PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Thursday, 24 August 2006

(Extract from book 11)

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

By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Standing Orders Committee — The Speaker, Ms Campbell, Mr Cooper, Mr Helper, Mr Kotsiras, Mr Loney and Mrs Powell.

Joint committees

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells. (*Council*): The Honourable S. M. Nguyen and Mr Scheffer.

Economic Development Committee — (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson. (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen.

Education and Training Committee — (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton. (*Council*): The Honourables H. E. Buckingham and P. R. Hall.

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Family and Community Development Committee — (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell Mrs Shardey and Mr Wilson. (*Council*): The Honourable D. McL. Davis and Mr Smith.

House Committee — (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan and Mr Smith. (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen.

Law Reform Committee — (*Assembly*): Ms Beard, Ms Beattie, Mr Hudson, Mr Lupton and Mr Maughan. (*Council*): The Honourable Richard Dalla-Riva, Ms Hadden and the Honourables J. G. Hilton and David Koch.

Library Committee — (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson. (*Council*): The President, Ms Argondizzo and the Honourables Richard Dalla-Riva, Kaye Darveniza and C. A. Strong.

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Public Accounts and Estimates Committee — (*Assembly*): Ms Campbell, Mr Clark, Ms Green and Mr Merlino. (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, Ms Romanes and Mr Somyurek.

Road Safety Committee — (*Assembly*): Dr Harkness, Mr Langdon, Mr Mulder and Mr Trezise. (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney.

Rural and Regional Services and Development Committee — (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh. (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson. (*Council*): Ms Argondizzo and the Honourable Andrew Brideson.

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-FIFTH PARLIAMENT — FIRST SESSION

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Deputy Speaker: Mr P. J. LONEY

Acting Speakers: Ms Barker, Ms Campbell, Mr Cooper, Mr Delahunty, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Ms Lindell, Mr Nardella, Mr Plowman, Mr Savage, Mr Seitz, Mr Smith and Mr Thompson

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The Hon. S. P. BRACKS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

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:
The Hon. LOUISE ASHER

Leader of The Nationals:
Mr P. J. RYAN

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

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Asher, Ms Louise	Brighton	LP	Lim, Mr Hong	Clayton	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
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Carli, Mr Carlo	Brunswick	ALP	Maxfield, Mr Ian John	Narracan	ALP
Clark, Mr Robert William	Box Hill	LP	Merlino, Mr James	Monbulk	ALP
Cooper, Mr Robert Fitzgerald	Mornington	LP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Delahunty, Mr Hugh Francis	Lowan	Nats	Munt, Ms Janice Ruth	Mordialloc	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
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Gillett, Ms Mary Jane	Tarneit	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
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Haermeyer, Mr André	Kororoit	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Hardman, Mr Benedict Paul	Seymour	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Harkness, Dr Alistair Ross	Frankston	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
Helper, Mr Jochen	Ripon	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Herbert, Mr Steven Ralph	Eltham	ALP	Seitz, Mr George	Keilor	ALP
Holding, Mr Timothy James	Lyndhurst	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Honeywood, Mr Phillip Neville	Warrandyte	LP	Smith, Mr Kenneth Maurice	Bass	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Sykes, Dr William Everett	Benalla	Nats
Hulls, Mr Rob Justin	Niddrie	ALP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Ingram, Mr Craig	Gippsland East	Ind	Thwaites, Mr Johnstone William	Albert Park	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Trezise, Mr Ian Douglas	Geelong	ALP
Jenkins, Mr Brendan James	Morwell	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice	Altona	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Kotsiras, Mr Nicholas	Bulleen	LP	Wilson, Mr Dale Lester	Narre Warren South	ALP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wynne, Mr Richard William	Richmond	ALP

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THURSDAY, 24 AUGUST 2006

Thursday, 24 August 2006

The SPEAKER (Hon. Judy Maddigan) took the chair at 9.33 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 96 to 99, 179 and 180, 299 to 304 and 388 to 401 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:

Planning: Glen Waverley development

To the Legislative Assembly of Victoria:

The petition of residents of the City of Monash, CSIRO Site Redevelopment Action Group, draws to the attention of the house that we object to the application for review by VCAT of the City of Monash's decision to refuse granting a planning permit lodged by Associated Town Planning Consultants on behalf of Premier Developments for the proposed development at 57 Kinnoull Grove, Glen Waverley, being part of the former CSIRO site.

VCAT reference no. P1851/2006; City of Monash reference no. 33891.

The petitioners therefore request that the Legislative Assembly of Victoria ask the Minister for Planning, Rob Hulls, to call this review in from the VCAT hearing because:

1. The Glen Waverley community deserves to be constructively engaged in the entire redevelopment of this important infill development known as the CSIRO site (57 and 59 Kinnoull Grove). The redevelopment on this part of the CSIRO site (57 Kinnoull Grove) should be considered in context of the rest of the former CSIRO land parcel (59 Kinnoull Grove) which were sold to the developer as a package. The approval for a planning permit for 57 Kinnoull is premature, pending the plans for development of 59 Kinnoull Grove.

2. This 13.9-metre high, 20-metre wide, three-storey (plus semi-basement car park) development of nine flats is inappropriate to the 95 per cent single-storey and single-dwelling Kinnoull Grove location. It is more suited to a central precinct activity centre where shopping, amenities and public transport are available. Kinnoull Grove is a quiet no-through-road residential street and not such an activity centre. We believe this is not in accordance with the Melbourne 2030 plans.

By Ms MORAND (Mount Waverley) (48 signatures)

Water: Wimmera-Mallee

To the Legislative Assembly of Victoria:

The petition of concerned residents of the Wimmera-Mallee of the state of Victoria draws to the attention of the house the urgent need for water for household use and for firefighting this coming summer.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria urges the Minister for Water to hold over the environment flow bulk entitlement to the Wimmera and Glenelg rivers this year, to allow the water to be used to fill house dams and strategically placed dams for firefighting.

By Mr WALSH (Swan Hill) (78 signatures)

Tabled.

Ordered that petition presented by honourable member for Swan Hill be considered next day on motion of Mr WALSH (Swan Hill).

ROAD SAFETY COMMITTEE

Driver distraction

Dr HARKNESS (Frankston) presented report, together with appendices and minutes of evidence.

Tabled.

Ordered that report and appendices be printed.

DRUGS AND CRIME PREVENTION COMMITTEE

Misuse/abuse of benzodiazepines and other forms of pharmaceutical drugs

Mr COOPER (Mornington) presented interim report, together with appendices and minutes of evidence.

Tabled.

Ordered that report and appendices be printed.

SUPREME COURT JUDGES

Report 2004–05

Mr HULLS (Attorney-General) presented, by command of the Governor, report for 2004–05.

Tabled.

DOCUMENTS

Tabled by Clerk:

Auditor-General — Performance Audit Report — Condition of public sector residential aged care facilities — Ordered to be printed

Parliamentary Committees Act 2003 — Response of the Minister for Education and Training on the action taken with respect to the recommendations made by the Education and Training Committee's Inquiry into the Promotion of Mathematics and Science Education

Statutory Rules under the following Acts:

Bail Act 1977 — SR No 104

Estate Agents Act 1980 — SR Nos 105, 106

Infringements Act 2006 — SR No 103

Parliamentary Salaries and Superannuation Act 1968 — SR No 107

Veterans Act 2005 — SR No 108

Subordinate Legislation Act 1994 — Ministers' exemption certificates in relation to Statutory Rule Nos 107, 108, 109.

BUSINESS OF THE HOUSE

Adjournment

Ms GARBUTT (Minister for Community Services) — I move:

That the house at its rising, adjourn until Tuesday, 12 September 2006.

Motion agreed to.

MEMBERS STATEMENTS

Ballan: facilities

Mr HOWARD (Ballarat East) — Last week I was in Ballan on two occasions, supported by two of our ministers. On Thursday the Minister for Transport came to Ballan to announce the commitment of over $1 million to establish extended parking facilities at the newly upgraded railway station. This will assist many more residents of the region to take advantage of the new fast rail services, which will see more than 80 additional weekly services stopping in Ballan. This extended park-and-ride opportunity will not only bring benefits to many residents in the region but provide a boost to local businesses in Ballan.

The following day the Minister for Environment and I met with students and other residents of Ballan who have supported the Commonwealth Games tree planting in Caledonian Park along the Werribee River. Government funding supported the removal of dense weeds which prevented residents from accessing the river frontage and saw the planting of 28 000 trees to totally transform this area.

This is a terrific community activity which I was involved with back in September last year and which has now seen a great result for the area. These two government-funded projects can be added to the new ambulance station, an upgraded fire station, a major school refurbishment, a new skate park, new bus services into Ballan station from Daylesford and the Mount Egerton and Gordon areas, and the $650 000 Community Support Fund grant that has seen the Ballan Mechanics Institute refurbished and extended to now house the neighbourhood house and men's shed.

Continence Awareness Week

Mr MULDER (Polwarth) — I would like to congratulate Colac Area Health and in particular continence adviser Roma Hammond for their promotion of Continence Awareness Week 2006. I had the pleasure of opening the afternoon presentation on what I described as the last frontier in taboo health issues. It used to be women's health, then mental health, followed by men's health, but in the past the community has shunned the subject of incontinence as being too difficult to talk about. People even admit they have never discussed the problem with their GP. Thanks to the work carried out by dedicated health professionals such as Roma Hammond, lack of continence will become a recognised health issue that can be assisted and in many cases cured. One in three women who have had a child is affected, and one out of 10 men. It is estimated that 50 per cent of sufferers do not discuss the matter with their GP.

Incontinence can be managed, improved and often cured, and measures can be taken to prevent the condition worsening. There are a whole range of treatments and products available to assist, and I urge sufferers to speak to their GP or contact their continence adviser at the area health facility.

I was sitting in a waiting room to see a urologist and sparked up a conversation with an elderly gentleman. The conversation moved on to that problematic gland that can make life a misery for men, the prostate. As this elderly gentleman said to me, 'You know you can still have a good night out, but you quickly learn that you have to wear dark pants'. That is no longer the case. What this gentleman needs to recognise, along with others, is that they need to go and see a continence adviser or a GP.

Finally, thanks go to Jennifer Hilikari, Glenys Drayton, Drinks by the Bar, Colac fruit market and Bakers Delight, along with dedicated nurses from Colac Area Health who supported the day.

Regency Park Primary School: *Dragon Girl*

Mr LOCKWOOD (Bayswater) — I recently had the pleasure of attending a performance of *Dragon Girl* by the students at Regency Park Primary School. It was a great night of musical fantasy. There were great musical numbers like *Night of the Dragon, Zardok's Dream, Superstition, Annalisa*, the *Begonian Anthem, You're Going, On Your Way* and the *Great Finale*. The fantasy is based on a journey by the main character, Anna, and her quest to save the begonia from the evil Sir Basil of Hawthorn and the dragon. The play had an alternate cast on each of its two nights.

Various characters, like peasants, guards, trees, dungeon dwellers and the royal entourage, were played by grades 6F, 6I, 5H, 5K, 3H, 3W, 5W, 4T, 5W and 4B. The key roles were played by Stephanie Srbinowski, Sarah Brown, Maria Koumanelis, Bryony Thomas-Sievers, Linda Clarke, Janelle Hillebrand, Sarah Gascoyne, Erin Naylor, Chanuka Kankanamge, Nathan Sadeghi, Jack Tunnecliffe, Zoe Wain, Darcy Stafford, Betsy Mao — who gave a great performance, Ashleigh Bull, Nathaniel Monastirli, Sam Coates, Scott Camm, Ryan Hobbs, Josh Dickson, Kelly Baxter, Becky Carlin, Emma Furness, Rebecca Williams, Georgia Roney and Bonnie Camm.

It was a great event, and I am sure all the students enjoyed themselves. They showed great enthusiasm, skill and dedication. The parents and friends all enjoyed themselves immensely and were no doubt very proud of their children. Of course the parents also kicked in with costumes and make-up, not to mention the delivery and pick-up of the players. Several members of the school staff helped make the event the huge success it was. My compliments to them all.

It was a wondrous adventure, with a seriously evil villain in Sir Basil and some unlikely heroes in Pete Moss, Bramble Bush and Cooch Grass. But it was the heroine, Anna, who tamed the fire-breathing dragon and banished Sir Basil.

Water: Fifteen Mile Creek

Dr SYKES (Benalla) — I wish to draw the attention of the Minister for Water to problems that farmers on the Fifteen Mile Creek near Wangaratta are experiencing in accessing stock and domestic water. The weir on the creek which enables water to be held back and diverted to about 10 land-holders is in need of repair. Until recently Goulburn-Murray Water staff refused to put the boards in the weir that are necessary to raise the level of water to enable its diversion. Apparently there are health and safety issues.

After meetings with Goulburn-Murray Water and publicity in the *Wangaratta Chronicle* water is now being diverted, but the flow rate is limited, causing problems for farmers pumping to fill their dams. The farmers have requested that the weir be de-silted at a cost of about $10 000. Both Goulburn-Murray Water and the North East Catchment Management Authority say they have no money for de-silting, even though there is $200 000 set aside to replace the weir with a rock wall and fish ladder. The farmers are being told they have to apply for a permit to de-silt, and if the permit is granted they will have to pay the full cost themselves.

I ask the minister to ensure that the permit is issued immediately so that works can be commenced immediately to allow farmers to fill their dams within the next month whilst the creek is running. I also ask the minister to provide funding for the works as part of what I hope will be a general support program for farmers in country Victoria who are heading into a very stressful period.

Energy: renewable sources

Mr HUDSON (Bentleigh) — Less than 100 days out from the election the Liberal Party and The Nationals still have no greenhouse gas reduction strategy. The latest episode in this sorry saga came last week when the opposition energy spokesman, Honourable Philip Davis, a member for Gippsland Province in the other place, said the Liberal Party would, if elected, scrap the Victorian renewable energy target scheme announced by the Bracks government. This is a total disgrace. The scheme requires electricity retailers to provide 10 per cent of their power from renewable sources by 2016.

The Nationals have also announced that they would scrap the scheme. This comes on top of their total failure to support wind power in this state and can only create a climate of uncertainty amongst businesses that want to invest in the renewable energy sector, a point made by Victorian Employers Chamber of Commerce and Industry chief executive, Neil Coulson.

The Liberal and National parties have also consistently defended the failure of the Howard government to ratify the Kyoto protocol, making Australia one of only two Western countries in the world which have failed to do so. They have also criticised the Labor states for their efforts to develop a carbon emissions trading scheme in the absence of any national leadership from the Howard government.

We have unchallenged scientific evidence that greenhouse gas emissions arising from human activity are leading to an escalation in greenhouse gas emissions, and yet the opposition parties plan to do nothing about it. The impact of global warming is one of the greatest threats to the future of the planet, but only the Bracks government will have a plan at the next election to tackle it.

Hospitals: waiting lists

Mrs SHARDEY (Caulfield) — The Liberal Party has in this place brought attention to the disgraceful number of people having to wait for elective surgery in Victoria under this Labor government. This has been done by highlighting the plight of individual cases in the Parliament. Subsequently the contact details of these patients who gave their permission were passed on to the Premier for action, hopefully, to be taken. It appears the Premier — no doubt because he is too busy — handballed the task to the Minister for Health, who in turn handballed it to her departmental secretary. Lo and behold an extraordinary request arrived from the department. Patient contact details were not enough — more information was needed in order to track down these patients, who were on the government's own waiting list. I quote from the request:

> It would assist us to ascertain their status if your office could provide details on the health service at which they are waiting.

Advice to the Liberal Party regarding privacy considerations prevented additional information being given. However, we will continue to do whatever we can to drive down Victoria's surgery waiting lists. We call on the ALP to cut the spin and focus on doing its job to properly assist needy Victorians waiting for hospital treatment.

Cancer: Daffodil Day

Ms MORAND (Mount Waverley) — Judging from the number of daffodils on lapels, many members and staff already know that tomorrow is Daffodil Day. I wish to encourage widespread support of the Cancer Council Victoria's Daffodil Day tomorrow. This annual fundraising event is a really important day to raise money for the great work that the cancer council undertakes, which includes cancer research, patient support and education. I enjoyed the opportunity to join other local volunteers a stall at the Glen shopping centre on Monday. Over 10 000 volunteers will be involved in supporting Daffodil Day this week at locations across Victoria. The help of volunteers is vital in supporting this important event.

Cancer affects nearly one in three Australians, with over 22 000 Victorians diagnosed with cancer each year. All of us would know someone who has been affected by cancer. A close friend of mine was diagnosed with and treated for breast cancer last year, and due to early diagnosis and treatment is going very well. Significant developments in the prevention and treatment of cancer have been achieved, with the survival rate for many common cancers increasing by more than 30 per cent in the past two decades. We have world-class scientists and research institutes in Melbourne. I am proud that this government is continuing to invest in and support medical research, including the recent $230 million Healthy Futures package, which includes the development of a new Victorian cancer agency.

It was also welcome news when the federal government this week approved the subsidy for Herceptin, which will allow more than 2000 women with breast cancer to benefit from treatment with this drug.

China: human rights

Mr PERTON (Doncaster) — I commend the previous member for her comments, and join her in them.

I wish to draw to the attention of the house the independent investigation into the practice of the government of the People's Republic of China of harvesting the organs of Falun Gong practitioners. Honourable members will be aware that on Monday morning I hosted a forum with David Kilgour, former Canadian cabinet minister, and Mr Edward McMillan-Scott, vice-president of the European Parliament. These brave men have conducted an independent investigation and have concluded that the allegations are true.

The Chinese government, as honourable members know, sent an email to all of my colleagues, and I thank a number of Labor and Liberal members for both alerting me to that fact and giving me strong support as a result. Following up — although some members thought there may have been a breach of privilege — I took the opportunity to invite the consul general to the meeting and left a chair on the platform for him. Sadly, he did not turn up.

We know that the Chinese government has admitted to taking the organs of convicted criminals, but in China, unlike Australia, you can be convicted as a criminal for speaking your mind in respect of democracy or for pursuing a faith like Falun Gong, which is independent of Communist Party views. Many of my colleagues have bravely joined me in this fight, and I hope both before and after the Olympic Games we will be able to have some role in eliminating this practice.

Dr Lee Gordon-Brown

Mr LIM (Clayton) — Four years ago, on 21 October 2002, we were deeply shocked to hear the dreadful news that several students had been shot at Monash University, of whom two died. The university is in my Clayton electorate, and I am an ex-Monash student. I also served as a member of the university council from 1997 to 1999, so it felt very much like a personal tragedy.

At the time it was hard to see anything redeeming in the affair, except for the fact that several brave people had the courage to tackle the armed man who committed the outrage and hold him down until police could arrive. I said at the time that it is because of the courage of such ordinary people as this that we defeat the terrorists and madmen who are bent on taking away our lives and liberty.

Dr Lee Gordon-Brown was one of the men who acted so heroically on that tragic day, so I am glad to report that he has just been presented with the Royal Humane Society's Stanhope medal. The presentation was made by the Governor-General, Major General Michael Jeffery, in Melbourne earlier this month. The Stanhope medal is awarded annually by the Royal Humane Societies of Australia, the United Kingdom, Canada and New Zealand, and the Liverpool Shipwreck and Humane Society to recognise the most conspicuous act of gallantry. My congratulations to Dr Gordon-Brown. His medal is well deserved.

Rochester community house: funding

Mr MAUGHAN (Rodney) — On Monday evening I attended the annual general meeting of the Rochester community house. The community house has now been running for four years without any government-funded coordinator and entirely because of the enormous contribution of volunteers.

The community house has provided an excellent service to the community by offering a wide range of courses and activities to pursue the objective of lifelong learning and personal development. Unfortunately some of those activities have had to be curtailed because, without a coordinator, the community house is not covered by public liability insurance.

In spite of that the committee has continued to provide courses such as Relax in Rochester, which attracted 125 participants for instruction in healthy eating, exercise, sleep and personal pampering. The enthusiastic committee, with the help of a grant of $48 000 from the Victorian government and $30 000 from the commonwealth government, has transformed a former disused commercial premises into a very comfortable and welcoming community house, including a computer room and a men's shed.

At the annual general meeting attended by 25 members Marie Chambers was elected the president, Ken Moroney, vice-president, Wendy Shorthouse, secretary, and Lorna Peacock, treasurer. The committee comprises Kylie Reid, Carol West, Jacqui Kerr and Gwen Houlden. It is about time the Victorian government recognised the outstanding effort of the volunteers and provided funding for a coordinator.

Nanaksar Sheik Temple

Mr PERERA (Cranbourne) — I had the great pleasure of attending the Nanaksar Sheik Temple on the wonderful tree planting day. Amongst the dignitaries who attended the function were Baba Amar Singh Ji, a spiritual leader who has come from the United Kingdom, and Mr Jaswant Singh, a guest from the United States of America.

The Sheik community in Victoria is now over 15 000 and is growing fast. It is great to see a lot of members of the community moving to the south-eastern suburbs of Narre Warren and Cranbourne. I am sure the great facility of the Nanaksar Temple is the motivating factor in their moving to the area. Members of the Sheik community in Victoria are doing really well. I know quite a few who are doing really well in business

ventures, and I am very privileged to have a few good friends within the Sheik community.

I know the community is big on charity activities to help the less fortunate among us. Mr Satvir Singh has been organising charity lunches in the St Kilda area for a number of years. I am pleased to say that he has accepted an invitation to host a few charity lunches around the Cranbourne and Frankston areas. This proves that members of the Sheik community can play leadership roles in mainstream Australia. That is wonderful news for the local community, and I am sure the Sheik community is very proud of people like Satvir Singh.

These events are also a great opportunity to promote the values of multiculturalism. The Bracks government is an ardent supporter of multiculturalism, and — —

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

Keith Burren and Trish Williamson

Mr McINTOSH (Kew) — I want to briefly acknowledge two friends of mine — Keith Burren and Trish Williamson — who both passed away recently after succumbing to a terrible disease.

Keith Burren leaves a life that touched many people around the world. Born in the United Kingdom, he and his family moved to Australia in 1952, after which he qualified as a civil engineer and practised as such for nearly 50 years. Keith was highly regarded internationally, having a significant role in the investigation, planning, design and construction of ports in Australia and in at least 12 other countries in South-East Asia and the Pacific. An active member of the Mount Eliza Rotary Club as well as the scouting movement, he contributed greatly to his community. Rower, sailor, skier — he was a man whose advice I held in the highest esteem. He is survived by his wife Pauline and her family.

Trish Williamson, with husband, Gavin, and their wonderful family, have lived in North Balwyn for many, many years. Trish was a stockbroker yet was able to balance her responsibilities in her professional life with those of being a mother and wife. Trish was renowned as a great entertainer whose wicked laugh and wonderful sense of humour was always best displayed during the Spring Racing Carnival. Her courage was evident when she insisted that she dance at her son Damien's wedding earlier this year. She was a great contributor also to her community. To both Keith and Trish, all I can say is, 'Cheers!'.

Infant Nursery Products Association of Australia

Mr MERLINO (Monbulk) — On Thursday, 3 August, I was very pleased to attend the Infant Nursery Products Association of Australia's national conference. INPAA is the industry's peak body and is focused both on industry development and on product safety and injury prevention. It is leading the way in promoting a holistic approach to injury prevention by addressing human behaviour. It asks questions such as: why do we make repeat mistakes such as leaving children alone around water or not ensuring they have correctly fitted restraints? It also addresses research and design, instructions and warnings, appropriate regulation, consumer empowerment and community education.

The conference was addressed by a number of high-calibre presenters who were informative and complimentary of INPAA's leadership. The Minister for Consumer Affairs opened the conference, and acknowledged the excellent work of the association over the last year.

The state coroner, Graeme Johnstone, stressed that 'accidental' deaths should rather be referred to as 'preventable' deaths. He said the 25 infant deaths nationally involving nursery products over the last six years were all preventable. He said what is needed is a more proactive approach to injury prevention, better understanding and implementation of coroners' findings, better coordination of data collection and a greater focus on education. The coroner used his relationship with INPAA as an example of this. Professor Joan Ozanne-Smith, from Monash University's Accident Research Centre informed the conference that 3342 hospital presentations related to nursery products in Victoria in the 10-year period to 2004–05.

All the presenters acknowledged the leading role of INPAA in embracing a proactive culture of product safety and injury prevention — a model that can be used in all areas. Congratulations to executive director Tim Wain and the team at INPAA on a job well done. I look forward to the planned Baby Safety Week — —

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

Planning: green wedges

Mr HONEYWOOD (Warrandyte) — Yesterday in the house we heard the Minister for Planning trumpeting his government's so-called protection of

green wedges. Anyone listening to the minister may have thought that green wedges were a Labor Party initiative, when in fact they were brought into being by a previous Liberal government. Of course what the minister did not tell the house was that by the stroke of a pen he can still use his extensive planning powers to make special-use exemptions in our supposedly protected green wedges when it suits him.

One such usage exemption has now taken its cream brick form in the Warrandyte green wedge. Nursing homes are specifically not allowed in Labor's green wedge legislation; yet after this legislation had passed both houses and been enacted Labor's planning minister gave a specific exemption for a whole complex of ugly buildings on top of a ridge line — a real architectural scar and blight on Warrandyte's bushland landscape.

The Liberal candidate for Warrandyte, Ryan Smith, pointed out to me when he recently inspected the site that there appears to be no screen or camouflage planting of trees or landscaping requirements. This is just not good enough from a Labor government. As many Labor Party supporters in Warrandyte will tell you, it would not matter if this were a nursing home for Anglo Celts, Chinese or Callithumpians, the fact is that the Bracks government promised that such massive built structures would never be allowed in a green wedge, let alone on a ridge line.

This is similar to its promise to protect the Yarra as a so-called heritage river, when only 20 minutes from the Melbourne central business district we have thousands of homes in my electorate still totally reliant on septic tanks, which are discharging record high levels, according to the media, of E. coli into the Yarra River. The Yarra River is meant to be a heritage river, yet we have heritage septic tanks discharging E. coli into it at a time when the heritage river legislation is passed in the Parliament.

Vietnam War: Long Tan commemoration

Ms DUNCAN (Macedon) — On 13 August I joined several hundred people at the Kyneton town hall to commemorate the 40th anniversary of the battle of Long Tan. The commemoration began with a wreath-laying ceremony at the cenotaph at Kyneton, followed by a lunch for the veterans and their families and friends. The series of photographs, the first-hand accounts, the film footage and the playing of the music of the time made the whole presentation a very moving experience and a fine tribute to all who fought in the Vietnam, particularly the 108 Australians who fought at Long Tan.

Long Tan is the Vietnam War's equivalent of Gallipoli and should hold the same place in our history. I pay tribute to the various sub-branches of the RSL which contributed to this event and particularly to Frank Donovan. Australians are again involved in a battle that has divided opinion in this country. Whatever our opinion of our involvement in this war, we must support our soldiers and never again do to our returning soldiers what we did to those returning from Vietnam. Lest we forget.

Member for Brighton: comments

Ms BEATTIE (Yuroke) — Yesterday the member for Brighton attacked the Minister for Education and Training in relation to the second-reading speech on the Melbourne University (Victorian College of the Arts) Bill. It is fair to assume that in readying herself for this grubby little attack the member for Brighton actually read the minister's speech. What is also clear is that the member for Brighton neglected to read the speech on the same bill delivered by the shadow minister for education, the member for Nepean — either that or that she did not actually consult with him at all, because had she done so she would have discovered that healthy slabs of that contribution bear an uncanny or almost verbatim resemblance to the minister's second-reading speech.

I will read some of both. The Victorian College of the Arts web site says:

> Formally associated with the College is the Victorian College of the Arts Secondary School …

The member for Nepean said:

> The Victorian College of the Arts Secondary School is also formally associated with the college.

The member for Brighton would hold the minister to one standard and her own shadow minister to another. It is yet another example of the Liberal Party's hypocrisy, especially in education, where it claims to support higher standards. When in government the Liberals closed more than 300 schools, sacked 9000 teachers and spent less per student than any other state in Australia. The member for Brighton has made double standards and hypocrisy an art form.

Building Bridges program

Ms CAMPBELL (Pascoe Vale) — This house notes the Compass address of Ramelle Lewis of the King David School, who has attended the multifaith Building Bridges program at a variety of school locations. Ramelle said:

> We started off asking each other rather broad religious questions, pertaining to our beliefs and the traditions of our religions.
>
> However, when the ice broke, or more precisely when the pizza arrived, we began to talk normally, laugh and just get to know each other — not just what our faith was, but what our names were, what we did on the weekend and what subjects we enjoyed …
>
> Instead of being spiritual delegates for our schools, we became friends. We know how to make each other laugh and what to talk about, without feeling awkward or pressured.
>
> We learnt things about each other that nobody else knows, where we go to think, who we value the most and why our beliefs, whatever they may be, are important to us.
>
> …
>
> … the establishment of unity between … Jewish … Christian and Muslim communities helps me appreciate each person in the Building Bridges program. That unity is humanity.
>
> …
>
> We are all unique, and it is precisely these differences that allow us to respect each other, and to recognise the significance of tolerance in the world of today, but more importantly, of tomorrow.

Ramelle also said:

> Although we may have been from different backgrounds and different countries, we were all just teenagers interested in connecting with new people and moving past the prejudice and intolerance that often accompanies ignorance.
>
> We are not world leaders — we are kids … and unify ourselves as the youth of Australia.

Roberto Márquez

Mr LANGUILLER (Derrimut) — I wish to commend the art work of Roberto Márquez, the Mexican painter who has now made Melbourne his home. He recently exhibited 'Convergence' at the Alcaston Gallery, Fitzroy. Márquez's works are traditional, have subject matter and titles, are architecturally precise and anatomically correct and are figurative and of human dimensions — and they are able to be hung in contemporary homes. Yet like their American counterparts, which history labels 'postmodern', they are disturbing, sophisticated and multilayered in meaning, and often have literary references, while still being autobiographical, Mexican and European.

They are metaphors of life whose central character is often the artist himself. He has said:

> Everything happens around me; I am confronted by myself constantly.

Márquez is fascinated by the mythology of St Kilda the suburb and by the mysterious saint 'Kilda', although he knows that it is named for a cargo yacht, *Lady of St Kilda*. The associations are multiple: a woman alone, a femme fatale asleep, a rope for binding as well as an umbilical cord, a masked figure for Carnivale in Mexico City.

The works in this exhibition, 'Inscribed in the Flesh', all map the conscious and unconscious yearnings not only of Márquez and his three worlds — Mexico, New York in the United States and Melbourne — but also, in some profound and unclear way, the journey and struggle of each person who seeks understanding. That is why so many of them are familiar and why we recognise the loneliness, the mystery and the longing that calls up our own.

Hearing Awareness Week: Assembly chamber

Ms MARSHALL (Forest Hill) — Hearing Awareness Week is from 20 to 26 August and this year's theme is noise-induced hearing loss. Hearing Awareness Week provides an opportunity for the 22 per cent of Australians aged 15 years or older who have a hearing impairment to share their experience and knowledge and help to create a greater understanding of their needs and aspirations. Parliamentarians have been exposed to the world of the hearing impaired this week with real-time captioning and Auslan interpreters during question time on Tuesday — where the highest level of comprehension ever was recorded.

Vermont Secondary School: upgrade

Ms MARSHALL — Yesterday I had the pleasure of accompanying the Minister for Education and Training at Vermont Secondary College, where the minister announced the college would start planning for major rebuilding works. The school will be one of the first to benefit from the Bracks government's new Building Futures policy. This will give the college the chance to create flexible spaces that best suit the needs of students and teachers. Possibilities include: a new library resource centre; remodelling of the existing library to form a suite of classrooms to accommodate year 7 students; and an area for school presentations, exhibitions and lectures. I wish Vermont Secondary College all the best in the preparation and realisation of this project.

Whitehorse Showtime: *The Crystal Shard*

Ms MARSHALL — *The Crystal Shard* is the title of a new performance by Whitehorse Showtime, the theatre collective of scouts and guides from the

Whitehorse and Maroondah districts. It is their 40th season, and I am lucky enough to be attending the opening night tomorrow night. I wish them 'Break a leg' and continued success for many years to come.

Hearing Awareness Week: clear speech awards

Ms MARSHALL — On Tuesday, 22 August, the annual Hearing Awareness Week clear speech awards were held in Queen's Hall. The Minister for Community Services and numerous parliamentarians attended with Channel Ten weatherman, Mike Larkins, and sports presenter, Angela Pippos, two of the media personalities present to accept their awards. ABC radio's Jon Faine and Jennifer Kyte were also awarded.

William Barak memorial lecture

Ms BEARD (Kilsyth) — On Thursday, 17 August, I was delighted to attend the fourth annual William Barak memorial lecture as part of the Shire of Yarra Ranges and Lilydale Swinburne Institute of Technology Town and Gown series. The annual lecture is held in recognition of the contribution made by Barak as an ambassador and political advocate for his people. His passion to paint about ceremony and the land have made him an international icon.

Barak was born in 1824 near Brushy Creek in Croydon and died at Coranderrk Aboriginal station on 15 August 1903. This year's guest speaker was Syd Jackson, well-known Carlton Football Club star. Syd told of his heartbreaking childhood, where he was stolen from his parents in spite of his mother being able to hide him for some time. Syd's two sisters were also stolen with no regard given to their being well cared for and in a loving family. He was raised at Roelands Native Mission in Bunbury. His outstanding football ability was recognised early, and he played 104 games with East Perth in 1963. He was recruited to the Carlton Football Club in 1969 and was a valuable member of the 1970 and 1972 grand final teams. He played 136 games with Carlton between 1969 and 1976, kicking 165 goals.

Syd is a member of the Australian Football League's Indigenous Team of the Century. He has established the Indigenous Sports Foundation and is a member of the newly formed Stolen Generation committee. Syd spoke about his longstanding commitment to increasing opportunities for indigenous people in sport and employment. He is committed to building positive relationships between indigenous and non-indigenous people of all ages.

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

OWNERS CORPORATIONS BILL

Second reading

Debate resumed from 20 July; motion of Mr HULLS (Attorney-General).

Mr PERTON (Doncaster) — In any civilisation, any community of people living close to each other within cities and building complexes needs to live harmoniously and be able to arrange their mutual affairs efficiently and effectively. This is particularly the case in situations where property is commonly owned by those who live within complexes, and of course in those situations common obligations to ensure maintenance, renewal and good order are part of the process.

If a dispute arises, people need to be able to resolve it in a timely, efficient and courteous way. In most cases in this society this is done by individuals without the need for state intervention. When this process breaks down, however, the state needs to be there to provide a means of resolution. Melbourne and its suburbs and parts of regional Victoria have changed dramatically since the time when the quarter-acre block was the norm for residential settlement in Victoria. In those days it was unusual for people to live in apartments in the city or in high-rise accommodation. Even 18 years ago, when the Subdivision Act of 1988 established the current regulatory structure, most bodies corporate were small and self-managed.

