas;

(iii) examine the structure, codes of practice, strategic planning and economic viability of farmers markets and any barriers or impediments to their development and long-term growth;

(iv) examine how farmers markets can contribute to increasing the viability of small-scale farming enterprises located in the interface and peri-urban municipalities, especially in the designated 'green wedge' zoned land; and

(v) identify any barriers to access farmers markets for producers to supply or retail at these markets.

(2) The resolution of the house of 4 December 2008 providing that the Law Reform Committee be required to present its report on law reforms aimed at streamlining and simplifying powers of attorney documents to the Parliament no later than 31 December 2009 be amended so far as to require the report to be presented to the Parliament no later than 31 August 2010.

Motion agreed to.

BUSINESS OF THE HOUSE

Adjournment

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

That the house, at its rising, adjourn until Tuesday, 1 September 2009.

Motion agreed to.

MEMBERS STATEMENTS

Papua New Guinea: air tragedy

Mr BLACKWOOD (Narracan) — I am going to take this opportunity this morning to pay respect to those who lost their lives on Tuesday in New Guinea and offer my sympathy and prayers to their families.

Having trekked the Kokoda Trail four times, including with my son in 2006 and my two daughters only four weeks ago, this terrible tragedy has really hit close to home. But in particular my heart goes out to the three Gippsland families who probably only on Sunday bid their loved ones farewell and good luck for what should have been the adventure of a lifetime.

Max Cranwell and his daughter Leanne Harris and Euan Comrie would have trained and prepared for this trip for many months. Their desire to walk in the footsteps of the brave on the Kokoda Trail, to learn more of the history, to experience the difficult terrain and to conquer the track would have been heightened by anticipation mixed with some apprehension as they boarded their Airlines PNG flight to Kokoda.

It was a flight that thousands of trekkers before them had made without incident, a flight the two pilots would have also made on numerous occasions, a flight that takes only 20 minutes. Sadly on this occasion the worst happened. However, the families of the lost trekkers should try to take some comfort from the fact that these brave trekkers lost their lives as they embarked on a mission of honouring the memory of those valiant Aussie diggers who sacrificed so much in 1942 in protecting our freedom. Sadly, on Tuesday, as in 1942, good people were lost doing good things.

Finally, my thoughts go to Peter Miller and the Melbourne-based trekking group No Roads Expeditions. Their professionalism along the track has not gone unnoticed.

Diabetes: World's Biggest Fingerprick

Mr PALLAS (Minister for Roads and Ports) — I rise to acknowledge a recent event that took place on the steps of this Parliament. It was the World's Biggest Fingerprick to raise awareness of children with type 1 diabetes.

Kids in the House Victoria organised the event, and I am proud to say that many of my colleagues were there in support and showed enormous levels of intestinal fortitude in having their fingers pricked. Fingerpricks are an essential part of the daily routine that keeps people with type 1 diabetes healthy by testing their blood glucose levels to ensure that they are correct. Over 30 000 Victorian children and adults are affected by type 1 diabetes, and each of them needs to check their blood glucose levels four to six times a day. This simple procedure enables sufferers to calculate their insulin dose, which helps them reduce the risk of long-term complications like blindness, stroke and kidney disease.

I also had the pleasure of meeting Joseph Packham, a young man from my electorate who is a youth ambassador for the Juvenile Diabetes Research Foundation. He spoke to me about how his life has changed since he was diagnosed with type 1 diabetes. I thank Joseph and his mother, who made the trip to my electorate office. I was proud to recognise that Joseph is a proud Western Bulldogs supporter, and I was honoured to have my photograph taken with him next to a signed Western Bulldogs jersey.

I thank Susan Alberti, the champion of this cause in the community, and I also thank Kids in the House Victoria and the Juvenile Diabetes Research Foundation for all their hard work in continuing to raise awareness of type 1 diabetes.

Papua New Guinea: air tragedy

Mr NORTHE (Morwell) — It is difficult to make sense of the plane crash tragedy that occurred in Papua New Guinea two days ago. May I firstly state that my heart goes out to the families of the 13 people who were aboard the plane at the time of this disaster, including three Latrobe Valley residents. Those who were looking forward to an adventure of a lifetime by walking the Kokoda Track included Hazelwood North farmer Max Cranwell and his daughter Leanne Harris.

The Cranwell name is synonymous with dairy farming in the Latrobe Valley community where Max and his wife, Phyllis, are well-known dairy farmers. Max is also a member of the Hazelwood North Country Fire Authority team. Leanne was a wonderful young woman, a mother of two young children and married to Chris, who is a local police officer.

The third person who was tragically taken was Euan Comrie, a local social worker who was heavily involved in the arts and in particular with local theatre group MoArtz.

The Cranwell, Harris and Comrie families are highly respected within the Gippsland region, and this tragedy will strike at the very core of a community that has suffered significantly in recent times due to the aftermath of the bushfires in late January and early February. Unfortunately the 90 seconds I have to pay my respects cannot do justice to the lives of Max, Leanne and Euan. However, I do want the Cranwell, Harris and Comrie families to know they have our ongoing love and support as they seek to make sense of this awful tragedy.

Australian Defence Force: reservists

Mr ROBINSON (Minister for Gaming) — Yesterday I had the privilege of attending, in company with the member for Lowan, the official welcoming home event for more than 100 Victorian-based Australian army reservists who have for the past four months been serving in the Solomon Islands as part of the Regional Assistance Mission to Solomon Islands effort and particularly Operation Anode. These

Victorians have chosen to give up time from their jobs and their families to serve their country. I am pleased to advise that Brigadier Mike Arnold from the 4th Brigade and Lieutenant-Colonel Neil Grimes were of the view that the mission had been very successful, and tensions in the Solomon Islands have eased considerably in the last few months.

The troops who participated in this mission had their preparation at Puckapunyal interrupted earlier this year by the Black Saturday fires, and they were amongst the first to offer support and comfort to people in the Kilmore region who were so badly affected by the fires. The work of the reservists carries on the tremendous reputation of Australians since 1943. More than 66 000 military personnel have served on 73 peacekeeping operations in 64 countries. I know I speak for all members when I say to all who participated, 'It is a job well done and welcome home'.

Papua New Guinea: air tragedy

Mr WELLS (Scoresby) — I was elected in 1992 and my first electorate officer was Marg Briggs, a no-nonsense woman. She used to talk about her brother Claude Nye, who was a captain in the Australian Army. Captain Claude Nye fought on the Kokoda Track, and unfortunately was killed up there. As a result of those discussions, I decided to put a team together to walk the track in 1995: good mates Mick Giuliani and John Gottschalk, as well as MPs Gary Spry, Tony Plowman and Tony's daughter. The trip was fantastic and fulfilling, but when we returned to Port Moresby we felt we needed to return to dispel a myth on Brigade Hill just outside Efogi village.

We started negotiating with the elders from Efogi village to build a memorial on Brigade Hill. We sent a man out from Port Moresby to sit down with the elders. He returned with their views and then was sent back by us to negotiate further. This took an incredible 11 months. However, in July 1996 we loaded a plane in Port Moresby and headed out to Efogi. With the help of the proud people of that village we built a memorial to those very brave men who fought on the Kokoda Track.

Today we think not only of the brave men who fought there but also of the families who have lost loved ones in the recent aeroplane tragedy. It is a devastating loss of life and our thoughts are with them during this time of grief.

Jason Cobb

Ms NEVILLE (Minister for Community Services) — As members are aware, many communities and people contributed so much to relief efforts after the Black Saturday bushfires. The communities of Geelong and Bellarine were no exception. Our local Country Fire Authority and state emergency service volunteers risked their lives in fighting the fires; our community organisations like Red Cross played a major part in the relief effort; many individuals generously donated money and goods. That contribution has continued throughout the long and often difficult recovery and rebuilding effort.

Last month I visited Narbethong with the member for Seymour to celebrate the great efforts of volunteers in rebuilding the fire-affected communities. As part of the celebrations Jason Cobb from Geelong was recognised for his outstanding contribution and as someone who embodies the generous and selfless contribution made by volunteers across Victoria. Mr Cobb, seeing the reports on television of the enormous impact of the fires, responded immediately. He contacted the Narbethong relief centre and offered his services as a bobcat operator to assist the local community. He travelled to Narbethong with a group of 29 tradespeople from Geelong to help clear the land and the local park for residents. They cleared 20 properties, around 3 kilometres of fencing, 5 acres of burnt blueberry bushes, walking and bike paths, replaced three benches and built a new rotunda for the community.

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

Papua New Guinea: air tragedy

Mr MULDER (Polwarth) — I join with other members of the house to pay tribute to the nine Australians who perished in their endeavours to conquer the Kokoda Track. We extend our deepest sympathies to their family and friends, and our thoughts are with them at this very moment. For those nine who aspired to walk the Kokoda Track and perished in their endeavours, their aspirations were a deep mark of respect for our fallen soldiers and those who survived what could only be described as asking just too much of any human being. But our soldiers were asked, and they delivered.

There are many members of this house who have walked the track. For me, and I am sure for others, it was a life-changing experience. Those of us who have experienced what those nine Australians were about to experience have an understanding of their emotions before the tragedy struck. The rewards of that experience are to finally understand the survivors of the war years when they exhibited signs of withdrawal on arriving back home. The alcoholism, the depression and

the loss of valuable years that we take for granted, and the unwillingness to discuss the events that unfolded in front of them. They had been taken away from loved ones to fight for their country, and they fought for their day-to-day survival.

The Kokoda experience has invigorated Australians in their understanding of what it meant to be an Australian soldier fighting on foreign shores. The ever-increasing numbers of those who have walked the Kokoda Track and attended the dawn service have now come to recognise what those who have gone before us, in defending our democracy, actually contributed to our wellbeing and freedom, and that of our children.

To visit the Isuria memorial on the track and stand amongst the four stone pillars, each engraved with one word — courage, sacrifice, mateship, endurance — pays tribute to our fallen soldiers. That place is biblical in its very nature and there is a spirituality there that is unlike anything else I have ever encountered. The trip to Kokoda was neither a holiday nor an adventure, but a pilgrimage.

Timor-Leste: media reports

Mr HUDSON (Bentleigh) — Radio Australia has been broadcasting claims since June that the Prime Minister of Timor-Leste, Xanana Gusmão, gave preference to Prima Food Pty Ltd in a $3.5 million government contract to buy and distribute rice to local people during the crisis caused by the food shortage in November 2008.

The claim made by Arsénio Bano, vice-president of Fretilin and an opposition MP, which has been broadcast repeatedly on the ABC radio news network was that the Prime Minister's daughter, Zenilda Gusmão, was a shareholder in the company. In support of these claims they referred to the business register in the ministry of commerce which showed that Zenilda Gusmão was a shareholder in July 2008. However, neither the Fretilin opposition nor Radio Australia have referred to documents, also publicly available, which show that Zenilda Gusmão sold her shares to other shareholders on 15 September 2008. The rice contract was approved by the ministry of commerce on 11 November 2008 and countersigned by the Prime Minister on 18 November 2008.

News stories about corruption in developing countries such as Timor-Leste make for good headlines in Australia. However, the media have a responsibility to check all the available documentation and where a mistake has been made, to correct it. This is particularly so when the government of Timor-Leste is seeking to strengthen the institutions of government through bodies such as an independent civil service commission, an anticorruption commission and the office of the inspector general, and seeking to encourage business investment through the development of a market economy.

Papua New Guinea: air tragedy

Dr SYKES (Benalla) — I offer my sympathy to the families and friends of the 13 people who lost their lives this week in a plane crash on the Kokoda Track. The Kokoda Track has a special place in the hearts of many Australians. It is the site of a series of battles in World War II where Australian soldiers, many of them only teenagers, endured unbelievable suffering and exhibited courage and mateship in truckloads and where, regrettably, hundreds of them sacrificed their lives — all of this so that we can enjoy living in the best country in the world.

The crash site is near Isurava, the site of a particularly significant battle, where a magnificently simple monument now stands overlooking the beautiful Kokoda Valley. Those who lost their lives in the crash were deprived of the experience of a dawn service at Isurava, standing in front of the four stones, each bearing one word. The words are endurance, sacrifice, mateship and courage. But those who lost their lives will still have enjoyed part of the Kokoda experience. They will have done the hard yards in preparation for one of the most gruelling treks in the world. They will have experienced the exhilaration of flying over the Owen Stanley Range in anticipation of the experience of a lifetime. Regrettably, that was not to be.

I again extend my sympathy to all who have lost loved ones, including the Papua New Guinean nationals, the sons of the fuzzy wuzzy angels to whom so many Kokoda veterans owe a debt which is impossible to repay. We can help repay that debt in part by continuing to visit Kokoda and support the villagers, for whom little has changed since the heroic deeds of their ancestors in World War 11.

Adrian Nelis

Mr CRUTCHFIELD (South Barwon) — It is with great sadness that the member for Geelong and I inform the house of the tragic passing of a true gentleman and sporting champion who was inspirational to many within the Geelong football community. Adrian 'Aidy' Nelis passed away last week from a suspected heart attack, aged 44 — far too young. I had the privilege of playing against Adrian during my football-playing

years, of umpiring his under-18 side and of knowing him socially, particularly through his work at McCanns Plumbing Supplies. He was a hard player, strong as an ox and very skilful, but he always showed true sportsmanship.

Adrian Nelis will be remembered as a true gentleman and a champion of the game he loved and devoted so much of his time and energy to. Close to 2000 people paid their respects at his funeral last Friday, such was his popularity in the local community. He coached the St Albans Football Club under-18s, and many paid their deepest sympathies at the team's match against Lara on Saturday. Adrian's father, Ron, kicked off the afternoon with an emotional coin toss on the ground where Adrian had played 210 games for the club and led his players during his 250-game career as a coach. Fittingly the seniors smashed Lara by 80 points for their second win of the season. Adrian was definitely smiling down on his boys that day.

No matter who you talk to, all consider Aidy the heart and soul of the St Albans Football Club. He was a father figure to so many junior players and a genuine Aussie bloke with a great sense of humour who loved his football. One only needed to look at the *Geelong Advertiser* death notices last week to see what a positive impact Adrian had on the wider Geelong community, particularly on kids who looked up to him and hung on every word of advice given. To his grieving family and friends I pass on this house's deepest sympathies.

Papua New Guinea: air tragedy

Mr DELAHUNTY (Lowan) — I am deeply saddened to hear of the death of 13 people, including 9 Australians, planning to walk the Kokoda Track. I wish to offer my support and extend my deepest sympathies and condolences to the families affected by this tragedy. This tragedy occurred near Isurava, a special place on the Kokoda Track with a special memorial — four granite monuments, each bearing one of the following words: sacrifice, endurance, mateship and courage. These people did not get the opportunity to walk through what our soldiers went through in 1942.

This tragedy also reminds me that in April this year a 36-year-old Hamilton resident, Samantha Killen, became the third Australian since 2001 to die whilst attempting to walk the Kokoda Track. I met with her grieving husband, Dion, and her children, Harrison and Lilly, earlier this year, and they were really pining for their mother. Ms Killen was walking the trail to honour her grandfather, who had fought in World War II. She wrote to her husband and said:

> It would mean the world to my grandfather, and my dad is so proud to have Grant and I both go with him.

This really highlights the special place that Kokoda is. I am proud to have walked in the sacred footsteps of our soldiers of 1942. I had no idea of the strength of the Kokoda story before I began my adventure. The Kokoda Track was an inspirational, confronting and rewarding adventure. Unfortunately these people will not be able to experience it.

Police: city of Boroondara

Mr STENSHOLT (Burwood) — Local residents and I are concerned about the misinformation being put about by Liberals like David Davis, a member for Southern Metropolitan Region in the Council, and the Leader of the Opposition about policing in Ashburton and Glen Iris. The facts are that police run the police — not politicians, not me, not the Leader of the Opposition and certainly not David Davis.

Under the Liberals we lost 800 police in Victoria. Under Labor there will be an extra 1870 by the end of next year, with record funding. Last October police command decided to review policing in our local area. As the local MP I organised a petition to keep our station in Ashburton open. Some 2000 people signed that petition; David Davis did not. I wrote to the police and I talked to police; David Davis stood for nothing and did neither. In fact the first time he talked to the police superintendent was July this year at a meeting organised through Neighbourhood Watch.

Following our representations police agreed earlier this year to keep the station open in Ashburton on weekdays and to get the police out from behind desks and into patrol cars, promising that the community would get the same or better policing. Crime in Ashburton and Glen Iris has gone down by 36 per cent in the last 12 months and violent crime has gone down by 56 per cent. Crime in the city of Boroondara has gone down by more than 36 per cent since 2000, and assaults have gone down by over 11 per cent in the last 12 months.

We all need to work together to make sure police continue with their good work locally, as they promised. David Davis should hang his head in shame for his campaign of fearmongering, criticism of the police and misinformation. And as for the Leader of the Opposition, he should support our police, tell the Chinese community the truth — that crime in Victoria is down by over 25 per cent — and not peddle misinformation in the Chinese press.

Papua New Guinea: air tragedy

Mr MORRIS (Mornington) — Yesterday during question time the sad news was confirmed to the house that nine Australians, seven of them from our own state, had lost their lives on their way to walk the Kokoda Track. In a cruel irony, their deaths came only days after Kokoda Day, the anniversary of the battle that marked the start of the Owen Stanley campaign. It is a day that commemorates the courageous exploits of Victoria's 39th Battalion and its success in stalling the invading Japanese forces despite overwhelming odds at Kokoda, and at Isurava a few short weeks later.

Anyone who has walked the track, as Linda and I had the privilege to do last year with a number of colleagues, knows that even in the 21st century you are entering a hostile environment. It is a place of great natural beauty and a place which challenges body, mind and spirit. It is a place where great events have been played out and a place that has seen more than its share of tragedies, this latest so unexpected.

Anyone who has begun the adventure of walking Kokoda, as these nine Australians did this week, understands the trepidation, the excitement, the sense of anticipation and risk when you first see the challenge before you. Tragically the exultation of completing the trek has been denied to them. My sincerest condolences to the families and friends of those who did not return.

Footscray: 150th anniversary

Ms THOMSON (Footscray) — This year sees the celebration of Footscray's 150th anniversary, and it is just over halfway through the celebrations. The last couple of months has seen the heightening of those celebrations because this is the anniversary of the time when Footscray was created. Footscray residents and Maribyrnong City Council residents have been enjoying the celebrations in recognition of a very rich industrial past. It is an area of Melbourne that has been the heartbeat of industrial activity over the existence of the former City of Footscray. It has also seen the waves of migration and refugees into the state of Victoria. It housed them and made them feel welcome. They have then moved to other parts of Melbourne from their original destination points of Maribyrnong and Footscray. They have been brought into our community, which is rich and multicultural.

We have wonderful citizens in Footscray, and citizens of the year Fred Madden and Lyn Redding epitomise the best of Footscray. Together with the young Maribyrnong citizen of the year, Linh Do, they demonstrate very clearly that this is a rich multicultural community that welcomes and embraces all who come to the city. I congratulate the City of Footscray.

Matthew Leonard

Mr O'BRIEN (Malvern) — Today we mourn Matthew Leonard, a firefighter with the Malvern East Metropolitan Fire Brigade, who was tragically lost in the recent Kokoda plane crash. Matthew's station 24 colleague Steve Davey said of him:

> Matthew was the type of bloke that any father — and I am a father — would be more than proud to have as a son. He has crammed in what would probably be a lifetime to some people.
>
> The fire brigade has lost a top operator.
>
> As a group, we will sadly miss this bloke.

I pass on my condolences to Matthew's family, his friends and his Malvern East fire brigade colleagues. Our whole community is diminished by his untimely passing, and that of his fellow passengers.

Crime: city of Stonnington

Mr O'BRIEN — Recent crime statistics for the c city of Stonnington confirm what many constituents have felt, that their personal safety is under increasing threat. In 2008–09 crimes against the person in Stonnington increased by 5.6 per cent to 938, of which assaults made up 732, an increase of 18.3 per cent. Add to that a 192 per cent jump in public order offences and a 165 per cent jump in public behaviour offences and it is clear that our streets are not as safe as they should be.

In noting these worrying figures I wish to restate my support, and that of my constituents, for the fantastic work being performed by our local police. I thank the men and women who serve at Malvern police station and Prahran criminal investigation unit for their dedication. However, one simple fact remains: there are simply not enough of them. The Brumby government's 'rob Peter to pay Paul' approach to police numbers is responsible for this increase in crime that affects the freedom of my constituents, including the students of Sacre Coeur college, to walk the streets in safety.

Dairy industry: Bundoora research centre

Mr BROOKS (Bundoora) — One of the most important parts of the dairy industry's future will be located right in the heart of Bundoora following an exciting announcement by the Premier on Tuesday. Along with the Minister for Agriculture, the Premier announced the Brumby government will invest $40 million towards a new Dairy Futures Cooperative

Research Centre to be located at the world-class La Trobe University's Bundoora campus. I also commend the Rudd federal government for committing $28 million towards this centre and acknowledge the support from the dairy industry which will take the combined investment in this research facility to $128 million.

The centre, led by chief scientist Professor German Spangenberg, will push ahead with cutting-edge research into improving dairy farming efficiencies, increasing the sector's competitiveness and environmental footprint.

Importantly for my local electorate and the northern suburbs of Melbourne generally, this initiative will eventually be based in the new $230 million Biosciences Research Centre, upon which construction is starting as we speak. This centre will further enhance La Trobe University's global reputation and will attract leading scientists and researchers to Victoria and to Bundoora. In turn, this will bring significant benefits through a range of programs to the students at La Trobe University and even to many local schools. La Trobe's involvement in and support of the local schools regeneration project is a perfect example.

The Dairy Futures Cooperative Research Centre is another important part of this government's investment in and rejuvenation of science, research and education, particularly for Melbourne's north. This investment, based on a partnership with the education sector and industry, is another boost for Melbourne's northern suburbs.

Arthurs Seat chairlift: future

Mr DIXON (Nepean) — I have raised in this place on many occasions the ongoing saga of the Arthurs Seat chairlift. Members might be aware that the chairlift has not been operating for two years now and that early in the year Parks Victoria announced that soon it would open an expression-of-interest process for a new facility and that the old chairlift would be demolished. Six months later, the old chairlift is still standing and an expression-of-interest process has not even commenced. How hard is it to call for expressions of interest? It must be beyond Parks Victoria's ability, as we have seen no sign of it yet. Organisations that would like to express their interest are rightly asking, 'What is going on? Are there legal problems? Is there an agenda for no chairlift at all?'. The Brumby government needs to act decisively on this, otherwise the Mornington Peninsula tourism industry will suffer another two years without its iconic chairlift.

Water: recycling

Mr DIXON — On another matter, peninsula residents were disappointed to see this government ditch its plan to use A-class water that will be flowing from the eastern treatment plant in 2012. It will just be piped out to sea through the Gunnamatta outfall. It will be a waste of millions of litres of good-quality recycled water. The Brumby government also seems oblivious to the fact that clean fresh water is almost as toxic as contaminated fresh water when it mixes with sea water at discharge. The government is content to see this water literally go to sea while not producing detailed costings of its decision so that the public can see whether the government's decision can stand up to scrutiny. The money-hungry, energy-wasting desalination plant and north–south pipeline have obviously sucked this government's coffers clean. That is why we will not see any use of the eastern treatment plant's A-class water.

Friends of Austin Health

Mr LANGDON (Ivanhoe) — Today I wish to congratulate the Friends of Austin Health, a group of auxiliaries and volunteers who work across the three Austin health campuses: the Austin Hospital, the Royal Talbot Rehabilitation Centre and the Heidelberg Repatriation Hospital. I recently attended the 84th annual general meeting of the Friends of Austin Health. The friends devote thousands of hours each year to raising funds for the three hospitals through retail activities, raffles, opportunity shops and other events. The friends have raised vital funds each year for additional patient care equipment.

For a number of years now the Austin Health volunteers auxiliary has been meeting on a regular basis at my office. The auxiliary manages an opportunity shop just a stone's throw away from my office in the Heidelberg West mall. Last year, for example, the Austin Hospital auxiliary volunteers raised $117 000 through their activities. It was a great achievement for them.

At every annual general meeting the friends hand out a number of awards. I would like to outline the number of people who received an award this year: 26 people received a 5-year award, 13 people received a 10-year award and 15 people received a 15-year award. Some people even received 30-year and 35-year awards, and two people were made life members. I would like to thank particularly those life members who have obviously made a large contribution — that is, Coralie Coulston and Elizabeth Thorpe. Well done to all those

people who put the time and effort into helping the Austin Hospital do all its work.

John Harber Phillips

Mr McINTOSH (Kew) — John Harber Phillips graduated from Melbourne University, was called to the bar, took silk and was appointed director of the National Crime Authority and was Victoria's first Director of Public Prosecutions. He was elevated to the Supreme Court of Victoria, then moved to the Federal Court of Australia and ultimately returned to the Supreme Court as Chief Justice of Victoria, where he served this state for 12 years.

As chief justice he will be best remembered for the innovative intervention of the court mediation process in all civil cases and pretrial management. He also oversaw the introduction of Victoria's first Court of Appeal in 1995. As a lawyer he will probably be best remembered for his association with two of Australia's most famous trials — that of Lindy Chamberlain and also that of Ned Kelly, about which he was the author of a number of works.

He was much more than just a lawyer. He had a great passion for the arts, was associated with any number of arts groups and was the author of a number of plays as well as poetry. He had associations with a variety of community groups. I also want to mention his association with saving the Kew courthouse. As a local member I valued his intelligent, courteous and wise counsel, but above all, his friendship was priceless. I offer my sincere condolences to Helen and his three children.

Youth: safety

Ms MUNT (Mordialloc) — I recently had the pleasure of having Megan Shellie from Mentone Girls Grammar School with me for a week for work experience. This is what Megan would like to say to the Parliament of Victoria:

> My name is Megan Shellie and I had the privilege of being Janice's shadow for a week. I got to see how people with a complaint or an issue could go to their local member and work with them to have it resolved. One issue that I would like to bring your attention to today is the lack of places for teenagers to go in the Kingston and Greater Dandenong area.
>
> Within a 10-kilometre radius of Mentone shops there are over eight secondary schools. This means on any given weekday there are hundreds of students milling about, who usually end up converging at Mentone train station, blocking traffic and footpaths. With this many people, it is not uncommon to see fights, kids running across main roads and even illegal activity such as drug deals.
>
> It's only a matter of time before a major accident happens as people have to spill into the bus bay to get past the crowds — as Mentone happens to be the local transport hub. I feel and so do many other students in my area that being subjected to frequent violence and overcrowding does not exactly make us feel safe and comfortable whilst waiting for a bus or train.
>
> The police, whilst prevalent in the afternoons, do little to curb the chaos that hundreds of teens bring.
>
> I ask the Victorian government to work with local councils to invest in our adolescents' safety — —

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

MAJOR TRANSPORT PROJECTS FACILITATION 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 make this statement of compatibility with respect to the Major Transport Projects Facilitation Bill 2009 (bill).
>
> In my opinion, the bill, as introduced in the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.
>
> **1. Overview of bill**
>
> The bill will facilitate the development and construction of major transport infrastructure projects. The bill addresses the need for a fully coordinated assessment and approval process in relation to all the regulatory requirements needed to enable the undertaking of major transport projects. All major transport projects typically require a multitude of planning, environment and heritage consents, assessments and other approvals. By streamlining the approval mechanisms the bill will avoid duplication of assessment activities and the potential for inconsistencies in regulatory approval, as well as provide greater certainty of process and reduce the aggregate time frame for gaining approval of major projects.
>
> The bill establishes the functions, duties and powers of the assessment committee that will assist the planning minister in considering the impact of any major transport project. The bill also provides for the efficient acquisition, management and disposal of all types of land essential to the delivery of major projects.
>
> **2. Human rights issues**
>
> The bill has been assessed against the charter.
>
> **2.1 Compulsory acquisition of land**
>
> Part 6 division 1 of the bill grants a project authority the power to compulsorily acquire an interest in land for any purpose connected with an approved project. Division 2 also

grants a project authority the power to acquire a native title right or interest in land for any purpose connected with an approved project following the making of an order under clause 126 by the project minister for an approved project. Clause 119 allows a project authority to temporarily occupy land for the purpose of the bill, including the power to demolish structures (other than places of residence or business).

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. This means that any law that deprives a person of his or her property must be sufficiently precise, accessible and should not provide for arbitrary interference with property.

Clause 113 provides that the Land Acquisition and Compensation Act 1986 (Land Acquisition Act) applies, with minor modification, to the acquisition of interests in land for the purposes of an approved project.

As the acquisition land is to be governed by the Land Acquisition Act, the acquisition gives rise to a right to compensation on just terms, and the lawfulness of an acquisition may be tested through judicial review. Further, the Land Acquisition Act sets out clear requirements for notification, procedures for acquisition and determination of compensation.

Similarly, any compulsory acquisition of a native title right must comply with the procedures set out under the commonwealth Native Title Act 1993. Any holder of a native title right must be compensated on just terms for the loss of this right.

Furthermore, any approval to acquire land will be the result of a detailed and transparent process that involves the consideration of impact assessments and competing demands for land. These impact statements are public, and any person may make a submission to the assessment committee. The planning minister must consider the impact assessments and competing interests when making a decision to approve an acquisition of land, as well as methods to reduce the estimated impact of a major project on affected parties.

Accordingly, there is no limitation of the property right under section 20 of the charter because any deprivation of property would be in accordance with law.

Cultural rights generally

Section 19(1) of the charter provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture.

Clauses 139 and 140 of the bill provide that reservations of land under the Crown Land (Reserves) Act 1978 may be revoked by the Governor in Council on the recommendation of the project minister. Upon revocation, the land is freed of all rights, reservations and restrictions and is taken to be unalienated land of the Crown.

The Crown Land (Reserves) Act 1978 enables Crown land to be permanently reserved for a range of purposes, including purposes which involve the creation, protection or preservation of places of cultural significance. For example, a reservation may be made for the conservation of areas of natural interest or beauty, or of scientific, historic or archaeological interest, and public buildings including offices, halls, libraries, museums, galleries and war memorials. Ordinarily, legislation is required to revoke a permanent reservation.

The right established by section 19(1) of the charter arguably extends to the protection of places in which persons come together to enjoy their particular culture. The bill engages the right by permitting the reservation of land made for the purpose of protecting places of cultural significance to be removed by order in council, rather than by Parliament.

However, the removal of a reservation for the purpose of an approved project will only occur following a transparent and public process under division 5 of part 3 of the bill. Providing for removal by order in council rather than legislation following such a process removes a potential source of project delay while retaining the opportunity for groups whose cultural rights may be affected and the public generally to participate in the decision making process. It therefore represents a reasonable and appropriate means of expediting the use of reserved Crown land for major transport projects.

Aboriginal cultural rights

Section 19(2) of the charter provides that Aboriginal persons hold distinct cultural rights and must not be denied the right to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

Clause 75 of the bill requires a project proponent to give the planning minister copies of every cultural heritage management plan approved under the Aboriginal Heritage Act 2006, or notify the planning minister if proceedings have been taken in relation to a decision to refuse to approve a cultural heritage management plan. The bill also inserts a new provision into the Aboriginal Heritage Act 2006 which provides that, where an impact management plan or a comprehensive impact statement is required in relation to a project, works must not commence until a cultural heritage management plan for the area has been approved. This imposes a requirement on projects for which impact assessments are required under the bill which is equivalent to other activities that are specified in regulations to the act, and also projects which require an EES under section 49 of the Aboriginal Heritage Act 2006.

As the bill maintains the decision making rights and processes for registered Aboriginal parties concerning cultural heritage management plans, there is no infringement of the right to culture under section 19(2) of the charter.

Part 6 division 2 of the bill provides for the compulsory acquisition of native title rights and interests necessary for the purposes of an approved project. The division applies if section 24KA of the Native Title Act does not apply and the project minister for the approved project makes an order under clause 126. As noted, the Land Acquisition Act applies to the compulsory acquisition and the project authority is authorised to comply with the procedures for valid acquisition under the commonwealth Native Title Act 1993. VCAT is established as the independent body for the purposes of determining objections.

As the bill adopts the decision-making rights and processes that apply to the valid acquisition of native title rights under the Native Title Act, to the extent that acquisition of land with which Aboriginal persons may have distinctive spiritual, material and economic relationship, there is no infringement to the right to culture under section 19(2) of the charter.

Right to privacy

Section 13 of the charter establishes the right of a person not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Division 5 of part 6 of the bill provides for the authority to enter into possession of project land. A number of procedural safeguards are provided in the bill. Clause 152 provides that the project authority must diligently endeavour to obtain agreement with the person in occupation of project land as to the terms on which the project authority will enter into possession of the land. Clause 154 provides that where the project land is used as the principal place of residence, the authority must not enter into possession within 3 months of the land becoming project land and unless the project authority has given 7 days notice in writing of its intention to enter into possession. However, pursuant to clause 155 the time period may be reduced by certification of the Governor in Council if it is not practicable to do so having regard to the urgency of the case or other exceptional circumstances and the public interest.

However, the land becomes project land only after approval of the project, and the approval is preceded by a transparent and public process. Moreover, the scope of the discretion to abridge is limited to urgency or other exceptional circumstances and having regard to the public interest. The decision is subject to judicial review, which ensures that its lawfulness may be scrutinised by the courts. On that basis, the bill does not provide for unlawful or arbitrary interference with a person's home and does not limit the right to privacy in s 13 of the charter.

2.2 Restricted access areas

Division 9 of part 6 makes provision for a project authority to restrict access to a project area occupied for the purposes of an approved project or any part of the project area or land (see particularly clause 196). Warnings and directions may be given to leave or not to enter the restricted access area (clauses 200, 201 and 202) and offences are created in respect of entering into or remaining in a restricted area (clause 203). A project authority also has powers relating to roads under division 8 of part 6 (see clause 186), including the closure of roads.

The project area or land could include land that, in the absence of these provisions, members of the public would ordinarily have access to. Restricting access to lands and roads could engage the right to freedom of movement in s 12 of the charter. However, to the extent that the right may be limited, I consider any limitation is reasonable pursuant to s 7(2) of the charter. The purpose of the provisions are to enable the work to be conducted without hindrance and in a safe manner and in the context of major transport projects that have the ultimate goal of improving transport infrastructure and therefore facilitating movement. The provisions are reasonably necessary to achieve that purpose and access is only restricted for so long as the project continues.

Accordingly, I consider the provisions are compatible with the right in s 12 of the charter.

