**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE ASSEMBLY

## FIFTY-FIFTH PARLIAMENT

## FIRST SESSION

**Thursday, 6 October 2005**

**(extract from Book 5)**

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

**By authority of the Victorian Government Printer**

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JOHN LANDY, AC, MBE

## The Lieutenant-Governor

Lady SOUTHEY, AM

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| | |
|---|---|
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| Minister for Education Services and Minister for Employment and Youth Affairs | The Hon. J. M. Allan, MP |
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| Minister for Manufacturing and Export, Minister for Financial Services and Minister for Small Business | The Hon. A. Haermeyer, MP |
| Minister for Police and Emergency Services and Minister for Corrections | The Hon. T. J. Holding, MP |
| Attorney-General, Minister for Industrial Relations and Minister for Planning | The Hon. R. J. Hulls, MP |
| Minister for Aged Care and Minister for Aboriginal Affairs | The Hon. Gavin Jennings, MLC |
| Minister for Education and Training | The Hon. L. J. Kosky, MP |
| Minister for Sport and Recreation and Minister for Commonwealth Games | The Hon. J. M. Madden, MLC |
| Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs | The Hon. J. Pandazopoulos, MP |
| Minister for Health | The Hon. B. J. Pike, MP |
| Minister for Energy Industries and Minister for Resources | The Hon. T. C. Theophanous, MLC |
| Minister for Consumer Affairs and Minister for Information and Communication Technology | The Hon. M. R. Thomson, MLC |
| Cabinet Secretary | Mr R. W. Wynne, MP |

## Legislative Assembly committees

**Privileges Committee** — Mr Cooper, Mr Herbert, Mr Honeywood, Ms Lindell, Mr Lupton, Mr Maughan, Mr Nardella, Mr Perton and Mr Stensholt.

**Standing Orders Committee** — The Speaker, Ms Campbell, Mr Dixon, Mr Helper, Mr Loney, Mr Plowman 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.

**Environment and Natural Resources Committee** — (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz. (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell.

**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, Mr Savage 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.

**Outer Suburban/Interface Services and Development Committee** — (*Assembly*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith. (*Council*): Ms Argondizzo and Mr Somyurek.

**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

**MEMBERS OF THE LEGISLATIVE ASSEMBLY**

**FIFTY-FIFTH PARLIAMENT — FIRST SESSION**

**Speaker:** The Hon. JUDY MADDIGAN

**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

**Leader of the Parliamentary Labor Party and Premier:**
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 R. K. B. DOYLE

**Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:**
The Hon. P. N. HONEYWOOD

**Leader of The Nationals:**
Mr P. J. RYAN

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

| Member | District | Party | Member | District | Party |
|---|---|---|---|---|---|
| Allan, Ms Jacinta Marie | Bendigo East | ALP | Languiller, Mr Telmo Ramon | Derrimut | ALP |
| Andrews, Mr Daniel Michael | Mulgrave | ALP | Leighton, Mr Michael Andrew | Preston | ALP |
| Asher, Ms Louise | Brighton | LP | Lim, Mr Hong | Clayton | ALP |
| Baillieu, Mr Edward Norman | Hawthorn | LP | Lindell, Ms Jennifer Margaret | Carrum | ALP |
| Barker, Ms Ann Patricia | Oakleigh | ALP | Lobato, Ms Tamara Louise | Gembrook | ALP |
| Batchelor, Mr Peter | Thomastown | ALP | Lockwood, Mr Peter John | Bayswater | ALP |
| Beard, Ms Dympna Anne | Kilsyth | ALP | Loney, Mr Peter James | Lara | ALP |
| Beattie, Ms Elizabeth Jean | Yuroke | ALP | Lupton, Mr Anthony Gerard | Prahran | ALP |
| Bracks, Mr Stephen Phillip | Williamstown | ALP | McIntosh, Mr Andrew John | Kew | LP |
| Brumby, Mr John Mansfield | Broadmeadows | ALP | McTaggart, Ms Heather | Evelyn | ALP |
| Buchanan, Ms Rosalyn | Hastings | ALP | Maddigan, Mrs Judith Marilyn | Essendon | ALP |
| Cameron, Mr Robert Graham | Bendigo West | ALP | Marshall, Ms Kirstie | Forest Hill | ALP |
| Campbell, Ms Christine Mary | Pascoe Vale | ALP | Maughan, Mr Noel John | Rodney | Nats |
| 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 |
| Dixon, Mr Martin Francis | Nepean | LP | Nardella, Mr Donato Antonio | Melton | ALP |
| Donnellan, Mr Luke Anthony | Narre Warren North | ALP | Neville, Ms Lisa Mary | Bellarine | ALP |
| Doyle, Mr Robert Keith Bennett | Malvern | LP | Overington, Ms Karen Marie | Ballarat West | ALP |
| Duncan, Ms Joanne Therese | Macedon | ALP | Pandazopoulos, Mr John | Dandenong | ALP |
| Eckstein, Ms Anne Lore | Ferntree Gully | ALP | Perera, Mr Jude | Cranbourne | ALP |
| Garbutt, Ms Sherryl Maree | Bundoora | ALP | Perton, Mr Victor John | Doncaster | LP |
| Gillett, Ms Mary Jane | Tarneit | ALP | Pike, Ms Bronwyn Jane | Melbourne | ALP |
| Green, Ms Danielle Louise | Yan Yean | ALP | Plowman, Mr Antony Fulton | Benambra | LP |
| 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, 6 OCTOBER 2005



## QUESTIONS ON NOTICE

### Tuesday, 4 October 2005

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# Thursday, 6 October 2005

**The SPEAKER (Hon. Judy Maddigan) took the chair at 9.32 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 213 to 216 and 367 to 376 inclusive will be removed from the notice paper on the next sitting day. A member who requires a 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:**

### Taxis: rural and regional

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws to the attention of the house the crisis with country taxis and the need for recognition that country taxis are a proxy form of public transport and provide an essential service in country communities.

The petitioners therefore request that the Legislative Assembly of Victoria immediately implement commonsense changes to reduce country taxi operator costs — e.g., allow flexible hours of service — and make available to country taxi operators the same subsidies as Melbourne taxis and public transport — e.g., subsidies for the provision of wheelchair-friendly taxi services.

**By Dr SYKES (Benalla) (735 signatures)**
**Mr RYAN (Gippsland South) (432 signatures)**
**Mr DELAHUNTY (Lowan) (94 signatures)**

### Police: schools program

To the Legislative Assembly of Victoria:

The petition of certain citizens in the state of Victoria draws to the attention of the house that the police schools involvement program has been a successful, proactive policing program operating since 1989 which, with the school resource officers, has worked closely with school communities in many constructive ways including to:

develop a positive relationship between police and the community;

develop an understanding of the role of police in society; and

reduce the incident of crime in society.

In 2005 approximately 200 000 students statewide have benefited from this program, which has served as a model for similar programs in other states and, indeed, is recognised internationally as a positive model for police and school partnerships.

The proposed termination of the program, when law and order issues are of particular concern within Victorian communities, is not in the best interest of our children or the Victoria police.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria support the continuation of this most worthwhile police school involvement program in its present form for the year 2006 and beyond.

**By Mr SAVAGE (Mildura) (127 signatures)**

### Hazardous waste: Nowingi

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

The petition of certain citizens in the state of Victoria draws to the attention of the house that the proposed toxic waste facility to be located at Nowingi/Hattah, south of Mildura, is an absolute disaster for the families and communities along the Calder Highway.

The proposed toxic waste facility will destroy families, their heritage, communities and the work of generations of farmers who have developed highly successful local economies.

The proposed toxic waste route will ruin the clean green food status of the producers in the Highway Corridor due to the toxic trucks passing through it and the associated risks.

The communities of the Calder Highway call upon the government to implement its 2000 election promise to reduce the waste stream and abandon landfill technology.

**By Mr SAVAGE (Mildura) (38 signatures)**

### Racial and religious tolerance: legislation

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws the attention of the house to the decision of the Victorian Civil and Administrative Tribunal in the complaint against Catch the Fire Ministries by the Islamic Council of Victoria, dated 17 December 2004. The decision has highlighted serious flaws in the Racial and Religious Tolerance Act 2001 which restrict the basic rights of freedom of religious discussion.

The petitioners therefore request that the Legislative Assembly of Victoria remove the references to religious vilification in the Racial and Religious Tolerance Act 2001 to allow unencumbered discussion and freedom of speech regarding religion and theology.

**By Mr SAVAGE (Mildura) (235 signatures)**

## Schools: religious instruction

To the Legislative Assembly of Victoria:

The petition of citizens of Victoria concerned to ensure the continuation of religious instruction in Victorian government schools draws out to the house that under the Bracks Labor government review of education and training legislation the future of religious instruction in Victorian schools is in question and risks becoming subject to the discretion of local school councils.

The petitioners therefore request that the Legislative Assembly of Victoria take steps to ensure that there is no change to legislation and the Victorian government schools reference guide that would diminish the status of religious instruction in Victorian government schools and, in addition, urge the government to provide additional funding for chaplaincy services in Victorian government schools.

The petition of citizens of Victoria [is] concerned to ensure the continuation of religious instruction in Victorian government schools, and to provide additional funding for school chaplains.

**By Mr SAVAGE (Mildura) (54 signatures)**
**Mrs POWELL (Shepparton) (52 signatures)**
**Mr CRUTCHFIELD (South Barwon) (18 signatures)**

**Tabled.**

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

**Ordered that petition presented by honourable member for Lowan be considered next day on motion of Mr DELAHUNTY (Lowan).**

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

**Ordered that petitions presented on 5 October by honourable member for Gippsland East be considered next day on motion of Mr INGRAM (Gippsland East).**

**Ordered that petition presented by honourable member for Gippsland South be considered next day on motion of Mr INGRAM (Gippsland East).**

**Ordered that petition presented by honourable member for Benalla be considered next day on motion of Dr SYKES (Benalla).**

## DOCUMENTS

**Tabled by Clerk:**

*Crown Land (Reserves) Act 1978* — Section 17DA Order granting under s 17B licences for the Dromana Foreshore Reserve

*Electoral Boundaries Commission Act 1982* — Report of the 2005 Redivision of Legislative Council Electoral Boundaries for Victoria

*Financial Management Act 1994* — Financial Report for the State of Victoria, incorporating the Quarterly Financial Report No 4, for the year 2004–05 — Ordered to be printed

Victorian Law Reform Commission — Final Report on Workplace Privacy — Ordered to be printed.

## BUSINESS OF THE HOUSE

### Adjournment

**Mr CAMERON** (Minister for Agriculture) — I move:

That the house at its rising, adjourn until Tuesday, 18 October.

This will afford members a one week break from Parliament so they can attend to their other duties.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Electoral system: compulsory voting

**Ms ALLAN** (Minister for Education Services) — Australians have a long and proud democratic history as well as a long and proud history of fighting for their democratic rights, whether it be the battles on the goldfields in the Red Ribbon Rebellion and the Eureka Stockade or the constitutional debates of the late 1800s, which led to the ushering in of a peacefully federated nation that for the first time historically gave women the right to vote in Australian federal elections.

But Australians need to be ready to fight again to protect their very precious democracy. The federal Liberal Party wants to disenfranchise great swathes of Australians from the democratic process through the introduction of voluntary voting. We know from other nations, particularly the United Kingdom and United States of America, that voluntary voting results in lower levels of participation in elections by young people, by people in rural areas, by working people and by poor people.

Why should we be alarmed when the Prime Minister has claimed that it is not on his agenda for the next election? Because the Prime Minister has his chief

stalking horse, Senator Nick Minchin, along with his trusty sidekick, Senator Eric Abetz, pushing the very agenda the Prime Minister has ruled out for the next election but which we know he is personally in favour of. We all remember John Howard's promise to never ever introduce a GST.

This is just an attempt to distract Australians from the real issues of the privatisation of Telstra and the stripping of workers protections. It is a nonsensical issue, because we only have compulsory attendance at a polling booth. Australians must reject this plan to lock up Australia's democracy for the powerful and privileged.

## Justice Crennan

**Mr McINTOSH** (Kew) — I congratulate Her Honour Sue Crennan on the announcement that she will be the next appointment to the High Court of Australia. Sue Crennan is a well liked and highly respected Federal Court judge who is held in the highest regard by the Australian legal community, particularly in her home state of Victoria.

She was a very distinguished member of the Victorian bar who became a Queen's Counsel in 1989 after only nine years at the bar. She was the chair of the Victorian Bar Council in 1993 and president of the Australian Bar Association in 1994. I know Her Honour would be embarrassed by my saying this, but while it is irrelevant it is still worth noting for the benefit of the Parliament that Sue Crennan was the first female head of both those important legal bodies.

In the many press reports that followed the commonwealth Attorney-General's announcement that Her Honour would be appointed to Australia's highest court the consistent theme was that Sue Crennan's appointment was both welcomed and well deserved given the enormous esteem she commands in the legal profession. My personal and somewhat unsophisticated comment at the time was simply to say the announcement was bloody marvellous.

At a personal level I congratulate Her Honour and anticipate that she will discharge her new role as a member of the High Court of Australia with impeccable distinction. I wish Sue and her husband, Michael, and their family all the very best for the future.

## Green Gully Soccer Club

**Mr SEITZ** (Keilor) — I rise to congratulate the president, Charlie Faruggia, and the secretary, Carlo De Sieno on the Green Gully Soccer Club becoming the champions of the Victorian Soccer League. From humble beginnings in 1955 Green Gully has been developing and building soccer in my electorate and the western suburbs region, strongly supported by a multicultural community although led in the main by the Maltese community. The club certainly has a proud 50-year history

Its winning the championship once again has been acknowledged by all three of the local newspapers that are distributed in my electorate. 'We are the champions!' is the *Star* headline; 'Victory for the kings of soccer' says the *Advocate*; and the *Brimbank Leader* headline says 'Cup glory for Gully'. Being champions and winning a major premiership are certainly big achievements for a club that started from a migrant community. When I first came to St Albans in 1956 I played soccer there with the boys, and now 50 years later it has developed into a major district league that is the envy of all the soccer clubs in the area. In particular the leadership of Charlie Faruggia, the president for the last several years, has stabilised the soccer team.

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

## Planning: Shepparton brothel application

**Mrs POWELL** (Shepparton) — On Tuesday, 5 October, the City of Greater Shepparton granted a permit for a 24-hour, seven-day-a-week brothel. Six councillors supported the brothel application and one opposed. Cr Bruce Wilson opposed the application with a well-researched presentation. There were 505 objections and 1400 names on petitions opposing the brothel. A *Shepparton News* poll and a council candidate survey both showed that over 85 per cent of respondents opposed a brothel. During the council meeting some councillors advised that they did not personally want a brothel, with one councillor saying that 90 per cent of the community did not want a brothel. The council has blamed state planning laws and has urged the community to contact local members.

I am advised that the council could have refused the application under section 60(1A)(a) of the Planning and Environment Act, which deals with the social and economic effects, and/or section 60(1A)(g). The council could consider its council plan, which refers to the importance of community pride, family values and inclusive democratic processes.

In Parliament two months ago, because of the uncertainty around the use of section 60, I asked the Minister for Planning to immediately review section 60 to clarify and define its meaning and provide guidelines

and a practice note to councils and the Victorian Civil and Administrative Tribunal on the use and acceptance of this section. I have still not received a response. Given the strong objections by the community and the fact that this council, while in caretaker mode, has made this significant policy decision against the wishes of the majority of its community, I ask the Minister for Planning to overturn the decision by the Greater Shepparton City Council and give guidance to the new council to enable it to successfully refuse a brothel or like application if it is strongly opposed by the community.

## Springvale neighbourhood house: achievements

**Mr ANDREWS** (Mulgrave) — Last Friday I was pleased to attend the 21st annual general meeting of the Springvale neighbourhood house in my local community. The meeting was very well attended and it gave local residents and those involved in the house an opportunity to come together socially and to reflect on the events and the achievements of much hard work of the previous 12 months. The Springvale neighbourhood house does a great job in our local community, particularly in relation to the neighbourhood learning centre, giving many people who have come from overseas, including many refugees and people who have come here in very difficult circumstances, the practical support, tools and backup that they need to have a new beginning and to start a new life.

Apart from the usual business of the general meeting, awards were presented and I was pleased to make those presentations. Among the recipients was Christine MacDowell, the former coordinator of the neighbourhood house, who has left this year after six years of great service. I want to acknowledge her as a person who has worked tirelessly for the activities of the house and her local community. A great highlight of the Springvale neighbourhood house calendar every year is the Sumnation World Cultural Festival. I have spoken before in this place about that wonderful showcase of the diversity that makes my local community such a great place to live and work. Christine was at the heart of organising that. The festival celebrated its 10th anniversary last year, and next year it will coincide with a showing in our local community of the closing ceremony of the Commonwealth Games.

Well done to Christine and to all others involved in the Sumnation World Cultural Festival and in the Springvale neighbourhood house.

## Planning: residential zones

**Mr BAILLIEU** (Hawthorn) — I have previously warned about the negative consequences of councils applying the Bracks government's so-called residential 3 zone. The three-storey or 9-metre limit imposed by this policy, thrust on the community without consultation by the former Minister for Planning, was always set to be a licence not a limit. Now the City of Monash has joined the growing chorus of detractors. At a council meeting on 20 September the council resolved to defer indefinitely the application of the residential 3 zone. The officers' report endorsed by the council concluded that:

> The proposed R3Z —

residential 3 zone —

> height limit provision has the potential to significantly alter the way in which building height is assessed and considered.
>
> Specifying a maximum height limit could indicate that development up to that height is acceptable. That is, this height could become an 'as-of-right' height for dwellings in the R3Z. Therefore in those areas where the predominant character is single storey or low scale, 9-metre or three-storey dwellings could become the 'standard', to the detriment of local character and amenity.
>
> Council's capability to limit the development of intrusive dwelling forms, at 9 metres height, into existing neighbourhoods could be significantly reduced.
>
> Also, it could be argued that in the remaining R1 —

zones —

> because a height limit has not been imposed — i.e. R3Z — then dwelling heights above 9 metres could be appropriate. This maintains the current situation where the 9-metre ResCode provision on building height is discretionary and 'should' be met. VCAT —

the Victorian Civil and Administrative Tribunal —

> approval of inappropriate development could continue.

The report goes on at length to be critical of residential 3 zones. The bottom line is that it is time for the minister to pull the plug on this backfiring policy.

## AirShows DownUnder

**Mr HELPER** (Ripon) — Last Sunday I had the great pleasure of attending the 2005 AirShows DownUnder team presentation lunch and reunion. It was held at Costa Hall at Deakin University, Geelong, to celebrate, recognise and thank the hundreds of volunteers that make the airshow the huge success it has been this year as well as previous airshows. The Royal Australian Air Force central band, Catalina Wind

Quartet, played to welcome volunteers and guests to the fantastic Costa Hall venue.

The 2005 airshow, held at Avalon, was an impressive major event in Victoria's events calendar. There were 520 exhibitors from 22 countries; 30 international delegations; 14 international air force chiefs; 1214 aircraft; 16 conferences and seminars; and 650 media personnel. It attracted a staggering 200 000 patrons over the six-day event.

But Sunday's event was to thank and recognise the 850 volunteers who are so critical to making this event the success it is. From all walks of life — from aviation enthusiasts to the great supporters of the Geelong region — these volunteers are a credit to their communities. From all over Australia they happily give their time and enthusiasm to this six-day spectacular. Their efforts make the airshow a smooth, safe and enjoyable experience for industry and casual attendees alike. I can attest to this, having attended the 2005 airshow.

## Emergency services: superannuation

**Mr WELLS** (Scoresby) — This statement condemns the Bracks Labor government for its appalling slap in the face to Victoria's police and emergency services workers by continuing to proceed with its plans to merge the Emergency Services Superannuation Scheme (ESSS) with the Government Superannuation Office (GSO).

The interests of police and other emergency service workers are being completely ignored by the Bracks government, and its lack of consultation on these changes is a damning indication of the sheer arrogance which this government is now displaying. In failing to properly consult with the Victoria Police Association, the United Firefighters Union and the Ambulance Employees Association of Victoria, the Bracks Labor government has lost touch with reality and has grossly underestimated the extent of anger brewing in relation to this matter. This is a Bracks government attempt to subsidise and bail out the embattled GSO, which is massively underfunded, by merging it with the fully funded ESSS that has operated well from many years and does not need to be changed.

In another slap in the face to emergency service workers the decision will also effectively transfer all management decisions away from emergency services departments and into the hands of Treasury bureaucrats. How can anyone believe the Bracks government? Whilst the Premier has stated that 'there will be no impact upon the benefit entitlements of the members, so the superannuation benefits will not be changed 1 inch [and] the benefits will remain', the fact is that no-one believes him. Is it any wonder that the emergency services unions are now contemplating the imposition of concerted industrial bans to protect their members' hard-fought for rights and benefits! All emergency service officers, who work in stressful and dangerous conditions, deserve security in their retirement.

## VicHealth: sports injury prevention program

**Mr PERERA** (Cranbourne) — I am pleased to advise that the two grassroots sporting clubs in my electorate of Cranbourne were successful in their applications for the 2005 VicHealth sports injury prevention scheme. Injury can be a barrier to participation in sport and active recreation, and many injuries occur when people are participating without access to injury-prevention equipment that is recommended for their sport, or injury prevention training. The 2005 VicHealth sports injury prevention program aims to improve the safety of sporting environments and reduce the likelihood of injury whilst promoting healthy participation. Approximately 630 applications were received from sporting clubs across Victoria.

I met with officials from these two clubs. They are planning to buy more injury-prevention gear in the near future. This will help the clubs provide some of this equipment to those players who do not have their own. It will encourage players who cannot afford the equipment to participate in injury-prone sporting activities. I wish to congratulate Silvia Marinelli and the team at Cranbourne Cricket Club, and also Peter Hyde and his team at Skye Cricket Club, on their fine work.

## Elmore field days: achievements

**Mr MAUGHAN** (Rodney) — The 42nd Elmore and District Machinery Field Days were held on Tuesday, Wednesday and Thursday of this week. I wish to pay tribute to the president, Derek Shotton, and his hardworking committee and staff for once again staging a very professional event.

This year there were 627 exhibitors and the display site was fully allocated. The aim of the Elmore field days has always been to present the newest and latest in agricultural products, machinery and services to assist farmers to perform more efficiently and profitably. This is done not only through static displays of the latest in agricultural machinery but also through comparative demonstrations of tillage, cropping and fodder conservation machinery. There is a prime lamb carcass competition, a program to evaluate merino studs to

assist producers in choosing where to purchase rams to improve performance, shearing displays, fodder trials, and much, much more.

The field days committee consists of 95 members, with a catering committee of 38 members. Since the field days started in 1964 this enthusiastic group of volunteers has spent in excess of $2.5 million on purchasing the site and on permanent improvements, and together with the catering committee it has given in excess of $1.75 million to local community organisations. This is a great example of a community working together.

I congratulate the people of Elmore on the way in which they have worked together for the last 42 years, not only in providing a first-class opportunity for the farming community to keep abreast of the latest technology but also in making an enormous financial contribution to their local community.

## Simon Wiesenthal

**Mr LEIGHTON** (Preston) — I wish to note the passing of a good man, Simon Wiesenthal, who died on 19 September in Vienna at the age of 96. He was known as the conscience of the Holocaust. Wiesenthal was the survivor of 12 concentration camps and himself came within minutes of being executed. I first became aware of his work in the late 1960s when my father, a Holocaust survivor, gave me Wiesenthal's book *The Murderers Among Us* to read.

An architect before the war, Wiesenthal never returned to his profession, instead devoting himself to hunting down the Nazi war criminals who murdered 6 million Jews, including 89 members of his and his wife's family. In 1961 he founded the Jewish Documentation Centre. Wiesenthal played a role in bringing to justice criminals such as Adolf Eichmann, who oversaw the Final Solution; Franz Stangl, commandant of the Treblinka and Sobibor concentration camps; and Karl Silberbauer, the Gestapo officer who arrested Anne Frank.

Sadly in the case of this country the director of the Simon Wiesenthal Centre, Efraim Zuroff, had this to say in his annual report analysing the efforts of governments worldwide:

> Australia remains the only major Western country of refuge which admitted at least several hundred Nazi war criminals and collaborators, which has hereto failed to take successful legal action against a single one.

Simon Wiesenthal explained his role by saying:

> When history looks back I want people to know the Nazis weren't able to kill millions of people and get away with it.

## Juvenile justice: performance

**Mrs SHARDEY** (Caulfield) — I wish to update the house on what has been happening in our juvenile justice system over the last six months. Under Minister Garbutt the system is in turmoil, with claims of sexual and physical assaults on vulnerable clients and juvenile justice workers as well as widespread drug abuse, the intimidation of staff and alleged staff involvement in the smuggling of contraband into detention centres. Additionally there have been a number of notable breakouts by juvenile offenders, particularly the escape of a 17-year-old youth from the new $11 million secure remand unit at Melbourne Juvenile Justice Centre just two days after its official opening.

This youth, who was already facing charges of armed robbery and false imprisonment, has now been charged with committing further serious violent offences while at large. This farcical event caused the minister to announce that she was instigating a full inquiry into the incident. Needless to say — although some weeks later the youth was finally detained — the results of this so-called inquiry have never been made public. The latest escapee, still at large, is a violent 16-year-old teenager who has been charged over bashings, robberies and assaults with weapons and who scaled the high wall in the Parkville centre horticulture section with the help of the previous escapee. The final update from last month involves claims that three first-timers in youth detention at Malmsbury were sexually abused by a teenage inmate who was known to have a violent and very ugly history.

## Drysdale Primary School: fitness precinct

**Ms NEVILLE** (Bellarine) — On Friday, 16 September, I was very pleased to visit the Drysdale Primary School and announce a grant of money towards the establishment of a community fitness precinct for the Drysdale community. The government, through our community facilities fund, is providing $47 500 in partnership with the City of Greater Geelong, which is making a matching grant. The school is contributing $10 000 towards this exciting project.

Through the Bellarine leisure needs study, a joint funded project between the City of Greater Geelong and the state government, we identified the need for additional ovals to support junior sport in the area. The project has the strong support of local community and sporting groups and will be an important asset to cater

for the growing number of young people. The fitness precinct will include exercise stations, lighting to enable night-time use, an irrigation system and the resurfacing of the oval. The students raised money as part of the Olympic day fund raiser in 2004, and this money will go towards the exercise stations.

Congratulations to the school community, especially to the students and the principal, Claire Wilson, and also to Tom O'Connor, a local councillor, for his strong support.

This upgrade will provide both the school and the broader community with a safe modern facility for a whole range of sports and activities that are required to support young people in the Drysdale community.

## Lifeline Gippsland: funding

**Mr SMITH** (Bass) — Last week I had the honour to be the guest speaker at the 37th annual general meeting of Lifeline Gippsland Inc. I spoke to the chief executive officer, Patricia Nalder, and the chairman, Tony Bailey, about the organisation and particularly the funding of a volunteer organisation such as this. I found that its income was $492 000, to which this Bracks socialist government contributed only $38 000. I was astounded that this fine organisation had to raise most of the money needed to keep itself a float. For 37 years Lifeline Gippsland has been working with people who are sometimes very desperate — people who use their telephone service at a time when they are most in need.