We just need to walk out the door to see the change. Indeed some of the members of this house, country members in particular, who rent or buy properties are acutely aware of the changing nature of residential accommodation in the city of Melbourne. If you go to Port Melbourne, St Kilda, Toorak, Prahran and elsewhere you see the incredible growth not just in apartment living but in the construction of very large apartment complexes. When you have in some cases many hundreds of people with common ownership of property and common obligations but often different levels of patience, tolerance and courtesy — and in some cases different means of being able to deal with the exigencies of living in a building and the requirement for maintenance — life becomes much more complicated indeed.

This legislative reform is timely, because it affects, according to the statistics produced by the government and some of the organisations representing bodies corporate, nearly 1 million people in the state of Victoria who either live or work in premises controlled by bodies corporate. This number will increase. Whilst

there might be a slight lull in building at the moment, one just needs to drive through the electorate of the member for Prahran — and I note he is in the chamber — to see the developments taking place. The member for Bulleen is in the chamber — —

Mr Delahunty interjected.

Mr PERTON — The member for Lowan makes the very good point that with the more intensive residential developments, traffic changes and even proposals like the widening of Punt Road become more complex in an environment where more people are living on the edge of the city.

I have received a very large number of emails and letters on this issue, as have the shadow minister, the Honourable Wendy Lovell, a member for North Eastern Province in the other place, and the member for Bulleen, who has done a lot of work in analysing what is a very complex piece of legislation that runs to some 156 pages and 224 clauses plus schedules. The general view of the public and of the experts who have analysed this piece of legislation is that it is better than the legislation prepared in 1988 under the Cain government because it recognises some of the practices and difficulties that have taken place since then. On the other hand, those who have looked at the bill say it is not good enough. There was a real opportunity for the government to produce a much better piece of work, maybe a little bit lighter in the detail of the bill.

I hope that some amendments will be moved by the government to address those concerns, but I am now delivering the opposition's response and we certainly have not seen amendments that address the continuing concerns. One very experienced body corporate manager expressed his concerns and those of his colleagues as follows:

> Whilst there are some positive areas there are a number of issues we feel need addressing. We are all concerned about the extra costs that will flow on to owners of bodies corporate if the bill was to be passed in its current form.

I will come back to the additional cost to people in small bodies corporate. Although your electorate, Acting Speaker, is not one in which there is a lot of high-density living, there would be a number of small bodies corporate in the city of Mildura. The compliance burden of this legislation will be particularly heavy on those who seek to administer those small bodies corporate, so I am sure it will be a matter of concern to you as the administration of this legislation proceeds.

Firstly, I indicate that the Liberal Party will not be opposing the bill. We accept the view that it is better legislation than that of the Cain government, but we will not wholeheartedly support it, because the government, for whatever reason — whether it was ministerial inattention or failure to understand the serious concerns being raised, a failure by the minister's advisers or a deliberate decision by the government — has ignored those who are expert in this field. They include the Law Institute of Victoria, the Victorian Bar Council and the Institute of Body Corporate Managers. Their interests are not the opposite of owners interests. Like the owners, they want good and efficient administration and a good system for the determination of disputes.

It puzzles me that a number of the proposed amendments that would remove some of the difficulties in the legislation have so far been ignored. As I said, I do not blame the Minister for Community Services, who is at the table, as she is not the minister responsible for this legislation. However, it would have been appropriate and courteous, if amendments are to be moved by the government, for the minister to have given notice of that at the beginning of this debate.

There are those in the government who have done a lot of work in this field. I pay tribute to my dear friend the Honourable Helen Buckingham, a member for Koonung Province in the other place. She has done a heck of a lot of work in leading the review of this legislation. One of the reasons that the legislation has been so long in gestation is, of course, Helen's illness during the course of that inquiry. I am pleased to say that Helen is looking bouncy and healthy and is doing her work with me on the Education and Training Committee in other areas. I fear that the government has not drafted the legislation fully in the spirit that Helen Buckingham put to both the Parliament and the community. The vision that Helen had was of a piece of legislation that was modern and that provided mechanisms for dealing with the problems that have arisen in bodies corporate since the 1988 legislation came into being, especially the problems of the very large bodies corporate in the building complexes with hundreds of apartments.

What I think has happened is that the drafters and policy makers have probably understood the situation and made major improvements for those in large building complexes but, sadly, the legislation will provide a degree of compliance burden for those in smaller apartment developments that will cause considerable grief. There is capability under the legislation for regulation to exempt smaller bodies corporate from some of the legislative provisions but I suspect that over the next five to 10 years we will find that to a large extent the situation for large apartment

buildings will have been improved but that for those who live or work in small bodies corporate may be worse or more onerous.

There is a lot of reading in this, as any citizen or member of Parliament who has dealt with this legislation will be aware. There are the long bill and second-reading speech and many review papers, letters and comments from constituents — and it is not an easy piece of legislation. From my perspective, the first problem is that those who administer bodies corporate and those who live in them and wish to pursue their rights will find that the legislation, regulations and procedures are very complex.

In our briefing the government officials acknowledged that complexity, but what was clear to me was that they have not actually come up with the means of assisting the citizen, who may be a body corporate manager or secretary, by providing them with the tools needed to deal with this legislation. While other areas of the Department of Justice have been able to establish and use computer tools and the like to make life a little bit easier for people dealing in these areas, I have not seen any such proposal. I put it to the government that whether it is a piece of software or a web-based decision-making system that can assist people, either would be appropriate.

When I chaired the former Legal and Constitutional Committee we did a study of technology and the law. One of the clear demands from the community was that the government or the private sector with the support of government or the private sector without the inhibition of government provide tools to help people through the processes of dispute resolution or, indeed, for determining their rights or dealing with a complaint from another person. In the report on that inquiry and a previous report we talked about doing it for fencing disputes, for instance. In this area it is much more important.

During the course of the review by the Honourable Helen Buckingham good work was done on behalf of both owners and managers, who, as I said, have interests that run parallel in their desire for an efficient and well-run system. Despite all that good work by the government I cannot help but feel a sense of regret at the lost opportunity. I have quoted it before but I consider it appropriate to quote again the chorus of the 1960s song:

> Is that all there is? Is that all there is?

The disappointing thing about the legislation is that it could have been really good — a world-leading piece of legislation. Instead, under the government's new school report card system I would give it a 'D' rating, meaning that it is below the standard expected at the time of reporting. My comment would be:

> Needs to improve listening skills.

Professional bodies with vast experience in this field made substantial contributions. They include the Institute of Body Corporate Managers, the Real Estate Institute of Victoria, the Victorian division of the Property Council of Australia, and the Law Institute of Victoria, among others. There have been contributions also from people like Julie Van Dort and a number of others. To try to name them all would be to miss some and therefore offend them. I have had the assistance of literally scores of people who are experts in this field, like Justin Lethlean and others, and I pay tribute to them for their hard work and commitment and thank them for their submissions. Unfortunately, as I said earlier, they were either largely ignored by the government through ministerial incompetence or disregarded for no good reason. It is ironic that a government that prides itself on consultation failed to consult and take on board the detailed feedback on areas of concern and proposed amendments that affected groups would have liked to have incorporated into the bill.

I will just step back a moment. After the speech by the member for Tullamarine I am almost hesitant to return to the purpose of and quote from the bill, but in the course of a parliamentary debate one has to be able to quote from documents without being accused of plagiarism.

The purpose of the bill is to create a legal framework for the governance of bodies corporate, which will be known as owners corporations, and to provide for the management, powers and functions of owners corporations and for the resolution of disputes relating to owners corporations. The bill also amends the Subdivision Act to allow for the creation of owners corporations and makes a number of amendments to other acts.

The bill's main provisions are to change the term 'body corporate' to 'owners corporation', and to create a three-tier dispute resolution process to include an internal complaints process, access to Consumer Affairs Victoria to conciliate or mediate the dispute, and access to the Victorian Civil and Administrative Tribunal (VCAT), which has the power to make binding determinations. Paid managers will be required to register with the Business Licensing Authority, to have professional indemnity insurance and to be solvent. The bill defines the roles and responsibilities of owners,

corporations, committees of management, developers who control owners corporations, managers, lot owners and occupiers.

In doing that there is a great deal of complexity, and I suspect this legislation will be back in the house some time in the next three or four years as problems in large developments become clear. The control of bodies corporate in staged developments is a very difficult area. We have to ensure there is a clear system for people purchasing apartments in staged developments so they know precisely what their rights and entitlements are vis-a-vis the developer and so we do not end up with unhappy owners and unhappy developers, because we rely on them to build the premises which will be required to accommodate the million or more new Victorians over the next 20 years, many of whom will live in premises controlled by bodies corporate.

The bill also sets out procedures for conducting annual general meetings, changes the disclosure requirements, requires the owners corporation certificate be attached to the section 32 statement, requires an annual financial statement to be presented at the annual general meeting, and places restrictions on developers who have a majority of votes in a body corporate to ensure they represent the best interests of all developers.

The major area of concern is the complexity of the legislation, which will lead to increased costs and owners corporation fees. The problem with the legislation is that it tries to prescribe too much. When the drafting officers sat down to consider the issues, perhaps after the first review or after submissions, they had the opportunity to be light-handed and to understand that adults meeting together at an annual general meeting or a general meeting of a body corporate can at least determine whether they want one of their own number or someone else to be the chairman of the meeting. It flies in the face of the experience of most bodies corporate to require that every chairman of a body corporate needs to be a member of the body corporate. It will mean that they cannot have a mediator, such as a professional, come in to chair difficult meetings where disputes need to be resolved and that managers will not be chairs. That provision needs amendment.

I notice that the Attorney-General, who is the Minister for Planning, has just entered the chamber.

Mr Hulls — I was just looking at your tie, really.

Mr PERTON — Thank you, I appreciate your compliment. Orange and yellow seems to be the colour of the day. Now the minister is in the chamber I will put to him the view from the Institute of Body Corporate Managers, which is shared by the law institute and others, that the section of the owners corporations legislation that relates to the chairmanship of a meeting needs to be altered, and whether the minister has brought in amendments to change that — he is looking at his red file — or whether it will be done between chambers — —

Mr Hulls interjected.

Mr PERTON — That is sadly a lost cause. The fish John West rejected for the upper house is hardly going to succeed in Doncaster, but I thank the minister for lightening the day with a good joke.

I refer to a comment made by the Institute of Body Corporate Managers and supported by the law institute:

> The requirement for the chairperson of the owners corporation to chair the general meeting is different from current laws and it is not a good change. Owners are not equipped to effectively chair meetings as they do not have the required knowledge of the legislation and skill. This bill needs to allow for the owners corporation to elect who they want to chair the meeting. Current practice, where an owners corporation has a manager, is that the manager chairs about 99.9 per cent of owners corporation meetings.

The institute goes on to say:

> There are already sufficient protection provisions in this bill through the inclusion of conduct principles for managers (must act honestly and in good faith, exercise due care and diligence, and not make improper use of position to gain an advantage) and dispute resolution mechanisms.

Under this legislation:

> The manager cannot be the chairperson; and … cannot be the secretary. This does not properly recognise the role of managers.

One of the things I said before the minister entered the chamber was that maybe this is an area where his department could look towards providing software tools or the like to assist both managers and secretaries of small bodies corporate but also members in understanding their rights. He already has some decision-making tools on the web in other areas of legislative requirement. As I said, there are 220 provisions in this bill, there will presumably be dozens, if not hundreds, of regulations, and there are 52 other statutes at least that a body corporate manager and a body corporate must comply with. If we could give people inexpensive tools, using modern technology such as the Web, to help them comply with these provisions, that would be a very good thing to do.

The cost today is not so high. There are sufficient, if one looks at the example, for instance, of — —

Mr Hulls — What will your consultancy rates be after the election?

Mr Kotsiras interjected.

Mr PERTON — The member for Bulleen has very properly cautioned me on responding to — —

The ACTING SPEAKER (Mr Savage) — Order! The honourable member, on the bill.

Mr PERTON — On responding to the very kind offer, there are experts that the department has already engaged under other tenders and the like who would do better than me.

Mr Kotsiras — How much are they getting paid?

Mr PERTON — Actually — —

The ACTING SPEAKER (Mr Savage) — Order! The honourable member, on the bill. I will not ask him again.

Mr PERTON — This is on the bill, and I — —

The ACTING SPEAKER (Mr Savage) — Order! Do not take that type of tone with me, member for Doncaster. On the bill, thank you.

Mr PERTON — If the member for Mildura, in the last three weeks of my parliamentary career, would demonstrate the patience expected of an Acting Speaker, I would be grateful. I ask that the minister look at the provision which relates to the chairing of a meeting. That would be very appropriate.

Another area of concern is that part 12 of the bill requires managers to be registered, but there is no minimum qualification necessary nor is there any requirement for a police check. Given that police checks are appropriate in other areas, and given that in many cases these people deal with millions of dollars and the opportunity is there to deal with this money in merged funds and the like — although there has not been, to my best investigations, large areas of fraud or theft in this area; I think we have been pretty lucky on this front — the temptations are there and there probably needs to be a little more stringency with respect to a police check.

The Real Estate Institute of Victoria has suggested that perhaps some further level of qualification and training may be appropriate. I am not sure about that. My experience of living in a premises run by a body corporate is pretty limited, but certainly those managers I have dealt with have been very decent individuals who have tried their best. I do not think we want everyone to have a legal or accounting qualification in order to run a body corporate.

Other concerns of course include the security of owners corporation funds. Clause 27 allows for pooled funds. Pooled funds are much more effective and efficient for those who run a number of bodies corporate and it allows for a reduction in the costs to the owners, but perhaps in looking at the regulations we might need to have a look at the circumstances in which the financial statements need to be audited.

Another concern is the register of managers. The bill requires managers to provide a full list of their client base for the register. There is concern about that; it is pretty unique in registration for a business to be required to provide its full list of clientele. Obviously that would leave room for marketing and poaching. I am not against competition — I am very much in favour of competition — but that level of disclosure on a public register may be inappropriate.

The Law Institute of Victoria and others have asked some questions in relation to the requirement for a special resolution in order to bring legal proceedings — for instance, the 75 per cent approval for a special resolution would, in effect, mean that a body corporate may never be able to appeal a planning application. While some people may say that is a good thing and we should leave it in the hands of the individual owners, there will be times when the interests of all the owners are affected by a planning process and it might be that they choose to join together and use their funds in order to do that. Whether the Attorney-General will introduce amendments today or whether we can look at it while the bill is between houses, there needs to be some change to that aspect.

Dispute resolution processes in some circumstances are too long. A period of 28 days is allowed for a person notified of a breach to rectify the breach, and another 28 days is allowed after a final notice is given. Eight weeks is a long time in some circumstances — the sort of circumstances raised by you, Acting Speaker — where tenants or the like may be engaged in vandalism or excessive noise or so diminishing the environment in which people live that it is intolerable. The police say it is a civil matter. In those circumstances there ought to be some ability to bring it before the Victorian Civil and Administrative Tribunal at an earlier stage in order to get expeditious assistance in the case of a really bad person living within your body corporate area, whether they are an owner or a tenant.

The last concern I raise for the minister is in relation to information, recording and inspection. Keeping records is a good thing, although in some circumstances there may need to be some supervision of access to documents. With freedom of information inspections there is always a public servant supervising me. In circumstances where there might be a concern about documents being removed from files or the like, the manager or their representative or some representative of the committee will need to be there to supervise the inspection of documents unless those documents are photocopied. Although transparency is a very important thing in these circumstances, it may be that there needs to be some fee in relation to supervision or some circumstances under which a person's access to documents can be supervised in some other way. Maybe a photocopying charge might be the way to do it, or emailing documents or the like. Let us work out a way of doing this without making it too onerous for the body corporate manager.

In conclusion, with the ever-increasing move to high-rise apartment living and the associated complex social policy development we must reinforce the need for people to resolve disputes in a civil and courteous way and provide a framework. As I indicated earlier, the opposition sees this legislation as a step forward, but it could have been better. I hope the minister takes up the amendments recommended by the experts, supported by the Liberal Party and hopefully supported by the minister as well. As the American civil rights leader and Nobel Peace Prize recipient, Dr Martin Luther King, Jr, said:

> We must learn to live together as brothers or perish together as fools.

I think that is a lesson to everyone living in the complicated environment of a body corporate.

Mr DELAHUNTY (Lowan) — I rise on behalf of The Nationals to speak on this important bill, the Owners Corporations Bill. Owning a house, a unit or a business is the Australian dream, but unfortunately state government red tape, land taxes, stamp duty and a lack of land are making this dream hard to achieve. I am pleased to see the Minister for Planning at the table.

Mr Hulls — You've got 25 years supply!

Mr DELAHUNTY — The minister says there is 25 years supply, but as he knows, the red tape, high costs and stamp duty are making it very difficult and very expensive to own a house in the state of Victoria. More importantly I will talk about the bill, because it not only deals with residential units, flats and apartments, but also retirement villages, shopping complexes, commercial developments, office space, industrial complexes and mixed-use developments.

Firstly, I want to thank the minister, her staff and the departmental officers for providing a briefing to my colleague the Honourable Damian Drum in another place and me. I also thank the various people we consulted in relation to this bill. The Nationals will not be opposing this legislation. We think, as the member for Doncaster said, it is a step forward, but obviously with any rewrite of legislation — and this is a total rewrite — there will be problems and things that need to be addressed.

The bill creates a legal framework for the governance of bodies corporate, which are now to be known as owners corporations. The existing legislation stems from the Subdivision Act 1988. The bill facilitates the regulation of the separate legal entities responsible for the managing of common property where there are multiple owners of that property. Acting Speaker, as you and I know because we live in units when we are down here in Melbourne, and I have in my previous life lived in body corporate-type places when I was studying and — —

Mr Hulls — We do not want to know about every place you have lived in.

Mr DELAHUNTY — No, but I would be proud to tell members about every place. I have been very fortunate that I have lived with great neighbours.

Mr Hulls — What do they say about you, though?

Mr DELAHUNTY — They have said I am a great neighbour too! The reality is that at the end of the day it makes life go on if you have got welcoming neighbours, people who can work with you in difficult times. I know, particularly from my wife's point of view, that there is always a shortage of something in the kitchen, and it is great to able to go next door and borrow, and sometimes pay back, those things.

I know of cases around the state, whether they are here in the metropolitan area where most of the units are or in regional areas, where there are frictions about some of the things covered under the old Subdivision Act, whether they take place in residential units, shops or industrial developments.

The bill provides for the management powers and functions of the owners as a group to be known as owners corporations. The bill provides for greater duties, functions and powers for owners corporations to manage common property. This is a total rewrite of the old act, which was first introduced in 1998. When it

was introduced there were about 35 000 bodies corporate involving about 200 000 people. Now there are over a million people involved in about 65 000 bodies corporate, so obviously there has been enormous growth, in part because of the shortage of land.

The reality is that costs can be minimised by living in a high-rise unit and being part of a body corporate or owners corporation as they will be known. Not only will units be linked to owners corporations, but so also will be the common ground, whether it is driveways, lifts or entrance foyers, that needs to be maintained. From discussions I have had my understanding is that not a lot of work has been done to make sure there are appropriate funds to maintain these facilities. We do not want to see places knocked over after 10 years because they have not been adequately maintained.

The existing laws and regulations are outdated and need to be changed. We have seen enormous growth in the number of over-100 lot units. I am aware there has been a three-year review that was headed by a member for Koonung Province in the other place, the Honourable Helen Buckingham. I compliment the member for Doncaster on his accolades for that lady. I do not know her well, but my colleagues admire her battles with health and more importantly her taking up of the issue of bodies corporate. An issues paper was published and meetings were held, and we were informed that over 200 people turned up at Melbourne Town Hall. A future directions paper was issued in 2004 and an exposure draft in 2005, but over 100 submissions have come in raising concerns about the new bill.

The bill makes many changes. It will change the term 'body corporate' to 'owners corporation'. It will provide for significant improvements in dispute resolution, with a three-tier process that will involve an internal complaints process, access to Consumer Affairs Victoria to conciliate or mediate the dispute and access to the Victorian Civil and Administrative Tribunal, which has the power to make a binding determination. I have been in this place for seven years, and a lot of bills that come into this chamber place a greater workload on VCAT. I would like to compare the annual reports of that body from 1999 and 2006 to see the explosion in costs and staff needed to accommodate all the work it has been given by this government.

The bill requires paid managers to be registered with the Business Licensing Authority. They also need professional indemnity insurance, and I support that. There were some concerns, and the member for Doncaster spoke about those. A member for North West Province in the other house, the Honourable Damian Drum, is our lead speaker on this bill; he looks after consumer affairs. Concerns were raised with him about whether police checks should be carried out on those people. The government said it wanted light-handed regulations. We will wait and see about that as time goes on. We support mangers being registered with the Business Licensing Authority. The bill also clarifies the roles and responsibilities of everyone involved, including the owners corporations, the committees of management, the developers who control owners corporations, the managers, the lot owners and the occupiers.

In discussions with the department particular concerns were raised about developers. When contracts are signed and land is transferred some of them look to proxy votes to take to owners corporations meetings. The provisions dealing with that have been changed, and undue influence cannot be used in those matters. The bill also sets out procedures for conducting annual meetings. It sets out improved disclosure requirements, including stipulating that records of activities, undertakings and membership must be kept and made available for inspection at no charge to current and incoming owners. With communications the way they are today it should be a lot easier than it was in 1988.

The bill also requires that an annual financial statement be presented at the annual general meeting, with larger owners corporations to have their financial statements audited. In discussions with the department we talked about the definition of a 'larger' organisation. Our understanding is that the provision will relate to organisations with a budget of over $200 000 or about 80 lots, but that is yet to be resolved. This places important restrictions on developers who have majority power to ensure they represent the best interests of all owners.

There are many changes, and members of The Nationals think that is a step forward. Most disputes arise because of a lack of information or poor communication. They also come about because of poor access to records. This bill and the regulations will tighten up a lot of those things, and that will be a great improvement. Most disputes that we have been informed about involve the parking of cars and maintenance of trees. We all want to see more trees growing, but when they grow over fences or poke into windows they need maintenance. In the time I have been in this place concerns have been raised with my office about the education department not maintaining its trees and that sort of thing — —

Ms Beattie interjected.

Mr DELAHUNTY — The Parliamentary Secretary for Education has just walked into the chamber. It was not a crack at the education department in particular

Mr Hulls — She is a great trouper!

Mr DELAHUNTY — That is right. But trees grow and it is important to maintain them. The major concerns raised relate to the keeping of pets or the noise that comes from units. I have been fortunate enough to have had great neighbours when I lived in flats during my study days and even in my early days of marriage. We were very fortunate to have good people in units next door to us who did not have stereos blaring or pets barking all night. The reality is that there are problems, and this bill creates a three-tiered dispute mechanism, which is to be commended.

Under the current system you get information from Consumer Affairs Victoria (CAV). A dispute settlement process has been set up, but most disputes have to go to the Magistrates Court to be resolved. Fees are involved in doing that as well as other court processes, and most people feel intimidated by going to court. Therefore we do not believe the current system is appropriate, so we support the changes proposed in the bill. The new system includes an internal process, the CAV process and, importantly, the Victorian Civil and Administrative Tribunal.

I looked at other states to see how they deal with these issues. The New South Wales government provides information, conciliation and adjudication services to help settle strata or body corporate disputes. South Australia utilises the jurisdiction of the Magistrates Court to resolve disputes when informal measures have not been successful, so it has a similar system to us. In Western Australia there are more than 120 strata managers managing between 4000 and 5000 schemes, but there is no mediation process. There is limited support in dispute settlement. Tasmania has a mediation and arbitration system where the parties are encouraged to settle a dispute between themselves. It does not have the extensive process that we have in Victoria.

I think it is commendable that we have gone a step further. I am sure there will be other changes in other states. But one thing I will commend Consumer Affairs Victoria for is that it put out, in March 2006, a four-page fact sheet which highlights the changes to the body corporate laws. It covers the scope of the new legislation and clarifies the powers of the committee. It talks about information record-keeping, and it talks about the tiered dispute resolution process. The first tier means that the owners corporation must have an internal dispute resolution process as well as a default process, as set out in the model rules that will be put in by the department. The second tier means that at any time a person who is not satisfied with the internal process may contact Consumer Affairs Victoria. There is also a third tier, which I have spoken about, which provides that under this legislation people can go to the Victorian Civil and Administrative Tribunal. The fact sheet talks about financial accountability and about prescribed owners corporations and the new regulations.

Under the current regulations there are no differences in the requirements applying to small and large owners corporations. As I said earlier, we have seen an enormous growth in the number of lots of 100 and over. The regulatory impact statement that I spoke about before will identify where the split will be, but as a guide I think 80 or below will be in the smaller group and above 80 — or above $200 000 — will probably be in the larger group.

The fact sheet talks about the requirement to hold meetings and about the role of developers. At the moment there is no limitation on a developer's role in an owners corporation. From the information we have been provided on that I think there need to be changes in that area.

The big changes are in the managers area. One of the most significant areas of change in the bill is the appointment and supervision of managers. Paid managers must be registered by the Business Licensing Authority, and they will be prevented from registering if they are insolvent or do not have professional indemnity insurance. From the briefing we had I understand that the professional indemnity insurance cover has to be up to about $2 million, but I am not 100 per cent sure on that. The bill also clarifies the manager's functions where there is and is not a committee. It enables a committee to remove a manager rather than limiting this ability to a general meeting or a ballot of lot owners.

This is a worthwhile fact sheet because it gives a very good summary of the changes to the act. I hope it is provided to all bodies corporate, or the new owners corporations, so that all members get a copy. Meeting procedures and proxies were also dealt with in the discussions we had. As we know, in the past managers and even some developers demanded or required that proxies be given to them. Under the bill that will not be allowed to happen.

However, not everyone is happy, and to illustrate that I want to refer to some letters we have received. One from the Property Council of Australia says:

> The property council would not welcome a change in policy that would result in over-regulation.

We in The Nationals would have to agree with that. The property council went on to say:

> The property council recommends limiting the term of the initial bodies corporate manager's contract for two years.
>
> The property council encourages full disclosure of the details of fees, and allowing body corporate fees to be challenged.

Obviously, the property council has some concerns.

I also have a copy of a letter from the Law Institute of Victoria, in which it said:

> The administration of the Body Corporate Guarantee Fund should be on the same basis as the Estate Agents Guarantee Fund under section 75 of the Estate Agents Act 1980, with similar powers of inspection and audit.

My colleague the Honourable Damian Drum, a member for North Western Province in the other place, had discussions with the Real Estate Institute of Victoria, which was very concerned that there were not similar powers of inspection and audit. We questioned the staff at the briefing about that. They feel that at this stage the light hand of regulation is the way to go. We hope that is true and that it suffices in relation to the protection of funds in particular, because as we know a lot of money goes into these bodies corporate, which will now be known as owners corporations. Obviously there are concerns about that out there.

It is interesting to look at some of the newspaper articles on the legislation. One in the *Australian Financial Review* of Tuesday, 15 August, states:

> Body corporate fees may rise and building managers will find themselves dealing with a range of new regulations under owners corporation legislation before the Victorian Parliament.

It goes on to say that there are some concerns out there, but to save time I will not go through all that article. An article in the *Herald Sun* of 12 August states that:

> Body corporate legislation has been updated … but some say it is an example of heavy-handed bureaucracy.
>
> 'Body corporate': two words sure to strike fear into the hearts of many people who live in or own an apartment.
>
> Perhaps it's just the long meetings. Maybe it's an expensive paint job demanded by an affluent owner, or even the discovery of a secretly kept cat or dog.
>
> …
>
> Under the changes the bodies corporate will become … owners corporations …

Those newspaper articles raise some concerns, so not everyone is happy with this legislation. As I said, about 30 per cent of bodies corporate consist of five or less lots, but it is interesting to see that those with 100 or more have risen to 25 per cent of the total, and that percentage is still rising. The old saying that one size fits all is not appropriate for all owners corporations. The smaller ones will not have the horsepower or the financial resources to do a lot of those things, but obviously the bigger ones will be able to do more things.

This bill goes a long way towards addressing the issues identified in the three-year review, but only time will tell whether all the concerns that have been raised will be addressed. The old Australian dream of owning a house or a unit is still out there. I just hope that this legislation will not curtail the opportunity for people to fulfil that dream.

Mr LUPTON (Prahran) — The Owners Corporations Bill is a major leap forward in consumer protection and in the ability of the many thousands of Victorians who own and live in what we have up until now called bodies corporate to better govern their living arrangements and to work out how to solve any disputes that arise.

There are around 65 000 bodies corporate in Victoria, and many thousands of people living in flats and apartments are governed by body corporate legislation. The structure of a body corporate is a vital part of property ownership and management. To ensure that the legislation that covers all the people who live in bodies corporate and the mechanisms for managing body corporate arrangements are up to date, the Bracks government established a major review of this legislation.

That process began in 2003 under the then Minister for Consumer Affairs in the other place, Mr Lenders. When ministerial responsibility for consumer affairs was transferred to the Honourable Marsha Thomson, she took over responsibility for that review and has seen it to its conclusion. A member for Koonung Province in the other place, the Honourable Helen Buckingham, was appointed by the government to head the review. She did a wonderful job of consulting throughout Victoria over a lengthy period of time, which included the development and release of an issues paper and a future directions paper, holding public forums and the receipt of submissions.

The result of that lengthy and detailed review is the bill before the Parliament, now called the Owners Corporations Bill. The first thing that comes to mind is

that what we have come to know as bodies corporate in the past will now be known as owners corporations. The change of name has come about for a number of reasons.

One reason is that it brings the name of the legal entities into line with the name that is used in other states so that people around Australia will be using the same terminology for these organisations, and that will lead to better understanding and clarity in the law. But it also better reflects the way those responsible for the management of the buildings and properties will be understood. They are, in fact, committees and corporations of the owners of property, and so to call them owners corporations is a more sensible and better understood term.

The bill will reform major parts of the Subdivision Act, and replace the entire regulatory scheme with a new management process. Of course the Subdivision Act was passed by this Parliament in 1988, and we have had an enormous expansion and change in the nature of property development and ownership in the period of time since then. As I said earlier, there are about 65 000 of these body corporate properties in Victoria now, and it is certainly one of the big issues in my electorate of Prahran, where there are probably a higher number of flats and apartments run by body corporate management than in any other part of Victoria.

As part of the consultation and submission process that preceded the introduction of this legislation, I conducted a number of forums with constituents in my electorate. I held a consultation in St Kilda, another one in Prahran — those were both in 2005 — and then in March this year I held a further large forum in Prahran for interested constituents, and many people attended that forum. One of the reasons people were so interested in the forum this year was that we had the draft legislation to discuss, and it was a very practical and worthwhile exercise for the community to go through the proposals that the government had put into draft form for discussion and debate.

A number of the issues that came out of those forums I held have been incorporated into this new legislation, so I want to thank all the people in my electorate who either came to one or more of those forums or rang or came to my office or wrote to me about these important body corporate issues, because the information and views of constituents in my electorate of Prahran have certainly been taken into account in a number of ways. That has been important because the management of the apartment building where one lives is a terribly important part of our modern daily lives in areas like the Prahran electorate.

The new legislation will clarify the roles and responsibilities of the corporation, the committee of management, managers, lot owners and occupiers. It will improve protection of body corporate funds, improve dispute resolution, improve governance arrangements, improve the regulation about disclosure of information and provide greater enforcement provisions so that the legislation will be followed.

Key changes in the bill, some of which I have mentioned in passing, are that the name ‘owners corporation’ will be used rather than ‘body corporate’, and the specific roles, powers and responsibilities of a developer or of the owners corporation itself — the committee, the manager and members and occupiers — are better set out in this legislation than they were in the past.

The bill will clarify the powers of the committee, and that is important because many people who have spoken to me about management of what we will now call owners corporations have had difficulty just knowing precisely what powers and responsibilities the committee of management has had, and this legislation will set that out in a far better manner. It will also improve information and record keeping. Such things as financial statements and maintenance plans, committee minutes and the rules of the owners corporation will be required to be set out in better detail, and that will be important for all owners and occupiers.

One of the most important and difficult areas that needs to be dealt with in this legislation is dispute resolution. Unfortunately from time to time people in owners corporations have disputes that arise, and up until now that has meant costly and lengthy legal proceedings through the courts. This legislation will vastly improve dispute resolution by ensuring that the owners corporations must enter an internal dispute resolution process, with a default process set out in model rules. If that internal dispute resolution is not successful — or at any time — a person will be able to use Consumer Affairs Victoria to conciliate or mediate between the parties to a dispute, and if that is not satisfactory in settling matters, the new legislation provides that the Victorian Civil and Administrative Tribunal will have powers to resolve disputes and make binding determinations.

That will be an enormous benefit to people. It will mean that dispute resolution will be cheaper, quicker and people living in owners corporations will benefit greatly from those types of changes. This legislation is groundbreaking. It is a great achievement by the Bracks

government and I wholeheartedly endorse the bill before the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

MURRAY-DARLING BASIN (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 9 August; motion of Mr THWAITES (Minister for Water).

Dr NAPTHINE (South-West Coast) — I rise to speak on the Murray-Darling Basin (Further Amendment) Bill. Its purpose is to improve and incorporate an amendment to the Murray-Darling Basin agreement. The amendment has been agreed to and signed off by the leaders of the commonwealth, New South Wales, Victoria, Queensland, South Australia and ACT governments.

While the Liberal opposition does not oppose this legislation, I feel at this point it is important to raise what we believe is an error in the legislation. We believe this error is similar to an error that was before the house with regard to the ground water agreement some 12 months or so ago. It is a pity the minister responsible is not here because the minister and his advisers need to examine this alleged error, and if the error does exist, they may need to withdraw the bill from the program and seek to fix the error rather than pass legislation which has a fundamental mistake in it.

Right at the start I will speak to that error so that the officers have a chance to check whether the information we have researched is accurate and perhaps give advice to the house via the minister or one of the other government speakers to allay our fears on this issue.

I give credit where credit is due — the matter has been brought to my attention by Royce Christie, who is an adviser to one of our members, and Royce is an expert in these matters of water. He has closely examined the bill and detected what seems to be an error in the agreement presented to the house in this bill.

I will go to that issue initially before I speak more broadly on the bill itself. I refer to pages 14 and 15 of the bill and to item 20 of schedule 3, which proposes to amend clause 78 of the Murray-Darling Basin agreement.