2.3 Assessment committee hearings

Clause 252 makes it an offence for a person to engage in conduct that insults or disturbs a member of an assessment committee while the member is performing their functions. It is also an offence to misbehave at a hearing before an assessment committee or insult or obstruct any person attending a hearing. A penalty is provided for any breach of these provisions.

Freedom of expression

These provisions potentially engage the right to freedom of expression in s 15 of the charter, which has been interpreted in some jurisdictions to include a right to offend, shock or disturb, so long as it does not provoke violence. However, the right also provides that special duties and responsibilities are attached to the right of freedom of expression and that it can be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons, or for the protection of public order.

These provisions are reasonably necessary for the protection of public order under s 15(3) of the charter. They are lawful and, with the objective of ensuring that public hearings before the assessment committee operate in an orderly and fair manner, are reasonably necessary to achieve the purpose of maintaining public order in such a forum. It is essential for the production of proper and accurate impact assessments that such hearings are conducted in an environment that is free from intimidation or coercion.

2.4 No appeal or review of decisions under parts 1, 2, 3 or 4

Clause 263 prevents appeals being brought or reviews of decisions from occurring in relation to decisions made under parts 1, 2, 3 and 4 of the act, apart from the decision of the planning minister under clause 77.

Right to a fair hearing

This clause potentially engages the right to a fair hearing in s 24 of the charter, which has been found in some jurisdictions to apply to administrative decisions. However, in my view s 24 would not apply to decisions in parts 1, 2, 3 or 4 of the bill, as a person affected by such decisions would not be 'a party to a civil proceeding'. This view is supported by Lord Hoffman's comments in *R (Alconbury Developments Ltd) and Ors v. Secretary of State for the Environment, Transport and the Regions* [2003] 2 AC 295 at [74]–[76], in which His Lordship noted that the jurisprudence in relation to article 6 of the European Convention on Human Rights interpreted the right to a fair trial broadly in not limiting the right to civil proceedings before courts and tribunals. This interpretation was in the context of different wording of the right in the European convention. There the right applies to determinations of 'civil rights and obligations', a term which has a particular meaning as developed within civil law systems of Europe. Lord Hoffman made it clear in Alconbury that, if His Lordship were not bound by the European authorities, he would have limited the scope of article 6(1) to judicial or quasi-judicial acts. Given that Victorian courts are not bound by the European Convention on Human Rights, Victorian courts are not required to follow European law and Lord Hoffman's judgement provides support for the view that

the right in s 24 should be limited to judicial or quasi-judicial proceedings.

In *Kracke v. Mental Health Review Board* Bell J held that the right to a fair hearing in s 24 of the charter is not limited to judicial proceedings and can include administrative proceedings. An assessment is to be made on a case-by-case basis. While recognising the broader scope of s 24 in light of overseas jurisprudence, Bell J stated at [417] that 'the term "proceeding", and also "party", suggest s 24(1) was intended to apply to persons and bodies who conduct proceedings with parties. To be a "civil proceeding", there would need to be a certain kind of procedure and means for identifying those parties'. In my view, the administrative decisions at issue here do not involve the conduct of proceedings with parties. Accordingly, I consider s 24(1) is not engaged at the administrative decision making stage.

Even if the right were engaged by such decisions, the overseas jurisprudence makes clear that this does not necessarily mean that full merits review must follow. As Bell J has explained in *Kracke v. Mental Health Review Board* at [394] 'in cases involving policy decisions, such as those relating to planning and compulsory purchases, appropriate judicial review is sufficient, and it is not necessary for the court or tribunal of final review or appeal to have jurisdiction to conduct merits review based on full fact finding'.

To the extent that the right may be limited, I consider any limitation is reasonable pursuant to s 7(2) of the charter. Clause 262 allows for judicial review in relation to decisions of the planning minister under clause 77 (apart from the exceptions specified in clause 263), which are the key decisions of the minister to approve the relevant major transport projects. Thus, the right to seek judicial review is preserved in relation to the most important decision in the scheme which occurs as part of the assessment and approval process for a major transport project. Further, as the purpose of the bill is to facilitate the efficient delivery of major transport projects and to provide greater time and cost certainty in relation to the delivery of key projects, it is necessary for the bill to contain an effective privative clause to avoid delays. Additionally, as the decisions in parts 1, 2, 3 and 4 of the act are primarily policy decisions, I note Lord Hoffman's statement in Alconbury at [76] that: '…policy decisions within the limits imposed by judicial review are a matter for democratically accountable institutions and not for courts'.

Time limits and limitation periods can breach the right to a fair hearing, particularly where the period is so short as to impair the very essence of the right to bring a case to court. Clause 261 provides that a proceeding to challenge a decision must be filed within 21 days of the date the decision was published. The time limit cannot be extended. In my view this restriction does not limit the right to a fair hearing. In accordance with clause 82, the decision will be provided to persons listed in clause 62 subsection 3(b)(ii) to (iv) of the bill or persons who the project proponent was directed to consult with under clause 25 of the bill, and will be published in the *Government Gazette* and on the department's internet site. A person wishing to bring a proceeding will have 21 days to do so following the publication of the decision, which is a reasonable time period in which to commence proceedings. It is important to the purposes of the bill that there be strict time limits to ensure there is finality to the process and to enable decisions to be implemented as soon as possible.

Accordingly, the time limitation in clause 261 does not engage s 24 of the charter.

3. Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

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.

The Brumby government is taking action to transform our transport network and deliver the best transport system in Australia.

This bill will significantly improve the government's capacity to deliver critical road and rail infrastructure projects and enable Victorians to see the benefits sooner.

The reforms proposed in the bill are being introduced at a time when investment in Victoria's rail and road infrastructure is being taken to a new level.

The Victorian transport plan, released late last year after broad community consultation, is unprecedented in scope and scale.

Containing $38 billion in projects and initiatives, the Victorian transport plan provides the strategies, projects and coordinated investment needed to expand and modernise the transport system in the short, medium and longer term.

This is the biggest infrastructure program in Victoria's history — bigger than the Snowy hydro scheme which cost $6 billion to $8 billion in today's dollars.

It took 25 years to build the Snowy hydro scheme between 1949 and 1974. The Brumby government's transport investments over the next 12 years will be at least four and a half times the size of the Snowy hydro scheme — and they will be delivered in half the time.

Our plan is so big that it will add almost 1 per cent to gross state product. And so all-encompassing that it will create 10 000 jobs per year — leading to more than 100 000 jobs created and sustained over the next 12 years.

Investment now in the most urgent priorities will provide the state with a substantial economic stimulus in the face of the global recession and create thousands of direct and indirect jobs.

For example, a recent report by Access Economics, commissioned by the Construction, Forestry, Mining and Energy Union, has predicted that more than 80 000 jobs could be lost in the construction sector during the next three years in the current economic climate. The Australian Industry Group's construction index registered a further decline in July 2009 and is now in its 17th straight month of contraction.

The AIG report cites poor market conditions and lower investor confidence as resulting in a further scaling back of project work and delays in development activity.

This bill will cut delays in development activity and assist the government to deliver major transport projects with greater certainty.

The time needed to assess, approve and deliver major transport projects will be reduced substantially, enabling projects to be completed at a lower cost.

Regulatory duplication and potential for inconsistent decisions will be minimised.

Importantly, this will be done while providing a transparent decision-making process, maintaining opportunities for public consultation, and safeguarding existing environmental, heritage and planning standards.

Why the reform is needed

The need to accelerate major transport projects is clear.

Victoria's famed livability has attracted strong and continued population growth. This, along with changing patterns of demand due to lifestyle factors such as high petrol prices and increasing concern for the environment, is putting our transport networks under stress.

With our population predicted to reach 6 million by about 2020, we will have to accommodate 400 000 extra public transport trips, 3.2 million extra car trips, 200 000 extra cycling and walking trips, and an extra 200 million tonnes of freight per year.

The government has acted decisively in response to this rapid growth in demand by developing the Victorian transport plan and its vision for an integrated and sustainable transport network.

The Victorian transport plan sets clear strategic directions for the transport network and identifies the transport infrastructure projects that are needed to respond to current demand and shape Victoria for future generations.

We need to act as quickly as possible to implement the Victorian transport plan. As noted in the plan, the passage of this bill is a key part of delivery of the government's major transport projects and priorities.

Faster delivery of key transport infrastructure will boost the economy through efficiency dividends as congestion and delays are reduced.

Major transport projects make jobs and services more accessible, improve links between regions and communities, and can contribute to lowering our carbon footprint.

Accelerating the time frame for planning and delivering some of the larger and more complex projects in the Victorian transport plan will bring very significant benefits to the state.

Policy context

Major transport projects are subject to a number of consents and approvals under existing planning, environmental and heritage regulation before a project can be delivered on the ground. Each of these consents and approvals, while necessary, involves a separate regulatory process — as many as 15 different processes for a single project.

For major transport projects the current myriad of regulatory processes can lead to duplication, uncertainty and delay. The costs and risks of this are ultimately borne by taxpayers and the community.

This also relates to the project delivery phase. Once approved, major transport projects can face additional delays and costs in the delivery phase — for example, complexities associated with assembling land or interfacing with utility, road or rail infrastructure.

In the past, streamlined delivery powers and land management processes have been provided for major transport projects by project-specific legislation — for example, the EastLink Project Act 2004.

One global bill will avoid the need for project-specific legislation, providing standard powers and processes to deal with all major transport projects. This in itself will create significant efficiency gains.

Purpose

The purpose of the bill is to facilitate the development and construction of major transport infrastructure projects.

The declaration process

The bill provides that the Governor in Council may declare a transport project to be a declared project under the bill. The Governor in Council may further declare either that the entire bill applies to a declared project or that only the delivery powers apply and parts 3 and 8 of the bill are excluded. A declaration is made on the recommendation of the Premier.

The Premier will shortly release guidelines for the assessment of projects for declaration under the bill. Elements will include the significance of the project to the state or region, its complexity and size.

Once a major transport project has been declared, the proponent will be able to use the consolidated process and delivery powers provided in the bill. Alternatively, the Governor in Council can declare that a proponent may have access to the project delivery powers only.

The 'one-stop shop' assessment and approvals process

In the assessment and approvals phase, the consolidated process is conducted by the Minister for Planning and removes three main sources of uncertainty:

1. Discretions currently available to different decision-makers to adopt certain procedural options or devise their own processes on a case-by-case basis are replaced by a single, uniform process — effectively establishing a 'one-stop shop' for decision making.

2. Open-ended time frames for decisions are replaced by strict statutory time limits, with the Minister for Planning required to report any non-compliance in writing to the Premier.

3. Opportunities for decisions to be reviewed or appealed are expressly limited, consistent with the 'fast-tracking' of projects philosophy in the bill. The right to judicial review of the key approval decision is preserved.

The bill prescribes two processes for assessment of declared projects: a comprehensive impact statement (CIS) or an impact management plan (IMP).

The CIS process must be used where the project would have otherwise triggered a statutory approvals process requiring public consultation, such as a planning scheme amendment under the Planning and Environment Act or a works approval under the Environment Protection Act.

The CIS process provides opportunities for public consultation and submission that are equivalent to the provisions of those pieces of legislation.

The shorter IMP process can only be used where limited approvals are required — that is, approvals that would not normally require public consultation. A possible example would be a major road widening within an existing reservation.

The consolidated assessment and approvals process in the bill is expected to reduce the time taken to assess and approve declared major transport projects by an average of 12 to 15 months, while maintaining the rigour of current processes.

At the same time, it provides a transparent process that is less complex and easier to understand.

The Minister for Planning is required to give public notice of key decisions, make decisions within statutory time frames, publish a statement of reasons for the approval decision, and report any noncompliance to the Premier.

The consolidated process eliminates unnecessary duplication of decision making and the potential for inconsistent decisions — for example, where a 'linear' transport project such as a road or a railway line spans a wide geographical area.

The bill maintains planning, environment and heritage standards so as to ensure consistency of decisions and to safeguard Victoria's planning, environment and heritage values.

The bill excludes the ability to challenge, judicially review or appeal decisions under parts 1, 2, 3 and 4 of the bill, with the exception of the approval decision of the planning minister under clause 77(1). The right to judicial review of the most important decision is therefore preserved, ensuring appropriate scrutiny of the many statutory considerations taken into account by the minister in his decision making.

Exclusion of the ability to review steps in the approval process ensures certainty and timeliness of process, consistent with the purpose of the bill. Further, if an application is made to challenge, review or appeal the approval decision of the planning minister under clause 77(1), the bill accelerates the proceedings in a number of ways.

First, an applicant has a maximum of 21 days from the date of publication, in the *Government Gazette*, of the notice of the making of the planning minister's decision to file an application for a relevant proceeding. Potential applicants will be aware of the approval decision as the bill provides for interested and affected persons to be notified of the planning minister's decision.

Second, the courts are empowered to conduct the relevant proceeding with as much informality and expedition as possible. While this is ultimately a matter for the court's discretion, the capacity to conduct proceedings informally and quickly is intended to ensure that the hearings and decisions are not unduly delayed by non-essential interlocutory proceedings.

Third, the bill requires that the purpose of the assessment and approval process under the bill be taken into account by the courts when considering how to conduct the hearing, including whether or not to grant interim relief in a relevant proceeding such as an injunction. Specifically, the purpose of the bill in this respect is to expedite delivery of transport infrastructure and services to benefit the Victorian community and to provide greater cost and risk certainty in the delivery of projects.

The bill strikes a balance by providing greater certainty of process while maintaining an opportunity for review of the approval decision, albeit with certain substantive and procedural limitations.

Project delivery powers

In the delivery phase, the bill provides a range of new measures to increase certainty and reduce delays.

These include:

wider powers of occupation in relation to land that may be acquired by the project authority subject to restoration and/or compensation at the end of occupation;

a process for the surrender to the Crown of all interests in land (including land underground to a depth specified in the Governor in Council order) within the project area (this is particularly important in the context of major transport projects involving tunnels);

a streamlined process for the surrender of public land by public authorities and municipal councils;

provision for 'restricted access areas' to minimise disruption of project areas and areas temporarily occupied under section 75 of the Land Acquisition and Compensation Act 1986 for the purposes of the project;

provision for the Governor in Council to revoke both temporary and permanent reservations over Crown land within the designated project area;

measures to enhance and streamline management of Crown land while the project is being undertaken;

a streamlined regime for regulating interfaces between major transport projects and the existing utility infrastructure.

It is important to note that the bill does not limit or otherwise impact on compensation payable for the acquisition of private land under the Land Acquisition and Compensation Act 1986 or the compulsory acquisition process under that act.

A particularly significant feature of the new project delivery powers is the provisions for regulating interfaces with utilities. The new regime is designed to minimise delays by establishing a fair and equitable process geared towards a swift negotiated agreement.

The provisions in the bill ensure that electricity, gas, water, sewerage or telecommunications infrastructure in a project area are identified as early as possible. For the first time, disputes between the parties will be required to follow a clear process and time lines in reaching agreement on the management of the interface between the project and any utility infrastructure that is present.

Structure of the bill

Part 1 of the bill sets out preliminary matters such as definitions and the appointment of a project authority.

Part 2 of the bill makes provision for the declaration of a major transport project by the Governor in Council, on the recommendation of the Premier.

Part 3 contains the provisions that create the 'one-stop shop', setting out the assessment and approval framework for the Minister for Planning to determine whether to grant the applicable approvals. This part includes the provision for the Minister for Planning to determine whether a CIS or an IMP is the most appropriate assessment process.

Under the CIS pathway the Minister for Planning:

sets scoping directions within 25 business days; and

establishes and sets the terms of reference for an assessment committee.

The project proponent then prepares the CIS and, if the Minister for Planning determines that it is adequate, must publish and publicise the CIS. The public exhibition period must be for between 20 and 30 business days. Any person may make a submission to the assessment committee.

When the public exhibition concludes the assessment committee must report within 20 business days on any issues to be addressed by the proponent arising from public exhibition.

The project proponent must then publish the revised proposal and CIS.

The assessment committee is required to commence the public hearing within 20 business days after the publication of the revised proposal and CIS, and complete the hearing within 30 business days.

In exceptional circumstances the assessment committee may require the project proponent to undertake a supplementary assessment to address matters raised during the public hearing.

The assessment committee then, within 30 days, makes a recommendation to the Minister for Planning as to whether it believes that the applicable approvals should be granted.

Part 3 of the bill preserves a specific advisory role for the Environment Protection Authority with respect to works approvals under the Environment Protection Act 1970. Under part 3, the EPA has 30 business days from receipt of the assessment committee's recommendation to advise the minister.

The Minister for Planning must then make an approval decision within 40 business days, specifying which applicable approvals have been granted and any conditions imposed.

Under the IMP pathway, where the approvals sought do not require public consultation, the Minister for Planning sets scoping directions within 25 business days and can direct the project proponent to consult with specified persons.

Following the preparation of the IMP in accordance with the scoping directions, the proponent submits it to the planning minister for an approval decision.

Part 4 of the bill provides for the designation of the project area following the Minister for Planning's approval of the project.

Part 5 of the bill establishes the project authority's functions and powers in relation to the approved project.

Part 6 provides the project delivery powers of the project authority. This part sets out powers to acquire land in the project area, including the application of the Land Acquisition and Compensation Act 1986, a more efficient mechanism for the transfer of public land and an express power to acquire a stratum of land below ground level. Part 6 also contains provisions relating to land management, road management and restricted access areas.

Part 7 contains the regime for interface with utilities. This regime provides a clear process and set time frames for a project authority to negotiate agreements with utility infrastructure owners about how the interface with utility infrastructure in the project area is to be managed. This regime creates incentives for both parties to commence negotiations early and to reach a negotiated agreement quickly.

Part 8 sets out the arrangements for appointing assessment committees, including the committees' functions, membership and procedures. It also sets out the rules for conduct of public hearings.

Part 9 relates to general matters including the limitation of the jurisdiction of the Supreme Court.

Clause 260 provides for the exclusion of proportionate liability under the Wrongs Act 1958 to provide greater legal certainty for the state and any commercial partners.

Statement under section 85 of the Constitution Act 1975

I wish to make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of the bill to alter or vary that section.

Clause 265 of the bill provides that it is the intention of section 263 to alter or vary section 85 of the Constitution Act.

Clause 263 of the bill provides that no decision made or purported to be made under parts 1, 2, 3 or 4 the bill (other than the approval decision) is liable to be challenged, appealed against, reviewed, quashed or called in question in any court or tribunal (including

VCAT) on any account or before any person acting judicially within the meaning of the Evidence Act 1958. This provision applies despite anything to the contrary in an applicable law (as defined under the bill).

In addition, clause 263 provides that no proceedings seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration or injunction, or seeking any order under the Administrative Law Act 1978 may be brought against a decision-maker under parts 1, 2, 3 or 4 of the bill in respect of those decisions.

The term 'decision' is defined widely in clause 263 to capture all relevant decisions (defined in the clause as specified decisions), purported specified decisions and decisions and purported decisions made for the purpose of a specified decision.

The clause explicitly provides that its purpose and intent is to preclude any review or appeals of any kind, including an absence of jurisdiction, excess of jurisdiction or any other ground of administrative law review or challenge or appeal.

The only decision under the bill excepted from this general limitation is the final approval decision of the planning minister under clause 77(1) of the bill. This is clearly the most important decision in the scheme reflected in the bill.

The bill expedites any review of a decision under clause 77(1) by providing:

> that despite any alternative provision, any proceeding to challenge a decision must be commenced within 21 days from the date on which notice of the making of the decision is published in the *Government Gazette*. This time limit is a mandatory not directory requirement;
>
> that in hearing and determining the proceeding, the court may at its discretion conduct the proceeding with as much informality and expedition as possible; and
>
> that in hearing and determining the proceeding, or any matter in the proceeding, including whether or not to grant any stay or injunction relating to that proceeding, the court must have regard to the need for the expeditious development of transport infrastructure in order for services to be provided for the benefit of the Victorian community and the need for certainty of risk and cost in the delivery of declared projects.

The reason for altering or varying section 85 of the Constitution Act 1975 is to provide for greater certainty of process under the bill in order to expedite the delivery of transport infrastructure and services for the benefit of the Victorian community.

The key objective of the bill is to provide a more certain, predictable and timely process for the consideration of project impacts and the granting or approvals, consents and authorisations that are required before the construction of a major transport project can proceed.

If decisions other than the final approval decision can be reviewed or appealed, it introduces uncertainty and generates a risk of delay to project delivery. This risk appears first in the form of project delay and lost benefits to the community. The risk also reduces the attractiveness of Victoria's major transport projects in investment markets and results in risk of increased costs for those private sector construction companies that are preparing bids to participate in the delivery of projects. Such costs are ultimately passed on to the state.

The costs can be very significant — in the tens of millions of dollars — if, for example, delay means that it is not possible to secure finances before available funding is allocated elsewhere and the cost of credit increases. Delays can also prolong the operation of 'bid teams' for weeks or months while the outcome of a review or appeal is being determined.

Secondly, decisions under the bill relating to the assessment, approval and delivery of major transport projects are based on transparent and accountable decision-making processes that incorporate best practice approaches to public consultation. For example, public exhibition and public hearings are mandatory and integral parts of the comprehensive impact statement process under the bill; and the primary decision-maker, the planning minister, is accountable for his or her decisions. These characteristics and features of the bill significantly reduce the risks that section 85 of the Constitution Act safeguards against.

The expected benefits of certainty are high and the risks associated with removing review and appeal rights for decision other than the approval decision are considered low. It is not in the public interest for the delivery of major transport infrastructure in Victoria to potentially be delayed by applications seeking scrutiny of a process which retains the rights to challenge the key decision, and is already transparent and inclusive and administered by a responsible minister.

Implementation

The bill will come into effect on proclamation and the government has targeted 1 November 2009 for its commencement.

Broader context

The Major Transport Projects Facilitation Bill is a key plank of the government's transport legislation review — the most significant and comprehensive overhaul of Victoria's transport legislation in a generation.

While it precedes the proposed Transport Integration Bill, which will transform the way we view, shape and make decisions about our transport future, this bill reflects the vision, objectives and principles in the policy statement that underlies the proposed overarching legislation.

Like other landmark pieces of work as part of Victoria's transport legislation reform agenda — for example, the recently passed Bus Safety Act 2009 — this bill is also being looked at from a national perspective. It has attracted close interest, in particular, from Infrastructure Australia.

It is clear that the scope of the bill exceeds comparable legislation in other states and leads the way in terms of national infrastructure legislative reform.

Conclusion

This is a bill for the times.

Times when we are seeing fundamental and far-reaching changes to our transport system, as highlighted by the extraordinary surge in patronage of public transport — up an amazing 70 per cent in Victoria in the past decade.

Times when strong population growth is putting pressure on our road network.

Times when a growing population demanding more goods and services will require freight volumes to increase by 50 per cent by 2020.

Times when big public infrastructure projects are urgently needed to stimulate the economy in the face of the worst worldwide recession in most of our lifetimes.

Times when the Brumby government is making the largest investment in transport infrastructure in Victoria's history.

Times when the government has committed to a visionary plan, unprecedented in scope and scale, to develop the integrated and sustainable transport system Victoria needs for the 21st century.

This legislation underpins the Victorian transport plan.

The innovative measures provided in the bill will facilitate planning, approval and construction of the most urgent major transport projects.

Further, the bill will create a new level of certainty around major transport projects, increasing the confidence of private investors while saving money for the taxpayer and giving Victoria a competitive edge.

At the same time, the bill will ensure safeguards are maintained in relation to our environmental, planning and heritage standards and outcomes.

I commend the bill to the house.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until Thursday, 27 August.

WATER AMENDMENT (NON WATER USER LIMIT) BILL

Second reading

Debate resumed from 29 July; motion of Mr HOLDING (Minister for Water).

Mr WALSH (Swan Hill) — The Water Amendment (Non Water User Limit) Bill 2009 repeals one of the changes that was inserted into the Water Act 1989 in 2005 when there was a major reworking of that act. In the context of the change in this bill, it is useful to reflect on some of the provisions that were inserted into the act in 2005 that are relevant to this debate.

Prior to the 2005 changes an irrigator's water account was made up of a charge per megalitre. The charge included the cost of the actual water, a headworks charge for the operating of the storages and an infrastructure charge for the maintenance and operation of the irrigation system. The 2005 change to the Water Act provided for the disaggregation of the water charge into three major components. Those three components are a water share, a delivery share and a site-use licence. The water-share charge is now a charge per megalitre for the water that is delivered in any one year. That is an interesting concept given the low allocations we have had in the last few years — people only have

to pay for the amount of water that is delivered against that water share. That has changed the way we are charged for water.

The second charge is for the delivery share, which is effectively a capital charge for the maintenance of the channels, including the headworks charge. The water authorities get the majority of their income from the charge against that delivery share, and that is the charge the government, through its drought support, has been assisting irrigators in paying. That is the major component of the bill. It is not a variable charge, like the water share charge, and the government has been paying a share of it through its drought program.

The third charge is the site-use licence. It is a small thing, but in effect it has been rolled over so that people now have a licence to use water on a particular block of land. Where that land was an irrigation block before, the conditions that were applied to that land were rolled over as well. Irrigators who want to develop a new block of irrigation land have to apply for that site-use licence and abide by the conditions placed on that particular block of land either by the water authority or the catchment management authority (CMA).

When you cast your eye over those three measures, and in particular the delivery share charge, it is clear the government had a good support mechanism for irrigation farmers. They paid 50 per cent of that water bill if the allocation did not get to a certain trigger. The issue has been that the trigger set by the government has been reducing every year. In 2006–07 the government paid the 50 per cent if there was less than a 50 per cent allocation. In 2007–08 the trigger point was brought down to 40 per cent and in 2008–09 to 30 per cent.

One of the concerns the irrigation community has about the drought funding not being available from 30 June until the government makes a decision some time in October is where will the trigger point be. The government says, 'Trust us. We will look after you'. But if you look at the history of the trigger point, you see the government has been reducing it. People are concerned that the trigger point may be reduced another 10 per cent and that they will not qualify for that sort of support. The issue around certainty is not necessarily that the government will not do something, it is the rules that the government will put around that support mechanism. That is particularly relevant to the dairy industry at the moment, which I will come back to later.

The water-use licence arrangement by which irrigators access water depends on a whole range of issues. As I said, the CMAs or the water authorities approve those licences, and that approval is dependent on whether the irrigators have a reuse system, or whether they have access to community drainage. The majority of the income comes from that delivery share charge, which means the rural water authorities get most of their money every year, whether or not there is water in the system. They carry very little risk in running their business; food producers carry the majority of the risk.

In addition, the hierarchy of water supply was changed in 2005. Originally, a water entitlement, as they were called at that time, included a stock and domestic component, which was usually 12.5 megalitres on a block of land, and there was a water right. People could trade the water right, but they could not trade the stock and domestic components. They were always tied to that particular piece of land up to 2005, when the stock and domestic entitlement and the water right were rolled together and the whole lot could be traded. That arrangement has created some issues over time as farmers have traded all the water from particular pieces of land so that there is not even any stock or domestic water left.

Another problem is that in rolling the two together, the stock and domestic component, which used to have a higher value than the normal water right, now has the same value as a normal water right. For smaller properties, which had their 12.5 megalitres of water and knew they would always get their stock and domestic water, the changes in 2005 have meant they now only get the percentage allocation in any given year for their stock and domestic component. I have been contacted by quite a few small property owners who used to have their 12.5 megalitres and knew they could get stock and domestic water but who now only receive a set percentage.

When there is only a 15 per cent allocation they receive only 15 per cent of their 12.5 megalitres. If they have half a kilometre or a kilometre of their own channel away from the commission channel so they can fill their dam, they find they do not even have enough water for stock and domestic use. A lot of people with low allocations have had to cart water, whereas previously they would have had their own water.

The other change that is relevant to the debate today, which was inserted in 2005, is the unbundling of land and water. Prior to 2005 water was tied to a particular piece of land and could be temporarily or permanently traded. But if it was traded from one farmer to another, it had to go from one land entitlement to another land entitlement. Hence it was always tied to a piece of land. The water authority knew where that water was and could levy the relevant charges. Post-2005 that

connection between land and water has been disconnected or unbundled — 'unbundled' being the term used in the legislation.

In 2005 when the issue was raised as part of the amendments to the Water Act, the irrigation industry and the Victorian Farmers Federation (VFF) lobbied the minister very hard. They were concerned that as a consequence of the unbundling of land and water, fund managers or overseas financial institutions would enter the water market and manipulate the water market to their advantage and possibly to the disadvantage of food producers here in Victoria. I want to put on the record that the ultimate beneficiary of irrigation in Victoria is the food consumer.

We hear a lot of argy-bargy in this place, particularly from the other side of the house, about how bad irrigation is and how wasteful irrigators are with water. Someone listening to such comments could gain the perception that irrigation is bad. Irrigation is good, and the major beneficiaries of irrigation in the state are not the farmers but the consumers — the people who have access to very good food at a realistic price compared with overseas. We are able to have foods out of season because of irrigation, and that would not be available if we had to rely on natural rainfall.

I will run through some of the foods available in Victoria because of irrigation. The first is the dairy industry, which is the largest user of water in northern Victoria, although with the way the cows are being sold out of the area I am not sure how long that will last. Next are the other meats, followed by various types of fruit grown in northern Victoria and a lot of vegetables. Lamattinas grow carrots at Wemen on an irrigation property which produces something like 25 to 30 per cent of Australia's carrots. If there were no irrigation, there would be no carrots produced. Major olive and almond groves have been developed along the Murray and the Goulburn system.

When that disconnect occurred, the VFF and the industry were concerned that the entry of water barons into the water market would create mayhem for food producers. Another measure which was introduced at that time, apart from the 10 per cent cap that was inserted by the responsible minister at the time, John Thwaites, was a 2 per cent annual cap on the amount of water that could be traded out of any one irrigation district. That was subsequently increased to 4 per cent. Two caps are in place that are relevant to the debate today. They are the 10 per cent non-water-user limit and the 4 per cent cap on water traded out of individual water districts in any one year.

Members may recall the comments made earlier in the year by the Premier of South Australia, Mike Rann, about how he was going to take Victoria to the High Court on a constitutional issue to get rid of our caps. At that time, to their credit, the Premier and the Minister for Water pushed back against the Premier of South Australia. It is interesting to see what they said at that time. In a press release of 6 March 2009, Premier Brumby said:

> … unilaterally abolishing the cap on permanent water trading out of irrigation districts would destroy farming in Victoria.
>
> I will continue to stand up for our farmers. Victorians should not be penalised for doing the hard work of investing in water-saving infrastructure …

We have a bill before the house today that will take away one of those caps, but only as short a time ago as March the Premier said that removal of the cap would 'destroy farming in Victoria'. Obviously things have changed between March and August. But at the time Melissa Fyfe, in an article which appeared in the *Age* of 3 May, wrote:

> Defending the cap, Premier John Brumby, backed by the Victorian Farmers Federation, has said an unrestricted water market would mean too much water, and therefore wealth, flowed from small rural communities.
>
> Such a move would be an 'economic disaster' for Murray River towns, he has said.

Back on 3 May the Premier said that the unrestricted trade of irrigation water would be an economic disaster for Murray River towns, yet now we have this bill before the house. Even though he has huffed and puffed, the Premier is obviously intimidated by the Premier of South Australia.

An honourable member interjected.

Mr WALSH — I hear one of the interjections, 'ALP first and Victorians second'.

Mr Robinson interjected.

Mr WALSH — It is Melbourne. One of the things we have is the lifting of the cap on trading. We have an aspirational statement from a recent meeting of the Council of Australian Governments, which the Premier attended, to lift the cap from 4 per cent to 6 per cent, and I imagine that in the not-too-distant future that cap will be gone. We are going to have an open water market in Victoria — something the Premier talked about as being to the disadvantage of our communities — and we have a major predatory buyer in the market in the commonwealth.

The commonwealth has $3 billion it has said it is going to use to buy water. It has said it is going to buy at least 300 000 megalitres of water from Victoria. I have just quoted what the Premier said about what unrestricted trading would do to our northern communities. We are going to take away the caps and are going to have a major government purchaser buying up water with $3 billion of taxpayers money.

We are not going to have only the government in there. Members will have seen the recent article in the *Weekly Times* that refers to an American company buying up irrigators' rights. It states:

> A major US-backed company is scooping up irrigators' entitlements as part of a $500 million global water-purchasing strategy. … Summit Global …chief marketing officer Matt Dickerson said 'There were few areas where we can execute our strategy, but Australia is one of them'.
>
> 'There's a need for liquidity in the market and we're in a position to monetise these assets and act as a water bank as well.'

Not only do we have the commonwealth in the market, but as was raised in 2005, also entering the market major are fund managers that want to buy up Victorian water and will manipulate the market to the detriment of Victorian food producers.

All this has happened since 2005. Confidence in the irrigation sector in northern Victoria is at an all-time low, and that has been brought about by a number of factors, the first being the drought. I accept that no government can have any control over the weather or if there will be a drought or not. There are some issues around how the government puts support in place to assist people in that, but no-one can control the drought. Most farmers are accepting of the fact that there are droughts and there are wet years, but they are very despondent that this drought has gone on longer than most people probably expected it would and longer than any drought in living memory. We have to go back to the 1940s and to the federation drought at the start of the last century to find the sorts of conditions that mirror what we are having now.

But the thing that is undermining confidence in the irrigation sector is government policy and the messages that have come from the Brumby government. One of those messages concerned the unbundling issue I talked about earlier, and the caps on trade, but another thing was that a little over two years ago a promise was made by this government, in conjunction with the food bowl group in Shepparton, that we would have a new irrigation system in northern Victoria. Everyone was under the impression that there would be a new irrigation system. An illusion was created that there would be a new horizon for irrigation in northern Victoria, that there would be buckets of money invested in it and that everyone would be better off. As time has gone on, most people in northern Victoria have realised that is not true.

In the space of two years we have gone from the promise of a new irrigation system — a brand-new shiny car that everybody would be able to drive and the idea that everybody would be able to make money — to the situation where there are discussions in the community and Northern Victoria Irrigation Renewal Project and Goulburn-Murray Water are talking to irrigator groups about the traffic light concept. The traffic light concept for irrigators in northern Victoria is a system of red, orange and green. It means, in effect, that if your channel is a red channel, it will be closed in the future. What confidence can anyone have that they have a future when the government and the water authorities say, 'We are going to close down your channel. You can either be a willing seller at the moment or we will probably compulsorily acquire it sometime in the future'. That has undermined the confidence of most people involved with the red channel.