The Lifeline Gippsland service which operates 24 hours a day, 7 days a week and 52 weeks a year handled nearly 8500 calls last year and is expecting 10 000 calls this year. As the original Lifeline centre here in Victoria, it has set very high standards for the training of its telephone counsellors who must handle calls from potential suicide victims, people who have lost loved ones, people with alcohol, drug and gambling problems and people with financial and personal problems. The funds its raises, which are considerable, have to come from its Lifeline opportunity shops in the Latrobe Valley and also in Wonthaggi. This service has more than 250 committed volunteers who answer phones and sell goods. I would suggest that the minister responsible look at genuine dollar-for-dollar funding for this very excellent service. It is now one of the only few generalist telephone counselling services in Victoria.

## School of the Good Shepherd, Gladstone Park: music program

**Ms BEATTIE** (Yuroke) — It was with great pleasure that I recently visited School of the Good Shepherd in Gladstone Park to present them with a Commonwealth Games flag. I was delighted to be presented with a wonderful CD which the school has produced. The CD clearly demonstrates the brilliant musical talent which is alive and well in the seat of Yuroke. I heard such talent that I would not be surprised if we have a future Australian idol in our midst. I would like to make particular mention of Francesca Valledares, a senior student in the school, whose beautiful voice features on two of the tracks. This young woman has amazing talent. I thoroughly enjoyed listening to her, and I am sure a wonderful future lies ahead for her.

I would also like to congratulate the principal, Mrs Clare Hilbert, and a music teacher, Mrs Pixie Chong, for encouraging the creative talent of their school community and for having the courage to turn their after-school care building into a temporary recording studio allowing the children to showcase their wonderful and amazing abilities as recording artists. *Celebrations*, the name of the CD, has found a permanent home in my car CD player and it is with great pleasure that I listen to that CD on many drives home after a late night in Parliament. I congratulate all those concerned in the production of the *Celebrations* CD.

## Belgrave: community bank

**Mr MERLINO** (Monbulk) — It was with great pleasure that I took part in the official opening of the Bendigo community bank in Belgrave on Friday 23 September. It was another special day for the Belgrave community. The new community bank follows other recent developments such as the new Belgrave Town Park and the redeveloped Cameo Theatre. Bendigo Bank has played a vital role in promoting community development. Between June 1993 and June 2000, 2060 bank branches closed across the country, a decrease of 29 per cent. This has had a huge impact on communities: the obvious lack of access to banking services, a significant drop in retail activity for local traders; and the intangible impact on the morale of the community.

Bendigo Bank should be applauded for its promotion of community banking. It is tackling this issue in a positive way and provides support and tools for the community to use to achieve its goal of establishing a new bank. The concept works because the process is rigorous. Communities have to prove they support the bank and that it will be a profitable exercise. It has taken Belgrave three years to get to the opening of the bank which shows just how thorough and committed the community has to be to get the green light. It works

because the profits go back to the community. Upwey Community Bank, the parent branch of Belgrave, has been outstanding in its support for a great array of township projects and community organisations. Bendigo Banks are key community builders, not just financial institutions. They have excellent relationships with the local residents.

I want to congratulate Peter Marke, chairman of Upwey Community Bank; Rod Lee, president of the Belgrave Traders Association; members of the steering committee; the managers and staff of the many local community banks; and the local community at large for this wonderful achievement.

## Mexico Independence Day fiesta

**Mr LANGUILLER** (Derrimut) — I was delighted to attend Mexico's national day celebrations in the company of the ambassador and Melbourne's wonderfully artistic Mexican community. I have a message from the Premier which I wish to quote:

> It gives me great pleasure to send my best wishes to the Mexican community in Victoria on the occasion of the Mexican Independence Day fiesta.
>
> While we are half a world away from the Dia Nacional de Mexico and the ringing of the historic liberty bell throughout the country, we are familiar with the clarion call to the people: 'Mexicanos, Viva Mexico'. Inspired by the concepts of freedom, equality and democracy for their people, the priests Fathers Hidalgo and Morales rang the bell of the church, calling the people to fight for independence. On Mexican Independence Day, Mexicans can proudly promote these rights and recognise the efforts of their ancestors who fought for them in their homeland.
>
> …
>
> The Victorian government believes the key to our successful democracy is ensuring all our culturally diverse groups have a voice that is recognised and represented.
>
> …
>
> Victorians have every reason to be proud of our cultural and religious diversity, having built a society based on mutual respect and understanding, learning from our many communities and celebrating together. I wish you well in your celebration of Mexican independence.
>
> Hon. Steve Bracks MP
> Premier of Victoria

In addition, the Mexican community is celebrating the world championship victory of the under-17s in soccer.

## Fountain Gate Tennis Club: volunteer grant

**Mr WILSON** (Narre Warren South) — I rise to inform the house of the success of the Fountain Gate Tennis Club in securing a $3000 grant under the Bracks government's $3 million Victorian volunteer small grants program. The club intends to use the funding to attract new volunteers and to assist many newly arrived migrants and people from culturally and linguistically diverse backgrounds to participate in a tennis program in our local area. This is a most admirable project which reflects perfectly the spirit of community building and our multicultural and tolerant society. The Fountain Gate Tennis Club is an active and resourceful club and this is not the first such community project it has undertaken.

The Bracks government's volunteer small grants program offers organisations such as this tennis club which are keen to attract a broader range of people the chance to make their plans a reality. Nearly $1.4 million has been distributed since September 2004, showing that an incredible range of groups are thinking seriously about how to involve a more diverse range of people in their activities. This includes grants presented to the Narre Warren Community Learning Centre, the Oakgrove Community Centre, Narre Warren South P–12 College and the Casey North Community Information and Support Service in my electorate since September 2004. Tennis is a popular sport that can significantly contribute to the physical activities that help many people lead healthier lives. I commend these organisations.

## Ken Hobba

**Mr LANGDON** (Ivanhoe) — I pay tribute today to the life of Kenneth Richard Hobba. Ken was born on 29 June 1929 and passed away on 3 August 2005. Ken and his beloved wife, Valda, were married on 27 October 1953 and had five children: twins Ian and Lynette and Donald and Gregory, and another son, Leigh.

Ken was not only a devoted husband, father and grandfather but was also a committed sportsman, businessman and friend to all he touched. Ken became known to me through his involvement with the Ivanhoe Bowling Club. Ken's work with sporting clubs was outstanding. He was a founding member and subsequently a life member of the Banyule junior and senior football clubs. He was chairman of the Ivanhoe Bowling Club from 1984 to 1990 and was awarded life membership there as well. Ken sponsored many clubs and there are many honour boards and awards in his name in many of the sporting clubs in my area.

My condolences to his wife, Val, his children, his son-in-law and daughters-in-law, Helen, Kenneth, Diane and Lorraine and his grandchildren, to whom he was known as Pa — Cameron, Mitchell, Tyler, Wade,

Britney, Blair, Remy and Darcy. So devoted a father was Ken that he went halfway around the world and stayed with his dying son, Leigh, for more than two months to support him in his last days. He was a brilliant man, well known as a devoted father, husband and sportsman. Ken, it was a great honour to know you.

## YMCA Youth Parliament

**Ms GREEN** (Yan Yean) — It is a great privilege to speak today about the wonderful team in last week's Youth Parliament from the Whittlesea YMCA. This is the second year in a row I have had the privilege of chairing a debate in the Youth Parliament and seeing all the young people from across Victoria strut their stuff. I have been particularly impressed by the contribution made by the Whittlesea YMCA not only to the debate on the floor of the Parliament but also its involvement in the coordination of the Youth Parliament itself.

This year the Whittlesea team took on a very controversial issue and proposed a bill for the legalisation of gay marriage, the Equal Rights for Homosexuals in relation to Marriage Bill. It was defeated by just eight votes. This has caused some controversy in the local community, but I think it is important that young people are able to speak freely about any issue. If you are not going to think outside the square when you are young, when are you going to do so?

The team put up their bill very articulately, led by Alicia Mathieson, who was the deputy leader of the government. Alicia is a very smart young woman, 17 years old, who attends Whittlesea Secondary College. She spoke very well and was able — even though they are disorderly — to respond to interjections very adequately while on her feet. I wish the team well and I look forward to seeing them contribute again next year.

## TREASURY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

*Second reading*

**Debate resumed from 5 October; motion of Mr BRUMBY (Treasurer).**

**Mr RYAN** (Leader of The Nationals) — It is my pleasure to join the debate on the Treasury Legislation (Miscellaneous Amendments) Bill. There are essentially two elements to this legislation. One amends the State Owned Enterprises Act 1992, and the other amends the Financial Management Act 1994. I will take the latter first.

I have flagged an amendment on behalf of The Nationals, and I want to speak briefly to that. Presumably it will be the subject of deeper consideration in the consideration-in-detail stage of this bill — assuming we get there. Our position as Nationals is that we simply do not trust the government's fundamental intent here. What we are concerned about is that the government is seeking to make an important change to the way in which reporting processes occur in the Parliament, particularly under the terms of the Financial Management Act. The essence of our amendment is that in effect we want to keep the government honest with regard to its assertions as to why this change is being made.

It is said by the government that the necessity for the change in dates has been brought about by a number of factors, primarily to do with the Commonwealth Games. In that regard I refer to a letter from the Secretary of the Department of Treasury and Finance, Ian Little, which has been directed to the member for Pascoe Vale in her capacity as the chair of the Public Accounts and Estimates Committee. This is a letter dated, I gather, 28 or 29 September — the date is not immediately apparent on the face of the document. Be that as it may, the letter in essence shows the Secretary of the Department of Treasury and Finance advising the chair of the committee that because of a range of factors — in particular there is a reference to the scheduling of the Commonwealth Games in Melbourne next year — the government has determined that the budget will be delivered on a date later than would normally be the case. In fact the date nominated is Tuesday, 30 May 2006.

During his contribution last evening, the member for Box Hill set out a number of other factors which he asserts are relevant to the rationale behind what the government wants to do. However, the bottom line is that delaying the delivery of the budget until 30 May 2006 has a compounding effect upon the operation of the Financial Management Act. The government wants to therefore make amendments to the Financial Management Act in the manner set out in the bill under consideration. In particular, what it wants to do is insert a new clause 3A after section 27D(3) of the act. In effect what that amendment seeks to do is extend these time frames so that, as the amendment says:

> … in any financial year the budget for the following financial year (or, if applicable, the current financial year) —

and so on. Basically it is intending to vary the existing dates within the act in a manner which is designed to accommodate the impositions which are said to have

been made upon the Treasurer for next year because of the relevant prevailing circumstances to which his movements are subject. The principle of that is fine. We accept these things happen and that, if you need to vary dates to accord with whatever might be the prevailing circumstances, then that is a reasonable thing. But what we are very concerned about is that the government basically has no need to make this amendment on the all-encompassing basis that it has sought to do. All it needs to do is to make this amendment to accommodate next year's factors. That is the thrust of the amendment that I have flagged. We are simply seeking to limit the amendment the government wants to make so that it operates next year and that after next year things can revert to the way they have always been under the terms of the legislation as it now exists.

The member for Burwood said yesterday, by way of a general observation, that he thought what we were proposing to do by the terms of the amendment was likely to have a broader impact than we are intending — that intention being as I have now set it out. We are prepared to talk about that while the bill is between houses. All we want to do for the present is to flag the amendment with that purpose as its intent. If the government is uncomfortable because it believes the amendment goes more broadly than we intended, then we can hone it to deliver the outcome that we want. We do not have a problem with that. We have no intention at all of causing any disruption to the normal flow of process that goes with the provision and the tabling of reports. But we do say that the fair thing to do is to limit that to next year, if it is the case — and the government has said that it is — so that there are particular circumstances prevailing in 2006.

Insofar as the provisions of our amendments are concerned, that is the essence of them. The other element, though, that concerns us about the proposition that is being advanced by the government is that it does in principle offer an opportunity for the government to be released from time frames that are otherwise imposed on the basis of ensuring that it is the Parliament which is first informed about reports that are prepared, such as those that are contemplated under the provisions of the Financial Management Act. It is the Parliament which ought properly be the first port of call for those reports. That essential principle has already been varied somewhat by the terms of existing forms of legislation. We see this proposal as being a broader extension, a way even further from the slight qualifications and variations that have already been made, and it is to that second aspect of things that we are also concerned.

They are the matters I want to have regard to in the commenting on part 2 of this legislation. I also want to comment on part 3 dealing with amendments to the State Owned Enterprises Act. Those amendments essentially are to do with the timber industry. The timber industry is a matter of great interest and concern to The Nationals, because much of that industry is based in the electorates that The Nationals represent in both the Assembly and the other place. Accordingly the many communities whose lives are based around the existence of that industry are very important to us. The timber industry is very important to Australia. We have about a $2 billion import deficit in timber products in this nation annually. In Australia, and particularly in Victoria, we have a very well-managed timber industry sector.

The industry itself has a history of being extremely responsible about the way it conducts its affairs. The industry of course is extremely heavily regulated. For the main part the sawlog production is coming from land which is of a public nature and is very carefully overseen by different forms of regulation and entities within government. Private enterprise works within those many constraints and does a fantastic job in being able to properly represent its interests and being second to none on a global basis for the responsibility with which it tackles the many issues that come before it.

This bill seeks to achieve outcomes with which The Nationals basically agree. The first of those aims is that the bill will apply a requirement that buyers of timber process that timber domestically. The second is a preclusion for a period of two years of companies and directors of companies who completely relinquished their sawlog licences under the voluntary licence reduction program — VLRP as it is termed — from participating in what are proposed to be the initial auctions of timber that are conducted by the government agency known as VicForests.

We are pleased to see those outcomes. As to the first, one suspects the government has been reluctantly drawn. On 24 February this year I posed a question to the Minister for Environment about this very issue. I asked the minister:

> Is the government going to allow VicForests to sell top-quality sawlogs on international markets instead of ensuring that this unique Victorian hardwood resource is retained for value adding by the local timber industry?

The Minister for Environment in answering the question pointed out that the responsibilities for VicForests come under the hand of the Minister for Agriculture. He refused to say any more about the issue itself. Nevertheless, I am pleased to see that because of

the fact of having raised this issue for consideration by the government, just as the industry itself and so many communities within East Gippsland and across Victoria had been doing, ultimately the government did take notice. VicForests is now being required under the terms of this legislation to ensure the timber that is sold through its agency is being processed here in Victoria. That is a good thing. It is a very important commodity for us in this state. I support the government very strongly in its intentions in that regard.

Be that as it may, on the issue of VicForests generally there are some concerns. The first is a matter I raised in June this year concerning price increases for sawlogs that had been announced by VicForests on or about 10 May. As members will remember, 10 May coincidentally was budget day here in Victoria. Late that day VicForests, without any consultation of any real dimension through industry, announced substantial increases in the price of sawlogs.

VicForests is a state-owned enterprise pursuant to section 14 of the State Owned Enterprises Act. Under the provisions of the Sustainable Forests (Timber) Act 2004 responsibilities for commercial timber harvesting were transferred from the Department of Primary Industries over to VicForests. In essence, therefore, VicForests now has responsibility for the pricing and allocation of hardwood timber resources throughout Victoria. Although the Sustainable Forests (Timber) Act 2004 abolished timber licences and replaced them with an open competitive sales and marketing system overseen by VicForests, the existing licences and permits are to be honoured until they expire. Existing timber licences, and there are many examples, include extensive references to royalty payments.

In clause 15 of the licence there are definitions of the circumstances in which royalty rates may be varied. Clause 15(a), for example, describes variations in charges being based upon:

> … a change in any of the factors used in the determination of that rate.

Unfortunately, though, the specific factors themselves are not actually referred to. Clause 15(b) describes the circumstances in which a general review of pricing shall take place, but it also specifies that such reviews shall occur annually and shall reflect defined factors. On 10 May 2005, budget day, VicForests summarily advised its customers that sawlog prices were going to increase by up to 10 per cent for specified categories of timber and up to 22.5 per cent for the provision of mixed species. That happened, as I have said, without any consultation with customers.

This is going to have a very significant impact upon the industry. What I have asked of the government is that it step into the ring to make sure that VicForests has some accountability to its customer base with regard to these pricing changes. It is no good coming along to the industry after the event to have a sit-down and explain. VicForests needs to be talking to the industry beforehand so that we get a proper outcome on behalf of industry participants. In places like Cann River, for example, about 35 families are at risk of losing their livelihoods because these price increases threaten the capacity of the local mill to continue to operate. I might say that in New South Wales there is a system which operates very well, and I have proposed publicly that VicForests should adopt it as a model for future pricing increases. That system is one which enables the industry to have a running commentary on pricing and the relevant factors pertaining to it and accordingly to participate on a truly proper basis in whatever changes might occur.

The other element of VicForests' operations that is causing concern to the industry is the way in which harvest and haulage in the industry is to operate. As of 1 July next year VicForests will be responsible for supplying sawlogs to the mills, but there is a great deal of uncertainty about how this is going to be achieved and what adjustments will be made to the industry as a result. These new contracts will come into effect after 1 July, and the industry is very worried about the new terms and conditions which will be applied by VicForests. In essence those concerns are to do with, firstly, timing and the way in which this will all operate. We understand that VicForests is still recruiting staff, but it is supposed to implement this new system in the course of the next eight months. The industry is worried about how all that is going to be done, given the significance of these matters to industry and their impact upon the way those businesses function. The issue of timing and the capacity of VicForests to get the necessary assets in place is a matter of concern.

I must say the industry is very sceptical about the consultation process. VicForests has said it is going to talk to contractors before any changes are made, but the contractors are not at all confident that they are going to be listened to in the true sense of the word. They might be heard, but the issue is whether they are going to be listened to. Again I can but refer to the position that has applied with the increases in sawlog prices. Some in the industry are saying that VicForests has got form in this regard, and they are worried whether there is going to be true consultation in every sense of the word.

The third element of concern is the Our Forests Our Future (OFOF) issue, and that would appear to be

accommodated to some degree at least by the provisions in this bill. If the legislation operates so that those who have taken a package under the OFOF program are to be excluded from the tender process in relation to timber, then that at least goes part of the way to addressing these worries, but obviously those in the industry do not want to be facing stiff competition from competitors who in effect have been funded by the government under the terms of the Our Forests Our Future packages. The two-year delay that is proposed under the legislation is at least some step towards that, but it is an issue nevertheless for the industry at large.

The fourth issue is the question of location. When VicForests takes control of the harvesting operations, contractors are worried that they may be assigned coops in locations which are significant distances from where they have their businesses established. Again this is a matter which is going to require extensive consultation with industry participants and stakeholders to make sure that we do not get an outcome which does damage to those important businesses and to the industry at large.

So we have concerns across a range of matters. However, we are not opposing this legislation straight out. We have taken a position to not oppose it, because there are elements of it with which we certainly agree. On balance we have determined that we will not vote against the legislation, but we certainly ask that the matters we have raised be considered by the government — firstly, the amendment that I flagged, and secondly, the issues I have outlined pertaining to VicForests.

**Debate adjourned on motion of Ms DUNCAN (Macedon).**

**Debate adjourned until later this day.**

## PRIMARY INDUSTRIES ACTS (FURTHER AMENDMENT) BILL

*Second reading*

**Debate resumed from 8 September; motion of Mr CAMERON (Minister for Agriculture).**

**Dr NAPTHINE** (South-West Coast) — Looking at the Primary Industries Acts (Further Amendment) Bill, you have to ask several questions: why does the Bracks Labor government hate dogs and cats; why does the Bracks Labor government hate councils and ratepayers; and why does the Bracks Labor government hate the 52 per cent of Victorians who are pet owners? No matter how you look at this bill, it will add significantly to costs for councils and hence for ratepayers. There simply has not been fair, reasonable and genuine consultation with councils throughout the length and breadth of Victoria about this legislation in order to explain its impact on their bottom lines, on their ratepayers and on pet owners. For that reason the Liberal opposition wishes to move a reasoned amendment.

Therefore I move:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted —
>
> (a) to retain the provisions relating to the Prevention of Cruelty to Animals Act 1986; and
>
> (b) following the government undertaking consultation, to reflect the outcomes of such consultation with key stakeholders, including the Municipal Association of Victoria and individual local councils, regarding the financial impact of the legislation on local councils'.

I am pleased to hear the member for Ripon say that the government will take the amendment into consideration and will probably be accepting it because he understands from his own local council that councils have not been consulted about the impact of this legislation on their costs. Let us go to some of those issues and look at clause 20, which requires that councils prepare domestic animal management plans. Proposed section 68A(1) to be inserted by this clause under proposed part 5A states:

> Every Council must, in consultation with the Secretary, prepare at 3 year intervals a domestic animal management plan.

As if that is not enough, proposed section 68A(2) has six paragraphs detailing what must be in that management plan and paragraph (c) has seven items. There are 13 different provisions in that animal management plan which must be addressed by the local council, in great detail and to the satisfaction of the secretary of the department. This will cost an enormous amount of money and I can see the consultancy bills of councils right across Victoria increasing to catastrophic levels. This is going to be a catastrophe — to use a pun — for many councils that are facing this situation.

Proposed section 68A(3) says that the council must renew the animal management plan on an annual basis, and if appropriate, amend the plan, provide the secretary with a copy of the plan and amendments of the plan and publish and implement this plan in an annual report. I have spoken to city and shire councils through the length and breadth of Victoria over the past

two weeks when the house has not been sitting. I have been in Shepparton, Bendigo, Castlemaine, Mildura and Echuca, and, of course, in my own electorate — Port Fairy, Warrnambool and Portland — to raise this issue. The chief executive officers of these councils are aghast at this imposition on them and the amount of money this will be requiring. They say the community is not demanding this level of administration and bureaucracy and expenditure on what is not the highest priority issue within their municipalities. They want to spend their hard-earned ratepayers money on important issues like roads, bridges and human services — expanding home and community care services, expanding services for people with disabilities in their community, and expanding services for people who are elderly and need support in their community. They do not want to be wasting money on consultants and bureaucracy preparing animal management plans on a three-yearly basis, having annual reviews of those animal management plans and covering 13 items of detail on those plans. They are absolutely not satisfied.

I will quote from letters later that say that the Minister for Agriculture has got his head in the sand and that he is certainly not talking to local councils and communities if he believes, as he said in the second-reading speech, that councils can pay for this by simply increasing dog and cat registration fees; that councils can massively increase the dog and cat registration fees to make sure that dog and cat owners pay significantly more to pay for this administrative burden. That is one reason that we will not be supporting this legislation in its current form. We urge the government to go back to the drawing board, consult genuinely with the Municipal Association of Victoria and with councils around Victoria and get its priorities right with respect to the management of dogs and cats. The management of dogs and cats in a community is an important issue, but it is not an issue that requires the level of administration and over-bureaucracy that is required in clause 20 of this bill.

We now come to clause 14, which is another financial disaster for local councils. It is extraordinary what controls the government is imposing on councils in clause 14, which says that if anybody in a municipality wants to bring a dog or a cat or a box of kittens or puppies into the front office of the council chambers and dump them on the council, then it is the council's responsibility to deal with those animals, with all the costs being incurred by the council. If any individual wants to get rid of unwanted dogs and cats, all they have to do is to take them into the council, dump them on the front desk and it will be the council's and ratepayers' responsibility to meet the cost.

What an extraordinary piece of legislation this government is foisting on councils throughout the length and breadth of Victoria. A council will now be responsible for holding that animal, the destruction of that animal, any veterinary attention to that animal and for checking the ownership of that animal. For example if someone fronts up with a labrador and ties it to the front steps of the council, saying, 'This is yours now boys; look after it', the council will be responsible for checking whether that dog has a legitimate owner and whether this owner can be traced. There are still a large number of animals that are not microchipped. This is going to involve an enormous cost.

What are the legal implications for a council when someone hands over an animal and the council takes ownership of it — as this legislation requires them to do; it is not an option — and it destroys that animal? Subsequently someone comes along and says, 'I am sorry, the person who handed this animal over did so in a vexatious manner. They stole the animal from my property and handed it over in a vexatious manner, and you destroyed it!'. Under this legislation this government is forcing councils to do that. How extraordinary! When I point this out to councils and go through the details with them, they are flabbergasted on two counts: firstly, that there has been no consultation with councils on the extent of this legislation — absolutely no consultation — and they are flabbergasted at the implications for councils and council officers.

This legislation is not even about taking animals to a registered pound or shelter. It says all you have to do is take them to the front desk, so they take them to the front desk of the Whitehorse council in Box Hill — the box of puppies or the Rottweiler on a chain — take them to the front desk, pay the rate notice and leave the dog there. This is a disgrace. A number of councils in the Melbourne metropolitan area do not have a local shelter or pound. They use the Lost Dogs Home on the other side of town, so if the animal is taken to the front desk and tied up there, or dumped on the front counter, there is nothing the staff can do with it. This is extraordinary.

People may think I am exaggerating, but let us look at what the legislation says. Clause 14, which inserts proposed section 33A into the Domestic (Feral and Nuisance) Animals Act, says:

> (1) A Council of a municipal district must accept any dog or cat kept in that municipal district which is given to the Council by the owner of the animal because the owner is no longer willing or able to care for that animal.

So anybody who does not want his animal any more takes it along to the council and hands it across, puts it on the front desk and that is the end of the matter. They walk away scot-free with no responsibility and no cost. The council and the ratepayers have got to pay the cost. If the animal needs veterinary attention, if it has a broken leg or mange or cataracts, the council's immediate responsibility is for the welfare of the animal. Again, that is at the cost of the council. This is the most extraordinary, inept, ill-considered, ill-thought-out piece of legislation I have ever seen, and it derives from a lack of consultation. If the government consulted with councils we would not have this sort of inept and inappropriate legislation.

Let us look at clause 17 which is to do with pounds and shelters. It allows the minister to suspend the registration of an animal shelter or pound at any time. One may say that is reasonable and will ensure these animal shelters or pounds are up to an appropriate standard. But most of these animal shelters or pounds are run by councils or on behalf of councils and if the minister withdraws them the council has to deal with the problem. We have a classic case of a city-centric Bracks Labor government putting in laws that suit the bureaucrats in Melbourne, but none of the laws are practical on the ground for councils. We have a situation where the government does not even help the councils.

Let us look at this government's track record with pounds and shelters. I refer to a press release dated 3 November 2002 from the then Minister for Agriculture, the Honourable Keith Hamilton, when he announced funding by the Bracks Labor government for new animal shelters. Three of those shelters were to be in Bairnsdale, Mildura and Portland. Guess what? Here we are nearly three years later and nothing has been built at Bairnsdale, and I understand that the government is now withdrawing from that offer. Nothing has been built at Mildura, and I understand the government is walking away from that offer too — and none has been built at Portland. Not only that, but the agency contracted to undertake this work is the Royal Society for the Prevention of Cruelty to Animals.

What has the RSPCA done? The Melbourne RSPCA has disbanded its Mildura branch and taken $250 000 off that local branch and community and put it in its Melbourne bank account. It has taken $90 000 off the RSPCA branch in Portland and put that in its Melbourne bank account. It is not proceeding to build those shelters. However, I must say that in Portland's case the local council, to its credit, has fought long and hard with the RSPCA in Melbourne, twisting its arm and embarrassing it until there is now some progress and the RSPCA might come to the party on this.

It is the Bracks Labor government that is negligent in this whole process. It happily put out press releases before the last election and announced it would be funding these animal shelters, but it has done nothing to make sure they were delivered. The people of Mildura, Portland and Bairnsdale have missed out on their animal shelters thus far.