Item 20 in proposed schedule 3 would make a number of changes to existing clause 78 of the Murray-Darling Basin agreement. Item 20(1) would change existing clause 78(1) by omitting paragraphs (a) and (b) and replacing them with new paragraphs (a) and (b). Item 20(2) would omit clause 78(2) and replace it with a new clause 78(2). These provisions relate to changes to the auditing arrangements and moving the auditing away from the commonwealth auditor to an auditor selected through a process outlined here. Item 20(3) would omit clause 78(4) and insert instead a new 78(3). Item 20(4) would renumber clauses 78(5) and 78(6) as 78(4) and 78(5), and item 20(5) would renumber clause 78(7) as 78(6) and make another minor change.

When you follow all that through and examine it in light of the agreement in clause 78, you see that the error we believe exists is that current clause 78(3) in the principal act has not been omitted by any of these changes in item 20 of schedule 3. One can only presume that clause 78(3) in the act would remain, yet item 20(3) of this bill omits existing clause 78(4) and effectively reinserts and renumbers it as clause 78(3). The conclusion we would draw from that is that there may be two clauses 78(3) in the agreement if this bill goes through without some sort of change.

Furthermore, clause 78(3) as it exists in the act and in the original agreement reads:

> The Commonwealth auditor must promptly inform each Contracting Government of any significant irregularity revealed by an audit under paragraph 78(1)(a).

Paragraph 78(1)(a) indicates that the commonwealth auditor shall be the auditor of the Murray-Darling Basin Commission. As I have pointed out, we are actually changing the auditing arrangements, so the commonwealth auditor need not necessarily be involved. Therefore existing clause 78(3) will become redundant, and having it remain there is not only superfluous but confusing and wrong. Yet there is no provision in item 20 or any of the items preceding it that actually omits the current clause 78(3).

To compound the problem, item 20(3) would insert a new clause 78(3), which was the old clause 78(4). If this is not corrected we could end up, in amended clause 78 of the amended agreement, with two clauses 78(3). We could have a situation where the original clause 78(3), having become unenforceable, is still there. In fact the commonwealth auditor might be put in the embarrassing position of having responsibilities under the agreement without having any involvement in the auditing process. I think this could cause enormous confusion and problems.

Based on my understanding of what I have researched — and I give great credit to Royce Christie for the work he has done on this — I think there is a fundamental mistake here. Whether that mistake is in the agreement which was signed by all the heads of government or in the bill before the house, I am not absolutely sure. My research suggests it was probably in the agreement signed by the heads of government.

As I say, we had a similar problem before that the member for Benambra identified, because he is a very diligent and conscientious member who does his work before he speaks in the house. He identified a similar problem in a ground water agreement between South Australia and Victoria where there was an actual mistake in the agreement that was signed by the two premiers. We had to withdraw that legislation from this Parliament while a new agreement was drawn up between the two premiers and signed so that new legislation could be presented back to the house.

I wanted to bring this issue up in the initial part of my contribution to the debate so that officers would have time to examine this matter and perhaps give some advice to the minister and the government before we proceed too far with this bill. As I understand the government business program, this bill is listed to be guillotined in order to be passed at 4.00 p.m. today. I would suggest that if the assertions I am making are correct, then it would be inappropriate for the Parliament to pass legislation which has this fundamental error in it. I would suggest that advisers may wish to give some clear advice to the government and the minister on this matter. If the assertions I am making are correct, then perhaps this legislation should be withdrawn from the guillotine and from the house and may need re-examination and perhaps even a new agreement signed by the heads of government.

I have taken some time on that issue, but it is a very important issue. The agreement is absolutely fundamental to the management of this important river system, and it is absolutely imperative that we get it right. It would be totally wrong of this Parliament to pass legislation if there were a fundamental error in it. I think this is a situation where Mr Christie has identified what I believe is a fundamental error, and in that circumstance, I would suggest that the government adjourn debate on this bill, perhaps after speakers from both sides of the house have contributed to the debate, and examine the issues I have raised and come back to the house with further advice. I think there is a need to re-examine this.

I turn to the broader issues of the legislation, aside from the alleged mistake. The contents of the amending agreement cover three broad areas. The first is a change in financial management arrangements, which include the auditing arrangements, which I have referred to, the apportionment of costs, borrowings and the power of the Murray-Darling Basin Commission to borrow, annuity contributions, financial reporting arrangements and the establishment and management of long-term renewals, and an annuity fund for capital works and maintenance. These financial arrangements are a step forward, and they have been agreed to by all parties. They provide a better framework for sound financial management of this important commission, and they are supported.

The second component of the amending agreement is on page 18 of the bill — it is numbered 26 — which sets out the agreement in clause 3 of schedule D of the agreement. It is fundamentally designed to exempt Queensland from liabilities for matters in which Queensland plays no part. Apparently this is an issue that has been of high priority for the Queenslanders and the Queensland government for a number of years. They have been concerned that under this arrangement they may be held liable as a partner for a share of damages for issues relating to decisions in which they play no part. This amendment makes it absolutely clear that they will be exempt from those processes. The other states and territories have agreed to that.

The third part of the amending agreement is a tidy-up, if one can describe it as that, of appendix 2 of schedule C. It appears on page 16 of the bill and is a list of authorised joint works and measures. These works, which include the Barr Creek drainage diversion scheme, the Buronga salt interception scheme and the Mallee Cliffs salt interception scheme, mostly relate to important salinity works and are undertaken by the commission in conjunction with the state governments of the relevant areas. There has been a need to tidy up the list and the schedule. I am advised that the works have been going on for a number of years and have been doing good things in terms of salinity.

They are the three major changes to the amending agreement, but we need to put them into the context of how important the Murray–Darling Basin and the work done by the Murray-Darling Basin Commission are to Victoria and Australia. The Murray-Darling Basin Commission web site states:

> The Murray–Darling Basin is the catchment for the Murray and Darling rivers and their many tributaries. Extending from north of Roma in Queensland to Goolwa in South Australia and including three-quarters of New South Wales and half of Victoria it is the heartland and the economic powerhouse of rural Australia. It extends across one-seventh —

that is, it covers 14 per cent —

> of the continent and has a population of nearly 2 million people.
>
> …
>
> The Murray–Darling Basin generates about 40 percent of the national income derived from agriculture and grazing. It supports one-quarter of the nation's cattle herd, half of the sheep flock, half of the cropland and almost three-quarters of its irrigated land. The basin contains more than 20 major rivers as well as important ground water systems.

As well as being an economic powerhouse and an important part of Australia in that respect, it is also absolutely vital to the environment of Australia. As we all know, Australia is a very dry continent, and the Murray–Darling Basin system is absolutely vital for the inland in terms of proper water management and the environment. The web site continues:

> Many of the basin's natural resources are of high environmental value. Its wetlands are extensive and perform essential hydrological, biological and chemical functions, which support and maintain the productivity and health of the river systems. A number of these wetlands are recognised under the Convention on Wetlands of International Importance (otherwise known as the Ramsar convention). These include Chowilla, Barmah-Milawa forests, the Coorong, Gunbower Forest, Hattah-Kulkyne Lakes, the Kerang Wetlands, Lake Albacutya and the Macquarie Marshes.

In looking at the sorts of wetlands it includes — I mentioned that the Kulkyne wetlands are there — —

Mr Walsh interjected.

Dr NAPTHINE — Yes, as the member for Swan Hill says, it again shows the absolute stupidity and folly of the Labor government's proposal to put a toxic waste dump at Hattah-Nowingi and put that toxic waste in the Murray–Darling Basin catchment area, right near important Ramsar wetlands. That is an absolute disgrace. It threatens the environment and the important wetlands I talked about — the environment of the whole Murray–Darling system — and it threatens the agricultural production of Sunraysia. When we talk about the Murray–Darling Basin and the importance of proper management of the basin one of the important things to do is to make an absolute commitment that we do not do something as stupid, short-sighted and environmentally damaging as putting a toxic waste dump in the Murray–Darling Basin at Hattah-Nowingi. That would be absolutely ridiculous.

In the time since European settlement in Australia there have been some major changes in the Murray–Darling Basin system, and probably the most significant was the construction of major water storages. The total capacity of storage in the basin is just under 35 000 gigalitres. We have major dams in our part of the world in Dartmouth and Hume, and these are very important water storages, but they have an impact on the Murray–Darling Basin. To the credit of our forefathers there has been a long history of cooperative management of this basin and river system. As all of us would know, the rivers and the environment do not understand state boundaries, and this system crosses many state boundaries. A lot of decisions are made in one state that have an impact on the basin.

The commission's web site states:

> In 1917 the River Murray Commission was set up to manage water distribution between the three southern basin states, New South Wales, Victoria and South Australia, according to an agreement that they had approved in 1914 … the Murray-Darling Basin Ministerial Council and the Murray-Darling Basin Commission were established in 1986 and 1988 respectively. These organisations are advised by the ministerial council's community advisory committee. Their primary task is to ensure the Murray–Darling Basin is managed for the benefit of current and future generations.

It is a very important system. Returning to the web site we see that the commission is responsible for:

> managing the River Murray and the Menindee Lakes system of the Lower Darling River, and
>
> advising the ministerial council on matters related to the use of the water, land and other environmental resources of the Murray–Darling Basin.

The commission has an enormous responsibility, and it is very important we make sure it operates effectively.

The challenges facing the Murray–Darling Basin and the commission in this current environment are probably some of the most significant they have faced in their existence. To see that one only has to look at the July 2006 'River Murray system — drought update':

> The River Murray system is now entering its sixth consecutive year of drought which collectively is shaping as the worst since that observed between 1895 and 1903. The impacts of this drought are, however, unprecedented with severe financial and social hardship among many communities with flood plains under extreme environmental stress.
>
> Inflows to the River Murray system over the five years July 2001 to June 2006 have been the lowest on record. Average inflows over this period were 4800 gigalitres a year, which is about 40 per cent of the long-term average of 11 200 gigalitres a year.

There are severe challenges facing the Murray–Darling Basin in the current environment. It is important that decisions are made in the best interests of the communities, Australia as a whole, the economy,

irrigation farmers who depend so much on water from the Murray–Darling Basin and of course the environment as well. Getting that balance right is a challenge.

Looking at the water allocations which have been provided to farmers this year, I understand if you are in the Murray irrigation system, your allocation is about 85 per cent, Goulburn 7 per cent, Loddon 0 per cent and Campaspe 0 per cent. In recent years there has been an absolute decimation of sales water, which has been a traditional component of water supplies in irrigation areas of Victoria. Often when comparing figures between New South Wales and Victoria, people report that Victoria got 100 per cent of its allocations and New South Wales got less than 100 per cent. Therefore New South Wales farmers are doing it harder.

That fails to take account of the system that has operated in Victoria for many years where sales water on top of the water allocations was a traditional part of irrigation. Many farmers got an extra supply virtually doubling their water through sales water. This was expected and normal and the way things operated. Just comparing allocation to allocation is not exactly a fair way of comparing which farmers have made the greatest sacrifice in dry years. I would urge this government, in fighting for a fair go for Victorian irrigators, not to be duped by those sorts of comparisons.

To the credit of governments of various persuasions here in Victoria the management of the irrigation systems in this state has been far superior to the management of water in New South Wales, Queensland and South Australia. We should not be penalised or disadvantaged because we have managed water well in current arrangements with regard to dealing with dry seasonal conditions or in increasing environmental flows. I have great fears that Victoria will be sacrificed in these arrangements. I can say on behalf of Victorian Liberals that we would not be a party to decisions that sacrifice the future of Victorian irrigation farmers to look after people in other parts of Australia who have perhaps not managed the water so well over recent decades.

We see irrigation farming as absolutely vital to the economy of the state of Victoria. Irrigation farming is the economic powerhouse of Victoria. It provides jobs in many regional and rural communities in value adding and is a significant component of Victoria's exports. I could also say in that context that irrigation farmers in Victoria to their great credit have led Australia in being people who have adopted more efficient water-saving practices. They are to the forefront in Australia in using water wisely and well. We should be working with those farmers rather than against them and selling their interests interstate or down the river, so to speak.

I also wish to raise the issue of the lack of commitment of the current Bracks Labor government to investing in infrastructure in our irrigation systems. I said yesterday on another issue that I congratulated the government for its participation in the piping of the Wimmera–Mallee system. It took it a long time to get there, but I congratulate it for getting involved in doing that. It is an important project for Victoria, and it is important that it get up and be operating as quickly as possible. That project, which follows the northern pipeline project undertaken by the previous Kennett government in conjunction with the commonwealth government, is only a component of the work that needs to be done in our irrigation systems.

Goulburn-Murray Water advises that 30 per cent of the water — it uses an enormous amount of water — is lost in its system through seepage and evaporation. Despite the fact that our farmers are quite efficient water users, if you look at Israel and other parts of the world, you realise that there are still significant water savings that can be made on farms. We ought to be supporting farmers in making those savings. The government has a responsibility to work with Goulburn-Murray Water and water suppliers around Victoria, whether they be urban, rural or irrigation suppliers, to invest in infrastructure to reduce leaks, evaporation and water loss.

There is water absolutely going to waste because we have not invested in infrastructure. We talk about dry years and how we can supply water to communities like those in Bendigo, Ballarat or Geelong, but one of the best ways we can supply water to those communities is by better managing the water we have. We lose far too much water — whether it be in the Coliban water system or in the Goulburn-Murray irrigation system — through seepage and evaporation and poor infrastructure.

This government has a real responsibility to invest in water infrastructure, but I do not see any real commitment from this government to investment that will make a real difference. I make it clear that investment in that infrastructure is the best way we can secure the water futures of our rural communities, our urban communities in country areas and our Melbourne community, as well as making sure we can protect environmental flows. It is absolutely vital that this government take up that challenge.

The government has been in office for seven years. In that time we have heard plenty of rhetoric about water, we have seen plenty of advertisements on television and there have been plenty of helicopter trips, but we have not seen the same commitment to investing in real infrastructure improvements in order to save water through stopping leakage and evaporation. Similarly we have not seen a genuine commitment to investing in infrastructure to recycle our water. Far too much water in Victoria gets sent out to sea through our sewage treatment plants, whether they be at Werribee, Gunnamatta or Black Rock at Geelong. Only 9 per cent of the water at the Black Rock sewage treatment plant is treated and reused — —

The ACTING SPEAKER (Mr Plowman) — Order! I caution the shadow minister to keep his comments to the bill.

Dr NAPTHINE — Having made that passing remark about the need to invest in infrastructure for our irrigation systems and the recycling of our water, I will now return to the bill. Again I say that the Liberal Party strongly supports the work of the Murray-Darling Basin Commission. We acknowledge the work done by and the cooperation between state and territory and federal governments of various political persuasions over a number of decades in the interests of better managing the Murray–Darling system, and that must continue.

In conclusion I again say that we support the bill, but we have some real concerns about what we believe is an error in the amending agreement put before us. We believe it would be wrong of the Parliament to pass this legislation if the error exists as we have outlined it. I urge the advisers to immediately consult with the minister; and if it proves to be an actual error, the only course of action a responsible government would take would be to adjourn the debate on the legislation, withdraw it from the guillotine at 4 o'clock and re-present it when that error has been corrected.

The Liberal Party supports the work of the Murray-Darling Basin Commission. While we cannot necessarily make it rain, we certainly hope that in the next six to eight weeks we get substantial additional rain, which will avert for a time some of the challenging decisions that have to be made about water management in the system in the coming months.

Mr WALSH (Swan Hill) — It is a pleasure to join the debate on the Murray-Darling Basin (Further Amendment) Bill 2006. It is worthwhile noting that the Murray-Darling Basin agreement has been in operation since 1914. Effectively it has been there to articulate how governments should work together to manage the resources of the Murray–Darling Basin, and in so doing it has created a ministerial council and a commission.

The bill before us does three principal things. The first is that it puts in place a long-term renewals annuity fund to better provide for capital renewal and major maintenance programs into the future. The bill does not set out how that renewals annuity fund will work. I would like to caution the house — and the commission, I suppose — to make sure that we learn from the lessons learnt by the water authorities here in Victoria about the way renewal funds work into the future, given my experience with Goulburn-Murray Water.

At one stage we put in place a renewal system, which is now fortunately being renewed. We believed we had to have a fund that would replace in as-new condition every asset the water authority owned at some time in the future. So there was a rolling out of an annuity fund for the next 50 to 100 years. As we know, over time technology and the needs of the community and a water authority change, so we need to make sure we do not put in place an annuity fund which becomes a major sinking fund of money to replace something that we may never need in the future.

It needs to be based more on current accounting-type practices than on having a 50 to 100-year time frame, because as we know, in 50 to 100 years the world may be very different with substantially different technology available to build things into the future. What at one time was built with wood or concrete may in the future be built with plastics or yet-to-be-invented materials. So we want to make sure that we do not tie up hundreds of millions of dollars in an annuity fund to pay for something that may never be needed.

As the explanatory memorandum says, this legislation will be implemented simultaneously with similar legislation enacted by the commonwealth of Australia, New South Wales, Queensland, South Australia and the Australian Capital Territory. As the previous speaker said, if there has been a drafting mistake in this bill it will create a conundrum, in that a series of governments will be implementing similar legislation at the same time. We had the same issue with a bill last year dealing with the South Australian water agreement. I hope everyone can get onto the issue quickly and sort it out.

I would like to touch on schedule C, in appendix 2 to the bill, which sets out some of the works that the Murray-Darling Basin Commission manages. The first works that I would like to comment on is the Barr Creek drainage diversion scheme, which is a successful project that has been managed by the Victorian government over time. A number of years ago there

was a proposal to extend it to what was called the mineral basin reserve land, which runs west to the Tutchewop Lakes.

In the adjournment debate on 23 February 2005 I asked the Minister for Water about the Tresco mineral basin reserve. I raised the issue because the proposal to extend the Barr Creek drainage scheme to the Tutchewop Lakes was fought vigorously by the local community. In the early 1980s the Cain Labor government purchased land to extend the salinity evaporative basin into that area and to then pipe water to Lake Tyrrell. As I said in my adjournment matter in February 2005, it was very poor public policy, and I believe it is even poorer public policy now. At the time 142 of the local farmers undertook a class action against the Cain government. It was the very first class action that was undertaken in Victoria. Although they did not win, in the end the project was stopped by the government because it finally realised that it was not good public policy.

One of the challenges that Goulburn-Murray Water has within that region is how it actually deals with the land-holders there, because there is a high level of mistrust of Goulburn-Murray Water by the land-holders in that region. I asked the Minister for Water on 23 February 2005 if he would sell the land Goulburn-Murray Water still owns. It still owns quite a large quantity of land that is leased out, and a lot of it is excellent soil that could be used for horticultural development into the future. Goulburn-Murray Water keeps saying it might need that land again. I think it is saying that to be antagonistic to the local land-holders, and I would like to see that land back in private ownership so that we can close a very sad chapter when it comes to salinity management.

In the adjournment on 23 February 2005 I asked the minister for action on that issue. I have had no response. I wrote to the minister again in November 2005 asking when I could expect a response to my adjournment issue, but I had no response to that letter. I wrote again in June 2006 asking when I could expect to see a response to my February 2005 adjournment issue. As I stand here today I still have not had a response from the minister about that issue. That is very disappointing, not only as a reflection of the way this Parliament is not working when it comes to how the adjournment process operates, but also because it is a very sad state for the constituents in my area who asked me to raise the issue. The adjournment issue was raised in February 2005 and there have been two follow-up letters, but in August 2006 we still have not had a response. That is a very sad reflection on the Minister for Water in this state.

To follow on from that, there have been some discussions about changes in how Lake Tutchewop will work in the future, and there has been a study which further angered the local residents. There was a proposal to include Lake William and Lake Kelly as evaporative basins to assist Lake Tutchewop in its salinity evaporative-basin process. That was also opposed by the locals, because when you actually look at the height of the lakes above sea level you see that there is a problem. In the proposal they were going to turn the lowest lakes into additional evaporative space, which would have effectively — we believe and the locals believe — put a plug in one of the local relief valves for the saline ground water in the area.

There have been ongoing discussions about that, and I commend my colleague in The Nationals, John Forrest, the federal member for Mallee, for the work he has done on this issue. John, being an engineer, understands a lot of the hydrology and has done a lot of work on this. He has pointed out to Goulburn-Murray Water the error of its philosophy and the way it has been proceeding in this matter. There has been ongoing discussion on the subject, which at the moment fortunately has been shelved before more damage is done to the area.

The other proposal at one stage was to irrigate lucerne with salty water out of Lake Tutchewop. That again made the locals very irate, because it defied logic as to how it could be a project when the aim was to irrigate lucerne with salty water and tile drain it, so that the salt was stored in the soil under the lucerne. It was not at all a good proposal for the future I believe.

The real solution, and it is more expensive, if we need to get rid of additional water out of Lake Tutchewop to assist the Barr Creek salt diversion project is to build a pipeline to Lake Tyrell. Cheetham Salt at Lake Tyrell wants additional salty water. With the dry years we are having it is running into a situation where there is not enough water coming into the area to create enough salt for the harvesting it wants to do. It would be prepared to be in some form of discussion with the government as to how that pipeline could be built and how the ongoing costs could be funded going forward into the future.

One of the responsibilities of the Murray-Darling Basin Commission is managing the streams within the basin, and the concern I would like to raise with the house is how we are actually managing the Murray River stream. It would appear to me that, because legally the Murray River is in New South Wales, even though all the Victorian, New South Wales and South Australian water authorities use it as a carrier for water going

through, it does not necessarily get the focus of management that the individual water infrastructures get in each of those relevant states.

The concern I would like to put on the table — it has been raised with me — is that we are effectively reversing the annual flows in the river. Historically the river would run high in spring when there are flood events coming down out of the catchments of Victoria and New South Wales, but we are getting to the situation now where the high flyers are actually in late summer and autumn and there is an environmental impact on the river. It is something I do not think anyone is actually considering. Instead they are rushing to trade water down for more horticultural development. South Australia is pushing for more and more water, but at the time of the year that water goes down the Murray River it is going to have a detrimental effect on the environment of the river. We are changing the time of the year when those flows are going down the river.

If there are high flows and floods in the spring and early summer, during a flood there is an overbank event which wets all the bank, it does not erode the banks of the river as happens when the river runs high while the banks are dry. We are finding that right down the banks of the river through my electorate there is a lot of bank cave-in and a lot of additional silting going into the river through this, whereas with a flood, as I said, it wets the whole area, it wets the flood plain and there is not the cave-in of the banks as the water goes through. As an example, at Boundary Bend the householders all have their household pumps into the river — it is obviously on a bend because it is called Boundary Bend — and there is major silting, which means those people are going to have to go to the expense of putting their suction lines further out into the river because they are eventually going to suck mud.

I would like to draw the attention of the house to a Sinclair Knight Merz (SKM) report on an assessment of Victoria's demands on the River Murray and future supply options. The report says that on top of the water that has already been traded into the downstream area of the Victorian Murray River, an additional 150 to 300 gigalitres of water is being traded into that area. That water will principally be going into horticulture, which will exacerbate the supply issue in late summer and early autumn and potentially put more environmental pressure on the river.

Apart from the additional water that has been traded, the report goes on to say that even with the existing water rights in that area, that water is being used more in the summer than it was previously, so there is increased demand for the water. It also goes on to say that because of the increased demand and the water being traded into the area downstream of Nyah, some modelling was done. Over the next 25 years, SKM believes there will be three years when shortfall events will be caused by this increased demand for summer irrigation, which will not be able to be met. One of those events will last for approximately 17 days, and the customers of the river water on the Victorian side downstream of Nyah will not be able to be supplied with enough water to meet their crop demands.

In its report SKM does not seem to understand the financial issues involved. As you would know, Acting Speaker, an event of 15 to 20 days when there is insufficient water in the river to meet all demands for a horticultural crop would result in significant loss. Even with the technology we have in irrigation now, you only need to have a shortfall of two or three days before irreparable damage is done to the potential yield of the crops there. Nearly all the horticultural development downstream of Nyah is now on micro-irrigation. It is extremely well managed, and effectively we are replacing the evaporative component of the plant use daily. Once it is being done on a daily basis rather than wetting the whole profile, you only need two or three days when you cannot maintain the daily use of the plant before there is significant yield loss.

I propose to the house that we need an assessment of whether we can trade more water into that area without damaging the rights of current users, and whether we can do it without it having an environmental impact on the river. Trading additional water into a component of an irrigation district anywhere in Victoria can only be done if it does not impair the access to water for existing users.

Because the Murray River is managed by a consortium of a number of governments, I do not think that focus and discipline is necessarily being applied to trade further down the river and in making sure the existing users have the water supply rights as they do now, or on the environmental impact we may have on trading that additional water down the river. Not only is that 150 gigalitres to 300 gigalitres of consumptive use going to be traded into that area, there is also talk in the report — which was news to me — of having a 150-gigalitres entitlement to the Murray mouth to make sure it is kept open in the future. That is on top of the 500 gigalitres which is going to be applied under the Living Murray program. We will find substantial amounts of water being traded down the river, which could have an environmental impact into the future.

The other thing I want to touch on briefly is about whether the minister is sticking up for the Victorian system when he goes to the ministerial council meetings. We have had a lot of water reform here in Victoria and we made something like 200 pages of changes to the Water Act in this place last year. Among the major changes — some of which The Nationals opposed at the time — was the issue of water trade, separating land from water, and how water is supposedly going to move to higher value uses.

I would like to flag two things for the house. Firstly, no-one is taking account of the social costs to the community as this water is traded out of one water district. Secondly, I do not believe the Victorian minister is putting enough thought into how New South Wales is handling the same issue. As I understand it, if someone wants to trade water out of New South Wales, they have to convert the medium-security product to a high-security water licence, but the water businesses in New South Wales are now saying that once you convert it from medium security to high security you have to hold it for five years before you can trade it out of that area.

I put it to the house that if water trade out of New South Wales is effectively closed, then in five years most of the water businesses here in Victoria will be unviable, because all the water that is going to be traded will be traded out of the Victorian water businesses and not out of New South Wales water businesses. On top of this five-year limit on trade, once water is converted to a high-security product the New South Wales water businesses are also talking about either substantial exit fees or the tagging of infrastructure fees into the future. That would again make Victorian water more attractive to buy than New South Wales water, which would put a significant social cost on our communities here in Victoria.

The last thing I wish to flag in discussing the Murray-Darling Basin (Further Amendment) Bill is the issue of South Australia. Unfortunately, I do not have enough time to do justice to this part of my contribution, but my concern is that the South Australian government is continually crying, 'Poor boy, me', because it believes it should get a vastly increased flow of water to South Australia at the expense of Victoria and New South Wales. I believe South Australia needs to get its own house in order before it starts talking about how it wants more water from the consumptive users in New South Wales and Victoria.

In some ways it is about propping up what I believe are unsustainable practices in South Australia; 60 per cent of the salt that goes into the Murray River goes into the river in South Australia. I believe it needs to get its own house in order before it starts casting aspersions about what happens in Victoria and New South Wales. It is more efficient to use water at source rather than send it all the way through to South Australia for irrigation down there. With those comments The Nationals support the bill.

Ms LINDELL (Carrum) — It is a pleasure to join the debate today on the Murray-Darling Basin (Further Amendment) Bill 2006. It is always a pleasure to follow the members for South-West Coast and Swan Hill when we agree, and in this particular instance we certainly agree on the importance of the Murray-Darling Basin Commission and the work it does and has done since 1914.

The purpose of the bill is to ratify the Murray-Darling Basin Agreement Amending Agreement, which amends the agreement contained in the Murray-Darling Basin Act 1993. The amending agreement was approved by the Murray-Darling Basin Ministerial Council on 30 September 2005. Since then the amending agreement was formally approved by the Prime Minister, the premiers of the states of Victoria, New South Wales, Queensland and South Australia and the Chief Minister of the Australian Capital Territory at the last meeting of the Council of Australian Governments on 14 July. The Murray-Darling Basin agreement and any amendments to that agreement require ratification by the parliaments of all the participating jurisdictions before they can come into effect. In this case the agreement amending agreement is to be ratified by six parliaments.

In his contribution earlier the member for South-West Coast highlighted a particular clause of the bill — clause 78 — and indeed on reading the bill it seems to lead to there being two subclauses numbered (3). We are taking advice on that, but there seems to be a need for some changes to be made. What we can agree on is that this bill is a very important one, and while there may be a drafting error, either in the amending agreement or in this bill, we can still agree in principle to the importance of the changes that are being made. As I said, we will take further advice on what needs to be done.

The first of the matters addressed in the amended agreement relates to the response of the Murray-Darling Basin Commission and the ministerial council of the Council of Australian Governments water reform principles adopted in February 1994. COAG specifically agreed to:

> … the Murray-Darling Basin Ministerial Council putting in place arrangements so that out of charges for water funds for

the future maintenance, refurbishment and/or upgrading of the headworks and other structures under the commission's control be provided.

The second matter aims to put beyond doubt the liability of Queensland. The terms of the current agreement do not specifically ensure that Queensland cannot be held liable for damages in matters in which it takes no part. For example, Queensland plays no part in the application of the agreement to the management of natural resources of the Murray and Lower Darling systems. Therefore Queensland should not incur any liability in such matters.

The third matter adds to schedule C of the agreement a detailed description of the authorised joint works and measures approved and implemented by the ministerial council. There has been a concern that the words in the existing agreement do not clearly distinguish between 'River Murray waters activities' and 'measures implemented under the natural resources strategy'.

I will talk for a moment about some of the River Murray assets that are managed on behalf of the Murray-Darling partner governments. In Victoria there are the Dartmouth Dam on the Mitta Mitta River upstream of the town of Dartmouth, the Hume Dam and the Yarrawonga Weir; in South Australia, Lake Victoria; and in New South Wales, the Menindee Lakes. On salt mitigation works, I will talk in some detail about the Pyramid Creek salt interception scheme, which involves ground water pumping with disposal to a salt-harvesting pond complex. I mention Pyramid Creek because I have a personal relationship to the area. The salt interception scheme was officially opened in May and the first commercial harvest is under way at the moment. To get it to this stage has, of course, taken a degree of work and a lot of coordination by the commission and other government agencies, including the Department of Sustainability and Environment. In the early 1980s the Kerang Lakes Area Working Group identified the salinity issue in Pyramid Creek as a target for the salt interception scheme.

I commend the work of the commission and acknowledge the tripartite support for the bill and wish it a speedy passage.

Mr PLOWMAN (Benambra) — I move:

That the debate be now adjourned.

In so doing, I wish to give credit to Royce Christie for his contribution on this.

Motion agreed to and debate adjourned.

Debate adjourned until later this day.

BUSINESS OF THE HOUSE

Program

Mr CAMERON (Minister for Agriculture) — I move:

That the government business program agreed to by this house on 22 August 2006 be amended by omitting the order of the day, government business, relating to the Murray-Darling Basin (Further Amendment) Bill.

Mr RYAN (Leader of The Nationals) — From The Nationals perspective, we do not oppose what is being proposed by the minister, and I gather that the same position is taken by the Liberal Party. The complication that has arisen is that the bill contemplates the consideration of an agreement as part of an appendix to the bill and there has been discovered an error — of minor scope — in that agreement. The agreement has to be amended before the bill can be passed. So it is that from our perspective we are perfectly happy that the bill be removed from the guillotine at 4 o'clock.

Dr NAPTHINE (South-West Coast) — The Liberal Party welcomes this decision by the government. It is a logical and sensible decision. In my contribution to the debate on this bill I highlighted this error. I want to pay tribute to Royce Christie, who works for the honourable member for Benambra. Royce, in his very, very diligent and professional way, went through this bill and the agreement and detected this error. He drew it to my attention and we worked on it. It was very clear that there was a significant error and that is why it was drawn to the attention of the house. I am pleased that the officers have recognised the error and have drawn it to the attention of the government and that the government has responded accordingly. I trust that the bill will be back before the house when a new agreement is signed.

Mr CAMERON (Minister for Agriculture) — The government thanks the spokesmen for the Liberal Party and The Nationals for their contributions.

Motion agreed to.

SURVEILLANCE DEVICES (WORKPLACE PRIVACY) BILL

Second reading

Debate resumed from 9 August; motion of Mr HULLS (Attorney-General).

Mr RYAN (Leader of The Nationals) — By agreement with the Liberal Party — and I am grateful

for their forbearance — I am able to speak first in the debate on this legislation. That arises because of a commitment that many of us have outside the house with regard to the recent passing of the Honourable Neil Trezise.

The legislation being debated is very important. It is particularly so in the sense of protecting persons whose privacy might otherwise be invaded in a manner which is unfair. That issue is reflected in the terms of the bill, which amends the principal legislation to ensure that there is no inappropriate intrusion into the privacy of people who are employees.

The bill has a broad definition of 'employees' in the sense that it extends out to volunteers and independent contractors. The application of the bill will be upon all Victorian employers, be they partnerships, businesses or companies, as well as to the public and private sectors. I might say that the bill does not apply to domestic arrangements where householders engage babysitters or tradespeople. If an employer is concerned about illegal activity in areas that are to be protected under the terms of this legislation, the bill permits an application to police to conduct surveillance under a warrant or emergency authorisation.

Finally, surveillance in licensed venues in accordance with the provisions of the Liquor Control Reform Act 1998 is also preserved by the terms of this bill. The Nationals wish it a speedy passage.

Mr McINTOSH (Kew) — The opposition supports this bill because it reflects a recommendation made by the Victorian Law Reform Commission in its extensive report into workplace privacy. While the government is obviously considering a number of other matters in that report, the issue of a total prohibition on some type of surveillance in the workplace arose.

The law reform commission unequivocally recommended that this legislation be brought in to tighten up or clarify the existing law in relation to surveillance devices, be they cameras or listening devices. Most importantly a couple of years ago amendments were made to the Surveillance Devices Act to tighten it up. Those amendments were general in nature, applying not only to workplaces but to all activities that may be considered private.

Under part 2 of the existing legislation it is prohibited to install, use or maintain a listening device or optical surveillance device in relation to private activities. This is the nub of the issue. In the current legislation there is a mechanism whereby if all parties to the private activity — be it a conversation or other activity — expressly or impliedly consent to the use of those devices, such use is permitted. I agree with the Attorney-General's remarks in his second-reading speech. He said that the relationship between employer and employee can — I would have used the word 'may', but the Attorney-General used the word 'can' — make it difficult for workers to withhold consent.

This bill is an effort to address the imbalance in the bargaining position identified by the Attorney-General. This legislation is a direct consequence of a recommendation by the Victorian Law Reform Commission. In essence it puts the matter beyond the issue of consent, which is irrelevant to the offence. The obligation is on the employer not to install, use or maintain listening devices or optical surveillance devices — a camera, for want of a better description — in the workplace. It is directed specifically at the relationship between employers and workers.