Then there are the orange channels, which may be closed in the future. Again, if you are making decisions about your financial future, if you are having discussions with your bank manager about wanting to borrow some more money to keep going through the drought and he knows that your farm is situated on an orange-light channel, what confidence is he going to have in you as a loan applicant? Again, there is another whole group whose confidence is being undermined.

Then there are the green channels, which are the ones that are going to be kept going. They are usually the backbone, and they are being upgraded. But I find it interesting that people who are on the backbone are trading water as well — they are actually selling their water permanently — because they do not think they have got a future in the irrigation industry. This whole government process is undermining confidence and is not achieving what was originally promised.

Ms Duncan — Do you think the drought might have something to do with that?

Mr WALSH — I have already talked about the drought. We have had the drought, we have had the issue about government policy undermining confidence and we have had the perfect storm — or the imperfect storm — and an absolute collapse of wine grape prices and dairy industry prices, as the member for Rodney would well know. That has set up a situation where

there is little confidence. Water has been unbundled, the caps are being taken away and we have a predatory buyer in the market, being the commonwealth. We have bank managers who are nervous about the situation and who are telling people that their water is the easiest thing to sell and that they should go to the commonwealth and sell their water. We also have the likes of the American funds institutions, which want to buy water. The confidence of the irrigation industry is being undermined.

Everyone talks about the fact that farmers are willing sellers. I have to inform the house that they are not willing sellers; they are forced to sell. Usually they are very reluctant sellers. I have a regular stream of the farmers who are affected by the issues I have described either ringing my office or coming to see me. They are very despondent. A lot of them are under severe emotional stress. I know it is an issue that we do not normally talk about in this place, but I have had the unfortunate situation where we have had some suicides of people who have actually come to talk to us about this.

This lack of confidence is something that this government is driving. I am not blaming the government personally for what is happening, but I do not believe it is giving the right messages to the people in northern Victoria that it actually cares about what is happening. The rhetoric that the Minister for Water goes on with is interpreted by the people in northern Victoria as meaning that the Victorian government does not care about what happens up there. The government wants the water trade market speeded up so that the irrigation system can be closed down, the commonwealth can get the water it wants and the urban areas can get the water they want. It does not really care about people who have spent their whole life producing good-quality food that has fed Victoria and created export income for this state.

We come to the issue of this particular bill, and if you look at the pieces of the act that are being deleted, you see that section 33AR has a process in it that sets out what the minister can do if he wants to raise that 10 per cent cap. When the 10 per cent cap non-water-user limit was inserted in the act there was a process set out there whereby the minister could set up a committee and raise the cap if he wanted to do that. The issue as I see it is that the minister has chosen not to do that; he has chosen just to remove all references to non-water-user limits from the Water Act instead of going through the process of changing the cap. The minister has justified that by saying that the caps were talked about in the Northern Region Sustainable Water Strategy discussion paper. That may be true, but that is not the process that is set out in the act — that is, appointing a committee of people who have an interest in the issue and having it report back. The issue has been discussed in some forums but not in the context of the Water Act and what was inserted in it in 2005 as a particular process for reviewing the cap.

We have some significant challenges in northern Victoria. One of the things I find interesting is the press release from Goulburn-Murray Water dated 3 July in which Goulburn-Murray Water stated:

> The sale of water shares is an incomplete and often misleading indicator of what is happening on the ground. The real measure of whether farmers are leaving irrigation is whether they are giving up their delivery share — not whether they are selling water shares — and we have seen no significant trends in delivery shares to date …

I think Goulburn-Murray Water, either deliberately or just through ignorance, is not understanding what is happening on the ground. If you are a water seller forced to sell, you will sell the water and you will get your money; you will not then go out and pay a multiple of 10 of your share of the delivery charge. If you are on one of those red channels that I talked about or one of those orange channels I talked about, you will sit there and wait, and you will pay the annual fees, because you know that the people from the Northern Victoria Irrigation Renewal Project or the government — or someone — will be back in the not too distant future because they will want to close that channel and they will do a deal on those delivery shares.

I think that farmers are making very good business decisions in not selling their delivery shares when they sell their water shares, because they know that this government will be back to do a deal on those and they will not have to pay the fee they would actually have to pay if they did it up-front. To say there are no problems out there and everything is fine in the irrigation sector because nobody is selling their delivery shares is an absolute falsity, because there are major problems out there.

At the start of this whole process a few years ago Goulburn-Murray Water had about 1.6 million megalitres water rights in total right across the Goulburn-Murray system; it is now down to something like 1.3 million megalitres because of the trade out. The commonwealth government has signalled that it is going to buy 300 000 megalitres; that will bring it down to 1 million megalitres. There are probably going to be another 200 000 megalitres traded over the next three to five years of normal trade, and some of that trade will be to the urban water authorities;

I have no doubt about that. Both Coliban Water and Central Highlands Water are in the market for water. So we will find that over the space of about five to seven years the water entitlements in Goulburn-Murray Water are going to be halved.

What is that going to do to the viability of both Goulburn-Murray Water and, more importantly, the communities of northern Victoria? We will find less jobs, less people in the schools and less people demanding services in those towns, and we will see a spiralling down of a lot of those towns. This government has not given any thought to the social or economic problems that are going to be created by its water policy. It is great to have a fanfare and an announcement by the government that it is going to have a market, it is going to buy all the water, it is going to do this and it is going to do that, but what about the mess it is going to leave behind? That is not something that this government has turned its mind to at all. I think it is an absolute disgrace.

The last thing I want to comment on is the press release from Goulburn-Murray Water of 11 August, which the member for South Barwon referred to by interjection before. What I find interesting in that press release is that the organisation is effectively pre-empting what the Parliament is going to do. The press release states that applicants who are being stopped because of the cap will be advised once the 10 per cent cap has been repealed. I would have thought that was anticipated. Both houses have to deal with this; the cap may not be lifted. I would have thought it would have been more truthful to tell the irrigators who are in the queue for the sale of water that the cap may be lifted by the Parliament of Victoria, not that it will be lifted by the Parliament of Victoria. I think that Goulburn-Murray Water, probably at the instructions of the government, is not necessarily telling its customers the truth.

The coalition opposes the repealing of these sections of the Water Act. We think it is breaking a promise that was made in 2005. There is the capacity under section 33AR of the act to review this, and if a committee appointed by the minister were to recommend that the cap be raised to a level that is higher, so be it. I think that to take that process totally out of the act flies in the face of what has previously been promised.

I will go back to what the Premier was talking about before when he said that such a move would be an 'economic disaster' for Murray River towns. The government is saying one thing out in country Victoria, but in this place it is doing something else to the detriment of Victoria.

My final comment would be to say rest in peace to the irrigation industry of northern Victoria, because it is on its last legs under this government.

Mr CRUTCHFIELD (South Barwon) — It is with great pleasure that I rise to speak briefly on the Water Amendment (Non Water User Limit) Bill 2009. Members who have a copy of the bill will know it is very narrow. Its main purpose is set out in clause 1 which states:

> The purpose of this Act is to amend the Water Act 1989 to remove the non water user limit, a legislative cap on the volume of water shares that can be owned if those water shares are not associated with a parcel of land.

We have heard a 28-minute wide-ranging exploration of everything relating to H_2O — anything other than specific debate on the bill. It has taken me 28 minutes to work out that the opposition is opposing the bill. For 27 minutes and 59 seconds I thought opposition members were supporting it. Maybe that is how long it took the member for Swan Hill to make up his mind about whether he would or would not support it.

An honourable member interjected.

Mr CRUTCHFIELD — Yes, it is progress on the opposition's water policy. There have been comments reported in the media today in respect of the water policy, bulk entitlements, the north–south pipeline and the food bowl modernisation project, which I may touch on a bit later.

The bill repeals that section of the Water Act which relates to the non-water-user limit — the 10 per cent cap, if you like. Our Water Our Future looks at unbundling, and the unbundling of water rights is a key objective of that policy. It aims to improve water trading and of course fulfil our obligations to the national water initiatives commitment. Traditional water rights are better managed when they are unbundled into three separate components, which comprise a water share, a delivery share and the water-use licence. Unbundling was implemented in northern Victoria in July 2007 and in parts of southern Victoria in July 2008.

Only a few people would argue that unbundling has no significant benefits. It facilitates water trading, because it encourages water to be put to its most efficient, most effective and best economic use. Importantly, it gives irrigators flexibility to manage their own businesses. They can mortgage, lease, sell or release capital. It provides them with some breathing space.

Everyone in this house would acknowledge that these are tough times for irrigators, and this provides an

opportunity for some flexibility for irrigators to have that choice in respect of their water. It also allows them to purchase water to protect high-value plantings or stock when allocations are low, and that has been the case in recent times. It encourages water use efficiency for those shareholders who can profit from selling those savings.

The non-water-user limit is one of those restrictions on trade in Victoria. There has been a freeing up of the market across the Murray-Darling system, but there are still some restrictions. Of course there are still some restrictions in Victoria, and the 10 per cent non-water-use limit is one. Importantly, the 4 per cent restriction will remain in place to benefit irrigators in rural communities. It will also benefit the environment. The 10 per cent limit was created to allay the concerns of some irrigators who postulated that unbundling would see non-irrigators — the so-called water barons which the member for Swan Hill alluded to as some sort of conspiracy theory, which was a repetition of the debate back in 2005 — purchase all the water in a particular district, take it out of the district and drive up the water price. There has been no evidence of that at all. An increased concentration of irrigators have called on the government to do exactly what the minister and the Premier have committed to, which is to remove the 10 per cent cap.

I bring the attention of members to an article in the *Weekly Times* of 5 August. In that august publication an article by Peter Hunt is headed 'Water bomb', and it states:

> Debt-ridden irrigators have been denied the right to sell their water as the state's largest water corporation imposes trading halts across northern Victoria.
>
> Goulburn-Murray Water has halted trading in the Murray and Torrumbarry irrigation districts in the face of a massive surge in irrigators wanting to sell their water rights.

They have not been able to. It continues:

> Irrigators say they are desperate to sell some or all of their water in the face of drought and a massive slump in milk prices.
>
> 'Every second place has water for sale 'cause it's the only thing that's saleable', Murray irrigator Jim McKeown said.

The article alludes to the fact that there are a number of irrigators who want that flexibility. It does not mean they will sell all their water automatically, but they want that flexibility to remove it from their land rights.

An article in the *Sunraysia Daily* of 6 August — and Phil Grahame, who wrote the article, has an interest in saying this because he is a water broker — states:

> As we all know irrigators have been hit hard over recent years —

and we all agree with that —

> with low water allocations and commodity prices. Obviously this has taken its toll financially on many irrigators who are in the unfortunate position of having to sell assets to pay down debt or raise capital.
>
> For many their permanent water entitlement is their only saleable asset and their chance to exit the industry with some dignity. Unfortunately however many Victorian irrigators are being stifled of this opportunity by restrictive trading rules and water authority delays.

That is coming from someone who obviously has a pecuniary interest in selling water. He is adding to the body of opinion that wants irrigators to have that flexibility.

The member for Swan Hill touched on a press release from Goulburn-Murray Water on Tuesday, 11 August. I think it is a quite responsible press release. However, the member for Swan Hill omitted an important component of that press release. I quote:

> Goulburn-Murray Water (G-MW) announced today —

that is, the day before yesterday —

> that it has processed 730 ballot applications with 280 applications retained by G-MW to be processed once the 10 per cent limit on the volume of water in a system that can be held separately to land is repealed.

That is certainly alluding to its expectation that the provision will be repealed. Our expectation on this side of the house is that it will be repealed. The expectation of irrigators is that it will be repealed.

There are a considerable number of irrigators who want the flexibility. As of yesterday 280 applications have been processed from irrigators who want that opportunity and that flexibility to trade their water. As a government we have gone out and consulted in respect of this. We have conducted quite a considered consultation process and have negotiated in quite a considered way around this policy. The Minister for Water initiated a review of this in February 2009. As the member for Swan Hill politely acknowledged, there has been considerable consultation in the northern sustainable water strategy process. It was raised in the discussion paper and in the draft strategy.

There has been resounding support for the removal of the 10 per cent cap. It demonstrates this government's support for irrigators, along with the considerable investment in the food bowl modernisation project. This is another example of this government standing up for irrigators.

Dr SYKES (Benalla) — I rise to contribute to the debate on the Water Amendment (Non Water User Limit) Bill 2009. I wish to commence by congratulating the member for Swan Hill on demonstrating to this house and anyone who chooses to read *Hansard* his excellent knowledge and understanding of the technical issues and the human aspect of water and irrigation and the environment in northern Victoria. The purpose of this bill is to amend the Water Act 1989, to remove the non-water-user limit, a legislative cap on volume of water shares that can be owned if those water shares are not associated with a parcel of land. Currently the cap is set at 10 per cent.

As the member for Swan Hill so eloquently expressed to the Parliament, there are a number of significant impacts of this proposal. I would like to expand on those and just touch on the current situation that confronts irrigators and people living in northern Victoria. We have had 13 years of drought or lower than average annual rainfall. Associated with that, the irrigators are on low allocations. Associated with that, the irrigators in northern Victoria are currently on zero allocation for the forthcoming season at this stage.

In this environment the government is proposing to progressively remove the 4 per cent cap on trading, but already it is exempting the government water buybacks from that 4 per cent, so it is effectively being removed as from now. In addition we have a massive water buyback program in place.

In northern Victoria we have had the decommissioning of Lake Mokoan, which was an absolutely appalling example of government deceit and abuse of process. It has generally alienated people in northern Victoria. We have the north–south pipeline, which was discussed at great length in the upper house yesterday. We have the food bowl modernisation project, where there are serious doubts about the claimed savings; the dodgy figures; the savings being claimed often depending on simply remetering or putting in new water wheels and changing the way irrigators are charged rather than actual savings. We have double counting of so-called water savings. Some of the same water that is allocated to the environment is also going to be allocated to Melbourne. We have the reconfiguration of the irrigation system, which the member for Swan Hill mentioned. Basically a lot of that will result in the transference of losses from the public register to the private register. That is not a saving; it is a transference of the loss, and it is disguising the loss. It is an indication of the deceit that this government practises on a regular basis. The net result of all these issues is that we are likely to have a substantial reduction in the availability of water in northern Victoria. It could be reduced by 50 per cent of current levels.

As the member for Swan Hill mentioned, because of the scenario that I have described and the additional impact of the removal of the 10 per cent trading cap we will see situations such as that proposed for the Torrumbarry irrigation area with the traffic light system: 'Red, you're dead. Orange, you're nearly gone. Green, do you really have any faith?'.

In the Torrumbarry area the proposed water buyback under this system would see 40 per cent of the water removed, resulting in a 40 per cent job loss, a reduction in agricultural income of 50 per cent and a population decline of 14 per cent. The same issue is being played out right now in the Broken Valley, where the government is buying back 30 per cent of the water. As the member for Swan Hill said, there has not been one consideration of the social and economic impact of this massive change to irrigation in northern Victoria. In addition to the government buyback, the removal of the 10 per cent cap will enable companies — such as the USA company that is currently in the water market — to get in there, buy up water and then make a profit by leasing it back to the irrigators. That will not make things better for the irrigators.

There are other ways of addressing the crisis situation that confronts northern Victorians. These people are absolutely desperate financially and emotionally. They are not willing sellers, in spite of what the government attempts to tell us. Because of the circumstances they face, they are desperate to hold onto their farms, desperate to put food on the table and desperate to put shoes on their kids' feet — and this government is proposing to make it even tougher for them. The government could immediately address the irrigators' situation and give them surety and help by saying there will be a rebate for undelivered water this year or by underwriting the loans of dairy processors, in a similar fashion to what it has done in guaranteeing the four big banks. That would reduce the cost of borrowing and it would pass on to the irrigators a small increase in income, which would help to get them out of this hole. The state government could also be more transparent and honest about its food bowl project. For example, it could have a truly independent expert auditing of the projected water savings. The government could commit — —

Mr Crutchfield interjected.

Dr SYKES — This is about finding an alternative to that proposition. This is about finding an alternative way of achieving the outcome the government claims

this removal of the 10 per cent cap would achieve. The government could commit to alternative forms of employment and income generation for our small agricultural communities. It could publicly recognise the benefits of the irrigation system and that it is not just the irrigators who benefit from it. Yesterday government speakers in the upper house attempted to convey the lie that the only beneficiaries of irrigation are the farmers. The beneficiaries of irrigated agriculture are the people of Melbourne and of all Victoria, because irrigated agriculture provides a secure supply of clean, high-quality, nutritious food, and irrigated agriculture such as dairy provides jobs for thousands of Victorians and it provides billions of dollars in export income.

Rather than taking this action, the state government should boost the emotional stocks of country Victorians and stop widening the social disadvantage gap between country Victorians and their city counterparts. Water savings from the irrigation upgrades should remain in the Murray-Darling Basin, which is a stressed catchment that is hurting. The irrigators in and the environment of the Murray-Darling Basin should be the beneficiaries of the water savings. As we heard yesterday in the upper house, the odd one out in this debate is the city-centric, arrogant Brumby Labor government. The Liberal-Nationals coalition, the Greens and the Democratic Labor Party recognise that the proposal to pipe water from the parched Murray-Darling Basin to Melbourne, which can meet its water requirements by other means, is fundamentally flawed.

I close by saying to those on the other side of this house — in the words of Mark Twain, I think — 'Whiskey is for drinking and water is for fighting over'. We on this side of the house will continue to fight the arrogant, city-centric Brumby government until we get a fair deal for irrigators and the environment in northern Victoria and until the arrogant, city-centric Brumby government heeds the call of 95 per cent of Victorians and plugs the pipe.

Ms DUNCAN (Macedon) — I rise to speak in support of the Water Amendment (Non Water User Limit) Bill 2009. I would like to make a few comments about the contributions made this morning by members of The Nationals. I was listening to the radio this morning and heard a debate about the bill that was blocked last night in the upper house. One person rang in and said that it is all very well for people to try to create tensions between city and rural people in Victoria, but once you open that gate and start that war — as the member for Benalla referred to it, when quoting Mark Twain — it is very hard to close it and stop those tensions existing. This morning we have seen the ongoing efforts of The Nationals to create an urban-rural divide in Victoria. That divide will not be easily mended, and they know this. They seem to not care at all about peddling this sort of nonsense in rural Victoria and particularly in northern Victoria, because, as we know, it is in their political interests to do so. In fact it is their stock in trade.

At every opportunity members of The Nationals try to create the view that the Victorian government and people in Melbourne do not understand northern Victoria or rural Victoria at all, and that we think irrigators do nothing other than use water. I could not begin to tell the house how many times I have heard the Minister for Water and the Minister for Agriculture speak expansively about irrigators and the economic benefit they bring to us all, and not only economic benefit but food on the table. This untruthful nonsense they go on with, trying to create the view that no-one but The Nationals understand rural Victoria, is damaging to this state and to this country. They do it again and again; they never let the truth stand in the way of this sort of political rant. We know farmers and irrigators are desperate. The situation in northern Victoria, in most of Victoria, is desperate. We are desperate for rain. On the one hand, the member for Swan Hill says it is not the government's fault that it is not raining, but at every opportunity the opposition tries to ram it home that farmers are facing these problems because of this government.

If you listened to the members for Swan Hill and Benalla, you would not believe there is a drought; you would only believe that somehow Melbourne water users are taking all the water from rural Victoria and that it has nothing to do with the drought. We know farmers are desperate; we know irrigators are desperate. The only long-term solution to that desperation is: rain.

An honourable member interjected.

Ms DUNCAN — Exactly, we know The Nationals members are desperate. It is horrifying to me that they should use their constituent farmers in this way. This bill will give farmers the flexibility they need to cope with what we hope is a problem that will be resolved in — let us pray — the not-too-distant future. We say again and again: it has to rain soon; and we certainly hope that that statement is still true.

I support this bill because it gives farmers that flexibility. This is the only state that has a 10 per cent cap for non-water users. I refer to an article that sums it up very neatly. It is from the *Sunraysia Daily* of 6 August 2009 and states:

> As we all know irrigators have been hit hard over recent years with low water allocations and commodity prices. Obviously

> this has taken its toll financially on many irrigators who are in the unfortunate position of having to sell assets to pay down debt or raise capital.
>
> For many their permanent water entitlement is their only saleable asset and their chance to exit the industry with some dignity. Unfortunately however many Victorian irrigators are being stifled of this opportunity by restrictive trading rules and water authority delays.
>
> Some of the current issues for Victorian irrigators trying to sell their entitlements include:
>
> 10 per cent non-water-user limit
>
> This rule means that a maximum of 10 per cent of the total amount of permanent water shares in any Victorian water supply system can be owned without being associated with land. In other words 'non-water users' such as investors, government or farmers who purchase Victorian water entitlements disassociated from land can only own a maximum of 10 per cent of all the water in that particular system.
>
> …
>
> Whilst the state government has already announced its intention to abolish this rule legislation needs to be passed through Parliament which is unlikely to occur until October. Therefore, as indicated above, the 10 per cent limit has been reached in the Goulburn Valley which means that those irrigators who lodged applications to sell as far back as May-June now have to possibly wait until October for their application to even be looked at. Obviously for many cash-strapped irrigators this is an unacceptable delay.

I have sat in this chamber this morning and listened to The Nationals; they would have to wait a great deal longer to be able to use this. We understand that farmers are desperate, but this will give them the means to exit the industry with some dignity, or to at least hold themselves until — hopefully — this drought ends.

I heard the honourable member for Swan Hill talk about changes in government policy and that something that was suggested in February is no longer true today. That is absolutely right. In the same breath the member for Swan Hill talked about this drought going longer than anyone would have imagined — longer than in anyone's living memory. That is right. It is a sign of one's intelligence that one can adapt to changing circumstances. That is what we face here in Australia, particularly in Victoria and particularly in northern Victoria.

In February this year the government instituted a review of the non-water-user limit, in line with Victoria's national water initiative obligation, to ensure that it does not become a barrier to trade. That review found that there is no evidence of water barons entering markets in a big way in jurisdictions that do not have a non-water-user limit. We should keep in mind that Victoria is the only one with this limit.

I do not believe it was an unrealistic thing to fear that we would get large buyers in the market and that they would take water out of the system. But at this point that worry has been shown to be unfounded. We should also keep in mind that the 10 per cent non-water-user limit is not impacted on and this bill is not related to the 4 per cent cap that currently exists in the system.

The review also found that the non-water-user limit, once reached, would be a significant barrier to trade; that where investors have bought water shares, they have been trading seasonal allocations to users, so the water remains in the market; that the recent increase in the number of water shares that are not associated with land has been influenced by irrigators who still own the water shares but are looking for flexibility about where and when they use their water.

This bill will remove the non-water-use limit from the Water Act of 1989 in light of these findings and recognising the limit will be reached during the current irrigation season in key systems. In doing so, this bill will offer a number of benefits to irrigators and rural communities by providing greater flexibility to trade water, thereby expanding the options to farmers to respond to the challenges of ongoing drought. It will also benefit the environment by enabling the commonwealth government to buy water from willing sellers as part of its buyback scheme to return water to the Murray River.

I condemn the scaremongering by The Nationals in playing their political game day in, day out in this chamber on every issue they possibly can. Most of us are familiar with northern Victoria. Most of us have family or friends who live there. None of us want to see irrigators go down. But it is an absolute nonsense to try to blame this government for the drought and for the difficult position farmers and irrigators are in. This government is trying to support them. I could go through chapter and verse the huge assistance this government has introduced to farmers and irrigators as part of its farming strategy. I do not have time to go through that now. For anyone to suggest that this government has not done all it can to support farmers in these difficult times is simply peddling nonsense. I commend the bill to the house.

Mrs POWELL (Shepparton) — I am pleased to speak on the Water Amendment (Non Water User Limit) Bill 2009. Firstly, I would like to make some comments on the contribution from the member for Macedon. She said The Nationals have been scaremongering on the issue, and she condemned us. I remind the member for Macedon that those of us in this house who represent people in country Victoria,

whether they are members of The Nationals or the Liberal Party, take very seriously our positions of representing our communities. We take seriously the issues that our people talk to us about, and we stand in this Parliament ready to protect their interests. When the member for Macedon says we are scaremongering, what she needs to understand is that members of Parliament who represent rural Victoria understand the issues, understand the impact this legislation will have on its irrigators, and condemn the government for not doing enough to support country Victoria. I hope the member for Macedon takes that on board and does not use political stunts such as saying that only Labor Party members know how to deal with country Victorians.

The coalition members are the ones who understand the issues. Many of us live in country Victoria and we understand — —

Ms Duncan interjected.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member for Macedon was heard in relative silence, and I ask that she gives the member for Shepparton the same opportunity.

Mrs POWELL — Thank you, Acting Speaker. Government members in this house do not like to hear the truth. Those of us who represent country Victoria understand that this legislation will hurt our irrigators and will reduce the water that is available for country users such as irrigators and farmers.

We are opposing this legislation, as the member for Swan Hill said in his very good presentation. Those who want to understand the issue and the history of this bill and why it has been introduced just need to read the contribution by the member for Swan Hill. They will then understand the technical parts of the legislation, how broad the Water Act is and what the removal of the 10 per cent cap will do to country Victorians.

That is the purpose of this bill. Its purpose is to amend the Water Act to remove the non-water-user limit, which is a legislative cap on the volume of water shares that be can owned if those shares are not associated with a parcel of land. In plain English, that means it will increase the number of water shares able to be held by people who do not own and do not have an interest in land.

We had a concern when the cap was introduced in legislation in 2005, and again we have a concern. The Premier of the day said there was a reason for the cap to be there. The then water minister, John Thwaites, said the cap was put on and should remain, because it would assist irrigators and rural communities to respond to the challenges of ongoing drought. Now the government is removing that cap. Does that mean it now thinks there are other ways to assist the irrigators in rural communities to respond to the challenges of the ongoing drought? I do not think so.

What would support people in country Victoria would be for this government to stop taking water from those areas that need it most and sending it to areas for which it should have made other decisions on how to find water — like Melbourne.

There are other options for Melbourne. It is wrong to take water from those agricultural areas in rural Victoria which need it desperately.

The water season has started on zero water allocations. Our irrigators do not have any water to either use on their own land or to trade, so I do not know why this government is removing the 10 per cent cap. If there is any water that can be made available to our irrigators, it should remain in those areas that need it most. Our irrigators are not just drinking that water. Those in the Labor Party on the other side of the house must think irrigators are drinking that water, but they are not. The irrigators are providing Victoria, the rest of the nation and the world with affordable high-quality food. This government should hang its head in shame for continually trying to take water from areas where it is needed.

Regarding the issue of unbundling where non-irrigator investors can have access to water, there was concern about water barons being able to buy up large volumes of water and also to drive up prices. Irrigators in country Victoria are already finding it very difficult to compete with other areas of production. If there is less water and there are competing prices for water, the price of water will increase. That will mean that those people who need to buy water — whether for dairy farming, horticulture or fruit growing — will not have access to it. It will mean that dairy farmers and fruit growers will not have access to water, and it will mean the water market will be such that it will be harder for irrigators to be able to access water.

Our irrigators do not have the opportunity to not water their trees. If they do not have water to irrigate their trees, then we will not have any fruit. Does the government not understand that by limiting the amount of water that is in an area it will limit the amount of water irrigators can have?

We are concerned that because of unbundling there is now no confidence in farming. People are selling their water and leaving the land because they just do not

believe there is a future. The sad thing is that there is no water. We have a drought — we have had 13 years of drought — and there is no water. For the government to now lift the cap and say that will help the irrigators is an absolute nonsense. There is not enough water to meet the needs of farmers as it is. As I said, those towns that are built on water security will be less viable.

This is another broken promise by this government. The government supported the 10 per cent cap when it was introduced in 2005. The government said it would be a disaster if the cap were removed, but now, because of pressure from the South Australian and commonwealth governments, it is doing just that. The government is selling Victorians out so it can pay homage to ministers and governments in other states. It is doing this because it was pressured by the commonwealth government to remove the cap. This is another broken promise.

It is just like the promise made at the last election, when the government said to the Victorian people, 'Vote for us. One of our key core promises is that we will not take water from north of the Great Dividing Range'. We have seen how that has panned out. We have the absolute debacle of farmers now leaving the industry because they have no confidence they will be able to afford water or that water will be available. I hear it every day in my office. People who sit in Labor government seats probably do not listen, because they do not have those people coming into their offices. If those Labor members were truly representing country electorates, they would come into this house and talk about the stress, anger and angst this government is causing rural communities.

When the food bowl modernisation project was introduced the government said it was going to upgrade and modernise the irrigation system. We agree that it needs to be upgraded, but it has decided to take water and send it to Melbourne when there is no water. The government has made a promise that next year 75 gigalitres, or 75 billion litres, of water will go to Melbourne to allow Melbourne to have greener parks and gardens and to enable Melburnians to flush their toilets. Again it is the farmers and the environment in our area that are going to miss out.

I also congratulate on behalf of the coalition Mr Peter Hall, a member for Eastern Victoria Region, who moved a disallowance motion in the Council. We are hopeful that resolution will stop the much-needed water of the Goulburn system from going down the north–south pipeline, but we know this government. It will find another way of getting around that disallowance resolution. Not only did the people of Victoria say 'Don't do it' but the upper house members have said 'Don't do it'. It is not just the Liberal Party and The Nationals who have said this; the other minor parties have said it as well. The government will find another way of circumventing and disrespecting the Parliament's voice.

People know the cap is going to be lifted. They will lose confidence in their industry when making decisions about whether to stay on the land or not. They will now say, 'It is open slather on water. We had some protection. There was a 4 per cent cap and then a 10 per cent cap on water being removed from the land'. Now the government is saying it is going to remove that. The 4 per cent cap will be phased out in the next few years. That cap that the Premier said should stay will be removed.

Mr Weller — By 2014.

Mrs POWELL — By 2014, as the member for Rodney reminds me. This government should hang its head in shame. It says it is removing the 10 per cent cap to protect and help irrigators. If it really wants to do that, it should look after those irrigators and support them to stay on the land so that Victoria and the rest of the world can continue to support our irrigators who feed Victoria and the rest of the world. If this government was fair dinkum, it would do whatever it could to make sure those farmers understand they have a future in agriculture so that Victoria has a future. This government stands condemned.

Ms KAIROUZ (Kororoit) — I am pleased to contribute briefly to the debate on the Water Amendment (Non Water User Limit) Bill 2009. This bill delivers on the government's commitment to remove non-water-user limits from the Water Act 1989. The bill is fairly straightforward; it will assist — contrary to what those opposite have said — irrigators and rural communities to respond to the challenges we will face in the future, particularly the drought. It will assist irrigators and communities by removing the non-water-user limit from the Water Act 1989, which would otherwise constitute a barrier to trade.

The non-water-user limit was first created in 2005 when water rights were separated from the land as a part of the bundling process. As we know, the non-water-user limit is a legislative cap on the volume of water shares that can be owned without being associated with land. Currently the non-water-user limit is set at 10 per cent and has been in operation since 2007. A non-water user is anyone who owns a water share that is not associated with land, and the non-water-user limit currently limits the purchase of

water shares to investment by water authorities, environmental agencies, the commonwealth or interstate irrigators. It also limits the breaking of the link of the water share with land by Victorian irrigators to increase their options for potential sale to other irrigators or non-water users.

The non-water-user limit addresses the fears of some irrigators that water barons will buy up large volumes of water and drive up the price of water. On this note I would like to add that there is absolutely no evidence of water barons significantly entering the water market in jurisdictions without non-water-user limits. Fears about water barons driving up the water price, which provided the rationale for the non-water-user limit in the first place, have proved to be unfounded.

The bill before us will also benefit the environment by enabling the commonwealth government to buy back water from willing sellers as part of its buyback scheme to return water to the Murray Valley. That is something that communities across the state have spoken about often. This is possible because this government recently entered into an agreement with the commonwealth government to phase out the 4 per cent limit from 2011. This legislation will offer some exemptions to it and allow the commonwealth to buy back the program, therefore returning water to the Murray River. That is to be coordinated with the government's $2 billion investment in the Northern Victoria Irrigation Renewal Project.

I commend this bill to the house because it will improve Victoria's water resources. It will deliver benefits to the rural communities and to irrigators. It will also deliver benefits to the environment. I commend the bill to the house.

Mrs FYFFE (Evelyn) — Benjamin Franklin said:

> When the well's dry, we know the worth of water.

Water has become our most precious asset, which is why whenever there are changes made to the way water is used, distributed or handled the public takes a keen interest.

Some might ask what I would know as a representative of an electorate on the outskirts of Melbourne, which although it has had been impacted by the drought still has sufficient water for intensive agriculture and for its growers to be able to continue their businesses and survive. But I speak strongly against this bill because taking water out of a region such as that around the Murray Valley and the areas that are short of water now will change the face of Victoria forever. We will see the destruction of many communities. It will increase the cost of food. Our imports will increase. I can imagine the growers in China, New Zealand, Canada, the United States of America and other countries will be rubbing their hands with glee at the decision by this government which will mean we will be growing less produce not only for ourselves but also for our export program.

The outcome of this proposal will be a decimation of many rural areas. Jobs will be lost, families will move, ghost towns will appear and our cities will become more crowded as they house the country dwellers who will have to move. Where is the concern about that from the other side? Yes, farmers are doing it tough. Farmers in many cases are in a desperate situation. They do not know how they are going to pay their mortgage and they do not know how they are going to put food on the table, but selling water out of an area is not the answer.

The purpose of this bill is to amend the Water Act 1989 to remove the non-water-user limit and give irrigators and other share owners greater freedom to deal with their water shares and more flexibility to respond to the ongoing drought. The Water Act 1989 entitlement of water rural authorities to water for irrigation districts is specified in schedule 11 to the act. The schedule sets out the total amount of water that the authority can take from specified sources such as a reservoir to supply irrigation districts, but does not guarantee that that water will be available. We have heard the members for Shepparton and Benalla saying this morning that their areas are getting zero allocation. There is no water available. Indeed water availability is of concern to everybody. It leads us to the question: how effectively has this Labor government managed Victoria's water supply? What has it done?

Melbourne has experienced the driest year in 40 years, but more than 450 billion litres of water has run off our streets. This Labor government has allowed close to the equivalent of Melbourne's entire annual water consumption to go to waste because it has refused to invest in stormwater capture initiatives. The water which has literally run down the drain could have filled the Upper Yarra, Greenvale, Silvan, Tarago, Sugarloaf, Maroondah, Yan Yean and O'Shannassy dams. It is the equivalent of receiving every single month what the north–south pipeline will deliver annually at full capacity.