Those three clauses alone highlight where this government has not properly consulted with the local councils and the Municipal Association of Victoria, and has produced fundamentally flawed legislation. I would urge the government to listen and respond positively to the reasoned amendment, to adjourn this debate and reconsider this issue. It needs to have genuine consultation with councils across Victoria and get a better outcome, one which is in everybody's interest.

Let me go through some of the other particulars in this legislation. Clause 5 provides legislative power so that councils may refuse to register dogs and cats unless they are de-sexed. It says councils may resolve that they will not, after a future date, register dogs or cats that are not de-sexed unless they are exempt under the act. This again is the state government shifting the responsibility onto the local councils. It may be the appropriate place to shift it, but I urge local councils to consider very carefully any decision they make with respect to this power.

This is a significant issue. Pet ownership is very important; it has significant positive benefits for an individual's health, wellbeing and mental health. It has been proven scientifically to have a positive effect on the wellbeing of pet owners. Growing up with a pet in the house has a positive effect on young people.

**Mr Cooper** — And older people too.

**Dr NAPTHINE** — Particularly older people, younger people and people who may otherwise be lonely. Pets play a very positive role in their lives. Therefore, councils that wish to go down the track of ensuring all animals in their area are de-sexed should consider it very carefully, consult widely and make sure they do not do it in haste. Any council that is proposing to do that would need to understand that it would have to spend a considerable amount of money on genuine consultation. It is not something that can be resolved around the council table without effective consultation. Further on in the clause is the provision that:

> A Council must not register or renew the registration of a dangerous dog or a restricted breed dog unless the dog —

(a) is desexed …

I will come back to that later, because that is another controversial aspect of this legislation.

I also bring the exemptions to the house's attention. There are some exemptions that apply where a council makes a rule that all animals in the community must be de-sexed. I put to the Parliament and to the government an issue — I understand The Nationals will be taking this up — that the Victorian Farmers Federation (VFF) has put forward. A *Weekly Times* article of 7 September reports:

> … the Victorian Farmers Federation wants agricultural minister Bob Cameron to ensure he amends the legislation to exempt working farm dogs from any compulsory de-sexing program.
>
> VFF animal welfare committee chairman Meg Parkinson said the amendments should automatically exempt all working dogs, rather than give individual councils the right to make that decision.

I would urge the government to give consideration to that. There are exemptions from compulsory de-sexing for guard dogs and for dogs that have undergone certain training. I think there also should be an exemption for all working dogs, and I ask that that be considered.

I refer to clause 7, which fundamentally provides for the compulsory microchipping of all animals. There is a lot of support for that. I think the cost of that at microchipping clinics is about $25 and up to $50. It is not cheap for people who are on pensions or health care cards, but it is very important in terms of security, the ongoing management of the animal and the ownership of an animal being able to be traced if it is lost. So we support compulsory microchipping, although there are some issues that I would suggest the government ought to consider.

The bill provides that if an animal has been previously registered with a council it does not necessarily have to be microchipped by the due date, which is in 2007. But an older animal that has not been microchipped but is owned by a family that moves from one council to another would have to be microchipped. I think there ought to be some sort of leeway given to older animals which may be getting towards the end of their lives. There should be a phasing-in period for animals that have not been microchipped, to apply right across Victoria. I think consideration should be given to having the exemption cover even animals that move with their families from one council to another, rather than an exemption applying just for those that stay within the one council area.

Clause 8 provides that:

> Dogs and cats must be permanently identified before sale or being given away.

That will add to the cost and may promote the dumping of animals. Perhaps those animals will be dumped on the front counters of local councils, to be identified at the councils' expense. I am concerned that requiring animals to be microchipped before being given away or sold to an animal business or anything like that may promote the dumping of animals and therefore create a problem in terms of strays. I think we ought to look at microchipping applying when a new owner gets the animal.

There are further provisions that look like bureaucracy gone mad. Proposed section 13 says that if the owner of an animal business gives away or sells an animal which is not registered — that is, if he sells it prior to its being three months of age, when it has to be registered — he:

> … must notify the council with which the animal should be registered, within 7 days after the sale or —

after giving away the animal. So if somebody living in Melbourne sells a dog or cat that is not already registered to somebody living in Winchelsea, the person selling the dog or cat or the owner of the breeding establishment must write to the Surf Coast shire saying, for example, 'I have sold a dog to Fred Smith of Main Street, Winchelsea, just to let you know'. Then the council has to deal with it, so there will be a paper trail of extraordinary proportions. I can understand the intent of what the government is trying to cover here to ensure that animals are tracked and that they — —

**Mr Cooper** — How do you police it?

**Dr NAPTHINE** — How do you police it, as the member for Mornington asks? The bureaucracy is extraordinary. Are they able to send an email to a council saying, 'Dear Council, just want to let you know that I have sold a dog to Fred Smith of Winchelsea.'? What does the Surf Coast shire do with that when it receives it on a Monday morning? As I said, I understand the intent, but it is one of those matters that needs further consultation and work.

There is one minor matter I wish to raise with respect to clause 15, and I ask that the government consider it while the bill is between here and another place. Proposed section 41EA states:

> A person must not keep a restricted breed dog unless the person acquired the dog before the commencement of section 15 of —

this act. Fundamentally, if somebody owns a restricted breed dog they cannot transfer it to somebody else. But you might get the situation where, unfortunately, a couple owns a restricted breed dog and one member of the couple dies. They might even die in a car accident or other tragic circumstances.

**Mr Helper** interjected.

**Dr NAPTHINE** — I think the comment by the member for Ripon would have been better left unsaid, because it is a disgrace. One partner may die in tragic circumstances and the remaining member of the family may wish to transfer ownership of the dog. To not allow the ownership of that family pet to be transferred from one member of the family to another in those circumstances would be inappropriate. I suggest that the government reconsider that.

The bill will make a number of changes to the Prevention of Cruelty to Animals Act, and for the most part the Liberal Party is not opposing and indeed supports many of them. Some are technical in nature, and we are quite relaxed about that. But I want to come back to some of the issues we raised earlier. Let us talk generally about some of the responses from community groups and other people interested in this legislation. The Australian Companion Animal Council said:

> There appears to have been little discussion in this bill with … stakeholders — Australian Companion Animal Council only became aware of the details of the amendments on 7 September.
>
> …
>
> Fifty-two per cent of Victorians own dogs and cats, and the vast majority have been shown to be responsible and caring owners.

With respect to de-sexing it said:

> The proposed legislation and existing programs fail to address the significant population of free-roaming stray cats. This population continues to reproduce unchecked and is the main source of the higher number of euthanased animals in shelters.

Further on it said:

> ACAC supports the identification of cats and dogs as part of responsible pet ownership …

With respect to restricted breeds it said:

> The Australian Companion Animal Council position on dangerous or menacing dogs is that aggression in dogs is not able to be predicted by the visual appearance or breed of the dog, and recommends consideration be given to more sophisticated systems such as temperament tests to identify those dogs with a predilection to bite.

Among its recommendations it said:

> The laws will have a negative impact on pet owners and create a considerable administrative burden for local government and others in the community, with significant potential for poor outcomes.

The Moyne shire in a letter to me said:

> The cost to council of administering the Domestic (Feral and Nuisance) Animals Act … is not recovered by cat and dog registrations in such a sparsely populated rural municipality. The impact of many of the proposed changes under this legislation will result in an increased cost to council which is difficult to recover by increases to the cost of cat and dog registrations.

It also makes the points that it is difficult for a council to determine whether a dog is a restricted breed dog and that it has other difficulties with this legislation.

The Australian Veterinary Association, which I believe has expertise and experience in this area, makes a number of points on this legislation. I refer to its letter to me of 3 October, which states:

> The AVA (Victorian Division):
>
> > agree with prohibiting the sale of dogs and cats unless they are permanently identified;
> >
> > endorse and support the use of microchips as a permanent identification for all dogs and cats;
> >
> > have concerns that the standard of microchip registries in the state (as well as nationally) are regulated to ensure … utilisation of the identification information for the animal's welfare and owner's benefit, as well as registration purposes;
> >
> > agree with councils being required to prepare domestic animal … plans and with the proposed means of generally improving the administration and enforcement provisions …
> >
> > agree with the proposed amendments to the —

Prevention of Cruelty to Animals Act. The Australian Veterinary Association went on to say:

> While AVA policy encourages and endorses the de-sexing of dogs and cats, AVA policy does not support compulsory de-sexing of companion animals. We recognise the advantage of de-sexing, where appropriate, cats and dogs on sale from shelters and pounds as most of our members are supportive of surgery being performed on suitable kittens and pups from eight weeks of age. AVA policy recommends that early de-sexing may not always be appropriate and that de-sexing in those circumstances [be] delayed to three to six months of age … With registration being compulsory at three months of age, there is an age problem in combining registration after de-sexing (AVA … argued that registration not be compulsory until four months of age in debate prior to recent regulation about registration at three months of age). Compulsory de-sexing fails to target stray and feral animals …

> … restricting availability of pets … via registered breeders (pure breeds), may result in prices above that which current and future responsible owners will be willing to pay. This may reduce the ownership of pets … and in so doing, reduce the proven advantages to individuals and families alike of having a pet in the home.

This is the important bit:

> The AVA policy on dangerous dogs does not support the targeting and banning of a specific breed. The AVA believes that the main problem relates to irresponsible ownership and lack of education. Owners should be encouraged to select a suitable type of dog and discouraged to select dogs (regardless of the breed) with aggressive behavioural characteristics … The AVA supports … regulation of proven dangerous dogs. The number of attacks linked to restricted breeds is a very small proportion of the total attacks …

I come to this issue of restricted breeds. The legislation says all restricted breeds and dangerous dogs must be de-sexed, and we support that for dangerous dogs. At the moment restricted breeds are the American pit bull terrier, or pit bull terrier, Dogo Argentino, Fila Brasileiro and the Japanese Tosa, of which only the American pit bull terrier, or pit bull terrier, is available in Australia.

What Dr Matt Makin says about this is reported in the *Warrnambool Standard* of 7 September. It states:

> … Timboon vet, Matt Makin, believes the new laws to be introduced into Victorian Parliament are not the solution to controlling dangerous dogs.

Dr Makin is the national president of the Australian Veterinary Association. He is reported as saying:

> … pit bull terriers and crossbreeds had a bad reputation but were by no means the most dangerous dogs in the community.
>
> 'In the last year about 50 attacks by American pit bull terriers or crossbreeds were reported, amounting to less than 4 per cent of attacks that required a hospital visit so this legislation will leave the larger problem of dangerous dogs unsolved', he said.
>
> … the association didn't agree with legislation aimed at a particular breed but wanted laws relevant to all dogs and owners —

and all breeds —

> 'By and large (pit bulls) are no worse than any dog and a friendly dog can bite but they (pit bulls) have the public perception of being dangerous', he said.
>
> 'Any dog can be dangerous …'

The article also states:

> The United Kingdom banned pit bulls about 15 years ago and the incidence and severity of the dog attacks had not changed as other breeds took their place, Dr Makin said.

Indeed, if you look at the figures in the *Herald Sun* of 23 February 2004, which lists dog breeds and the number of attacks involved, they show: German shepherds and crosses, 132; Rottweilers and crosses 122; Staffordshire terriers and crosses, 14; Rhodesian ridgebacks and crosses, 14; heelers and crosses, 11; Labradors and crosses, 8; pit bulls and crosses, 8; and then it goes down a whole range of other breeds and crosses. There is no doubt that banning a particular breed is not the way to go. Indeed if you look at the article on dog bite and injury prevention by Ozanne-Smith, Ashby and others, you see that it says in relation to dog breed:

> Caution should be exercised in interpreting breed data … Identification by breed proved unreliable, however … because of the uncertainty —

and 'pit bull' seems to cover many other breeds, including crossbreeds.

I do not think there is any evidence to suggest that banning or de-sexing pit bull terriers will reduce dog attacks. There are many other breeds involved. It is about responsible pet ownership, and that is what should be promoted rather than banning a particular breed.

In summation, this legislation has not been sufficiently consulted on with the Municipal Association of Victoria. It will add enormous cost to local councils. It is ill considered, and needs to be withdrawn and reconsidered after consultation with interested parties.

**The Nationals amendments circulated by Mr WALSH (Swan Hill) pursuant to standing orders.**

**Mr WALSH** (Swan Hill) — The Primary Industries Acts (Further Amendment) Bill amends the Domestic (Feral and Nuisance) Animals Act 1994 and the Prevention of Cruelty to Animals Act 1986. These two particular acts would probably be the most amended acts in the life of this Parliament. In October 2003 the Domestic (Feral and Nuisance) Animals Act was amended to actually set standards for microchipping of cats and dogs and standards for the way the microchips were implanted into animals because there had been no standards in the past.

At that time it was identified that there were some seven or eight different databases for registering microchipped pets, but none of those databases actually talked to each other. It was rather ironic that the national livestock identification scheme, which is an Australia-wide process, can identify cattle, but for some reason here in Victoria at the time we had seven or

eight different databases for microchipping pets and those databases would not talk to each other. There was a real dilemma at the time because it was found that councils did not always scan animals when they were impounded and as a result quite often impounded animals were not identified and were actually destroyed or sold rather than going back to their original owners.

We also did some work at that time on requiring secure enclosures for declared and dangerous dogs. One can only assume that the process of having microchip databases that actually talk to each other is now well and truly up and working, otherwise we will have a very serious dilemma when this bill is implemented in the future.

We came back to these acts again in 2004, when the government was going to set up a central register for dangerous, menacing and restricted dog breeds to overcome the problem of tracking dogs where an owner of that category of dog lived in one municipality, in which the dog was registered, then shifted municipalities so that the dog was no longer on that particular list. Again, one can only assume that has been put in place and implemented. The government also reduced the registration age for dogs and cats from six months to three months.

We also dealt with these acts on 10 August this year, which was only 10 sitting days ago. It is rather ridiculous that this house dealt with amendments to this legislation on 10 August, and we are back here in early October, 10 sitting days later, doing it again. In the interests of the efficient running of the business of the house it would have been much easier to have all these things done at once so that we could get on to other issues of running the state.

I can understand pet owners having reform fatigue. We seem to have constant changes coming through all the time. When we introduce legislation we actually need to allow time for its implementation and for it to work through the system to see if it achieves its intended consequences. Over the past two years we have done some quite significant things to ensure responsible pet ownership in this state, so I question the fact that we are coming back, in this instance 10 sitting days later, and amending these acts again. Back in August we set out to make sure the registration of interstate orders actually applied across state boundaries, so that if someone had a menacing or dangerous dog in New South Wales and shifted to Victoria that order was transferred across. We also introduced the power to seize dogs suspected of offences or attacks and allowed that those dogs could be destroyed if the owner had not supplied a current address or the owner was unidentified.

There have been quite a few things done in the last two years that could make sure we have some of the issues dealt with. As I said when we debated the previous bill on 10 August, we firmly believe pet ownership is a responsibility — it is not a right — and, as such, people have responsibilities when they own pets to make sure they do not have off-property unintended impacts on third parties.

I turn to the changes to the Domestic (Feral and Nuisance) Animals Act. From 1 May 2007 councils will only accept new registrations for cats and dogs if they have been microchipped. Councils will have the power by order to require microchipping for renewals if that is the way the council wants to go. They have the power to make some exemptions, and I will come to The Nationals' amendments on that later. They make it an offence to sell or re-house an unchipped cat or dog, so even if people are giving those animals away it will be an offence in the future. They also require each council to develop a domestic animal management plan.

I did not hear all of the contribution by the member for South-West Coast, but I know he was very focused on the fact that there is a lot of cost shifting going on in this bill. We are passing legislation here that is going to put quite significant costs on local councils. The Nationals have had several letters from councils that are quite concerned about this. Here we go again — we are requiring the preparation of a plan. We seem to spend quite a bit of our life in this place preparing legislation; we are actually now going to prepare plans. What we have to do is make sure there are less plans prepared in this state and there are more plans actually implemented to get things done. But from the briefing that we had it is my understanding that councils are going to be given a model plan that they can work off into the future so it will not be quite as onerous a task on councils as it would first seem.

The bill gives a council powers so that seized animals can be either sold in accordance with a code or destroyed. One of the dilemmas facing council pounds at the moment is that once they impound animals they have to keep them for quite a length of time, and that is a cost for the council. We need to make sure that we do not end up with a lot of unwanted cats and dogs in pounds. One of the big issues arising from the feedback we have had on this bill is the requirement for councils to accept surrendered cats or dogs at pounds. This is potentially quite a significant cost on councils.

**Mr Helper** interjected.

**Mr WALSH** — Depending on the resources at their disposal. If the dogs and cats that they have to accept at pounds have to be destroyed, that is a cost because they will have to bring in a veterinary officer, or whatever, to do some work there.

This bill requires compulsory de-sexing of dangerous and restrictive breeds of dogs as a prerequisite for registration. This is the issue that some breed societies are quite concerned about — that this is effectively the death knell of some particular breeds in Victoria because if they are all de-sexed there will obviously be none of that breed remaining. The bill also prohibits the new registration of restricted breeds that have not been de-sexed, so if there is any transfer of dogs from interstate, or whatever, that is going to cease in the future.

One amendment in this bill will allow councils to make confinement orders for cats applying to specific parts of municipal districts. I spoke on this issue on 10 August when we talked about the previous bill. Cats are probably one of the biggest environmental vandals in Australia as a result of the damage they do to our native fauna and small animals. Animal shelters in Victoria get something like 48 000 unwanted cats per year, and 32 000 of those cats have to be destroyed by those shelters. Anyone who drives along country roads or goes spotlighting at night would be well aware of the cats' eyes that they see around the country. I suggest that 48 000 unwanted cats that are handed in is only the tip of the iceberg of the feral cats that are spread across Victoria.

If the government were keen to improve its environmental credentials, I think there would be a very good case to have some sort of campaign to control or potentially eliminate feral cats across Victoria. They are, as I said, probably the biggest environmental vandal that we have and do the most damage to our native fauna in the state. After the government reintroduces the fox tail bounty, perhaps we could have a cat tail bounty and make sure that we rid ourselves of feral cats in Victoria. After the introduction of the fox tail bounty, let us think of having a cat tail bounty!

The last issue on the Domestic (Feral and Nuisance) Animals Act I would like to touch on is this issue of allowing the routine incorporation of documents into regulation. I think we need to be careful about allowing documents or things to be done routinely that could potentially bypass the regulatory impact statement process. The discipline in having a regulatory impact statement and having to go and consult with people who know what is going on is an important principle to maintain in this place.

I turn to the amendments to the Prevention of Cruelty to Animals Act 1986. There are some quite significant changes in this part of it. It ensures that when we talk about excessive confinement of animals, it is confined to single animals in a cage, not just to multiple animals in a confined area. It clarifies the offence of not providing sufficient food, drink or shelter for an animal and takes away the necessity to prove an intention to cause pain or suffering to an animal in the future. It amends the inspector's powers to take samples from animal carcases on properties. It allows inspectors to impound and deal with animals abandoned on private property. I know this has been a particular issue in my electorate in one case with horses that were not being well looked after, so it lets inspectors have some more power there.

It deals with the issue of the granting of permits to run rodeos and rodeo schools. As was detailed to us in the briefing that we had on this bill, for some strange reason people who run rodeos quite often do not come in to get their permits until the last minute. It defies logic to me when to run a rodeo that you need to have your ground booked, you need to advertise, you need to make sure you are going to get a crowd, so there is obviously a very long lead time in running a rodeo — months and months — so why would the person running it want to get their permit at the last minute? I find that rather perplexing, but this provision gives the right for the refusal to issue a permit if it is not lodged 28 days before that particular rodeo. That then gives the relevant authorities an opportunity to check the credentials of the people who are running that rodeo.

The circulated amendments that The Nationals intend to move deal particularly with farm dogs. It is important that we have a definition of primary producer in the bill so that we can make sure they are legitimate primary producers and that their working dogs will be exempt from certain requirements. We want to insert a new provision in section 10D so that genuine primary producers with farm working dogs do not have to go to the expense of having those dogs microchipped.

The Nationals were told that most people tie up their farm dogs at night to make sure they are kept on their properties. Farmers do not want those dogs wandering all over the place as town dogs often do. Those people living on the interface of shires quite often face the trauma of having their animals killed or mauled by town dogs that roam all over the place. However, the vast majority of farmers make sure their dogs are tied up at night. When they get up in the morning they want

to make sure the dogs are there so they can take them to work. We believe the vast majority of primary producers are responsible working dog owners. Therefore we seek an addition to the exclusion part of this bill so those dogs do not have to be microchipped in the future.

Through our amendments, and we seek the support of the government, the Liberal Party and Independents, we want to exclude farm working dogs from being de-sexed. Instead of leaving it to the discretion of councils, we would like an exclusion put in the bill so that the farm working dogs of registered primary producers do not have to be de-sexed. Again, a farmer may not be a registered breeder of dogs but may want to breed from his farm working dogs. He or she should not have to make sure those dogs are de-sexed.

In seeking the support of government we particularly seek the support of the members of the rural caucus of the government, who I would have thought would support the amendments we are talking about. The members of the Labor Party country caucus pretend to stick up for country Victoria. Here is an opportunity for them — —

**Mr Trezise** — They know who looks after them!

**Mr WALSH** — I do not consider Geelong to be a country area. Here is an excellent opportunity for other members of the country caucus to prove their country credentials and support The Nationals' amendments so that farmers do not have to de-sex or microchip their farm working dogs in the future.

In conclusion, The Nationals have great empathy with the member for South-West Coast and the issues he raised. I have six councils in my electorate, and every time I meet with them they constantly talk about the issue of cost shifting. We can relate to the issues raised by the member for South-West Coast. Councils will have to have management plans for cats and dogs in their municipalities, and they will have to think about what they have to do and do not have to do to implement that plan. It will be a cost on those councils.

In the future it will be compulsory for council pounds to accept any cats or dogs left at the office counter. How will they deal with those animals in the future? We need to provide an avenue for people who have unwanted animals. I support the concept: people need to be able to take those animals to a registered place to dispose of them rather than taking them out to country roads and dumping them. I would have thought that, with the implementation of this bill and the potential to take away the first wave of animals whose owners do not want to microchip or de-sex them, people could have the option of taking their animals to their council to have them humanely disposed of. Perhaps the government could consider giving some compensation to councils over the first 6 or 12 months of the implementation of this bill to take away the cost burden from councils.

Councils have numerous social obligations other than their core responsibility for roads, rubbish and — —

**Ms Beattie** — Rates!

**Mr WALSH** — Rates, roads and rubbish! They are picking up more social obligations all the time. As I said, councils in my electorate are constantly concerned about this issue of cost shifting. This is another example where we are passing legislation in this place which is putting more onerous responsibility on local government and more cost on local government to achieve a public good but there is no revenue stream attached to help local government implement any of the changes in this legislation.

**Mr HOWARD** (Ballarat East) — I am pleased to speak in support of the Primary Industries Acts (Further Amendment) Bill before the house today. It is quite remarkable. Having heard the contributions from the two previous speakers it sounded as though there were two different bills being debated. We had an unbelievable presentation by the member for South-West Coast for the Liberal Party. You have to wonder what is in the water the Liberals are drinking at the moment. Is it desperation, is it leadership rivalry, what is going on?

The speech the member made did not relate to the bill or the facts before us. He talked about government members maybe not being in touch but from what he had to say he is clearly not in touch with responsible councils in his region. I have a regular working relationship with my councils, and none of them has said to me that they have great concerns about this legislation. Basically they all understand that this is a responsible addition to the acts they are already carrying out. The comments the member made are just so out of this world and unrealistic that they show he is out of touch.

On the other hand we heard from the member for Swan Hill that this is a sound, sensible bill. The Nationals have some minor concerns with the legislation but they essentially recognise that this is an appropriate bill, as does the community at large. They recognise that cats cause great problems in our communities, particularly from an environmental perspective, and we need to do

more to ensure that cats are controlled. In terms of registration, now that we have the technology available in relation to microchipping we will be enforcing microchipping from 1 May 2007 — we are giving plenty of notice on that. We see this as an opportunity to know who owns the cats and dogs out there and to be able to control cats which are not owned by anyone in particular. The issue of menacing or dangerous dogs is also of grave concern.

It is very interesting that in yesterday's *Sydney Morning Herald* we heard of another rather horrendous situation where an American pit bull terrier attacked its owner and ripped off his ears. The man owns three American pit bulls. According to the article:

> The 49-year-old man is in a serious condition in John Hunter Hospital following the attack yesterday in the backyard of his Ellalong home, near Maitland on the central coast.

This is an horrendous case where American pit bull terriers have attacked not a stranger but their owner and ripped off his ears and seen him hospitalised. It shows that there is legitimate concern in our community about some breeds of dogs, including menacing dogs and the need to tighten our controls in regard to them.

Time does not permit me to go through the bill in detail. The member for South-West Coast raised a number of issues in regard to this bill, including the issue of people being able to bring unwanted cats or dogs into the council and the council having to accept responsibility for them. The member for South-West Coast said this was a dreadful thing — how can councils be expected to cope with this? If he knows his councils, and I genuinely believe he does, he will know that most councils accept cats and dogs brought to them and recognise that they have a responsibility to deal with them.

In reality it is not as though people regularly just bring the cats and dogs into the main office. People normally ring the council ahead of time and ask what they can do or they contact the council which can advise them of an appropriate place where it knows the animals can be appropriately dealt with. We know that the majority of councils are doing this at the moment and it is simply a matter of ensuring all councils can provide that facility.

We heard, again from the member for South-West Coast, how horrendous this requirement for a management plan in regard to the management of cats and dogs in a municipality will be, and how consultation has not taken place with the Municipal Association of Victoria or other bodies. Yet we know there is already an agreement in place with the Bureau of Animal Welfare, the MAV, industry-delegated people and other municipal professionals to work up a model domestic animal management plan. Councils will not be required to get in consultants and do a great deal of work to put together their own municipal management plans from scratch — a model plan will be developed with support from the MAV, the Bureau of Animal Welfare and other professionals in the area. That plan will go to councils for them to amend to suit their particular circumstances.

This will not require a great deal of work from councils. It is something that responsible councils recognise they should do and they welcome it. It shows that the MAV and the Victorian Local Governance Association have been involved in these discussions. They are prepared to work on behalf of their member councils and councils across Victoria to assist in this process.

We heard concerns about cost shifting but we know councils collect registration fees for cats and dogs. The City of Ballarat recently upgraded its plans to register cats and dogs in the municipality. It has advertised appropriately and has shown that it is pursuing the matter to increase cat and dog registrations in the municipality. This is something all responsible councils accept they have a responsibility to do. They collect the registration fees, and they are required to put those registration fees towards works associated with the registration of cats and dogs.

It is not a matter of cost shifting, it is matter of them being able to use the funds they collect presently to do the work they are supposed to do with those funds. This management plan is a matter of showing that that work has taken place so members of the public who pay registration fees can see that the money is going to the work the council is supposed to do. It is not as though this is an horrendous new imposition on councils, it is something many responsible councils have been working on for some time. It is an extension of what we know needs to happen and will mean it can now happen more effectively through microchipping technology.

Within this bill and the work done around it we have been working to ensure there is a universal registration system for microchips. I think this bill should be supported by all members of this house. The Nationals have suggested that they intrinsically recognise all of the issues raised in the bill. They have a couple of minor concerns which as a country MP I have a little bit of trouble accepting. I know that farmers and primary producers who have working dogs on farms are normally responsible and tie up their dogs at night and so on. Then again, most city people who have dogs are also responsible. If they have bought their dogs and

want to keep them, they keep them tied up at night. However, unfortunately some do not.