There is an exemption in relation to workers of a domestic nature, usually in the family home — a tradesperson attending a home, or even a babysitter, as the Attorney-General mentioned — and perhaps that is appropriate. The existing law would probably be sufficient to make these exemptions, but there would still be the issue of consent. In any event the opposition agrees with the exemption. The bill puts the issue beyond consent by totally prohibiting the use of listening devices or optical surveillance devices — cameras — in the workplace specifically in relation to toilets, washrooms, change rooms and lactation rooms.

This is a significant limitation. It perhaps refers to an exemption under the principal act, which says that if what occurs in a venue is not of a private nature the use of cameras, in particular, is permissible. This bill specifically extends the current law to make it perfectly clear that an employer cannot use these devices. That obviously covers the servants and agents of the employer; however, if another person — be it an employee or otherwise — uses such devices without the permission or knowledge of the employer you would have to default to the existing regime. The legislation is only directed at the employer.

New section 9D, inserted by clause 3, extends the definition of an employer. It defines an employer as the committee of management of an unincorporated body or each member of a partnership in the case of a firm. The opposition has been briefed in relation to this matter. The explanatory memorandum makes it quite clear that the extension only relates to the issue of liability. However, it perhaps extends the definition of 'employer' in other parts of the bill. Most importantly

the new section creates a financial liability to pay penalties.

The amendments to the Surveillance Devices Act brought in by the Attorney-General are very much consistent with the existing provisions relating to listening devices and optical surveillance devices, and they are drafted in the same form. The penalties are severe, which is appropriate, and are in a similar form to the existing penalties. There is no difference in relation to those matters.

Likewise there is a similarity in relation to exemptions, but they are not totally the same. The bill removes the issue of matters of a private nature but makes an absolute prohibition in relation to toilets, washrooms and lactation rooms. There are exemptions. If there is an issue where that needs to be addressed, the normal process that is set out in detail in the principal act applies. A police officer or another law enforcement officer — be they with the National Crimes Commission or another recognised law enforcement body — can apply to a Supreme Court judge for a warrant.

The current regime has an exemption in relation to commonwealth law. As we know, the Surveillance Devices Act, the principal act — or the amendments that were made a couple of years ago — came in as a result of a national agreement in relation to surveillance devices. This legislation extends that national agreement in relation to Victoria. We do not disagree with it. It is consistent with the recognition that in commonwealth law a similar law enforcement responsibility may be permitted. It raises again the spectre of terrorism, but again the opposition has no difficulty with that.

There is likewise a provision which says that if it is a requirement of a licence under the Liquor Control Reform Act, then that is a permitted exemption from the requirements of this bill. That comes about, as the Attorney-General explained in his second-reading speech, because there may be a requirement to grant a licence for the maintenance of these surveillance devices, obviously in relation to unlawful or antisocial activities or activities involving dealing or trading in drugs, all of which would seem to be appropriate exemptions.

As I said, this comes about as a result of the Victorian Law Reform Commission's good work and its recommendation to make a specific exemption in relation to privacy in the workplace. I do not know whether the Attorney-General has noted this, but certainly it is a groundbreaking report, and we certainly look forward to further legislation is respect of those matters. This is the first instalment — it is a specific, relatively simple and appropriate instalment — and the opposition supports the bill.

Ms BUCHANAN (Hastings) — It gives me great pleasure to speak on the Surveillance Devices (Workplace Privacy) Bill. The intent of this bill is very clear. It implements one of the key recommendations of the Victorian Law Reform Commission's final report on workplace privacy by prohibiting practices which the commission identified as an affront to community expectations — specifically, the surveillance of workers in private areas such as toilets, change rooms, lactation rooms and washrooms. We are protecting the rights of workers in private areas, and that is the most important thing. Given the attack on workers rights in this day and age, this is something we certainly have to make sure is upheld in every sense of the word.

There is always a fine line between protecting privacy and invading the privacy of workers in the workplace. One of the important things that the law reform commission worked through was the need to respect those rights in a realistic way. The areas that have been identified as areas where surveillance devices will be prohibited are toilets, change rooms, breastfeeding rooms — and let us call them what they really are, because they are rooms where you go to breastfeed your baby or express milk during your working day — and washrooms. They are areas where you are not doing work and you are not transacting work. Instead you are doing things of a private nature in your private time in areas that just happen to be in the workplace.

Going on from that, we understand that there are exemptions from the bill which give a sense of balance to this. They relate to situations where surveillance can be conducted in accordance with a warrant or an emergency authorisation, in accordance with the law of the commonwealth or in accordance with the requirements of a liquor licence. This is about providing balance in terms of the interests of the community and the interests of national security as well.

It is good to see also that this bill has bipartisan support. It is intended as a first step in establishing a comprehensive workplace privacy framework in Victoria. Members of this house will be aware of a couple of scenarios recently across the nation where the placing of surveillance cameras in areas like toilets, shower areas and washrooms has ignited the ire of the majority of the community in relation to what are considered to be unacceptable breaches of privacy in the workplace.

On one of the rare times recently that I have had a chance to switch on a TV set I came across a program about a breach of workplace privacy at a hotel. The impact that had on the staff was absolutely devastating. The important thing is that this bill provides the right balance in relation to what is going on, and I certainly commend it to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until later this day.

OWNERS CORPORATIONS BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General).

Mr KOTSIRAS (Bulleen) — It is a pleasure to briefly speak on the Owners Corporations Bill. The main aim of this bill is to protect consumers, but unfortunately it also has given rise to some confusion and uncertainty. I firstly thank the public servants who provided us with the briefing. It was very informative, and they gave us a good explanation of the bill.

It is important that I outline how this came about. On 11 September 2003 the Minister for Consumer Affairs called for a review of the Subdivision Act 1988 as it related to the creation and operation of bodies corporate. The Honourable Helen Buckingham, a member for Koonung Province in another place, chaired the review. I pay tribute to Helen Buckingham, who I have been advised worked hard to ensure that all the key stakeholders had an input into the review. An issues paper was released on 21 October 2003. On 2 February 2004 the terms of reference for the review were amended to include the Subdivision (Body Corporate) Regulations 2001.

A future directions paper was issued in March 2004 which outlined a number of options to improve the current system for bodies corporate. Some people might ask why we need this legislation. It was felt that the current legislation was out of date and was not looking after the interests of consumers. There are approximately 65 000 bodies corporate in Victoria, and approximately 1 million people in Victoria own, live or work in buildings or land managed by a body corporate. It was believed that the framework under which bodies corporate operated was no longer relevant, hence the inquiry and changes.

While the bill will be better than the current act, and it is important to try to fix up some of the problems, I have a number of concerns with the bill, and key stakeholders have also raised a number of concerns in relation to it. The first is that this legislation will force fees up. Indeed a recent article in the *Australian Financial Review* states:

> Angela Schooneman, head of the real estate practice at Minter Ellison, said the new legislation would introduce extra regulation for owners corporations.
>
> …
>
> She said the effects of the new regulations would be felt mostly by property owners, managers and developers of large-scale projects.
>
> The requirement for developers to act in good faith could cause confusion because it was difficult to know what that meant in practice.
>
> Ms Schooneman said small increases in body corporate fees were a likely result of the changes.

The bill is very complex, so it is very important that the government does something to educate everyone about what is in it. The Real Estate Institute of Victoria has written to us outlining some of its concerns, and I quote from its letter:

> Given the fact that the laws are complicated, it is critical that the government engage in an ongoing campaign to educate people who live in and own property which is part of a body corporate.

It is important that the government spends some money, and importantly that includes spending some money in the ethnic media, to educate all Victorians about what this bill will do. There are many times when we forget that we have to cater for all Victorians, not just for particular groups of Victorians. I am talking about not only the mainstream media but also the ethnic media, and I think this government should start to advertise there. I know that the Parliamentary Secretary for Community Services has a great interest in and is very passionate about ensuring that Victorians from different cultural backgrounds are given the information they need to fully participate in our society.

There are a number of other concerns. The first concern is the dispute resolution process, which has three tiers. The first tier is the internal mechanism. There will be extended codes of behaviour and model rules that can be used as a basis. If this fails, the second tier provides for Consumer Affairs Victoria to step in and act as a mediator to try to resolve the dispute. If that fails, the third tier provides for the matter to go to the Victorian Civil and Administrative Tribunal (VCAT). They are the three tiers or levels. My question to the government is whether Consumer Affairs Victoria is going to be

given the resources to carry out this role effectively. Does this mean they will use the public servants who are there now or will they employ other public servants with the expertise to give proper advice and to try to resolve the dispute before it gets to VCAT?

Also I would like the minister to clarify some of the clauses in the bill. The first one is division 2, clause 12, which is headed 'Provision of services to members and occupiers'. Subclause (1) states:

> An owners corporation, by special resolution, may decide —
>
> (a) to provide a service to lot owners or occupiers of lots or the public …

Does this mean members of the public will be allowed to come into the foyer of a building and use the public toilets without the approval of owners? Does it allow members of the public to come into the grounds to use the swimming pool or playground? This needs to be explained because it is causing some uncertainty.

I refer to division 3, clause 14, which is headed 'Leasing or licensing of the common property'. It states:

> By special resolution, an owners corporation may lease or license the whole or any part of the common property to a lot owner …

Again, does this mean they will be allowed to place a telephone tower onto the property without the approval of the owners? More clarification is needed.

Clause 18 involves the power to bring legal proceedings. This requires 75 per cent of all members to be present at meetings. Sometimes that will be impractical and unworkable, so perhaps it should be looked at and an amendment made. Sometimes it will not be possible for 75 per cent of all owners to be present.

Clause 20 is headed 'When can the common seal be used?' Again it is a problem; what happens if it is a single lot? Why do they need to have a general meeting to be able to use the common seal? It seems to be unworkable.

Clause 25(1) states that an owners corporation may borrow money by ordinary resolution of a general meeting or by a special resolution. What happens if there is an emergency and an overdraft is needed urgently? Do they have to wait for a general meeting or do they have to have a special resolution, which requires 75 per cent of the owners to be present? That too is time consuming.

A matter about which we were unable to be advised at the briefing concerns the regulations. We were told they would be coming; but it is appropriate to have the regulations in front of us when we debate the bill. I cannot understand how the government can draft a bill and say to the opposition parties that the regulations will not be ready for another 12 months. Surely the government can do its homework and provide the house with the regulations at the same time as the bill so that we can have a proper look at all the regulations, as well as the bill, and talk to the key stakeholders about them. Unfortunately it will be about 12 months before these regulations are published.

There is a requirement for a maintenance plan. Again there are no guidelines. It would have been nice if we had some indication of what the maintenance plan will include.

Clause 45 is headed 'Extraordinary payments for urgent matters.' Will these have to go through a special meeting or a general meeting? If they had to go through a special meeting, then 75 per cent of the owners would need to be present, which could cause some problems, especially if it is an emergency or, as the clause states, if it is an urgent matter. Therefore, some changes need to be made there.

Clause 72 concerns the notice of annual general meetings. Here I wish to put on the table a letter from the Tenants Union of Victoria, which I think is closely associated with the honourable member for Bass. It would like the tenants to be advised of the meetings, even though it understands that they would not have a vote.

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

Ms BEARD (Kilsyth) — It is a great privilege to speak on the Owners Corporations Bill 2006. The bill will introduce a new legislative scheme for the regulation of bodies corporate in subdivisions, addressing the ever-increasing size and complexity of bodies corporate in the state.

The bill is the result of an extensive stakeholder consultative process, which was led by the Honourable Helen Buckingham — one of the members for Koonung Province in another place. An issues paper was released in October 2003 and a future directions paper in March 2004. More than 200 submissions were received in response to them.

Included in the changes to be introduced by the bill is the use of the name 'owners corporation' rather than 'body corporate.' This term emphasises that the body

set up to manage common property and services is the owners body and is closely aligned with their interests. It also brings us into line with other jurisdictions such as New South Wales and the Australian Capital Territory.

The specific roles, powers and responsibilities of the developer, the owners corporation, the committee, the manager, the member and the occupier are all outlined in the bill. General principles of conduct are introduced to set a standard of care and encourage compliance with the legislation as those people perform their duties.

A three-tier resolution system will be set up. The first tier will be an internal process; the second tier will see the involvement of Consumer Affairs Victoria as conciliator and mediator; and the third tier will provide access to the Victorian Civil and Administrative Tribunal, which has the power to make binding determinations. This will see an improvement on the current system under which body corporate disputes can only go to the Magistrates Court.

The bill fits in with the government's objectives in Growing Victoria Together and building cohesive communities. It also fits with the key principle of the government's justice statement of increased community cohesion and business efficiency through accessible advice and dispute resolution procedures.

The bill recognises that the current regulatory scheme does not adequately provide for the enormous and ever-increasing number of Victorians living and working in bodies corporate and for the growth in size of the average body corporate, with more lots per body corporate, that has occurred over the past two decades. From 1998, when the Subdivision Act was passed, until today, the number of bodies corporate has grown from 35 000 to now more than 65 000. In 1998 approximately 200 000 Victorians owned, lived or worked in a body corporate; today it is estimated that there are nearly one million Victorians involved. Many of these people living in bodies corporate have found the law complicated and complex, causing misunderstandings and angst among the members, and some of those concerns have been raised with me by constituents in my electorate, and I am sure the bill will address some of those concerns.

I welcome the positive changes that come with the Owners Corporations Bill 2006 and the publication of the fact sheets to educate managers of their rights and responsibilities, and I take the opportunity to congratulate the Minister for Consumer Affairs and the aforementioned member for Koonung Province in the other place. I commend the bill to the house.

Mr DIXON (Nepean) — I welcome this piece of legislation, which we are not opposing. What I especially welcome is the intent of the bill, because I think it is addressing a need that has grown in our community. In a sense the need has grown so quickly that some real issues have arisen while bodies corporate have been waiting for this legislation to appear. Unfortunately, there will be further waiting, as the regulations have not appeared yet. Often the devil is in the detail and the regulations are even more important than the actual legislation. The regulations affect the day-to-day workings, the paperwork that is needed, the actions that are needed, the time lines that are needed and all the minutiae that are very important to the running of bodies corporate. The regulations are the things that affect real people in their everyday lives and in their everyday work as well.

This bill relates to a complex issue, and the bill itself is very complex. I hope the regulations, when published, reduce some of that complexity that seems to be inherent in this bill. A bill like this has to be user friendly, because a number of people will be accessing this legislation when it is enacted — from the everyday owner or tenant of an apartment, who has not got vast legal knowledge but needs to know where they stand and what their responsibilities and rights are, right up to the developer of a high-rise apartment building. There will be a huge range of expertise and experience among the people who will be affected by this legislation, so it is important that the legislation and regulations can cope with the complexity of the situation but also, on the other hand, be user friendly. That balance is sometimes hard to find, but it is important that the regulations reflect that type of balance.

Interestingly, the previous speaker talked about the community aspect of this bill and how that fits in with the government's sense of community. I would like to pick up on that concept. I have an apartment here in Melbourne. My daughter lived in it for a few years while she was studying up here in Melbourne, and it was interesting to see the sense of community there. A lot of people say that when living in an apartment you find no sense of community, but to a large extent I think there is a sense of community in a lot of these apartment blocks. People are living side by side, and you meet them in the car park, in the lift and in the common areas. Some apartment blocks have associated resident facilities like shops or cafes. All this builds up a sense of community, more so than in your quarter-acre block with a fence around it, where you often do not even see your neighbours — you drive into your carport and go straight into your house, and you do not even get the opportunity to talk and mix with your neighbours in any social sense at all.

When my daughter was living in that apartment she picked up a part-time job in the cafe downstairs and got to know a lot of the people who lived in the apartment block. They were mainly young people and they looked after each other and looked out for each other. There is also a great sense of security in these apartments, because when you try to get in you usually have to go through two or three entrances that have locks or cameras, or what have you, to allow people in. She always felt very safe living in that environment.

There are a lot of positives to this sort of living. It is new to Australia, because we all like our quarter-acre blocks, which is why the explosion in apartment living has left the current regulations and legislation way back in the Dark Ages. This update was certainly needed.

We had an interesting experience in the apartment block in which I have an apartment. It could have been a lot worse than it was and it demonstrates a good reason for this sort of legislation. The developer was at the same time the marketer, and one of his tools for attracting buyers was the fact that he offered very low management fees. There are a fair amount of outgoings in high-rise apartment blocks, so the low outgoings in this situation seemed to be quite attractive. I know for a lot of people the low management fees were one of the deciding reasons for them buying there.

It turned out that as the apartment aged and more people came in, maintenance was needed and things started breaking down. A lot of the finishing touches to the apartment block had not been completed. A lot of them were cosmetic but some of them were safety things such as signage, and various occupational health and safety requirements were not attended to. When the lift started breaking down, the fire brigade said that its bills had not been paid and it did not think it would inspect the building anymore. The lift repair person said that they would not come until the bills were paid. There was a real issue.

One of the residents, who was well versed in building management and who had a legal background, started to look into our body corporate — how it was set up, how well it was running, the role of the developer and the marketing people and also the role of the current management company. This resident found that it was all very cosy and very in-house and that we were being led down the garden path and that the garden path was leading to some dangerous situations for the residents and tenants in the apartment block.

We had to call special meetings, and it was very hard to get the proxies together and the owners of the various apartments together, because there was quite a mix of people. It turned out that sections of the apartment block were being illegally sublet, basically as a hotel. There were also a number of Asian students living there who really did not have a connection with the community there or who did not have any responsibility for the management. The owners of the apartments they were renting were very hard to contact. However, in the end we got enough people together to be able to change our rules and to sack the management company. That was not easy, but we did get some new managers in. All the owners had to pay a one-off amount so that the bills could be paid, even before we could get in front and start to get back on an even keel.

There were bills from the lift repair and fire services companies that had not been paid, so we had to pay them. Then our management fees had to be increased to a level that could sustain the ongoing maintenance of the apartment block. The in-house manager, or caretaker, had not been paid for a number of months, so some of the residents chipped in their own money so he could be paid.

Mr Smith — Were you one of them? Did you put in a few bucks?

Mr DIXON — I was very much a community player and was able to help them a lot, given my background in Parliament. I encouraged them and spoke to them about the need for this legislation, and they made a submission on the discussion paper that led to the legislation.

It could have been a lot worse. We were lucky that we were people knowledgeable enough to be able to reverse the situation. Although it is late in the piece and we do not yet have the regulations, it is very important that we put this sort of legislation in place. I hope it is enacted quickly and I hope the regulations come out quickly so that the practical improvements in the legislation can come to fruition.

Mr MAXFIELD (Narracan) — I rise this afternoon to talk on the Owners Corporations Bill and to commend it to the house. The bill recognises the changing face of ownership in this state. A large number of people are involved in bodies corporate. Today there are more than 65 000 bodies corporate in Victoria, and they involve over 480 000 lots. It is estimated that some 20 per cent of Victorians — about 1 million people — find themselves involved in these arrangements. We need to ensure that the law recognises that and is up to date with people's needs.

Given the limited time available to me, rather than touch on whole sections of the bill I will talk about one

issue of concern which has been raised with me and about which I have had a number of discussions. One of the things we should acknowledge in talking about this bill is the importance of the consultation phase that we have gone through to get here. Back in 2003 the former Minister for Consumer Affairs in the other place, Mr Lenders, announced a review of body corporate law. That review process was run by the Honourable Helen Buckingham, a member for Koonung in the other place, and she certainly did an outstanding job. The issues paper was released in October 2003, and *Future Directions Paper — Bodies Corporate* came out the following year.

We received over 200 public submissions in response to those papers, and we put out an exposure draft in December last year, which preceded a final report of the body corporate review and which involved a further 100 submissions. The process highlights one of the hallmarks of the Bracks government, which is its ability to communicate, discuss and consult as it works its way through the issues.

The bill clarifies the responsibilities and some of the functions of owners corporations, committees of management, managers, lot owners and occupiers. It also provides for the increased protection of the funds involved with bodies corporate. It covers further avenues for dispute resolution, and I will direct my attention to that shortly. It also enhances the governance arrangements and improves the regulation and disclosure of information and the enforcement issues around that. I am very supportive of the bill.

I want to talk about the ability to resolve disputes. One of the most traumatic experiences those involved in bodies corporate can have is when a disputes arises. From time to time you see on *A Current Affair*, hear on the radio or read in the newspapers how such disputes become nasty and consume people's lives. Unpleasant and difficult disputes have been known to arise between neighbours with adjoining walls. Not only are these issues traumatic for everybody involved, but their quality of life can be significantly and seriously disadvantaged.

I congratulate all those who have been involved in putting in place the three-tiered approach to dispute resolution. The three tiers provide a framework whereby we can sensibly and adequately resolve disputes in a way which will not cause great trauma and distress to the individuals involved. Rather than relying on direct state intervention or punitive sanctions, this approach involves an internal dispute resolution process and a default process as well. This has been well thought out. Those who worked on this dispute resolution process should be commended for their endeavours. I am confident that it will fill those one million Victorians who are covered by this legislation with confidence, knowing they have a resolution system that will work in a productive way.

Even though we have those resolution procedures, we also have to have provisions that give the Victorian Civil and Administrative Tribunal the power to resolve a broad range of disputes, including the power to impose civil penalties for breaches of the rules. It is important to bring people together and work with them, but we are in a situation where we need to ensure that we enable the community to work together on this issue. I commend the bill to the house.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

ABSENCE OF MINISTERS

The SPEAKER — Order! I advise the house that due to the absence of some ministers the Minister for Agriculture will be responding on his own behalf and to questions raised for the Minister for Transport, the Attorney-General, and the Minister for Planning and Minister for Industrial Relations. The Minister for Health will be responding to questions raised for the Minister for Community Services. The Deputy Premier will be responding on behalf of the Premier.

QUESTIONS WITHOUT NOTICE

Planning: St Kilda triangle development

Mr BAILLIEU (Leader of the Opposition) — My question is to the Deputy Premier. I refer to a Supreme Court affidavit by Stephen Plozza, a senior official in the Department of Sustainability and Environment, in regard to the St Kilda triangle development tender in which he said unless there is certainty by 30 August 2006, then 'the tender process must be cancelled on probity grounds', and I ask: given that clear access to the premises remains unresolved, does the government stand by its own department's declared deadline or is probity no longer a priority in this state?

Mr THWAITES (Minister for Environment) — Clearly this government is going to follow all appropriate probity rules in this case. It is subject to court action. We are obviously a party to that action. It would not be appropriate for me or the opposition to try to interfere in the court proceedings or to try to influence that process in any way. The government will

be going through all the appropriate processes under the court procedures.

Environment: greenhouse gas emissions

Ms BEATTIE (Yuroke) — My question is to the Minister for Environment. I refer the minister to the government's commitment to address climate change, and I ask him to advise the house on the latest steps the government is taking to deliver on its commitments set out in the *Our Environment Our Future — Sustainability Action Statement*.

Mr THWAITES (Minister for Environment) — I thank the member for Yuroke for her question. Indeed climate change is the greatest environmental threat we are facing. If you just look at one issue alone — water — you find that the CSIRO has advised that there will be around 1100 billion litres less water available in the Murray–Darling Basin because of climate change. The Bracks government has been reducing greenhouse gas emissions across Victoria with important initiatives like 5-star housing rules, energy plans for industry that have saved more than 1 million tonnes of CO_2, and support for renewable energy.

Last month the Premier announced the $200 million environmental sustainability action statement. That statement contains some key initiatives including the Victorian renewable energy target (VRET) and support for a national emissions trading scheme. The key thing about these initiatives is that they provide market-based incentives for business to reduce its greenhouse gas emissions.

Certainly our government supports technology as a way to reduce emissions. The government is investing more than $100 million in research and development for new technologies. But business will not reduce its emissions unless there is a market incentive. As one commentator in supporting price signals for energy recently pointed out:

> A market-based solution will give the right signal to producers and consumers, encouraging more and better investment in additional sources of supply. That has to be good for both producers and consumers and better for the environment.

That commentator was in fact Peter Costello, the federal Treasurer, in January this year. He is someone I am sure the Leader of the Opposition takes a lot of notice of. He has a lot of advice, and it is good advice. In this case in relation to market-based incentives he was spot on.

As our Treasurer pointed out yesterday, our VRET policy will support jobs in regional Victoria — jobs at places like Keppel Prince, places like — —

Mr Baillieu interjected.

Mr THWAITES — He wants to export the jobs at Keppel Prince.

Honourable members interjecting.

Mr THWAITES — The Leader of the Opposition just said we should export the jobs at Keppel Prince. These are jobs in Portland. Portland now has industry, it has jobs and it has manufacturing. These jobs are put at risk by a policy to eliminate the VRET scheme.

As the chief executive officer of the Renewable Energy Association has said, VRET is not just about wind, it is also about biomass and solar. As she said:

> Biomass and solar projects may get across the line now.

If we want to see a solar industry here in Victoria, if we want to see solar energy, we have to support it, and our government is doing that through VRET. There are a number of new projects that are being developed now. There are projects in biomass and in solar. There is a reported project that is being developed for a large solar power station and is being proposed by Victorian company Solar Systems. But these projects will not get off the ground without VRET.

Mr Baillieu interjected.

Mr THWAITES — What they think is that they are getting support. That is what they are getting. They are getting support from our government, because we are prepared to back our solar industry, we are prepared to back our biomass industry.

Mr Cooper — On a point of order, Speaker, the minister has now been speaking for $4^1/_2$ minutes. I ask you to get him to wind up his answer and sit him down.

The SPEAKER — Order! I ask the minister to draw to a conclusion.

Mr THWAITES — Thank you, Speaker. If VRET is abolished the solar industry and the biomass industry in this state will be destroyed. We are not prepared to see that.

Port Phillip Bay: channel deepening

Mr WALSH (Swan Hill) — My question is to the Deputy Premier. I refer to the Minister for Transport's comments to the house on Tuesday, and I quote:

> … channel deepening is an important project which this government supports …

I further refer to the Minister for Agriculture's comments to the house, and I quote:

> If we want to continue in future decades to see ongoing increases in exports, then we need to see the expansion of the port of Melbourne.

I ask: will the government confirm its unqualified support for the channel deepening project before the November election?

Mr THWAITES (Minister for Environment) — That is quite an extraordinary question, because the government has already indicated its support. It is not a question of doing it prior to the election; we have already done that. We have clearly stated that we support this project, but it has to go through — —

Mr Cooper — Would you look at me when you say that?

Mr THWAITES — I would rather not.

Honourable members interjecting.

Mr THWAITES — If you insist.

Mr Cooper interjected.

The SPEAKER — Order! I should advise the member for Mornington that members on their feet are addressing their comments to the Speaker, not the member for Mornington.

Mr THWAITES — Our position is very clear. We support the project. We say it is important for Victoria, it is important for agriculture, it is important for exports and it is important for the 80 000 jobs that are supported by the port. Our position has been quite clear. It has to go through the appropriate environment effects process. It has to satisfy that. We are doing that, and I might say that our position is quite different from the position that is being adopted in some other places. We have the member for Nepean running around saying that the Liberal Party does not support it, whereas in other places other members of the Liberal Party are supporting it. On this side of the house our position is quite clear.

Road safety: government initiatives

Ms BARKER (Oakleigh) — My question is to the Minister for Police and Emergency Services. Can the minister advise the house how the government's approach to road safety and speeding has made Victoria a safer place to live and raise a family?

Mr HOLDING (Minister for Police and Emergency Services) — I thank the member for Oakleigh for her question because, like all members on this side of this house, she has a strong commitment to taking measures to make sure that our roads continue to be safe and that Victoria still enjoys a low road toll, reduced road trauma and safer roads.

Mr Mulder interjected.

Mr HOLDING — These are measures which have not always been supported by members opposite — including, I am sorry to say, the member for Polwarth — from time to time.

Honourable members interjecting.

Mr HOLDING — But we are very pleased that the tough measures this government has taken are continuing to have results. In fact as of midnight last night the Victorian road toll was 199. This is 29 fewer than for the same time last year and 22 fewer than in 2003, when Victoria enjoyed its lowest road toll.

But we know there are more things to be done. We know we have to continue to be vigilant in making sure that we take a tough stance in getting motorists to slow down. I was very pleased to see that the Auditor-General's report into Victoria's road safety initiatives, released in July this year, confirms that the approach that is being taken by this government is correct. The Auditor-General said there was a strong correlation between the road safety measures this government has taken and its efforts to reduce road trauma.

The Auditor-General said the government's objective in relation to speed camera activities was driven by road safety considerations and not by revenue raising. I repeat: not by revenue raising. That is something this government has been saying for some time, and it is something members of the opposition have been trying to disabuse Victorians of, so we are very pleased that the Auditor-General has confirmed the stance that has been taken by the government.

The Auditor-General also made it clear that our efforts to get Victorians to slow down have been a primary factor in reducing the road toll and in reducing road trauma. We were pleased yesterday that the statistics released by Victoria Police showed that on the Geelong Road since those cameras have been commissioned the level of infringement has dropped by 58 per cent, which means motorists are getting the message. In fact the number caught speeding 15 kilometres an hour or more over the speed limit — —

Honourable members interjecting.

Mr HOLDING — That number has been reduced by 62 per cent.

The SPEAKER — Order! I ask the minister to wait for a moment. The member for Polwarth and the member for Narracan will cease interjecting and having a conversation between themselves; otherwise I will remove them both from the chamber.

Mr HOLDING — But there are some things this government is not willing to do. We are not going to have two stances on every issue, two policies on every issue. We are not going to tell Victorians that we will have a declared 10 per cent tolerance to allow motorists to travel faster and then produce a policy document that says we will be tougher in 40, 50 or 60-kilometre-an-hour zones. That is not something this government is willing to do.

What we have said we are not willing to do is have two policies in relation to hoon driving. We have said that our hoon driving laws will make Victorians slow down, and that is why Victoria has been able to impound 50 cars driven by motorists travelling 45 kilometres an hour or more over the speed limit since these new laws came into effect. These laws are working. The opposition supported these laws when they went through the Parliament, but then the member for Scoresby raced out and said the laws are not tough enough and we should abolish the safeguards that put hardship provisions in place.

This government has taken a consistent approach in relation to hoon driving. The opposition has two policies when it suits it. We know there are two policies on many issues from the members opposite. There are two policies from the Leader of the Opposition — —

Honourable members interjecting.

The SPEAKER — Order! The minister, to return to answering the question.

Mr HOLDING — We will be making it absolutely clear to Victorians that we have consistent policies in relation to road safety. We will be making sure that this government continues to take a tough approach. We will not be sending mixed messages to motorists about speeding. We will not be telling Victorian motorists that they can travel faster in some places and that there will be a 10-kilometre-an-hour tolerance or more in other places. We will be consistent, we will continue to take tough measures to get the road toll down and we will continue to make Victoria's roads the safest in Australia.

Sex offenders: supervision

Mr McINTOSH (Kew) — My question without notice is to the Minister for Corrections. I refer to the infamous paedophile Brian Keith Jones, or Mr Baldy, who was apprehended outside the perimeter of Ararat Prison, contrary to his extended supervision order, and I ask: will the minister confirm that the government has received advice that Mr Baldy, or any other serious offender, cannot be charged with a breach of an extended supervision order because of a flaw in the Serious Sex Offenders Monitoring Act?

Mr HOLDING (Minister for Corrections) — Firstly, I say to the member for Kew that his question in fact contains an inaccuracy in relation to the circumstances surrounding Brian Keith Jones. The second thing I would say is that I have not received advice indicating flaws in relation to the legislation. But what I can say in relation to Brian Keith Jones is this — —

Mr McIntosh interjected.

The SPEAKER — Order! The member for Kew has asked his question, and I ask him to be quiet to allow the minister to answer it.

Mr HOLDING — What I can say in relation to Brian Keith Jones is this: Brian Keith Jones's sentence of imprisonment has expired and his parole period has expired. If it were not for the laws introduced by this government last year to establish a system of serious sex offender monitoring in this state, Brian Keith Jones would be home free. There would be no supervision, there would be no monitoring, there would be no restrictions, there would be no electronic tagging and there would be no restrictions on where he could live. There would be no conditions imposed on Brian Keith Jones or any other serious sex offender in this state at all.

Honourable members interjecting.

Mr HOLDING — It is because this government introduced some of the toughest laws in Australia, and certainly the toughest laws that we have ever put in place in Victoria, to make sure that serious sex offenders are monitored and supervised in the community or in other locations when they are released from prison.

What I can say to the member for Kew in relation to Brian Keith Jones is this: when Brian Keith Jones was found breaching his extended supervision order he was returned inside the perimeter of Ararat Prison. That is the toughest approach that has ever been taken in relation to a sex offender in this state, and it has been — —

Honourable members interjecting.

The SPEAKER — Order! I ask members on my left to cease interjecting in that continual manner, particularly the member for Scoresby.

Mr HOLDING — It has been put in place because of the tough legislation that this government passed. We are very pleased with and proud of the measures we have taken to make sure that sex offenders are treated appropriately in this state. We have made absolutely sure that there is a proper regime for monitoring serious sex offenders in this state, and the circumstances surrounding Brian Keith Jones show that those laws are working.

Schools: funding

Ms McTAGGART (Evelyn) — My question is to the Minister for Education Services. I refer the minister to the government's commitment to investing in Victoria's schools, and I ask her to detail for the house the most recent example of the government delivering on that commitment.

Ms ALLAN (Minister for Education Services) — I thank the member for Evelyn for her question and for her ongoing and outstanding representation of the Evelyn community and the schools in her electorate. Certainly the Bracks government, as we know, is committed to delivering in education and to investing at the same time in top-quality education facilities. Our $50 million classroom replacement program is helping to do just that.

Members of the house may recall that in 2002 it was the Bracks government that committed to building 600 new classrooms to go into schools right across Victoria. I am pleased to announce to the house today that the third and last round of this program is now being finalised. This third round will complete the massive classroom building project. On top of the 157 schools that have already received these new classrooms, I am announcing today that a further 75 primary and secondary schools are going to be receiving new classrooms on their school grounds. Those schools that have already received them know how greatly welcome these new portable, relocatable classrooms are in the school grounds. These school facilities are spacious, they are modern, they are bright learning spaces — —

Mr Smith interjected.

The SPEAKER — Order! I warn the member for Bass.

Ms ALLAN — They are bright, modern environments for students to learn in. I am sure that the member for Evelyn will be very pleased to know that three schools in her electorate, the Bimadeen Heights, Wandin North and Wandin Yallock primary schools, will all receive new classrooms as part of this final round. Schools right across the state, from the Leongatha Primary School to the Warrnambool Primary School and the East Doncaster Secondary College, will all benefit from these brand-new classrooms going into these schools.

This project highlights the fact that it is the Bracks government that continues to deliver on its commitment in education. But I caution that there are others who take — —

Mr Smith interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! I suspend the member for Bass from the chamber for half an hour.

Honourable member for Bass withdrew from chamber.

Questions resumed.