This government wants to rob food producers and the environment of water so the north–south pipeline can be supplied. In April 2008 a damning performance audit by the Victorian Auditor-General into the Brumby government's management of water revealed the cost of the government's water plan is likely to exceed

budgeted amounts. Worse still, the promised water savings may not exist.

In May 2008 CSIRO research revealed that if current conditions continue, the Goulburn-Broken flood plains will receive no large flood events. It was anticipated by the Brumby government that these floods would sustain the north–south pipeline. In June 2008 the Murray-Darling Commission released its Sustainable Rivers Audit report, which found that the Goulburn River has the poorest health of any of the 23 rivers in the Murray-Darling Basin. Despite this, the Premier continued with plans to pipe 75 gigalitres of water from it for use in Melbourne.

In July 2008 at the Council of Australian Governments meeting Premier Brumby was forced to stave off his Labor mates, initially refusing the request of federal Minister for Climate Change and Water, Penny Wong, for Victoria to allocate more water as part of an emergency plan to restore the health of the Murray-Darling river system. Why did he refuse? The Premier answered, 'The reality is that there is no water around', yet I have sat here this morning and heard the honourable member on the other side speak as if this trading of water is going to solve the financial problems of the farmers — as though the government is doing it to help the farmers who are in desperate situations at the moment. It is unbelievable that a government would be allowing and encouraging and wanting water to be taken out of an area and sold to wherever, and we are going to have a reduction in food production in these areas and see country areas die. We are going to see whole towns closing down. We will be able to sing the songs that they sang in America when they had the Great Drought and talked about the tumbling tumbleweed going down the deserted streets and people arriving at ghost towns and not being able to get any help. That is what is going to happen in our irrigation areas. Those members on the other side, who are so city-centric, care only about Bendigo, Ballarat, Geelong and Melbourne and forget about the true country people.

Mr HARDMAN (Seymour) — I rise to contribute to debate on the Water Amendment (Non Water User Limit) Bill. The bill amends the Water Act 1989 to remove the non-water-user limit, which is a legislative cap on the volume of shares that can be owned if those shares are not associated with a parcel of land. This limit came in from 1 July 2007 when water rights were separated from land as part of the unbundling process. The purpose of the limit at the time was to address the fear that water barons would come in and buy large volumes of water and drive up the prices for irrigators. To cut to the chase, a lot of work was done by the government through the regional water strategy. A lot of research had also been done looking at the findings from other states that had a system where water could be traded. It found that the other states did not have water barons coming in and buying up large quantities of water and forcing up the price and that non-water users were not taking all the water.

This bill will assist rural communities to respond to the challenges of the ongoing drought as well. It will do that by removing from the Water Act the non-water-user limit, which would otherwise have been a barrier to trade. I do not think the experiences of the other states reflect the fears that have been expressed by members opposite. The bill will benefit the environment. The member for Evelyn talked a bit about the environment, the Goulburn River and the Murray River. This bill will enable the commonwealth government to buy water from willing sellers as part of its buyback scheme to return water to the Murray River. I hear members of The Nationals and the Liberal Party expressing a great deal of concern about the Murray River, the lakes in South Australia and river health when it comes to talking about the north–south pipeline. I hear that argument on a regular basis. It is an argument that should be put forward because our environment is very important. However, when they talk in that way about the health of the rivers, they should think this is a good bill because it will enable the commonwealth government to return water to the Murray River system.

It is important to say that the 4 per cent annual cap on permanent water trading out of irrigation areas will remain in place until 2011. That will assist rural communities to adjust to the impact of large volumes of water leaving their areas. It is obvious that the drought is pushing 13 years in duration and that there are great fears and great anxieties because people do not see enough rain coming to get us back to a situation where water is more available and is plentiful enough to allow us to do the kind of farming we hope to do. This work we are doing with the unbundling will allow people who have put in grapevines or permanent plantings of high value, as well as people who have got stock, to make a decision to buy water from somewhere else to keep these high-value irrigation industries going. It is a worthwhile measure.

Let us consider the basis for what we are doing. As a government we are saying that with our finite, limited resources of water it is really important to put that water where it has the highest value. Irrigators and others in rural communities will be able to make better choices in their farming operations, and it will enable them to

continue to farm or maybe come in and go out. It will give them greater flexibility. That is something many farmers, irrigators and people in rural communities will support. It will have positive, ongoing benefits for everybody. I support this bill because it is very important that we make this change.

It is tough, and there is anxiety in the community, but change is always difficult. I think the community expects the government to make difficult decisions when the time comes. I am a member who has the blessing of the north–south pipeline running through his electorate. As members opposite know, it was a tough decision by the government and a tough call on the local member, but by the same token the government has to choose to do the right thing. Obviously we need to make sure that people have water as well as the great affordable and high-quality foods we get from irrigation areas. That is why we are investing in the food bowl modernisation project, which will allow farmers to use water more efficiently and create water savings. I wish this bill a speedy passage and commend it to the house.

Mr WELLER (Rodney) — It is actually with a touch of sadness that I get up to speak on the Water Amendment (Non Water User Limit) Bill 2009. I believe this is pulling the plug on my area. To allow water to flow freely out of northern Victoria is an absolute disgrace.

I listened to the member for Seymour's contribution. He spoke about allowing water to trade at the highest value. Where has he been? In the last few years of the drought, water has been traded. We saw what happened in 2007: water was sold for up to $1100 a megalitre. Many stock owners decided they could sell a megalitre of water for $1100 and buy three tons of fodder, so they did that. That allowed the water to be traded to the horticulture industry so operators could water their permanent plantings. We have had this system in place since the early 1990s, and it has worked well. The temporary trade of water has allowed water to move from one business to another in times of drought and at other times. There is no need for this bill to facilitate the transfer of water at the highest value for agricultural purposes.

The sole reason for this bill is to allow Penny Wong, the federal Minister for Climate Change and Water, and the water barons to buy water from northern Victoria. As we have seen in the *Weekly Times*, as well as Penny Wong we have the water barons from the USA lining up to buy water in Victoria. We could see the irrigation area of northern Victoria halved, which would have an impact on jobs.

Where are the union blokes? Where are the former union representatives who are now members of Parliament? Where are the ones who usually stand up, like the member for Williamstown? His father, Bill Noonan, the Victorian branch secretary of the Transport Workers Union of Australia, is a great man. I have worked with him in northern Victoria, where he represents the tanker drivers at Rochester. The tanker drivers do not want water to leave the district, because they know that if there is no milk, there is no need for a tanker to pick it up. Where are these union blokes? Shaun Leane, a member for Eastern Metropolitan Region in the other place, used to work for the Electrical Trades Union of Australia. A lot of electrical workers are employed in dairy and horticultural processing factories in northern Victoria. When the water is gone, the music will stop and there will be no jobs for them.

The Premier has said that he will stand up for northern Victoria and fight to retain the caps; he will stand up for us. What has he done? He has rolled over and said, 'Tickle my belly'. He has told the federal government that Victoria is quite happy to lift the 4 per cent cap, and now he is lifting the 10 per cent cap. From 2014 there will be no caps on water traded out of northern Victoria, and that will be the beginning of the end. We have had other promises from the Premier on water which I find it hard to believe will be kept. He has promised that water will not be allowed to be traded down the north–south pipeline. However, it has already been established that the savings will not be there, so the 75 000 megalitres that Melbourne Water is supposed to pump down the pipeline will not be there. Therefore, there will be extra capacity in the pipeline.

The Premier has made commitments that he will not allow trading, but if there is spare capacity in the pipeline and people own the water because the 10 per cent cap has been lifted and businesspeople in Melbourne are able to buy and hold water, will we face another broken promise that will allow trading down the pipeline? It is my view that this is all part of a sneaky scheme to allow businesses and people in Melbourne to buy water and to trade it down the north–south pipeline because the government now realises that it is never going to be able to establish its savings.

I will take members through a few figures to establish that point. The government has made commitments that it will save 519 000 megalitres out of the Goulburn-Murray irrigation district. The problem it has is that in the season ending on 30 June 2008 only 380 000 megalitres were lost. If we then look at the savings the government would have achieved that year,

we see that 180 000 megalitres would still have been lost that year. The government would have saved 200 000 megalitres, so it would have been short 319 000 megalitres on its commitments. People will say to me, 'That is fine, Paul, but some of that would have gone to the irrigators'. A total of 175 000 megalitres of that 519 000 would have gone to the irrigators, so there would still have been a shortfall of 144 000 megalitres. Where will that come from? There are only three options: Melbourne Water will miss out, but that is unlikely; the environment will miss out; or the irrigators will miss out. The government has not declared its hand. It needs to come clean and say which of the three options will miss out when the savings are not delivered.

The Premier also made a promise prior to the last election in 2006 that there would be no water taken from north of the Great Dividing Range. He has broken that promise. He promised to stand up for the farmers and the irrigators in northern Victoria and that he would not be lifting the caps, but what have we seen? By 2014 the caps will be removed and there will be free trade that will allow water to flow out of northern Victoria — and with it will flow the jobs.

I have studied a bit of Australian history, and I suggest a better scenario would be to look back to what happened in the 1880s, when Elmore and Shepparton were the same size. Shepparton grew with the development of irrigation in the Goulburn Valley. Elmore did not because only diverters were installed along the Campaspe River. By supporting this bill members are endorsing the shrinking of Shepparton to the size of Elmore. I strongly oppose this bill.

Mr INGRAM (Gippsland East) — The debate on the Water Amendment (Non Water User Limit) Bill 2009 is interesting. The bill is the result of a range of processes, including intergovernmental agreements; a range of different pressures; changes in the way water is managed, supplied, owned and used; and changes in the way businesses operate in today's business environment. The bill is also a result of changes that were made in 2005 in the unbundling of water rights from land and the increase in trade in water between and within irrigation districts.

Firstly, I acknowledge that the current situation in irrigation areas and communities in northern Victoria is desperate because of the prolonged drought and a range of other factors that have impacted on farmers. Farmers are being forced into decisions about their future. A large number of irrigators are looking at selling their water share. That is not just a major concern for individual farmers, who in many cases do not have many other options, but is also a desperate and difficult period for communities.

Secondly, there have been decades of low inflows and major changes in the industry and the allocation of water. The managed investment scheme issue has been a problem right across the irrigation areas. I think the latest and most devastating pressure on many of those communities is the change in the milk price, which has forced suppliers to sell their product for less than the cost of production. I have family members who have held investments in the dairy industry in northern Victoria. They invested at the wrong time — at the start of the drought — and like many businesses they have had to change their enterprises and move to other areas. It has been very tough.

The other elephant in the room is the impact of climate change with the consequent major step down in the flows into our river systems, which is being ignored in many of the contributions on the debate. I have investigated this issue and held discussions with scientists about the current situation and about the future. A further issue is the change in the upper catchment management with respect to fire and the impact of climate change on that, which is expected to lead to a further deterioration in inflows in the future.

A number of industries are facing significant challenges now but, more seriously, into the future. Overlaying all that, we have the debate about caps on irrigation trade in Victoria, both the 10 per cent cap for non-water users and also the out-of-irrigation-district 4 per cent cap on permit trade out of irrigation districts.

This is a fairly serious situation. I have spoken about this before and I have indicated that I consider it an untenable policy, in our current international free-trade environment, if you like, and the range of intergovernmental agreements that both the Victorian government has made and other governments have made, to continue to attempt to defend the cap on irrigation. I understand why members are very passionate about this and why people are arguing for it, but I will go through some of the issues which, in my view, make the position of continuing with the cap untenable.

There has been pressure from other states. Everyone acknowledges that South Australia has done a fair bit of chest beating about this. It has threatened High Court action under the constitution because of the barriers to interstate trade and commerce that these caps represent. There have been environmental agreements between states, and because of that there are serious concerns. Recently New South Wales made some quite

significant decisions about its involvement in some of the reallocation of environmental water, because the caps in Victoria have pushed most of the water purchases by the commonwealth, Water for Rivers and others, into New South Wales. So there is a significant pressure on Victoria from other states, and there is the overlay of this legislation. In my view we have some serious risks about potential High Court challenges, and I have spoken about them earlier. The state's position on this is becoming untenable.

There is another issue that members have not really spoken about. There has been some talk about water barons and the potential for United States investors to come to Australia and purchase large amounts of water. Members need to recognise that we have signed a free-trade agreement with the USA which would prohibit this state from putting in barriers to international and US investors purchasing water. In my understanding of those agreements, that would be a major barrier to trade, and that could be the potential of this legislation — that is, if the government were to maintain the cap, it could potentially be challenged by those US investors under that free-trade deal. I do not think we need to go into blame or anything like that, it is the environment we find ourselves in. It is only a matter of time before these laws could be challenged by other states, the commonwealth or international multinational companies.

Voting against this legislation would potentially have exactly the opposite effect from what many of the members of The Nationals have explained. I understand their passion for their communities and the extraordinarily difficult position that farmers are currently in, which is forcing them to sell water. If you then add an overlay which says that in some districts those farmers cannot sell their water, when they are desperate and need the money, as members have indicated, to put food on the table, it is an outrageous thing to do. It is an outrageous thing to do if that is all those farmers have — if that is the only real asset they have which would allow them to exit with some dignity or stay on the land, to change their business structure or reinvest in the future.

We need to look at the business structures which are the reason this was originally set up. Some of the reason is because nowadays often there is an outside owner of the water which is used on a property and there are leasing and other arrangements for the use of the water. That is a change in our business market and structure. It is no longer just the family-farm type of arrangement which we had historically.

We are having this debate in a climate of major change. I can use those terms advisedly. We need to understand that the market and the use of water has changed and moved on a long way from when the original water legislation was developed. Victoria has attempted to hold the tide, I think for the right reasons, but it is becoming a difficult situation to be in. Passing this legislation is in the national interest, and it is definitely in the interests of the environment and the Murray River. It is important to have this improvement.

In the upper house, particularly in the debate yesterday and over recent weeks, we have heard some much-debated concern about the environmental flows in the Snowy and the Murray. This really nails the colours of the opposition to the mast. The opposition cannot say it supports environmental flows to the Murray and then vote against this legislation. There are some real issues that the opposition needs to be clear about, because a number of members have said the reasons for not voting for this legislation include water purchases and the return of environmental flows to the Murray.

With those words, I support the legislation. It is an important step in getting our national water system right, but I still have many concerns about the changes.

Mr BROOKS (Bundoora) — It is a pleasure to join the debate, albeit briefly, on the Water Amendment (Non Water User Limit) Bill 2009. The general purpose of this bill is to remove the non-water-user limit from the principal act, the Water Act 1989, which was obviously a component of that legislation designed to ensure that, as previous speakers have mentioned, water allocations were not bought up by investors or so-called water barons. The evidence to date is that there is not a significant risk of that occurring in the market. Therefore the government has decided to remove that provision from the principal act, which is a sensible thing to do, particularly when one of the most important parts of the government's water strategy is the ability to trade water and move water around the state where it can be used most effectively, efficiently and profitably.

It is important in this context to consider the Brumby government's broader water strategy, in particular the key components of that. While they have been somewhat controversial, these elements, particularly some of the major projects around water security, are vital in protecting Victoria's water future and ensuring that water is shared fairly across the state. The desalination project is an important part of providing Victoria and Melbourne with a secure water supply that is non-rainfall dependent. We know that the Liberals oppose the desalination plant down in Wonthaggi, and

it has been controversial, but I think that many Victorians acknowledge that the Brumby government has acted with decisiveness and acted strongly to ensure that the desalination plant goes ahead. We have also done a lot of work in terms of providing incentives for people to recycle water and to collect water both in their homes and in industry. There is the food bowl irrigation system upgrade, including the Sugarloaf interconnector pipeline, which has also been a very controversial project.

It is only the Brumby government that has set out a plan for securing Victoria's water future. We do not hear any plans from the opposition; we hear divisive comments, and we see it trying to play one sector of the Victorian community against the other. The north–south pipeline, or the Sugarloaf interconnector, is one of those classic examples of the opposition trying to play rural Victoria off against metropolitan Melbourne.

We know the opposition's position on that project; it backed away from it. The *Age* ran an article on 19 September 2008 headed 'Coalition pledges to shun pipeline'. That article starts by saying:

> The controversial north–south pipeline looms as a major issue at the 2010 state election, after the Liberal and National parties vowed that Melbourne would receive no water through the pipe if they win government.

In that article the member for Brighton is quoted as saying:

> A coalition government will not take water from that pipeline. We have been opposed to the project since day one …

I put it to you, Acting Speaker, that the opposition is definitely still opposed to that project, despite what has been said by members of the Liberal Party. What counts in politics is people's actions, and what we saw yesterday in the other place was a clear indication of where the opposition stands on Melbourne's water security. It voted to disallow the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Further Amending Order 2009 basically to prohibit Melbourne from receiving any of the share of the saved water from the food bowl project. The opposition is quite happy for Melbourne water users to contribute through their water rates to the food bowl irrigation upgrade, but it does not want Melbourne to share in those water savings. I think that is disgraceful.

Importantly, it demonstrates how weak-kneed a number of the Liberal metropolitan members of Parliament in this house are, because they did not have the front to stand up to The Nationals in the party room and fight for the interests of the residents in their Melbourne electorates, who are being shut out of a share of this water supply. It is not for me to give political advice to those on the other side, but you have got Liberal MPs sitting on the other side of the house who are on wafer-thin margins and who are putting the water supplies of Melburnians at risk because they have folded to the extreme position of the members of The Nationals, many of whom are on margins of 20 per cent or more. I think that the people of Ferntree Gully and Kilsyth, for example, will definitely be wondering why their Liberal representatives did not stand up for them, particularly when they as Melbourne water users and contributors have helped to fund the food bowl upgrade. It is obvious that the opposition has sold out Melburnians, and we on this side of the house will make sure that the people of Melbourne are aware of this.

Mr JASPER (Murray Valley) — I am pleased to join the debate on the legislation that is before the house, and I support strongly the proposition that was put forward by the Deputy Leader of The Nationals, the member for Swan Hill. That proposition has also been supported strongly by other members on the opposition benches, particularly members of The Nationals. It is interesting in dealing with the legislation to hear the points of view that are being put forward. For instance, I listened with a great deal of interest to the contribution from the member for Seymour, the member for Macedon and, just recently, the member for Bundoora. I was particularly interested in the contribution of the member for Seymour, because he really did not have his heart in the issues. He did not speak strongly on it at all. I would have thought he would have been standing up for the people in his electorate who will be adversely affected by what is going on.

Mr Nardella interjected.

Mr JASPER — I think the member for Melton should listen for a change, not yell people down, and hear what they have to say. I am prepared to sit and listen to him later on, but I am not prepared to accept him interjecting while I try to make my point for the people I represent in Murray Valley. I hope, Acting Speaker, you will protect me from the sorts of interjections that come repeatedly from the member for Melton.

When I look across my electorate of Murray Valley and look at the issues that have been brought to me in years gone by I see that they have been massive issues — housing, for instance, and passenger rail services — but in more recent times the biggest issue that has come to me has been water. People in northern Victoria are angry about what is going on in relation to the water

issues and angry about what the government is doing. I think the government will find when it comes to an election next year that there will be a massive vote in northern Victoria against the actions that have been taken by this government, particularly those mentioned by other speakers. Prior to the election there was to be no water taken from northern Victoria to service metropolitan Melbourne — the member for Rodney raised this in his contribution — and now we see the government doing an about-turn and saying, 'Now we are putting this pipeline in to take water from a distressed system in northern Victoria to service the people living in Melbourne'.

Mr Nardella interjected.

Mr JASPER — I am not taking up the interjection, because there are other things I want to contribute on, but I hope the member for Melton will listen and try to get balance in the arguments that he puts. But he never does that. All he does it is come in and attack others without listening to what they have to say. I think it would be a good idea if he left the house; I think that would be a very good idea.

Mr Nardella — I am listening!

Mr JASPER — He is listening; that is very good.

The ACTING SPEAKER (**Ms Munt**) — Order! I advise the member for Melton that the member for the Murray Valley has the right to be heard. I ask the member for Murray Valley to direct his comments through the Chair.

Mr JASPER — Acting Speaker, I will certainly direct my comments through the Chair because I think it is most important.

I want to go back a little bit in history to the unbundling of water rights from the irrigation areas. I think that was a bad move right from the start because we have found that people under financial stress have had to sell the water off their properties. I go to Invergordon in my electorate of Murray Valley, which is now dry. No water is being provided into that area and the farmers there have sold off the water and gone to other things to try to make ends meet. They wanted to keep the water but they were not in a position to do so. Goulburn-Murray Water is responsible for the supply of water to those areas but no water is being delivered to farms because it has been sold off. We are now seeing a distressed system.

I point out to the house that because of the dry years we have had — and this has been highlighted by many speakers who have said that we have had at least 10 years of dry right across this continent, particularly in northern Victoria — we are looking at the difficulties being faced by the food bowl of Australia down through the Murray Valley region. What we need to understand is that because of the distressed system there has not been the supply of water for irrigators that we have had in the past. I have said on many occasions that what has underpinned the supply of water down the Murray River is dams. We have the Dartmouth Dam and the Snowy Mountains hydro-electric scheme. If we tried to build the Snowy Mountains scheme today — one of the great wonders of the world because of the feat of engineering it represents — there would be huge opposition to it. All the environmentalists and do-gooders would come out and say, 'We can't do that because we would destroy the environment in the high country'. What has underpinned the supply of water is the Dartmouth Dam and the Snowy scheme, and because of that we have been able to provide water down the Murray system.

I went to a VFF (Victorian Farmers Federation) conference the year before last where there were pictures on the wall showing people having picnics on the bed of the Murray River because there was no water in the system. What has underpinned the supply in these hugely difficult times has been the supply of water from dams. I say to the government that it needs to consider extending the dams. We have a ridiculous situation where the government is going to spend $8 million to strengthen the walls of Lake William Hovell. I took up the matter with Goulburn-Murray Water and the Minister for Water. The minister wrote back to me and said, 'There is no way we are going to extend any dams across Victoria'. I say again that what underpins the supply of water in these difficult times is dams. If we do not have water then we will not be able to support the food bowl or provide water in other areas such as the environmental flows and country towns. This is a critical issue. If we are going to strengthen the walls of Lake William Hovell then we should build stage 2 and we could then hold the water and use it as required.

We are in the ridiculous situation where we have the north–south pipeline. Many others have spoken in particular about the difficulties for northern Victoria. The member for Bundoora indicated the water will come from savings which will come from the upgrade of the Goulburn system. Everyone agrees that it had to be upgraded. The system was losing water and needed to be upgraded and maintained. I do not think we will get the water savings the government believes we will get from upgrading the system, but what we will find is that more water will be taken away from the irrigators. The member for Shepparton said there is a nil

allocation of water into the system for irrigators right now. I hope we get massive rain. There has been a lot of snow in the high country and hopefully we will get more water into the dams. Lake William Hovell is full and Lake Buffalo is virtually full as well. They only hold a cupful; they only hold a small amount of water compared to the Dartmouth and the Hume dams and others. What is happening in northern Victoria is critical.

In relation to the north–south pipeline we believe there are other things the government could do. Many other things could be done in metropolitan Melbourne. The government could look at some of the reports from Melbourne Water from years gone by. The company looked to what is being done in Aberfeldie and to other actions it could take to bring water into the major dams, for example the Thomson Dam, to underpin the supply of water to metropolitan Melbourne. But not enough has been done in recent years to contain water in metropolitan Melbourne, including the recycling and holding of water. Such action has not been taken, and now we see treated water that could be used for recycling purposes going out into Port Phillip Bay and into other areas.

I understand the thrust of what the government is doing, but I am convinced by the arguments presented by the Deputy Leader of The Nationals. Our concerns relate to the changes contained in the legislation and the removal of the 10 per cent cap which was implemented in 2005. We are also going to lose the 4 per cent which will be raised progressively from 2010 to 2014 and will see more water going out of the irrigation areas. The difficulty will be that people who have a water right which is separated and unbundled from their land will need to sell it to be able to continue to operate, and we will have further dry areas across the irrigation area.

In my closing remarks I want to make a brief comment about what the member for Bundoora said. He said we had been playing rural Victoria off against Melbourne. We are not playing the rural areas off against Melbourne. We are trying to protect what we have in northern Victoria. Other actions could be taken by the government to protect the water being provided to metropolitan Melbourne so we do not take water from northern Victoria as proposed.

I also acknowledge the work undertaken in another place, particularly by a member for Eastern Victorian Region, Peter Hall, with the disallowance motion which was put and supported by the upper house to ensure water cannot be allocated to the pipeline for distribution to metropolitan Melbourne.

I believe this is a wake-up call so far as the government is concerned. It needs to look at other alternatives and analyse the situation and seek to protect people living in north-eastern Victoria and northern Victoria in regard to water. Water is critical to the operation of industry and particularly to farming communities in that part of the state. We want to see stronger support being provided, and the government taking action to acknowledge what we need to do. It needs to change what is proposed in the bill and take other action to protect Melbourne's water supply and leave that water for us in north-eastern Victoria where it should rightfully be for the irrigators, for environmental flows and for town supplies as well.

Mr CRISP (Mildura) — I rise to make a contribution on the Water Amendment (Non Water User Limit) Bill 2009. In coalition The Nationals are opposing the legislation. My concern is that it relates to a broken promise in 2005, and as I will elaborate later, I believe we could have better managed this using section 33AR of the Water Act. The purpose of the bill is to amend the Water Act 1989 to remove the non-water-user limit, which is a legislative cap on the volume of water shares that can be owned if those water shares are not associated with a parcel of land.

The background of this bill is that prior to 2005 water entitlements were tied to parcels of land. After 2005 there was an unbundling of water and land. When this occurred the Victorian Farmers Federation (VFF) was concerned about the likelihood of fund managers becoming major players in the water market, and it wanted a cap on the amount of water that non-landowners could have in the Victorian system. The previous minister for water, John Thwaites, included the 10 per cent cap on ownership by non-landowners in the 2005 legislation after pressure from the VFF. Premier Brumby vigorously defended keeping the 10 per cent cap after pressure from the commonwealth and South Australia.

As we know, things are very difficult in country Victoria at the moment, in particular for those dependent on the Murray River and the horticulturalists in my electorate. Low water allocations as a result of the drought are causing considerable distress along with poor prices for wine grapes.

An issue that is causing great discomfort is change. The basis of my opposition to this bill is the lack of a socioeconomic study on the effect to the communities that are dependent on water for irrigation. We need to know what is going to happen and what we can do. Transition is difficult. It is difficult for farmers, it is difficult for their families, it is difficult for their friends

and it is extremely difficult for the communities as a whole. I have concerns about what happens next if this bill is passed.

The government could have raised the non-user cap using section 33AR of the Water Act, in particular subsections (4) and (5), where there was provision to manage this. Section 33AR(4) states:

> (4) Before giving notice, under subsection (8)(b), of a determination that is proposed to be made, the Minister must —
>
> (a) appoint a consultative committee; and
>
> (b) consult with the consultative committee before preparing the determination.

That would have given us time to do the socioeconomic study and to look at what this is going to mean to those communities.

The government has chosen to just delete all that and walk away from the responsibility of the consequences of its actions. If we had done the study of the socioeconomic impact, then we would have been able to identify the issues and introduce programs and develop strategies to counter the effects of what was going to happen. Irrigation communities are hurting. In my electorate the wine industry is suffering, mostly because of the failure of wineries in recent times. Growers are paying for water to grow crops to supply to wineries, and they are not being paid for them. This is putting catastrophic pressure on those families. Added to that is this uncertainty with water.

What we need to do is phase in the introduction of the process. I understand people need to sell their water because they are under pressure from the banks. But we could have done it using section 33AR. We did not have to go the whole hog and cause the problems that I greatly fear the changes will cause.

We know the commonwealth is pushing this issue and wants to buy water. The commonwealth purchases are for the environment, and South Australia's position in this is not one of an idle spectator. South Australia wants to see the commonwealth buy a great deal of water for environmental flows, because that environmental water ends up in its lower lakes and thus alleviates the need for difficult decisions in South Australia. South Australia is not an innocent bystander in this. It has been very much a concern of the state which has joined with Murray Valley United, a Mildura organisation, in a legal action. My concern is that should this legislation be passed, Murray Valley United may well find that South Australia deserts its cause. Murray Valley United will need to factor in this legislation in its strategy.

As we all know, purchasing water should not be the only strategy to get environmental flows. Engineering should also be a part of that approach. As we have said in this house many times, food bowl modernisation is okay, the pipeline is not. Water savings need to be kept in the north to counter the risk of climate change and, going forward, to ensure that we continue to have the water that is needed in northern Victoria. The disappearance of $3 billion — 300 megalitres — will have a huge social and economic effect on those communities. The non-water-user limit was meant to put a steadier on that so that people had time to adapt and change, so that we could manage that change within our community.

By passing this by default, Victoria is giving away its claim under section 100 of the constitution about its rights to water. What we are really saying is that our claim in our constitution, something that was a founding part of the constitution, is for sale. That is a sovereign risk that we need to consider. If we have to sell it, then we have to know exactly what will happen if we do. Section 100 was one of the very difficult parts of our constitution. It took a lot of negotiating over 100 years ago. It was put there for a very good reason. It is a reason I know the commonwealth is probably uncomfortable with, but it is a very good reason for Victorians. We have to manage change, and we have to manage change well. At present we have just thrown everybody out to the cold winds of change without any support for them. That is something that I truly believe will be back to haunt us in the future.

The Nationals oppose this bill. I oppose it because by introducing change, the result of which is unknown, we are causing our communities to suffer trauma without providing any support or help. That is neglecting our responsibility to support our communities.

Mr THOMPSON (Sandringham) — The problem of water is one of the great issues of the 21st century. Back in 1972 a constituent of mine was visiting a think tank in Washington. In dialogue with people there he learnt it was envisaged that water would become one of the great issues in ensuing decades. My constituent, Frank Brewer, was certain of the future impact.

In the middle 90s at the Davos summit, the issue of water was going to be one of the main issues. A few years ago I had a meeting with some experts from within the Organisation for Economic Co-operation and Development community, where people were studying the issue of water in the developing world and the

developed world and how an increasing global population — from 1.5 billion people 100 years ago, to 9 billion people in the immediate future — is going to impact upon the availability of a scarce resource. The reality of limited supply is evident to people in the electorate of Sandringham.

The bill before the house, the Water Amendment (Non Water User Limit) Bill 2009, has as its purpose the amendment of the Water Act to remove the non-water-user limit, a legislative cap on the volume of water shares that can be owned if they are not associated with a parcel of land. A couple of weeks ago I was in Mildura. An authority on the area, the member for Mildura, informed me as follows:

> The region in which Mildura is located is referred to as Sunraysia, and is a community in transition. Sunraysia's horticultural sector has been restructuring due to rationalisation and changing markets for decades. The current drought has pushed 10 years of restructuring into 3 years.

The community is feeling the stress of transition.

> … after 12 years of below-average rainfall, less than 200 millimetres per annum, dryland farmers, irrigators and urban residents are sick of the drought. An added stress is the downturn in the wine industry, which will see many farming families cease to farm this year.

I was speaking with a Mildura fruit grower, who provides table grapes, currants and grapes for the wine market. As we drove from the Mildura airport to Red Cliffs, he indicated to me that block farmers have walked off their properties because of lost opportunities. He vigorously expressed concerns about the failure of managed investment schemes, which have seen the buying up of some water rights and overplantings that have led to an oversupply within the market.

Farmers in that region are having to make very tough decisions about whether to walk off their land or endeavour to salvage their future through a good, productive year, with a better means of access to water or better access to markets, where the price of their produce could gain a return enabling them to pay off debt, pay off their investments in improved watering systems and provide financial security. A number of these farmers have spent 30 or 40 years working their blocks, and not many of them appreciate the prospect of walking off those blocks in the face of debt and a perilous future. This is a critical issue for those people in rural Victoria who are dependent on the outcomes of the legislation before the house, which the opposition opposes.

In this context it is appropriate to comment briefly on the impact of the water crisis in the Sandringham area. Junior sport has been cancelled owing to the lack of availability of grounds. The Sandringham golf club has a diminished supply of water. There was some capital investment in a larger dam on the course and it served the course well, but owing to the absence of rainfall, which leaves no scope to water the fairways, the future viability of the course through the drought remains uncertain.

There are also the vegetable producers who, backyard by backyard, have valued the opportunity to cultivate their own organic produce. A number of years ago a competition was run in this place to promote home-grown vegetables. There were over 100 entries across Melbourne. Backyard gardeners applied skills drawn from Europe over the last 1000 years and implemented magnificent water-saving devices to lessen their use of Melbourne's water and increase the capture of rainfall on their land. There were some excellent outcomes.

It is a pity that while they can grow a vegetable garden at the White House in the United States, at the Victorian Parliament we are cannot promote the virtues of organic gardening. An inquiry conducted a few years ago by relevant officers of the Parliament suggested that vegetable gardening would conflict with the heritage purposes of the garden. But it is my view that there would always have been a kitchen garden within the grounds of Parliament House. That too would require a greater availability of water.

The government is being short-sighted. An example of that is the Southern Cross railway station at Spencer Street, where there is no provision for rainwater capture. More can be done both within this precinct and around the capital buildings of Melbourne to utilise a scarce resource on a stronger basis into the future. But, for the reasons very strongly articulated by my colleague the member for Mildura, the coalition opposes the bill before the house.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

COURTS LEGISLATION AMENDMENT (JUDICIAL RESOLUTION CONFERENCE) BILL

Second reading

Debate resumed from 12 August; motion of Mr HULLS (Attorney-General).

Ms BEATTIE (Yuroke) — I will make a brief contribution to the Courts Legislation Amendment (Judicial Resolution Conference) Bill. The main thrust of the bill is to provide confidentiality to appropriate dispute resolution (ADR) processes, to provide immunity to judicial officers in the conduct of ADR processes and to provide powers to courts to make rules for the practices and procedures of court-conducted alternative dispute resolution. The aim of the policy is to minimise the number of disputes and to provide a system that resolves disputes at the lowest possible level of intervention and makes court processes and procedures the last resort. We all know that earlier resolution of disputes will free up the courts and reduce delays across the system. Overall, the alternative dispute resolution initiatives aim to ensure that the civil justice system is more responsive to people's needs, more accessible, more affordable and more timely.