In every element, whether it be in the country or the city, there are dog owners who are not responsible. Hence the requirement for this legislation and other bills the government has brought forward. They are not for the majority of good cat and dog owners, they are for those who own cats or dogs and do not recognise the responsibilities this and previous governments and councils have worked to educate them about. This bill is a very sensible way forward. It ensures a tightening of regulations and deals with issues which the community in general has had great concern about for some time. I support the bill.

**Mr COOPER** (Mornington) — By arrangement between the parties, debate is now going to be restricted for all members. I will therefore stick to those rules, regardless of the fact that I have a significant amount to say on this bill.

Wanting to do something, as the government does, to deal with dangerous dogs is one thing; doing it effectively is certainly another. In this regard members of the opposition are very disappointed with this bill, because we can see that it has flaws. Not only do we see that it has flaws, but we are joined in that by a number of organisations, not least the Australian Veterinary Association. It said, in a press release it put out just the other day:

> The Australian Veterinary Association … says the Victorian government's proposal for new legislation that will require declared dangerous dogs and restricted breeds like pit bulls to be de-sexed is not the solution to adequate control of dangerous dogs.
>
> …
>
> 'Countries including the UK banned pit bulls about 15 or so years ago, and the incidence and severity of dog attacks in those countries has not changed as other breeds took their place', says Dr Makin …

Dr Makin is the national president of that association. He went on to say:

> This is more evidence that irresponsible ownership of any large dog is much more likely to be the causative factor for most serious dog attacks.
>
> Sadly, governments are merely taking the politically easy option of wanting to be seen by the public to be doing something but failing to provide a solution that addresses the underlying problem …

That is — if I can use a phrase used by church ministers on Sundays — my theme for today. It has been my theme on the many occasions we have talked on bills relating to the control of dogs, and particularly the control of dangerous breeds or dangerous dogs.

As Dr Makin has said, the irresponsible ownership of any large dog is much more likely to be the causative factor for most serious dog attacks. He is quite right. His is a statement of fact, a statement of commonsense and a statement that will be made by people who understand the problem. Anyone who has had anything to do with owning dogs, particularly those who have had significant interests in them over many years — as I have — will know that you have with that ownership a set of responsibilities that must be met. That comes down to the training of the dog, and as part of that there is the training of the owner as well.

If people are allowed to buy dogs, particularly large dogs, and then simply take them home and put them in the backyard, they are going to end up with dogs that are going to cause problems. Dogs need to be socialised. Owners need to understand how to go about that, and they need to know that continuing the obedience training of dogs is absolutely essential. Otherwise they as owners and members of the community are going to have a problem. In every publicised instance where a dog attacks someone and injury is caused, if you go back down the line you will find that that dog has not been trained effectively or properly by the owner, which means the owner has failed to carry out his or her responsibilities in regard to the ownership of that dog.

The penalty is paid by the dog, which is invariably put down because of the attack. The owner may get a fine of some size or other, but it is certainly not a disincentive to the future ownership of a dog — and so they go out and buy another dog. Something has to be done about this. I have pleaded with this Parliament on many occasions to do something about it. Here again is an opportunity that the government had to address the issue, but it is an opportunity lost, an opportunity forgone.

I say to this government that if it is going to do something to deal with problem dogs it should start with the areas of purchasing, ownership and training. It should be mandatory for people who purchase dogs to take them to dog obedience schools. People should not be allowed to continue to own a dog unless they have gone through, and continue to go through, a significant course of training in controlling that dog and basic training such as the dog coming back to its owner when it is called, sitting when it is told to sit and staying when it is told to stay.

They are the main issues that need to be dealt with. If they are not, we are going to continue debating this issue for time immemorial. I plead with the government to do something about this — to not just talk about control of larger dogs and dangerous dogs, but to do something positive in the cause of making dog ownership more responsible.

**Ms GREEN** (Yan Yean) — I rise to make a brief contribution to this legislation. I will confine my comments due to time constraints, but I want to say that I particularly support the provisions in the bill that pertain to microchipping. As an owner of a wandering beagle myself, I have found it a great comfort. Anyone who knows anything about beagles knows that they wander. It has been a relief for our family, particularly our children, that we have been able to have our dog, Jube, identified in this way so that she can be easily found. That will be good for all owners of dogs or cats.

The requirements for councils to accept surrendered cats and dogs are not unreasonable. I agree with the member for Ballarat East — I really do not know what sort of water the Liberals have been drinking recently, because what they are suggesting does not make sense. Dog owners pay registration fees, and it is not unreasonable for councils to provide some service. To accept those cats and dogs, particularly cats, means that those cats are not out destroying wildlife.

I want to make mention of Nillumbik shire which is in my electorate. It has an excellent pound and has received a national award for its pound management. Other councils would do well to look at the way it conducts these activities. I talked about our wandering beagle before, and it has given us great relief when we have been able to check on the Internet, outside the pound hours, to see if our dog was there. There have definitely been photos taken of her behind bars after she has been found. The ranger takes a photo of the dog and puts it on the Internet, which is really good for owners worried about a missing pet.

The domestic animal management plans are a very good innovation for councils, particularly in relation to cats, as I referred before. Up to only half of the cats in Victoria are registered, and they do pose a real and genuine threat to wildlife. Also, this management plan will be really good for the interface of councils. That is one of the things that farmers have said. Almost 20 per cent of Victoria's primary produce comes from the Port Phillip region of Victoria, and this will assist in making farming easier to continue in these interface areas. One of the things that the Whittlesea branch of the Victorian Farmers Federation has raised with me is that of wandering domestic dogs attacking their livestock. This legislation will ensure that councils take a greater responsibility for this and intercede with owners where this is a problem.

In relation to dangerous dogs, the community expects that we take action on this issue. I was appalled to hear the comments from the member for Ballarat East regarding the terrible situation yesterday of a pit bull type dog in Sydney attacking its owner. I had a dreadful experience when I was a teenager visiting the next-door neighbours. There was a dangerous dog which we had been concerned about — it had often wandered off from the property and attacked me. But on this occasion it actually knocked over a toddler who was residing in the house and attacked my sister and nearly tore out her throat. She was lucky to live. Under the laws that existed in Victoria at that time, it took some three years for that dog to be destroyed.

I do not want to see that happen to any other family. It was a horrific time for us. My good friend and constituent, Gill Patton, was horrifically attacked by a pit bull-type dog late last year and has had to have extensive plastic surgery. The side of her cheek and mouth were very badly damaged. I only heard about it when I saw her shopping, and I was just horrified. She is still recovering now. I do not want to see that happen to anyone else.

In relation to The Nationals' amendment with microchipping and their suggestion to exempt the animals of primary producers, I am a member of the country caucus along with a number of other Labor Party members sitting in the chamber at the moment and I understand where they are coming from on this. This provision is actually going to protect working dogs as well. Microchipping is important. Members of our family have had great working dogs stolen from their properties which is a cost to them and also a great sadness. Microchipping of all dogs will assist with return when issues like that occur. I do not support that amendment.

In relation to the contributions from the Liberal Party, we have heard a lot of yapping in here, but we are just seeing again that they are barking mad! I urge the house to support the bill and thank members for the opportunity of making a contribution to the debate.

**Mr DIXON** (Nepean) — I wish in my contribution to this debate to follow up an issue raised by the member for South-West Coast about the lack of consultation with councils around Victoria. This bill has serious monetary and organisational implications for our local councils. They are being asked to carry too onerous a burden. Although the premise behind this bill

and where it is heading are good — and I commend the government on that — the practical applications have not been discussed with local councils. Subsequently they are not happy with it. A far better job could have been done with this legislation if it were far more practical in the way it can be carried out by local councils.

The Mornington Peninsula Shire Council recently passed by-laws — and this legislation will confirm them — for compulsory de-sexing of all pet cats and dogs in its shire. This is an overreaction and is impractical. It is a huge expense to a lot of pet owners. When I consider the number of people on a pension in my electorate who have companion animals, I know that this will be an onerous expense on them. It is a very heavy-handed and impractical reaction to some of the problems we have with our pet and domestic animals.

The final point I wish to make is one that the member for Mornington made. He knows a lot about domestic animals and he has had a consistent line. I agree. Animals are not a problem in our society — it is the owners. The owners feed the pet animals; cats and dogs do not feed themselves. The owners train the animals and have responsibility for fencing and disciplining them. In any legislation we bring into this place to do with the control of domestic animals there has to be far greater emphasis on the owners. We should have massive fines and compulsory education programs of a practical nature. That is the sort of legislation we should be bringing into this place. We should not have this heavy-handed approach to some breeds and some people. There should be a far greater onus on owners — it is a responsibility not a right.

A few years ago my wife and two children came home one afternoon at about 3.30 — I was here actually — and were confronted by a dangerous dog that had escaped. It killed our family cat that we had had for 17 years and attacked my family. They had to ring the local shire from inside the car because they were bailed up in the car. That dog is still going; it is still there. The owners had a dreadful bit of fencing. They were given a slap over the wrist and told to fix up their fencing. That is the wrong emphasis. Those owners should have been fined an incredible amount to the extent that they thought it was not worthwhile having their dog. Just fixing the fence and putting up a couple more palings is not good enough. Our emphasis is wrong — it is much too reactionary — and we must be looking at owners and their responsibility in this sort of legislation.

**Mr TREZISE** (Geelong) — I am also pleased to be supporting this bill because it puts in place very important initiatives as they relate to responsible pet ownership in Victoria. I do not know what the figures are, but the ownership of dogs and cats in our society is very prominent. As the owner of a pet dog, and one who understands the important responsibilities of that ownership, I must also say that I partly agree with what the member for Mornington said about compulsory training and education for dog owners.

There are two points I would like to briefly touch upon. Firstly, and most importantly, I would like to wholeheartedly support the further restrictions we are placing on dangerous and restricted dog breeds. For all intents and purposes some of these dogs that are kept in suburban backyards are inherently bred to attack and kill. I do not say that lightly. You may as well have a lion or a tiger in your backyard as have some of these breeds of dogs. Such a scenario of a lion or tiger in your backyard would not be accepted by our community and neither should some of these breeds. I therefore fully support the initiative of making the de-sexing of dangerous dogs compulsory as a requirement of registration or renewal of such.

It is my personal opinion that there should be no exceptions for guard dogs on industrial premises as contained in the bill. Given that numerous initiatives in this bill are good, this is one small concern to me. I am happy to support the bill. The other area I would like to touch on is microchipping. Dog and cat collars can be dangerous in that they can be caught on fencing et cetera. They can also readily fall off or not be kept on a dog or cat if they are in the backyard.

Only last Saturday I spent the afternoon looking for my mate's dog out in the streets of East Geelong, and I know the party whip lost his two dogs last Tuesday night and was out on the streets of his electorate at 1.30 a.m. looking for them. The story about the whip's and my mate's dogs is that they were both found. Microchipping is a good initiative and will be far more reliable than the old collar-and-tag system. I therefore support that initiative and all the initiatives in this bill. It is good legislation, and I wish it a speedy passage through this house.

**Mr DELAHUNTY** (Lowan) — This very important Primary Industries Acts (Further Amendment) Bill has two components. One amends the Prevention of Cruelty to Animals Act 1986 to generally improve the administration and enforcement provisions of that act, and from the consultation I have done everyone seems to agree it is needed. The other component of this bill amends the Domestic (Feral and Nuisance) Animals Act 1994. In the short time I have to speak on this bill I will not be able to cover all its

aspects, but I would have to agree with a lot of the sentiments of the member for Geelong.

Some concerns have been raised by the member for South-West Coast and the Deputy Leader of The Nationals in relation to the implementation of this bill, particularly as it affects country Victoria. We know that from 1 May 2007 councils may only accept new registrations of cats or dogs if they are microchipped and that they may require microchipping for renewals, with a power to exempt. There are also requirements in this legislation for each council to develop a domestic animal management plan, and I will come back to that a bit later. The bill says that seized animals must be either sold in accordance with the code of management for shelters and pounds — that is, wormed, vaccinated, de-sexed et cetera — or destroyed. I highlight that it requires councils to accept surrendered dogs or cats. My understanding is that that means not only the ones that are registered but also any dog or cat that is found in the community. I will also come back to that a bit later because of the concerns I have had raised with me.

At the end of the day, as highlighted in the debate so far, there has been a lack of consultation, which is indicated in some of the letters I have received. There is concern about the enormous costs this is going to push onto councils. Even though they get funds from registration fees, the reality is that a lot of irresponsible pet owners do not pay registration fees, and they are the ones who are going to cause more cost for the community, particularly for those who do register their animals. As I said, I sent this bill out to all seven local councils in my area. I also made it available to many individuals within the community, because a lot of dogs, whether working or domestic, and cats are companions for people, particularly the elderly, and are a kind of security blanket, again particularly for the elderly. Most registered dogs and cats are well cared for by what I call responsible owners, but as we know, they are only the ones who pay registration fees. The legislation is trying to pick up on the many who do not pay registration fees and do not look after their dogs and cats. They are becoming a problem, and that is the reason for this.

As I said, the responses I received highlighted the lack of consultation, particularly with local government, and concerns over cost increases. I received an email from Colin Mibus, director of municipal services at the West Wimmera Shire Council:

> … this was … discussed at council's meeting on 22 September … it was resolved to write to Minister Cameron advising that West Wimmera shire does not agree with the amendments and request that it be revoked. The particular section that council does not favour is that councils are expected to accept animals that are no longer wanted. This is seen as another area being placed on council … This will be an additional cost burden —

for the West Wimmera shire, one of the smallest in western Victoria. That email highlights a concern raised by the member for South-West Coast. The Horsham Rural City Council sent me a very extensive letter covering two pages of this bill. The council supports the majority of amendments to the legislation but:

> The act of microchipping cats/dogs does nothing to control the breeding up of unwanted cats/dogs.

The letter goes on to say that the following is of particular concern to council:

> The state register of microchipped animals needs to be improved, as Horsham Rural City Council has contacted the registry in the past and due to the privacy legislation could not obtain the owner's name. The registry advised that they would contact the owner but this did not happen.
>
> The registry must be permitted to provide names of anginal owners if contacted by council law enforcement staff.

I know there are staff here listening, and if microchipping is to go through, I hope they can advise the minister on how the registry operates. That is because a major concern of the council that I represent is a lack of cooperation from the state register of microchipped animals and, more importantly, how it cooperates with the law enforcement agency, being the council in my area. The letter goes on:

> The requirement for the Horsham Rural City Council to prepare a domestic animal management plan is an excessive waste of resources and time as council, through a proactive policy, does not have a feral or unowned animal problem.

I would like to think that was true, but I will take their word for it. The letter continues:

> There is no objection to the act change that will give council the power to require the compulsory de-sexing of cats and dogs, as this power currently exists by council who is able to make such local laws.

I believe some councils are doing that. The council accepts surrendered dogs and cats but does not believe it should be made mandatory:

> If regulated, council does not believe it is fair to add the cost of accepting surrendered cats and dogs onto the annual dog and cat registration fees.

What the council is trying to say is that those who do pay fees are going to have to cover the cost of the others who do not, so there should be higher penalties for those who do not register.

> Council does not have an objection to the compulsory de-sexing of dangerous and restricted breeds unless exempted by council on veterinary advice.
>
> …
>
> Council also wishes to advise that it has no concerns with the proposed changes to the Prevention of Cruelty to Animals Act 1986.

Overall the council accepts most of the bill, but it has raised some concerns. I have a couple of private letters, and I will finish with those. One is from Mr Ralph Dunn of Grassdale, Victoria, who thanks me for the opportunity to comment on the bill:

> … I do feel the Primary Industries Acts (Further Amendment) Bill would be a serious mistake in its present form and I list the following reasons:
>
> The loss of valuable genes if all dogs were de-sexed.
>
> I have worked on properties for a lot of my life and I have known some brilliant dogs in my time, not dogs bought from kennels but dogs bred from good working parents and this would have a disastrous effect on the farming and pastoral industry.

He goes on to say:

> Even regarding the de-sexing of cats I believe that many children would lose a much-loved pet … I had two cats de-sexed and it is not a cheap operation.
>
> I believe many of the cats would be abandoned resulting in a greater number of strays and feral cats.

That is probably true. Another letter from George Powell in my electorate, which I want to highlight, states that he is totally incensed with the Primary Industries (Further Amendment) Bill being read for the second time. He goes on to say:

> There will be a high cost impost on those who depend upon a dog for security/ companionship — namely, the aged and infirm.

He also mentions property and protection costs and reduced police and crime, and says that this government chooses to ignore the present benefits that the government and insurance industry get from companion animals. He is also concerned about notices being served on owners or custodians who cannot be located. I do not have time to go through the rest of the bill, but in general I believe we need to support the reasoned amendment put forward by the Liberal Party. I have highlighted some of the letters that I have received about the lack of consultation and the increased cost that will be imposed by this bill.

More importantly I want to highlight the point — and in particular I refer to the amendments circulated by the member for Swan Hill — that dogs that are owned by a primary producer or dogs that are being used by a primary producer as farm working dogs should not have to go through the process of being microchipped. I want to highlight that, because in the Lowan electorate there is the great town of Casterton, with its population of about 2500, which has a special place in Australian farming history. North of Casterton is Warrock station, the home of Australia's working kelpie. Casterton has the kelpie festival each year, which is a great event. If members ever get the opportunity to go there and see the working kelpies operate, they will be impressed. It is a real highlight. That point reflects one of the concerns about this legislation that we in The Nationals have.

As a country member I indicate that we should accept the amendments to be moved by the member for Swan Hill.

**Mr HELPER** (Ripon) — I wish to make a brief contribution to allow others on this side of the house to make some valuable points in support of the legislation. The point that I want to pick up comes from the contribution of the member for South-West Coast in moving his reasoned amendment. I would have expected a more sophisticated contribution from this member, given his professional background. But alas, it was a very negative, carping, whining, whingeing, oppositionist, bleating contribution from the member for South-West Coast. He went on for quite some time barking out his opposition to the legislation, particularly in reference to clause 20. This clause refers to the responsibility of councils to prepare domestic animal management plans. This seems to be some sort of an affront to the member.

Let us go through the legislation and have a look at some of the things that I would have thought were commonsense and that need to be incorporated by councils in these domestic animal management plans. They are things like the encouragement of responsible ownership of dogs and cats. I would have thought that is something that local government has already been working very diligently on for quite some time. Another point is about ensuring that people comply with this legislation. The reality is that local government and in fact all tiers of government have a responsibility to ensure that the citizenry of their constituency comply with the laws of this land.

Another point concerns minimising the risk of attacks by dogs and animals on people, and I would have thought from the member's opposition to these management plans that he is arguably in support of maximising the risk or at least not minimising the risk of attack by dogs on people and animals. I find that

quite an astounding attitude to take by someone in the position of responsibility that he holds. A further point raised in these management plans is addressing any overpopulation rates and high euthanasia rates in dogs and cats. I would have thought that this is a commonsense thing that local government plans for.

The general tenor of the presentation was to suggest that these things have suddenly been dumped on local government and how unreasonable it is that this legislation should transfer all these responsibilities to local government. Before rising to make my contribution I tried to remember how far back it was when those responsibilities were actually transferred to local government and how long they have been the responsibility of local government. I came to the conclusion that it would have been at least 20 years ago.

If I remember correctly, it was not a state Labor government in power then, so it would most likely have been the member for South-West Coast's own party that was in government when these responsibilities were taken on by local government. I wonder therefore whether the member for South-West Coast is trying to rewrite history, pretending that it is this government and this legislation that are compelling this supposedly huge increase in the burden on local government when it is already the responsibility of local government — and a responsibility generally well met — to encourage the responsible ownership and management of domestic animals.

The last point I wish to make is about consultation, which has been harped on by the member for South-West Coast and other members of the opposition. In support of the claim that there was a lack of consultation the member quoted an opinion of the Australian Companion Animal Council. This council is a national organisation with a membership of peak organisations with singular state representatives. I have no problem with that organisation; I am sure it does a magnificent job. But it is not the type of organisation that a state government would consult with on this legislation. It is merely a national peak body. The consultations the government undertook were of course extensive, with organisations like the local government associations, the Victorian Local Government Association and indeed individual councils and many state-based stakeholders.

On that basis I think the claim by the member for South-West Coast that there was a lack of consultation is spurious. With those few words I wish to leave an opportunity for other members to make a contribution on this bill. I support it wholeheartedly.

**Mr THOMPSON** (Sandringham) — I refer to a letter from Dr Kersti Seksel, the president of the Australian Companion Animal Council, in which she notes in the fourth paragraph:

> There appears to have been little discussion in this bill with key stakeholders — Australian Companion Animal Council only became aware of the details of the amendments on 7 September.

This is a body that represents the Australian Veterinary Association, the Australian Small Animal Veterinary Association, the Australian National Kennel Council, Avcare, Delta Society Australia, the Pet Food Industry Association of Australia, the Pet Industry Association of Australia, the Petcare Information and Advisory Service, the Veterinary Manufacturers and Distributors Association and the Veterinary Nurses Council of Australia. Accordingly, some gravitas should be attached to correspondence received from the Australian Companion Animal Council.

The council's correspondence notes the important benefits of pet ownership and the contribution made by pet owners to their local communities. I quote:

> Pet owners are likely to experience lower risks for cardiovascular disease, and to visit their doctor less often. This represents considerable saving to health budgets.
>
> Pets have been shown to buffer against the negative effects of stress.
>
> Children can learn to nurture and be responsible because of pets in the family. Recent studies are indicating that dogs have a positive influence on the physical activity behaviours of children, and may help to combat childhood obesity.
>
> Pets can play a vital role in the lives of the elderly, where their constant companionship helps to alleviate loneliness and the symptoms of illness.
>
> In 2005, Australian studies have been the first to demonstrate that pets help to build social capital, to create safer and more livable neighbourhoods.

I have the view that if you ever wanted to fill a public hall in the Sandringham electorate, all you would need to do is propose a diminution of the service delivery of the local hospital or change some regime in relation to dog-walking opportunities for local pet owners. This is the case that has emerged in relation to the Ricketts Point Marine Sanctuary in the Sandringham electorate where over 1400 petitioners have petitioned the Bracks government to continue to allow responsible pet owners — the ones I alluded to before, who benefit from the companionship of their pets and who seek to avert the onset of illness, who wish to create a safer and more livable neighbourhood — to have the opportunity to exercise their dogs on the foreshore area adjacent to the Ricketts Point Marine Sanctuary.

We urge the government to continue to keep an open mind on this issue, because when there is a juxtaposition of urban hinterland alongside a marine reserve, you have to take that into account. Gai Humphries and Robbie Robertson, a former very senior state public servant, have been advocating a sensible outcome in this area for a long time.

The opposition opposes the legislation and has put forward a reasoned amendment so that there can be wider consideration. These matters have been more comprehensively canvassed by the member for South-West Coast. However, in relation to a couple of issues I note that the views of local government have not been sufficiently taken into account on legislation which will require local councils to accept all animals that are handed into them and also to develop animal management plans. This will only serve to increase costs to councils and is being imposed on local councils without adequate consultation regarding these changes. At the same time I wish to point out the expertise of a former member of the Sandringham council who I understand has had a significant input in the legislation. He has a very direct understanding of the issues to hand.

**Mr PERERA** (Cranbourne) — I rise to speak briefly in support of the Primary Industries Acts (Further Amendment) Bill, which is a bill that enhances the interests of pet lovers. Forty per cent of Australian households have a dog and 26 per cent have a cat. The bill will improve the administration and enforcement of the welfare of animals. There are a number of initiatives in this bill that I support, but I will speak on a few.

Firstly, I will speak about the microchipping of cats and dogs. Losing a pet is a big blow for most owners of cats and dogs. Microchipping is a simple way of reducing the number of pets dumped and it makes it easier for owners to trace lost pets through a scanning process. However, unfortunately only about 5 per cent of the dog owners and one in 1000 cat owners take the trouble to microchip their pets. More than 40 000 cats and dogs are euthanased annually. Microchipping also means animals that cause a problem, such as dogs that attack people, can be easily identified. From May 2007 councils will be able to register a cat or dog for the first time only if it is microchipped, but a council can opt out from doing this if it chooses to. Alternatively, councils may make orders requiring microchipping for all registrations including re-registration.

The Cat Crisis Coalition has been lobbying the state government to introduce compulsory de-sexing because of the shocking number of cats and kittens that are euthanased by shelters annually as a result of cat overpopulation. The number of cats entering shelters has risen from 45 000 in 1990 to 48 000 in 2004. The bill provides that councils may make an order under the act requiring the compulsory de-sexing of cats and dogs on registration or re-registration. However, a council will be able to grant an exemption to this requirement for a particular animal or for a class of animal such as working dogs. Therefore the opposition's claims are unfounded.

The act will also be amended to provide that councils must accept surrendered cats and dogs, and it is expected that councils will fund the increased costs by annual dog and cat registration fees. This is a much better option than allowing people to dump unwanted cats and dogs in a council car park or a public place. This is much better than people dumping a box of kittens in front of the residence of the member for South-West Coast.

The latest figures indicate that there are about 8300 cases a year of animal cruelty in Victoria. A number of provisions have been introduced in this bill to eliminate animal cruelty. I will just refer quickly to one to indicate how generous the bill is towards animal welfare. The bill makes it an offence to confine an animal in an unacceptably small space. This enormously increases the animal's quality of life.

In 2005 Australian studies have been the first to demonstrate that pets help to build social capital, to create safer and more livable neighbourhoods. This bill will make provisions to force animal owners to look after their animals much more carefully and compassionately. I commend the bill to the house.

**Mr PLOWMAN** (Benambra) — I want to say at the start that I support the reasoned amendment that was moved by the member for South-West Coast, because although the intent of this legislation is very good its implementation is appalling, and there are lots of things about it that really concern members on this side of the house. The first is the impost on local councils and the lack of consultation. I rang councils in my area, and they had received no consultation at all. Despite the fact that the Municipal Association of Victoria (MAV) said it was fine, individual councils, which will be the responsible agencies, have had no consultation.

An increase in bureaucracy will be required to implement this. The responsibility involved in policing the de-sexing of cats and dogs is beyond the imagination of the people responsible in my local councils. They just do not know how it will be done. How will they know when someone puts in a

nomination form for their cat or dog to be registered and the question is asked, 'Is this cat or dog de-sexed'? How will they tell? How will that be policed? And if it cannot be policed, why is it a compulsory requirement? That is certainly of concern to me.

The other issue which is really important relates to clause 14, which inserts section 33A. Proposed section 33A(1) states:

> A Council of a municipal district must accept any dog or cat kept in that municipal district which is given to the Council by the owner —

who is no longer willing to care for that cat or dog. That means that someone can go into a council and say, 'You can have the responsibility to keep and care for this animal. I just do not want to anymore', and that any cat or dog — or a box of kittens or anything else a pet owner is responsible for but no longer wishes to maintain — can just be handed over to the council. Councils will be beset by these sorts of problems, and clearly costs will go up.

If you look at the current level of costs, you see that when an animal is handed into a pound, the pound is responsible to keep it for eight days, and then the disposal cost is about $40. If it wants to keep an animal and have the opportunity to resell it — and I think most pound keepers would like to see cats and dogs that are misplaced coming back onto the market so they can be utilised — the overall cost to have it vaccinated, de-sexed and microchipped is about $250. These animals will all be destroyed, because that will make the councils decide that they cannot keep animals for reintroduction back into the community. Some wonderful pets will not be kept because of this legislation. I do not think that was the intention of the legislation, but that will certainly be one of the outcomes.