Ms ALLAN (Minister for Education Services) — As I was saying, it is the Bracks government that is committed to delivering in education, but sadly there are others who take a different approach to the funding of education facilities. I must say it is an approach that is more than a little bit confusing, as they certainly seem to be flapping around trying to work out the different numbers to allocate to an area as simple as school maintenance. Theirs is a group that on Saturday made a commitment of $250 million in the area of school maintenance, but only a couple of days later — —

Dr Napthine — On a point of order, Speaker, you have ruled a number of times that ministers should answer with respect to government business, not other people's business, and I ask you to bring the minister back to order.

The SPEAKER — Order! I do not recall ever ruling quite like that! There is no point of order.

Ms ALLAN — School maintenance is very much this government's business, which is why we have allocated over $400 million to school maintenance since we have been in office. That is why these figures

are very alarming: on Saturday we had a figure of $250 million; only a couple of days later this figure was reduced to $200 million; and I am sure, given a little bit more time — —

The SPEAKER — Order! The minister should return to addressing the question about Victorian government business.

Ms ALLAN — I think it is clear there is only one party that is committed to those key services of education, health and community safety, and that is the Labor Party. We will not be distracted by dodgy figures and people reducing the numbers. We will continue to be committed to delivering in education, which is why we have already invested $1.65 billion in new school buildings and building new schools right across the state. This includes the $50 million classroom replacement program — and I am announcing the details of that today — plus a further $100 million that we have already allocated for school maintenance in the 2006 calendar year. We have also seen the funding of 6200 additional teachers, bringing class sizes down to record lows.

While the Liberal Party can confuse itself with basic numbers, it is the Bracks government which will continue to get on with the job of making Victoria the best place to live, work, raise a family and go to school.

Sturt Highway: Mildura Rotary

Mr SAVAGE (Mildura) — My question is directed to the Minister for Transport. In the absence of container deposit legislation, the government relies heavily upon community groups for highway clean-ups under the VicRoads Adopt a Highway scheme. For some months the Mildura Rotary Club has been seeking VicRoads safety assistance for the Sturt Highway clean-up, and I ask: as VicRoads has refused to help on the safety issues, is it the government's intention to now abandon the Adopt a Highway scheme?

The SPEAKER — Order! The Minister for Agriculture, to answer on behalf of the Minister for Transport.

Mr CAMERON (Minister for Agriculture) — The honourable member for Mildura raises a matter concerning the Adopt a Highway scheme as it applies to Mildura. Honourable members will be aware that in provincial cities, towns and elsewhere, as you approach the urban area you often see areas of highway where community service organisations have adopted that part of the highway to help with its clean-up. I understand the Mildura Rotary Club made an approach to VicRoads as a result of concerns over safety. The government congratulates organisations like the Mildura Rotary Club for the work they do. As a result of those discussions VicRoads has, as it has done elsewhere, put in place interim safety guidelines. They are only a temporary measure. The Minister for Transport has asked VicRoads to make sure there are full guidelines in place which address the issues, including those issues raised by the Mildura Rotary Club. Obviously we want to make sure that the highway is safe and that it is sustainable so we not only get benefits from the community's adopting the highway but also make sure those volunteers are safe.

I assure the member for Mildura and the Mildura Rotary Club that these issues are being progressed and the government is committed to the scheme.

Children: obesity

Ms MORAND (Mount Waverley) — My question is to the Minister for Health. Can the minister advise the house what the Bracks government is doing to be a world leader in the fight against obesity?

Ms PIKE (Minister for Health) — I thank the member for Mount Waverley for her question. The large and rapid rise in obesity is a significant public health issue, one this government is concerned about and is tackling head on. We have an intensive $87 million healthy and active Go for Your Life strategy which is already achieving outstanding results. In fact today the eyes of the world are firmly on the Go for Your Life program, particularly one of its projects called the Be Active Eat Well program in Colac. This groundbreaking $400 000 program has proved for the first time that childhood obesity can be effectively tackled. It has demonstrated that if government and communities work together we can reduce children's weight and enhance their love of physical activity and healthy food.

Colac's Be Active Eat Well program has not only reduced weight gain by an average of 1 kilogram for the children in that trial program but also recorded a reduction in waistline growth of 3 centimetres. Children in that program achieved these results when they were measured against children who were not in the same program. This is the first time these two statistically significant measures have been reported on anywhere in the world where similar trials have been undertaken. In September an international obesity conference will be held in Geelong, and our researchers from Victoria will be able to report on these findings. There is a lot of international interest in this work.

The project has also seen a 21.4 per cent reduction in the amount of television, computer and game screen time, an increase in the number of kids participating in after-school physical activity programs of 67 per cent, and a nearly 70 per cent reduction in the consumption of sweet drinks. The project has been so successful because it has had the unprecedented support of the entire community, from parents, schools and government to fast-food outlets which, through an education program, have, for example, changed the kind of oil they use to cook food in to an oil containing less saturated fat, thereby taking a considerable amount of saturated fat out of the diets of people in the entire community. Recreational services and the local media have also been willing partners.

This project proves that, with the support of government, communities can ensure their children look forward to a healthy future. Obesity is a significant public health challenge. We know that a lifetime of being overweight contributes to higher rates of diabetes, heart disease and some cancers. We know that unless we do something now we are looking forward to a future where our children's life expectancy will be less than our own.

Go for Your Life is making a real difference to the lives of young Victorians. We intend to continue to build on the success of this program. As part of our plan, our policies and our strategies, which are firmly embedded, we look forward to rolling out similar programs across other locations across Victoria.

Water: Ballarat supply

Dr NAPTHINE (South-West Coast) — My question without notice is to the Minister for Water. Given the Cairn Curran Reservoir is now at less than 5 per cent capacity and Loddon irrigators have been given a zero water allocation, will the minister now admit that Labor's expensive plan to pipe water from Cairn Curran to Ballarat is fatally flawed and will not fix the water crisis in Ballarat?

Mr THWAITES (Minister for Water) — I thank the member for South-West Coast for his question. The Bracks government is leading Australia on water management. The *Our Water Our Future* strategy is widely regarded as the best document on water in Australia. That is why we are now able to say we are implementing our plan for the Murray River and our plan for towns like Melbourne and Ballarat.

Part of that process is to have a central region water strategy. We always said to the public that we would put out a draft of the proposed strategy and have feedback on it, and part of that was to include a number of possible solutions for Ballarat. One of those solutions was Cairn Curran, but there were a number of others as well, including recycling, access to the Cardigan aquifer and other solutions. We are prepared to have a discussion with the community and we are out there doing that. But we are not so arrogant as to say we have all the answers and we are not going to have a debate.

There is an alternative way of doing it, which is to go to Ballarat and say to the people there, 'We have the solution and this is it: you can have all the water in Lal Lal'. We could say that Lal Lal will go to Ballarat immediately. But the same people who would say that, are going to the people of Geelong, who share Lal Lal with Ballarat, and saying, 'Don't worry, we are not going to take Lal Lal. You are protected'. So in Geelong they are saying something completely different from what they are saying in the Ballarat.

Dr Napthine — On a point of order, Speaker, on the issue of relevance, I think we have had enough of the fiction and the misleading of the house by the Minister for Water. I now ask you to bring him back to answering the question about the Labor Party's no. 1 plan to pipe water from Cairn Curran, which now seems to have been dumped!

The SPEAKER — Order! I ask the minister to respond to the question. I remind people that when they make points of order it is not an opportunity to debate the topic.

Mr THWAITES — As I indicated, this government has put out a number of proposals as part of our public discussion. I am distinguishing that from a proposal where the opposition goes to Ballarat and says one thing and goes to Geelong and says something completely different. The other point that should be made is this — —

Honourable members interjecting.

The SPEAKER — Order! The member for South-West Coast!

Mr THWAITES — The alternative that the member for South-West Coast is proposing, which is for Ballarat — —

Mr Cooper — On a point of order, Speaker, the minister is now attempting to canvass something that is outside government administration. He is talking about some proposal that he claims is being put forward by the member for South-West Coast. If there is such a proposal, it certainly does not fall within the ambit of

government administration. I ask you to bring him back to the question and the issue of government administration and his flawed plan.

The SPEAKER — Order! I state again the general proposition that ministers are required to relate their comments to Victorian government business.

Mr THWAITES — I might say that the plan for Lal Lal to be used by just Ballarat and not by Geelong was also a proposal that the government put forward as part of its discussion paper process. The reason that it has been rejected at this stage — and we have not made a final decision, but it is not the government's position — —

Honourable members interjecting.

Mr THWAITES — There are two reasons. First — —

Honourable members interjecting.

The SPEAKER — Order! The member for South-West Coast! He has asked the question; I suggest he listen to the answer.

Mr THWAITES — The first problem with that is that Geelong has half a share of that water, and until — —

Honourable members interjecting.

The SPEAKER — Order! I warn the member for South-West Coast.

Mr THWAITES — There must be adequate compensation for Geelong if it is going to be taken. That will take some years and the need of Ballarat is great, so this government is ensuring that Ballarat is looked after now and not fed a proposal which will not meet its needs.

In conclusion, the member for South-West Coast has been talking about the amount of water in Cairn Curran. I just point out to him that there is no water at all available in Lal Lal for Ballarat. So the solution he is putting up is a mirage and will not — —

Mr Cooper — On a point of order, Speaker, the minister is now canvassing some issues in regard to statements that he claims were made by the member for South-West Coast. They certainly were not part of the question asked by the member for South-West Coast and I ask you to once again bring the minister back to answering the question that was asked of him.

The SPEAKER — Order! I believe the minister was answering the question put by the member for South-West Coast, but I ask him to conclude his answer.

Mr THWAITES — The member and all members can be assured that this government will work with the communities of Ballarat and Geelong to ensure that there is adequate water for both.

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! I suspend the member for South-West Coast from the chamber for half an hour. I have warned him several times.

Honourable member for South-West Coast withdrew from chamber.

Questions resumed.

Medical research: stem cells

Mr NARDELLA (Melton) — My question is to the Minister for Innovation. I ask the minister to detail for the house any recent announcements that will support research that could revolutionise the lives of people living with spinal cord injury.

Mr BRUMBY (Minister for Innovation) — I am pleased to advise the house that earlier today at the National Stem Cell Centre at Monash University the Premier announced a $413 000 grant for Australia-first research that could revolutionise the lives of people with spinal cord injury. Each year in Australia there are around 400 new cases of spinal cord injury alone, and they are predominantly as a result of road accidents. The human and financial burden of these injuries is, of course, devastating. Few people fully recover from serious spinal injury, and the health care cost to Australia is estimated at around $1 billion per annum.

Today's grant will support researchers hoping to develop a structure which is like a bridge over the severed spinal cord and which will enable the delivery of stem cells which could in turn develop into and function like spinal cord cells. This is the first grant as part of the state government's $63 million Victorian Neurotrauma Initiative which was announced last year.

Our commitment to medical research is not just that $63 million, of course. It will also see the doubling of the size of the Walter and Eliza Hall Institute; we will be building one of the world's largest stand-alone

neuroscience facilities on the Florey site in Parkville; and with Monash University we are establishing the world's largest regenerative medicine institute, which is based alongside the National Stem Cell Centre.

The point is that, despite all those things, there remain significant challenges to medical research more generally. For those with spinal cord injuries, those with Alzheimer's and those with Parkinson's disease, what we need to do is lift the restrictions on somatic cell nuclear transfer because it is one of the ways by which scientists will be able to beat those diseases. The Bracks government has a very clear position on somatic cell nuclear transfer: we led the national debate on this matter, we made the submission on behalf of the states to the Lockhart review, and we now advocate very passionately for somatic cell nuclear transfer to be embraced in federal and national legislation. What we need also is a clear commitment not only from members of this house but also from our counterparts federally to the recommendations of the Lockhart Legislative Review Committee to abolish the current restrictions on research techniques involving somatic cell nuclear transfer.

I just want to make this point about somatic cell nuclear transfer because there has been a bit of misinformation in the press. If you look around the world today you see that somatic cell nuclear transfer is allowed in the United Kingdom, Sweden, Singapore, Israel, China, South Korea, Japan, Spain and the United States of America. All those countries allow somatic cell nuclear transfer. We strongly support the liberalisation of laws to enable somatic cell nuclear transfer. It is the biggest science issue of our time. We on this side of the house have a clear view on this. Earlier this week on radio 3AW on this issue the Leader of the Opposition was asked by Neil Mitchell:

> What's your view?

The Leader of the Opposition said:

> I haven't got a strong view on it. I've got an open mind about it.

The Lockhart review was released in December last year and it is now August. We have had eight months for people to form — —

Honourable members interjecting.

Mr BRUMBY — No, I am not kidding. Have you got a view? Has the opposition got a view?

Honourable members interjecting.

Mr BRUMBY — Yes, I am serious.

The SPEAKER — Order! I remind the Minister for Innovation that he is required to relate his comments to Victorian government business, not the views of the Leader of the Opposition.

Mr BRUMBY — We have a very clear position on this, in support of somatic cell nuclear transfer. It is the big science issue of our time. It is instructive that on the big science issue of our time the Leader of the Opposition has no view whatsoever. Flip, flop; flip, flop.

Honourable members interjecting.

The SPEAKER — Order! Has the minister finished his answer?

Mr BRUMBY — Yes.

Mr Mulder — On a point of order, Speaker, it is absolutely distasteful to use people who have suffered spinal injuries in a form of political attack.

The SPEAKER — Order! The member for Polwarth well knows the forms of this house. I suggest he follow them in the future or he will have action taken against him.

OWNERS CORPORATIONS BILL

Second reading

Debate resumed.

Mr THOMPSON (Sandringham) — The Owners Corporations Bill is an important piece of legislation that has as its objective the resolution of a range of issues that have been brought to the attention of successive governments. They include dispute resolution processes in relation to the administration of bodies corporate that have not been well addressed in the past.

The purpose of the bill is to create a legal framework for the governance of bodies corporate, which will now be known as owners corporations, to define the management powers and functions of owners corporations and to provide for the resolution of disputes relating to owners corporations. The bill also amends the Subdivision Act 1988, particularly in relation to the creation of owners corporations, and makes a number of minor amendments to other acts. The bill is the result of a review of body corporate law in Victoria. I pay tribute to the people responsible for the review and note the expertise of a number of people in the field — in particular, Simon Libbis, who wrote a

text on subdivision law in Victoria a decade or so ago and who later took on a role with the Titles Office in South Australia.

The main provisions of the bill change the term 'body corporate' to 'owners corporation' and create a three-tiered dispute resolution process to include an internal complaints process, access to Consumer Affairs Victoria to conciliate or mediate the dispute, and access to the Victorian Civil and Administrative Tribunal, which will have the power to make binding determinations.

I note that there has been a fair bit of subdivision activity in my electorate, and a lot of bodies corporate have been established in the period since the 1970s, when a lot of household lots were subdivided. We have not been the recipients of the large number of so-called 12 packs that have appeared around the St Kilda–Caulfield area, but certainly a number of 6-pack developments have taken place in the Sandringham electorate and in Mentone in particular.

Two factors that often lead to disputes between neighbours are parking rights and access rights. The resolution of these matters has really been quite complex and has often involved the prospect of incurring significant expenses. The dispute resolution process is outlined in part 10 of the bill, and clauses 152, 153, 154, 155, 156, 157, 158 and 159 detail the early elements of the complaints procedure. There is the opportunity for a notice to rectify the breach to be served internally, as it were, which is more efficient and cost-effective than taking a matter to the Magistrates Court. If a person does not rectify the breach, there is the capacity for a final notice to be served. I note that clauses 155 and 157 have time limits of 28 days. Following a breach a considerable effluxion of time can eventuate, and if the dispute is ongoing, that in itself can cause some degree of difficulty.

Another issue that has been prevalent relates to a situation where there has been a spot purchase of a unit within a body corporate by the Office of Housing or a welfare agency. There have been a number of examples over the past 10 years where all the occupants of a group of units have been owner-occupiers with the exception of the owner of one unit that had been spot purchased. There have been considerable difficulties resulting from a lack of neighbourly rapport between the spot purchaser and the owner-occupiers. Often there has been a reticence on the part of the owner-occupiers to make complaints directly against the offending tenant in order to protect their own safety and welfare. This is a matter which in other times has been raised in this house, but it is a matter that has caused ongoing stress to neighbouring residents. Some people have been concerned because their lifestyle was being ruined and their health was being badly affected by an ongoing range of disturbances. In one case concerns were raised by the body corporate manager about empty bottles and cans around and a level of violence occurring in a neighbouring unit. The best laid plans regarding dispute resolution and the redressing of disputes can sometimes be complicated by the individual circumstances that exist within a body corporate.

As other members on this side have said, the opposition has a number of concerns about the bill. One relates to its complexity, in that it might lead to increased costs and owners corporation fees. Smaller bodies corporate that are currently inactive will find the record and reporting requirements of the legislation onerous and will need to employ a manager. Estimates are that in some cases this could involve additional expenses of up to $1000 per annum.

The bill also fails to recognise that much of the role of chairperson/secretary is currently undertaken by the manager. Clause 79 restricts the chairing of general meetings to the chairperson and allows only a lot owner or the manager to chair a meeting in their absence. Clause 99, in conjunction with clause 107, requires a secretary to be elected from among the lot owners and allows for the manager to act as secretary in the situation where an owners corporation does not have one.

It has been my observation that a number of professional body corporate managers have a level of expertise that enables them to conduct proceedings for bodies corporate in a very efficient manner. The failure of the bill to recognise that the role of chairperson/secretary is currently undertaken by the manager could be construed as being a flaw.

Part 12 requires managers to be registered, but there is no minimum qualification necessary, nor is there any requirement for a police check. Among the *Hansard* record of the speeches made by me and by the former member for Mordialloc there would be numbers of cases highlighting the actions of a body corporate manager whose services bodies corporate sought to dispense with because it was understood that his work had not been undertaken according to reasonable standards. These bodies corporate had great difficulty in trying to dismiss or dispense with the services of their manager. It is notable that there is no qualification requirement for the role of a body corporate manager.

There is also the question of the security of owners corporation funds. Clause 27 allows for pooled accounts. Only prescribed owners corporations are required to have their financial statements audited. The bill also requires managers to provide a full list of their client bases for the register. This is an interesting proposition, because there is no other business that is required to provide a full list of its client base. The purpose of this clause is unclear to me, and it may be regarded as an inappropriate impost upon those people who proficiently conduct their work.

There is a requirement for a special resolution in order to bring legal proceedings; there is a requirement that the common seal may only be applied by resolution of a general meeting, and a view has been expressed that this approach is impractical — for example, if there is a leased car parking space which runs with a lot and the lease requires assignment, this will require a special general meeting to be convened in order for the owners corporation to approve the fixing of the seal to what is a commonplace and necessary duty of an owners corporation.

Another matter to which I alluded at the commencement of my contribution was the length of time in relation to the dispute resolution process. There are two notice periods of 28 days — firstly, under clause 155, and secondly, under clause 157. There was an example recently drawn to the attention of the ministry where an owner was in clear breach of a number of obligations as a result of the misconduct of a tenant within a body corporate. If it took 56 days — world record time — to try to ameliorate and resolve these concerns, then most people would have perhaps chosen to move elsewhere, noting that the scope and extent of some of the breaches that can take place with threats of violence — —

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

Mr LIM (Clayton) — I am delighted to be taking part in the debate on this significant bill. There have been many changes to the way people live since I came to Victoria, but one of the most noteworthy has been the increasing move to what one might call communal living. At the time when I first moved here, people did not live in flats or condominiums in Victoria — they lived in separate, single-storey houses. The older ones were terraces; the newer ones were detached and on quarter-acre blocks. People just did not live in flats or other forms of dwellings where the land was shared between several owners. The only legal structure possible to provide for common ownership and administration was to form a limited company. I understand that some older flats are still on company titles.

The present legislation governing joint ownership of property was originally intended to cover the case of small blocks of flats or units with a maximum of six or eight property owners. We are now dealing with very large blocks of flats and large condominiums being built with a great many joint owners.

The costs associated with such large endeavours are also of a different nature to those that apply to smaller blocks. Newer properties might employ security guards and often have an underground car park. They share sporting facilities and have lifts to maintain and repair. Accordingly, costs that were not envisioned in the earlier legislation have now come to play.

The legislation needs to change to meet the changing circumstances and dynamics of this type of housing. It is to the credit of the Bracks government that it has met the challenges presented by these new realities by conducting a review of body corporate law, as announced in September 2003. The review has been most ably led by one of the members for Koonung Province in the other place, and I commend her for her tremendous work in this area.

An issues paper was released in October 2003, and a future directions paper was published in March 2004. The government has received some 200 public submissions in response to this paper, and this is a significant response from the public. The bill has been, therefore, the subject of the most thorough process of consultation and has been thoroughly discussed with stakeholders throughout the state. The process of consultation has been extremely helpful in establishing the major issues affecting bodies corporate.

The review identified a need for better access to dispute resolution and clearer rights, duties and responsibilities of members and the body corporate, and the need for sufficient power and flexibility to enable bodies corporate and body corporate committees to operate effectively.

The need for better financial management and protection of body corporate funds was also identified. The bill clarifies the roles and responsibilities of the various parties involved in owning and using such properties, and provides improved protection for body corporate funds; better means for dispute resolution, more appropriate governance and improved regulation of information.

The bill also provides greater power for owners corporations to manage common property than at

present, and sets out principles of conduct and standards of care. This is indeed a most worthwhile bill, and I therefore commend it to the house.

Mr PLOWMAN (Benambra) — Clearly there has been a great need for a change to this legislation because of the growth, particularly of high-rise dwellings, in the bigger cities. But I want to bring attention to the fact that in many smaller country towns there is still a requirement for a body corporate where someone is required to act as a manager, someone is required to act as a chairman and someone is required to act as a secretary, when in fact there might only be three properties involved.

I have talked to one of the body corporate managers in Wodonga. He says that with many of the properties for which he is responsible the body corporate holds the responsibility for people who are investors and not the people who actually live there. In one case he told me that an owner lived in Mansfield, another in Inverell in New South Wales, another in Mildura, and never once did any of those people attend a body corporate meeting.

It strikes me that if this legislation is to be effective for those smaller bodies corporate, then there is a possibility, as the member for Doncaster rightly said, for the legislation to come back in the next two or three years to overcome some of the complexities, particularly those associated with the larger high-rise buildings. But equally, the legislation could and should come back in order to better accommodate the smaller bodies corporate.

The body corporate manager told me there are also times when nobody attends the meetings, and effectively he has to rig the books. He says this is not something that he likes doing, but under the current legislation — and under the proposed legislation — he virtually has no alternative. The legislation says if there is not a quorum then any decision made has to be advertised to every member of the body corporate and await their response. As he advised me, not only do people not come to these meetings but they do not respond to his letters. Therefore, he is effectively the manager, the chairman and the secretary of that body corporate; and the legislation virtually prohibits that from happening.

There has to be a means whereby these smaller bodies corporate can be managed and run effectively and within the law. He maintains that he is concerned that in some of these circumstances he may be found in breach, but he cannot see another way of effectively running the bodies corporate in those situations where he is responsible.

He said in one case a body corporate for which he is responsible has not had a quorum for 10 years, which just indicates the difficulties of the smaller end of the field. Although I am sure it is absolutely necessary for the bigger high-rise developments and for the bodies corporate which are handling millions of dollars to ensure that people's investment in the body corporate is secure, the legislation needs to cater for the smaller bodies corporate as well, which I do not believe it effectively does at present.

I refer to two areas of the proposed legislation. Firstly, a person who is not a member of the body corporate who holds a proxy for a member may not vote on matters affecting himself or herself relating to the delegation of powers, the changing or exercise of delegation or the appointment, payment or removal of a manager. The difficulty there again is that in the case I just related it would be very difficult for someone who is neither an owner nor a member of the body corporate but who is there as a manager to effect the management inside the current law. The new legislation does not overcome that difficulty.

The other issue is in respect of quorum. Under the heading 'Quorum for a meeting' the Subdivision (Body Corporate) Regulations 2001 — in other words, the current legislation — says:

> A quorum for a meeting is at least 50% of the total votes or if 50% of the total votes is not available the quorum is at least 50% of the total lot entitlement.

As I have explained, in many cases these meetings are not attended by members at all. The members rely entirely on the manager to effect their business. Absentee owners are often interstate and never come to meetings. As I said, there was one situation where there had not been a quorum for 10 years. That does make it more difficult, and I believe the legislation does not cover these issues.

We support the legislation because it will better effect the management of the bigger developments. However, this is an area I hope the government will reflect on and bring back to the house at a later stage to see if it can better accommodate the smaller bodies corporate, the managers and the secretarial roles.

Ms MUNT (Mordialloc) — I am very pleased to rise today to speak in favour of this legislation, which is concerned with changes to the body corporate laws in Victoria. I have had a number of contacts from constituents in my area who live under body corporate

laws. Occasionally there are challenges within those bodies corporate.

I was very pleased to host a body corporate forum with the Honourable Helen Buckingham, a member for Koonung Province in the other place. It was a fascinating forum where people who live in houses, units and flats under body corporate arrangements came forward to put their points of view and to feed their thoughts and feelings into this piece of legislation.

A lovely gentleman from the department came to host the forum and talk about the proposed changes to the law regarding bodies corporate. He was amazed at the number of people who had turned out. We had one of the biggest turnouts in the whole state. He was also very impressed with people's forthright views, the way they had considered the issue and the points of view they put forward. We are an area that has people with strong and forthright views, and we like to have those views heard. It was very interesting to hear what those people had to say about bodies corporate and the challenges related to bodies corporate they have had in their lives. We very carefully took down all the views. The forum went for quite a few hours, and many of the suggestions that were made by residents at that forum were gathered up in the process to go into this legislation.

There is a myriad of different challenges in living where there is a body corporate. People disagree, and there can be trouble with the maintenance of the entire building and the shared areas of the body corporate. It is always a challenge to have in place a process that achieves some sort of harmony when you are all living in close proximity to each other, when you have to agree to get things done and when there are body corporate managers. One resident even had terrible trouble with children playing in the shared driveway. It is very important that people are listened to in that context and that their views are taken into account, and that is what we did at the body corporate forum. All of that was very carefully considered and the points made were taken into consideration in arriving at this legislation. This is a very good piece of legislation, and I commend the bill to the house.

Mrs SHARDEY (Caulfield) — I rise to speak on the Owners Corporations Bill. The purpose of this bill is to create a legal framework for the governance of bodies corporate, which will now be known, of course, as owners corporations. The bill provides for the management, powers and functions of owners corporations and for the resolution of disputes relating to owners corporations. It also amends the Subdivision Act 1988, in particular in relation to the creation of owners corporations, and makes a number of minor amendments to other acts. This bill is the result of the review of body corporate law in Victoria, and I will refer to that review a little later on.

Over the years there have been numerous complaints about the operation of bodies corporate from individual owners and from tenants. There has been expressed — certainly to me as a member of Parliament — frustration with body corporate managers, who are often seen to fail to do their job, according to some of my constituents. The whole area, according to some of my constituents, lacks transparency. There are disputes over common land and disputes between owners and tenants of apartments, with poor process resolution and so on. In one such case recently there was a dispute over damage done by an apartment owner to a common area. That led to a court case, and costs of over $20 000 were incurred by the people taking that action.

This legislation was the result of a quite long process of review undertaken over a number of years by the Honourable Helen Buckingham, a member for Koonung Province in another place. It was completed in December 2005 after being started in September 2003, and resulted in some 29 proposals. Basically it reviewed the 1988 legislation. The review was necessary because of the changed nature of ownership of some premises, with some people being owners as tenants in common. The review mainly covered the ownership of apartments but it also considered commercial developments such as shopping centres and industrial or agricultural developments such as vineyards.

There have been very big changes with large tower developments, which are common in the city of Melbourne, and medium developments, which are spreading throughout our suburbs. As a result the role of bodies corporate had often become more technical and complex. The old legislation was made at a time when most subdivisions consisted of four residential lots and were self-managed. Separate legislation was created to deal with just a small number of more complex subdivisions, which are noted in the report. The numbers of apartments and multistorey towers have increased quite dramatically — for example, Melbourne City Council believes that current plans will lead to more than 20 000 dwellings over the next 5 to 10 years in the City of Melbourne alone.

Some key demographics are referred to at page 12 of *Final Report of the Body Corporate Review*. It states that:

> … there are approximately 65 000 bodies corporate in Victoria and 480 000 lots;

> the number of bodies corporate is increasing by approximately 2000 each year;
>
> …
>
> the capital improved value of lots affected by the operations of bodies corporate in Victoria is at least —

a staggering amount of —

> $40 billion …

That is the value. It continues:

> there are approximately 1000 people employed full time in the management of bodies corporate (250 professional body corporate managers and 750 support staff).
>
> The vast majority of these bodies corporate are small … In the case of the really large bodies corporate (greater than 100 lots), although there are only 650 of them, they represent a quarter of all lots in Victoria …

The submissions that were received by the review panel included a large number of requests from people on what they were looking for. These included: improved communications between members to ensure fair, open decision making; more body corporate information, education and advice; incentives to promote compliance; better access to body corporate dispute resolution; sufficient powers and flexibility to enable bodies corporate and body corporate committees to operate; clearer duties, rights and responsibilities; improved financial management; long-term maintenance planning; promotion of higher professional standards; better disclosure; and information about rights and responsibilities.

It was noted that many consumers cannot afford legal costs and many problems were longstanding or recurring with body corporate, committee or management. Consumers also said that managers and committees should be made more accountable. There was concern about gaining access to body corporate records. Interestingly real estate agents and the Real Estate Institute of Victoria raised concerns about the lack of supervision over funds held in trust by body corporate managers.

A large number of issues were raised as a result of this review. I have heard many of those complaints in my time as the member for Caulfield. I am pleased this legislation has come forward. Many will say that it is much more complex than we had hoped. However, it is an improvement on the old legislation.

The bill creates a three-tier dispute resolution process to include an internal complaints process and access to Consumer Affairs Victoria to conciliate or mediate. It requires paid managers to register with the Business Licensing Authority and have professional indemnity insurance. It defines the roles and responsibilities of owners, corporations, committees of management et cetera. It changes disclosure requirements. It requires the owners corporation certificate to be attached to the section 32 vendor's statement on the sale of a property, which is most important, and this will ensure full disclosure of fees and other matters. The bill also requires an annual financial statement to be presented at the annual general meeting and owners of large corporations to have their financial statements audited.

A number of concerns have been raised, although not enough to push for any changes to the legislation. I note that there are still some concerns, and one can only assume that as this legislation is implemented perhaps some amendments will be brought. The main concern is the complexity of the legislation and the fact that people believe it will lead to increased costs and owners corporations fees. There is a concern that smaller bodies corporate may currently be mostly inactive and they will find that all of a sudden they will have to actually start doing things. Many of those smaller bodies might feel that the things they are required to do are excessive for the type of property they are managing. It is estimated this could cost some small owners quite a large amount of money, say, about $1000 a year.

The bill fails to recognise that much of the role of chairperson and secretary is currently undertaken by the manager. I will not go into detail about that, as other speakers have already covered it.

Part 12 requires managers to be registered, but there is no minimum qualification. This is an issue that has been raised.

There is a requirement for a special resolution in order to bring legal proceedings, and this requires 75 per cent approval of owners. Some of this is difficult, because it is going to be hard to get all the owners together to agree to move forward to take legal proceedings, and perhaps that is one of the areas at the end of the day that the government may look at amending.

The dispute resolution process, according to some, is too long. Eight weeks is a long time for residents to endure breaches that are disturbing their quiet enjoyment of their homes. People have come into my office and complained bitterly about loud music and noise being made by other people living in blocks of apartments that is disturbing the quiet amenity of their home. If the process is one that takes a long time — for instance, eight weeks — those people are not going to be happy.

As I said in my opening remarks, people have looked for change in this area. It has been an area of great frustration to a lot of people. In my electorate of Caulfield there are a large number of people, particularly elderly, living in apartments. Those people will at least be pleased that there has been some movement in some of these areas, although there are still some areas of concern and there may be need for future amendments at the end of the day.

Mr SMITH (Bass) — Speaker, can I just say I am so pleased to be back. I have missed the place. Half an hour is just far too long. It is a shame I was not guilty. It is nice to be back to make a small contribution to the debate on the Owners Corporations Bill. We do not oppose this legislation, but we cannot support it in full because we believe there are some areas of concern. The bill is a bit too cumbersome, although it is certainly an improvement on the other pieces of legislation it replaces and updates.

There is always going to be a battle between owners and managers in some of the high-rise developments and even in some of the small subdivisions of three to five units. When people are living close together they often do not like their neighbours. It is important that there is a manager who is able to manage the affairs of an organisation, a corporation or small corporate body. Some people can get hung up on small problems and somebody really needs to be in the middle to sit down and take some control. Those problems only get larger when you get into the multistorey developments that are now located around Melbourne. You only have to look at places like Eureka Tower to understand the huge number of people who will be there and the maintenance that will be needed all the time, not just some of the time. Somebody has to run all those things. That is where a good manager comes in, to ensure that things are run properly — that the airconditioner is running properly, the lifts are going up and down and that the gardens and whatever else may need tending to are tended to and looked after.

You will still have problems as far as disputes are concerned. The one problem we have here is clause 155, which relates to the dispute resolution process. It drags on for far too long. We are looking at the notification of an alleged breach. For someone to rectify the alleged breach takes 28 days. That is one month gone. If they do not comply, they have to be given a final notice, which takes another 28 days. That means two months have gone by. People sometimes will not do something because they become obstinate or it could be that they live overseas or have gone away and there is no resolution. If someone is really desperate to have a problem rectified, having to wait two months, as is set out in clauses 155 and 157, is a problem. People have the right to the quiet enjoyment of their properties, whether they be within a small group of units or part of a high-rise development. We should be doing something about that.

Of course this is going to create more paperwork, which is the joy of bureaucrats. Bureaucrats have written up this type of legislation. There are 65 000 bodies corporate, which is a lot of paperwork to be sorted through. It all has to be done right. I do not object to things being done right, but paperwork creates costs. Somebody has to sit down and fill out the paperwork and somebody has to go around and talk to people about issues. That is going to take a fair amount of time and involve a lot of extra expense. When that gets added on to body corporate fees, that can create a dispute. The member for Nepean mentioned a development he was involved in where the manager was not doing things right. They had a great deal of trouble sorting out their difficulties, partly because of a lack of paperwork and being unable to take action against the person or the body that was organising the management of that development.