Really it is different. In committee work I have seen some of the dispute resolution processes at work. It is really a good process when people can agree on certain things and go forward in a cooperative manner. A court-conducted ADR, or judicial resolution conference, encompasses a range of dispute resolution techniques that are utilised by judicial officers to assist the parties to resolve their dispute. In a judicial resolution conference the judicial officer's authority, knowledge and experience can help the parties identify the real issues at stake, enter into negotiations to resolve the dispute and gain an insight into how the case might conclude if ADR is unsuccessful. You can see how all those things would combine to make justice more responsive, accessible, affordable and timely.

My colleague the member for Macedon is about to make an erudite contribution, so I will not eat into any more of her time. I will just say that this is another policy that has come out of the department of the Attorney-General, who I consider must be one of the most reformist Attorneys-General in the history of the state. I wish this bill a speedy passage.

Ms DUNCAN (Macedon) — I, too, rise in support of the Courts Legislation Amendment (Judicial Resolution Conference) Bill 2009. The promotion of this change to the form of dispute resolution was part of the justice statement mark 2 read by the Attorney-General. Alternative dispute resolution is seen increasingly around the world as a better way of resolving disputes, particularly civil disputes, than going through the long, often tedious and very expensive, processes of the court system.

The bill does not seek to direct the way alternative dispute resolution measures will be undertaken but seeks to facilitate courts being able to undertake them. There is a range of benefits as part of this, which are identified in the justice statement, and they are the reason we are supporting and implementing this bill.

A lot has been said about court time and costs and the costs of seeking legal representation, and all those things are absolutely true. But the point I would like to raise in this debate is the benefits that extend to people taking ownership of the resolution of the dispute. Often when a dispute is adjudicated one party feels that they are the winner and that the other is the loser. This measure is intended to remove that concept of winners and losers and is really about exploring a resolution that is acceptable to all parties in the hope that both parties will feel ownership of the resolution and therefore accept it more readily. Hopefully, above all else, that will mean they are not back in a court at some later stage because there are still unresolved disputes or unresolved feelings of being poorly done by. This is mostly the case in civil disputes.

I support this bill. I support the alternative dispute resolution mechanisms this bill helps facilitate by giving immunity to judicial officers and allowing them some flexibility in determining how the alternative dispute resolutions will take place. I commend the bill to the house.

Sitting suspended 12.59 p.m. until 2.05 p.m.

Business interrupted pursuant to standing orders.

DISTINGUISHED VISITORS

The SPEAKER — Order! I welcome to the Parliament two visiting members of Parliament from other parliaments: Maria Eagle, who is the Minister for State in the British Parliament; and Ozdal Ucer, who is a Turkish parliamentarian.

QUESTIONS WITHOUT NOTICE

Desalination plant: lobbyist

Ms ASHER (Brighton) — My question is to the Premier.

Mr Hulls — Get it right this time.

Ms ASHER — I was right last time. Can the Premier confirm that on 1 July 2008 he attended a fundraising dinner and that during that event he had contact with and spoke to Mr Philip Staindl, the

president of Progressive Business and director of government relations for InsideOut Strategic?

Honourable members interjecting.

The SPEAKER — Order! The Minister for Education!

Mr BRUMBY (Premier) — During the course of a week, a month, a year, I speak to an extraordinary number of people. That would be expected of me as Premier of this state — to move around the state, to meet people, to talk to people and to discuss issues with people. I am not sure what the intent of the honourable member's question is, but if it is in relation to water projects, let me just reiterate for the honourable member and the house the conclusion of the probity advisers and probity auditors in relation to the water project. This is from Pitcher Partners:

> I am satisfied the RFP process was conducted in accordance with probity requirements and all matters that arose throughout the process were addressed in an appropriate manner and properly documented.

Next:

> From a probity perspective I have no material outstanding issues regarding conduct of the RFP process.

Questions interrupted.

DISTINGUISHED VISITOR

The SPEAKER — Order! Before calling the member for Albert Park I also welcome to the gallery a member of the South Australian Parliament, Iain Evans.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Employment: government initiatives

Mr FOLEY (Albert Park) — My question is to the Premier. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the Premier outline to the house recent economic news that shows Victoria is addressing the global financial crisis?

Mr O'Brien interjected.

The SPEAKER — Order! The interjection by the member for Malvern is most disorderly. I warn the member for Malvern.

Mr BRUMBY (Premier) — I thank the member for Albert Park for his question and for his strong commitment to new investment and new jobs in our state. It is apparent to this Parliament — to all members in this place — that Victoria is weathering well the global financial crisis. It is a simple formula for our state, and that is that confidence and investment equal jobs. We made it very clear in May this year when we brought down our budget that the budget was about building jobs and building opportunities for our state. No issue is so important as weathering the global financial crisis and generating new jobs for our state.

Today the regional labour force figures were released. They show that employment in regional Victoria over the July quarter was 5.3 per cent below the national average, which is to be compared with large falls in employment in regional areas of Queensland, South Australia and Western Australia. Last week's building approval data shows that Victoria reported the highest value of total building approvals in Australia in June, at $2 billion, which is ahead of Queensland at $1.6 billion and New South Wales at $0.9 billion.

We also recorded the highest value of building approvals of any state over the year to June 2009, with a total of $18.3 billion. We are the only state to have recorded growth in building approvals over the last year. All of that is on top of the record $11.5 billion infrastructure spend we put in this year's budget, which will generate more than 35 000 new jobs for our state. If you think about that, you think about investment in schools, in hospitals, in social housing, in roads, in trains and in trams, all of which will result in 35 000 jobs.

I mentioned the regional labour force figures. Last week the statewide figures were released. Victorian employment increased by 12 000 jobs in July, reducing the unemployment rate from 6 per cent to 5.8 per cent — the strongest monthly growth since April 2008. As we look through these trend figures we see that Victoria has generated more than 22 000 new jobs. Victorian newspaper advertisements released on 3 August were up by 15.4 per cent, which is the highest level in six months. The *Herald Sun* got it right when it said last Friday:

> Victorians are resisting the gloom of the global recession with the number of people in work jumping by more than 6000 last month.

It had a lovely quote from advertising professional Lucy Kennon, who is 25. She found her dream job in the corporate world:

> 'It was hard, but there are certainly jobs out there', she said. 'There are definitely businesses looking and lots of opportunities'.

She is absolutely right.

Over the last few weeks we have made more decisions and taken more decisive action to generate jobs and investment in our state. We successfully announced the biggest desalination plant in Australia, which will provide more than 3000 direct and indirect jobs. We also announced last week the Austin neuroscience facility, which will create another 200 construction jobs and will support 200 ongoing jobs at what will be the biggest neuroscience research facility anywhere in the Southern Hemisphere. Just a few weeks ago at Newport I also announced, with the Minister for Public Transport, the rollout there of stabling that will create 500 new jobs.

Yesterday we announced next year's Melbourne Winter Masterpieces. This is an extraordinary exhibition which will come to our state. We are already seeing extraordinary numbers running through the Salvador Dali exhibition — more than 170 000 or thereabouts have been through already. More than 120 000 visitors have been through the A Day in Pompeii exhibition. Last year we achieved the highest ever share of tourists coming to Melbourne — 29.3 per cent. All of this is about a single four-letter word: jobs — j. o. b. s. — and Tiger Woods is coming in November.

Ms Asher interjected.

Mr BRUMBY — The Deputy Leader of the Opposition laughs about Tiger Woods. Most of the big hotels in Melbourne have record bookings right through late October and November. Most of the tickets to the golf have already been sold; you cannot get enough of them. The attention of the world will be on Melbourne. It is going to bring jobs and opportunities to our state, and the only people I can find in the whole of Victoria who have been opposed to this outstanding young man coming here — he is such a great role model and such a great golfer — are the Leader of the Opposition and the Liberal Party.

We have had the biggest downturn in the global economy since the Great Depression of the 1920s and 1930s, and on this side of the house we have made it our business to do everything we can as a government to create investment and jobs for our state. The only people getting stuck into us for doing that are the Liberal Party and The Nationals — —

The SPEAKER — Order! The Premier will not debate the question. He has been speaking for some time, and I ask him to conclude his answer.

Mr BRUMBY — We have seen further evidence of this destructive behaviour, this negative behaviour, with the vote last night to try to — —

Mr Ryan — On a point of order, Speaker, the Premier is debating the issue. He has been speaking for more than 4 minutes, and I ask you to have him conclude.

The SPEAKER — Order! The Premier is concluding his answer.

Mr BRUMBY — We are doing everything we can to generate investment and jobs, whether it be in infrastructure, whether it be in major events, whether it be in bringing water security to Melbourne and to the state of Victoria or whether it be through Tiger Woods. All of these things are about investment and jobs. If you asked the people of Victoria what is the no. 1 thing they are concerned about at the moment, it would be jobs. They know that this side of the house is doing everything it can to generate those jobs, as distinct from others who want to drag this state backwards and destroy jobs.

Desalination plant: lobbyist

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I draw the Premier's attention to his media release dated 30 July 2009, which congratulates AquaSure, which consists of Suez Environnement and Degremont, for successfully being awarded the desalination plant tender contract. I further draw the Premier's attention to the commonwealth lobbyist register, which identifies Degremont as a client of InsideOut Strategic and its director of government relations, Phillip Staindl, and I ask: can the Premier advise the house on how many occasions he or any member of his staff had contact with Mr Staindl during the tender process period from June 2008 to July 2009?

Mr BRUMBY (Premier) — I thank the Leader of the Opposition for his question. Again he obviously did not listen to the answer I provided to the first question. He has a problem with listening. I will repeat for the benefit of the Leader of the Opposition the views of the probity advisers and the probity auditors in relation to the desalination project:

> I am satisfied the RFP process was conducted in accordance with probity requirements and all matters that arose throughout the process were addressed in an appropriate manner and properly documented.

> From a probity perspective I have no material outstanding issues regarding the conduct of the RFP process.

I must say, in relation to these questions today by the Leader of The Nationals and the Leader of the Opposition, my office has advised me — —

Honourable members interjecting.

Mr BRUMBY — The Deputy Leader, sorry.

Honourable members interjecting.

The SPEAKER — Order!

Mr BRUMBY — The secret meeting on 1 July was in fact the Prime Minister's gala dinner at the National Gallery of Victoria, attended by 500 people.

Water: food bowl modernisation project

Mr BROOKS (Bundoora) — My question is to the Minister for Water. Yesterday an extraordinary decision was made in the other place to stop this government setting aside water savings from irrigation modernisation projects for Melbourne and the environment. Can the minister explain to the house the implications of this extraordinarily disgraceful decision to deny water to Melbourne households and stressed river systems in northern Victoria, including the Murray River?

Mr Ryan — On a point of order, Speaker, the question as framed is a clear imputation against the Parliament of Victoria, the other place in particular. A decision was made by the Parliament, and it is completely inappropriate and improper for the member to cast his question in the way that he has.

The SPEAKER — Order! I uphold the point of order from the Leader of The Nationals. It is inappropriate to reflect on a decision made in the other house, and I ask the member to rephrase his question.

Mr BROOKS — My question is to the Minister for Water. Yesterday a decision was made in the other place to stop the government setting aside water savings from irrigation modernisation projects for Melbourne and the environment. Can the minister explain to the house the implications of this decision?

Honourable members interjecting.

The SPEAKER — Order! The member for Albert Park is warned. For some reason government members seem to find this amusing. I certainly do not. The member for Footscray is warned.

Mr HOLDING (Minister for Water) — I thank the member for Bundoora for his question. The question may have changed, but the answer remains the same, and that is: yesterday the Victorian people were subjected to an extraordinary spectacle, the spectacle of the disallowance of the methodology of the proposal for sharing water flowing from the food bowl modernisation project. The food bowl modernisation project is a bold project that represents the biggest water savings project in Australian history. Every time we hear from people right around the state, whatever political party they come from, whatever side of politics they come from, they say they support the food bowl modernisation project. Members opposite know to say yes, they too support the food bowl modernisation project. You cannot save 425 billion litres of water unless you put aside $2 billion of funding to support those upgrades. You cannot put aside — —

Mr Weller interjected.

The SPEAKER — Order! I ask the member for Rodney to cease interjecting in that manner, and I ask the Minister for Water to make his comments through the Chair.

Mr HOLDING — One cannot put aside 425 billion litres worth of savings unless one puts aside $2 billion to fund the project. One cannot fund this project unless one brings the funding partners to the table: $1 billion from the commonwealth government, $600 million from Victorian taxpayers, $300 million from Melbourne water consumers and $100 million from irrigators themselves.

If the disallowance motion agreed to by the Legislative Council yesterday were to stand, then there would be no sharing of water savings as a consequence of the food bowl modernisation. In other words, all the water savings would be put in the general pool and flow to irrigators and irrigators alone. No water would be made available to the environment.

Honourable members interjecting.

Mr HOLDING — Honourable members opposite interject, Speaker. They do not understand the ramifications — —

The SPEAKER — Order! I ask the minister not to respond to interjections. However, I ask the Leader of The Nationals and the Deputy Leader of the Opposition not to bait the minister from their advantageous position. I ask the other members of the opposition not to attempt to shout down the minister.

Mr HOLDING — If this motion were to stand, there would be no water for the environment, and 175 billion litres has been allocated to the environment at the moment. The environment would not receive one drop if this disallowance motion were to stand. Seventy-five billion litres has been allocated to Melbourne. Melbourne would not receive one drop if this disallowance motion were to stand. Why would the commonwealth fund up to $1 billion to support this upgrade if the environment were not to receive a drop? Why would Melbourne Water customers contribute anything to this project if Melbourne Water customers were not to receive one drop? How would this project proceed? How would it proceed without any of the funding in place other than the $100 million from the irrigators themselves and the expectation that Victorian taxpayers would continue to contribute $600 million even though no water is to go to the environment and no water is to flow to Melbourne?

As we saw yesterday, the truth is that there is an unholy alliance between the Greens, The Nationals and the Liberal Party to gang up to deprive Melbourne of water and to deprive the environment of water. Why would the Greens vote against more water for stressed river systems? What did they do? They put the government in the position of using an alternative mechanism to make sure that this water can be shared as the original plan proposed.

The opposition is saying that the government should be kept to its promises. We have always promised that this water should be shared equally.

Honourable members interjecting.

The SPEAKER — Order! I failed to pick up the member who was banging on the desk in front of them. I suggest to members that doing that makes it very difficult for our staff, and I ask members not to do so. I also ask members not to interject in that manner. The minister will not be howled down. However, I say to the minister that he has been speaking for some time, even given the interruptions, and I ask him to conclude his answer.

Mr HOLDING — It has — —

Honourable members interjecting.

The SPEAKER — Order! The advice from the member for Bass is not necessary, nor is it welcomed. I warn the member for Narre Warren North.

Mr HOLDING — It has always been the central premise of this proposal that the water savings generated should be shared, with more than 80 per cent of the water to remain in northern Victoria shared equally between irrigators and stressed river systems and just under 20 per cent of the water flowing to Melbourne to reflect Melbourne's contribution to the food bowl modernisation. The government is determined to press ahead with this project. We see this project — the biggest water savings project in Australian history — as absolutely central to our plans to provide water security for all Victorians.

Despite the tactics we saw on display in the upper house yesterday we are determined to press ahead and to make sure that the vitally important food bowl modernisation project, which is creating over 500 jobs in northern Victoria as we speak, can proceed and that the water savings generated can be shared as was originally anticipated.

Desalination plant: lobbyist

Ms ASHER (Brighton) — My question is to the Premier. I refer the Premier to the Victorian desalination project probity and process requirements as prepared by Corrs Chambers Westgarth lawyers for the government of Victoria, and I draw the Premier's attention to item 3.2, which requires tenderers to agree, and I quote:

> That they will not, and they will ensure that their associates do not, make contact with the state or any of its associates, members of Parliament or their staff.

I ask: can the Premier confirm that following each contact he and his staff have had with Mr Philip Staindl full details of that contact were provided to the desalination project probity auditor?

Mr BRUMBY (Premier) — The whole basis of the question of the Deputy Leader of the Opposition is horribly flawed. The honourable member has correctly — —

Mr Hodgett interjected.

The SPEAKER — Order! If the member for Kilsyth has a question, he should stand in his place at the appropriate time and ask that question. Otherwise he does not interject.

Mr BRUMBY — The honourable member has correctly read in part — and I will not burden the Parliament by reading all of them — the probity and process requirements, but what she has neglected to say is that the desalination project's probity and process deed specifically prohibits the engagement by bidding consortiums of people to lobby on their behalf.

Rail: regional freight network

Mr EREN (Lara) — My question is to the Minister for Public Transport. I refer the minister to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister outline to the house the major investments the government is making to improve regional rail freight lines, secure jobs and drive local economies?

Ms KOSKY (Minister for Public Transport) — I thank the member for Lara for his question. As every member in this house knows, the Brumby government is absolutely committed to the regional rail freight network around Victoria. We have made that commitment clear by the investment we have made in the regional rail freight network since we bought it back. Seventy-five per cent of the network has been or is in the process of being upgraded by this government. We are investing in rail freight.

We have invested over $600 million in rail freight in the last few years. It is an extraordinary investment that we have made since we bought back the track. Of that investment, $73 million is going into the Mildura line upgrade, and that will be completed in September; the Swan Hill to Piangil works will be completed this week; the Charlton to Sea Lake works began in mid-July and they will be completed by mid-September; the Ouyen to Pinaroo works begin in early September and they are scheduled to be completed by November this year, all in time for the grain harvest at the end of the year. Works on the new Wodonga station are also about to commence as part of the $612 million upgrade of the north-east rail corridor. We are also ensuring that the Benalla–Oaklands line remains linked to the north-east rail corridor and remains open.

All these works, which improve regional rail freight right around the state, are focused on securing jobs — jobs in the agricultural sector and the farming sector and jobs that will ensure that the work is completed in time for the grain harvest. And of course they are a major boost to local economies.

These works and our investment have been widely welcomed right around the state. The *Yarrawonga Chronicle* recently devoted a section to the progress of the $13.2 million Benalla–Oaklands upgrade, which is creating more than 200 jobs along that north-east rail corridor. About 60 per cent of that workforce is believed to have been hired from the local area, so it is a major boost to that local economy.

The *Sunraysia Daily* last week praised our regional rail investment with the headline 'Murrayville next, sleepers being delivered to Ouyen'. One commentator, who was photographed with the brand-new sleepers, was quoted as saying, 'When the line closed they lobbied politicians, and here we are a year and a half later with the upgrade work soon to start'.

Speaking of sleepers, maybe that commentator had just woken up after the chronic underinvestment by the previous government in rail freight right around the state. He is as pleased as I am that this work will start and will be finished this year. To indicate how pleased he was, he had a very happy snap in the *Sunraysia Daily*. Who was the commentator? It was none other than the member for Mildura. He has woken up to the fact that we are investing in regional rail freight right around the state, and he has woken up to the fact that it is only a Brumby government that will make that investment.

This government is absolutely committed to the regional rail freight network. We are committed to supporting farmers and committed to investing in the agricultural sector. We are getting on with the job and delivering on these very important regional rail freight projects.

Desalination plant: lobbyist

Mr BAILLIEU (Leader of the Opposition) — My question is to the Minister for Water. I refer the minister to item 5.6 of the probity process deed for the Victorian desalination project, which requires all tenderers and their associates to:

> … immediately notify the state of any fact, matter or thing which may have an adverse effect on the probity, or perception of probity in relation to the project.

And I ask: have AquaSure and all of its associates advised the minister, representing the state, or the probity auditor of all contacts between the Premier and Mr Philip Staindl as required, or has this contact been kept secret?

Mr HOLDING (Minister for Water) — I thank the Leader of the Opposition for his question. This is obviously part of a pattern of opposition questions which endeavour to raise questions where none exist in relation to the desalination project.

What we can say is this: firstly, we can say the desalination project has been subject to the strictest probity arrangements that we have seen for any project and for any process like this in Victorian history. Secondly, we can also say that not only was the

Victorian government supported and protected by the engagement of a probity adviser through the capital works division of the Office of Water but also both of the bidding consortiums — both AquaSure and BassWater — engaged Queen's Counsel to provide probity advice throughout the entire bidding process.

Not only that, but Leighton Holdings, which has an interest both in Thiess and John Holland, the construction companies involved in both consortiums, also engaged Queen's Counsel to provide probity advice through the entire process.

Both bidders were required to sign the probity process deed. The probity process deed, which the member for Brighton has just quoted from, made it absolutely clear that neither bidding consortium was to engage consultants to engage in lobbying or alternatively to lobby themselves within the generally understood meaning of the term 'lobbying'.

Honourable members interjecting.

Mr HOLDING — I can just quote it from the document, which details the conduct that they were not to engage in. The probity adviser for this project has specifically advised the Office of Water, the Department of Sustainability and Environment and the government that the probity arrangements for this — —

Mr Baillieu — On a point of order, Speaker, the minister is debating the question, and I ask you to draw him back to the question. The minister is correct, there has been a pattern of questions, but it is the pattern of not answering which is of interest to Victorians. The government has failed to answer each of the questions asked of it.

Mr Hulls — On the point of order, Speaker, the Leader of the Opposition may not have his heart in this, but the fact is that you cannot use a point of order to repeat the question.

The SPEAKER — Order! There is no point of order. The Leader of the Opposition's question clearly talked about item 5.6 of the probity tender. The minister is giving detailed information about the probity tender.

Mr HOLDING — The probity auditor has now advised the government that the probity arrangements that were put in place and the probity practices that were observed as part of the desalination project tender process conformed with all the relevant policy guidelines and all the relevant legislative requirements. All of the meetings that he attended and observed and all of the processes in which he was involved complied completely with the probity arrangements that he expected to see observed for this project. In other words, not only were the strictest processes put in place but, more importantly, the strictest probity arrangements were followed and observed during each and every part of the desalination tender process.

Those opposite might not like it, but the fact is that this process has been completely above board. They do not need to take our word for it; the probity adviser himself has certified to the appropriateness of the probity arrangements for this important contract.

Employment: disability programs

Ms CAMPBELL (Pascoe Vale) — My question is for the Minister for Community Services. I refer to the government's commitment to make Victoria the best place to live, work and raise a family, and I ask: what action is the government taking to ensure all Victorians share in job creation opportunities?

Ms NEVILLE (Minister for Community Services) — I thank the member for Pascoe Vale for her question. The Brumby government is taking action to deliver jobs for all Victorians. On this side of the house we know how absolutely vital jobs are in ensuring participation in our community. This is equally true of people with a disability, who have skills to contribute and rightly have an expectation of employment. That is why we are investing in creating jobs for Victorians who have a disability.

To increase the employment of people with a disability the government last month established a disability recruitment assistance service to help 300 people access employment. This is a very practical service: a job agency for people with a disability that matches workers with jobs and job vacancies in the public sector based on their skills and their merits. Importantly the agency also helps managers and staff after the selection process to ensure that people with a disability settle into the workplace appropriately and hold onto those jobs.

The Disability Act requires public bodies to develop disability action plans, and through the Office for Disability these plans are being put in place. We are working with all government departments and with local councils, statutory authorities, corporations and over 450 public and community sector organisations to make sure that their workplaces are disability friendly. This includes making practical, physical changes to the workplace with appropriately designed facilities and workspaces and achieving tangible changes in attitudes and practices so that real opportunities are provided to people with a disability. In May and June this year

alone over 150 public and community organisations participated in this training and support.

This government is particularly focused on helping young Victorians get a job, because it knows that is crucial in ensuring that young Victorians get the best start in life. Young people with a disability are no different. Through our Transition to Employment initiative over 350 young people are being supported to move from education and training onto the road to finding a job. Already 33 young people have found jobs or have been able to continue with further education without the need for disability support. I commend to the house today all those employers who have put up their hand to support people with a disability and ensure that they have employment opportunities.

The government is also playing its part by taking 200 graduates with a disability into the public and community sectors through our Career Start program. Of course over the last two years this government has made the biggest investment in disability services ever in Victoria's history, and that has meant a huge boost to disability infrastructure spending, which is also generating jobs in the building sector. For example, through our My Future My Choice program, which provides housing for young people with a disability who are currently living in nursing homes, we have houses being built in Geelong, Altona and Frankston and a further 10 houses coming on stream in places like Bairnsdale, Ballarat, Bendigo, Moe and Shepparton as well as in Melbourne. Our investment in My Future My Choice is providing over 100 jobs for local builders in those communities.

These programs represent hundreds of jobs for people with a disability, for workers in the disability sector and for workers in other industries and trades. That figure is in stark contrast with the 12 000 reported job losses in the health and community services sector under the last government. On this side of the house we are taking action to secure jobs to improve the lives of all Victorians with a disability.

Insurance: fire services levy

Mr RYAN (Leader of The Nationals) — My question is to the Premier. If, as the Premier says, the fire services levy is not a tax, why does it appear at page 195 of volume 4 of the government's budget papers under the title 'Taxes on insurance'?

Mr BRUMBY (Premier) — As I thought I had made clear to the Leader of The Nationals in relation to this issue yesterday, it has been the policy of successive governments when raising funds for fire prevention to base those funds on contributions from government and from the insurance industry. It has always been thus. Again as I said yesterday in answer to the question asked in Parliament, the fact is we have substantially increased the expenditure across the state in making our state more fire safe. We made more announcements in the budget about that. In fact we announced a further $1 billion of expenditure over the forward estimates period; some of that will be met by government and some will be met by the insurance industry.

Yesterday there was an interjection to which I did not respond, but somebody in the house said, 'They pay 30 per cent less in WA', referring to Western Australia. Unless the person who made the interjection is suggesting that somehow a poll tax is a more efficient way of collecting — —

Mr Ryan — On a point of order, Speaker, the Premier is debating the question, and I ask you to have him answer the question he has been asked. If it looks like a duck, and it quacks like a duck, it is a tax.

The SPEAKER — Order! The Premier was debating the question, but the Leader of The Nationals knows not to take a point of order in that fashion.

Mr BRUMBY — The fire services levy has increased, and we are required to — —

Honourable members interjecting.

The SPEAKER — Order! I again ask members of the opposition to allow question time to continue in some sort of orderly manner.

Mr BRUMBY — The fire services levy is the insurance industry's mechanism for raising those funds from people who are insured. Because the money — —

Honourable members interjecting.

The SPEAKER — Order! If the member for Warrandyte has a question, he should stand in his place at the appropriate time and he will be called.

Honourable members interjecting.

The SPEAKER — Order! I have the same suggestion and advice for the member for Hastings.

Mr BRUMBY — Because those funds are collected and expended on fire protection and safety they are recorded in the budget papers. The way they are recorded in the budget papers is no different from other items. For example, schools raise money and keep that money in their school bank accounts. The money they raise is required, by a decision of the Auditor-General,

to be reported as a revenue item in the budget, but it does not mean that that is a school tax. They are raising revenue, and the Auditor-General requires that revenue to be recorded in the budget papers. It is no different with the fire services levy.

What I can say is that if you had a property-based levy, which is The Nationals policy, you would have a poll tax. Earlier this year — —

Dr Napthine interjected.

Mr BRUMBY — Well, I think it is a disgraceful policy.

Dr Napthine — Apologise.

Mr BRUMBY — What is your policy, Denis?

The SPEAKER — Order! The Premier!

Ms Pike interjected.

The SPEAKER — Order! The Minister for Education will cease interjecting in that manner.

Dr Napthine — On a point of order, Speaker, the opposition is happy to have a debate at any time on the fire services levy. The Premier is debating the question, and I ask you to bring him back to order. If the government wants to bring on a debate on the fire services levy, then bring it on!

The SPEAKER — Order! The member for South-West Coast knows not to take a point of order in that manner. The Premier will cease to debate the question. I suggest he has been talking for some time, and I ask him to conclude his answer.

Mr BRUMBY — As I indicated to the house yesterday, although it may have been unpleasant for those opposite to hear, the fire services levy was inherited by this government from a National Party minister. That has always been the policy that has been in place. The fire services levy is higher today than it was 10 years ago. That it is a fact. It is higher because we are spending more on fire safety.

If the opposition wants to have a debate about spending less on fire safety and fire preparation — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Premier not to discuss the opposition and to conclude his answer.

Mr BRUMBY — As I have said, we are determined to ensure that Victoria is as fire safe and as fire ready as possible in preparation for this year's fire season. You cannot do that without a substantial contribution to firefighting resources and to fire protection. We make no apology for the investment that we are making as a government and as a community to keep our state safe.

Health: government initiatives

Mr LANGDON (Ivanhoe) — My question is to the Minister for Health. Can the minister inform the house how innovations in Victoria's health services are helping to make Victoria a better place to live, work and raise a family?

Mr ANDREWS (Minister for Health) — I thank the member for Ivanhoe for his question and for his long-term commitment to health services in his local community. As a government we have very proudly in each and every year of our term in office given to our dedicated clinicians and our health services across the state the resources required to innovate, drive change and improve outcomes for patients. That is what investment is all about. It is about giving those who provide care the tools and the practical support they need to in turn deliver outcomes for patients in communities right across our state.

There are many examples of our government's approach to that and the innovation it has supported, and indeed to the innovation that that approach has driven. If I could quote just one in terms of elective surgery, we had an extremely important partnership with the commonwealth government last year, and we have had a report recently. Health reform is a very topical issue. We have had a report from the National Health and Hospitals Reform Commission, which has singled out our great state's investment in stand-alone elective surgery centres in terms of our state's investment — —

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

Member for Warrandyte

The SPEAKER — Order! Under standing order 124 I ask the member for Warrandyte to leave the chamber for half an hour.

Honourable member for Warrandyte withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Health: government initiatives

Questions resumed.

Mr ANDREWS (Minister for Health) — The National Health and Hospitals Reform Commission has singled out the investment of our state in terms of dedicated elective surgery centres, whether they are at the Alfred hospital — a $60 million investment — or in the electorate of the member for Ivanhoe at the repat site of Austin Health, a dedicated elective surgery centre at a cost of $8 million. What does that money mean? It means more surgery is being done faster. It was held up as innovation and leadership by the National Health and Hospitals Reform Commission in its recent report provided to the commonwealth government. Further work is going on in terms of supporting a similar centre at St Vincent's for specialist orthopaedic surgery in a stand-alone capacity, separating emergency demand from elective demand. It is common-sense innovation supported by this government to the undoubted benefit of thousands of patients across our state.

I mentioned partnership. We were able last year not to deliver just on our commitment to do 9400 extra episodes of elective surgery but to do 13 478 extra episodes of elective surgery, because of our partnership with the commonwealth government. But that partnership, as important as it is, is not the only partnership. There is at least one other partnership when it comes to elective surgery, and that is about making the best use of the best skills and making sure that where we can on equitable terms purchase services from the private sector, we do that to make sure that more patients get the care they need, faster. I would have thought that that approach — proper engagement with the private sector — would be supported by everybody, because it is about giving patients the surgery they need, faster.

Sadly, that innovation, that reform, that common-sense approach to providing better outcomes for patients is not supported by everybody. It was recently described by one — I will not say 'commentator' — person as a 'sneaky way of reducing the waiting list'. Further on from that it was described by this all-knowing individual as 'hurting the public hospital system'. More surgery for more Victorians, faster is 'sneaky' and 'hurting the hospital system'. That is an amazing commentary on what is a practical and common-sense policy. It is so eminently sensible that it was a feature of this document.

The SPEAKER — Order! The minister will not use a prop.

Mr ANDREWS — This document is only three years old. The commentator in question, and someone no doubt involved in the production of that document, was the oracle from Caulfield.

COURTS LEGISLATION AMENDMENT (JUDICIAL RESOLUTION CONFERENCE) BILL

Second reading

Debate resumed.

Mr HULLS (Attorney-General) — In summing up, can I thank everybody for their contributions to the Courts Legislation Amendment (Judicial Resolution Conference) Bill. I just want to make a couple of points on some of the issues that were raised, in particular by the shadow Attorney-General. In relation to the Kororoit by-election, he spoke about me turning up on my motor scooter dressed in a certain way. I have to say I certainly will not be taking fashion advice from the member for Box Hill. Taking fashion advice from the member for Box Hill would be like taking singing lessons from Marcel Marceau!

The fact is that his contribution on the bill showed a total lack of understanding of ADR (appropriate dispute resolution) and a total lack of understanding of what the bill is about and what judicial mediation is all about.

This is very important legislation. It is a very important initiative. It was suggested by the opposition that judge-led ADR would divert judicial resources away from adjudicating cases and would cause delays in the system. The fact is that the whole purpose of judge-led ADR is to assist parties to resolve their cases before getting to an expensive and protracted trial. In Quebec in Canada, for instance, cases set down for a three-week trial have actually been resolved in three hours through judge-led mediation. In no way could that be said to contribute to delay; quite the opposite.

In any event, the fact is that the government has provided additional resources to the Supreme and County courts to conduct judicial resolution conferences. Each court has been allocated an additional judge, judicial support staff and an ADR coordinator. The provision of those additional resources means that the non-ADR work of the courts will be unaffected.

Secondly, it was suggested by members of the opposition that judge-led ADR represents a cost shift to the parties and that delays in the courts will force parties into mediation. There is no cost shift to the parties at all. Neither the courts nor the government will be charging for judicial resolution conferences. Judicial resolution conferences are voluntary. If parties do not wish to participate in judicial resolution conferences, they cannot be forced to and, moreover, judge-led ADR will provide an option for those litigants who are unable to afford the costs of private mediation. Mediation will now be a realistic option for unrepresented litigants, because there is no fee for judicial resolution conferences.

Thirdly, it was suggested that not all judges would make good mediators. The government recognises that presiding over ADR processes calls for different skills and that not all judicial officers will have those skills. That is why we have funded the Judicial College of Victoria to provide training for judges in ADR. To date the courts have been provided with a number of training programs, including a program led by mediation expert Tania Sourdin of the Australian Centre for Peace and Conflict Studies at Queensland University and a master class conducted by Justice Louise Otis from the Quebec Court of Appeal. Further training will be provided by the Judicial College of Victoria.

Fourthly, concerns were expressed about the private nature of judicial resolution conferences — that is, that this in some way diminishes the concept of open justice and the right to have a case determined by the court. Again I note that participation in judicial ADR is voluntary and in no way detracts from a party's right to have a case determined by the court if it cannot be resolved by agreement. I have absolute confidence that the courts will take on this new role with the same integrity, the same care and the same skill that they bring to hearing and managing cases. The bill in no way prescribes the way in which the courts are to conduct judicial resolution conferences. The courts will develop the protocols and practices necessary to ensure that participants have confidence in the process, and the training programs being provided to the judiciary will certainly equip them to do this.