I am also concerned about the de-sexing of working dogs. Proposed section 10B states that a council may, in any resolution made under section 10A, exempt a class of dog. They may, but in many cases they will not. If you are in a country area and need to keep a working dog intact, that is fine, because the council understands, but if you happen to live in an urban area and own land where you need to use a working dog — you might be part of a trucking business, or something like that, where you need working dogs — the council only may be required to make an exemption. Otherwise if you do not have your working dog de-sexed you are breaking the law.

The Victorian Farmers Federation came out against this very strongly. An article about it states:

> VFF animal welfare committee chairman Meg Parkinson said the amendments should automatically exempt all working dogs rather than give individual councils the right to make that decision.

I totally concur with that position. Why is it not in the legislation? Why do we not just exempt all working dogs? Working dogs are the lifeblood of the people who need them for whatever work they happen to be doing. Having bred, trained and used working dogs for most of my life, I know that nothing is more important to the people who need them than those dogs. Therefore, that exemption would have been a worthwhile change to this legislation.

Any resultant increase in the cost of pet ownership or the cost of the compulsory de-sexing of pets will invariably lead to a reduction in pet numbers. In a response the Australian Companion Animal Council says that 52 per cent of Victorians own dogs or cats, that there are significant physical and psychological health benefits in owning a pet, that pets have been shown to be a buffer against the negative effects of stress and that having family pets can help children learn to be responsible. These are things we all understand, but it is important to emphasise the fact that measures that reduce pet numbers are adverse to the best interests of the community.

I will finish by saying that in my area MasterFoods, which used to be known as Uncle Ben's and which is a major producer of pet food, has a big and vested interest in ensuring that the pet industry is maintained. It strongly opposes the clauses in this bill that will lead to a reduction of pets in the community. For those reasons it supports totally the paper put out by the Australian Companion Animal Council. I would like to go on for 10 minutes more, but unfortunately my time is restricted.

**Ms ECKSTEIN** (Ferntree Gully) — I am pleased to make a very brief contribution in support of this bill. It essentially deals with the management and control of cats and dogs, although there are some provisions which relate to cruelty of animals more widely. Pet ownership, as I think we all know, has considerable advantages, and other members have referred to reduced stress and other social and health benefits. Many homes for the aged and nursing homes see these benefits and are keeping companion animals for their residents to love and spoil.

I think we are all aware how distressing it can be when a dearly loved family pet suddenly goes missing or disappears without trace. This bill will require the microchipping of newly registered cats and dogs from 1 May 2007, thus giving pet owners time to make

appropriate arrangements. There is also provision for a council to grant an exemption, which I think is very appropriate — for example, where on veterinary advice it would be dangerous to the health of an older or ill animal to continue with microchipping. These are sensible provisions and encourage responsible pet ownership.

The microchipping of cats and dogs will ensure that they are permanently identifiable and can be returned to their owners when they are lost. There is also provision to ensure that dogs and cats sold by pet shops or breeders, or rehoused by pounds and shelters, are microchipped first, before they are put back out into the community. That is a very sensible provision. It should also be pointed out that councils already have the power to require microchipping. These provisions will just clarify and make that a bit stronger.

As we know, there is poor compliance by cat owners in particular — not this one, I might say — in ensuring that registered animals wear their collars and tags. I might say that most cats are also pretty uncooperative in this regard and tend to lose or deliberately slip their collars. Microchipping will ensure permanent identification, and then when such owned animals do stray they are able to be quickly identified and returned.

Stray animals are a major problem in our community. Around 50 000 animals — 13 000 dogs and 35 000 cats — are put down each year, largely because their owners cannot be located or new owners cannot be found for them. This is an absolute tragedy, and as a community we need to take steps to ensure the situation is addressed.

I wanted to say a few things about dogs, but time is of a premium. I will just finish by saying that I believe the provisions for de-sexing some breeds of dogs, particularly dangerous dogs, are a necessary step. I concede that the major problem is with owners who are not prepared to effectively control their animals or who deliberately teach them to be aggressive. But some breeds have been trained and bred over successive generations to be aggressive and to attack, and we need to do something about them. We also need some continuing education programs, which I am pleased to note are under way. With those few comments I commend the bill to the house and wish it a speedy passage.

**Dr SYKES** (Benalla) — In the few moments available to me in this debate I would like to make a series of comments on the Primary Industries Acts (Further Amendment) Bill. I note the comments made by previous speakers, in particular the member for South-West Coast, the member for Swan Hill and the member for Lowan. In particular on the issue of the costs and practicalities of the proposed legislation, this is yet another example of legislation being developed without thinking through the full implications and the burdens that it will impose on, in this case, councils and some sectors of the community.

Microchipping is generally a good idea, but we need to learn from the application of animal identification and microchipping in other systems, particularly in the case of the national livestock information system (NLIS) which has been put in place for cattle with a view to providing an ability to trace animals for exotic disease purposes and also for trace-back from chemical contamination.

Equally microchipping of pets has been used in other countries. A friend of mine implemented that strategy in Hong Kong, where there was a need driven by the occurrence of rabies in Hong Kong and nearby areas, so it was absolutely imperative that they had good control of pet animals. But the key message is that you should not impose costs on owners or one subsector of the population without having the rest of the system in place. Right now the NLIS is struggling in that regard, and if this pet microchipping system is to go ahead, I hope that all along the way the system is in place so that we have a full chain of management and responsibility for the system to truly work.

I should say that the tag system has worked effectively in many cases. At my place we often have stray dogs turning up, particularly after storms. Providing the animal is tagged the system can work, so it is already an effective system in many cases. Let us make sure when we move to microchipping that the whole system is in place and that it works properly.

The second comment I would like to make relates to the breed-based restriction principle. As the Australian Veterinary Association has raised, the approach of banning animals on the basis of breed is scientifically flawed; we need to look at the individual animals, and particularly their training and the attitudes of their owners. There is an argument for looking very hard at the owners and how they go about influencing the demeanour of animals through, as has been mentioned, deliberate training of the animals to be aggressive, or very poor and brutal handling of the animals which results in those animals being aggressive or timid.

I want to make two key points on the issue of farm dogs. First of all there is the argument of responsible farm dog owners who say they can and do manage their dogs responsibly and there is no need or justification

for microchipping of their animals, which are managed responsibly. That is a strong argument that needs to be taken on board. I particularly support the argument for the farm working dogs being exempted from the de-sexing requirement, because so often people like to use farm working dogs for two or three years, work out whether they are good working dogs and then use them to breed in the future. I know at the moment the Bonnie Supreme Australian Sheep Dog Championship is being held at Benalla. There are some absolutely magnificent working dogs there. It would be criminal to have those animals de-sexed at registration and then not being able to breed from such magnificent animals.

The other point that has been touched on by other members is that of cats. I have to say that I am not a big fan of cats. I have a great desire to eliminate feral cats from my area. I think the suggestion by the member for Swan Hill to bring in a feral cat tail bounty has a lot of merit, and maybe we will put up a private members bill on that one.

In conclusion I ask the government to support The Nationals amendments and take on board the criticisms raised by the member for South-West Coast regarding yet another example of cost transfer and lack of consultation in the implementation of legislation.

**Mr LEIGHTON** (Preston) — The first parliamentary inquiry I was involved with as a member of this place was in 1988–89 as a member of the then parliamentary Social Development Committee. In May 1989 the committee tabled the report on its inquiry into the role and welfare of companion animals in society. I notice the member for South-West Coast looks up, because he was a member of the same inquiry. That report did a lot of groundbreaking work — for instance, it recommended the registration of cats, which was regarded with some opposition in those days. We also recommended the introduction of microchipping. I refer to that particular recommendation:

> That a mandatory permanent identification scheme based on implantable microchip technology be introduced for dogs and cats on a statewide basis.

So I am very pleased that this legislation now provides for that to occur as part of the registration process. Back then there was some scepticism about whether microchipping would work and there were issues around different standards, but it is all now quite compatible and more readily acceptable. That is a welcome development. Another provision in this bill, which was recommended by that committee back in 1989, was that all pounds and shelters accept unwanted companion animals surrendered by members of the public. The bill will now require council shelters to take surrendered pets.

The final comment that I wish to finish on is that, along with other members, I have received quite a number of emails from pit bull owners. I say to those people that I am an enthusiastic supporter of this bill. I cannot for the life of me understand why somebody would want to keep a rabid, aggressive animal, and American pit bulls are bred to be aggressive.

One of the things I learnt out of the Social Development Committee's inquiry those many years ago was that pet ownership is not a right, it is a responsibility. To be a responsible pet owner you have a responsibility for the welfare of the individual animal and also a responsibility more generally to the community to ensure that your animal is not a nuisance. This is responsible legislation that further promotes the responsible keeping of companion animals, and I therefore support the legislation.

**Mr MULDER** (Polwarth) — I wish to make a brief contribution to the debate on the Primary Industries Acts (Further Amendment) Bill and indicate support for the reasoned amendment put forward by the member for South-West Coast. If that is not accepted, of course we will be opposing the bill for the reason that there is a real sting in the tail of this bill — an unknown cost to ratepayers and pet owners across the state.

Consultation with councils has been woeful, to say the least. There are unknown cost implications, along with a never-ending paper trial. I can assure the house that the councils in my electorate — Golden Plains, Corangamite, Colac, Otway, Moyne and Surf Coast — have no idea how they will deal with and implement the legislation before the house. There is only one thing you can say: as a result of the passage of this bill pound fees and pet registration fees will rise, or rates will rise. That will be the end result of the bill before the house.

Not only that, but councils are now being asked to become dumping grounds for unwanted dogs, cats, pups and kittens. You have only to go to clause 14 of the bill which inserts a new section. Section 33A(1) states:

> A Council of a municipal district must accept any dog or cat kept in that municipal district which is given to the Council by the owner of the animal because the owner is no longer willing or able to care for that animal.

Firstly, how do they know whether the kittens that are coming in have been kept in the municipal district? They would not know that. We will end up getting a litter of pit bulls from Burwood being dumped in

Colac-Otway shire. That could be a consequence of the way this bill has been framed.

Councils are going to have to develop extensive animal management plans, provide new training for staff, review plans annually and be involved in a host of other red tape. That will add to the cost of running the service. Most councils run these services on a full-cost recovery basis. The cost of that service is going to increase. If they are going to have to take on board dogs and cats, board them and euthanase them, someone has to end up paying for that, and it will be responsible pet owners or ratepayers.

It is interesting that councils must ensure they have the resources to provide this service. 'Resources' in this case means that more ratepayers' cash is going to have to go into this service. These services are going to cost rural councils in particular an awful lot of additional time and resources. We know very well that cost will go straight back to ratepayers, particularly people who have been responsible pet owners. They are the ones who are going to have to pick up the cost of this very poorly drafted legislation.

How can you possibly bring a bill before the house that enables a pet owner who decides at a whim that they no longer want that dog or cat to walk into a council office with a dog on a leash, tie it to a chair, say to the person in the office, 'This is now your responsibility. I no longer take responsibility for this animal', and walk out. Councils are not happy about it. Councils know this is going to cost, ratepayers know it will cost, and, of course, people who are responsible pet owners will pick up the bill for this very poorly drafted legislation that has not been the subject of consultation with councils or the community.

**Ms NEVILLE** (Bellarine) — I am happy to make a brief contribution in support of this bill. I have heard a lot of opposition members say today, 'We support the intent but not the implementation' and 'We have these issues with consultation'. I think this is all about the opposition trying to find some relevance in some areas. The government has had consultation with councils and with stakeholders. This bill is about building on the current responsibilities that councils have. We know that the current act does not work in terms of managing the ongoing problem of stray cats and dogs. We know that, the community knows that and councils know that. This is a sensible step forward for all of us in taking a more proactive way of trying to manage the issue of stray cats and dogs.

The other step forward in this act is about ensuring we have a management plan in place for councils to manage this issue. Councils have had this responsibility for very many years — I think the member for Ripon said at least 20 years. This is about strengthening their capacity to do that, to acknowledge the fact that it has not been working, that the money that is already collected is not going into a system that works. This bill will lead to a better system. We will have better transparency in relation to the use of registration fees so that the community understands where their money goes. At the end of the day this is about protecting and improving the lives of domestic dogs and cats.

The other issue I would like to briefly mention is the issue of dangerous dogs and restricted breeds and the compulsory de-sexing. We have heard a bit about, 'This should be all about responsible owners'. Unfortunately, we have a number of people in our community who are not responsible owners, and that is the case where — —

**Dr Napthine** — Deal with them.

**Ms NEVILLE** — The cost is children and other people being attacked by some of our more dangerous breeds. Every time you see one of those stories, you cringe. It is a terrible situation. The bill is taking a positive step forward and acknowledging that we do not have a perfect world; of course we can introduce mandatory training, but unfortunately some of the training that goes into dangerous breeds is about attacking. I support the bill. I think it is a step forward that builds on the current responsibilities of councils.

**Ms BEARD** (Kilsyth) — It is my pleasure to speak on the Primary Industries Acts (Further Amendment) Bill, which clarifies and improves the enforcement of cruelty offences. I would like to briefly acknowledge and congratulate the Victorian Animal Aid Trust, which used to be in Kilsyth, for its excellent work in caring for and rehousing victims of irresponsible pet owners. I would also like to pay tribute to the vets at the Kilsyth veterinary clinic — Murray, Alison, Adrian, Jon, Mardi and Diana — and the wonderful nursing staff there who care for the animals in my community, and particularly the animals in my family. I wish this bill a speedy passage.

**Debate adjourned on motion of Mr STENSHOLT (Burwood).**

**Debate adjourned until later this day.**

## TREASURY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

*Second reading*

**Debate resumed from earlier this day; motion of Mr BRUMBY (Treasurer).**

**Mr HONEYWOOD** (Warrandyte) — I will be making a brief contribution on this bill because there are other parliamentarians who want to speak. Unfortunately the government program this week has taken up so much time on an unanticipated motion and indeed on second-reading speeches that members have been yet again gagged when it comes to the length of contributions.

Having said that, I wish to make four very brief points on this important piece of legislation. The first relates to the compensation package that was provided under Our Forests Our Future — the $80 million which was meant to remove from the timber industry a number of sawlog mills, and was meant to be money that would entice and encourage various parties to leave the industry. Of course the reality is that the residual bushfire timber that eventuated as a result of the north-east bushfires just after the compensation package was delivered has allowed a number of mills to keep their doors open by collecting that residual timber, and now we have the government coming forward and saying, 'Don't worry. Those people in the industry that did the right thing and did not take any compensation from the government are going to be protected by a two-year moratorium imposed on those who did receive compensation, and the compensation recipients will not be able to access the new auction system that is being proposed'.

We detect, though, that there are enough loopholes in the clauses to limit the rights of directors of companies to bid for logs and timber in the auction system. We believe there is enough of a loophole there to allow for mills that received compensation from the taxpayer to keep their doors open in other ways. We really do have concerns about the manner in which this compensation package has been put forward, and indeed the type of so-called restrictions available in this bill to ensure that those who took money from the taxpayer will not be rewarded by being able to use that money to then bid for logs in the auction system.

The other point I would like to make is the issue of policing between Department of Sustainability and Environment (DSE) staff and VicForests staff. From the briefing provided by VicForests recently to the opposition, it was clear that we have major issues still with demarcation, particularly with issues dealing with public access to forests and protesters. It is in everybody's interests to know who is in charge, who has the right to say who can enter and who cannot enter many of these logging coupe areas, and it is still a grey area when it comes to VicForests staff and DSE demarcation and responsibilities.

The other issue in terms of the environment portfolio really comes down to the Montreal protocol. We had a commitment by the Minister for Environment when the Sustainable Forests (Timber) Bill was passing through this place that the much-vaunted Montreal protocol was going to be implemented and that a range of criterion indicators was being put in place across our forest system to ensure that areas designated as having high environmental value would not be open to logging and would be protected. It is now well over 12 months since the Sustainable Forests (Timber) Bill was passed. We are still waiting for the government to come forward with any criterion indicators. It begs the question whether it was genuine in proposing the Montreal protocol as the standard implementation for our forest system or whether this was a complete window-dressing exercise, which this government is so good at, to convince various parties to get on board with the Sustainable Forests (Timber) Bill. There is nothing in this bill that gives any heart to those concerned about the criterion indicators being implemented.

The final point I will make in the brief time allowed concerns the whole issue of certification. Increasingly the Australian timber industry is doing the right thing when it comes to putting in place a certification procedure. The chains of responsibility and command are very important. It would be a shame if our industry got to the point where we had a proper certification system in place only to find that we continued to ignore the lack of certification of the timber products coming to our shores from overseas.

At the moment I understand there is a $1.6 billion annual deficit resulting from Australia's importing timber products from overseas. The lack of any attempt by the people involved to trace which overseas countries these logs are coming from flies in the face of both the high level of goodwill which has been shown by all parties, including environmental organisations and the Australian timber industry, and our being thought of as having a world-class certification system. I lament that. I hope the Bracks government does more to ensure that we trace where these logs have come from when they are sold in Victorian retail outlets.

**Mr CRUTCHFIELD** (South Barwon) — I rise to talk very briefly on the Treasury Legislation (Miscellaneous Amendments) Bill 2005, which

contains three provisions: two are related to the Financial Management Act 1994, and the other is related to the State Owned Enterprises Act 1992. The member for Warrandyte has just touched on those provisions. I am not sure whether he is opposing them, but I think they are eminently sensible. There is no double-dipping in the timber industry for people who have elected to take the early exit provisions that we offered.

I would like to focus on the Financial Management Act. I noticed that the opposition spokesperson on finance in another place was critical of these amendments. I think they are minor in impact and importance, but they are important to this government because they serve as a message to the community and the financial markets that we are continuing our openness, transparency and accountability in respect of the state's finances. They certainly build on a number of initiatives which I do not have time to articulate here. One I would like to briefly highlight was the return in 1999 of the Auditor-General's powers and independence. It was in stark contrast to the previous government's attitude to the Auditor-General. These are being brought in as amendments this time, and they are certainly not being rushed or hidden.

The clarification and correction of the provisions are critical because of the recent and welcome changes to parliamentary procedure. For 2005 the presiding officers set the spring sitting dates prior to the adjournment of the autumn sitting, resulting in no winter recess. I think members would be happy with that, because it allows members to plan for the next sitting. If this continues and the presiding officers set the 2006 autumn sitting dates before the end of the 2005 spring sitting, no summer recess will occur. This scenario would then significantly inhibit the ability of the government to release those financial reports to members, particularly the budget update for 2005–06. That is the explanation of this amendment. It is intended to allow the government to honour its commitment to table documents such as the budget update. Any other interpretation is drawing a long bow. It is nothing more, and it is nothing less. It continues a proud tradition of this government in terms of transparency in its financial aspects. It stands in stark contrast to the attitude of the previous government to transparency.

**Ms ASHER** (Brighton) — I wish to make a couple of points on the Treasury Legislation (Miscellaneous Amendments) Bill. I wish to relate my comments particularly to the issue of tabling financial and other documents in this Parliament. The government's proposal is to allow tabling even when Parliament is in session, in the aspect of this bill which relates to this. The opposition's contention is this bill should be split and a more sensible arrangement of tabling provisions should be worked out.

The issue of tabling was first touched on in May 1999 by the Public Accounts and Estimates Committee (PAEC), chaired at that time by the Honourable Bill Forwood in another place. The report was called a *Report on the Inquiry into Annual Reporting in the Victorian Public Sector*. If you examine this report you see how different this proposal is from the one before the house at the moment. At the time the PAEC justifiably made the observation that:

> … there can be several months between each session …

The report goes on to say that:

> … the requirement to table the report in the Parliament can significantly delay the public release of the document.

The committee went on to recommend in recommendation 5.8 that when Parliament was not sitting and annual reports were due ministers could forward those documents to the Parliament.

What the government is doing in this bill is quite different. In fact, when the government adopted that recommendation in the Financial Management (Financial Responsibility) Bill in 2000 it confined its reform — and it was a sensible reform then — to tabling documents out of session. What the government now wants to do is table documents on Mondays or Fridays in sitting weeks or in weeks when we are not sitting, but it is clearly during a session. I advise the member for Burwood that if he wishes to quote me, next time he should quote me for what I said I supported rather than the proposal the government currently has before the house.

We on this side of politics attribute devious motives to the government's wish to advance these changes to tabling requirements. We saw, for example, prior to the last election the government manipulate the tabling of certain documents in order for them not to be tabled during the parliamentary sitting and not to be available for the public for the election. I might add also that the recesses these days are far shorter than those which led to the recommendations of the Public Accounts and Estimates Committee in 1999. Not surprisingly we are suspicious of the government's motives. We think the government may well take advantage and table a document on a Friday after the house has risen late. The government has form. I might add that that is not confined to this particular party, and it is easy to get bad news out at certain times. By having this legislation

before the house the government is giving itself more opportunity to get bad news out without doing it during Parliament.

I am relaxed about a one-off accommodation of the government for a financial report but the broad amendments in this bill before this house simply indicate to the opposition that the government is wanting to make documents available to the public at a time which bests suits it rather than at a time which would see public scrutiny.

**Mr SEITZ** (Keilor) — I rise to support the bill. It seeks to insert a new section 86A into the State Owned Enterprises Act 1992, which provides for authorisation for the purposes of part IV of the commonwealth Trade Practices Act 1974 and any act and anything done by VicForests and its directors and officers in connection with the allocation and sale of timber resources. It is relevant to the point that we are trying to be open and transparent with true competition in the timber industry. This is basically an enabling piece of legislation designed to bring in and implement the sale and auction of timber. It is welcomed by me because it means people who have surrendered their licences have to wait two years before they are eligible to buy timber again, and that the timber has to be manufactured and processed locally. Those two things are significant.

The part about removing the ambiguity in relation to when documents and financial reports can be tabled is important. It is important that there is no such ambiguity. The Bracks government has always said it wants to be transparent, open and accountable to the public and therefore it is important that financial statements can be tabled when they are prepared, and sometimes even beforehand when needed, instead of having to wait for Parliament to sit so they can be tabled on parliamentary sitting days.

Those comments represent an important part of this legislation for me. It is a small bill but it is a very important bill. Those people who have traded in their logging rights will not be able to come back via this auction process when it is enabled. That is a significant part of the bill. It provides protection and stops people double-dipping, which could have happened in the future. We will be open and transparent about the finances of VicForests, and its transactions will be made available for the public to see. I therefore commend the bill to the house and wish it a speedy passage.

**Mr PLOWMAN** (Benambra) — The sole part of the bill I want to speak about is the part that relates to the timber industry, because so much of that will directly impact on small communities in my electorate and other country electorates, particularly in eastern Victoria.

I note from the briefing from VicForests that the auction system will be put into place and the first auction is anticipated to be early in December of this year, and that a secondary market is envisaged. I think all of this leads to an open process which allows the timber to be bid for competitively. In that respect I cannot oppose that part of the legislation. However, it is a real concern to me that this will be very difficult for some of the smaller mills which have had the custom of having a licence with the knowledge that they will receive the timber they require to keep their mills open. A secondary market, as is envisaged, could well be manipulated and could price out some of those smaller mills. It is of concern to me and I hope that as this legislation is introduced there is some level of protection provided if a secondary market, as envisaged, does come into place.

The other point I would like to make is that purchasers will have the timber they purchase delivered to their mill gate. That again sounds like a reasonable thing, given the competitive nature of the business. However, in fact that means there could be concerns about coupes being a long way away from the mills. As a consequence there will be additional costs to those mills, particularly the smaller mills, which will be getting mixed species possibly a long way away from where the mills are located. I think there is a real concern with respect to this.

I see two positive things. The first is the Liberal Party spokesman on forestry, the Honourable Graeme Stoney in another place, has done an enormous amount of work to ensure that as these logs come on the market they cannot be exported unprocessed. If that could occur, it would have an enormous impact on the whole industry. I think the Honourable Graeme Stoney needs to be commended for the work he has done on this over many months. I think the outcome is rewarding. The other point is that the timber mill operators who have accepted a voluntary departure package are precluded from this so that, once having done that, they cannot compete with that unfair advantage in coming into the market.

The other area of concern is that on 10 May price increases were introduced by VicForests that have been of a significant nature for the timber mills, particularly the smaller mills, as I said before. There is a fear of having a reserve price that is too high. It will create a reduction in production by stealth, as it will price a lot of those smaller markets out of business.

As you would know, Acting Speaker, last year Victoria had to import 32,000 cubic metres of sawn hardwood to meet its requirements. Anything that restricts the amount of hardwood that can be milled in this state is going to be to the detriment of the Victorian economy and the Australian economy. Again as you would know, we have over $2 billion worth of timber and timber products coming into Australia. Anything we can do to minimise that will be to the advantage of our economy, and it will also restrict illegal logging in some of the countries from which those logs are coming.

I finish by saying that it is the communities of those small mills that will suffer as the pressure of this comes onto them. I hope and pray that as this new system of providing logs to those small mills comes into place, the mills are properly protected.

**Mr HELPER** (Ripon) — I would just like to take the very few moments available to me to support the Treasury Legislation (Miscellaneous Amendments) Bill.

**The ACTING SPEAKER (Mr Delahunty)** — Order! The member for Ripon will again have the call after lunch.

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

**Business interrupted pursuant to standing orders.**

## QUESTIONS WITHOUT NOTICE

### Police: database security

**Mr DOYLE** (Leader of the Opposition) — My question is to the Minister for Police and Emergency Services. I refer to printed law enforcement assistance program (LEAP) files being used as photocopy paper, as raised in Parliament on 11 August this year, and Victoria Police's response, that 'we don't use file printouts as recycled paper', and I ask: given today's revelation of printed LEAP files being used as scrap paper at Frankston police station, does the minister have full confidence in the accuracy of the official police response to today's LEAP file fiasco?

**Mr HOLDING** (Minister for Police and Emergency Services) — I thank the Leader of the Opposition. On this matter I would say the following things: firstly, once again the Leader of the Opposition has shown today by his comments that he always just goes that little bit too far. He has gone out this morning and basically insulted and attacked the professionalism of every policeman and policewoman in this state. He has suggested that it is appropriate for the Leader of the Opposition, for politicians, to interfere in the decisions that Victoria Police make about who is charged or who is not charged in relation to a particular event.

This government takes the view that it is unacceptable for any politician, particularly the Leader of the Opposition, to interfere in the decisions that Victoria Police make about who is charged and who is not charged. It flies in the face of the doctrine of the separation of powers, and I support Acting Deputy Commissioner Ashby's comments today that this is an insult to all police members right across the state and the professionalism — —

**Mr Perton** interjected.

**The SPEAKER** — Order! The member for Doncaster!

**Mr Plowman** — On a point of order, Speaker, I do not think it is appropriate for the minister to be questioning the Leader of the Opposition about his question on the basis that the question was put. I do not think the minister has even attempted to answer the question, and I ask you to bring him back to it.

**The SPEAKER** — Order! There is no point of order. The minister, to continue his answer.

*Honourable members interjecting.*

**The SPEAKER** — Order! Before the minister continues I ask members of the house, particularly the member for Doncaster, to be quiet so that the rest of the Parliament can hear what the minister is saying.