There are three stages to resolving a dispute. Internal dispute resolution is the first. Going to Consumer Affairs Victoria is the second. That body will have to become more bloated than it currently is, having to hire more bureaucrats to run it and resolve disputes. A dispute can go further, to the Victorian Civil and Administrative Tribunal, which is the third stage. Anybody who has ever dealt with VCAT would understand the period of time you have to wait. As I said, there are 65 000 bodies corporate. Therefore we are going to be in a position where any one of those 65 000 bodies could be going to VCAT, which already has a huge waiting list. There are obviously not enough commissioners or judges. Who is going to pay for them? Is it going to be the people who are taking the dispute to VCAT? Who is going to pay for the judges? Obviously we the taxpayers are going to have to pay for a lot of that. I did not see anywhere in the bill where the extra cost of all this has been worked out.

It is nice to bring in this type of legislation to solve some problems, but in doing so another huge bureaucracy is set up or a couple of bureaucracies are enlarged and bloated, one being consumer affairs and the other being the Victorian Civil and Administrative Tribunal — I suppose Justice Stuart Morris would not be pleased to hear me say that. I think he has been very fair in a lot of the decisions he has made in recent times and has brought in a bit of fresh air. He has probably not been great mates with the part-time Minister for Planning in this state because of some of the decisions

he has made. But the truth of the matter is that I have had dealings with Stuart Morris for many years. When I was a councillor at the Shire of Hastings — —

Mr Wynne — They were heady days.

Mr SMITH — They were great days when things could happen. They were great days when there was a Liberal government there for a short period of time. Unfortunately, it then started to turn bad and it became all red and went over to the Labor Party. That was a little bit of a problem.

Nevertheless, with 2 minutes left for my contribution, I will say that this piece of legislation also places important restrictions on developers who have the majority of power. Quite often a developer of a large or a small development will hold a number of units and have a controlling interest in the development. That makes it difficult for people who are in the minority, such as single owners of units in a development, to stand up against the person who owns most of it, who may have been the developer, and get anything done. The legislation will force the developers to act honestly and in good faith, which is a good thing and we hope it is something this government follows through on.

I say to the government that there are many concerns in this legislation, some of which I have related to, but there are also some good things in it. It is important that managers are registered and have to pass some probity tests and prove their credentials, and that they are capable of looking after and managing developments and units in this city of ours. We do not oppose this piece of legislation but say to the government that we believe it is creating some areas of concern. We would have hoped it would have worked through these before it reached the stage of being brought into the Parliament.

Ms DELAHUNTY (Minister for the Arts) — I am very pleased to conclude the debate on the Owners Corporations Bill. This legislation is a very considered and supported response to the changing way in which we live in this state. It is also a very considered and supported response to the number and size of bodies corporate. I think it was the member for Caulfield who, among others, said that each year the number of bodies corporate registered in this state is increasing by about 2000. It is a reflection of how quickly the way we live has changed and is evidenced by what people are searching for in terms of the size of their houses, the shared nature of the way they live and the increasing density.

I must say as a minister in the government responsible for the introduction of Melbourne 2030 that I am extremely proud we are a government that has been able to look at and respond positively, cohesively and strategically to what is changing in the way we live, and to take the hard decisions about supporting people's individual choices. Our family sizes are shrinking, yet our demand for different styles of housing is increasing. A government with an eye to understanding the needs of the citizens and an eye to their future needs certainly has to consider a plan. Melbourne 2030 is that plan to manage the growth of Melbourne.

Within that the nature of high-density housing, which is on the increase, has led to the development of bodies corporate and to increasing numbers of disputes around and within bodies corporate. This legislation is a very sophisticated and well-needed response to those changing needs. I pay tribute to a member for Koonung Province in the other place, the Honourable Helen Buckingham, who led the review over a period of time which allowed all stakeholders and others interested in this area to put their points of view and thrash out the alternatives. The result was a very good process — of strong consultation, of considered options and now a well-supported and considered bill.

Many members have commented on financial accountability and disputes resolution, even down to the detail of who should be at meetings and how those meetings should be recorded. You might say that that is commonsense; yes, but that has not always been the case. The role of developers in a body corporate and indeed the professionalism of managers have been worthy of examination.

Honourable members interjecting.

Ms DELAHUNTY — You can see that I am quite interested in this bill.

Mr Kotsiras — You are.

Mr Langdon — You were briefed by your brother.

Ms DELAHUNTY — Don't give the secrets away! Acting Speaker, I am getting the sense that they want a bit of a wind-up here. I give credit to all those members who had their allotted time — they were not hassled; they were given considered amounts of time to make a contribution — and they were the members for Doncaster, Lowan, Prahran, Bulleen, Kilsyth, Nepean, Narracan, Sandringham, Clayton, Benambra, Mordialloc and Caulfield, and the member for Bass, who we welcome back. I wish the bill a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

SURVEILLANCE DEVICES (WORKPLACE PRIVACY) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General).

Ms ASHER (Brighton) — As has been indicated by the member for Kew, the opposition supports this bill. The substance of the bill is that it will now be an offence for an employer to place a surveillance device in workplace toilets, bathrooms, change rooms, baby feeding rooms et cetera to monitor staff. I do not think any rational or reasonable human being could disagree with that proposition.

However, the second-reading speech flags that there are always exceptions. One example of that is where an employer suspects that illegal activity is taking place in a toilet. Under those circumstances the employer can approach police for a warrant to activate surveillance, and if that is granted the information is classed as protected information — that is, that it is an offence to put the information into the public arena. That legitimate circumstance where an employer needs to monitor in one of the specific workplace areas is covered under the legislation.

Another exception, which has been flagged by the government in the bill, is that surveillance will be allowed if it is allowed under some other type of legislative framework — for example, commonwealth legislation concerning national security matters. In this day and age one should regard that as a reasonable exception to the general principle of the bill. Likewise, in the bill the government has flagged liquor licensing. Having previously been a Minister for Small Business and having responsibility for such laws, I know that surveillance may well be required in certain circumstances as part of the liquor licence. That matter has been catered for in the bill.

The government's legislation is based on the Victorian Law Reform Commission's *Workplace Privacy — Final Report*, prior to which it had published an issues paper and an options paper. The paper flags a two-stage process, and I would imagine the government would follow suit. The second stage of this process will involve recommendations being made about public places and surveillance. However, the terms of reference for this final report, which were given by the minister in March 2002, are particularly broad, and the bill before the house only covers a limited number of recommendations — and there are 65 recommendations in total. As I said, this is a narrow bill that concentrates on employers, surveillance devices and specific areas of the workplace.

There are a raft of other issues which presumably will be examined by this Parliament in due course, such as the use of email and the Internet, the employer surveillance of employees, the use of employer communications systems, drug testing, workers records and so on, but the recommendations on those are not the substance of the bill before the house.

I will briefly make reference to the final report. The executive summary on page xi puts the proposition on which the bill is based:

> The right to privacy is a fundamental human right, recognised in international law, to which all people are entitled.

The next paragraph down, however, then makes the following observation:

> … privacy is not an absolute right. The way in which it is protected and regulated within the workplace must be balanced against other important social interests, such as allowing employers to manage their businesses productively and safely.

Again, I make reference to page xi of the executive summary in that final report:

> … the commission believes the best approach is to address the acts or practices of employers that occur before any information is created (e.g., the practices of surveillance or testing of workers).

That approach is a sensible one. I have heard the minister on other occasions not necessarily abide by that particular approach, but the bill before the house does so, which is why the opposition is supporting it. Again I make reference to the fact that we live in very changing times. In particular, as the report flags at page 17, advances in technology have enabled a level of surveillance that we would never have dreamed of even 10 years ago, let alone 20 years ago. The report says:

> … the way in which work is performed has changed dramatically. … new technology now provides unprecedented opportunities for employers to observe, monitor and test workers, not only in the performance of their work but in areas of their lives that do not relate to … work.

Again I make the assumption, given that the report is very broad, that the government proposes to deal with this issue at a later date. However, the rationale for the bill is given on page xvii of the final report. There the commission makes a very clear statement, and it appears that this statement has guided the government in introducing the bill. At page xvii the report states:

> The commission believes stricter controls are warranted where a practice seriously demeans human dignity. Surveillance in private areas in the workplace, for example in toilets and bathrooms, will be prohibited. These are areas in which all members of the community have a particularly high expectation of privacy. Placing workers under surveillance in these areas would have an unacceptable effect on their sense of dignity and autonomy.

It is that rationale with which the opposition agrees, with the provisos put forward by the government in the bill. I also make reference to the fact that legislation is often behind technological advances, and again this point is picked up at page 18 and 19 of the commission's report. I was pleased to see the commission responding to the evidence led by employers on what they wish in terms of handling the advances in technology. The report makes the following observation in paragraph 2.12 on page 18:

> While rapid developments in technology have given employers greater capacity to monitor their workers, they have not been accompanied by the development of appropriate guidelines about the circumstances in which … monitoring should occur. In early consultations, some employers told us that guidance on these issues would be welcome.

I make the point again that, certainly in the small business sector, it is often advantageous not to have masses and masses of red tape but to have some guidance as to what employers should and should not be doing in terms of surveillance. There sometimes may be circumstances where employers need to use technology for the surveillance of workers, and the exceptions put forward in this bill approach that issue in a reasonable manner.

I conclude with a further reference to the second-reading speech and to an issue of some concern to me. In the second last paragraph the Attorney-General, in his usual style, made the observation that if other states do not go along with a nationally consistent approach to workplace privacy, he will go it alone. The Attorney-General said:

> If SCAG cannot agree on an approach, this government will consider how best to protect the privacy of Victorian workers.

I urge a little caution on this, because if the Attorney-General cannot convince the Standing Committee of Attorneys-General of the legitimacy of these proposals, then quite frankly he has a problem. In terms of employer regulation, the threat to go solo is not a particularly helpful one. There are many employers who act across the national jurisdiction and who time and again have told the Australian Chamber of Commerce and Industry, the Victorian Employers Chamber of Commerce and Industry and the opposition that they would like a measure of uniformity so that they do not have to deal with a whole raft of separate regulatory regimes across different states. That is a fair enough request from employers. Notwithstanding the opposition's support for the bill before the house, I would urge a moderate approach by the Attorney-General — —

Mr Wynne — Measured.

Ms ASHER — If he could be measured, indeed — —

Mr Wynne — Judicial.

Ms ASHER — No, don't be silly, the Attorney-General would never be judicial! I urge a moderate approach in this area. It is important, if there is a regulatory regime, that employers operating across different state jurisdictions have an element of consistency. I urge the government to pursue that end rather than the more hairy-chested approach of threatening to go solo.

Mr WYNNE (Richmond) — I rise to support the Surveillance Devices (Workplace Privacy) Bill, and I acknowledge that the opposition parties support the bill. In an age of rapid technological change the law can struggle to keep pace with privacy issues. In particular, electronic surveillance devices have become cheaper, less obtrusive, and more widely available than we have seen before. Another issue to emerge recently is that surveillance devices tend to record in the digital medium, which means they can be indefinitely stored both cheaply and effectively. Recordings can also be copied and sent electronically through the Internet. This form of technology has become very powerful and potentially, if inappropriately used, intrusive into people's lives.

There are many legitimate applications for this new generation of surveillance devices for business and for security agencies. Through this bill the government is not seeking to prohibit the legitimate use of surveillance devices. However, many people have concerns about their inappropriate use, particularly in the workplace, and the government is moving to allay those concerns through this bill.

The genesis of this bill was in the first term of the Bracks government when the Attorney General asked

the Victorian Law Reform Commission — and what a powerhouse of reform the commission has been; it provides timely advice to this government on a broad raft of reforms in the law — to investigate whether new protections were required for privacy in the workplace and in public areas. The commission's final report was issued in October last year, and it found there was insufficient legislative guidance for workers and employers on privacy issues. In particular the commission noted there was no prohibition on employers using surveillance devices in areas most of us consider unquestionably private — toilets, change rooms and areas for breastfeeding and the changing of children.

The commission found a degree of protection in the Surveillance Devices Act 1999. Under that legislation it is a criminal offence to use a device to listen to or record a private conversation or private activity unless you are a party to that conversation or activity. This existing legislation has broad application; it delivers protection to all members of the public. However, the broadness of the existing legislation gives us a clue to some of its shortcomings. In particular the legislation provides an exemption where a party to a conversation or activity gives their implied or express consent to the monitoring or recording. Most people would consider that reasonable in a broad sense. However, as the commission found, in an employment relationship the simple fact is that an employee may be practically unable to withhold their consent.

At this juncture we should note that the commission made this finding in the pre-WorkChoices industrial environment. Since that time thousands of workers have lost their access to unfair dismissal laws. Unions are now also under heavy restrictions in their ability to represent the interests of their members. In this dog-eat-dog industrial relations environment created by the federal government a worker asked to consent to an invasion of privacy is placed in an even more invidious position than they ever were before. For a worker whose skills are not in demand there are two options; they can agree to an unconscionable request to give up their rights and their dignity, or, if they refuse, they run the risk of dismissal. They now have very little recourse to unfair dismissal laws. We would submit that a choice like that is no choice at all.

Notwithstanding these issues of consent, the government recognises that there are a limited range of circumstances where surveillance is warranted. For instance, if an employer has a genuine suspicion that illegal activity is going on in a particular area of the workplace the employer may seek the assistance of the relevant authorities to undertake research, with the appropriate checks and balances. Obviously there are also appropriate arrangements for surveillance to occur under the laws of the commonwealth, such as surveillance for national security matters. There are also provisions exempting surveillance undertaken pursuant to liquor licensing laws. These are appropriate opportunities within which surveillance is called for and would be appropriately undertaken.

The government makes no apologies whatsoever for standing up for the rights of workers, and indeed our track record in relation to standing up for workers with a raft of legislation is well known to this house. This is simply a further manifestation of the government's recognising that there are quite appropriate circumstances where surveillance is not warranted, where the privacy of workers ought to be protected and where clear checks and balances need to be put in place. A worker ought to be able to go to work recognising that in their workplace, and particularly in private areas such as change rooms, bathrooms, toilet areas and breastfeeding areas, they can be assured that their rights and their privacy are not being violated. This is a good bill. I am pleased it has bipartisan support, and I commend it to the house.

Mr WELLS (Scoresby) — I rise to speak on the Surveillance Devices (Workplace Privacy) Bill and will only make a couple of points as I know a number of other members wish to speak before the 4.00 p.m. cut-off.

The purpose of the bill is to amend the Surveillance Devices Act 1999 to prohibit the monitoring of staff in workplace bathrooms and change areas. Its main provisions are to implement the recommendations of the Victorian Law Reform Commission's *Workplace Privacy — Final Report*. It will be an offence for an employer to place a surveillance device in workplace toilets, washrooms or change rooms to monitor staff or to publish activities or conversations recorded by permitted workplace surveillance unless authorised by law — for example, by a warrant or under the Liquor Control Reform Act. The penalty for a person will be two years and/or 240 penalty units. The penalty for a corporation or business will be 1200 penalty units.

The bill applies to all Victorian employers, including partnerships, businesses or companies. It applies across the public and private sectors. If a worker is suspected of illegal activity, then the right thing for an employer to do is to contact police to work out some warrant or emergency authorisation so surveillance can take place — but under the right authorisation by police.

The bill quite rightly looks at areas generally regarded as high risk — that is, nightclubs or venues regarded as high risk. Surveillance in those venues is for the protection of staff and patrons and is to combat problems associated with drug and alcohol abuse. In the last couple of years I have been to a nightclub with the Drugs and Crime Prevention Committee. We tried to mix in with the crowd and to look as young as the nightclub crowd. I went with the member for Mornington and a member for Silvan Province in the upper house, Ms Hirsh. We all tried to blend in with the crowd. I am not sure whether it worked too well, because I walked into the men's room and I have never seen such a flurry of activity in my entire life. They must have thought a copper was walking in to do a complete check.

I think it is very important that there is proper surveillance in some of these areas, and I am glad this bill acknowledges that. I am very concerned about the amount of inappropriate use of illegal substances in some nightclubs, and I am glad — —

Mr Kotsiras — Name them.

Mr WELLS — It would probably be inappropriate to name them, but I can tell you the person on the door was the scariest person I have ever seen in my life!

Mr Kotsiras — It wasn't my son?

Mr WELLS — No, it was not your son. We agree with and support this bill. We think it is an important bill. We have some reservations regarding illegal activities, but we believe they can be overcome if the employers can do the right thing and contact and work with the police to rid workplaces of illegal activity. On that note, the Liberal Party supports this bill.

Ms MARSHALL (Forest Hill) — It gives me a great deal of pleasure to speak on the Surveillance Devices (Workplace Privacy) Bill 2006. In October 2005 the Victorian Law Reform Commission delivered its final report on workplace privacy, which was the first comprehensive review of workplace privacy laws undertaken in Australia. The bill has been described as a first step in responding to the review, which found that workplaces were not adequately covered by privacy laws.

The legislation will make it an offence for employers to conduct surveillance in toilets, showers, change rooms and breastfeeding rooms. Surveillance will be permitted only in accordance with a warrant or emergency authorisation or under a commonwealth law. The bill applies to all Victorian employers, whether they are partnerships, businesses or companies, and it applies across the public and private sectors. The government recognises that there may be limited circumstances where surveillance in private areas of the workplace is necessary. In such cases the bill permits an employer to seek the assistance of the police to conduct the surveillance under a warrant or emergency authorisation. The information obtained from such surveillance in those circumstances is considered protected information and therefore must be handled in accordance with the part 5 of the Surveillance Devices Act.

The bill seeks to achieve a balance between protecting the privacy of workers in private workplace areas and enabling employers to operate their businesses and protect their interests. It does that extremely well, and I commend the bill to the house.

Ms D'AMBROSIO (Mill Park) — I rise to give my wholehearted support to the Surveillance Devices (Workplace Privacy) Bill. In the very short time that we have before the end of this debate, I note that the bill is one piece of legislation in a long line of terrific pieces of legislation that this government has implemented since coming to power. It puts a stamp of approval on the fact that dignity, discretion and privacy should be afforded to all employees in workplaces, regardless of the circumstances.

In its report the Victorian Law Reform Commission pointed out the need to ensure that workers privacy is protected. The bill comes on the back of that report. It should be given a big tick. As I said, it joins a long line of legislation to which the government has given the go-ahead, to protect the interests of working people. I commend the bill wholeheartedly.

Ms BEATTIE (Yuroke) — The issues in the bill have been gone through very well by previous speakers. I would like to talk about the cause and effect of the bill. It has been reported that at the Wye River Rookery Nook Hotel a camera was used to spy on some 14 employees. The Colac-Otway edition of the *Echo* reports that the owner of the pub has confessed to putting a camera in a locker facing a shower, for what purpose I do not know. The cause of this impacts on taxpayers, of course, because some 15 people are now being paid WorkCover compensation. There are all sorts of claims, including stress-related claims. Indeed, some of the employees were backpackers who have since gone home to their native lands. International telephone conferences are being conducted to sort out the issue.

So the bill is not about just privacy. Its provisions are a matter of concern to all taxpayers. I am sure that all

members of the house acknowledge that everybody has a right to expect privacy, particularly in the workplace. I commend the bill to the house.

Business interrupted pursuant to standing orders.

The ACTING SPEAKER (Ms Lindell) — Order! The time set down for consideration of items on the government business program has arrived.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

STATE TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Mr BRUMBY (Treasurer) — I move:

That this bill be now read a second time.

In the 2006–07 budget, the government announced a raft of tax reductions and concessions increases. The majority were passed by the Parliament in the State Taxation (Reductions and Concessions) Act 2006 earlier this year. This bill contains the remaining state taxation reform measures announced in the budget as well as further reforms to the Duties Act 2000 following industry submissions and the need for clarification. The bill also introduces an exemption across all state tax lines for public ambulance services and in addition provides certainty as to the exempt status of other particular bodies. The bill amends the Public Authorities (Dividends) Act 1983 to define the Melbourne Convention and Exhibition Trust as a 'public authority'. Finally, the bill contains some relatively minor consequential amendments to several acts to improve their clarity.

The amendments to the Duties Act 2000 extend the exemption relating to transfers of property from a trustee to a beneficiary, to confirm the intent of the legislation in relation to transfers to beneficiaries of trusts, while removing prejudicial elements for family trusts. Other amendments will extend the spouses/domestic partners relationship breakdown exemption to property held in companies and trusts, subject to certain restrictions. These amendments will complement the powers of the Family Law Court and the Supreme Court to make orders in respect of property held in company or trust structures on a relationship breakdown.

This extension to current exemptions provided in the Duties Act 2000 relates to property passing to beneficiaries and transfers between spouses/domestic partners made pursuant to a relationship breakdown. It is not anticipated that large numbers of people will be affected by these changes. Nevertheless, they are of benefit to taxpayers and should be welcomed. They are the result of an extensive consultation process conducted by the State Revenue Office. All changes proposed by interested stakeholders were given serious consideration and many were taken up.

The remaining amendments to the Duties Act 2000, which are also reflected in the Land Tax Act 2005 and the Pay-roll Tax Act 1971, introduce an exemption across all state taxes for the Victorian metropolitan and rural ambulance services and clarify the existing exempt status of community health centres, certain public hospitals and health services (within the meaning of the Health Services Act 1988 and the Mental Health Services Act 1986). This will not affect the budget position, as these organisations are exempt or have made specific provision in their budget funding for such tax liabilities. Further, any body that is already exempt under the previous provisions will remain exempt under these new provisions.

In this year's budget, I announced a range of land tax measures that continue the raft of land tax reforms the government has enacted over the last few years. These measures amend the Land Tax Act 2005, the Taxation Administration Act 1997 and the Valuation of Land Act 1960. The changes bring forward the use of land valuations to make them more contemporaneous with the actual land tax year for which they are used. They also abolish indexation factors and so facilitate the use of the same valuations for two years running. Finally, they enable certain land tax payers to object to a municipal land valuation shown in their land tax assessments upon receipt of the assessment notice, provided they have not already objected to that valuation in the previous 12 months. These measures will make the system fairer and more transparent. They ensure that land tax will always be levied on the most current value of the land, and provide increased opportunities to appeal land valuations.

These reforms, coupled with the extensive reductions in rates enacted earlier this year, are important, given the rise in valuations over the last few years. The government recognises both the positive and negative impact these rises can have in the community, and this is why legislation is regularly brought before this

Parliament amending these provisions. Indeed this year's reforms bring to over $2 billion the value of announced land tax relief provided in the past three budgets.

The bill also amends both the Land Tax Act 2005 and the Valuation of Land Act 1960 in relation to land tax on electricity transmission easements. The State Revenue Office has consulted with the Valuer-General to determine the most appropriate form of valuation cycle for electricity transmission easements. To this end, the abolition of the use of indexation factors and the bringing forward of the use of valuations will also apply to land tax on electricity transmission easements.

While the rewrite of the old Land Tax Act 1958 last year was very successful, a number of relatively minor issues remained. Consequently, this bill will effect minor changes to the Taxation Administration Act 1997, including the specific requirements for serving notices of assessments on parties jointly assessed. These amendments do not change policy or practice in this area of tax law.

This bill will also amend the Public Authorities (Dividends) Act 1983 to include in the definition of 'public authority' the Melbourne Convention and Exhibition Trust. The government, in partnership with the private sector, is investing in Australia's largest combined exhibition and convention centre. The new Melbourne Convention Centre will accommodate delegates in a flexible 5000-seat plenary hall and will include additional features such as meeting rooms, a ballroom and large-scale catering facilities.

The new facilities are expected to generate a profit in the operational phase of the contract term, and the amendment will provide legislative authority to apply a transparent process for the return by the trust of any surplus funds to the state.

The measures contained in this bill are fair and sensible. They bring balance and certainty where required, they reflect concerns raised by industry and the wider community and they demonstrate this government's ongoing commitment to an equitable and relevant taxation system.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 September.

ROAD LEGISLATION (PROJECTS AND ROAD SAFETY) BILL

Second reading

Mr CAMERON (Minister for Agriculture) — I move:

That this bill be now read a second time.

This bill makes a number of important amendments to the Road Safety Act 1986 and other acts within the transport portfolio. These amendments include:

tougher penalties to deal with the ongoing problem of drink-driving and drug-driving;

greater use of alcohol interlocks;

a range of measures to improve the safety of young and inexperienced drivers;

implementation of the National Transport Commission's model bill on the intelligent access program for heavy vehicles;

addressing deficiencies in the owner-onus system used in relation to traffic camera, parking and tolling offences;

providing for notification on the vehicle securities register and blocking of registration transfers where a vehicle impoundment application has been made under hoon driving laws;

measures to better protect against the rebirthing of stolen motor vehicles; and

transfer of responsibility for structures on roads over irrigation and drainage channels from road authorities to water authorities, and enable the transfer of responsibilities between road authorities and utilities by agreement.

The bill also makes some amendments to improve the land compensation provision in the Land Acquisition and Compensation Act 1986 and the Planning and Environment Act 1987 and to facilitate development at the Mount Hotham alpine resort and the redevelopment of the M1 freeway, including those parts of the Melbourne CityLink that form part of the M1.

Drink-driving and drug-driving

An independent report presented by the Victorian Sentencing Advisory Council in 2005 recommended substantial increases in the maximum penalty for repeat drink-driving offences.

Drink-driving continues to be a major contributor to death and trauma on our roads. In line with the Sentencing Advisory Council's recommendations, the new maximum imprisonment term for repeat drink-driving offences is being increased from 3 months to between 6 months and 18 months, depending on the breath or blood alcohol concentration of the offender and the number of prior offences he or she has committed. These increased penalties reflect the seriousness with which the community views this behaviour and a common view that the current maximum penalty does not adequately accommodate the worst types of drink-driving cases. The maximum penalty available for drivers who refuse to submit to an alcohol test has also been increased to ensure that there is no incentive for offenders to minimise the impact of drink-driving penalties by failing to comply with testing requirements.

The maximum penalties for drug-driving offences will also be increased to ensure consistency with the maximum penalties for drink-driving offences. The maximum penalty for driving while impaired by a drug will be increased from 3 months imprisonment to 12 months imprisonment for a second offence and 18 months imprisonment for a third or subsequent offence. The maximum penalty for a roadside drug-testing offence will be increased from a fine of 6 penalty units for a first offence and 12 penalty units for a second or subsequent offence to a fine of 12 penalty units for a first offence, 60 penalty units for a second offence and 120 penalty units for a third or subsequent offence. In addition, licence cancellation periods for these offences will be doubled from 3 to 6 months for a first offence and from 6 months to 12 months for a second and subsequent offence.

Expansion of alcohol interlock scheme

The alcohol interlock scheme has been an important initiative for fighting the problem of drink-driving by focusing on harm minimisation and rehabilitation of drink-drivers and not just punishment of offenders.

This bill will expand the alcohol interlock scheme to further improve road safety and discourage drink-driving. It will make alcohol interlocks mandatory for a driver whose licence is cancelled for a first drink-driving offence involving a breath or blood alcohol concentration of .15 or more. Repeat drink-drivers will continue to be subject to mandatory alcohol interlocks, and the minimum period for use of the interlocks will be increased. The courts will also have the discretion to impose an alcohol interlock condition for a driver whose licence is cancelled for a first offence involving a breath or blood alcohol concentration of .07 or more. They will also be required to impose such a condition for a driver who was under the age of 26 years or was a probationary licence-holder at the time of a first drink-driving offence in cases involving a breath or blood alcohol concentration of .07 or more.

Finally, the bill amends the penalty for unlicensed driving in circumstances where the driver may or would have been subject to an alcohol interlock condition if their driver licence had been restored. This removes any incentive which a person whose licence has been cancelled for a drink-driving offence may have to not apply for their licence back on the basis that that licence may be subject to an interlock condition.

Young driver safety

The bill amends the Road Safety Act 1986 to better protect young and novice drivers, as part of the government's commitment in the Arrive Alive! road safety strategy. One-third of the road toll results from crashes involving young drivers — in human terms this means over 100 deaths and over 2000 serious injuries each year. The reforms introduced in this bill will provide the opportunity to increase safety for our young drivers by better matching licensing arrangements and initiatives with their key road safety issues. The new measures are expected to save up to 800 casualties per year, including 12 fewer deaths and 190 fewer people seriously injured.

The government last year released a discussion paper on young driver safety and graduated licensing. The measures proposed received overall community and stakeholder support and the government will now act to implement a new graduated licensing system which will include:

an extension of the minimum learner period from 6 months to 12 months for learner drivers aged less than 21 years applying for a probationary licence;

a requirement for 120 hours of supervised driving experience for learner drivers aged less than 21 years applying for a probationary licence;

an improved driving test;

a two-staged, 4-year probationary period divided into a 12-month P1 period and a 3-year P2 period;

a ban on any mobile telephone use during the P1 stage, and also a restriction on towing except for work or when under instruction during this stage;

a requirement for a good driving record to progress through licence stages;

a requirement for P1 drivers to display a P-plate with a white P on a red background, and P2 drivers to display a P-plate with a white P on a green background;

support programs for new drivers, parents and supervising drivers, and driving instructors;

a new high-powered vehicle restriction; and

alcohol interlocks for first-time drink-driving offenders who hold a probationary licence or who are aged under 26 years.

This bill specifically allows for the implementation of:

the two-staged P1 and P2 probationary period;

the requirement for a good driving record to progress through licence stages;

alcohol interlocks for drink-driving offenders on a probationary licence or aged less than 26 years; and

the compulsory carriage of licence for drivers aged less than 26 and compulsory carriage of learner permit.

The government will make the required changes to regulations and administrative systems to implement the total package over the next two years. Changes to the licensing system will not increase the cost of learner permits or probationary licences.

Intelligent Access program

The Intelligent Access program is a voluntary program whereby heavy vehicle operators agree to remote tracking of the movement and location of their vehicles, to ensure they are complying with agreed operating conditions in return for less restrictive access on the road network than an equivalent vehicle that is not tracked.

Under the scheme transport operators will engage a private sector company to provide compliance monitoring services, and that company will notify VicRoads as the responsible road authority if the operators are in breach of the agreed conditions.

The Intelligent Access program proposal is consistent with the government's approach to introduce smart solutions to improve industry efficiency. In particular, it will assist in coping with the freight task, which is projected to double over the next 15 to 20 years.

The Intelligent Access program is a national road transport reform and has broad industry support. The National Transport Commission's model bill on which the proposed amendments are based has been endorsed by the Australian Transport Council.

The amendments ensure that privacy issues relating to driver identification are managed to ensure the collection, storage and security of information is protected against loss, unauthorised access, use, modification or misuse.

Owner onus

Under the 'owner-onus' system which is used in relation to traffic offences detected by safety cameras, parking offences and payment of tolls on City Link, the registered operator of a vehicle (or the person responsible for the numberplates displayed on the vehicle) is responsible for offences committed through use of the vehicle. However, the 'owner' may avoid liability by nominating the actual driver, or by establishing that he or she could not reasonably have known who the driver was, or by establishing that the vehicle or numberplates had been stolen.

However, the current system does not adequately provide for the identification of the person responsible for the use of a motor vehicle, particularly where that 'person' is a company. In particular —

A vehicle operator can nominate the person who was driving at the time of an offence (if known) but not the individual or entity who had control of the vehicle. In many cases, the owner knows who had possession of the vehicle but not who was driving it. For example, the operator may know the name and address of the company or individual who had possession of the vehicle on lease or loan, but not who was driving it at a specific time.

Companies and similar entities cannot be 'drivers', and so the chain of nominations breaks whenever a car is leased or lent to a company. This severely limits the usefulness of traffic cameras as an enforcement tool in the transport industry — many companies rent vehicles as required.

Unlike the registered operator, a person who leases or borrows a vehicle has no obligation to assist police to identify the actual driver.

Registered operators can avoid liability by alleging that another person committed the offence but without providing enough useful information to identify or locate the alleged offender. The name may be incorrect or the address out of date, or

sometimes even fictitious. The act does not give agencies the discretion to reject inadequate nominations.

It is difficult to prosecute for making false statutory declarations in support of nominations. This requires a charge of perjury, which is an indictable offence and would be a disproportionate sanction.

To address these deficiencies, it is proposed to amend the owner-onus provisions in relation to parking, traffic camera and City Link tolling offences as follows:

A registered operator may nominate the person or company who had possession or control of the vehicle at the time of the offence, as well as the actual driver. The nominated person then becomes the 'responsible person' for the offence. In effect, owner-onus responsibility may be transferred to the person or company nominated as the 'responsible person'.

A nomination must be accompanied by supporting information sufficient to enable that person to be identified and located. The nominated person can avoid liability by showing that their nomination was incorrect in which case responsibility reverts to the person who nominated them. As at present, responsibility may be avoided by showing that the identity of the responsible person is not known for some good reason, for example, the vehicle was stolen or used by a person unknown and, for reasons beyond the operator's control, the operator has no way of establishing the identity of the person driving or in charge of the vehicle at the time of the offence.

A 'responsible person' has the same options as the registered operator. They can nominate another person as the driver or person in charge, and that person becomes then the 'responsible person'.

The nomination process repeats until the actual driver is ultimately located or a good reason is established for the actual driver's identity being unknown, for example, that the car was stolen.

A 'responsible person' will be required to assist police to identify the driver of a vehicle, in the same way as an owner must at present.

A summary offence of providing a false statement in relation to the operator-onus system is created.

These amendments will enhance the significant road safety benefits from traffic cameras and the operation of the tolling system on Melbourne CityLink.

The amendments will also enable the use of traffic where the camera detects only one element of the offence, such as the use of point to point cameras for speeding offences.

Rebirthing of motor vehicles

This bill includes an offence of tampering with a vehicle identification number or other label or mark on a vehicle that uniquely identifies it and sets it apart from similar vehicles. This is intended to deter criminals who perpetrate vehicle re-birthing scams and assist the police in successfully prosecuting those who engage in this activity.

Vehicle impoundment

This bill reinforces the government's commitment to introduce a vehicle impoundment scheme that discourages hoon driving behaviour.

The vehicle impoundment scheme allows a court to order that a repeat hoon offender's motor vehicle be impounded or immobilised for up to three months and if the person continues to offend their motor vehicle can be forfeited. If a person is notified of an application to have their motor vehicle impounded, immobilised or forfeited they are not allowed to sell or otherwise dispose of the motor vehicle. Despite this law, it is possible that some people subject to these applications may attempt to frustrate the application by having their motor vehicle registered in another person's name or by selling the motor vehicle to an innocent third party who is not aware of the application.

The proposed amendments will address this by requiring VicRoads to block the transfer of registration of a motor vehicle if Victoria Police is applying to the court for an impoundment, immobilisation or forfeiture of that motor vehicle. Victoria Police will also be allowed to place a record about that motor vehicle on the Vehicles Securities Register to warn potential purchasers that it may be subject to an impoundment, immobilisation or forfeiture order.

Structures on roads over irrigation and drainage channels

The Road Management Act 2004 currently assigns responsibility for structures on roads over irrigation and drainage channels to road authorities. This is inconsistent with the basic policy underlying the act that owners of infrastructure assets in the road reserve (in this case water authorities) are responsible for those assets. It is also imposing significant additional responsibility and financial burden on local government

in particular with regard to the management of these structures.