Finally, it was alleged by the shadow Attorney-General that this bill represents a failure to protect the viability of the state's court system. The fact is that since we have been in government substantial extra resources have been put into our courts. I noticed the member for Box Hill suggested in his contribution that the government had neglected courts, particularly in areas such as Niddrie and Broadmeadows. The fact is there is no court in Niddrie. I do not know what he is talking about when he says we have neglected courts 'particularly in Niddrie'. This government is not in the business of neglecting courts, nor are we in the business of closing courts.

Opposition members might remember that in January 1993 the magistrates courts at Camberwell, Cheltenham, Mordialloc, Mornington, Sandringham, Oakleigh, Springvale, Box Hill — in the electorate of the shadow Attorney-General, Ferntree Gully, Lilydale, Prahran and Melton were all closed under the previous government and that, in July 1999, the magistrates court at Williamstown was also closed. The fact is there were some 13 court closures under the previous government. Furthermore, judges were sacked under the previous government. Members might cast their minds back to the judges of the Accident Compensation Tribunal, who were sacked in a move that was unprecedented in this state. The shadow Attorney-General's claim that this government has neglected courts and the judiciary is an absolute nonsense and a grossly hypocritical statement to make.

This is groundbreaking legislation. Again we will lead the nation when it comes to ADR. ADR is the way of the future when it comes to dispute resolution, and the next step in ADR is judge-led mediation. This new legislation allows that to occur. I am pleased to say it has been embraced by the judiciary, and I expect other jurisdictions in Australia and around the world will follow Victoria's lead when it comes to ADR in general and judge-led mediation in particular.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

LOCAL GOVERNMENT AMENDMENT (CONFLICTING DUTIES) BILL

Second reading

Debate resumed from 12 August; motion of Mr WYNNE (Minister for Local Government).

Dr NAPTHINE (South-West Coast) — I rise to speak on the Local Government Amendment (Conflicting Duties) Bill. Fundamentally this bill inserts a new section into the Local Government Act to

prevent a person from becoming or continuing as a councillor if the person is a member of a state or federal Parliament, a ministerial adviser, a parliamentary adviser or electorate officer to a state or federal MP, or a councillor of another council in Victoria or in another state or territory.

This fundamentally comes from the scathing Ombudsman's report into the improper practice of councillors at the Brimbank council, which identified corrupt practices and behaviour involving Labor councillors, staff at Labor MPs' offices and Labor MPs themselves. This litany of sleaze, corruption, dodgy deals, political payback, blatant abuse of power, complete disregard for community and corrupt misuse of public funds is not just confined to Brimbank. We have seen the Ombudsman's report on the Port Phillip council, and we have seen it with Dandenong, Geelong, Casey and Hume. And who can forget that an electorate officer of the Premier himself was involved in forgetting to declare a $5000 donation from a developer? What is the common element in this sleaze and corruption? It is the Labor Party — Labor MPs and Labor councillors.

I wish to speak briefly of the situation in my own office. For 20 years I had a professional and dedicated electorate officer who served the community and me as an MP with distinction. In 2005 my electorate officer decided to nominate for local council. I had some concerns that this would create a conflict of interest with her duties as an electorate officer, and I raised these concerns with the Department of Parliamentary Services and the Speaker at the time. I was told in no uncertain terms that I was behaving inappropriately, that it was contrary to the enterprise bargaining agreement and contrary to the electorate officer's human rights, and that it was inappropriate for me to seek to interfere in her right to stand as a councillor.

She was elected as a councillor, and we both did our jobs to the best of our abilities while she continued as an electorate officer. But there were clear instances of conflict of interest. Therefore I support this legislation. But I think the government should take the next logical step. I believe it should consider banning endorsed political candidates at all council elections.

Mr Wynne — For all parties?

Dr NAPTHINE — For all parties. There is no place for party politics in local government; there is no government and opposition. What we need is independent candidates elected by their community to represent their community. That is what the grassroots of local councils should be about; that is the way they work effectively. I believe we need to go to the next step and ban party politically endorsed candidates at all council elections in the future.

Dr SYKES (Benalla) — I rise to speak on the Local Government Amendment (Conflicting Duties) Bill. I will make my remarks brief, given that we are looking to finish up. I want to make two comments. The first is from my experience in the electorate of Benalla, where I deal with seven local government areas involving approximately 50 councillors. I believe all of those councillors operate and fulfil their duties to the best of their ability and with the highest integrity. I should also say that I do not have a problem with the principle of electorate officers also being councillors. The major issue is where those electorate officers abuse that position.

So we come to the origin of this piece of legislation and what is behind it — that is, the situation at the Brimbank council and the Ombudsman's exposure of a range of major concerns there relating to corruption. As has been highlighted by many other members, the issue is not just with councillors and with electorate officers; the issue is that the Australian Labor Party is corrupt to the core.

In introducing this piece of legislation in line with the recommendations of the Ombudsman, I suggest that the government is hiding behind the Ombudsman. It is like a person who has poor circulation needing to have a foot amputated because it is going gangrenous. What we have is a gangrenous Brimbank council, and the Ombudsman has come along and said, 'To solve this problem we should amputate the foot'. That is fine; that does get rid of the gangrenous foot — alias the Brimbank council — but it does not address the problem of the poor circulation.

In the case of the ALP the cause of the poor circulation is a lack of political ticker. Until the Brumby government has the courage to put in place an independent anticrime and anticorruption commission and to drill down and expose all of the corruption that exists within the ALP and other groups, we will be merely treating the symptoms and not the root of the problem. I will leave it at those few remarks.

Mr HODGETT (Kilsyth) — We all know the main provisions of the bill, and I will not go across those as honourable members have outlined them. In the brief time I have available I want to make a couple of points.

One of the main provisions of the bill is that, as has been stated, a councillor cannot be, or be employed by, a member of any state, federal or territory Parliament.

There are already a number of disqualifications under the Local Government Act. Two of those are where a person is an undischarged bankrupt and where a person has been convicted of an offence. In effect this bill is putting councillors who currently work for a state, federal or territory Parliament in the same category as a convicted felon or an undischarged bankrupt. When it comes to Labor councillors — some Labor councillors — this may be apt. This may well have been the intention of the Minister for Local Government — who is actually nodding his head; he probably agrees with that. It is probably apt for some of those Labor councillors, but it is certainly not apt for a number of other councillors who are hardworking, honest and decent people.

This bill is making the councillors the scapegoats. The legislation does not deal with MPs or others who have unduly influenced councillors. The legislation does not stop local councillors from caucusing. The ALP rules, as has been stated, state that:

> An ALP caucus shall be established in each municipal government area where two or more endorsed ALP candidates —

which, incidentally, is in breach of the Local Government Act —

> have been elected to office. All endorsed ALP candidates who have been elected to office shall belong to the ALP caucus.
>
> The caucus shall meet prior to each council meeting.

They go on to state:

> The vote of ... majority of ... caucus members shall bind all ... and no member shall oppose in debate in council any matter which has been determined by caucus, except by the agreement of caucus.

Incidentally, that has now been removed from the ALP website.

As has been stated, this bill does nothing to deal with MPs. The Brimbank report is highly embarrassing to the government. If the minister had a bit of spine and guts he would have acted ages ago. He had the power to do something about the Brimbank council. Justin Madden, the Minister for Planning, has ignored the letters that have gone to him. For 10 years this has been ignored, and now the government is going to rush through this piece of legislation. It does nothing to deal with the corrupt activity in the Australian Labor Party and nothing to deal with the corrupt activity in the Victorian Labor Party. As has been stated, it puts forward a strong case for an independent, broadbased anticorruption commission.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on the Local Government Amendment (Conflicting Duties) Bill. I support the concepts that are in the legislation, and I will not be opposing it. I have some concerns with the legislation, but I do support it. Let me make sure that members understand. This legislation was introduced by the minister because of the corruption within the ALP. That is the only reason it was introduced into this Parliament. As a result of the corruption and what is happening in the ALP, innocent Victorians will be penalised.

In yesterday's *Australian* newspaper a current Labor staffer, who is an ALP member, is reported as saying:

> … the legislation made criminals out of staffers, while MPs caught out exerting undue influence on the Brimbank council faced no sanctions.

This legislation does not resolve anything that took place at the Brimbank council. It is as a result of the criminal activities that were undertaken by members within the ALP. As a result of this, many innocent bystanders will be penalised.

I think it was back in 1999 or 2000 that my electorate officer (EO) sought my view on whether she should stand for council. I said that it was her choice and she had to make that decision, but that if she stood for council, I thought it would be in her interests to perhaps find another job. I agree with the member for South-West Coast. You cannot have someone who is a councillor sitting at the front desk looking after the interests of the Parliament and of your area when a resident walks in to complain about the council. The first person they would meet would be that councillor. At the time my EO decided not to run for council.

I also agree that if you stand for council, then you should not be endorsed by any political party; it does not matter whether it is the Liberal Party, the Labor Party or the Greens. You are there to serve local residents. Local issues are different from state issues where party politics come into play.

While I support this legislation, I think that the government should be looking at more issues to ensure local councils are serving their area and the people who voted for them and not serving the needs of a political party. Many councillors use local council as a jumping board into state or federal Parliament. It is not a bad idea and it is fine, but you should not be influenced by parties at the local level. You are there to serve the area and there should be no party politics involved. I support the bill; however, I urge the government to have a look at the legislation, review it again and take a further step.

Mr TILLEY (Benambra) — I also rise to make a brief contribution to debate on the Local Government Amendment (Conflicting Duties) Bill 2009. From the outset I state that I will not be opposing this bill.

This bill has been introduced directly in response to the Ombudsman's investigation and report into the Brimbank City Council. It has come about as a result of another failure of this Labor government. Earlier in the week we heard a media announcement by the Premier about crime and the carrying of knives. If the Premier is serious and wants to 'nip this in the bud' — to use his words — then why did he not do so 10 years ago? It goes to show that this issue has all been the making of this government and as a result of the corrupt activities of the Australian Labor Party.

I have consulted people throughout the Benambra electorate. I take into consideration the views of the executive of the City of Wodonga and other councillors and executives of other shire councils in the Benambra electorate. Giving people serving as councillors what they believe to be a side door and direct access to a minister is totally inappropriate, it is totally wrong and it is an improper way to go about business when negotiating issues about local government with state government.

Yes, unfortunately there will be some collateral damage. The well-intentioned efforts of those who seek to represent their communities are certainly appreciated but they are being thwarted by those who do nothing more than serve a personal self-interest and the interest of this government to remain in total control at whatever cost.

Without wishing to be accused of plagiarism, I hope members will allow me to use some of the words of John Emerich Edward Dalberg Acton, the first Baron Acton. In 1887, when addressing his concerns in relation to the position of pope and king, he eloquently wrote:

> No men, pope and king, are unlike other men, with a favourable presumption that they did no wrong. Power tends to corrupt, and absolute power corrupts absolutely. Great men are almost always bad men, even when they exercise influence and not authority.

And remember, where you have a concentration of power in a few hands, all too frequently men with the mentality of gangsters get control. History has proved that all power corrupts, and absolute power corrupts absolutely.

There will be no victims of this bill. This bill is not about knocking off tall poppies. This bill is about establishing a clear separation of powers, authority, control and influence. It certainly addresses some of the ALP rules, particularly rule 12.6 where Labor councillors have to caucus before going into council meetings — —

Dr Napthine interjected.

Mr TILLEY — I have no doubt — and this issue is about playing the ball and not the man — we have a councillor at the Wodonga City Council who will probably have to consider their position in the not-too-distant future. This issue will be similar in Geelong. After the 2006 election there were probably about nine failed Labor candidates who were given opportunities for positions in the state of Victoria. I hope this legislation, once enshrined, will address those issues.

Mr CRISP (Mildura) — I rise to make a brief contribution to debate on the Local Government Amendment (Conflicting Duties) Bill 2009. The Nationals in coalition are not opposing this bill. The purpose of the bill is to amend the Local Government Act 1989 to address the conflicting duties of persons who are or who want to be councillors and for other purposes. The bill will come into effect on the day it receives royal assent.

I want to focus mainly on new section 28B concerning the transitional provision. Seven days after the bill receives royal assent a councillor who has conflicting duties who does not resign will be removed from their position as a councillor. The act will be repealed one year after its assent, as is the norm.

This bill presents some difficulties. The government has advised that around 38 individuals will be affected, including 30-plus Labor councillors, 4 Liberal councillors and 1 councillor of the Greens. They will be forced to make a decision about their political future. This legislation will trigger a number of by-elections or countback provisions. Seven single-member wards have been identified; if a by-election is required it will cost councils some money. I am rather hoping — and I know this is not normal procedure — government can assist councils with that money.

There has been some lobbying. The Victorian Local Governance Association is opposed to the bill. Its issue with the bill is — and I support it — the seven-day transition period. I believe the seven-day period clearly needs to be longer. I am hoping the minister can show some flexibility regarding that seven-day period, because the timing of this bill with regard to elections means that the Victorian Electoral Commission will have to trigger a particular mechanism. We are going to

run into the Christmas holiday season. If there is some flexibility, there will be some comfort for councillors when they make decisions, including councillors who are going to make decisions by voting in a ballot. The Scrutiny of Acts and Regulations Committee has also expressed some concerns. It has written to the minister and is awaiting a response. We will be watching that with interest.

This legislation is very much about shutting the door after the horse has bolted. I noticed there was a statement by the minister in this house about an inspectorate in local government. We need to repair the legislation that has allowed this to happen, but we must first throw the book at the crooks. We can get started with mending the legislation afterwards. Councillors who remain after the fallout from the Brimbank affair will be left to carry the responsibility. Some councillors feel they have been made the scapegoats in this issue. My position — I am not opposing this legislation — is to ask for an extension of time for the many councillors who have to make a decision, including those in my municipality.

Mr LANGDON (Ivanhoe) — I rise to make a brief contribution to the debate on Local Government Amendment (Conflicting Duties) Bill. As a former councillor at the City of Heidelberg, as a former employee of a member of Parliament and as a member of Parliament whose has had staff members become councillors, I can assure this house that no undue influence was ever exerted on me and nor did I ever exert undue influence over any councillor. I can assure the house, however, that I have been a victim of councillors from both sides using me. I will not elaborate on that at this stage, but I have been used. I fully support the legislation, because it will put beyond all doubt what can be considered to be undue influence on either councillors or members of Parliament.

Mr K. SMITH (Bass) — I would like to join in this debate on the motion for the second reading of the Local Government Amendment (Conflicting Duties) Bill. I find it appalling that we have to put this type of legislation through because of what Labor councillors and council-inspired Labor officers have been involved in and because of some of the crook deals that have gone down.

We have only to look at recent reports on the Brimbank City Council. The Minister for Local Government had been made well aware of the problems at Brimbank and the involvement of the Labor members of Parliament in the area, of Hakki Suleyman and some of his mates. I wrote to the minister on a number of occasions in my capacity as the shadow Minister for Local Government. He fobbed off my concerns about a lot of the council problems by saying, 'It's up to local government itself to sort it out'. He is never one to take a foot forward and say, 'All right, we will investigate this properly'. We could have overcome the problem at Brimbank years ago if only this government had listened to the claims about the problems there, but the minister did not listen.

The minister knew about the involvement of George Droutsas of the Whitehorse City Council. He knew about the councillors in Geelong and their involvement in taking money that was supposed to be for campaigning.

Mr Wynne — On a point of order, Acting Speaker, this is a limited bill: it relates to implementing recommendation 2 of the Ombudsman's report in relation to the Brimbank City Council. I ask you, Acting Speaker, to direct the member for Bass to contain his contribution to the bill itself and not canvass it in the way he has sought to do here.

Dr Napthine — On the point of order, Acting Speaker, the member for Bass is absolutely relevant to the bill. He is referring to the City of Greater Geelong, where, as you would well know, there are councillors who were electorate officers and were involved in corrupt activities. That is the issue that is being raised. It is directly relevant to the bill: it is about whether people who are elected officers should be allowed to continue as councillors.

The ACTING SPEAKER (**Mr Eren**) — Order! The bill obviously involves local government. I understand that from time to time the debate gets passionate. I ask the member for Bass to come back to speaking on the bill.

Mr K. SMITH — I appreciate your direction, Acting Speaker, but I do not quite understand it. I was talking on the bill. I was talking about corruption in local government, particularly in Labor-dominated councils. What about Frankston City Council and the problems we have had there with some of the bodgie Labor councillors who have been in control there for a long period of time?

Let us not play games with this. This legislation has been brought in because of the embarrassment it has caused the Minister for Local Government, who has refused to act, and all of the other ministers who refused to act. The ministers who were involved at Brimbank are the ones this embarrassing piece of legislation has been introduced for. It is not for any Liberal councillors there may be, and it is not for some of the Labor

councillors who are not interfering or trying to direct councils.

I remember after I was elected as a councillor at Hastings years ago I was presented with the books to look at the agenda for the following Tuesday and asked to attend the meeting. I had no political affiliations — none whatsoever. I was asked to attend the meeting with Labor councillors, as they turned out to be afterwards. They sat down with me, and I thought it was nice that they were going to take me through and show me the processes of the local council. They said, 'Ken, when we get to item so and so we would like you to move that because it is going to be important that we get this through. You can second the next one, and then we will all vote together. We want to get this legislation through'. They had the majority at that stage at the Hastings council. During the six years I was on the council I got rid of every single one of them, and I was pleased about it. We got some decent things happening down at Hastings. They were crooks who were prepared to try and direct me as an Independent who had come into council. I was not even aware of the Labor ideal of directing other councillors to do things.

Here we are now trying to do something about cleaning out some of the Labor people. What about Kevin Bradford at the Casey City Council. He worked for the member for Narre Warren North. The minister knows it is true. The work that he and the member for Narre Warren North tried to do to get rid of Mike Tyler, the chief executive officer, is just a disgrace. The minister is shaking his head, but he has known about it for years and has done nothing about it.

The truth of the matter is that this legislation has been introduced because of the embarrassment of Brimbank and what we have now found out about Port Phillip City Council. They must have been asleep at the wheel down there. Did they not have any auditors? Did they not have an audit committee? What about Dick Gross, who was the mayor for some time down there, and the other Labor councillors? My God! What was going on? They gave hundreds of thousands of dollars to a white witch.

The ACTING SPEAKER (**Mr Eren**) — Order! I ask the member for Bass to come back to the bill.

Mr K. SMITH — It is on the bill.

The ACTING SPEAKER (**Mr Eren**) — Order! The member has not spoken on the bill; he has spoken on — —

Mr K. SMITH — I appreciate what you are saying, Acting Speaker. I will come back to the bill. It is an embarrassment to the Labor Party that it has to push this piece of legislation through.

In conclusion, we do not believe this legislation would have been necessary if we had had decent councillors who were not prepared to be influenced by their members of Parliament telling them what to do.

Mr THOMPSON (Sandringham) — At the moment we are discussing the Local Government Amendment (Conflicting Duties) Bill. In my view we are debating the wrong bill at the present time; we should really be introducing a bill that brings in an independent, broadbased anticorruption commission to deal with the real issues behind the reason for this particular bill.

One has only to go through the names of councillors in metropolitan Melbourne to be able to then dig deeper to find out the behind-closed-doors deals, the corruption and the misfeasance in office, council by council by council — Geelong, Casey, Dandenong, Darebin, Hume, and the list goes on. Darebin City Council was sacked a decade ago. Why was it sacked? It was sacked because it was unworkable. Why was that the case? Because the councillors were all members of competing factions.

It is noteworthy that the reason the bill will not breach the human rights charter is that councillors need to ensure that they have a clear and primary duty to their constituency and their council, rather than to another political or jurisdictional sphere.

I draw the attention of the house to the rules of the ALP in May 2008. Under the heading of 'Municipal caucus rules' the first rule states:

> An ALP caucus shall be established in each municipal government area where two or more endorsed ALP candidates have been elected to office. All endorsed ALP candidates who have been elected to office shall belong to the ALP caucus.

The next rule states:

> The caucus shall meet prior to each … meeting.

At its first meeting it will elect a president and a secretary. A subsequent rule states:

> Every member of caucus shall be obliged to attend each meeting of caucus unless excused from attendance by resolution of the caucus.

The next rule states:

> The caucus shall be required to determine only upon matters covered by the municipal candidate's pledge and the party platform and policy —

they have got to conform with party platform and policy —

> the election or appointment of councillors to official positions and delegations, the annual budget of council, appointments to senior council management positions, the implementation of the local municipal policy —

and a number of other matters. Importantly a subsequent rule states:

> Any member of caucus first wishing to introduce an item in council under general business shall first submit that item to caucus for its consideration.

Before a person representing their local government constituency can raise a matter on behalf of their electorate at the local government meeting, they have firstly to have had it approved by the ALP caucus members. The minister has the temerity to suggest that the reason for the introduction of this legislation is to enable councillors to fulfil their primary duty to their constituency, which the Labor Party has been abusing across this state for decades.

Therefore, as a consequence of the lack of reach of this legislation to deal with the hard issues, the core issues, that have eked out into the media and the wider community, there needs to be scope and power for matters like this to be investigated in a direct and proper way and not through an ad hoc method.

Therefore, the opposition has grave concerns regarding the efficacy of this legislation to deal with the real problems at hand, and those are the closed-room deals by the Labor Party which are endorsed in writing in its rules, which are available on the Internet and which have led to corruption of due process in the local government arena.

Mr O'BRIEN (Malvern) — I will not go through all the corruption uncovered in Brimbank City Council, which was the subject of the Ombudsman's report and which led directly to this bill, other than to say — —

An honourable member interjected.

Mr O'BRIEN — As the member quite rightly points out, I do not have the time. However, let us state on the record that Labor Party misconduct has led to this, and not just by councillors who are the subject of this bill. Labor Party electorate officers, Labor Party ministers and Labor Party members of Parliament are all caught up in it together, as the Ombudsman's report clearly shows. It is not limited to Brimbank, as other speakers before me have clearly indicated.

The point I want to make in the limited time available to me is that there are good people and good councillors who have been caught up by this bill and will be affected by it. I want to mention one: Cr Tim Smith, who is a great young man, a fantastic councillor for south ward in the city of Stonnington. He was elected by the people of Stonnington less than one year ago. That man campaigned on a particular platform and principles and was elected by the people of Stonnington to represent their interests on Stonnington City Council. Because of this bill he is going to face a choice between dishonouring the pledge he made to the people of Stonnington to serve or giving up his employment. That is because Cr Smith works as an adviser not to me — although he is a former electorate officer of mine — not to the federal member for Higgins, but for the federal member for Dunkley. The federal member for Dunkley represents Frankston, Seaford and Mount Eliza. The minister believes there is a conflict of interest in a councillor for Stonnington working for a federal MP who represents communities halfway around the bay.

I apologise to Cr Smith and those like him who are caught up in this bill which has been brought about because of Labor Party corruption, Labor Party dishonesty and Labor Party misconduct. He is an innocent victim of this bill, as are many others. On behalf of members on this side of the house, I apologise that the dishonesty of the Labor Party is forcing these people into a completely invidious position.

Mr BURGESS (Hastings) — I rise to speak on the Local Government Amendment (Conflicting Duties) Bill 2009. The bill is to amend the Local Government Act 1989 to provide for conflicting duties of persons who are or want to be councillors and for other purposes.

There is a major concern with this bill, which has been introduced in response to the Ombudsman's investigation into serious breaches of the Local Government Act and Electoral Act at the Brimbank City Council. The coalition and the community had written to the government for years with complaints about the conduct of a number of Labor councillors at Brimbank, requesting that the minister's office investigate serious allegations about issues relating to the operation and governance of Brimbank council and the conduct of individuals associated with the council. These allegations included claims of threats, bribery, intimidation, misuse of council funds, mismanagement, improper behaviour and council's failure to govern effectively.

The Ombudsman's report was scathing of Brimbank and exposed widespread conflicts of interest and a culture of bullying and corruption, as well as

inappropriate interference by Labor MPs and party insiders.

Because of the lack of time available for this debate, I will cut straight to the chase. There is only one reason this piece of legislation is being introduced, and that is because of the endemic corruption within the ALP and its insistence on imposing that endemic corruption upon local councils. You can look at how the ALP operates through these local councils, and you can see it is all about the ALP getting its own way and doing favours in the interests of its grubby mates. This bill imposes a grave restriction on honest people, and it does so because of the corruption that is endemic within the ALP.

Mr DIXON (Nepean) — I wish to say a few words about the Local Government Amendment (Conflicting Duties) Bill 2009. I have learnt a lot from the debate about the preparation for this piece of legislation. I did not realise there were actual rules that bind Labor councillors when they are members of a local council.

If people are aspiring Labor councillors, when they are running for election they need to put a proviso on any literature they put out that says, 'First and foremost, I will vote according to what the Labor caucus of the councillors wants for you as a ratepayer, for you as a community group or this municipality in general'. They should say, 'My first allegiance is to the Labor Party and not to you as a ratepayer, not to you as a community group and not to you as a municipality'. If they had any honesty or integrity, that is what they would do. I know that if they were up-front and honest about it, they would not be voted in because people do not want or expect that from their local councillors. Communities wants representatives who are close to their community, who are aware of their issues and who will represent their views.

The only other point I wish to make is that my experience on the Mornington Peninsula Shire Council has been largely free of any politics for years and years. The only time there was any political conflict at that council was when there were avowed Labor councillors who said, 'We are members of the Labor Party'. They manipulated the council, councillors and the council officers for their own political agendas, not for the good of the community. It had never been seen before and was so obvious. Why has the council changed? There are now Labor councillors who are pushing their barrow, not the community's barrow. As the member for Malvern said, we should be apologising to the many people who have been trying to do the right thing in representing their local communities but who have unfortunately been caught up by working for members of Parliament. It is a shame that we have to have this legislation before the house.

Mr WAKELING (Ferntree Gully) — I want to make a brief contribution to the debate on the Local Government Amendment (Conflicting Duties) Bill 2009. I make it known that the bill is not in the house because of the Liberal Party or The Nationals. The bill is before us because of the actions of one political party — the Australian Labor Party.

The manner in which the Australian Labor Party has conducted itself in this state is an absolute disgrace and has led to the introduction of this bill. As a former councillor I know and understand the importance of leaving politics at the door so that local councils can make decisions on local issues. But rule 12.6 of the Labor Party rule book of May 2008 clearly spells out that people elected to local government as councillors and endorsed by the Labor Party are not there to represent their local community or the needs of local interest groups but are there to represent the needs of the Australian Labor Party. It is a disgrace. It is a shame. I call upon those who are associated with the Labor Party within the municipality of Knox to stand up and say, 'This is wrong', and that they do not support the actions of their party.

Mr WYNNE (Minister for Local Government) — It has been an interesting debate. There have been some very reasonable and reasoned contributions from a number of members and some more florid contributions from others. Nonetheless the issue is an important one, and I come to this debate, as members of this house should be aware and as other members have, as someone with a local government background. I had the pleasure of serving as a Melbourne city councillor for six years and took an opportunity to assume the highest local government office in this state — that is, Lord Mayor of the great city of Melbourne. It is in that context that I come to this debate.

Can I say that I also come to this debate having been in exactly the situation that a number of electorate officers and ministerial staff now find themselves in. Perhaps more than any other person here I am acutely aware of the circumstances that those electorate officers and ministerial and parliamentary staff members find themselves in for the reason that had this happened at a different time, I would have been in their situation. I absolutely understand the circumstances of those people.

As members know, this recommendation comes out of the report by the Ombudsman into the Brimbank City Council. When that report was tabled the Premier made

the position of the government absolutely clear: that we would implement all of the recommendations of the Ombudsman. Indeed all of those recommendations are being implemented, but it is action in respect of recommendation 2 that is before us today. I indicate to the house that there are a number of ongoing inquiries at Brimbank City Council which Mr David Walker, a very experienced former fraud squad detective, is undertaking. The government has also implemented a recommendation of the Ombudsman that Brimbank City Council be monitored. Mr Bill Scales has been appointed as a monitor, and he is undertaking his activities at that council. It is fair to say that Brimbank is the most scrutinised council in the state of Victoria.

In relation to the bill I want to say, firstly, that we are pleased that the opposition has chosen to support it because we believe it is important — and self-evidently so — that the recommendations of the Ombudsman be implemented in full. Those recommendations were quite unequivocal: that we should act upon this matter immediately because there was an inherent conflict of duty between a person being an elected councillor and the potential for an elected councillor to be conflicted in their duty to another elected level of government. It is in that context that I noted the very reasoned contribution by the shadow Minister for Local Government, the member for Shepparton. In her contribution she rightly pointed out that she believed there could be a conflict of duty where a councillor works for a member of Parliament. The member for South-West Coast in his contribution indicated a similar position.

If in reflecting on today's debate I thought about the circumstances in which I found myself as a person working for a member of Parliament — in my case my friend and colleague the Honourable Barry Pullen — I would conclude that I never found myself in a conflictive situation in that context but that the potential for that to happen was always there. When I have spoken about these issues many people have said, when they have reflected upon it, that of course there is the potential for that to occur. It would be self-evident to anybody who understands local government and who has contributed to that debate that when you put yourself in a position where you have potentially conflicting duties, such as in a sworn office as an elected councillor, but your employment is with another person in another level of government, inevitably that potential for conflict can occur and — as we have seen from the Ombudsman's report — it has occurred.

I want to pick up on a couple of matters that have arisen during the debate. In her contribution the member for Shepparton suggested that the chief executive officer of Brimbank City Council, Mr Foa, had written to me personally raising a number of complaints about what was happening at the council. That is not so; it is simply not the case. No correspondence has been received by me from Mr Foa in relation to matters that were canvassed in the Ombudsman's report. The member for Shepparton has also raised concerns in relation to by-elections. As we know, we have in the order of 34 or 35 people who will potentially be affected by the implementation of this bill. About half a dozen people, if they choose one course of action, will be subject to by-elections; the remainder will be dealt with by way of countback.

In relation to the question of time, there would not be any of the staff members potentially affected by this legislation who would not be aware of the government's commitment to implementing recommendation 2 from the time that the Ombudsman's report was tabled. We indicated our position absolutely clearly. While some concern has been raised in relation to the seven days from the date of royal assent, I am aware that certainly within the Victorian Parliament conversations have already commenced with all the affected electorate staff, offering a one-on-one basis conversation about what the potential employment impacts are for people who choose to take the course of action of resigning from their position as opposed to resigning from their council spot.

It is important that we implement these recommendations as speedily as possible. I note that the member for Mornington raised concerns in relation to an amendment that seeks to allow current staff members working in electorate, ministerial and parliamentary positions to stand for election at the next council elections in a little over three years time: he thought there was some inconsistency in the position.

We are saying that for the period of the election process the person will stand down from their position with the member of Parliament. They can then contest the election, and obviously if they are successful, they would have to resign from their potentially conflicted situation. We think it is quite consistent and in order with the charter of human rights to allow people the opportunity to stand for election to local government in an unfettered way. That is an important amendment in the bill.

As the Premier announced yesterday, the government has moved to tighten and support further inspectorial and compliance aspects of the local government sector. This move will be broadly welcomed. Significant resources will be placed into the local government

investigation and compliance inspectorate. I welcome the contributions from both sides of the house and commend the bill.

Business interrupted pursuant to standing orders.

The SPEAKER — Order! The time set down for consideration of items on the government business program has arrived, and I am required to put the necessary questions.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

CASINO LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 11 August; motion of Mr ROBINSON (Minister for Gaming); and Mr O'BRIEN's amendment:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until —
>
> (a) there has been a full social and economic impact study into the proposed expansion of the casino and the report on such study has been made available for consideration by the Parliament; and
>
> (b) the government's analysis of the likely financial benefits to the Melbourne casino of the ninth deed of variation and associated arrangements is made available for consideration by the Parliament.

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

Ayes, 49

Allan, Ms
Andrews, Mr
Barker, Ms
Batchelor, Mr
Brooks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Hardman, Mr
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Kairouz, Ms
Kosky, Ms
Langdon, Mr
Languiller, Mr
Lobato, Ms
Lupton, Mr
Maddigan, Mrs
Marshall, Ms
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, 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

Amendment defeated.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

WATER AMENDMENT (NON WATER USER LIMIT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HOLDING (Minister for Water).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

RACING LEGISLATION AMENDMENT (RACING INTEGRITY ASSURANCE) BILL

Second reading

Debate resumed from 12 August; motion of Mr HULLS (Minister for Racing).

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 7, page 21, line 5, omit "on the day" and insert "on the third day".

2. Clause 8, page 37, line 15, omit "on the day" and insert "on the third day".

3. Clause 9, page 47, lines 3 to 5, omit "Board if that decision was in respect of a penalty originally imposed by the Steward." and insert "Board.".

Third reading

Motion agreed to.

Read third time.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL

Statement of compatibility

Mr HULLS (Attorney-General) 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 Personal Property Securities (Commonwealth Powers) Bill 2009.

In my opinion, the Personal Property Securities (Commonwealth Powers) Bill 2009, 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 Victorian referral bill

The Personal Property Securities (Commonwealth Powers) Bill 2009 (the bill) refers legislative power to the commonwealth Parliament in accordance with section 51(xxxvii) of the Australian constitution for the purpose of enabling the commonwealth Parliament to enact a national personal property securities (PPS) registration scheme (the PPS scheme). All Australian states agreed, in the intergovernmental Personal Property Securities Law Agreement dated 2 October 2008, to refer sufficient legislative power to the commonwealth to ensure the effective operation of the new PPS scheme throughout Australia. Victoria's referral will give the commonwealth power to enact the PPS scheme with full coverage in Victoria, and is essential to ensure a nationally consistent scheme.

The referral enables the commonwealth Parliament to enact the specific text tabled in the Legislative Assembly of the New South Wales Parliament on 16 June 2009 (referred to in clause 3 of the bill as the 'tabled text', but referred to in this statement as the proposed commonwealth PPS act). The bill also refers limited power to amend the text of the proposed commonwealth PPS act once enacted. Clauses 6(2), 6(3) and 6(4) of the bill will enable the commonwealth to make express amendments with respect to the referred PPS matters. Clause 4 of the bill defines the 'referred PPS matters'. Clause 4(2) sets out matters that are specifically excluded from the amendment reference, including entitlements created under state law and exempted from the PPS scheme, and amendments that limit or exclude the operation of state laws which govern a state statutory right or govern dealings with personal property and interests in personal property (such as confiscation or forfeiture laws). The bill also establishes termination mechanisms for the references.