**Mr HOLDING** — Just as we believe it is unacceptable for the Leader of the Opposition to make these comments, we also take the view that regardless of where this material was at this particular police station, sensitive LEAP (law enforcement assistance program) material should always be appropriately secured, and it is unacceptable for police material not to have been appropriately secured or used as scrap paper.

### Roads: funding

**Ms OVERINGTON** (Ballarat West) — My question is to the Premier. I ask the Premier to detail to the house which road projects are the top priorities for the $542 million in federal road funding owed to Victorian motorists.

**Mr BRACKS** (Premier) — I thank the member for Ballarat West for her question and for her urging for

adequate road funding for the Western Highway corridor to Ballarat as well.

I can announce today that Victoria is prepared to put a further $184 million on the table to support the AusLink projects which relate to the $542 million of federal road funds owing to Victoria. This additional contribution will be allocated towards the Deer Park bypass on the recommended arrangement — and I think Victoria is the first state to agree to the recommended arrangements under the AusLink program — of an 80:20 split between the federal and state governments for a national highway. This was previously the total responsibility of the federal government, but given that this is around an urban area, we are agreeing that an 80:20 split occur. That will mean a further $66 million towards that project, which we believe will enable it to be advanced and not be on the never-never, where it is now under the federal funding system.

We are also prepared to commit, as part of the $184 million, $20 million on a dollar-for-dollar basis towards the $40 million required for the Kings interchange on the Calder Freeway. It is necessary and important work to enhance the safety of the Calder Freeway but is not part of the existing arrangements for the completion of that highway in its current form. That would be on a dollar-for-dollar basis as a road of national importance.

We are also prepared to contribute $40 million on a dollar-for-dollar basis for an $80 million project on the Calder Freeway for the dangerous and difficult entry onto the freeway from the Melton Highway and the Diggers Rest access controls. We know that is a very difficult access point onto the Calder Freeway, and we know it has to be undertaken. Clearly it is a road of national importance, and we are urging that it be part of the AusLink project on a dollar-for-dollar basis.

We are committed also to the completion of the Calder Freeway, and we have a further $58 million to contribute to the completion of that road. We would like to see freed up, as we thought would have been the case and was supposed to have been the case, the $82 million which the commonwealth has not freed up for the completion of that road in totality so we can tender for the last section of the Calder Freeway as well.

We call on the commonwealth government to use the $542 million towards these projects and, in addition of course, to take up its responsibility for some of the national highway projects. They include the Goulburn Valley Highway, which we believe is an appropriate use of the $542 million, and the redevelopment of the Western Highway between Melton and Bacchus Marsh, where again there is a problem with the traffic flow. We want to redevelop that to have a better flow of traffic on that major and important highway. These are primary commonwealth responsibilities.

Could I indicate that the case for this is very strong. Victorians currently contribute some 25 per cent of the fuel excise which is gained by the commonwealth annually. We receive back some 16 per cent of road funding under the AusLink project. If the entire $542 million contribution is made to Victoria, as is the intent, it will lift that contribution from the federal government to some 23 per cent — still short, but better. These projects, we believe, meet the objective of matched and complementary projects under the AusLink program. We believe this will enable important projects such as the Deer Park bypass and the Western Highway, Calder Freeway and other key highway projects to proceed in the interests of all Victorians.

## Roads: funding

**Mr RYAN** (Leader of The Nationals) — My question is to the Premier. I refer to an answer yesterday when the Minister for Transport confirmed that local government is now going to be responsible for the ongoing maintenance of irrigation culverts and bridges on local roads. I further refer to the minister's refusal to confirm whether funding will be made available to local government to meet this vast expense. Will the Premier now confirm that his government is going to compensate country councils and their ratepayers for this blatant exercise in cost shifting?

**Mr BRACKS** (Premier) — I thank the Leader of The Nationals for his question. It must be very inconvenient when you pre-prepare a press release and the answer does not complement the press release you have pre-prepared. It must be very difficult! The Leader of The Nationals has come back in a second day to try to match the press release which he has already prepared — and on which he went out from question time, the question before the end, in order to try to get the press release up. Could I indicate to the Leader of The Nationals that his interpretation of the transport minister's answer is dead wrong.

## Planning: rural and regional Victoria

**Mr NARDELLA** (Melton) — My question is to the Minister for Planning. I ask the minister to detail to the house how the planning approval system and the latest building permit approval figures show that the

government is delivering on its commitments to families in regional Victoria, and specifically the Ballarat region.

**Mr HULLS** (Minister for Planning) — I thank the honourable member for his question. While the previous Liberal government referred to Victoria's regions as the toenails of the state, this government has helped to turn the tide in Ballarat and indeed across regional Victoria. We have the policies in planning and related portfolios, the drive and a coordinated partnership approach needed to stimulate sustainable economic growth. You do need a united, coordinated team approach if you are to achieve success — the successful regeneration of our regional and rural towns.

I understand that a number of members opposite will be going to Ballarat on the weekend to hold a number of meetings, including some private meetings that only a select few number-crunchers have been invited to. When they get to Ballarat they will see a city that is absolutely booming. Building approvals in regional Victoria are now $1.5 billion more per annum than when this government came to office. From a building and development perspective Ballarat is thriving. In the city of Ballarat alone the value of building permits issued in 1999–2000 was $160 million, and in 2004–05 that increased to $232.5 million — a 44.5 per cent improvement in the value of activity. I am sure everyone in this house would agree these are excellent building permit figures and are indicative of the healthy and sustainable growth in homes, jobs and quality commercial and industrial developments in the Ballarat area.

As I have said, successful outcomes require teamwork, good policies and coordination from the planning portfolio in close partnership with portfolios such as transport, major projects, state and regional development, local councils and community organisations as well. When the shadow Minister for Planning attends one of these clandestine meetings before the Liberal state council meeting in Ballarat he will find that the initiatives that I have spoken about, as well as things such as the Ballarat corridor sustainable growth strategy — —

**Mr Plowman** — On a point of order, Speaker, the minister is resorting to debating the question, and I ask you to bring him back to the question and back to government business.

**The SPEAKER** — Order! The minister did stray for a moment, but he has returned to answering the question. I ask him to continue doing so.

**Mr HULLS** — There is one at 9.30 at the university on Saturday, but I don't think you're invited to it.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Premier, the Deputy Premier and the member for South-West Coast will be quiet and allow the minister to answer the question.

**Mr HULLS** — I will conclude on this note. In planning we are achieving positive outcomes through inclusive and constructive partnerships. The government is not weighed down by the half-baked half-toll policy that would mean the initiatives about which I have spoken in the Ballarat growth corridor area would not be able to reach fruition. It is all about being a unified team.

**Mr Smith** interjected.

**The SPEAKER** — Order! The member for Bass!

## Police: database security

**Mr DOYLE** (Leader of the Opposition) — My question is to the Minister for Police and Emergency Services. I refer to 19-year-old Rebecca's confidential law enforcement assistance program (LEAP) file, including her address, her phone number and her movements, being used as scrap paper in the foyer of the Frankston police station, and I ask: can the minister confirm that the first time Rebecca learnt her privacy had been breached was when she was contacted by a newspaper and that Victoria Police has still not informed her or 1450 other Victorians that their confidential LEAP files have been improperly made public?

**Mr HOLDING** (Minister for Police and Emergency Services) — I reiterate that we have made it clear that it is unacceptable for police to not properly secure law enforcement assistance program data or indeed use LEAP data as scrap paper. It is equally unacceptable for the Leader of the Opposition to provide directions to Victoria Police as to whom they might charge or not and in what circumstances. We take the view that the separation of — —

*Honourable members interjecting.*

**The SPEAKER** — Order! The level of interjection is far too high. I ask members again to be quiet and enable the minister to answer the question.

**Mr HOLDING** — We take the view that the separation of powers is actually important. We take the

view that providing Victoria Police with directions as to whom they might charge is outrageous.

**Mr Perton** — On a point of order, Speaker, the minister is debating the question. The question related to whether the Victorians whose privacy had been breached had been notified by the police. The minister is on a frolic. He ought to go back to a — —

*Honourable members interjecting.*

**Mr Perton** — He ought to learn about the separation of powers. He is the minister for police. Let him answer questions within his ministry.

**The SPEAKER** — Order! The member for Doncaster should when raising points of order remember the forms of the house and follow them. The minister, to continue answering the question.

**Mr HOLDING** — We have always made it very clear what is acceptable and what is not acceptable, both from a Victoria Police perspective and from the perspective of acceptable conduct for the Leader of the Opposition.

**Mr Smith** interjected.

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

## Crime: Ballarat

**Mr HOWARD** (Ballarat East) — My question is to the Minister for Police and Emergency Services. I ask the minister to detail for the house how the government's policies in respect of policing and crime are making Ballarat a safer place to live and raise a family.

**Mr Doyle** — Don't tell us you can't answer because of the separation of powers!

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

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask members to be quiet and allow the minister to answer the question.

**Mr HOLDING** (Minister for Police and Emergency Services) — There is nothing operational about providing Victoria Police with a record budget; there is nothing operational about providing Victoria Police with 1200 additional members since this government came to office. Between 1993 and 1998 in Ballarat East the crime rate went up in 7 out of 10 suburbs; in Ballarat West in 2 out of 3 suburbs the crime rate went up. This happened because the previous government, instead of providing additional police, cut police numbers. They promised 800 and they cut 1000.

Since this government came to office we have recruited over 1200 police and we are on track to deliver 1400 additional police over two terms and this has meant real benefits for Victoria Police, as well as for the Victorian community, particularly in Ballarat. We have seen a further seven police members employed at the Ballarat police station and a reduction in the crime rate. The crime rate in Ballarat is down 15.8 per cent since we came to office — a great result for the Victorian people and for the Ballarat community.

In the last 12 months the crime rate is down more than 8 per cent and property crimes are down by more than 10 per cent. This has been achieved because the Victoria Police is working in partnership with the City of Ballarat, local traders and local community organisations to make sure that Ballarat continues to be a safe place for people to live. When the Leader of the Opposition visits Ballarat on the weekend, he can be sure that at least from a community policing perspective he will be safe.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition and the member for Mornington!

**Mr HOLDING** — If the Leader of the Opposition becomes aware of any deception or dishonesty offences, he should immediately let Victoria Police members know.

**Mr Wells** interjected.

**Mr HOLDING** — Victoria Police — absolutely. If we look at things like thefts of and from motor vehicles, we can also see dramatic decreases in the crime rate in these crimes in Ballarat. Thefts from motor vehicles are down 35 per cent since 2001, and thefts of motor vehicles are down 22 per cent.

I say to the Leader of the Opposition that to prevent anyone getting their hands on his car there are some simple measures he can take. He can have a wheel clamp installed or a steering wheel lock or an alarm put in place to make sure that no-one steals his vehicle while he is in Ballarat. At the same time Victoria Police members are doing everything they can to reduce the crime rate and make absolutely sure that all forms of crime continues to drop and that Ballarat continues to be a safe place to live and to raise a family.

## Police: database security

**Mr WELLS** (Scoresby) — My question without notice is to the Minister for Police and Emergency Services. Can the minister confirm that the *Herald Sun* journalists who wrote today's article about law enforcement assistance program (LEAP) printouts being used as notepad scrap paper will be questioned today by the Victoria Police ethical standards department about previous LEAP leaks? Can the minister confirm whether the same department has actually contacted Frankston police to investigate today's inappropriate use of LEAP files?

**Mr HOLDING** (Minister for Police and Emergency Services) — The member for Scoresby is asking me to confirm whether or not Victoria Police officers are interviewing a particular person with respect to particular incidents that have occurred. I wonder what the member for Scoresby would say if I did indicate that I was aware of these things. Imagine what he would say if I did indicate that I was aware of who police were interviewing with respect to particular incidents that had occurred. Imagine the outrage that would transpire.

We believe there are things that are legitimately the responsibility of Victoria Police and that the job of conducting investigations and making judgments on how to proceed in respect of those things is best left to the police. We know that the Leader of the Opposition does not believe in this principle and that he does not have any respect for the notion of the separation of powers. He does not have any respect at all for the operational independence and integrity — —

**Mr Plowman** — On a point of order, Speaker, the minister is again resorting to debating the question and bringing in an issue regarding the Leader of the Opposition that has nothing to do with the question before him. I ask you to bring him back to the question.

**The SPEAKER** — Order! I uphold the point of order and ask the minister to return to answering the question.

**Mr HOLDING** — Clearly we have no intention of interfering in the operational activities of Victoria Police, and we do not pretend to at all.

## Ballarat: arts program

**Mr HELPER** (Ripon) — My question is to the Minister for the Arts. I refer the minister to the government's commitment to provide access to the best of the arts to all Victorian and ask her to advise the house about the new cultural opportunities for families in Ballarat?

**Mr Smith** interjected.

**Ms DELAHUNTY** (Minister for the Arts) — Don't you worry. They think you are out of your tree with that half-baked, half-witted half-tolls — —

**The SPEAKER** — Order! The minister, through the Chair.

**Ms DELAHUNTY** — I thank the member for Ripon for his question. It reminds me that I was with him at the Ararat Gallery about a month ago. We were announcing an allocation of over $1 million for about 14 of our top regional art galleries and one of those is Ballarat — one of the leaders right across the state. I was there yesterday with the member for Ballarat East and we were at that gorgeous heritage theatre, Her Majesty's Theatre — a beautiful theatre. We were announcing the provision of more funds to ensure that this theatre continues to provide the opportunities for Ballarat families and families beyond Ballarat.

Yesterday the Royal South Street competitions were in full flight and there were families from all over Victoria performing and preparing for Royal South Street. There were also volunteers from the Ballarat Light Opera Company and the Ballarat Lyric Theatre. They were preparing for a particularly theatrical experience this weekend. They were not sure whether it was at Her Majesty's or at the university or more private theatres, but certainly the artists in Victoria are preparing for a high art performance in Ballarat. I was also announcing — —

*Honourable members interjecting.*

**The SPEAKER** — Order! There is too much audible conversation. I ask members on both sides of the house to be quiet to allow the minister to answer the question.

**Ms DELAHUNTY** — It is going very well. We announced some funds to bring Hannie Rayson's *Hotel Sorrento*, which members on both sides of the house probably know of — she is one of our top playwrights — to Ballarat, because we believe in sharing the arts right across the state. When I was in Ballarat yesterday with the local member I was also providing a preview of the cultural program around the Commonwealth Games, which will of course occur here next year. We will have cultural programs in regional centres such as Ballarat, and they will be run by the local community and local artists and local

families. They will also have the opportunity to see the Australian Ballet School perform.

I have a clipping here from the Ballarat *Courier* of today's date. The article is headed 'World-class windfall' and goes on:

> Her Majesty's Theatre has received another jewel in her crown with several world-class productions set to steal the spotlight.

That is in Ballarat and is very warmly welcomed there. We know that these opportunities for families and communities in Ballarat and beyond are at great risk from the slashing of the arts budget in the Department of Premier and Cabinet which is proposed by this half-witted, half-baked proposal that the Leader of the Opposition is still peddling.

## Minister for Police and Emergency Services: performance

**Mr WELLS** (Scoresby) — My question without notice is to the Premier. I refer the Premier to the comments of the Minister for Police and Emergency Services regarding earlier breaches of law enforcement assistance program (LEAP) security, and I quote:

> It was a one-off administrative error rather than a systemic fault.
>
> Victoria would expect for it never to happen again.
>
> Mistakes like this should not happen.

I ask: given the latest LEAP fiasco, has the minister displayed that he has neither the leadership nor the skills to continue as Minister for Police and Emergency Services?

**Mr BRACKS** (Premier) — I thank the member for Scoresby for his question. I understand the assistant commissioner addressed this matter today and indicated he did not believe it was a mistake, but there is an alleged crime which has been committed, which is quite different.

Speaker, I can tell you that one thing our government will not do is to stoop to a level where we try to instruct Victoria Police how to go about its business. We will not do that. Neither will we interfere with the independent operational decisions on who the police should and should not charge. They are the things that we would not do. Nor is it appropriate for the Leader of the Opposition to try to interfere with the natural course of justice in this state.

## Economy: performance

**Mr WYNNE** (Richmond) — I advise the house that 50 is now really the new 40!

*Honourable members interjecting.*

**Mr WYNNE** — My question is to the Treasurer. Will the Treasurer advise the house how the Bracks government is delivering strong financial responsibility, and is he aware of any independent assessments?

**Mr BRUMBY** (Treasurer) — I thank the member for Richmond for his question. I am pleased to inform the house that Victoria's finances are in great shape — and so is the member for Richmond — 50 years of age and in great shape. Congratulations!

Today I released the 2004–05 annual financial report for the state of Victoria. It reports a net result from transactions of $795 million for the general sector. It is the fifth straight surplus that has been delivered by the Bracks government. It is a very strong result for the state. It is a slightly stronger result than we estimated at budget time, and it is a stronger result because the economy has been stronger. It is stronger because at budget time last year we estimated that employment would grow by 1.5 per cent. It has in fact grown by 3.3 per cent. Because of that, overall revenue is stronger.

We have also seen solid activity in the housing market. There is one thing you could say — —

**Mr Smith** interjected.

**The SPEAKER** — Order! I have already warned the member for Bass. One more word from him and I will remove him from the chamber.

**Mr BRUMBY** — Send him back to the upper house!

**The SPEAKER** — Order! The Treasurer, to answer the question.

**Mr Doyle** interjected.

**The SPEAKER** — Order! I ask the Leader of the Opposition to cease interjecting, and I ask the Treasurer to stop responding to interjections and address his answer to the question!

**Mr BRUMBY** — There has been a strong performance in the labour market and the housing sector with a record number of first home buyers and $14.6 billion worth of building activity. All of that means that the state of Victoria is in great shape.

Victoria continues to lead Australia in terms of budget fundamentals. These are the best set of budget fundamentals for Victoria since the 1960s. If you look at these budget fundamentals, you will see that state net debt is 0.7 per cent of gross domestic product (GDP) — it was 3.3 per cent when we were elected. Net financial liabilities are 5.5 per cent of GDP and there is a cash surplus of $760 million. It is a very strong result indeed, so much so that Standard and Poor's press release today is headed 'Victoria's healthy financial state will buffer AAA rating against any shock'. It goes on to say:

> The state has once again delivered stronger-than-forecast results, with better-than-expected net debt result …
>
> …
>
> Indeed the state could weather almost any conceivable external shock to its finances and still maintain its AAA rating.

The key word there is 'almost', because here we are — a AAA credit rating, a good position, which enables us to invest in capital works — —

**Mr Honeywood** interjected.

**Mr BRUMBY** — No, it is actually a Labor government!

**Mr Honeywood** interjected.

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

**Mr BRUMBY** — This hysteria is spreading — —

**Mr Honeywood** interjected.

**The SPEAKER** — Order! The Deputy Leader of the Opposition will cease interjecting in that manner.

**Mr BRUMBY** — They all want to be Leader of the Opposition. There is Hawthorn, there is South-West Coast, there is Warrandyte — they all want to be!

*Honourable members interjecting.*

**Mr BRUMBY** — Here we are — —

**Mr Honeywood** interjected.

**Mr BRUMBY** — It is hysterical — —

**Mr Honeywood** interjected.

**The SPEAKER** — Order! I have already asked the Deputy Leader of the Opposition twice to immediately be quiet and I will not ask him again.

**Mr Honeywood** — On a point of order, Speaker, as you are well aware, there is one minister in this chamber who continually defies your orders, who continually plays the person across the chamber and whom you continually tolerate doing so. I would point out to you that while a minister is allowed to raise answers with members opposite rather than addressing the answer to a question, we will continue to respond according to the way in which he incites comments across the chamber. So we want some even-handedness here, please.

**The SPEAKER** — Order! There are certain procedures available if the Deputy Leader of the Opposition is unhappy with rulings of the Speaker. However, I tell the Deputy Leader of the Opposition quite clearly that if he continually persists in interjecting it is unreasonable to expect ministers not to respond. If he does not interject, ministers will perhaps answer questions. So I suggest the Deputy Leader of the Opposition carefully consider his own behaviour in this chamber.

**Mr BRUMBY** — One of the features of the 2004–05 financial report is that we were able to complete in Victoria over the last financial year $2.3 billion worth of capital works. In the last year of the former Kennett government it was less than $1 billion — this year it is $2.3 billion. If you look around the state, you see there have been capital works right across the state. For example, in Ballarat there has been $20 million in capital works for Ballarat schools, with the modernisation of Alfredton, Delacombe, Creswick, Buninyong, Ballan, Napoleons and Pleasant Street primary schools. At the technology park five years ago less than 300 people were employed; today there are more than 1000. It is an extraordinary success in terms of growth and investment.

I will just go back to the annual financial report and Standard and Poor's. It has rated the state AAA and has said we could withstand almost any conceivable shock. AAA is as good as you can get. The bottom you can get is a ZZZ rating. But there is actually one rating below ZZZ — it is the HBHT — the half-baked half-tolls rating which it would award the Leader of the Opposition.

## TREASURY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

*Second reading*

**Debate resumed.**

**Mr HELPER** (Ripon) — Before the luncheon break I was on my feet in support of the Treasury Legislation (Miscellaneous Amendments) Bill before the house. I was joining with the member for Benambra in discussing the issue of the amendments this legislation makes to the State Owned Enterprises Act 1992. Those amendments relate particularly to enabling VicForests to operate under the State Owned Enterprises Act with a view to addressing some of the policy issues that are necessary to address the — —

**The SPEAKER** — Order! There is too much audible conversation. Could members either take their seats or leave the chamber.

**Mr HELPER** — I will not take a great deal of time longer, except to say that this legislation is necessary to allow VicForests to operate in a way and under a set of criteria which extend beyond those that are normally applied by the State Owned Enterprises Act. Those changes are put in place by this government because it believes in not only an ecologically sustainable but also an economically sustainable forestry industry in this state. VicForests, the entity that has been brought into existence by this government to manage the allocation of forest resources to the mills, is a great step forward in ensuring that the forestry industry in this state can operate on an economically sustainable basis. I commend the bill to the house and join with other members of the government in supporting the legislation.

**Debate adjourned on motion of Mr LANGDON (Ivanhoe).**

**Debate adjourned until later this day.**

## MAJOR EVENTS (CROWD MANAGEMENT) AND COMMONWEALTH GAMES ARRANGEMENTS ACTS (CROWD SAFETY AMENDMENT) BILL

*Second reading*

**Mr PANDAZOPOULOS** (Minister for Gaming) — I move:

That this bill be now read a second time.

The government is determined to provide safe, uninterrupted and enjoyable major events in Victoria. This is critical in retaining our international standing as Australia's sporting capital.

Traditionally crowds at major events in Victoria are well behaved. However, there has been a recent increase in unruly and dangerous behaviour at some major sporting events that has prompted a review of current crowd safety arrangements.

The introduction of the Major Events (Crowd Management) Act 2003 placed Victoria at the forefront of legislative measures to protect crowd safety at major events.

This bill seeks to improve the operation and effectiveness of the act by broadening its application and boosting its enforcement powers.

The bill will amend the Major Events (Crowd Management) Act 2003 to:

extend the operation of the act to the Bob Jane Stadium in South Melbourne and to all elite level soccer matches held at managed venues under the act;

allow additional venues to be declared under the act;

increase powers relating to bag searches both at managed venues and at ticketed Commonwealth Games venues;

introduce a range of new offences under the act;

ensure that enforcement is quick and effective by allowing police to issue infringement notices for some offences; and

enable the courts to ban certain offenders from venues and events for up to five years.

By these measures, the government aims to send a clear message that unruly and dangerous behaviour will not be tolerated at major events in Victoria.

The Major Events (Crowd Management) Act 2003 was developed to promote the safety and enjoyment of participants and spectators at certain venues and major events. The act was introduced in response to incidents at sporting events in Australia and overseas which had increased concerns in the community and among athletes about the adequacy of crowd control at major events.

The act aims to:

ensure the safety of both participants and spectators;

deter potential offenders; and

provide transparent, fair and equitable powers and processes to control activities in venues.

The provisions of the act were reviewed in 2004–05 through a consultation process led by government and involving Victoria Police, venue managers and other relevant organisations. The consultation process was instigated following a spate of poor crowd behaviour at a range of major sporting events, particularly state league soccer events and international cricket matches.

The results of the consultation process suggested that while the act provided an effective means of control for some types of unruly behaviour such as pitch invasions, it did not provide authorised officers or police with sufficient powers to control other types of disruptive crowd behaviour such as throwing flares. A greater level of deterrence and a better capacity to respond were needed.

Venue managers and Victoria Police expressed particular concern about increased levels of violence and disruptive behaviour at state league soccer matches. A violent incident involving rival soccer fans at a football match at Bob Jane Stadium in April 2005 led to discussions between the government, Victoria Police, Football Federation Victoria and the stadium operator about the possibility of bringing the Bob Jane Stadium within the jurisdiction of the act.

Spectators often pay a considerable premium to attend major events and expect that they will be able to enjoy events without undue disruption. The safety of athletes and officials is equally important and can only be protected by having robust and efficient crowd control mechanisms in place at all major events in Victoria.

With the recent escalation internationally in the threat of terrorist attacks, the issue of safety at major events is now more important than ever. In light of the issues raised the government has decided to amend the act to increase the level of safety venues are able to provide and to preserve the friendly and cooperative spirit in which major sporting events are conducted in Victoria and for which Victoria is renowned.

I now turn to the bill and its contents.

The bill is structured into four parts.

Part 1 sets out the main purposes of the bill, which are principally to extend and strengthen the operation of the Major Events (Crowd Management) Act 2003, and to increase bag-search powers under the Commonwealth Games Arrangements Act 2001.

Part 2 of the bill broadens the application of the Major Events (Crowd Management) Act 2003 to encompass additional venues and events.

The bill declares the Bob Jane Stadium in South Melbourne to be a ‘managed venue’ under the act and all international, national and state league soccer matches held at managed venues to be ‘major events’ under the act.

These provisions have been developed in response to the concerns that were raised following the violent incident at the Bob Jane Stadium earlier this year and will ensure that police and stadium management can employ the powers of the act at all major football events at the Bob Jane Stadium in future.

From time to time other sporting venues may need to be brought within the ambit of the act, particularly venues hosting regular major events such as national or state league soccer matches.

The bill therefore enables additional venues to be declared as managed venues under the act by virtue of a ministerial order published in the *Government Gazette*. If the venue is on Crown land, the minister must consult with the minister responsible for the Crown Land (Reserves) Act 1978 before making the order. The minister must also be satisfied that the declaration of the venue is in the public interest and that the venue meets certain criteria such as having the capacity to host major events and having clear entry and exit points.

Part 3 of the bill introduces a range of new offences and strengthens enforcement powers.

The bill provides more rigorous bag-search powers. Currently the act allows authorised officers to ask people to open their bags for inspection, but it does not enable them to physically search through bags or ask patrons to empty their bags for closer inspection. This increases the risk of dangerous items such as flares or weapons being smuggled into venues.

The bill therefore specifies that authorised officers can search through bags with the consent of patrons, and can ask patrons to empty their bags and pockets. Under the act if a person refuses to comply with such a request, they will be directed to leave the venue and will not be allowed back in for 24 hours.

To maintain people’s right to privacy, a person who has been asked to empty their bags or pockets may ask for the inspection to be conducted in a private area set aside in the venue.

Bringing prohibited items such as flares and weapons into managed venues is clearly unacceptable and threatens the enjoyment and safety of all patrons.