Prior to the introduction of the act, water authorities were the owners of structures on roads over irrigation and drainage channels. Their budgets and water charges incorporated a component to cover maintenance and asset renewal costs for these structures, except where VicRoads had agreements to the contrary for larger structures on arterial roads.

It is proposed to amend the act to transfer responsibility for these structures back to water authorities. The proposed changes will not impose on water authorities any greater obligations than existed prior to the introduction of the Road Management Act.

With regard to the larger structures on arterial roads over irrigation and drainage channels, the government's view continues to be that it is in the state's interest for the state road authority to manage these structures. This arrangement is consistent with a memorandum of understanding entered into between VicRoads and rural water authorities prior to the introduction of the Road Management Act whereby VicRoads accepted responsibility for managing these larger structures.

As a result, a further amendment to the act is proposed to enable the transfer of responsibilities between road authorities and utilities by agreement. This amendment will allow for the transfer of responsibility from a water authority to VicRoads to manage the larger structures on arterial roads over irrigation and drainage channels.

This power could also be used to enable the transfer of other responsibilities between road authorities and utilities where both parties agree to that. There is already a precedent for this in the Road Management Act, whereby road authorities may enter into arrangements with each other to transfer their road management functions.

The measures taken by this bill continue the Bracks Labor government's efforts to facilitate the safe and efficient use of Victoria's road network.

Land compensation

The bill also amends the Land Acquisition and Compensation Act 1986 and the Planning and Environment Act 1987 to correct the operation of those acts in circumstances where they do not provide landowners, whose land is acquired, with compensation that properly reflects their loss.

The act provides for compensation to be paid to landowners for land actually acquired. Where only part of the land is acquired, compensation is also paid for the impact of the acquisition on the balance of the land remaining in the landowner's possession.

This issue can arise in the following way. In the development of road or rail projects, a public reservation is imposed on land, often years before any acquisition activity. When the land affected by that public reservation is subsequently acquired, compensation is payable if, as a 'consequence' of the public reservation, a planning restriction (such as a zone boundary) is imposed on the land remaining in the landowner's possession.

This is a fair and proper outcome where the planning change has been caused directly by the project, or it has been made as a step in, or to facilitate the project, or if the restriction is imposed for the same purpose as the public reservation.

However, planning instruments sometimes adopt the alignment of public reservations for purposes unconnected with the public reservation. For example, a zone boundary may adopt the alignment of a road or rail reservation, before any acquisition activity commences, as a convenient or practical landmark for planning purposes. In that case the 'consequence' rule would probably apply to subsequent acquisitions. This is because the planning instrument can be said to have been imposed as a 'consequence' of the public reservation: that is, if the public reservation had not been placed in that alignment, the planning instrument would not have adopted that alignment.

This can lead to unfair results. It can lead to taxpayer money being spent to compensate landowners for the impact of a planning restriction on their land where the planning restriction is imposed as part of the normal planning process, not as a result of a government infrastructure project. This is inconsistent with the usual rule that compensation is not payable for the impact of planning changes. It involves additional compensation being paid for planning changes only. It is not, therefore, a payment that properly reflects the loss suffered by the landowners as a result of the acquisition.

Conversely, the 'consequence rule' can also lead to landowners receiving reduced compensation for the acquisition of land, in some cases to no compensation. This is an odd result, and is a product of the relationship of complex and technical provisions of the act.

The proposed amendments will correct this inequity. They will enable zone boundaries to be taken into account where zone boundary is imposed, after the date

of the public reservation of the land, for a purpose other than the purpose for which the land is acquired. This means that the actual zoning can be taken into account where the zoning change was not made as a step in the infrastructure project for which the land is reserved. It will allow the zoning to be ignored in assessing compensation where the zoning is imposed by a planning instrument as part of or to facilitate a public infrastructure project. In the latter case landowners will be compensated for zoning changes that are imposed as part of or to facilitate a public infrastructure project.

Mount Hotham alpine resort

The bill inserts a new part 5A into the Alpine Resorts (Management) Act 1997 in order to facilitate a major new development proposed for the Mount Hotham alpine resort. The proposed development, subject to planning approvals, involves the construction of a resort complex, new apartment developments and the creation of retail space. A key element of the proposal to create the development sites and a pedestrian environment within the village is the realignment of the Great Alpine Road. The realigned road will be elevated and an integral part of the road design is a multi-level car park to be constructed below the road. Rights to use the car parking spaces are to be sold to the purchasers of the new apartments and commercial and other use of the car parking spaces is also proposed. It is important for apartment purchasers that the rights to the car parks that are granted in connection with the sale of an apartment are for the same term as the sublease of an apartment — a maximum of 99 years under the Alpine Resorts (Management) Act 1997. The proposal to grant the various rights to the car parks is a novel arrangement in the context of the Road Management Act 2004 and the Alpine Resorts (Management) Act 1997 and is not specifically catered for in those acts. The amendments clearly empower VicRoads to grant the necessary rights of use and access in respect of road infrastructure for up to 99 years to the Mount Hotham Alpine Resort Management Board, while enabling VicRoads to retain any powers it requires such as maintenance powers. The amendments also clearly empower the Mount Hotham Alpine Resort Management Board to on-grant rights to third parties with further on-granting by those parties provided for. These amendments, which relate specifically to the site of the proposed road realignment, will provide confidence to VicRoads, the Board and importantly, the ultimate users and purchasers that their rights are soundly based, despite the novelty of the proposals.

M1 redevelopment project

The bill proposes a range of amendments to the Road Management Act 2004 and the Melbourne City Link Act 1995 to facilitate the upgrade of the M1 freeway from Yarraville in the western suburbs to Doveton in the south-east. This includes the sections managed by VicRoads and those owned and operated by Melbourne CityLink Ltd under the City Link concession. Collectively, the upgrade of these roads is known as the 'M1 redevelopment project'.

This project is a leading-edge solution to Melbourne's most heavily trafficked and economically important transport connection — the West Gate to Monash corridor. The solution includes not only civil engineering work to improve capacity but a dynamic, intelligent system to maintain smooth traffic flow despite increasing future demand. This is the freeway management system of tomorrow, including real-time information on travel and road conditions to enable users to make route choices. It will bring to Melbourne a combination of the latest and best freeway management practices from Germany and the Netherlands.

The bill will amend the Road Management Act 2004 to facilitate the necessary planning approvals and to expedite acquisition of both public and private land to enable construction to proceed on schedule. The bill also amends the Melbourne City Link Act 1995 to allow amendments to the concession deed and related agreements relating to the upgrade of the City Link sections of the M1. The bill will also authorise construction and operation of the upgraded road by CityLink Melbourne on terms consistent with the contractual arrangements.

I commend the bill to the house.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until Thursday, 7 September.

CITY OF MELBOURNE AND DOCKLANDS ACTS (GOVERNANCE) BILL

Second reading

Mr THWAITES (Minister for Environment) — I move:

That this bill be now read a second time.

In April 2004 the government's decision to return the Docklands area to city of Melbourne and to

democratically elected local government in time for residents and ratepayers to participate in the 2008 Victorian local government elections was announced. This announcement reflects the government's election commitment to 'restore and strengthen local democracy' in Victoria.

This commitment was in response to the decision of the previous government in 1998 to excise Docklands from the municipal district of the city of Melbourne. While the decision to transfer these responsibilities directly to the Docklands Authority (now VicUrban) was for the purpose of developing the site as a world-class addition to the city of Melbourne, it effectively excluded Docklands' residents and ratepayers from participating in democratically elected local government.

The government decision announced in April 2004 was in response to the recommendations of the Docklands and Adjacent Areas Interdepartmental Committee ('the IDC') in its 2003 report on governance of Melbourne's Docklands and adjacent areas. In its report, the IDC recommended:

the restoration of the Docklands precinct and its municipal management functions, with the exception of statutory planning, to the city of Melbourne;

the establishment of a coordinating body to oversee the management of the Docklands waterways and waterfront (the Docklands' 'place management' function); and

the retention of the IDC to oversee the implementation of the government's decision.

In addition, the government agreed with the IDC's view that the City of Melbourne, as the inheritor of Docklands, should bear the costs of the Docklands' place management function. The government's position was based on the IDC's determination at the time that this function could be funded from the projected future Docklands' municipal rates revenue stream, following the return of the precinct to city of Melbourne.

The IDC reconvened as the Implementation IDC ('IIDC') in June 2004, and established a governance framework to oversee the implementation of the government's decision. This bill reflects the work of the IIDC. The bill has been introduced to:

provide for the return of the Docklands area to the municipal district of the city of Melbourne;

divest VicUrban of the powers to exercise municipal functions in the Docklands area;

provide for a transfer date prior to the November 2008 city elections (commencement by proclamation, default date being 1 January 2008);

provide for the temporary reservation of Victoria Harbour and a number of other public access areas in Docklands, and the appointment of the City of Melbourne as committee of management (where appropriate) for those areas.

provide for the addition of other areas of Docklands to the Crown land reserve upon completion of their development;

the creation of a special committee of the Melbourne City Council ('the Docklands Coordination Committee') to coordinate place management for the temporary reservations in Docklands.

I now turn to the bill and its contents.

Part 1 of the bill (clauses 1 and 2) sets out the purposes of the bill, which are to amend both the City of Melbourne Act 2001 and the Docklands Act 1991 to give effect to this government's decision to return the Docklands area to the municipal district of the city of Melbourne, to provide for the establishment of the Docklands Coordination Committee and to provide for the reservation of certain areas in the Docklands area for public purposes.

Clause 2 provides for the act's commencement. The clause provides that, subject to subsection 2, the act commences on a day or days to be proclaimed and provides that if a provision of the act does not come into operation before 1 January 2008, it comes into operation on that day. The default commencement date will enable all transitional requirements to be met (such as the compilation of the voters' roll relating to the Docklands area) before the next Melbourne City Council municipal election in November 2008.

Part 2 of the bill (clauses 3 to 5) amends the City of Melbourne Act 2001 to provide that the municipal district of the City of Melbourne is to include the Docklands area and to establish the Docklands Co-ordination Committee.

While VicUrban will no longer be the municipal authority in the Docklands area upon the commencement of this bill, it will have a legitimate and continuing interest in the provision of place management services in certain parts of the Docklands area for so long as it has a development function in the Docklands area.

For this reason, clause 5 of the bill provides for the establishment of a 'Docklands Co-ordination Committee'. This committee will be a special committee of the Melbourne City Council under the Local government Act 1989, although not all provisions in the Local government Act 1989 relating to special committees will apply to it.

The bill provides that that the Docklands Co-ordination Committee is to have a membership of up to seven members. Three members will be nominated by the council and three members will be nominated by VicUrban. A seventh member may be appointed jointly by the minister administering the City of Melbourne Act 2001 (currently the Minister for Local Government) and the minister administering the Docklands Act 1991 (currently the Minister for Major Projects) for a term of up to four years.

The bill provides for the appointment of deputy members.

The bill provides for the removal of members as follows: the Melbourne City Council may remove its own nominees (or deputies) at any time. The council must remove any VicUrban nominees (or deputies) at the request of VicUrban. The two ministers may jointly remove their appointee (or deputy) at any time.

The bill provides for a quorum of five members. Where the committee does not include the ministerial appointee, decisions are required to be unanimous.

The bill provides that if there is a ministerial appointee, that person is to chair the committee meetings. Where there is no such appointee, chairmanship is to be alternated between the council nominees and VicUrban nominees, commencing with the council nominee.

Where there is a ministerial appointee on the committee, the ministerial appointee will have a casting as well as a deliberative vote and a question before the meeting is to be determined by a majority of votes.

The bill provides that the committee carry out functions in relation to the monitoring of place management services in the coordination area in Docklands.

'Place management services' are defined in the bill and include services that relate to site presentation and the marketing and promotion of the Docklands area and other prescribed services. The full extent of those services will be detailed in regulations to be made under the bill. However, the intent of this definition is to ensure that the committee has a role in monitoring those services which contribute to Docklands' world-class status.

The committee will also be required to approve any place management or finance and infrastructure plan prepared for the coordination area.

The coordination area will be made up of Victoria Harbour and the public access land in the Docklands area (currently VicUrban land) which will be surrendered to the Crown and temporarily reserved for public purposes. The bill also provides for the addition of other Crown land to the coordination area by order in council on the joint recommendation of the minister administering the City of Melbourne Act 2001 and the minister administering the Docklands Act 1991.

The bill recognises that the Melbourne City Council and VicUrban may enter into an agreement in relation to the provision and coordination of place management services in the coordination area. It is the intention of the government that there will be a deed of protocol negotiated between Melbourne City Council and VicUrban. This deed will deal with matters relating to place management services and the return of the Docklands area to the municipal area of the City of Melbourne.

The bill provides for the making of regulations prescribing matters that may be included in the deed. The bill provides that this agreement must not be inconsistent with the bill or the regulations made under the bill.

Part 3 of the bill amends the Docklands Act 1991 to reflect the fact that Melbourne City Council is the municipal authority in the Docklands area and performs all municipal functions in that area. The bill also ensures that VicUrban recognises the legitimate role of Melbourne City Council in the Docklands area when exercising its development powers under the Docklands Act 1991.

The bill includes transitional provisions to implement the return of the Docklands area to the municipal district of the City of Melbourne. These relate to such municipal issues as sewers and drains, local roads, authorised officers, rates, indemnities and voters' rolls. The bill also provides for the Governor in Council (on the joint recommendation of the minister administering the Docklands Act 1991 and the minister administering the City of Melbourne Act 2001) to make transitional orders to provide for any matter necessary or convenient to give effect to the return of the Docklands area to the municipal district of the city of Melbourne.

These orders will cover a range of matters. The bill provides that sections 220S(1) and 220S(2) (other than paragraphs (h) to (j) of the Local government Act 1989)

apply to these orders. The bill also requires Melbourne City Council and VicUrban to comply with these orders.

The bill recognises that VicUrban and Melbourne City Council may enter into an agreement in relation to any matter associated with the return of the Docklands area to the municipal district of the city of Melbourne.

Division 2 of part 3 of the bill provides a mechanism for the divesting of certain land (as indicated on the LEGL06/071 plan lodged in the central plan office of the Department of Sustainability and Environment) from VicUrban, the deeming of that land to be unalienated Crown land and the deeming of the land to be temporarily reserved under the Crown Land (Reserves) Act 1978 for public purposes, and (where provided for) the deeming of Melbourne City Council as committee of management of that land.

These provisions implement the government's commitment to the return of public areas in the Docklands area to the Crown and the people of Victoria. The land to be reserved includes Victoria Harbour, the widened part of the Yarra River immediately below Charles Grimes Bridge and public access areas adjacent to Victoria Harbour.

The bill also provides for the future surrender and divesting of land in the Docklands area from VicUrban. As development continues in the Docklands area, and as VicUrban will no longer be the municipal authority, it is considered appropriate for those public areas, including parks and promenades (including promenades along the Yarra River) to be surrendered to the Crown, temporarily reserved for public purposes and (where appropriate) the Melbourne City Council appointed committee of management.

Section 21 of the Docklands Act 1991 gives the Governor in Council (on the joint recommendation of the minister responsible for the Docklands Act 1991 and the minister responsible for the Crown Land (Reserves) Act 1978) the power to revoke temporary or permanent reservations of Crown land. This power will be expressly extended to reservations created under this bill. This amendment will reflect VicUrban's important development role in the Docklands area while ensuring transparency in operation.

It is anticipated that this power will be used to lift reservations over Crown land, thus allowing for the development of the land (including the granting of leases of greater than 21 years). Following development, the land can be re-reserved for public purposes and the leases preserved.

A number of leases have been granted by VicUrban over the land to be reserved. Some of these leases are for periods longer than 21 years (which is the usual limit for leases of reserved Crown land). All existing leases will be preserved under the bill (including those for periods of longer than 21 years) with the Melbourne City Council (if committee of management for the relevant land) being substituted as lessor for the remainder of the existing terms.

Land is usually surrendered to the Crown 'freed and discharged from all limitations'. It is necessary therefore, for the bill to expressly preserve those rights (such as easements and interests in the nature of easements) existing over that land in favour of a person (other than VicUrban) immediately before the date of reservation. The bill also provides for the preservation of planning agreements entered into by VicUrban under the Planning and Environment Act 1987 and the Docklands Act 1991.

The bill provides for the keeping of a public register of such rights and provides for the minister administering the Crown Land (Reserves) Act 1978 to enter into agreements with beneficiaries of those rights to cancel those rights. The bill also provides that while all care has been (and will be) taken to preserve existing rights on title, no compensation will be payable by the Crown in respect of anything done or arising out of those provisions.

Part 4 of the bill makes consequential amendments to a number of acts to reflect the fact that the Docklands area is being returned to the municipal district of the City of Melbourne.

This government's 'Listens Then Acts' 2002 policy platform outlined our commitment to 'return the Docklands precinct to the management of democratically elected local government'.

The City of Melbourne has agreed to accept the return of the Docklands precinct.

The City of Melbourne and Docklands Acts (Governance) Bill 2006 brings to fruition the government's commitment.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 7 September.

PUBLIC SECTOR ACTS (FURTHER WORKPLACE PROTECTION AND OTHER MATTERS) BILL

Second reading

Mr CAMERON (Minister for Agriculture) — I move:

That this bill be now read a second time.

In 2004 the government demonstrated its commitment to reinvigorating the Victorian public sector and ensuring high standards of governance in Victorian public entities with the passage of the Public Administration Act 2004.

This bill further refines and improves the operation of that act, and importantly, seeks to redress some of the flaws of the commonwealth's WorkChoices legislation as it might apply to the Victorian public sector.

The bill:

makes amendments to the definition of 'public entity' in the Public Administration Act 2004;

applies the Freedom of Information Act 1982 to the State Services Authority, retrospectively to its creation;

applies part 7A of the Financial Management Act 1994 to the State Services Authority;

makes changes to the right of return in relation to Victorian public servants;

creates a new Victorian unfair dismissal jurisdiction for the public sector standards commissioner in relation to Victorian public sector employees including parliamentary officers;

makes changes to the Public Sector Employment (Award Entitlements) Act 2006 to further protect Victorian public sector employee terms and conditions; and

makes a number of other consequential amendments, specifically to confirm the State Services Authority's powers in certain circumstances.

I now wish to identify some key areas of the bill.

Definition of 'public entity'

The bill modifies the definition of 'public entity' in the Public Administration Act 2004 to put beyond doubt its coverage to entities which are created by an order where the minister or Governor has the power to determine the rules governing the appointments to the entity's board. The governance structures of these bodies are already under the control of the minister or Governor as, generally speaking, such orders can be varied at any time. Consequently, this type of entity should be covered by the Public Administration Act 2004.

Right of return

The Public Administration Act 2004 currently contains a right for executive staff in the Victorian public service to return to non-executive positions in the Victorian public service in certain circumstances. This right is designed to aid the retention of highly skilled people within the service.

To improve the operation of the right, the bill now provides that a person exercising their right of return may choose to waive that right by written agreement. This provides greater flexibility to the scheme. However, a person will not be able to claim both their right of return, and a termination payment in lieu of notice in their executive contract.

The State Services Authority

The bill makes the State Services Authority subject to the Freedom of Information Act 1982 in the same way as if it were a department. This provision is retrospective to the date of its establishment. This ensures that a significant accountability mechanism is applied to the body, as it does for other Victorian statutory entities.

The bill also makes the State Services Authority subject to part 7A of the Financial Management Act 1994 as if it were a department, most particularly the Victorian Government Purchasing Board procurement policies. This again is another accountability mechanism which is appropriate for such a body. This provision does not, however, affect any contracts already entered into by the authority.

The bill also makes a series of consequential amendments to ensure that the State Services Authority continues to be able to clearly carry out its functions under the Public Administration Act 2004 in relation to a number of specified public entities.

A new unfair dismissal jurisdiction for the public sector

The bill importantly creates a new unfair dismissal jurisdiction, providing the Victorian public sector standards commissioner with the power to deal with

unfair dismissal applications from Victorian public sector employees by way of conciliation and, if necessary, arbitration.

These provisions are intended to redress one of the most unfair aspects of the commonwealth's WorkChoices legislation — that is, the removal of the unfair dismissal rights of employees employed in workplaces with 100 employees or fewer. The Victorian government believes that all public sector employees should have a right of redress if they have been unfairly dismissed, regardless of the size of their employer. The new jurisdiction is consistent with, and complements, the public sector principles enshrined in section 8 of the Public Administration Act 2004.

The bill ensures that Victorian public sector employees employed by a public sector body with 100 employees or fewer continue to have rights and remedies in relation to unfair dismissal. The bill mirrors the rights, exclusions, remedies and limits on compensation of the federal unfair dismissal jurisdiction as provided in the Workplace Relations Act 1996. It is anticipated that the public sector standards commissioner will rely on established precedent in decisions of the Australian Industrial Relations Commission and courts made under the federal jurisdiction.

The jurisdiction will only apply to Victorian public sector employees who are excluded from the Australian Industrial Relations Commission jurisdiction because of the 100-employee limit.

This jurisdiction is also replicated for officers employed under the Parliamentary Administration Act 2005, and the new provisions in the Public Administration Act 2004 relating to unfair dismissal are also inserted in the Parliamentary Administration Act 2005.

Public sector agreements

Consistent with these changes, the bill also inserts new objectives into the Public Administration Act 2004, the Parliamentary Administration Act 2005 and the Public Sector Employment (Award Entitlements) Act 2006 which refer to relevant international conventions. The government believes that these changes, especially the new unfair dismissal jurisdiction, can be seen as aiding compliance with those conventions. These new objectives further demonstrate the government's ongoing commitment to an industrial relations system which is fair.

As part of these changes the government also wishes to further protect more broadly the award entitlements and terms and conditions of employees within the Victorian public sector. To this end, the bill also amends the Public Sector Employment (Award Entitlements) Act 2006 so that Victorian public sector employers do not have the legal capacity to offer, nor to accept an offer of, any statutory industrial agreement which differs materially from an employee's collective agreement, relevant award or preserved award. The government believes that collective agreements provide the best way for employers and employees to reach mutually beneficial outcomes in their workplaces.

This legislation will ensure that the government, as an employer, will not be able to discriminate against its employees by offering statutory industrial agreements on terms materially different from their collective agreement or award. This means, for example, that it will not be possible to induce public sector employees to sign Australian workplace agreements by offering terms more favourable than the relevant collective agreement, or to undercut wages and conditions using Australian workplace agreements.

As a consequence of these changes, it is also necessary to modify Victoria's referral of industrial relations power to the commonwealth.

Provisions amending the Audit Act 1994

The bill also includes two provisions amending the Audit Act 1994. These amendments are of a technical nature and ensure that the act is brought up to date by ensuring that the Auditor-General uses the new auditing standards issued by the Auditing and Assurance Standards Board.

Amendment to the Ombudsman Act 1973

The bill also makes an amendment to the Ombudsman Act 1973. The amendment will allow the Ombudsman to delegate his powers and functions under other acts such as the Freedom of Information Act 1982 or the Whistleblowers Protection Act 2001 when it is necessary to do so, for example, when the Ombudsman is on leave.

Amendments to the Commonwealth Games (Arrangements) Act 2001

The amendments to this act will transfer all the rights and liabilities of the Melbourne 2006 Commonwealth Games Corporation to the state. These assets and liabilities comprise such things as warranties and indemnities relating to the supply of goods, and services and rights under insurance policies.

The Commonwealth Games (Arrangements) Act 2001 contains no provision for the transfer of assets and liabilities, as it was not possible to determine the

appropriate body to transfer the rights and liabilities to until after the games had been concluded and the relevant stakeholders had been consulted.

Currently the Melbourne 2006 Commonwealth Games Corporation will cease to exist on 31 December 2006. As the finalisation of the activities of the corporation is likely to occur earlier than expected, the amendment to the act will also enable the corporation to be dissolved at an earlier date by order of the Governor in Council. The earlier date may be set after consultation with the Commonwealth Games Federation and the Australian Commonwealth Games Association.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 7 September.

JUSTICE LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

Mr CAMERON (Minister for Agriculture) — I move:

That this bill be now read a second time.

This bill contains a number of amendments to legislation related to the justice portfolio. The amendments reflect the government's commitment to ensure the justice system continues to work efficiently and fairly.

Confiscation Act 1997

The bill amends section 17 of the Confiscation Act 1997. This section enables a court to require that notice of an application for a restraining order over property be given to any person who the court believes may have an interest in the property.

A restraining order is an important interim step under the confiscation regime. The purpose of such orders is to prevent property being disposed of before a final determination as to whether the property should be forfeited can be made. Such determinations are often made after the property owner is convicted of a relevant offence.

Until recently, the courts exercised the power to require notice of an application for a restraining order very rarely. In other words, almost all applications for a restraining order were made without notice to affected persons and, as a consequence, heard in the absence of such persons.

Where a restraining order is made in relation to a person's property and the person has not had notice of the application, the applicant is required to give notice of the order to the person. This notice enables affected persons to take a number of actions including applying to have property excluded from the order, the order varied or a security undertaking substituted for the restrained property.

In the recent decision of *Navarolli v. Director of Public Prosecutions*, however, the Court of Appeal determined that notice of applications for restraining orders should be routinely given. Acknowledging that its decision could lead to the dissipation of assets prior to a decision on the application, the court proposed that interim orders could be granted on an ex parte basis and notice then given to persons whose property interests were affected by the application so that the affected people could contest the application.

This Navarolli decision adversely affects the confiscation scheme by increasing the number and length of court hearings and increasing the risk of assets being dissipated prior to forfeiture orders being made. This strikes at the efficacy of the scheme, the principal purpose of which is to deprive criminals of the spoils of their criminal activity and disrupt criminal enterprises.

The amendments to section 17 are intended to restore the pre-Navarolli position — that is, that notice of applications for restraining orders would only be required in exceptional circumstances and, as a consequence, almost all applications heard and determined in the absence of affected persons. They are not designed to constrain the courts' discretion to require notice, but rather guide the courts' consideration in individual cases. Relevant factors to that consideration include:

the aim of restraining orders of preserving property until a forfeiture decision is made;

the risk that giving notice may pose to a related criminal investigation or the safety of any person involved in it;

an affected person's right to seek to have property excluded from the operation of a restraining order;

any submissions made by the applicant for a restraining order; and

any other matter the court considers relevant.

The bill also amends the Confiscation Act 1997 to:

ensure that respondents to civil forfeiture applications have the same rights as any other party with an interest in relevant property to seek to have property excluded from a forfeiture order;

make clear that a disposal order made upon a person's conviction for a forfeiture offence is only stayed by an appeal against conviction and not an appeal against the sentence; and

validate restraining orders made from the commencement of the act until 26 September 2005 to address a technical defect in the form of such orders. That defect is that the orders were made against specified persons rather than in respect of specified property.

Victorian Civil and Administrative Tribunal Act 1998

To improve the efficiency and timeliness of VCAT proceedings, the bill extends the power to issue final injunctions and make declarations in tribunal proceedings to the tribunal's legal practitioner members.

The bill will also allow the tribunal's legal practitioner members to summarily dismiss proceedings that are frivolous, vexatious, misconceived, lacking in substance or an abuse of process at the directions hearing stage.

The bill makes further amendments to provide that a judicial member of the tribunal may have regard to the principles set out in part 2 of the Sentencing Act 1991 when considering whether to impose a sentence of imprisonment for contempt of the tribunal. This will promote consistency between the courts and the tribunal when considering sentences of imprisonment.

The bill also provides for a judicial member of VCAT to grant bail under the Bail Act 1977 to a person apprehended by police for failure to attend VCAT or provide documents in response to a summons.

Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

The bill amends the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 to allow the director of the classification board to exempt certain approved public organisations — such as the Australian Centre for the Moving Image (ACMI) — from classification requirements in respect of films and computer games.

The director's power to exempt will be subject to the proviso that only Victorian statutory bodies which conduct activities of an educational, cultural or artistic nature will be able to be considered for exemption. In addition, the director will be empowered to place conditions on such exemptions. The conditions are likely to include matters such as a prohibition on the exhibition of works that are or would be classified X18+ or which have been refused classification and a requirement to provide content warnings and to restrict access where a work contains restricted content.

The amendments are particularly important for ACMI, which is a unique cultural and artistic institution. Since its inception, ACMI has been constrained in its ability to carry out its activities by the technical requirements of the national classification scheme. An exemption would enable ACMI to exhibit a wider range of moving image material and to better provide its innovative public program.

Legal Profession Act 2004

The Legal Profession Act was passed in December 2004 and established a new regulatory framework for the legal profession in Victoria. The act also implemented national model provisions developed through the Standing Committee of Attorneys-General to provide the basis for consistent regulation of the legal profession across Australia.

Since the act commenced, the national model provisions have been further refined and local stakeholders have also contributed to developing amendments to finetune the operation of the act. The bill includes a small, but essential, number of these enhancements.

This bill includes important amendments to the costs disclosure and review provisions of the act. In particular, the bill makes provision for 'sophisticated clients'. These are clients who are experienced and knowledgeable in relation to legal matters. As such, they do not need to be given the detailed information about legal costs otherwise required under the act and should be allowed to contract out of the statutory costs review regime. The bill also expands the range of clients considered to be sophisticated to include entities such as large proprietary companies, receivers, liquidators and administrators.

Professional Standards Act 2003

The Professional Standards Act 2003 was passed as part of the national tort law reforms with the specific objectives of improving professional service standards

and limiting the occupational liability of professionals in certain circumstances.

Members of professional associations with schemes that are approved under the act have the benefit of having their liability capped in the event of a claim being brought against them in connection with the performance of their occupation.

The Victorian act is based on the NSW Professional Standards Act 1994. Similar legislation, based on the NSW act, is now in effect in all other states and territories.

In late 2005, professional associations seeking to register schemes in Victoria and renew schemes in NSW raised concerns over a drafting anomaly in certain provisions in the legislation which affects their ability to satisfy the requirements necessary to obtain capped liability. The amendments contained in this bill seek to correct the drafting anomaly by enabling professionals who are members of capped liability schemes to hold either costs-inclusive or costs-in-addition insurance cover.

Correcting this anomaly recognises that Victorian legal practitioners are currently required to hold costs-inclusive cover through the Legal Practitioners Liability Committee and that other professional service providers also generally hold costs-inclusive cover due to the wider availability of this type of policy in the current insurance market.

The amendments also seek to ensure that consumers of professional services will not be disadvantaged because the professional's maximum liability to the consumer will still remain up to the amount of the cap, as determined under the act, regardless of whether the relevant professional holds a costs-inclusive or costs-in-addition insurance policy.

The proposed amendments are to be uniform national amendments which have the in-principle support of the Standing Committee of Attorneys-General.

Equal Opportunity Act 1995

The current Equal Opportunity Act prohibits discrimination on the ground of 'industrial activity' in certain areas of public life. 'Industrial activity' is defined to include being a member of an industrial organisation or participating in a lawful activity organised by an industrial organisation.

The Victorian Civil and Administrative Tribunal (VCAT) has interpreted the terms 'industrial activity' and 'industrial organisation' broadly. VCAT has held that while a collective dimension is required to constitute an industrial organisation, a formal link with a union is not required. Similarly VCAT has interpreted industrial activity to include action to promote compliance with relevant awards or workplace regulations or action that encourages, supports or assists such activity.

To reflect VCAT's decisions, the bill amends the definitions of 'industrial organisation' and 'industrial activity' and adds a new definition of 'industrial association'. These changes are particularly important in light of the federal government's WorkChoices legislation, which has restricted unions' rights to represent their members.

The bill also introduces a representative complaints mechanism to the equal opportunity jurisdiction. Bodies with sufficient interest in a complaint will be able to lodge a complaint on behalf of a named complainant or complainants. It will ease the concerns that some individuals have in lodging a complaint in their own capacity. The mechanism matches that in the Racial and Religious Tolerance Act 2001.

The Equal Opportunity Commission of Victoria is responsible for administering the Equal Opportunity Act. Its role includes receiving and investigating complaints made under the legislation. Currently, commission members cannot delegate their complaint handling functions to officers of the commission. The bill rectifies this situation. Commission members will now be able to delegate complaint-related functions to officers of the commission. This will further improve the commission's efficient and effective operation.

Finally, the bill amends the definitions of 'employment', 'employee' and 'employer' in the Equal Opportunity Act to reflect changes in the terminology used in the federal workplace relations legislation as a result of the WorkChoices reforms. These changes are to be retrospective to 27 March 2006, the date the WorkChoices legislation came into effect. This will ensure that employees engaged under the new arrangements will be protected by the Equal Opportunity Act. A transitional provision is also included so that employees engaged under industrial agreements entered before the WorkChoices legislation took effect will also be protected.

Sex Offenders Registration Act 2004

The bill amends the Sex Offenders Registration Act 2004 to clarify that persons who were serving suspended sentences for certain sexual offences when

the act commenced on 1 October 2004 are subject to the operation of the act.

The recent Supreme Court case of *DPP v. Neisser* (2006) VSC218 concerned an offender who was serving a suspended sentence in respect of registrable offences at the time of the commencement of the act.

In the first instance, the court found that because the offender was serving a suspended sentence, he was not under the supervision of a supervising authority, and therefore not within the class of offenders who were eligible to be placed on the sex offender register. The appeal decision of the Supreme Court of Victoria upheld the magistrates view.

Arising from this case, the bill makes technical amendments to the definition of 'existing controlled registrable offender' to specify all types of sentences for which registration applies as at 1 October 2004, and to explicitly clarify that the act applies to persons who were serving suspended sentences for registrable offences as at 1 October 2004.

Given the reasoning of the Supreme Court in the Neisser case, the bill will also amend the definition of 'supervising authority' to mean the authority prescribed by the regulations as a supervising authority that is deemed to have custody of, or be responsible for, supervising a registrable offender under this act, and to deem the Secretary of the Department of Justice to be the supervising authority for persons serving a suspended sentence, or a good behaviour bond under the Sentencing Act 1991, for the purposes of the act and the regulations.

These amendments are not intended to either extend or restrict the scope of the Sex Offenders Registration Act 2004 from that originally intended at the time the act commenced on 1 October 2004. They are intended to clarify the application of the act and ensure it is effectively implemented.

Corrections and Sentencing Acts (Home Detention) Act 2003

In 2003, the government enacted the Corrections and Sentencing Acts (Home Detention) Act 2003. This act amended the Sentencing Act 1991 to empower a court to make a home detention order where it has imposed a sentence of imprisonment (a 'front end order') and the Corrections Act 1986 to empower the Adult Parole Board to make a home detention order where a prisoner nears the end of a term of imprisonment (a post prison or 'back end order').

The legislation contains a sunset clause which will see the program cease on 1 January 2007, unless amending legislation is introduced to continue the program.