The provisions of this bill do not raise any human rights considerations. However, as the referral of legislative powers contained in this bill enables the commonwealth Parliament to enact the proposed commonwealth PPS act for the state of Victoria, this statement also assesses the compatibility of the proposed commonwealth PPS act as it will originally be enacted. However, this statement cannot extend to assessing the compatibility of any future amendments of the proposed commonwealth PPS act by the commonwealth Parliament in the exercise of the referred power to amend the act nor can it extend to any future regulations made by the commonwealth government under the proposed commonwealth PPS act.

The proposed commonwealth PPS act

Personal property is often referred to as goods or chattels, and includes intangible things like shares but not land or real property. Personal property securities are security interests in such property. Examples of personal property securities are security interests over a car in return for the provision of a car loan and company charges — the car or the company's assets may be seized or sold if the person obtaining the loan or charge defaults on their repayments.

The proposed commonwealth PPS act will establish a single national law governing security interests in personal property. In broad terms, it will address the creation and extinguishment of security interests in personal property and set out rules for determining priority among competing security interests in personal property. Operating alongside the Consumer Credit Code, the proposed commonwealth PPS act will outline the circumstances in which a security interest in personal property upon debtor default can be enforced, and the enforcement procedures to be undertaken. It will also establish a single national online register of personal property securities (the PPS register). The PPS register will help prospective purchasers and lenders determine whether personal property is or may be subject to a security interest and will facilitate the resolution of priority disputes.

Human rights issues

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

Property rights

Although the proposed commonwealth PPS act deals with property, including the extinguishment of property interests, in my view it does not engage the right under section 20 of the charter not to be deprived of property otherwise than in accordance with law. For the benefit of Parliament, I set out why I consider that the right is not engaged.

Whenever a property interest is extinguished under the PPS scheme it will occur in accordance with the process clearly set out in the proposed commonwealth PPS act. The process will enable a choice between competing private interests in the same property. The determination of priority between security interests already occurs at common law. The proposed commonwealth PPS act will provide a simpler and clearer means of asserting priority and of alerting potential lenders and purchasers of existing security interests in personal property. The new scheme will operate in a similar manner to the longstanding and successful Torrens system of registration of interests in real property (land).

There are three ways that extinguishment of interests in personal property can occur under the PPS scheme:

1. Extinguishment of a security interest in personal property may occur on the transfer of the property in accordance with part 2.5 of the proposed commonwealth PPS act. For example, extinguishment may occur when property subject to an unregistered security interest is bought (see proposed section 43), or the transferred property is of low value and used predominantly for domestic purposes (see proposed section 47).

2. An interest in personal property may be extinguished by operation of the priority principles under part 2.6. These principles provide a fair and consistent means of determining whose interest should prevail among private parties when there are competing interests claimed in the same property.

3. An ownership interest in personal property may be extinguished when the debtor (or grantor of the security interest) defaults on repayment of credit secured by the property, as provided for in part 4.3.

In all of these cases, the extinguishment is not arbitrary and will occur in the context of a lawful process. All of these means of extinguishment may happen presently under the ordinary processes of the common law or under other existing legislation (such as the Victorian Chattel Securities Act 1987). The proposed commonwealth PPS act replaces a range of disparate legal regimes in different states and territories and provides one national PPS register and one national process of determining priority of interests in personal property.

Accordingly, the bill, to the extent it enables the commonwealth Parliament to enact the proposed commonwealth PPS act for Victoria, is compatible with section 20 of the charter.

Privacy rights

A primary purpose of the proposed commonwealth PPS act is to create the PPS register. Whenever a register is created, privacy issues are raised. Personal information that may not otherwise have been recorded, or may not have been readily available, may now be accessed with relative ease through the PPS register.

The PPS register will contain personal information about the person granting a security interest in personal property, thereby engaging the right to privacy under section 13(a) of the charter. I consider, however, that any interference with privacy is neither unlawful nor arbitrary having regard to the following matters.

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. The right is based upon article 17 of the International Covenant on Civil and Political Rights. The right protects a person's autonomy and dignity, encompassing the idea that a person should have a 'private sphere' free from government intervention.

The bill refers power to the commonwealth to ensure the creation of a comprehensive national scheme for registration of personal property securities. The system will protect both borrowers and lenders by providing a means of registering security interests. Potential purchasers or lenders will be able to search the PPS register to ensure they are not taken by surprise by the existence of other interests. It will become more difficult for people to unscrupulously leverage the same collateral with different lenders, or to sell property subject to a security interest to unsuspecting purchasers. A simple search of the PPS register will reveal existing security interests and give prospective purchasers and lenders peace of mind. Further the law will provide a clear process for the determination of priority of interests in property, ensuring that people who have taken care to register their interest will generally receive priority.

The PPS register will be established under proposed section 147. The PPS register will be fully electronic and searchable in an online form at any time. Secured parties will register a financing statement with respect to each piece of secured personal property. The PPS register will contain personal information, as set out in proposed section 153. However, the register will only contain limited details about the grantor of the security interest (the debtor). If the property is consumer property required by the regulations to be described by a serial number, no details about the grantor will appear in the PPS register. If the property is consumer property but is not required to have a serial number, the PPS register will contain only the grantor's name and date of birth. It is proposed that any regulations promulgated by the commonwealth will prescribe more details about the secured party, including an address for service, but in most cases the secured party will be a company. Further, it will be the secured party's action that brings about the registration for their own security.

It will be the responsibility of the secured party to ensure all details on the PPS register are correct, and if the details are incorrect it may result in the loss of priority of that interest due to ineffective registration (proposed sections 164 and 165). Part 5.6 of the proposed commonwealth PPS act sets out the ways the PPS register may be amended if details are

incorrect or property has been improperly registered. A person with an interest in the property may make a demand to the secured party to register a financing change statement to amend the registration where details on the register are incorrect, for example, if no debt is owed on the particular property (proposed section 178).

Part 5.5 of the proposed commonwealth PPS act sets out clearly who may search the PPS register and for what purposes. Under proposed section 170, searches may only be conducted if a person applies to the registrar and receives permission. The registrar may only give access to the PPS register if the conditions in section 170(3) are met. Proposed sections 171 and 172 set out the criteria for a lawful search of the register. An unauthorised search will be subject to a civil penalty under proposed section 172(3). Proposed section 173 describes the effect of an unauthorised search or unauthorised use of the personal information obtained in a search. An improper search or misuse of personal information constitutes an interference with privacy and individuals will be able to make a complaint to the Office of the Federal Privacy Commissioner under the Privacy Act 1988 (cth).

The PPS scheme will also include a system of notices (verification statements) whenever certain events occur in relation to property (under proposed sections 156–158). The events requiring notices will be referred to as 'registration events', such as when a new security interest is registered. Whenever such an event occurs, the registrar will be required to notify the secured party, who will in turn be required to notify the grantor. Where a number of registration events occur at the same time affecting a number of persons, the registrar will have discretion to notify persons by publication in the manner prescribed by the regulations.

The PPS register is the key to the functioning of the whole scheme. It will provide the means by which prospective lenders and purchasers can obtain peace of mind when securing or purchasing personal property. It will also provide the basis for the priority scheme. The PPS register contains the minimum personal information to ensure that grantors and secured parties can be properly identified, either for the purposes of a search, for the purposes of determining priority between competing interests, or to enforce a security interest upon default. The proposed commonwealth PPS act contains a number of provisions aimed at reducing the likelihood of personal information being obtained improperly or misused, and provides a low cost remedy to individuals affected by an interference with privacy.

Accordingly, the bill, to the extent that it enables the commonwealth Parliament to enact the proposed commonwealth PPS act for Victoria, is compatible with section 13(a) of the charter as it does not arbitrarily or unlawfully interfere with privacy.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because the provisions of the bill do not raise any human rights issues. Further, to the extent that the bill enables the operation of the proposed commonwealth PPS act in Victoria and to the extent some provisions of the proposed commonwealth PPS act raise human rights issues, those provisions do not limit human rights.

Rob Hulls, MP
Attorney-General

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Introduction

The introduction of the Personal Property Securities (Commonwealth Powers) Bill 2009 into Parliament, which I will refer to as the 'state referral bill', is a part of the national business and regulatory law reform agenda agreed to by the Council of Australian Governments. This agenda is being implemented through ministerial forums such as the Standing Committee of Attorneys-General and the Ministerial Council on Consumer Affairs. The state referral bill will refer legislative power from the Victorian Parliament to the commonwealth Parliament to enable the commonwealth to enact a Personal Property Securities Act and subordinate legislation under that act. This commonwealth legislation will allow for a uniform system of registration of, and regulation over, security interests in personal property. The commitment by the states to refer legislative power to the commonwealth is reflected in the intergovernmental Personal Property Securities Law Agreement signed by the Council of Australian Governments on 2 October 2008. In this speech I will refer to the commonwealth personal property securities legislation as 'the PPS bill' or the 'PPS act', the intergovernmental agreement as the 'PPS agreement', and more generally to the phrase 'personal property securities' as 'PPS'.

Nature of personal property securities law reform

PPS law reform was first raised for consideration by the Standing Committee of Attorneys-General in 1992 following the publication of an interim report by the Australian Law Reform Commission. The Ministerial Council on Consumer Affairs was also examining options for establishing a national securities register for motor vehicles. At that time, there was insufficient stakeholder support for these reform proposals to go forward.

In 2004, a review of the New Zealand PPS system that was introduced in 1999 revealed positive responses to the system from New Zealand business stakeholders. As a result, in late 2004, the Standing Committee of Attorneys-General reinstated PPS law reform on the national law reform agenda and established an officers working group to progress the matter. In 2007, the Council of Australian Governments elevated the PPS

reforms into one of its national regulation reform priorities and provided in-principle support for establishing a single national system supported by a referral of legislative power from the states to the commonwealth.

PPS can be broadly defined to mean interests in personal property by which a creditor has the right to take or keep possession of, or otherwise deal with that property, on the default by a debtor. Security interests in personal property include mortgages, charges, and pledges as well as financing leases, hire-purchase agreements, and retention of title agreements where a sale does not transfer ownership until full payment is received.

Personal property can mean any type of property that is not land or buildings. Examples of tangible personal property would include goods such as motor vehicles, boats, aeroplanes, office furniture, artworks, business machinery and equipment, stock-in-trade, crops and livestock, and financial property such as currency, chattel paper, and letters of credit. Examples of intangible personal property include intellectual property rights (such as trademarks and patents), contract rights, uncertificated shares and transferable statutory rights created under commonwealth, state and territory laws.

The current regulatory framework in Australia governing the rights and obligations of parties in relation to PPS is unsatisfactory. There are approximately 70 commonwealth, state and territory acts governing various types of PPS interests with a number of registers established under different acts. Accordingly, the creation, notification and enforcement of a security interest in personal property is dependent on the type of personal property being offered as collateral, the jurisdiction in which the property is located or whose laws under which the financing transaction occurs, the availability, or lack of, registers on which these interests can be notified to the 'world at large' and in some instances, the use of outmoded systems of registration. Related to these matters is the likelihood of requiring multiple registrations of security interests on multiple registers in relation to a single financing transaction, the payment of multiple sets of fees and often cumbersome registration and notification requirements for lenders, borrowers and consumers of personal property alike.

The clear message from business and industry is that the current Australian framework is a dinosaur in comparison with other countries such as the United States, Canada and New Zealand. An Access Economics report commissioned by the Standing Committee of Attorneys-General in 2006 noted that the establishment of a single national law to govern PPS interests with a single national online register would not only reduce the costs involved with the payment of various fees for multiple registrations but also reduce the hidden transaction costs associated with ensuring compliance with different laws, compliance with different registration requirements and, where necessary, the need to search different registers before determining whether the personal property in question was the subject of a security interest. The report noted that implementing reforms in this area would increase certainty for lenders and borrowers and facilitate greater confidence in, and access to, secured lending that is characteristic of a competitive modern economy.

To that end, the Standing Committee of Attorneys-General and the Ministerial Council on Consumer Affairs have worked over the past three years to develop the national scheme that is being put to Parliament today. In particular, I wish to acknowledge Professor David Allan, AM, and Mr Craig Wappett, who were instrumental in bringing PPS law reform back onto the Standing Committee of Attorneys-General's national law reform agenda in 2004. I would also like to acknowledge the ongoing commitment to these reforms by the commonwealth government and the work undertaken by officers from the commonwealth Attorney-General's Department and the state and territory officers working group on PPS reforms.

Commonwealth Personal Property Securities Bill

The PPS bill has been developed following extensive consultation through an expert advisory panel convened by the commonwealth in 2006 and through two rounds of public consultation over draft PPS legislation in May 2008 and in December 2008. The PPS bill was introduced into the commonwealth Parliament on 24 June 2009 and is accessible on the Australian Parliament's website.

I turn to the key features of the PPS bill:

the PPS bill applies to all types of personal property with certain exceptions where for public policy reasons those types of property will continue to be governed by existing schemes;

the PPS bill takes a functional approach to personal property securities by applying the same rules to all security interests in personal property regardless of the form of the transaction, who the grantor of the interest is, or the jurisdiction in which the transaction takes place;

the PPS bill sets out default rules for the creation, priority and enforcement of security interests in personal property such as when an interest is enforceable between parties and against third parties, how these rules can be enforced, and when security interests are extinguished;

the PPS bill provides for a central PPS register to be administered by a PPS registrar and deputy registrar and establishes rules relating to the lodgement of security interests on the register, the amendment of data on the register and notification requirements for relevant parties;

the PPS bill provides important privacy protection measures for individual debtors who have granted security interests in personal property and whose details are recorded on the PPS register;

the PPS bill provides that it is intended to operate concurrently with state laws and specifies certain circumstances where state laws will prevail over the PPS bill and certain circumstances where the PPS bill will prevail over state laws;

the PPS bill allows a state law to designate an interest in property created by that state law, such as a lien, to be a 'priority interest' which places that interest ahead of any competing PPS interests where a secured party seeks to enforce the PPS interest;

the PPS bill confers concurrent jurisdiction on all levels of federal, state and territory courts to hear and determine any disputes arising under the PPS scheme;

the PPS bill contains a review clause requiring the commonwealth government to review the PPS scheme within three years after the date of commencement.

State referral bill

The state referral bill reflects model referral legislation prepared by the Standing Committee of Attorneys-General and the parliamentary counsel's committee. The state referral bill provides that the PPS bill, as tabled in the Legislative Assembly of the New South Wales Parliament on 16 June 2009, will be the subject of this referral of legislative power from the Victorian Parliament to the commonwealth Parliament. This is the initial reference of power with respect to PPS. New South Wales, as first referring state, has passed its Personal Property Securities (Commonwealth Powers) Act 2009 and that act received royal assent on 19 June 2009.

The state referral bill provides an amendment reference to allow the commonwealth to make future legislative amendments to the PPS act concerning security interests in personal property, the recording of security interests or information with respect to security interests in personal property on a register, the recording of other information with respect to personal property on that register, and the enforcement of security interests in personal property. There are two additional amendment references contained in the state referral bill which would also allow the commonwealth to make direct amendments to the PPS act in relation to security interests in fixtures and tradeable water rights. However, these two amendment references will not commence with the other provisions in the state referral bill. This reflects an agreement between jurisdictions that the PPS regime will not apply to security interests taken over tradeable water rights and fixtures at its commencement.

Whilst consultation by the Standing Committee of Attorneys-General with industry stakeholders has revealed a preference to allow security interests in fixtures to be recorded on a national PPS register there are matters that would first need to be addressed when attempting to designate fixtures as 'personal property' for the purposes of this scheme. First, this would necessitate a substantive revision of current legal principles around the treatment of fixtures as real property under common law and under statute law. Secondly, the inclusion of fixtures on the PPS register has significant potential to undermine the operation of the Torrens land titles system particularly the key principles of ensuring transparency and indefeasibility of registered land titles on state land registers. As a result, the Standing Committee of Attorneys-General will be seeking to undertake a detailed review of the current laws on fixtures and the implications of treating fixtures as personal property for the purposes of PPS prior to any decision being taken over the future inclusion of fixtures in the national scheme.

Stakeholders had also expressed an interest in the ability of financiers to register security interests in tradeable water rights on the PPS register. However, the Victorian Water Register established in 2007 provides a comprehensive information and legal service in relation to the Victorian water market of which one component includes the registration and regulation of mortgage interests taken over water shares. Water registers with similar functions have been established in New South Wales, Queensland and South Australia, and work is being undertaken on the development of a national registration scheme for water interests under the auspices of the Council of Australian Governments. The water subcommittee of the Council of Australian

Governments Working Group on Climate Change and Water has agreed that security interests in water rights should be excluded from the PPS scheme. The inclusion of the amendment reference in the state referral bill with respect to tradeable water rights will allow for the PPS regime to cover such rights should governments agree in future that the PPS register is the best mechanism by which security interests in those rights should be regulated.

Accordingly, the state referral bill includes separate commencement provisions for both tradeable water rights and fixtures though proclamation by Governor in Council. Due to the complexities involved with determining whether these subject areas ought to be brought within the national scheme at a future date it would not be expedient to specify a commencement date for these amendment references in the state referral bill.

As a means of ensuring that the coverage of the PPS scheme captures personal property of particular commercial value, jurisdictions have agreed that statutory licences, rights, entitlements, or authorities created by commonwealth, state or territory laws can be deemed 'personal property' to enable security interests to be lodged against these on the PPS register. There are a number of commercial licences issued under statutes by the commonwealth and the states — for example, intellectual property licences, fisheries licences or taxi licences, which are used as collateral by the licence-holders in order to obtain financing for their business. The state referral bill makes clear, however, that the referral of power to the commonwealth does not include provision for the commonwealth to make laws in a manner that would exclude or limit the operation of a state law that deals with the creation, holding, transfer, assignment, disposal or forfeiture of a state statutory right.

Further, the referral does not extend to providing the commonwealth with power to exclude or limit a state law that limits, restricts or prohibits the kinds of interests that may be created or held in such statutory rights or the type of person or body that may create or hold interests in those rights. This exclusion recognises that statutory licences and entitlements are a creation of the state legislature used primarily for regulatory purposes and for the good governance of the state. Parties to financing transactions using such licences or entitlements as collateral should not be allowed to circumvent the effective regulation of these licences merely by registering security interests under the national PPS scheme.

The state referral bill provides that where a Victorian statute expressly excludes a licence, right, entitlement or authority from the application of the PPS legislation the Victorian legislation will prevail and, as a consequence, the purported lodgement of security interests in those excluded matters would be ineffective. This provision recognises that not all statutory licences or entitlements, even if transferable and of commercial value, should be the subject of registered security interests under the PPS scheme where there are countervailing public policy reasons to restrict the interests associated with those statutory rights.

Over the next few months the Victorian government will be developing consequential amendments legislation to various Victorian acts as part of the PPS law reform implementation process which includes provisions to clarify which transferable licences and entitlements created by Victorian statutes will be expressly excluded from the PPS scheme. That legislation will also provide for appropriate transitional safeguards in relation to Victorian registers that currently record security interests that will be modified or closed down as a result of this referral to the commonwealth.

The state referral bill does not refer power to the commonwealth regarding state laws that provide for the confiscation, seizure, extinguishment or other forfeiture of property or interests in property in connection with the enforcement of state laws. Examples would include property confiscated under the Confiscation Act 1997 or motor vehicles impounded under the 'hoon provisions' of the Road Safety Act 1986. The state referral bill also does not refer power to the commonwealth regarding state laws that provide for the transfer of property or interests in property from any specified person or body to any other specified person or body. An example of this exclusion would be the operation of the Public Transport Competition Act 1995 that allows for the transfer of assets to the state or to other specified persons if a bus contract with a service provider is terminated or where that provider is placed under administration or becomes insolvent.

Finally, the state referral bill provides for the termination of any or all of the initial and amendment references through a Governor in Council proclamation on a day specified in that proclamation but no earlier than the first day after 12 months has elapsed from the date that proclamation was published in the *Government Gazette*.

Conclusion

The passage of the state referral bill through the Victorian parliament is an important step towards implementing a landmark law reform measure. The establishment of a single national law and an electronic register by which security interests can be recognised will be conducive towards greater levels of secured financing of businesses and business activities in Australia. However, as with any new major reform, the proper implementation and the ongoing monitoring of the PPS scheme is critical to the scheme's success. Under the PPS agreement, the states will play an important role in scrutinising policy developments and ensuring that the commonwealth provides a scheme that appropriately meets the needs of, and is responsive to, businesses, consumers and other users of the system.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Debate adjourned until Thursday, 27 August.

GAMBLING REGULATION FURTHER AMENDMENT 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 (the charter), I make this statement of compatibility with respect to the Gambling Regulation Further Amendment Bill 2009 (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 objectives of the bill are to amend the Gambling Regulation Act 2003 to improve the operation of that act. The bill provides for:

(a) gaming machine and gaming machine entitlements-related amendments;

(b) wagering and betting-related amendments;

(c) lotteries-related amendments;

(d) Club Keno-related amendments;

(e) keno-related amendments;

(f) administration and enforcement-related amendments.

Human rights issues

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

Section 13 — privacy and reputation

A person has the right:

(a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and

(b) not to have his or her reputation unlawfully attacked.

The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter. In the bill, there are provisions that engage the right to privacy.

The proposed s 3.7.6A provides that the minister may give a written direction to a gaming operator requiring the operator to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the operator and in the opinion of the minister relates to the kind of things that the monitoring licensee would be authorised to do under the monitoring licence.

Whilst both the gaming operator and the monitoring licensee are body corporates and are not protected by the charter, it is conceivable that the information sought may relate to the personal affairs of persons working for the gaming operator. The interference is not unlawful because it is provided by law, is certain as it only relates to the kind of things that the monitoring licensee will be authorised to do and is appropriately circumscribed because it relates to gaming operations.

The proposed s 4.3.34 provides that the minister may give a written direction to the wagering licensee requiring the licensee to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the licensee and that the minister considers is relevant to certain matters. Whilst the wagering licensee is a body corporate and not protected by the charter, it is conceivable that the information sought may relate to the personal affairs of persons involved with the wagering licensee. The interference is not unlawful because it is provided by law, is certain as it only relates to the business of the wagering licensee and is appropriately circumscribed because it only relates to the wagering licensee.

The proposed s 6.6.1 provides that the minister may give a written direction to a participant of Club Keno requiring the participant to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the participant and that the minister considers is relevant to a number of issues.

Whilst a participant is not a natural person, it is conceivable that the information sought may relate to the personal affairs of persons working for the participant. The interference is not unlawful because it is provided by law, is certain as it only relates to the keno licence and is appropriately circumscribed because it only relates to the keno licence.

Pursuant to proposed s 6A.3.39A the minister may give a written direction to a keno licensee requiring the licensee to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the licensee and that relates to the activities conducted under the licence.

Whilst a keno licensee is a body corporate and not protected by the charter, it is conceivable that the information sought may relate to the personal affairs of persons working for the keno licensee. The interference is not unlawful because it is provided by law, is certain as it only relates to the activities conducted under the licence and is appropriately circumscribed because it only relates to activities under the licence.

Section 15 — freedom of expression

Every person has a right to freedom of expression.

This right to freedom of expression includes a right against forced expression. A number of proposed sections provide for the provision of information.

Pursuant to the proposed sections noted above, the minister may give written directions to a number of entities. However, all the entities are either body corporates or clubs and, accordingly, no charter issue is engaged.

Section 20 — property rights

A person must not be deprived of his or her property other than in accordance with law.

A deprivation of property is in accordance with law when the deprivation occurs under powers conferred by legislation and the law is precise and not arbitrary.

The various licences as provided for in the Gambling Regulation Act 2003 are property within the meaning of s 20. Where a licence-holder does not have a reasonable expectation as to the lasting nature of the licence, a property right will not arise.

A number of the provisions of the bill allow for the various licences to be amended which could affect the operation of those licences. One provision provides for buyback procedures and one allows a person to take over the monitoring licence business.

The proposed s 3.4A.20F provides that the commission may make a written direction to an entitlement holder specifying the required number of gaming machine entitlements that must be reduced by the entitlement holder.

The proposed s 3.4.59C(1A) provides that the minister may, at any time, decide to make an amendment to the monitoring licence and give written notice of the decision to the monitoring licensee.

The proposed sub-ss 3.4.59G(1)(a) to (d) add further reasons where the monitoring licence can be suspended.

The proposed s 3.4.59LF provides that where the minister does not grant any application for a monitoring licence, the minister may, if the minister is satisfied it is in the public interest to do so, direct by written notice, the commission to appoint a monitoring services provider to provide monitoring services and to manage the business of the monitoring licensee.

The proposed s 3.4.59LG provides that where the monitoring licence is cancelled, suspended or surrendered, the minister may direct the commission to appoint a monitoring services provider to provide monitoring services and to manage the business of the monitoring licensee.

The proposed s 3.4A.27A provides that if an entitlement holder has not reduced any gaming machine entitlements pursuant to a notice then they are forfeited to the state.

The proposed s 4.3A.23(1A) provides that the minister may, at any time, decide to make an amendment to the wagering and betting licence and give written notice of the decision to the wagering and betting licensee.

The proposed s 5.3.19(1A) provides that the minister may, at any time, decide to make an amendment to the public lottery licence and give written notice of the decision to the public lottery licensee.

The proposed s 6A.3.22(1A) provides that the minister may, at any time, decide to make an amendment to the keno licence and give written notice of the decision to the keno licensee.

Whilst the above sections affect licences, if licences are property, it is not property that belongs to a natural person and, accordingly, the charter is not engaged. In any event, an amendment for the worse in any of the licences would not be a deprivation of property.

The bill also inserts the words ‘monitoring equipment’ in ss 10.5.29(1) and (2) and (5)(a)(b). This will allow an inspector to seize, without any warrant, any monitoring equipment that the inspector reasonably suspects is monitoring equipment that is not authorised under a gaming act to be in the premises. Pursuant to the section, the inspectors may apply to a court not less than 28 days after seizure of the equipment for an order that the equipment be forfeited to the state. The court must order that the equipment be returned if it is not satisfied that the equipment is monitoring equipment or monitoring equipment authorised under a gaming act.

If the monitoring equipment is forfeited then the deprivation occurs under powers conferred by legislation and the law is precise and not arbitrary.

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 government has undertaken a comprehensive review of Victoria's gambling industry to deliver the best outcomes for future generations of Victorians through the gambling licensing arrangements that will apply beyond 2012. In April 2008, the government made the landmark decision that Victoria's gaming industry would transition to a venue-operator structure in 2012. The new proposed gaming machine arrangements give venues direct control of their gaming operations and greater accountability to their communities. The government has also decided that a single independent monitor will oversee the integrity of gaming machine transactions in gaming venues from 2012. The competitive awarding process for the new 15-year monitoring licence is currently under way.

These reforms also included introducing competition for the first time for the single keno and wagering and betting licences. The new keno and wagering and betting licence-awarding processes are well under way.

As honourable members will be aware, in the last few months, this Parliament has considered and passed two pieces of legislation that implement the outcomes of the government's announcement regarding the gaming industry structure.

The new legislative framework will support an open and transparent competitive bidding process that will take place in 2010. In addition, a progressive tax system will provide assistance to smaller venues with low revenues, and will deliver a tax-free threshold for clubs. The legislation will also protect venue operators by discouraging speculative bidding and profit sharing.

The government remains committed to an ongoing process of consultation and communication with all those sharing an interest in the future of gaming in Victoria. The government recognises that, to transition to the new arrangements, venue operators will need to undertake business and financial planning and make assessments about their capacity to operate in the new environment. To this end, the government will provide a business education and training package for venues, including a business education program, market information and a bidder information pack, that will be released later this year. Throughout July, the Department of Justice has undertaken a number of successful statewide information briefings to inform the industry of the government's decisions regarding gaming machine arrangements after 2012. I am pleased to say that these sessions have been well attended and feedback has been positive.

I will now turn to the provisions of the bill before the house. The Gambling Regulation Further Amendment Bill further enhances and strengthens the legislative framework needed to support the transition of the Victorian gaming industry to a venue-operator structure in 2012 as well as making a number of amendments to improve the operation of the post-2012 wagering and keno licensing schemes.

This bill introduces a scheme for the government 'buyback' of gaming machine entitlements if the decision is taken after 2012 to reduce the regional and municipal limits or the statewide cap of 27 500 gaming machine entitlements. The government does not intend to reduce the number of gaming machines but future governments may wish to exercise this prerogative. The buyback scheme will operate so that before any compulsory action is taken, the first step in the scheme will be a 'market-based' approach whereby the government offers to buy back gaming machine entitlements from willing venue operators who are affected by a reduction in the caps. This scheme will provide certainty to venue operators about the impact of any potential loss of entitlements through regional or statewide caps reductions. In addition to accepting the government's offer to buy back, venues will also have the option under the buyback scheme to either apply to the Victorian Commission for Gambling Regulation to have the conditions on their entitlements amended so that they may use the entitlements in another geographic area not affected by a regional or municipal cap reduction or to transfer their entitlements to another venue operator under the transfer scheme.

The Gambling Regulation Act provides that for a gaming machine to operate it must be connected to the monitoring system. In the absence of the services of the monitor there will be no ability to operate gaming machines. The bill seeks to address the consequences where there is an absence of monitoring services — for example, where no monitoring licensee has been appointed, where the monitoring licence is cancelled or suspended or in other circumstances where there is a significant failure in the provision of monitoring services. The bill gives the minister the power to direct the commission to appoint a manager to operate the monitoring system on an interim basis until the system is restored or an alternate appointment of a monitoring licensee can be made under the act.

The possibility of the monitoring system not being available raises significant risks for both the state and the monitoring licensee. The bill therefore provides for a cap on the liability of the monitor and protections for the state so that the state does not carry any risk in relation to the provision of monitoring services. However, there is a need for a level of liability of the monitoring licensee to be maintained and damages are

proposed to apply for poor performance. The bill provides that the minister, in consultation with the Treasurer, shall determine the amount of damages payable by the monitoring licensee. The level of damages and the events for which the monitor will be liable will be set out in the related agreement to be entered into between the licensee and the minister. The bill also ensures that players and venues are protected by providing that the monitor will still be liable where a prize cannot be paid out due to a failure to provide the monitoring system.

The bill includes measures to streamline the process for applications for premises approvals. This package of reforms to the gaming venue premises approval process includes a number of amendments that are designed to improve the efficiency of the existing approval processes. The existing premises approval and gaming machine increases process leads to lengthy delays in determining applications. This creates uncertainty for new entrants and incumbent venue operators seeking to increase their machine allocation above their existing levels or to open new premises. The new processes will shorten the periods available for the determination of applications by the commission. The changes will also allow for small applications for increases in the number of gaming machines by no more than 10 per cent of current numbers to be determined by the commission 'on the papers' without the need for a public inquiry process where the local council has not lodged a submission on the application.

The bill also includes a number of amendments for the better operation of the post-2012 wagering and keno licensing schemes.

In November 2008, the government announced the tax rates applicable to the post-2012 wagering and betting licence. The proposed tax regime will result in a 60 per cent reduction in tax revenue to benefit the racing industry and offset the loss of gaming revenue. The proposed tax rate for parimutuel wagering will be reduced from 19.11 per cent to 7.6 per cent. As part of its ongoing commitment to a growing and viable racing industry in Victoria, the government has agreed with the Victorian racing industry that it will conduct a review of the parimutuel tax rate in 2012. This commitment is set out in this bill.

The bill also provides new information-gathering powers for the minister to assist in the licence-awarding processes for wagering, keno and the monitoring licence. Further, the bill provides a number of protections for these licensees by including Trade Practices Act and competition code exemptions in relation to the granting of the wagering and betting licence, keno licence and monitoring licence and the conduct of those licensees under the terms of their licences. These exemptions are provided to ensure that the granting of these licences and the various arrangements and activities that the licensees are required to undertake under the Gambling Regulation Act will not offend the cartel provisions in the Trade Practices Act.

This government continues to be committed to reducing the harm caused by problem gambling. Victoria is leading the way in Australia with responsible gambling measures such as banning ATMs from gaming venues and introducing precommitment mechanisms. This bill continues the government's commitment by repealing the provisions in the act that allow for 'unrestricted' gaming machines in specified areas. These unrestricted machines can be operated without player protection features including banning large denomination note acceptors, auto play facilities, unlimited spin rates and bet limits. This bill will prevent specified areas being permitted in any gaming venue outside the casino.

In its Taking Action on Problem Gambling strategy, which outlines the government's strategy to combat problem gambling in Victoria, the government made a commitment to the requirement that all winnings on non-casino gaming machines above $1000 would be paid out by cheque to reduce the risk of cash being immediately reinvested into gaming machines. This requirement was introduced into the act in 2007. The bill before the house will extend this protection measure to the payment of bingo winnings. While bingo itself may not be a high-risk activity, it is sometimes played at gaming venues. The bill will replace the current $3000 limit on payment of bingo prizes in cash with a limit of $1000.

Finally, the bill makes a range of technical amendments to the provisions for the post-2012 licences to clarify the operation of those provisions and provide greater certainty to the industry. In particular, the bill clarifies the provisions for related agreements and the powers for the minister to amend the post-2012 licences.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 27 August.

Remaining business postponed on motion of Mr WYNNE (Minister for Housing).

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house do now adjourn.

Alfred hospital: hyperbaric chamber

Mrs SHARDEY (Caulfield) — The issue I raise is for the attention of the Minister for Health. It relates to the case last week of Jordan Carter, a teenager on life support suffering from a muscle-eating bacteria, who was forced to take a dangerous flight to Sydney because the hyperbaric chamber at the Alfred hospital was not operating. He needed to be transported to Sydney to save his life.

The closure of Victoria's only public facility since April this year is putting Victorian lives at risk. The minister has been made aware of this closure, yet five months later this vital service is still unavailable. The action I seek is for the minister to immediately ensure that if repairs are needed to the hyperbaric chamber at the Alfred hospital, they are done as a matter of urgency and that sufficient funding is given to the hospital to carry out these necessary repairs. When interviewed on Channel 10 in May this year the Premier indicated that repairs were being done on the hyperbaric chamber at the Alfred. It is obvious that those repairs have since not been completed.

Internet forums on the Dive-Oz website go back as far as 9 April this year when there was the release of an urgent diving industry safety alert for the Easter period from Dr Ian Millar, the unit director of hyperbaric medicine, informing divers that the Alfred hyperbaric service chamber was out of service. The same forum contains a post from Dr Andrew Fock, a hyperbaric specialist at the unit, who encourages:

> … any interested persons to contact their local member of Parliament and help us gain the funding to have the hyperbaric facility suitably restored to full operational capability for this state service.