The bill now makes it an offence to possess prohibited items in a managed venue or to possess alcohol that has not been purchased at the venue. Previously this behaviour was prohibited under the act but was not an offence. A maximum penalty of 20 penalty units will apply to these offences. There is a higher penalty of 30 penalty units for the offence of possessing a lit flare, to reflect the seriousness of this offence and the danger it presents to public safety.

To provide a stronger deterrent to unruly crowd behaviour and to help venues and police quickly curtail such behaviour, clause 14 of the bill introduces a range of new offences prohibiting disruptive conduct.

It will now be an offence to throw flares or projectiles; to stand up in a seat and deliberately obstruct the view of other spectators; to damage seats or other property; to climb over fences or barriers; or to deliberately block stairs, exits and entries.

These and other offences will draw maximum penalties in the range of 10 to 40 penalty units, depending on the seriousness of the offence.

The offence of throwing projectiles is intended to apply to people throwing objects such as bottles or stones; it will not apply in situations where a patron simply throws a ball or other object that is being utilised in the field of play back onto the field.

In addition, police will now be able to issue infringement notices on the spot for some offences, ensuring that enforcement will be quick and effective.

The bill gives police the power to issue penalty infringement notices to any person caught carrying flares, throwing projectiles, damaging or defacing property or re-entering a venue against a previous direction to leave.

Responsibility for issuing infringement notices and laying charges for all new offences under the act will rest with the police. In addition, authorised officers will have the power to direct patrons to leave a venue if they have witnessed offences being committed and the patrons refuse to leave the venue when asked. If people refuse to comply with a direction to leave, they can be removed from the venue by police.

The bill also provides new sanctions in relation to serious offences at major events. The courts will now have the power to ban some offenders from managed venues and major events for a period of up to five years.

The act already enables the Magistrates Court to issue orders excluding repeat offenders from major events. However, these provisions are largely directed at ‘serial pest’ offenders who repeatedly disrupt events.

The government has concluded that additional measures are needed to deal with offenders, including first-time offenders, who are found guilty of serious offences at major events that involve dangerous behaviour or violence.

The bill therefore provides all courts with an additional sentencing option for certain offenders.

When a court is sentencing an offender who has been found guilty of a specified offence under the act such as throwing a lit flare or a specified offence under the Crimes Act 1958 or the Summary Offences Act 1966 — such as assault — that has been committed at a major event, the court will have the option of imposing a ban or combination of bans on that offender.

The court will be able to impose bans for up to five years and will have the discretion to issue one, or a combination, of the following ban orders:

an order banning the offender from entering the venue where the offence was committed;

an order banning the offender from attending specified major events at the venue where the offence was committed;

an order banning the offender from attending a category of major events at any managed venue where those events take place.

It is expected that these bans will provide a more effective penalty for some offenders. They will also provide a powerful deterrent to dangerous, reckless and violent behaviour that places crowd safety at risk.

Part 4 of the bill outlines certain amendments to other acts.

The expanded powers proposed in the bill will apply to all venues and events declared under the Major Events (Crowd Management) Act 2003. As Victoria’s largest ever event, the 2006 Melbourne Commonwealth Games is being managed under its own legislation. There will inevitably be some procedural differences between the two acts owing to the special nature of the Commonwealth Games.

Most of the powers in this bill, however, are already contained in the Commonwealth Games Arrangements Act 2001 or can be established by regulation under that legislation if necessary.

However, the enhanced powers in the bill relating to bag searches, which will definitely be needed at ticketed Commonwealth Games venues, cannot be established by regulation.

The bill therefore amends the Commonwealth Games Arrangements Act 2001 to ensure that authorised officers can undertake bag searches with the consent of patrons and ask patrons to empty out their bags at ticketed venues.

The powers and procedures being introduced by this bill mark a major step in the government's efforts to improve crowd safety at major events in Victoria. They provide a better management and enforcement structure that will deter unruly and dangerous behaviour and make major events safer for all spectators and participants.

I commend the bill to the house.

**Debate adjourned on motion of Mr BAILLIEU (Hawthorn).**

**Debate adjourned until Thursday, 20 October.**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 11

**The SPEAKER** — Order! Before the Clerk calls on the next bill, I call the chair of the Scrutiny of Acts and Regulations Committee. An error was made on Tuesday in reading the bills in the *Alert Digest*, and I ask her to correct that error.

**Mr Plowman** — On a point of order, Speaker, is it appropriate to do it out of the order of business of the Parliament?

**The SPEAKER** — Order! I have discussed it with the Clerk, and I am advised that it is appropriate to do it now. It is in fact a correction of a matter rather than the start of a new item of business.

**Mr Plowman** interjected.

**The SPEAKER** — The advice from the Clerk is that it is appropriate to do it now.

**Ms D'AMBROSIO** (Mill Park) — In lieu of *Alert Digest* No. 10 tabled on 4 October I have the honour to present to the house a report from the Scrutiny of Acts and Regulations Committee, being *Alert Digest* No. 11 of 2005, on the following bills:

Defamation Bill,

Fair Trading (Telephone Marketing) Bill,

Land Tax Bill,

Primary Industries Acts (Further Amendment) Bill,

Property (Co-ownership) Bill,

Serious Offenders Monitoring Bill,

Statute Law Revision Bill,

Treasury Legislation (Miscellaneous Amendments) Bill,

Treasury Legislation (Repeal) Bill, and

Working with Children Bill —

together with appendices.

**Tabled.**

**Mr Baillieu** — On a point of order, Speaker, this is just a question of clarification. You said this was a correction. It was not presented as a correction, it was presented as a report, and I wonder whether you could clarify what the correction actually is.

**The SPEAKER** — Order! Yes, certainly. The report is being tabled in substitution of the previous report, which in fact contained the bills relating to *Alert Digest* No. 10, so this is correcting that error.

**Ordered to be printed.**

**Mr Baillieu** interjected.

**The SPEAKER** — We will take that on notice for next time to make sure that if there is a problem it is resolved. The Clerk will speak further with the member for Benambra.

## WATER (RESOURCE MANAGEMENT) BILL

*Second reading*

**Mr Walsh** — On a point of order, Speaker, I seek clarification from you. This bill is introducing the biggest changes to the Water Act in something like 20 or 25 years and we do not have the Minister for Water in here to present his own bill.

**The SPEAKER** — Order! Under our standing orders any minister can present a bill on behalf of another minister.

**Mr PANDAZOPOULOS** (Minister for Gaming) — That is right. It is a cabinet, after all. I move:

That this bill be now read a second time.

I have great pleasure in introducing the Water (Resource Management) Bill into the house today. This bill is an important part of the government's water reform program implementing key actions in the Victorian government's white paper — *Our Water Our Future*. The bill will bring forward key components of the new water planning, entitlement and allocation framework for Victoria, and with it, significant benefits for Victoria's environment, irrigators and future generations of water users.

Released in June last year, the Victorian government's landmark white paper — *Our Water Our Future* demonstrates the government's ongoing commitment to sustainable water management.

The water reforms outlined in *Our Water Our Future* will provide for the protection and long-term health of our rivers, aquifers, flood plains and estuaries; a high-value, low-impact irrigation industry supported by robust rural and regional communities; and a water sector with increased efficiency and accountability, delivering diverse water services in an innovative way.

This program of water reform is also of national importance and will implement the objectives of the national water initiative.

An extensive legislative program is required and this is being carried out in stages. The first stage of the government's water reform agenda has already been achieved, with the passage of the Water Industry (Environmental Contributions) Bill in September last year.

The bill now before the house forms the second stage of the government's water reform legislative program and makes significant and far-reaching changes to the management and planning of Victoria's water resources. The timing of this bill is important. In some regulated water systems, changes to the way in which water rights are structured are scheduled for later next year. Introducing the bill now will enable rural communities to become more familiar with how the new water entitlement system will work well before these changes take place.

I turn now to the bill before the house.

This bill will implement significant reforms to Victoria's water planning, entitlement and allocation framework by making substantial amendments to the Water Act 1989. The five main areas of reform are:

(a) the establishment and protection of an environmental water reserve for Victoria;

(b) improved long-term assessment and planning which embraces all sources of water and allows for adaptive management of the resource;

(c) changes to the structure of existing water entitlements for rural water users by unbundling those entitlements into three individual components, namely water shares, water-use licences and delivery obligations;

(d) new consultative processes for upgrading or decommissioning rural water supply infrastructure or changing level of services; and

(e) the establishment of a public water register and appointment of a water registrar.

**Environmental water reserve**

The first set of reforms relates to the establishment and protection of an environmental water reserve for the state. Victoria initiated the idea of an environmental water reserve for the state and others are likely to follow as it is a key reform. The national water initiative has accepted the concept of statutory recognition of water for the environment.

The main objective in legislating for the environmental water reserve is to ensure that water set aside for environmental purposes has the same status as water allocated for other purposes. Water set aside for environmental purposes can be protected and responsibility for its management can be clearly assigned, thereby maintaining the environmental values of the water system and the other water services that depend on its environmental condition.

In setting aside water for the reserve, the rights of existing entitlement holders will be recognised.

Clause 4 of the bill establishes the environmental water reserve, and describes the different ways in which water can be set aside for environmental purposes and form part of the reserve. One of the ways water can be set aside for the reserve is as an environmental entitlement.

The environmental entitlement is a new entitlement established by amendments contained in clause 24 of the bill. For the first time there will be an explicit entitlement for water dedicated to environmental purposes. The environment minister will hold the entitlement and will determine its allocation and use. Catchment management authorities will advise the minister on the use of the environmental water reserve and will be responsible for the day-to-day operation of the reserve on behalf of the minister.

Clause 37 of the bill enables new operational responsibilities to be placed on waterway management authorities to develop and implement schemes to protect and enhance the reserve. In the metropolitan area, it is intended that Melbourne Water, as the waterway manager, will undertake this role. Outside Melbourne, it is intended that catchment management authorities will be the operational managers of the reserve.

**General resource planning and management**

The second area of reform involves a suite of changes to improve water resource planning and our ability to manage future risks to the resource base and protect the environmental water reserve. A new planning and assessment framework will be created which ensures that the whole of the water cycle is considered in an integrated way. Amendments contained in the bill clarify that the act covers recycled water from public systems, unless otherwise clearly stated, to ensure that the legislation embraces all sources of water.

Features of the new framework include regular assessment by government of the status of the state's water resource base, regular reporting of results, a program of regionally based water resource strategies and a program of periodic long-term assessments of the resource base. These reforms will help to meet Victoria's commitments under the national water initiative.

Clause 8 of the bill places new obligations on the minister to ensure these programs are undertaken and to ensure assessments of the resource base cover all sources of water. The new public reporting obligations implement Our Water Our Future commitments to develop a statewide water inventory of Victoria's water resources. The inventory will identify emerging pressures and trends across the state and inform the development of regional sustainable water strategies. It will be updated every five years.

*Our Water Our Future* stressed the importance of planning for the future. Sustainable water strategies, and requirements governing the development of these strategies are set out in a new division to be inserted into the act by clause 11 of the bill. Five regional strategies will be developed to cover the state. Each strategy will consider the total picture of resource management within a region: protection and enhancement of the environmental water reserve and improving river health, consumptive demand for water, the needs of industry and farms, alternative water sources and investments of water authorities.

The legislation includes principles to guide the development of sustainable water strategies and requires that they be developed in an open and consultative manner. Strategies will be developed with regional expertise in collaboration with catchment management authorities, water authorities, local government, indigenous groups and the community.

To assist in monitoring and managing resource constraints and issues regarding climate change, clause 11 of the bill also inserts new requirements dealing with long-term water resource assessments. Every 15 years, a program to assess long-term changes to the resource base must be undertaken. An assessment will be independently audited by the Environment Protection Authority (EPA). The EPA must review the methodology adopted and the quality of the data used, and its report must be made public. The assessment process is also open with opportunity for public comment on draft findings.

These regular, periodic assessments of the state's water resources will provide government with the raw data it needs to manage water resources in an adaptive way. Where an assessment identifies a decline in the long-term availability of water which has fallen disproportionately on the environmental water reserve or consumptive uses, a public review must be undertaken to recommend the action required. There also must be a public review if an assessment identifies a deterioration in river health for reasons related to flow.

It is only after such a review has been carried out that the minister will be able to make any permanent changes to entitlements to water. The minister currently has powers to qualify entitlements but the new provisions make explicit the circumstances in which those powers can be exercised. The new qualification powers are set out in new section 33 to be inserted by clause 14 of the bill. These qualification powers are consistent with the risk assessment requirements under the national water initiative.

New section 33 clearly distinguishes between powers to qualify rights as a result of temporary shortages of water, in the event of an emergency or in response to drought, and powers to qualify rights permanently. The latter can only occur as a result of the longer term changes identified in the 15-year assessments of the resource base, and following an open and consultative review process. The government's ability to qualify water shares permanently without compensation will be limited to these 15-year assessment cycles. If new water needs to be found for the environment because of declining river health, the legislation will allow the government of the day to decide on what cost-sharing arrangements are to be made, but the present government's policy is for regulated surface water systems to invest in water savings or buy from willing sellers, rather than just qualify water entitlements.

**Unbundling of entitlements — water shares, delivery obligations, water-use licences**

The third package of reforms will change the structure of water entitlements for rural water users by unbundling entitlements to water into their main components.

'Unbundling' is a concept introduced in Our Water Our Future, and recognises that an irrigator's water right or diversion licence is actually a bundle of different types of entitlements and obligations that can be better managed when separated into three individual components. These individual components are: a secure share of water available from a water system, namely a water share; a right to use the water on a particular piece of land, namely a water-use licence; and for irrigators who obtain their water from a channel system, an assurance that they will receive a defined volume over a defined period, namely, a delivery obligation. On rivers, the equivalent entitlement will be an extraction rate written into the irrigator's works licence.

For the majority of irrigators the proposed changes will make no effective difference. They can choose to stay exactly as they are now. However, irrigators who wish to maximise the opportunities afforded by the new unbundled system will have the flexibility to develop their businesses in new and innovative ways. The 'unbundling' of entitlements into their components will create many benefits. It will make trade easier and enable brokering bodies to offer products tailored to irrigator demand.

Most importantly, these reforms will make it easier for irrigators to adjust either the reliability of their water supplies — ensuring higher security for their water where this is required — or the timeliness of having water delivered, to suit their individual enterprises. For crops such as tomatoes, growers can make sure they have the delivery capacity to cope with the peak in demand caused by very hot spells in summer.

As part of the unbundling process, annual sales water allocations will be converted into ongoing, lower reliability water shares to provide greater certainty to irrigators. Currently known as 'sales water', this arrangement will also deliver significant benefits to the environment. Twenty per cent of the water that has been made available in the past for sales will first be reserved for environmental purposes. Irrigators and the environment will both benefit.

I will turn now to discuss each of the new products of unbundling and the safeguards that have been included to prevent the emergence of so-called 'water barons'. Before doing so, however, I will discuss the process for unbundling current entitlements.

**Conversion of existing entitlements**

Clause 71 of the bill inserts a new schedule 15 into the act to enable the conversion of existing entitlements. The legislation will not trigger unbundling — this will happen to declared water systems upon a date set by the minister. The declaration will specify the day on which a water system becomes a converted water system. From that day, water rights, sales water, take-and-use licences and domestic and stock allowances in the declared system will become water shares, water-use licences and, within irrigation districts, delivery obligations.

While the new schedule 15 sets out the various rights that come into existence on conversion of the declared water system, not all of the details will be spelt out in the legislation. These will be reserved and adapted as required to take account of the different circumstances of water entitlement holders. These details and any procedures to apply to determine such detail will be set out in conversion rules. The rules must be established before conversion to provide certainty to water users.

On the conversion date, existing water rights and stock and domestic allowances in the declared system will become water shares with a volume equal to the volume of the pre-existing entitlements. The shares will be in the name of the landowner and, provided the water share is for a volume greater than 5 megalitres, will be subject to any mortgage registered on the relevant land parcel. A take-and-use licence will also convert to a water share with a volume the same as the volume of the licence. It will be created in the name of the licence-holder, and no mortgages will carry forward

due to its different nature to a water right. The class of reliability of these shares will be set out in conversion orders. The rules will specify that these water shares will all be the same high reliability. For example, 100 megalitres of existing high-reliability water right will be converted into 100 megalitres of high-reliability water share.

On conversion, the former sales water will also have a water share created in the name of the landowner, with any mortgage similarly carrying forward if the volume of the share is greater than 5 megalitres. However, the volume of the water share will only be a proportion of the prior sales water volume. Conversion rules will set out how the proportion is to reflect the volume of water that was practically available for sales water in any one year, less the volume of water to be applied towards the environment to meet the commitments in Our Water Our Future. The rules will specify that these water shares will be a lower reliability than other water shares.

In addition to the water share being created on the date of conversion, a water-use licence, or for stock and domestic rights a water-use registration, will be created. The water-use licence or registration will authorise the use of water on the land, and the licence will carry forward any pre-existing conditions concerning water use.

Licences and registrations will provide an annual use limit on the amount of water to be used on the land. The volume of the annual use limit will be calculated in accordance with conversion rules. The rules will require any limit previously set for the property to be taken into account. If there is no such limit, the annual use limit will be based on the existing entitlement or previous use. Rules will allow further flexibility to adjust the annual use limit to account for other relevant policies such as salinity guidelines.

The third key aspect of the conversion process relates to irrigation districts only and involves the creation of new obligations upon water authorities to deliver water to a specified place and the volume and the periods over which the delivery will be made. Each of these details, place, volume and period, will be determined in accordance with conversion rules designed to ensure the translation of existing arrangements.

The new schedule 15 also makes special provision for the creation of a water-use licence where a landowner does not have any water rights but has a history of purchasing water on the temporary market, and for the creation of a delivery obligation, on application, where a person has no water rights but owns land serviced by irrigation infrastructure.

On conversion, ownership of a water share may, in some cases, be difficult to determine. For example, the ownership of a share may be complex where water rights are attached to holdings with titles in different ownership. These cases are to be resolved by a sequence of steps — agreement of the parties, arbitration if any of the parties wish, or as a final default, ownership is set out in the legislation. There may also be other issues that are difficult to resolve, and the legislation permits the water share register to show those water shares but to mark them as unconfirmed. Special rules will apply to dealing with those shares until the issues are finalised, to ensure that the consent of all parties who could be owners is obtained.

As part of the conversion process accurate land ownership data is required, particularly to ensure accuracy of the mortgages is maintained. This requires a comparison of some of the information in the water authority records and the land registry records, and to enable this to occur the legislation specifically authorises the use of the information in those records for crosschecking.

The conversion provisions are very detailed, as the conversion of existing rights must be very precise to provide certainty to those affected. The government has been working closely with the community, water authorities and other agencies to determine how unbundling will work in practice for individual irrigators, and that dialogue will continue in the development of the conversion rules.

The unbundling of water rights in irrigation districts will have an impact on local government rates. Currently the value of a water right is included in the value of the land to which the water right is attached. The value of the water share created on conversion would not normally be included in the land valuation.

The government is concerned that there be time to allow the rating impacts to be properly assessed and managed. For this reason clause 73 of the bill amends the Valuation of Land Act 1960 to keep the value of a water share in the value of the associated land until 1 July 2008. This will allow affected councils time to develop appropriate rating strategies in consultation with their communities.

**Water shares**

Clause 41 of the bill inserts a new part 3A into the act dealing with the newly created water shares. A water

share is an ongoing entitlement to a defined share of the water available for consumption in a water system. A water share authorises the taking of water allocated in respect of that share under a seasonal allocation. The allocation of water to a share is made more explicit, as is the process for determining the water available for allocation — in new provisions to be inserted by clause 52.

Returning to the new part 3A, there are a number of matters that should be mentioned. Firstly, there is greater flexibility than with the current water rights in how a person can deal with a share. A share can be mortgaged and can be transferred for a limited term. The holder of the limited term transfer is entitled to receive water allocations made in respect of the share.

Secondly, the legislation contains new streamlined processes to facilitate interstate trade. The ability to trade, through a process known as tagging, implements a component of the national water initiative. The minister will retain the ability to refuse applications relating to interstate trade if there are barriers to all buyers and sellers participating in the market in a competitively neutral environment.

Finally, the legislation responds to concern in the irrigation community that with unbundling non-irrigators could buy up much of the water and drive up its price. While there are practical reasons for people to use their water — because it would otherwise be a financial burden on them — the bill contains safeguards against 'water barons' monopolising the market. It does this by placing a limit on the total volume of water that can be held by non-water users in each system. The term 'non-water user limit' is defined as a percentage of the volume of water in a system that is held under water shares. The percentage is fixed at 10 per cent but can be varied by the minister after consultation with a panel established by the minister which represents the interests of persons likely to be affected by the variation. The non-water user limit will need to be reviewed to ensure that it does not become a barrier to interstate water trading obligations under the national water initiative.

The owner of a water share is regarded as a non-water user if he or she does not own or occupy land or is not related to a person who owns or occupies land on which there is an associated water-use licence or water-use registration. There are also limitations on the volume of water share that can be held against an associated licence or registration. At conversion every water share will be associated with a water-use licence or a water-use registration, so that at the start date no water share will be in the 10 per cent limit.

A person will not be allowed to transfer a water share or undertake various other transactions if the water user limit for that system has been or would be exceeded.

**Water-use licences and water-use registrations**

Clause 54 of the bill inserts a new part 4B into the act relating to water-use licences and water-use registrations. Water available under a water share can only be used on land for whom there is a water-use licence or registration. The purpose of the licence is to provide certainty to water users about what land can be irrigated and, through conditions, to minimise the impacts on the environment, ground water users and other persons.

A licence can be subject to either standard water-use conditions or individually tailored conditions. Standard water-use conditions will be made by the minister and will generally apply in a particular part of the state or to a particular class of irrigators. It is expected that standard water-use conditions will be made on the recommendation of a catchment management authority, following extensive consultation with affected irrigators. It is important that irrigators are a part of this development process. The minister will also determine water-use objectives which will provide the policy framework for conditions.

The annual use limit will limit the amount of water that can be used on land. Another benefit of unbundling is that the volume of water shares that can be held for use on land can be greater than the annual use limit, giving irrigators greater ability to manage the reliability of supply. As is currently the case, if an irrigator increases water use a capital charge may be required to offset the impact of environmental impacts.

A water-use registration is required to use the water for non-irrigation purposes unless a water-use licence already authorises the use. It is important that non-irrigation uses are recorded to account for total water use. The only condition of a registration will be an annual use limit.

**Delivery obligations**

Currently, the statutory obligation of an authority to supply water to an irrigator covers both the supply of an amount and the delivery of that water. With unbundling, the delivery obligations will be recognised separately and made explicit. The creation of obligations to deliver defined volumes of water over defined periods is the means of achieving this. These new provisions are in a new part 11 being inserted by clause 61 of the bill.

The separate recognition of delivery obligations will allow irrigators to manage their delivery more effectively and will provide many benefits. Irrigators will be able to sell water to free up capital without losing channel access. Trade in water shares will be quicker because there will be no need to determine channel capacity prior to approving a water share trade. The ability to transfer the benefits of services will give irrigators the capacity to manage their risks in times of system congestion.

Separating delivery from supply obligations also represents a fairer system by ensuring that all owners of land with access to irrigation infrastructure contribute to fixed maintenance and renewal costs, as well as protecting irrigators against price rises when water is traded out of the district. Currently when irrigators leave a district and sell off their water right, they can leave a financial burden for the water authority and remaining customers to maintain infrastructure. Irrigators may end the ongoing obligation to pay for delivery of water if they are prepared to forfeit their access to the channel system and pay an exit fee. Delivery obligations will also provide the basis of an exit fee calculation where land-holders no longer wish to access the channel system and want to end the obligation to pay.

To summarise, the government believes that the reforms to the entitlement system will ensure Victoria continues to lead the nation in sustainable water management. The changes will enable the government to build on the strengths of its progressive water allocation system to continue to foster and attract the high-value investment that results from our secure and reliable water entitlements.

The reforms will also build on the steady advances being made in irrigated agriculture's use of water and further accelerate progress to efficient watering of high-value crops. Regional economic benefits will also flow from increased opportunities to trade water, increased production and improved water efficiency.

**Reconfiguration of irrigation infrastructure systems**

The fourth area of reform involves new processes and tools to help water authorities to work with their communities to alter and upgrade their infrastructure to better reflect demands for irrigation and other rural water services. The ability to reconfigure infrastructure systems is necessary to meet the changing water supply needs of customers and ensure financially viable and sustainable systems.

Water authorities already modify channels, replace assets and decommission unused parts of the system as part of their core business. In order to deliver efficient and responsive services, the delivery infrastructure provided by water authorities must be continually adapted. Reconfiguration applies equally to meeting the increasing demand from areas that are expanding as well as downgrading or decommissioning parts of the system that are currently under-utilised or not viable. This may be because the land is not suitable for irrigation (perhaps due to poor, salinised soil) or large volumes of water have been traded out of the system, making it uneconomic to continue to supply.

Reconfiguring these systems may also create opportunities to recover water for the environment. The government will co-invest in irrigation reconfiguration programs to recover water for the environment in areas where this will also provide clear benefits to the community and to industry. A $50 million investment has been made by government for this purpose as part of the Our Water Our Future reforms.

Clause 60 of the bill inserts a new part 7A into the act, which sets out the formal processes to be followed by a water authority in developing a reconfiguration plan. An authority may reconfigure its infrastructure at any time and change levels of service by agreement with its customers. However, if it proposes to decommission any infrastructure and terminate a service it must first abide by these processes and develop a reconfiguration plan. Authorities should also publicise the circumstances in which a reconfiguration plan must be developed before service levels are changed. The minister can give directions to the authority on this and other such matters. These powers are set out in the proposed new section 161E being inserted by clause 60 of the bill.

Importantly, reconfiguration plans will involve a community consultative process and consultation with all affected customers and other stakeholders.

A water authority will be required to share information and work in partnership with customers, local government and the broader community when developing a reconfiguration plan. If changes being considered involve a system's supply capacity, the authority will need to discuss with customers various options, covering pricing and alternative management arrangements, in order to achieve the most cost-efficient method of continuing the service. The minister may issue a direction to require ministerial approval of a reconfiguration plan following its adoption by a water authority.

A person will be entitled to compensation if their service is terminated as a result of an authority adopting a reconfiguration plan. As provided in the amendments being made by clause 59, compensation will be payable for the loss of value to the land as a result of the service being terminated. Compensation will be payable by the water authority and the amount payable will be assessed during the process for developing the reconfiguration plan.

**Water register**

The final main reform area involves the establishment of a public water register. For the first time, Victoria will have a comprehensive database that will contain information on the environmental water reserve, water shares, water-use licences and bulk entitlements for all converted water systems in Victoria.

The purposes of the register are spelt out in amendments contained in clause 57 of the bill. These are: to facilitate the responsible transparent and sustainable use of the state's water resources, including enabling monitoring and reporting in respect of the water resource and to facilitate a market for water-related entitlements by providing publicly available records.

Clause 57 inserts a new part 5A into the act which establishes the register and sets out such other matters as the responsibilities of the registrar and other authorities responsible for keeping records, matters that must be recorded in the register, what information is publicly available and provisions for searching the register.

The information in the register will include water share information as well as specified records kept by the minister and water authorities on water-use licences, works licences and delivery services. Although the register will be a single register, both the registrar and authorities will have separate responsibilities for updating the information in the register when the holder of an entitlement changes or the details are amended. The new registrar will be responsible for records relating to water shares and with the minister and the water authorities for the information they each contribute to the register.