During the passage of the act in 2003, the former Minister for Corrections made a commitment that the program would be reviewed after two years of operation. This evaluation was undertaken by Melbourne University and has now been completed.

The report highlighted the program's success in reducing reoffending as the recidivism rate was lower than expected for program participants, given their risk of reoffending profile.

The government intends to use the review to further refine and improve the home detention program. The government also welcomes perspectives from members of the community, the courts, the legal profession, Victoria Police and others on how the program might be further improved.

Fair Trading Act 1999

The bill amends part 10 of the Fair Trading Act 1999 to allow inspectors to enter business premises to monitor compliance with that act. The amendments will not allow inspectors to enter parts of business premises used for residential purposes. Safeguard provisions to protect affected businesses include the privilege against self-incrimination; a requirement for inspectors to identify themselves; a register of inspections; and a system for lodging complaints about the conduct of inspectors.

In its current form, the Fair Trading Act requires an inspector to form a suspicion that a contravention of the act has occurred before inspection of a business can take place. This has meant that Consumer Affairs Victoria has been forced to rely heavily on consumer complaints before any action to inspect a business premises could be taken.

Generally that means poor trader conduct cannot be detected before consumer harm has already occurred. Compliant businesses may have suffered a competitive disadvantage compared with non-compliant businesses that have been able to supply goods or services at a lower price because they have not incurred the expense of meeting product safety or other standards required by law.

The new fair trading monitoring power will allow for the early detection of trader conduct that is potentially harmful to consumers or is anticompetitive.

Fair trading inspectors in most other states and territories may enter premises to check compliance with fair trading laws.

The proposed amendment has been developed with a view to appropriately balancing the powers of inspectors, supervision of those powers and the rights of businesses.

The new monitoring entry power will not affect existing obligations on business, only the manner in which inspections may be conducted by Consumer Affairs Victoria. Consumer Affairs Victoria has a similar power in relation to licensed premises but it lacks formal power to monitor non-licensed premises. While it is not expected that this power will be used frequently, there will be circumstances where it is necessary to ensure compliance with the law. It is expected the power will be used with due respect for the day-to-day operation of businesses. Consumer Affairs Victoria has a published compliance and enforcement policy which will be updated to refer to the use of this new power.

The new fair trading monitoring entry power will enable Victoria to participate in, and lead, national consumer protection programs.

Several of the consumer acts referred to in the Fair Trading Act are also affected by the bill. Some of these acts will be amended to include provisions similar to those being inserted into part 10 of the Fair Trading Act. Other consumer acts which already apply some of the inspection powers in part 10 of the Fair Trading Act are amended to apply the new provisions. Consumer Acts that already apply the whole of part 10 of the Fair Trading Act with specific exceptions will automatically adopt the amendments to that part.

The safeguards applying to the new power in the Fair Trading Act will also apply to the affected consumer acts.

Other amendments

The bill also amends:

the Council of Law Reporting in Victoria Act 1967 to increase the representation of the Law Institute of Victoria and Victorian Bar Council on the Victorian Council of Law Reporting by one member each;

the Gambling Regulation Act 2003 and the Casino Control Act 1991 to clarify compulsory training requirements for gaming venue and casino employees;

the Infringements Act 2006 to provide for an extended period for lodgment for infringement offences issued under section 40 of the Local Government Act 1989 and section 161 of the Electoral Act 2002 to allow those offences to be lodged up to six months from the date of service of the infringement notice;

the Judicial College of Victoria Act 2001 to add the term 'judicial registrar' to the definition of 'judicial officer' to allow judicial registrars to access judicial education services offered by the Judicial College of Victoria;

the Juries Act 2000 to streamline empanelment processes and improve safeguards for prospective jurors;

the Magistrates' Court Act 1989 to add senior investigators from Centrelink and the Department of Foreign Affairs and Trade's passport fraud section to the list of officers authorised to take statements for hand-up briefs;

the Working with Children Act 2005 to ensure that any person who receives a 'negative notice' is prohibited from performing child-related work, even if the person's occupational field has not yet been phased in. The phasing-in arrangements are intended to ensure a smooth transition to the scheme and allow a longer lead time for some occupational fields. The amendments make clear, however, that under no circumstances should a person who has received a 'negative notice' be permitted to undertake child-related work;

the Attorney-General and Solicitor-General Act 1972 to establish a more appropriate and coherent pension structure for the Solicitor-General; and

the Victorian Law Reform Commission Act 2000 to provide that an acting chairperson of the commission may be appointed on a part-time or full-time basis.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 7 September.

SENTENCING (SUSPENDED SENTENCES) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Sentencing is one of the most important and difficult tasks in the criminal justice process. In sentencing, courts are required to take into account a number of matters, such as the seriousness of the offence, the culpability of the offender, the personal circumstances of the victim and the effect of the crime on the victim.

A sentencing court must consider all of these matters and balance the interests of the community in denouncing criminal conduct with the interests of the community in seeking to ensure, as far as possible, that offenders can be rehabilitated and reintegrated into society. Such rehabilitation and reintegration obviously benefits not only the individual in question but also the broader community.

The government is committed to ensuring that it listens to what the community has to say in regard to sentencing issues. This is why the government established the Sentencing Advisory Council — to ensure that the community has a forum for taking into account informed community views on sentencing on a permanent and formal basis.

The council comprises 12 members, including persons with experience in community issues affecting the courts, persons with experience in both the prosecution and defence of criminal offences, persons with experience in victims of crime support and advocacy and a person with direct experience as a victim of crime.

This bill gives effect to recommendations in part one of the Sentencing Advisory Council's final report on suspended sentences.

Suspended sentences can be imposed once a court has decided that an offender should receive a term of imprisonment — but that it is appropriate to either partially or fully suspend it. An offender on a suspended sentence faces imprisonment for the term of the sentence that has been suspended if he or she reoffends during the operational period of the sentence. Otherwise, the offender is free to live in the community without any further restraints.

For example, a person may receive a three-year sentence, suspended for two years. This means that if the person reoffends during the two-year operational period, he or she may have to serve up to three years in prison.

I asked the council to review the use of suspended sentences in August 2004. The government was concerned that suspended sentences might not be serving the Victorian community well, and in particular that there was a growing disparity between the application of the law and the Victorian public's perception of the criminal sentencing process. In particular, there were perceptions that some perpetrators of violent offences were being let off too lightly when they received suspended sentences.

The council concluded that there were indeed problems with the operation of suspended sentences, particularly in relation to serious offences. The council recognised what sectors of the community had already expressed — that suspended sentences, though notionally equivalent to actual terms of imprisonment, are in fact not the same at all. As such, particular care must be taken in determining whether a suspended sentence does in fact adequately denounce, deter and condemn the behaviour of the offender.

The council has also recommended that wholly suspended sentences should be phased out by December 2009. This is a long-term proposition. The council recognises that suspended sentences could only be abolished once alternative sentencing orders have been developed and implemented, and resources are in place to support the new system.

Part two of the council's final report, which has not yet been released, will detail what the council believes to be the necessary changes to other sentencing orders. The government will consider the question of the abolition of suspended sentences in the light of that second report.

In the short term, the council has recommended a range of changes to the operation of suspended sentences to restrict their use and to improve other aspects of the system.

The government has accepted these recommendations and they will be implemented through this Sentencing (Suspended Sentences) Bill.

I now turn to the detail of the changes.

Factors to which courts must have regard

The bill introduces a set of factors into the Sentencing Act 1991 which courts must have regard to when considering whether it is desirable in the circumstances

to impose a suspended sentence. These factors are specific to suspended sentences, but complement the existing general sentencing guidelines in section 5 of the act.

The factors that a court must have regard to include:

the need, considering the nature of the offence, its impact on any victim and any injury, loss or damage resulting directly from the offence to ensure that the sentence:

adequately reflects the court's denunciation of the offender's behaviour;

provides effective deterrence; and

reflects the gravity of the offence;

any previous suspended sentence imposed on the offender (including any breaches);

whether the offence was committed during the operational period of a suspended sentence; and

the degree of risk of the offender reoffending.

These factors will assist the courts by providing guidance in relation to the use of suspended sentences.

Restriction on use of wholly suspended sentences for serious offences

Currently, a suspended sentence can be imposed in relation to any offence. However, the council found that many of the concerns about the appropriateness of suspended sentences related to their use in serious offences, such as rape and other violent offences.

Accordingly, the bill provides that courts must not impose wholly suspended sentences for serious offences unless there are exceptional circumstances which make it appropriate to do so, and it is in the interests of justice.

Serious offences are defined in section 3 of the Sentencing Act 1991 and include murder, manslaughter, rape, armed robbery, sexual offences involving children and a range of other offences involving violence.

The government has decided to impose an additional requirement, which was not included in the council's recommendation, that if a court decides to impose a suspended sentence, it must also provide reasons for doing so.

This provision will significantly limit the use of wholly suspended sentences for serious offences, while still allowing the courts to exercise their discretion. We have not ruled out the use of suspended sentences for these offences but this bill will ensure that a suspended sentence will only be imposed if there are exceptional circumstances and it is in the interests of justice.

Young offenders and breach of suspended sentences

At present, an 18–20-year-old who breaches a suspended sentence and is ordered to serve the component of the term of imprisonment that was suspended has to serve the term in an adult prison. This is despite the existence of the 'dual track' system in Victoria, which allows judges or magistrates at the point of sentencing to elect to send such young people either to adult prison or, if they are assessed as suitable, to a juvenile justice facility.

This means that a young person who might have been deemed suitable for a juvenile justice facility had the judge or magistrate decided not to suspend the sentence originally is nonetheless automatically sent to an adult prison if they breach the suspended sentence by reoffending.

Juvenile justice facilities are specifically designed to address the needs of younger offenders. These facilities focus on the early identification of risk factors which contribute to young people's offending behaviour. Through an intensive case management approach, these facilities incorporate a comprehensive range of rehabilitative programs and services that are appropriate to the individual developmental stages of children and young people. The government considers that young offenders who are deemed suitable for detention in a juvenile justice facility should be given the opportunity to serve any term of imprisonment in this specialist environment rather than in an adult prison.

The bill addresses the existing anomaly by allowing a judge or magistrate to send such a young person to a juvenile justice facility upon breach of a suspended sentence, providing the young person is deemed suitable for such a facility.

Streamlined approach for breach of suspended sentences

At present, when an offender breaches a suspended sentence, there is an administratively cumbersome process for dealing with this breach. This involves separate charges and potentially proceedings relating to both the new offence and the breach of the suspended sentence which is triggered by the new offence.

The council recommended that the offence of breaching a suspended sentence be abolished and instead that a more streamlined process be developed for bringing the offender back before the original sentencing court.

The bill sets out mechanisms for doing this.

Ensuring time spent in custody is taken into account

Finally, the bill clarifies that any time that a person spends in custody in relation to proceedings for breach of a suspended sentence is taken into account if that sentence is restored.

For example, if a person breaches a two-year suspended sentence and is detained in custody for three months before the breach proceedings have been finalised, then the court determines that the full sentence should be served and the person will be required to serve a further 21 months (that is, two years minus the three months).

This ensures consistency with existing practices whereby time spent on remand is deducted from any subsequent term of imprisonment.

Transition

The government wants the new rules to commence as soon as possible — but inevitably the effect of these changes will not be felt overnight. The bill will commence on 1 November 2006. The new rules on suspended sentences will apply to offences committed on or after the day the bill commences. This is in keeping with the convention that a person is sentenced for an offence in accordance with the laws that were in place when he or she committed that offence.

The new provisions relating to breaches of suspended sentences will apply to any conviction entered on or after the commencement date, where that conviction constitutes a breach of a suspended sentence.

Conclusion

This bill will address many of the deficiencies in the use of suspended sentences that the council and other groups have identified. In so doing, it recognises that suspended sentences are not the same as terms of imprisonment and that we must ensure that suspended sentences adequately denounce, deter and condemn behaviour they are targeted towards.

The Sentencing Advisory Council consulted widely during the development of its proposals. I thank the council for producing such a thoughtful and useful report on suspended sentences and look forward to receiving the second part of the council's report. This bill demonstrates the government's commitment to listening to what the Sentencing Advisory Council has to say and to striking the right and responsible balance when addressing the effects of crime on the Victorian community.

I commend this bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Thursday, 7 September.

Remaining business postponed on motion of Ms KOSKY (Minister for Education and Training).

ADJOURNMENT

The ACTING SPEAKER (Mr Nardella) — Order! The question is:

That the house do now adjourn.

Inverloch Bowling Club: lease

Mr SMITH (Bass) — I request that the Minister for Environment renew the lease on the land on the Inverloch foreshore which is currently held by the Inverloch Bowling Club. We know the minister has been pressured to ignore the club's pleas for another 25-year lease by the greenies who live in Inverloch and who do not want to see anything happen in Inverloch. They have held back the proper development of Inverloch for many years. These people go under the name of the South Gippsland Conservation Society and the Inverloch Residents and Ratepayers Association — or, as they are commonly known, the IRA.

The bowling club is extremely well run and managed and has huge support in the Inverloch area. It has about eight years of its current lease left to run. The clubroom it built many years ago is now in need of major renovation works, and the upper level of the building, including the stairs and balcony, is in extremely poor condition. This club has given hours of bowling pleasure to many thousands of permanent residents and thousands of visitors who come all year round to enjoy the competition and the companionship of other bowlers. I have been amazed at the difference in the ages of the people who come to play. It is sport and recreation for the young and old.

The Inverloch Bowling Club has the full support of the Bass Coast Shire Council and the local MP, being me. The problem has been festering for some time, which has caused the energetic committee to become extremely anxious. It wants to carry out the major

renovations to make the club more attractive and functional for the local community, but it is a big and expensive job and it is having trouble borrowing money from the bank to enable it to do so, given that it has such a short time left on its current lease. It has been to the bank, which would be more than happy to lend the money if it were not for the fact that the lease has only about eight years left to run.

This club deserves the government's support. It has never been a burden on the government at either the state or the local level. I ask the minister to come with me and visit the club and meet the players. If he does, he will not hesitate to extend its lease for a further 25 years and allow it to get on with the renovation works which it greatly deserves and which are supported by the local community. It is a very important issue. The club is not a blight on the local foreshore. It is surrounded by trees, and in fact you would not know it is there, yet everybody in Inverloch knows it is because it is a well-used and well-liked club. We knew what this government would be like from the time it tried to tip the Mornington Club off the cliff top at Mornington. As a result of the great work that was done by my colleague from Mornington it was allowed to stay there. I ask that the minister extend the same courtesy to the Inverloch Bowling Club.

Yea racecourse and recreation reserve: upgrade

Mr HARDMAN (Seymour) — I raise a matter for the Minister for State and Regional Development. The action I request is that the minister fund the upgrade of the facilities at the Yea racecourse and recreation reserve. This project would help drive economic growth and create more jobs in the beautiful town of Yea. It would do that by further improving community infrastructure. The Murrindindi Shire Council has applied for funding under the Small Towns Development Fund, and I believe the application is very deserving of consideration for the reasons I have outlined. The grant would be used to upgrade facilities, including the marquee, the driveway and the power supply. It would improve visitor amenities and extend the use of treated wastewater for garden and lawn maintenance.

The grant would add to previous grants from the state government, such as the Living Country Racing grants for the $12 538 upgrade of the barbecue area and the $8928 upgrade of the spectator area and running rails. Also in 2002 there was a grant to replace the septic system. All these grants have provided improved infrastructure at the reserve and increased its potential to attract major events. The Yea racecourse and recreation reserve includes the Yea Golf Club and golf course and the Yea Pony Club. The committee of management deserves great credit for the fantastic work that it does in attracting support from all levels of government and the community. The venue is certainly a lot more comfortable and attractive for golfers and racegoers because of the committee's work.

If the minister sees fit to fund the project, it will enable the reserve to be taken to the next level, and that is why I strongly support this grant application by the Murrindindi shire. The Yea township is also being transformed, with people investing and providing new jobs. It will all go towards making Yea a tourist destination as well as a stop-off place for travellers to Eildon or the snow. Last week I visited Beaufort Manor, where Sean Hood was investing a great deal of time and money into creating an antique centre, a bar and cafe, and what will be a wonderful restaurant.

There are many other examples such as Marmalades which won a tourism award a couple of years ago, and the Yea Wetlands reserve which is also in the town. A great number of people work tirelessly as volunteers there to re-create what was once a beautiful area and is now a place that is looked after even more beautifully, with the weed problem being addressed and access paths, tracks and bridges being built, all through the great works of the community. I commend this application for the Yea recreation reserve which will make Yea a destination and a place for great events.

North Central Catchment Management Authority: contractors

Mr WALSH (Swan Hill) — I draw the Minister for Agriculture's attention to the onerous new tendering process for works for the North Central Catchment Management Authority and ask him to urgently intervene to simplify and streamline the red tape nightmare that strangles rural contractors who are tendering through the Department of Primary Industries (DPI) for the catchment management authority's business.

The Department of Primary Industries has now been appointed preferred service deliverer for the North Central Catchment Management Authority. Previously preferred suppliers — contractors and providers of all goods and services — dealt directly with the catchment management authority (CMA). Now they must struggle with a mountain of red tape to register with DPI, even if they already have a history of contracting for the CMA. For example, an owner of a one-man earthmoving business must read and complete a five-part, 89-page document on the Internet and forward five hard copies

to the department. That is 445 pages to the department and a further 89 pages for the contractor's own files. Unless a business registers to become a preferred supplier, it will not be considered for future work. But alternatively, spending the time to complete multiple forms is no guarantee of employment.

One contractor who has found the new tender process complex, time consuming and frustrating has worked for the Department of Sustainability and Environment for 20 years, assisting firefighting teams with his heavy equipment. He describes DSE's contracting process as simple, efficient and well supported. Assistance with paper work is readily given.

Contrast that with the response he was given when he rang the CMA for advice on filling in the forms and was told it would be illegal for anyone to help him. It seems inconceivable that a contractor who has been registered with DSE for 20 years, who has already successfully completed works for the CMA, and whose credentials are well recognised, must undergo another lengthy and complex process to register with DPI, which is DSE's parallel organisation. Why is it not possible for experienced contractors to be fast tracked? To top it off, expressions of interest for North Central Catchment Management Authority works opened on 8 August and close today, 24 August, giving tenderers only 13 working days to tender.

Last year the Treasurer's Victorian Competition and Efficiency Commission reported to the Victorian government on impediments to business efficiency in rural Victoria. This new CMA tendering process suggests that little has changed, that it is as hard as ever to do business in country Victoria under the Bracks Government. If the Minister for Agriculture actually cared for country Victoria, he would correct this bureaucratic injustice immediately; or is he the minister in name only and more interested in Melbourne Labor's factional games?

Racing: Cranbourne complex

Mr PERERA (Cranbourne) — I direct to the attention of the Minister for Racing the issue of racing industry funding in my electorate, and I ask the minister to take the necessary steps to ensure funding for it as a component of the record $9.3 million racing industry development program announced in the 2006–07 state budget. As the minister would be well aware, my electorate takes in the Cranbourne Thoroughbred Training Complex. Under the chairmanship of Mr Finning, the 98-hectare site is home to a horse population of 600 to 750 and 129 trainers, who use the complex daily.

The Victorian racing industry contributes $2.1 billion to the Victorian economy and is responsible for 74 400 racing and related-industry jobs. The racing industry is probably the largest economic contributor in the city of Casey, which is the fastest growing city in Victoria.

The Cranbourne racing centre's shareholder clubs — greyhounds, harness and thoroughbreds — have identified a need to improve their ageing facilities in order to continue to showcase racing in the region. They are looking at raising $4 million to $5 million in the next two or three years, or even earlier, to support the much-needed development. The new facility will also provide the region with a great function centre which will be available for hire for weddings, 21st birthdays and many other functions.

The Cranbourne training complex is a major part of a major industry in the state of Victoria. I am proud to say that since its election this government has worked closely with the Victorian racing industry to deliver funding support of $23.5 million in addition to $2.5 million from the Living Country Racing grant program. This record stands in stark contrast to the record of the previous Kennett government. Many of these projects have delivered major capital upgrades to the Cranbourne racing complex. The revamped racing industry development program announced in the last state budget has refocused government assistance to the industry, with priority for racecourse upgrades in country areas and regional training complexes and for growing the industry through marketing and tourism support.

These capitals works grants go a long way to assisting the Cranbourne training complex and the racing industry across the outer metropolitan and neighbouring regional racing centres. Priority projects for the training complex include effluent water treatment and water conservation; track, rail and lighting upgrades; and horse ambulances. Therefore I seek from the Minister for Racing action to ensure government funding to assist the Cranbourne training complex.

Crime: Sandringham electorate

Mr THOMPSON (Sandringham) — I call upon the Minister for Police and Emergency Services to meet a deputation from the Sandringham electorate to work on plans to improve community safety and to protect property on the streets. I also seek to ascertain why the official figures on crime statistics by local government area have been removed from the Victoria Police web site. Further, I express the outrage of the Bayside community about the Bracks government's attitude towards the increase in serious crime in Bayside when

the government is reducing resources in the area and about the apparent selective leaking of crime figures reported in the local newspaper prior to the release of the official figures on Monday, 14 August.

The harsh reality is that now in Bayside we are living in a more violent community. While I welcome the earlier reported reduction in burglaries and the theft of cars and bikes, those reductions should not be used to whitewash the extraordinarily high increases in violent crime and offences against property. The official figures indicate that there has been a significant increase in the incidence of a range of serious criminal acts, including a 50 per cent increase in robberies, a 55 per cent increase in burglaries (other), a 26 per cent increase in property damage, a 24 per cent increase in thefts from motor vehicles, an 18 per cent increase in shop theft, a 14 per cent increase in assault, an 80 per cent increase in harassment, and a 120 per cent increase in behaviour-in-public offences.

Contrasting the figures for the city of Kingston with those in Bayside, Kingston had no increase in robberies, whereas Bayside had a 50 per cent increase; Kingston had a 12 per cent increase in burglaries (other), whereas Bayside had a 55 per cent increase; Kingston had a 4 per cent increase in shop theft, whereas Bayside had an 18 per cent increase; Kingston had a 12 per cent increase in harassment, whereas Bayside had an 80 per cent increase; and Kingston had a 14 per cent decrease in behaviour-in-public offences, whereas Bayside had a 120 per cent increase.

The Bayside crime figures come when the Bracks government is proposing to reduce the number of police officers in Bayside and Kingston by 22 and to reduce divisional patrols at certain times to one van in Kingston and Bayside. The Bracks government has also failed to fulfil an earlier Labor Party election commitment to build a new police station in Sandringham. While the aggregate crime levels in key indicator areas have fallen in some neighbouring municipalities, I call upon the Bracks government to take corrective action to redress the significant increases in Bayside.

I come back to the point that the local government area statistics were released on 14 August, but if anyone went to the Victoria Police web site today they would find that the local government area statistics on a range of key areas no longer appear on that web site. It is an absolute outrage to try to cover up the significant increase in crime in a range of local government areas of Victoria. I ask the Minister for Police and Emergency Services to meet a deputation of concerned Bayside residents to address the increased risk to people and property in Bayside.

Langwarrin: memorial park

Ms BUCHANAN (Hastings) — I direct my adjournment matter to the attention of the Premier in his capacity as having responsibility for veteran affairs. The action I seek is for the Premier to consider all appropriate support for the establishment of a memorial park in Langwarrin.

By way of background, recently I was approached by Langwarrin Rotarian Chris Bywater, who has been working on a vision for a memorial site in the Langwarrin area which recognises the service of local residents in the defence of our country across all the conflicts we have been involved in and which could become a focal point for Langwarrin residents to reflect on the role of our defence forces personnel. Chris has also identified a suitable potential location in Langwarrin.

One of the important issues for consideration was the need for such a memorial site in the Langwarrin area. Like many interface regions, Langwarrin, once a small community between the bigger townships of Frankston and Cranbourne, has experienced a substantial population increase over the past 10 years. Langwarrin was once the site of a military training camp for our light horse brigades on a large acreage that is now the renowned Langwarrin Flora and Fauna Reserve on McClelland Drive. Few new residents would be aware of this historic military link involving their community in the late 1800s and early 1900s.

Setting up a local memorial that would raise awareness of that contribution would add great social wealth and pride to the Langwarrin community. As Chris emphasised to me, local residents do not currently have any opportunity within their own township to acknowledge and pay respect to preceding generations of Langwarrin residents who served Australia.

I made approaches to the Frankston RSL and the Cranbourne RSL, the Vietnam Veterans Association of Australia and the federal veterans minister. The Langwarrin community project group approached Frankston City Council and local Langwarrin schools, which overwhelmingly endorsed the progression of this vision. This week saw a site meeting with various parties and an action plan to scope out the logistics and theme of the memorial park.

The Premier has shown outstanding support for our veterans, raising the status of and respect paid to all

veterans by becoming the minister responsible for veterans in 2004 and announcing a raft of far-ranging initiatives to support Victorian veterans. These initiatives include the new Victorian Veterans Council, the new veterans fund which has a strong focus on community education, and having the Department for Victorian Communities coordinate policy in respect of veterans' community issues.

I commend Chris Bywater for his compassionate, sensitive and outstanding commitment to this project, Ray Weston from the education team of the Vietnam Veterans Association, the representatives of the Frankston and the Cranbourne RSLs for their support, Kim Kensall and her team from Elisabeth Murdoch College, the Frankston City Council, Langwarrin Community Project members and the greater Langwarrin community, which I know is 100 per cent behind this project.

The establishment of a memorial park in Langwarrin will provide the greatest opportunity for local residents to reflect on the sacrifices of Australian men and women who risked and continue to risk their safety and wellbeing to defend the freedoms enjoyed by all Australians today.

Building industry: warranty insurance

Mr INGRAM (Gippsland East) — I raise a matter for the attention of the Premier. The action I seek relates to building warranty insurance. My request is for the government to implement a home warranty fund that is based on a first-resort redress. This is absolutely essential, because the current building warranty insurance scheme is a farce. It does not protect the consumer or builders. Builders are providing in excess of $120 million a year to insurance companies, with no return to the consumer.

Many consumers who have attempted to have houses built over the past few years have found that the whole system has fallen apart. Their houses might be half completed because their builders have either gone bankrupt or are dodgy and have not finished the construction of their houses, but when they go to the insurance company, which they thought gave them protection, they have had to fight all the way through the courts. They have buildings that are worth nothing — that cannot be sold or completed — and they are basically left to go bankrupt. The current system is a disaster for those consumers.

I call on the government to protect consumers. Plenty of money is being paid by builders, and if the government implemented a system similar to the Queensland system, that money could be used so that in the event of a builder going either bankrupt or passing away and a house not being completed, there is a redress for the consumer to ensure they are protected.

Many members would have had correspondence from constituents or people around the state who have been left devastated by the current scheme. It is not acceptable today to allow people to be left out in the cold on this issue. The government must address the issue. In my electorate there have been a couple of incidents where a builder has gone bankrupt and been unable to complete the construction of a house, and there has been no redress for the consumer.

This is an issue that is of vital importance, and I know that members in this place would agree with me. It is time for the government to implement a real builders warranty insurance scheme to make sure that the money that is put in is used for the right purposes — to cover the situation if a builder walks away from a job and the building cannot be finished.

Greensborough Hockey Club: funding

Ms GREEN (Yan Yean) — I wish to raise a matter for the attention of the Minister for Sport and Recreation in another place. The action I seek is for the minister to fund the next stage of development at the Greensborough Hockey Club. The Greensborough Hockey Club makes a fantastic contribution to the local community. It has in excess of 650 players and 45 teams in the area, catering for players going from juniors right through to veterans — men and women, boys and girls.

Hockey is a great sport. The Greensborough Hockey Club is a really good club. The funding it is seeking — it is very much supported by the Shire of Nillumbik in its efforts — is for a second pitch at Plenty Park as part of their ongoing growth in the area. As it is situated adjacent to the growth corridor and is a centre for hockey in the northern region, this would be a very good investment.

I am really grateful to president Lex de Man for his invitation to me to attend the forthcoming president's lunch. The minister will be accompanying me on that day, so it will be a great opportunity for the minister to see how well used an additional pitch would be. I know he will have an enjoyable day.

I am the no. 1 ticket-holder at the club, and it is always great to see all the teams there and see that they are meeting with success. The men's team has been the runner-up in the state championship league for the last

two years, so I am hopeful that we are going to crack one in the next couple of years.

The club has had a great history with representative players in both the state and Australian teams. The club is coached by Jim Irvine, a former Olympian and former vice-captain of the Australian team, and currently Rachael Lynch is the goalkeeper in the women's national team, the Hockeyroos. She is the first female from the club to represent our country, and she is doing a great job.

In terms of the facility, it is one of the most consistently used sports facilities in my electorate. It is used 40 to 50 hours a week, and there are very few other sporting venues that would boast that level of activity. As I said, it is located within Plenty Park and it has a great relationship with the other sporting clubs that use the area, being the cricket club and the tennis club. The council is undertaking an ongoing development of Plenty Park to improve the sporting facilities there, so this additional pitch would be a great part of that.

I have had many enjoyable days watching the hockey, and I hope to have more in the future, along with Greg Johnson, the mayor of Nillumbik, who is the no. 2 ticket-holder. It will be a great day when the minister attends in a couple of weeks, and I urge him to support the club. Go the Burra!

Monash Freeway: debris

Mr McINTOSH (Kew) — I have an issue for the attention of the Minister for Transport. The issue I wish to raise with the minister is the unacceptable level of rubbish and debris on Melbourne's freeways, specifically the Monash Freeway. The action I seek from the minister is to ensure that VicRoads has an adequate freeway cleaning regime to ensure that all our roads and freeways are clean and clear of any potentially lethal debris.

Recently I was contacted by a concerned constituent who uses the Monash Freeway almost daily to travel to and from work. He informed me that the Monash Freeway has an unacceptable level of roadside debris. Recently his vehicle was damaged while he was driving when a piece of debris was thrown up from a median strip by a truck that inadvertently veered onto the median strip.

My constituent says the median strip on the Monash Freeway between Burke Road and Warrigal Road is particularly bad. He has observed a large plastic box, old tyres, lengths of metal bars and other assorted debris that has been on the median strip for almost a month. I acknowledge that this particular debris has now been cleared away, but it took a month for it to be cleared. It is beyond doubt that these large pieces of debris have the potential to cause serious road accidents. This is not the first time I have raised these matters in the house. In 2003 I raised a major concern about debris building up and falling off the Bulleen Road bridge over the Eastern Freeway.

I acknowledge and express my gratitude to the minister for rectifying that particular problem at Bulleen Road, but I now raise the question of the appropriateness of the overall cleaning regime on the Monash Freeway. I understand VicRoads already operates some form of roadside cleaning regime, but clearly it is inadequate, underfunded or just does not work to keep our freeways clear of potentially lethal debris. As I said, having a large box, metal bars and old tyres on the roadside for a month is unacceptable. I am sure the minister will take this very seriously and urgently deal with the issue of roadside cleaning.

Given that these matters also raise an occupational health and safety issue, I urge the minister to act swiftly to ensure that the VicRoads cleaning regime is improved to enable it to clean up Melbourne's freeways and properly protect Victorian road users.

Enterprise Avenue–Clyde Road, Berwick: traffic lights

Ms LOBATO (Gembrook) — I raise a matter for the Minister for Transport. The action I seek is that the minister support the Berwick community in its need to ease the traffic chaos that exists around Enterprise Avenue and Clyde Road. As a result of a massive population increase and the popularity among businesses of locating in Berwick, in particular in Enterprise Avenue, there exists a very real problem in entering and exiting Enterprise Avenue from Clyde Road. This intersection is without traffic lights. The area caters for traffic from the train station car park, Monash University, Chisholm Institute and Casey hospital. In peak periods such as school times this part of Clyde Road comes to a complete standstill. Much worse, the intersection becomes very dangerous, with drivers taking huge risks in order to access or exit Enterprise Avenue and the station car park.

This intersection has been a source of frustration for a long time, and I have been constantly lobbying for its improvement. Some time ago a working group was established by the Berwick Chamber of Commerce, Monash University, VicRoads, the council and me. It was determined that while all the stakeholders acknowledge that the ultimate solution to the massive

congestion is the duplication of Clyde Road and rail separation, the working group believed that a short-term solution was urgently needed. We looked at various possible improvements that could be applied to the intersection, but the only one which was supported by all stakeholders was the installation of traffic lights. The working party discussed the possibility of another set of traffic lights in close proximity to others causing further frustration to motorists, but all the information we received through ongoing consultation indicated that safety and traffic flow through the intersection are vital. As well as being one of my highest priorities, this issue has been a top priority of the City of Casey. I congratulate it on its advocacy, along with that of the chamber of commerce.

Berwick's businesses are booming and services and infrastructure are being provided. We as the state government need to further assist by making our roads safer for the local community and ensuring that Berwick is a great place to live, work and raise a family. In conclusion, I stress the importance of this issue and ask the Minister for Transport to favourably consider the installation of traffic lights at the intersection of Clyde Road and Enterprise Avenue in Berwick.

Responses

Ms KOSKY (Minister for Education and Training) — The member for Bass raised a matter for the attention of the Minister for Environment about the renewal of land on the Inverloch foreshore. I will bring that to the minister's attention.

The member for Seymour raised a matter for the attention of the Minister for Environment about the Yea racecourse and recreation reserve. I am sure the minister will respond to that very promptly.

The member for Swan Hill raised a matter for the Minister for Agriculture about a tendering process. I will be very pleased to pass that on to the Minister for Agriculture.

The member for Cranbourne raised a matter for the attention of the Minister for Racing about a racing issue. I am happy to draw that to the minister's attention.

The member for Sandringham raised a matter for the attention of the Minister for Police and Emergency Services about policing issues. I am happy to bring that to the minister's attention.

The member for Hastings raised a matter for the attention of the Premier in relation to a memorial park in Langwarrin. I am happy to bring that to the attention of the Premier.

The member for Gippsland East raised a matter for the attention of the Premier about building warranty insurance. I know the Premier will respond to that promptly.

The member for Yan Yean raised a matter for the attention of the Minister for Sport and Recreation in another place about the Greensborough Hockey Club. I am happy to raise that with the minister.

The member for Kew raised a matter for the attention of the Minister for Transport about rubbish on Melbourne freeways, in particular the Monash Freeway. I am happy to bring that to the minister's attention.

The member for Gembrook raised a matter for the attention of the Minister for Transport about traffic congestion and the need for traffic lights within her electorate. I am happy to raise that for the attention of the Minister for Transport.

The ACTING SPEAKER (Mr Nardella) — Order! I bring to the attention of the house the fact that the member for Seymour raised a matter for the Minister for State and Regional Development, not the Minister for Environment.

The house is now adjourned.

House adjourned 5.50 p.m. until Tuesday, 12 September.