The hyperbaric chamber treats two categories of patients. The first is elective patients, where injuries such as radiation injuries are treated, and the second is the treatment of chronic wound and emergency patients, such as divers. Examples of other emergency cases requiring intensive care unit capability that are treated at the Alfred hyperbaric chamber include patients with necrotising fasciitis, which is flesh-eating bacteria, gas gangrene, severe crush injuries with threatened loss of a limb and gas embolism from causes other than diving.

As it is the only intensive-care-capable hyperbaric chamber in Victoria, the loss of the Alfred chamber is a significant loss of therapeutic capability for all Victorians. Sick Victorians should not be forced to travel interstate for vital life-saving treatment. I agree with the sentiments of Jordan Carter's mother, Jane, who accuses this Labor government of 'gambling with lives'.

Housing: Cranbourne electorate

Mr PERERA (Cranbourne) — The matter that I wish to raise today is for the attention of the Minister for Housing. I ask the minister to provide me with a list of projects that are planned for my electorate that will increase the supply of affordable housing and contribute to the development of sustainable communities. There is a real and immediate need to increase the supply of social housing in the electorate of Cranbourne. On a day-to-day basis vulnerable individuals and families come into my electorate office asking for help to find housing. Some of these people have complex needs, such as people who suffer from physical or mental illness, some have been waiting for public housing for a number of years and some have merely been priced out of the private rental market. We desperately need to help all these people.

Victoria is leading the way in tackling the housing affordability crisis. The Brumby government has made a record investment in housing of $510 million that as we speak is being spent on major public housing developments and on projects that will be run by housing associations. In addition, the state government, in partnership with the federal government, has introduced the national rental affordability scheme to increase the supply of affordable housing. On top of this, as members are aware, we have allocated $1.5 billion to build over 5000 units of social housing, 75 per cent of which will be completed by December 2010.

I would like to briefly demonstrate the urgent need for a portion of state and federal funds to be directed to Cranbourne and the surrounding suburbs. The total number of people waiting for public housing in the southern metropolitan region is 10 819. Over 1000 people are waiting for early housing. This region covers suburbs such as Cranbourne, Frankston, Carrum Downs, Langwarrin and Seaford. A primary cause of the increase in the number of people waiting for public housing is the very tight rental market. According to the most recent rental report the average median rent price for the south-eastern metropolitan region is $280. There was a 12 per cent increase between March 2008 and March 2009. This increase means that more and more

families are under rental stress. Worse still, some families have been priced out of the market entirely.

As the local member I recognise the importance of building new social housing and redeveloping old sites in areas that are close to jobs, shops and community facilities in Cranbourne. We need to carefully consider the location of all new social housing to ensure that there is a high degree of diversity within communities and that communities are sustainable.

Buses: Shepparton

Mrs POWELL (Shepparton) — I raise a matter with the Minister for Public Transport regarding a number of problems with the implementation of the state government changes to the bus services in the Shepparton district. The action I seek is for the minister to review the new bus routes and services within the next three months and consult with the users of the bus services and those affected by the relocation or removal of bus stops or the new routes.

I have received quite a large number of letters and phone calls and have had people come into my office on this issue. They have been complaining about the new bus services which started from 3 August. I understand that the government increased the number of bus services and put some money into new routes — and there are some new routes — but the concerns are about the lack of consultation. I was told that the bus stops were relocated without consultation, that the routes were changed without consultation and that they are now located in places that have caused detriment, again without consultation.

I have received letters from residents living in Department of Human Services units for the elderly on the corner of Olympic Avenue and Centre Road in North Shepparton. They previously had a bus stop in front of their units, which had been there for about 30 years. Most of the residents rely on and use the bus service regularly. Some use walking frames, some are in wheelchairs and some have health problems which make walking long distances very difficult. They now find that the bus stop has been relocated so far away that it is inaccessible to them. The bus does not even go down the same street as the units so it does not pass by them. Often residents need to use the bus service to go to the hospital or to the supermarket. They have relied on the service for quite a long time.

I have received a letter from Mrs Joan Mitchell with 20 signatures on it. She is the chairperson of a group called Community Voice at Parkside Estate in Shepparton. I have also received numerous letters from people living in Sheehan Crescent who want to know who made the decision to remove their bus stop. They were not consulted, and there is no bus shelter at the new location.

I have also received a letter from a church in Shepparton, which I will read. It is from Patricia Rankin, who is the church clerk. She said:

> There was no prior consultation with the church, or warning of the bus stop.
>
> … As Saturday is our day of worship the church will be meeting while buses are stopping and starting outside.

She said in the letter that the church does not have enough off-street parking, that it relies on parking being available on both sides of the street and that the bus route being there has removed quite a few of the available spaces.

Shepparton Transit is the organisation that runs the bus service. It has asked the people to give the new bus services a chance to settle in. I understand there will be some changes in the bus routes. The organisation says it understands that it will be confusing at first, but one regular bus traveller waited 45 minutes for a bus. I ask the minister to look at the issue of the relocations.

Housing: maintenance

Ms CAMPBELL (Pascoe Vale) — The adjournment matter I raise tonight is for the Minister for Housing, and I am delighted he is in the house and will be able to address this important issue. The attention and action I seek from the minister is particularly in relation to maintenance funding for Office of Housing stock in my electorate.

In light of the recent federal government announcement that $99 million of the stimulus package will be spent on maintenance for social housing, the minister would know how strongly I feel about the importance of having a significant amount of this spent in the Pascoe Vale electorate. There is a growing need for public and social housing in this state and particularly in Pascoe Vale. In the north-western metropolitan area a total of 15 512 people are waiting for public housing. Over 3000 of these people are waiting for early housing. More specifically, the Broadmeadows housing office — in passing I compliment the staff at that office — has 3253 people waiting for housing, and 444 waiting for early housing.

I suggest to the minister that if some of the current unused housing stock could be brought back into use after having maintenance work done on it, that would greatly assist to reduce the numbers on the waiting list.

The primary reason for the increase in the number of people on the waiting list is a very tight rental market. The most recent rental report of March 2009 indicates that the average median weekly rent in the north-western metropolitan area is $300. This is an 11 per cent increase from March 2008 to March 2009. Consequently an increasing number of families are suffering rental stress and, worse still, some families have been priced out of the market.

As I said, there is an urgent need not only to improve the supply of public housing but, particularly, to do important work on housing properties to ensure they are upgraded and brought into stock. There is obviously a range of reasons why some houses are uninhabitable. By carrying out work to ensure those houses are structurally sound and in good repair, they would again become homes for constituents.

There is also a number of housing associations and housing providers which are crying out for funding to assist those in need and to upgrade properties to meet the needs of their clients. In addition, some public and social housing stock in my electorate would benefit from minor maintenance work such as repainting and recarpeting. I ask the minister to give particular attention to maintenance funding for the people of the Pascoe Vale electorate.

Police: zero-tolerance strategy

Mr BURGESS (Hastings) — I raise a matter for the Minister for Police and Emergency Services. The action I seek is for the minister to consider the zero-tolerance policing approach adopted so successfully in the 1990s by the New York Police Department.

It is obvious that Victoria is facing unprecedented levels of crime. Daily we hear disturbing reports of violence and crime in the central business district and across our state. Victoria requires a strong and effective response from government and police command that has been sadly lacking to date. For this reason, I urge the exploration of alternate modes of policing from other parts of the world. The zero-tolerance style of policing which I referred to also incorporates the broken windows theory, which asserts that if a broken window is left unaddressed, more damage will occur and it will inevitably lead to more serious crime being committed within the community. The approach highlights the impact of quality-of-life offences on the broader issue of law and order.

The accumulation of minor offences such as littering and applying graffiti ultimately leads to a sense of vulnerability and the withdrawal of people within a community. It sends a very clear message to criminals that our community is vulnerable. Eventually those infringements snowball and an area becomes a magnet for offenders.

According to the broken windows theory, a concentration on basic neighbourhood order will assist in reducing crime. The Seattle Police Department suggests basic strategies such as prompt replacement of broken windows, removal of abandoned cars, disposal of discarded litter, general community cleanliness, timely removal of graffiti and discouraging of loitering. A sustained crackdown on minor crimes such as graffiti, vandalism, hoon driving, offensive behaviour, public drunkenness and loitering has proven to be successful in reducing the incidence of serious crime in New York.

This is a method that was championed in the 1990s by a former mayor of New York, Rudy Giuliani, who on 20 April was reported in the *Herald Sun* as endorsing the introduction of zero tolerance in Melbourne. The results in New York have included less public disorder, decreased crime rates and increased public safety and confidence. With the application of this strategy the murder rate in New York fell from 1900 in 1993 to 670 in 2001, with the overall number of crimes falling from 430 000 to 184 000.

The Brumby government's failure to provide sufficient front-line police has resulted in local police often having to reluctantly choose which crimes they can attend. Being the people they are, local police attend the more serious and dangerous situations. The lesser matters, including graffiti and vandalism, are often unable to be dealt with. We now know those lesser crimes lead to increased numbers of more serious crimes in areas.

It is the most basic of a state government's responsibilities to ensure that members of the community feel safe and are in fact safe. Unfortunately, after 10 years of Labor, Victorians feel less safe and are less safe. I ask the minister to consider the merits of this strategy and its appropriateness to be applied in Victoria.

Darebin Creek and Main Yarra trails: link

Ms RICHARDSON (Northcote) — The issue I raise is for the Minister for Environment and Climate Change. It concerns the need to complete the link between the Darebin Creek Trail and Main Yarra Trail for cyclist and pedestrian use. I call on the minister to investigate and deal with any remaining obstacles to

this project in order to ensure that works commence as soon as possible.

After almost 20 years of community activism and debate, we are now one significant step closer to connecting the northern suburbs to the rest of Melbourne's trail network by linking the Darebin Creek Trail to the Main Yarra Trail. On 3 August the Victorian Civil and Administrative Tribunal (VCAT) handed down its decision to grant the applications by Parks Victoria to create the lower Darebin Creek shared pedestrian and bicycle trail and associated bridge over the Yarra River.

The completion of this trail will greatly enhance the recreational opportunities for cyclists and pedestrians and will also provide a fantastic opportunity to explore the local environment and better appreciate our creeks. The VCAT outcome could have been achieved only through the hard work of many in our local community working alongside Parks Victoria. In particular I would like to commend Graeme Martin, James Thyer, Ray Davis, Robin Gallagher, Anthony Jones, David Hall, Julia Blunden and Sean Walsh, who have all worked hard together to get where we are today. I want to commend also the outstanding work of Adrian Infanti of the City of Darebin, and Cheryl Nagel, Gerard Delaney, Claire Evans, and Richard O'Byrne from Parks Victoria.

Bicycle Victoria has been also heavily involved in the campaign to build this link. I would like to commend it and its work. Its members have never tired in this campaign; they have been vigilant in ensuring it gets off the ground. Thanks go to Bicycle Victoria.

VCAT said that the construction of a connection between the Darebin Creek Trail and the Main Yarra Trail is eagerly awaited by many and enjoys overwhelming policy and strategic support at state and local government levels. I have been proud of the ongoing support the Brumby Labor government has given as part of its commitment to making Melbourne a better and safer place for cyclists. We have given $115 million through the Victorian cycling strategy, which was launched in March this year in my electorate. Along with projects like this and the upgrading of the pipe bridge across Merri Creek, we are clearly committed to this strategy.

In conclusion, the decision by VCAT brings legal wrangling between parties to an end. There are still some negotiations happening over the finer details of the proposed route and the use of the land. I therefore call on the minister to ensure that all these issues are resolved as soon as possible in order that this dream is fulfilled.

Housing: Koo Wee Rup

Mr K. SMITH (Bass) — I am absolutely delighted that the Minister for Housing is in here, particularly as he is also the Minister for Local Government; we gave him a bit of a pull-through before! Today I raise an issue for the Minister for Housing and ask that he facilitate a full review of the answer he gave me regarding his rejection of previous affordable housing in Koo Wee Rup on land owned by his department. It is on Icke Road, adjoining 2 Icke Road, which currently has 29 Office of Housing units on it.

The minister constantly tells this house of the money the Brumby socialist government is putting into public housing, and he indicates that he now has additional funds of $1.5 billion coming from the federal socialist government to spend over the next two years on public social housing. Is that right?

Mr Wynne — Yes.

Mr K. SMITH — I wrote to the minister on 30 April and raised with him the fact that there is a nearly 10 000-square-metre vacant block of land adjacent to the public housing units at 2 Icke Road and pointed out that this land has all the necessary services, including roads, sewerage, power, phone and stormwater drainage, and adjacent to it there is the fantastic senior citizens club. There is also a hospital nearby and a new upgraded bus service within a stone's throw of this land.

I have people and organisations coming to me constantly asking for public housing but finding they are unable to get any in Koo Wee Rup. Why does the emergency housing service in the area say it has so little available housing that it is a juggling act to get disadvantaged people a roof over their heads at night?

The minister eventually replied, after a reminder from me, saying that the demand for affordable housing in Koo Wee Rup is lower than it is in Pakenham and Cranbourne. So what, Minister? There is demand. The minister has the land. There are already 29 units next door, yet in his letter to me he says that the land has no services. I say to the minister that is not correct. It has services on the same road as the ministry units next door. It has power, phone, sewerage et cetera.

The minister also says the land has a planning overlay on it which states that it is subject to inundation. I say to the minister that there is a lot of land that gets a little bit wet but can be cleaned up with some stormwater

drainage. He also said the department has no plans to develop the site, yet the site is surrounded by other homes and ministry units.

I ask the minister to reconsider the ill-advised advice he has received from his local officers. I invite him to come with me and look at the site, listen to Western Port Accommodation and Youth Support Services and to the local people who are looking for public and aged-care housing in Koo Wee Rup. I ask him to come down, have a look at it, satisfy himself that his officers have not been telling him the truth but that I have been, and give us some money to get some housing on the 10 000 square metres.

Geelong Racing Club: ThoroughTrack

Mr TREZISE (Geelong) — I must say it is always a pleasure to follow the member for Bass because he makes me sound half intelligent. I raise an issue — —

The SPEAKER — Order! The member for Geelong will withdraw that remark.

Mr TREZISE — I withdraw. I raise a matter tonight for the Minister for Racing. The action I seek relates to the reinstatement of the Geelong Racing Club ThoroughTrack, which for the information of the house and for your information, Speaker, was closed in 2008 pending remedial and upgrade works. The action I seek from the minister is that he provide full support to Racing Victoria and the Geelong Racing Club to ensure that the ThoroughTrack upgrade is completed and reopened as soon as possible.

In seeking this action from the minister I firstly take this opportunity to commend the Geelong Racing Club not only for the way it has conducted itself over more than a century but also for the way it has managed the issues that have seen racing at the club suspended for a number of months. At all times during this period the committee and the executive management of the club have focused on getting racing recommenced on the track. In raising this issue I take the opportunity to congratulate club president Michael Jennings, his committee and the chief executive officer Paul Carroll, and his team for the great job they have done under immense pressure over the last number of months.

As a result of their commitment the club is very much looking forward to tomorrow, when racing will recommence on the turf track. Tomorrow's meeting will be the first of 32 meetings scheduled for the 2009–10 racing year, with the culmination being the Geelong Cup to be held this year on 21 October. I note that is a non-sitting day, so it will be my 31st year in a row out at the Geelong Cup, as I mentioned last night in a contribution on a racing bill.

It is important for the Geelong Racing Club and for Racing Victoria to have the ThoroughTrack reopened, and I therefore look forward to the minister's action on this important issue.

Rail: Sandringham car park

Mr THOMPSON (Sandringham) — Earlier this year a Sandringham constituent by the name of Ian Armstrong, as well as other people, drew to my attention a problem that was occurring at the Sandringham railway station. I seek the opportunity to discuss with the Minister for Public Transport the parking arrangements in the immediate vicinity of the Sandringham railway station so that a more effective solution can be developed for those motorists who wish to drop off family members at the station in the mornings other than in a 15-minute parking bay, which is generally fully utilised most of the day. Outside the precinct of the railway station there is a taxi zone and a bus zone, but nowhere within a reasonable distance is there the opportunity for a 1-minute stopover to drop family members off and then drive away, even when it is intended that the motorist will remain in the car and in control of the car at all times and will not even turn off the engine. It is an exchange that if, well executed, would generally take only half a minute.

By way of a question on notice earlier this year the issue was raised with the Minister for Public Transport, when it was asked: where is the recommended drop-off zone for railway commuters who are transported to the station by motor vehicle; what signage is displayed to maximise motorists' compliance with existing laws; where are the best practice examples of vehicle drop-off points approximate to railway station entrances in metropolitan Melbourne that optimise convenience; and what scope exists to improve railway commuter drop-off locations at Sandringham railway station? I want to discuss these issues further with the Minister for Public Transport. In the reply received it was suggested that the recommended drop-off zone is the 15-minute parking bay on the other side of the road, which in practical terms is not the most effective area.

Examples of good parking arrangements are to be found at the Beaconsfield and Craigieburn railway stations. I would be interested to take up more information or to see some Google or photo images of what that allows to facilitate commuter access to public transport. A comment was made that the area in front of the station is already well utilised, accommodating buses, taxis, pedestrians and vehicles accessing the

shopping precinct. The reason this matter was drawn to my attention earlier this year was that people were being fined for dropping off family members at the station in what was the bus zone, but there is no other practicable area where commuters can park.

I also wrote to the Bayside council and received a good letter from Adrian Robb, the chief executive officer, who replied by way of correspondence dated 16 July 2009, which was received in my office on 21 July. He noted:

The issue of short-term parking availability is a concern — —

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

Road safety: city of Casey

Ms GRALEY (Narre Warren South) — The matter I wish to raise tonight is for the attention of the Minister for Roads and Ports and concerns road safety in my electorate. The action I seek is for the minister to provide funding to the City of Casey for road safety programs.

The community in my electorate is still grieving over the tragic deaths of five young people on Hallam Road in Hampton Park. During the weeks that followed, Operation Ardent operated in the city of Casey for four days. The police presence was noticeable, and drivers were forewarned by local papers and advertising in the dailies.

Unfortunately during this operation 20 probationary licence-holders were detected as having a blood alcohol level of over .00 and 45 motorists had blood alcohol readings of over .05. Police also caught 5 drivers under the influence of drugs, 83 drivers holding mobile phones and 123 drivers not wearing seatbelts. The results of this police operation are not only unfortunate but really disturbing.

During the days and weeks that followed the horrible tragedies on Hallam Road, I was heartened to see many young people who wanted to make a difference. They are genuinely committed to trying to prevent further accidents occurring, as they have witnessed firsthand the grief and the aching and ongoing feeling of loss that comes with road accidents.

Many of these young people took part in the Walk for Hallam Road, a peaceful protest that began with a minute's silence for the young people who had lost their lives. I would particularly like to pay tribute to Hayley Clifford, Emilio Barna and Zachary di Silva, who organised a petition for traffic lights on Hallam Road. I commend their maturity and their hard work, and I look forward to continuing to work with them and the Hampton Park community members to improve road safety in the local area. I would also like to commend Erika Maliki for her courageous leadership and the good folk of the Hampton Park renewal project for the support and guidance they have offered our young people during these difficult times.

These young people are very good examples to other young people. They are taking a sensible approach to a difficult issue. We need to continue with efforts to get our message across to more young people in the community. There are many young people in the city of Casey, many of them understandably keen to get on the road and drive. I know; my kids were the same. But we must ensure that they get the best road safety education possible and learn to know that driving is a very big responsibility. I ask that the minister takes action to provide funding for road safety programs in the city of Casey in the future.

Responses

Mr HULLS (Minister for Racing) — I thank the member for Geelong for raising this important issue, and I note that the Geelong Racing Club has a magnificent history. In fact my father went to St Joey's in Geelong, and I am sure he went to many a Geelong Cup. It is a great track, and I thank the member for Geelong for raising the issue about the ThoroughTrack. As he said, the ThoroughTrack at Geelong was constructed by Racing Victoria Ltd in 2007 following the successful installation of a ThoroughTrack racing surface at Canberra racecourse in 2004. It is true that concerns in late 2008 about the number of injuries to horses racing on the ThoroughTrack resulted in RVL's commissioning a report into the track and its effect on horses. Upon receipt of that report RVL resolved to undertake remedial and upgrading works on the ThoroughTrack, and as the honourable member for Geelong pointed out, racing was postponed pending the completion of those works.

Further investigations have now been completed by RVL and its track consultants Pro-Ride which have resulted in RVL recently announcing that structural issues with the road base will be corrected and that an additional 35 millimetres of artificial surface will be added to the current surface. I understand this will involve blending the ThoroughTrack material with additional synthetic material supplied by Pro-Ride. RVL has advised that works have been scheduled to commence after the Geelong Cup — the great Geelong Cup — in October this year, with a view to the

ThoroughTrack being ready for training in February 2010 and racing in April-May of 2010.

The government provided some $1.785 million to RVL from the racing industry development program, a great program that supports country tracks right around Victoria. That was provided in 2006–07 in support of the original ThoroughTrack installation which cost some $4.1 million. The cost of the proposed changes is estimated to be $800 000 and will be met in full by RVL.

This information ought to be familiar to those opposite, in particular to the shadow Minister for Racing. That is because RVL has once again taken the extraordinary step of writing to the member for South-West Coast to clear up the misleading and inaccurate information he has been spreading on this issue in the media. I refer specifically to a letter dated 11 August from the chief executive officer (CEO) of RVL, Rob Hines, to the member for South-West Coast, which has been copied to me. I quote from the letter:

> While Racing Victoria Ltd acknowledges that the performance of the Geelong ThoroughTrack to date has not met expectations, we refute your assertions that the project has been an 'expensive debacle'. Your statements that the '$3.7 million venture … has been wasted' and that 'millions more will be needed to replace the ThoroughTrack with a new surface' are misleading, inaccurate and unfairly damaging to RVL's reputation.

The letter from RVL points out that there will not be millions more required to replace the ThoroughTrack, and there has been no money wasted. In fact Rob Hines specifically says to the shadow minister that 'the value of the original works has been retained'. The member for South-West Coast has once again been running true to form. He has form, I might say, in spreading untruths and misinformation, and he has form in having the racing industry — —

Mr Kotsiras — On a point of order, Speaker, I refer to *Rulings from the Chair*. The grievance debate is not an occasion to personally attack members of the opposition. I ask you, Chair, to bring the minister's attention back to answering the adjournment matter that was raised by the member.

Mr HULLS — On the point of order, Speaker, I was asked about the Geelong ThoroughTrack and for an update on works and things that had been said and done in relation to ThoroughTrack. It is absolutely appropriate to put on the record the facts in relation to the Geelong ThoroughTrack, to advise the house of the true nature of the works in relation to an important public facility.

The SPEAKER — Order! I do not uphold the point of order raised by the member for Bulleen. We are in the adjournment debate, not the grievance debate. But I suggest to the Attorney-General that in the full spirit of the end of the day and the end of the week his criticism of another member of this house in his response to the member for Geelong could be curtailed.

Mr HULLS — It is important when we are talking about such a great industry that employs around 70 000 people across the state that we support this industry as best we can. The government will continue to do that and has done so through the ThoroughTrack. It is totally incorrect to say that money provided by the government has been wasted or thrown away as a result of further work that needs to be done on this track. That assertion has been refuted by the chief executive officer of RVL in a letter he has written. Indeed further letters have been written to refute false assertions in relation to the racing industry, and they include letters written by Rob Hines and also Scott Whiteman, the CEO of Country Racing Victoria.

Mr K. Smith — On a point of order, Speaker, in your ruling on an earlier point of order. which was about the minister's criticism of an opposition member in the adjournment debate, you asked the minister to address the matter raised. He is now going back to being critical, and I ask you to either bring him back to the matter or sit him down, because he has already addressed the matter raised by the member for Geelong. He is simply labouring a point which is of total irrelevance as far as the matter raised is concerned.

Mr Trezise — On the point of order, Speaker, integral to this issue is the attitude of Racing Victoria Ltd, and I believe the minister has factual evidence in the form of a letter from Mr Hines, the chairman of Racing Victoria, which is relevant to the issue that I raised with the minister.

The SPEAKER — Order! I suggest that the Attorney-General has provided information on the correspondence, of which he has a copy and which has been sent to the member for South-West Coast, and that it is time to move the debate forward.

Mr HULLS — It is a very important letter, it is true. The letter makes it quite clear that the Geelong ThoroughTrack will continue; it is being upgraded and will continue to be a great asset for the people of Geelong and the racing community generally. I conclude by saying that the racing industry is a great industry. Geelong is an integral part of that industry. It is important, I believe, that members of the community support this great industry. It is totally inappropriate to

be spreading misinformation and lies about the racing industry.

In relation to the issue of the Geelong Cup raised by the member for Geelong, I think he said he will be attending his 31st Geelong Cup this year. I congratulate him. I notice there were some great winners of the Geelong Cup, even before he was born, that had some very apt names. Perhaps they were named after the shadow Minister for Racing. In 1886 Claptrap won the cup and in 1894 The Clown won the cup.

Mr Kotsiras — On a point of order, Speaker, I ask you to bring the minister back to addressing the issue. If the clown on the other side of the house wishes to speak, I am happy — —

The SPEAKER — Order! I do not uphold the point of order raised by the member for Bulleen, but I do remind the Attorney-General that no debate in this house is to be used to impugn other members of the house.

Mr HULLS — I will conclude on this note: this government will continue to support the racing industry and the independent governance structure for racing that is Racing Victoria Ltd. We do not believe in political interference in the racing industry, and we will continue to support great racing centres like Geelong. We will not talk the industry down. I conclude by saying that a certain person is getting a reputation in the racing industry for being its Pinocchio — that happens to be the member for South-West Coast.

Mr WYNNE (Minister for Housing) — I thank the member for Cranbourne for highlighting the urgent need for social housing in Cranbourne and surrounding suburbs. He has been an enormous advocate for public and social housing generally and specifically in his own area, where there are some very significant challenges.

As the house would know, the Brumby government is addressing the need for more affordable accommodation in a whole range of ways, such as through the national rental affordability scheme. Members of the house would be well aware of this partnership between the federal and state governments, which will be a very important stimulus in the private rental market, bringing on stream a significant injection of private rental property. The requirement is that the properties be at 20 per cent below the market value for each area. In return a subsidy is provided to the investor as long as the property is held in the private rental market for a 10-year period. That is going to make a significant difference to a range of areas, particularly in the electorate of the member for Cranbourne.

The $510 million to which the member for Cranbourne referred — the most significant investment by a state government in public and social housing — is flowing through in a very strategic way. Part of that record investment will see the growth in housing associations and in public housing as well. We indicated when we got that massive investment that $300 million would be provided to boost housing associations and that there would be $200 million for public housing as well.

One of the challenges currently facing us is the need to reconfigure our stock — and I have indicated that before — to better meet the needs of our tenants. As members of the house who take an interest in public and social housing would know, a large percentage of our public housing stock is two and three-bedroom stock, and there is, of course, a much higher demand for single-bedroom units and for units for larger families. More than 50 per cent of our public housing waiting list now is made up of single people, so we are really in quite a challenging environment in terms of reconfiguring the stock.

However, the Office of Housing is working strongly with our housing associations and providers to identify sites for redevelopment, and I am particularly pleased to advise the member for Cranbourne that a major redevelopment is planned for Carrum Downs involving the Loddon Mallee Housing services. The state government has committed $13.2 million to enable the redevelopment of the Tucker estate. Those people who understand the history of the Brotherhood of St Laurence would understand the significance of the name of Father Tucker and the extraordinary contribution he made to social reform not only in the housing sector but as the driving force behind the Brotherhood of St Laurence.

The Tucker estate in Carrum Downs was purchased by Loddon Mallee housing on 22 June this year. As I have indicated, the site was previously run by the Brotherhood of St Laurence as an aged care facility. The 134 units on site are approaching the end of their economic life and are in need of urgent replacement. The aged-care facility is currently in the process of being decommissioned and residents are gradually being moved to more appropriate, redeveloped, older-persons units. My understanding is that the site will be vacant by the end of 2009.

In a partnership between Loddon Mallee Housing Services and the state government, we will see the delivery of 100 new social housing units over the next five years. That is magnificent. There will be 100 units right in the member for Cranbourne's electorate, an area of great need. These 100 dwellings will be

inhabited by a mix of tenants to ensure that the redevelopment will provide a good sense of community and sustainable living for our tenants. The preliminary planning discussions with the council will commence in the next couple of weeks.

In addition to this development, which is fantastic — it is a wonderful boost to the electorate of the member for Cranbourne — I am also pleased to announce that 11 projects funded by the stimulus package are under construction in Cranbourne and Cranbourne North. These developments, along with others in the surrounding suburbs, will have an immediate and significant effect on the public housing waiting lists and on the housing market more generally.

I acknowledge the member for Cranbourne. It is a delight to have the member back in the chamber after a period when was away dealing with some issues. It is always a pleasure to work with the member and those in his office, who are fantastic advocates and real warriors for public and social housing outcomes. I applaud the member for this development. I am delighted, firstly, as I said, that he is back and in good health, which is fantastic; and secondly, that he continues with the advocacy and deep commitment that he has to these outcomes. Those 100 units will make a fantastic difference in the member's area, and I congratulate him.

The member for Pascoe Vale raised with me again the matter of the important issue of addressing the supply of safe and affordable accommodation, but within her own electorate. As the member for Pascoe Vale also indicated in her contribution, she is far from shy in coming forward to prosecute her case on the public housing projects that are near and dear to her heart and her electorate.

It is in that context I indicate to the member that the $99 million we have got from the Rudd government for maintenance is making a significant impact in not only the electorate of the member for Pascoe Vale but right across the state. We got $50 million over the last financial year and another $50 million will flow in this financial year for more renovation of our public housing stock.

Two types of properties will benefit from that investment. The first are properties that are currently untenable and in need of major maintenance work such as structural repairs. Bringing forward the upgrade to properties that have been waiting for maintenance repairs will have an immediate effect on the supply.

The second kind of property we will be spending the maintenance funds on are properties that require minor works, such as carpeting and repainting. Although these may seem small projects, they make an enormous difference in really breathing life back into those properties.

As I have gone around the state inspecting many of these projects, I have seen that the investment of a relatively modest amount of money — in the order of $20 000 to $30 000 for refurbishment of the bathroom and kitchen and repainting of the interior of a property — makes a huge difference and can really breathe life back into that property for another 10 to 15 years. Any tenants you talk to after the refurbishments have been done are absolutely delighted with the outcome they have received.

I advise the member for Pascoe Vale that we will spend in the order of $800 000, or just a shade over that amount, on maintenance in the Pascoe Vale electorate and the surrounding area. We will spend $91 000 in Pascoe Vale, $114 000 in Coburg, $208 000 in Glenroy and $391 000 in Hadfield.

Mr Herbert interjected.

Mr WYNNE — That is where the member for Eltham grew up. The member is a great ornament to the suburb of Hadfield.

This is a fantastic outcome because it delivers two key outcomes: first, the economic stimulus, which is really important in terms of jobs. All the trades we talk to are absolutely delighted, particularly the plumbing trade, bakers and so on. Many of the trades are saying that this is a fantastic boost in quite difficult economic times. Second, there are great social outcomes in terms of breathing life back into our social housing and providing great quality housing, particularly for people in Pascoe Vale and Cranbourne.

The member for Bass wrote to me on 30 April regarding the possible redevelopment of vacant Office of Housing land adjoining 2 Icke Road, Koo Wee Rup, and I responded to him on 4 July. As I said in my reply to the letter from Mr Smith, the undeveloped land at Icke Road which he identified is part of a larger property. Approximately one-quarter of that property is undeveloped, but the other three-quarters has 29 units of older persons accommodation. Not only is the vacant portion of this land undeveloped, but it is not currently accessible by road and has no current connections. Moreover — and this is the key point — the site is subject to a planning overlay that deems the land to be subject to flood inundation.

The member for Bass wants me to build public housing on a site which is subject to flood inundation. No, we will not. The director of housing is responsible for these developments, and he will not build on sites that are subject to flooding.

I take on notice what I think is a genuine concern by the member for Bass in relation to the provision of public housing in his electorate. I indicate to the member that the advice I am provided with is that Koo Wee Rup is not currently an area of expressed high demand for public housing. The broadband waiting list for Cranbourne district, of which Koo Wee Rup is part, has a total of 688 applicants, of whom 88 have been approved for early housing. None of these early housing applicants has indicated Koo Wee Rup as a preferred location.

I say to the member for Bass that we are keen to provide more public and social housing in his electorate. The member knows that. We are doing an extensive amount of work, not only in the city of Casey in the member for Cranbourne's electorate but more broadly through the city of Cardinia as well. Projects will emerge through the next stage of the Rudd government's economic stimulus package.

The government is looking for opportunities right across the state, including in the electorate of the member for Bass, and I indicate to him and to the member for Shepparton that I want to ensure that there is an appropriate spread of accommodation between metropolitan Melbourne and rural Victoria. The current distribution is about one-third in rural Victoria and two-thirds in the metropolitan area. We want to make sure that the record investment by the Rudd government to Victoria of $1.5 billion is appropriately spread across regional Victoria and metropolitan Melbourne. I will be happy to receive further advocacy from the member for Bass in relation to other opportunities that may arise in his area.

The member for Caulfield raised a matter for the attention of the Minister for Health in relation to the hyperbaric chamber currently under repair at the Alfred hospital, seeking that the repairs be completed as soon as practicable.

The member for Shepparton raised a matter for the attention of the Minister for Public Transport seeking further consultation in relation to bus services in the Shepparton district — routes, timetables and removal of stops. I will make sure the minister is aware of that issue.

The member for Hastings raised a matter for the attention of the Minister for Police and Emergency Services advocating a zero tolerance policy for policing, presumably across the state.

The member for Northcote raised a matter for the Minister for Environment and Climate Change in relation to supporting the final and much-needed link between the Darebin Creek Trail and the Main Yarra Trail. The Victorian Civil and Administrative Tribunal process is now finished, and there are a few minor technical matters that need to be resolved there.

The member for Sandringham raised a matter for the Minister for Public Transport seeking support for reconfiguring the Sandringham railway station car park drop-off zone, which is causing difficulties in that area.

The member for Narre Warren South raised a matter for the Minister for Roads and Ports seeking support for funding for the City of Casey for further road safety education in her electorate as a result of a very tragic accident.

The SPEAKER — Order! The house is now adjourned.

House adjourned 5.31 p.m. until Tuesday, 1 September.