Specific provision is made in proposed section 84G to allow reports to be created from information in the register. These reports will enable government to monitor the state's water resources and report in a publicly accessible system, providing for open, transparent and sustainable water management. This clause also provides that the reports will be available to the public if the minister so directs, provided the report does not give out individual names and addresses.

In addition to the reporting ability, which could encompass statewide reports, members of the public will be able to obtain the information in individual records. This will assist in trading the various entitlements and related land. For example, it is proposed that a water share record could be searched to show the owner and any recorded interests such as mortgages. Unless a regulation specifically provides for its availability, address information will not be disclosed. The proposed new section 84Z provides that access to an individual's information in the water register can be denied in exceptional circumstances — for example, if access would jeopardise the security of that person. The design of access to the information by individuals will comply, so far as practicable, with the information privacy principles in the Information Privacy Act 2000.

The water register provisions and the new schedules 12A and 12B also contain many provisions in relation to water shares that are directly comparable to legislative provisions related to Victoria's land registry. These include provision for recording a mortgage of a water share and enabling a sale by mortgagee if there is default on the mortgage.

The new register will provide government and the community with greater access to information and assist the community to gain an increased awareness of issues regarding the state of Victoria's water resources. It will facilitate the trade of entitlements and farm land by providing readily accessible information concerning water related entitlements, especially water shares and interests recorded on water shares.

**Concluding remarks**

In conclusion, this bill is a major step in implementing the Victorian government's landmark white paper *Our Water Our Future* and demonstrates Victoria's leadership in providing for sustainable water management. This bill will improve the way that we plan for, assess, allocate and manage our water resources to provide for all of our water needs. It will enable us to move from a system focused on allocating rights for consumptive purposes to one which balances those needs with the needs of the environment, whilst strengthening our system of secure tradeable entitlements. In facilitating the development of water markets, the legislation will also assist the movement of water to its highest value uses.

This approach will help us to deliver substantial economic and environmental benefits and redress the balance that is necessary to ensure secure water supplies and healthier waterways for future generations of Victorians.

I commend the bill to the house and thank the Minister for Water.

**Debate adjourned on motion of Mr PLOWMAN (Benambra).**

**Mr PANDAZOPOULOS** (Minister for Gaming) — I move:

That the debate be adjourned for two weeks.

**Mr RYAN** (Leader of The Nationals) — I move:

That the word 'two' be omitted with the view of inserting in its place the word 'four'.

I move this motion because, essentially, this legislation is vast in its consequences. That is so from a variety of respects. The first thing to be said is that not since the changes to the Water Act 1989 has the Parliament considered legislation of the ilk that is now before us. It has been literally years in the making. The legislation itself is of significance just in its physical proportions — it has 245 pages, with 73 sections divided into 5 parts. It amends the Water Act 1989, the Environment Protection Act 1970, the Valuation of Land Act 1960, and it does a variety of other things as well of course.

It is the general nature of what is contemplated by this legislation which is deserving of the more extended period of the adjournment than would normally apply. If the four weeks were to be allowed, it would mean that the legislation would come on for debate in the week commencing 15 November. Given that today is in the first week of October, we would have a period of about five weeks whereby this legislation could be subjected to the consideration which it deserves from the variety of stakeholders who are quite properly concerned to have a point of view in this. Of course, these stakeholders are numerous.

For a start, there are those who are involved in the irrigation industry. In my electorate of Gippsland South there are about 800 dairy farmers in the Macalister irrigation district who are vitally concerned about the impact of this legislation on their future entitlements. They will need to give due consideration to what actually is contained within this bill. They will need the time to be able to give their consideration to the issues that the legislation raises insofar as those people are concerned.

They are but a snapshot of the same circumstance which would need to apply to others involved in the irrigation industry around Victoria. Those people for a start have a huge interest in what is contained in this legislation. It goes to the very core of many of our country communities. It certainly will have a direct impact on the livelihood of many people who base their lives around the notion of irrigation, the irrigation industry and the availability of water resourcing. On top of all that it is not only a question of the on-farm effects; it does not stop there by any stretch. It is an issue that goes to the notion of all the manufacturing enterprise which is in turn based around the irrigation industry. There are issues for the Goulburn Valley and the horticultural sector. One could go on and on about the issues surrounding the impact of this legislation upon those who are reliant upon irrigation for their livelihoods and then the manner in which this legislation affects the various communities of which those people are part.

They are but one element of this. We then have the impact of this legislation in the sense of local government and the way in which our councils around country Victoria in particular are going to be able to view this. They need time to consider it. We have the issue from the environmental perspective because, although I have spoken already about the importance of this for the irrigation industry, it is those people on farms who well understand there are huge implications environmentally in the way water is used these days. Some of the greatest environmentalists in the state of Victoria are those who are engaged in the irrigation industry. People with an environmental interest will want to have a say in this, not only the farming communities who have that interest anyway but the environmentalists, in the generalist sense of the word, will want the time to consider the implications of this legislation on their interests.

I am naming simply three sectors because I do not have time to go through the rest. The point is though — and this is the nub of the thing — there are many people, individuals and organisations which will want to have a close examination of this legislation and the way it is going to affect them. The people who have been engaged in the direction that this whole white paper exercise has taken, including the Victorian Farmers Federation, will want the time and that is why this bill should properly be adjourned for a period of four weeks.

**Mr PLOWMAN** (Benambra) — I would like to support the Leader of The Nationals and his amendment to the time allowed for this legislation which is probably the most significant legislation since

the 1989 Water Act was introduced. It is significant. As the Leader of The Nationals said, it is over 500 pages. Even the second-reading speech meant the minister who was reading it went hoarse. It was a significant second-reading speech. To suggest that this should only require two weeks' consultation is clearly inadequate.

While I thank the minister for the opportunity of a briefing today, I did not accept the invitation on the basis that until we had seen the bill and its extent it would probably have been wasting his time and that of departmental staff. I have not seen the like of this bill for country Victorians. We have had irrigators and non-irrigators really interested and concerned about this bill. They have come from the far north-west, Sunraysia, First Mildura Irrigation Trust, down through the member for Swan Hill's irrigation area to the Murray Valley electorate. Equally there have been communities south of the Divide who are concerned about the implications of this legislation which will flow on to those other areas of the state. Therefore I suggest that rural communities in all areas of the state need a consultation process that gives them every opportunity to at least understand the bill and its ramifications.

I am sure we would have no hesitation in accommodating a smaller bill in a two-week period. I hope the minister recognises this is a just request and it is not an attempt to hijack the bill. Rather, if the bill needs to go through in this term we are happy to debate it at length to make sure it does go through. But to suggest two weeks is sufficient time for consultation on a bill of this significance completely undermines the importance of the bill. All rural communities would be grateful to the minister for accepting this request for an extension of time.

**Mr THWAITES** (Minister for Water) — The government does not accept this amendment which would see an adjournment of four weeks. However, I can indicate that between now and the time that it is proposed to come on we will consider the amount of consultation that people are having and consider the actual timing of the debate. The member for Benambra has indicated the importance of ensuring the legislation is proceeded with in this session. There has to be adequate time to achieve that. It is not the government's intention to push this bill through without adequate consultation. I will give it that consideration.

If I could speak more generally though, certainly this is very significant legislation. It introduces landmark reforms and I certainly agree that affected communities right around the state are very interested in it and deserve every opportunity to have consultation about it. I should point out in that regard that the legislation implements the policy commitments in the *Our Water Our Future* white paper which the government released over 12 months ago. That document in a very detailed way set out the proposals for reforming water in Victoria that are now set out in this legislation. The legislation implements the white paper and the reforms indicated in it. In the lead-up to the white paper there was extremely extensive consultation. There was a green paper which was a discussion paper with a number or recommendations in it. Following that there was further consultation and submissions and the white paper was released. I understand there were some 600 submissions to that process, so there has been an enormous amount of interest in it and an enormous amount of consultation about it.

Since the release of the white paper there has been extensive consultation once again. That consultation is continuing and is occurring right around the state. In relation to the legislation itself the government has, for example, had a number of meetings with the Victorian Farmers Federation about the legislation and indeed amendments to the bill. The government has had meetings with the VFF about the legislation and the provisions in the bill and we have made changes to the provisions in the bill following the consultations and discussions we have had. We are continuing to have those meetings. We will have extensive further discussions with not only the VFF, but farmers, customer committees and others around the state.

What I have indicated is that the government throughout this whole process has proceeded on the basis of having full consultation, listening to what people have said and implementing changes. As an example of that, one important point that has been raised is the timing of the implementation of unbundling, which is contained in the legislation. The date of implementation is not set out in the legislation. It will be the date on which I, as minister, issue the appropriate conversion order. Originally there was a proposal that the date in the Goulburn Murray area, for example, would be in November 2006. We had consultation with the Victorian Farmers Federation, which has recommended that that be extended to 1 July 2007, and we have agreed to do that. There were particular issues in the Macalister district where they are potentially seeking further time, and I have indicated that we will have further consultation with irrigators in the Macalister irrigation district, the customer committee and the chair, Mr Anderson, and others to ensure we get that consultation.

In conclusion, we will consider the timing of the debate between now and returning to the house — —

**The ACTING SPEAKER (Ms Lindell)** — Order! The minister's time has expired.

**Mr WALSH** (Swan Hill) — I speak in support of the motion of the Leader of The Nationals to extend the adjournment period to four weeks. As has already been said, these are the most significant changes to the Water Act since 1989 when there were some 700 changes made. In an economic sense the changes in this bill are probably the most significant we have ever had since water legislation was first introduced back in the 19th century. We are not just talking about water here; we are talking about the transfer of significant wealth around Victoria and the loss of significant wealth to the losers under this legislation.

The irrigation community in particular feels very disenfranchised by this whole process. The minister says there has been lots of consultation, but in the lead-up over the last few months there have been meetings in Melbourne to which members of water service committees in my area were summoned, but they have been sworn to secrecy. They have been intimidated by the minister and his staff saying they are not allowed to go back up there and talk to their communities. They cannot talk to other water service committee members about what they have been told.

'You are getting this information, and you have to make a decision. You have to tell us what you think without any community consultation, and if we find that you have talked to your community when you go back, you will not be invited to the next round of meetings'. That is what the minister himself has been saying to those people about the implementation of this act. He is talking with a forked tongue when he stands up and says that he has consulted with the community and has brought the community along with him, because it has been about having secret meetings with a select, hand-picked group of people who will say, 'Yes, Minister'. It is not about talking with the wider community about changes.

If there are two weeks between the introduction of this bill and when we debate it, there will be little opportunity for discussion with stakeholders. We are talking about some quite significant changes with the reconfiguration of the irrigation industry, probably the biggest changes of our lifetime, and we will potentially have the death of some country towns, depending on how it goes. We need the opportunity for stakeholders whose livelihoods are at stake to have an opportunity to scrutinise the legislation and give feedback before it is debated in this place.

We have companies like the Murray Goulburn dairy co-op, a billion-dollar company, the biggest single user of the Melbourne container port, which relies on the irrigation industry for two-thirds of its production, and there are many other companies around the state that have not been involved in this process that need the opportunity to look at this bill. It would be an absolute disgrace and a travesty of justice if this debate were adjourned for only two weeks. The minister has stood up and said this is only about implementing the policy of the white paper, but as we know, the devil is always in the detail when we come to these things.

As has been said, there are something like 240 pages that need scrutiny. Quite often drafting errors are not picked up — for example, it is only a couple of weeks since the ground water bill was in the house, a bill that had an interstate agreement in it that had supposedly been checked by South Australia and Victoria. Lo and behold! What do we have? A wording error in an interstate agreement that got through the whole system and into this Parliament before it was picked up. That was only a very small bill of several pages and an interstate agreement and there was a mistake in it. It has now been withdrawn from the government business program until the mistake is sorted out.

In this case we are talking about 240 pages of very detailed legislation that is going to have a huge financial impact right across the irrigation community of Victoria, not only in northern Victoria but in places in southern Victoria where there is irrigation as well. It would be an absolute travesty of justice if we found that we rushed this legislation through and it had to be amended in the future, as has happened quite often with a fair bit of legislation that this government has introduced.

**Mr HULLS** (Attorney-General) — The government does not support this amendment. It is a silly amendment, because on the one hand speakers supporting the amendment say they agree that they want this legislation, they agree that this legislation should not be held up and should be passed this year, but they want more time to consult, and they want the matter to be adjourned for four weeks rather than two weeks. It is a silly amendment because today is 6 October, and if the matter is adjourned for two weeks, it means it cannot come on before Thursday, 20 October. If it is adjourned for four weeks, that then takes it to 3 November, not a sitting week. The next week is not a sitting week, which means it could only be debated for a day or part of a day in Geelong on 17 November.

The reality is that this legislation would not be passed by the Parliament this year. You cannot on the one hand say, 'We want this legislation debated and passed by the Parliament this year because we believe these reforms are important' while on the other hand, say, 'We also want it adjourned for four weeks in the full knowledge that if it is adjourned for four weeks, it will not be passed this year'. It is a ridiculous amendment — and the fact is that yet again, in moving this amendment, the opposition is really saying it is not prepared to do the work. It is not prepared to go out and consult — and that is a good line!

Over the years there has been a plethora of bills: I remember those dirty, dark days when the government was in opposition, when the Kennett government used to come in here with large bills; we would argue that we needed more time to consult; the fact was that we ended up doing the consultation in the appropriate period of time, so I say to the member for Swan Hill, 'Go out and do some work; go out and actually meet some rural constituents and find out what they think about this legislation; do it within the two-week time frame'.

As the Minister for Water said, he is prepared to have discussions about exactly when the debate comes on, and to discuss it during that period so long as the bill can get up and be passed in this year's session of Parliament. This is all about allocating water rights more efficiently; it is all about principles that have already been outlined in the white paper.

What the honourable minister is proposing will ensure that there is lengthy debate in relation to this legislation, if that is what The Nationals want. If Parliament agreed to The Nationals' amendment, there would not be an appropriate debate on the bill because Parliament will be part of a day sitting in Geelong. This is a try-on; the government is not prepared to agree to this. We are about fair dinkum reform and consultation, not some mickey mouse try-on by The Nationals.

**Mr MULDER** (Polwarth) — I would like to make a few comments in support of the amendment requesting a four-week consultation period in the community. I was shadow Minister for Water prior to the last election and made several visits to rural communities, including visiting farmers. I particularly remember my visits to the Goulburn area to homes around Timmering where they had no water, going past the Tongala abattoirs and seeing prime Friesian dairy cows lined up for slaughter. It is absolutely and utterly ridiculous to expect a 240-page draft legislation to go to rural communities and be properly examined in two weeks.

When the minister says, 'Go out and talk to people in the rural community' the house should remember that those rural communities are now moving into the harvest season. They are coming on stream with a heavy milk production period. If you try and get them to turn up to, for example, school council meetings or any type of sporting event at the moment they say, 'No, we are going hammer and tongs at the moment. We are flat out with our harvest; we are flat out with the dairy herd'. It is not possible for them to get their heads around 240 pages of significant legislation which could have draconian impacts on their businesses.

The government should understand what happens at this time of the year in country Victoria and how busy people are. They will not have the time to examine this legislation in the way it should be examined. The amendments in this piece of legislation are the most significant to the water industry since the Water Act came into being. A rural community or farmers who rely wholly and solely for their livelihoods and future wealth on water cannot possibly be expected to agree to a two-week consultation on this very important piece of legislation.

In closing, I support the call for the adjournment of debate for four weeks. One could even argue that with legislation such as this, four weeks is not enough. It should have been brought in earlier; the work should have been done earlier. It is too much for the Liberal Party to accept the Minister for Water's assurance that the legislation reflects the intentions of the white paper *Our Water Our Future*.

One must ask, 'Does it reflect it to a tee?'. Of course the minister will not answer that question. The opposition wants to examine the bill properly; its constituents deserve to be able to examine it properly. The consultation period should be extended, and I support the amendment.

**The ACTING SPEAKER (Ms Lindell)** — Order! Six members have spoken on the amendment. The minister has moved that the debate be adjourned for two weeks; the Leader of The Nationals has moved an amendment that the word 'two' be omitted with a view to inserting in place thereof the word 'four'.

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

*Ayes, 57*

| | |
|---|---|
| Allan, Ms | Langdon, Mr |
| Andrews, Mr | Languiller, Mr |
| Barker, Ms | Leighton, Mr |
| Batchelor, Mr | Lim, Mr |
| Beard, Ms | Lindell, Ms |

Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Hardman, Mr
Harkness, Mr
Helper, Mr
Herbert, Mr
Holding, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Jenkins, Mr
Kosky, Ms
Lobato, Ms
Lockwood, Mr
Lupton, Mr
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

*Noes, 24*

Asher, Ms
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Napthine, Dr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

**Amendment defeated.**

**Motion agreed to and debate adjourned until Thursday, 20 October.**

## PRIMARY INDUSTRIES ACTS (FURTHER AMENDMENT) BILL

*Second reading*

**Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Agriculture); and Dr NAPTHINE's amendment:**

That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted —

(a) to retain the provisions relating to the Prevention of Cruelty to Animals Act 1986; and

(b) following the government undertaking consultation, to reflect the outcomes of such consultation with key stakeholders, including the Municipal Association of Victoria and individual local councils, regarding the financial impact of the legislation on local councils'.

**Mr CAMERON** (Minister for Agriculture) — I thank the many honourable members who spoke on this bill: the honourable members for South-West Coast, Swan Hill, Ballarat East, Mornington, Yan Yean, Nepean, Geelong, Lowan, Ripon, Sandringham, Cranbourne, Benambra, Ferntree Gully, Benalla, Preston, Polwarth and Bellarine.

Honourable members have certainly canvassed a great many views and one of the things about legislation that affects particularly cats and dogs is that whenever it comes into this house there is a whole range of views, as of course there is across the community. If I can say this to the Liberal Party and to those pit bull lovers, we do not accept, and in fact we utterly reject their proposal that pit bulls should be allowed to roam free in our community. The federal Liberal government says you cannot bring a pit bull into Australia. That is the opinion of the federal Liberal government, but of course we have from the opposition a half-baked policy that pit bulls should be able to breed out of control in Victoria. Again we have a half-baked policy that does not serve the Victorian community at all well.

This week in New South Wales — in Sydney I understand — a 49-year-old owner of a pit bull had both his ears eaten off by that pit bull. That certainly highlights the nature of these dogs.

**Mr Walsh** interjected.

**Mr CAMERON** — He would not be able to hear you; that would be the only upside! You have to ask yourself, Speaker, about a breed of dog coming into Australia that is so bad, yet the Liberal Party is not prepared to stand up and say pit bulls should be banned in this state.

This legislation of course covers other areas. It also covers microchipping. The broad sense is that microchipping is a very positive step forward. At the moment councils can, under their existing powers, require microchipping, but this legislation in effect acts as a default provision so that microchipping will come in, except that councils may exempt a dog or categories of dogs if they want to. The Nationals had some amendments along those lines but failed to appreciate that councils can put those exemptions in place if they want to. In some farming communities councils may very well want microchipping. You might ask why, but in some parts of this state dog attacks, particularly on sheep, are a considerable problem. However, if a particular dog is shot, you cannot identify its owner, but you can if it is microchipped. That is one of the upsides

of microchipping, but again that is one of the decisions that councils will make on an individual basis.

There were some comments about local government consultation. The poor opposition! When there is consultation with the Municipal Association of Victoria, the Victorian Local Governance Association and the Local Government Professionals, you would think that there had actually been consultation with local government, but I understand that the new view of the opposition is that we are meant to go around individually, council by council, and simply do away with the LGPro, the MAV and the VLGA. That seems to be the opposition's approach. These are peak bodies of local government formed to discuss local government matters, and that is exactly what occurred. What we are seeing is broad support across the state.

There have been misrepresentations from members opposite who believe the bill is saying 'You must microchip' or 'You must de-sex' or something else. These are matters that councils can decide for themselves. If councils do not want to do something, they will not have to do it. That is the critical thing when it comes to microchipping and de-sexing. Of course we have to remember that the councils already have these existing powers in any event.

**Mr Delahunty** interjected.

**Mr CAMERON** — What was that?

**Mr Delahunty** interjected.

**The SPEAKER** — Order! The minister will address his comments through the Chair, not to the member for Lowan.

**Mr CAMERON** — There was a query from the honourable member for Lowan. I am not sure whether it was about registries, but what actually occurs in Victoria is that there are a number of registries when it comes to microchipping, and we are in the process of marrying those registries.

**An honourable member** interjected.

**Mr CAMERON** — No, we are in the process of marrying those registries so we have a very solid foundation to then take the next step forward in terms of animal management.

**Mr Honeywood** interjected.

**Mr CAMERON** — What, 2030? I tell you what — too much loving of pit bulls does not do much for you!

**Mr Honeywood** interjected.

**Mr CAMERON** — Here is another division. The Nationals believe pit bulls are bad; the Liberals are in favour of pit bulls. Again we have a division in the so-called alternative government. I have to ask why the Liberal Party is doing it. This week President George W. Bush announced a new candidate for the United States Supreme Court, saying she was a pit bull in high heels. I think the Liberal Party here is looking to America and thinking, 'If she is a pit bull in high heels, we had better be in favour of them'. That is not a view we share. Whether they are in high heels or not, we say that pit bulls need to be de-sexed and need to be done away with. Ultimately that will be for the better protection of the Victorian community.

Again I thank honourable members for their contributions overall. I appreciate there is broad support for this, although there have been some differences in particular areas. One of the things we believe is that good laws should not be shied away from. When you have to make the hard decisions that is what you have to do.

**Business interrupted pursuant to standing orders.**

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

The minister has moved that the bill be now read a second time, to which the honourable member for South-West Coast has moved a reasoned amendment proposing to omit all the words after 'That' with a view to inserting in their place the words which are in the hands of honourable members. The question is:

That the words proposed to be omitted stand part of the bill.

Those supporting the reasoned amendment moved by the member for South-West Coast should vote no.

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

*Ayes, 55*

| | |
|---|---|
| Allan, Ms | Languiller, Mr |
| Andrews, Mr | Leighton, Mr |
| Barker, Ms | Lim, Mr |
| Batchelor, Mr | Lindell, Ms |
| Beard, Ms | Lobato, Ms |
| Beattie, Ms | Lockwood, Mr |
| Bracks, Mr | Lupton, Mr |
| Brumby, Mr | McTaggart, Ms |
| Buchanan, Ms | Marshall, Ms |
| Cameron, Mr | Maxfield, Mr |
| Carli, Mr | Merlino, Mr |
| Crutchfield, Mr | Mildenhall, Mr |
| D'Ambrosio, Ms | Morand, Ms |

Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Hardman, Mr
Harkness, Mr
Helper, Mr
Herbert, Mr
Hudson, Mr
Hulls, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

*Noes, 25*

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Napthine, Dr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Walsh, Mr
Wells, Mr

**Amendment defeated.**

**House divided on motion:**

*Ayes, 55*

Allan, Ms
Andrews, Mr
Barker, Ms
Batchelor, Mr
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Hardman, Mr
Harkness, Mr
Helper, Mr
Herbert, Mr
Hudson, Mr
Hulls, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
Lockwood, Mr
Lupton, Mr
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

*Noes, 25*

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Napthine, Dr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Walsh, Mr
Wells, Mr

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## TREASURY LEGISLATION (REPEAL) BILL

*Second reading*

**Debate resumed from 5 October; motion of Mr BRUMBY (Treasurer).**

**The SPEAKER** — Order! The question is:

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

**Question agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## TREASURY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

*Second reading*

**Debate resumed from earlier this day; motion of Mr BRUMBY (Treasurer).**

**The SPEAKER** — Order! The question is:

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

**Question agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## CRIMES (HOMICIDE) BILL

*Second reading*

**Mr HULLS** (Attorney-General) — I move:

That this bill be now read a second time.

The release of the justice statement in May 2004 confirmed this government's commitment to modernise Victoria's justice system. This is a commitment to achieve greater transparency and to make the system fairer and more responsive and accessible.

The work performed by the Victorian Law Reform Commission has been integral to achieving this goal. In September 2001 the commission was provided with terms of reference to examine the law of homicide and, in particular, whether it would be appropriate to reform, narrow or extend defences or partial excuses to homicide.

The commission published a series of papers and conducted extensive consultation before producing its *Defences to Homicide — Final Report*. This report was tabled in November 2004 and contained a number of key recommendations for legislative reform.

This bill will implement key legislative recommendations made by the commission. In particular, it abolishes the law of provocation and amends the laws of self-defence to align them with community standards, especially with regard to family violence.

**Provocation**

The commission recommended that the partial defence of provocation be abolished. Provocation operates to reduce murder to manslaughter. The courts developed the partial defence of provocation at a time when murder carried a mandatory death penalty. The partial defence is outdated now that provocation can simply be taken into account, if relevant, alongside a range of other factors in the sentencing process.

The commission found that the law of provocation has failed to evolve sufficiently to keep pace with a changing society. By reducing murder to manslaughter, the partial defence condones male aggression towards women and is often relied upon by men who kill partners or ex-partners out of jealousy or anger. It has no place in a modern, civilised society.

In January this year the government publicly announced its intention to abolish the partial defence of provocation. The bill gives effect to this commitment by introducing a new section 3B into the Crimes Act 1958.

**Self-defence**

All Australian jurisdictions, except Victoria, have legislation which defines self-defence. In Victoria, the law of self-defence is governed by the common-law test as stated by the High Court in the decision of *Zecevic v. DPP (Vic)* (1987) (162 CLR 645).

I will discuss the detailed components of that test, and how the bill affects the substance of that test, shortly.

Before I do that, it is important to note the commission's main concerns about the way that self-defence operates.

The first concern is about the immediacy of the threat to which the accused person was responding, and the level of force used by the accused person. The commission was concerned that the law of self-defence evolved to deal with violent confrontations between two or more males of roughly equal strength. Many cases of family violence involve very different circumstances and different dynamics.

For instance, under the existing common law, self-defence will not ordinarily apply unless the accused person is responding to an immediate attack. However, this is not an absolute requirement. It is simply an aspect of the broader issue of whether the accused person believed on reasonable grounds that it was necessary to act as he or she did.

Under the existing law, if there was no immediate attack, ordinarily a person could not believe that it was necessary to kill rather than taking other steps such as seeking help from the police or taking appropriate protective or evasive action. For example, if a person involved in any criminal activity believed that it was inevitable that a rival would kill him unless he killed his rival first, he would not be able to rely on the principle of self-defence: it would simply be murder.

Nevertheless, the courts have acknowledged that in cases involving family violence, there may be reasons why, for example, a woman might genuinely and reasonably consider that it is necessary to kill, even though she is not facing an immediate attack.

The bill does not alter the current legal position, which is that the immediacy of the threat and the proportionality of the response to it are not separate

issues, but are simply aspects of the key issues of whether the accused person believed it was necessary to do what he or she did and whether there were reasonable grounds for that belief.

However, section 9AH, which is inserted by clause 6 of the bill, affirms the court decisions that have acknowledged that in some cases, particularly those involving family violence, a lack of immediacy will not necessarily mean that the accused did not believe that his or her actions were necessary and based on reasonable grounds.

Section 9AH also highlights the types of relationship and social context evidence that may be relevant in such cases. In such cases a jury may well ask themselves: why didn't she just leave the relationship or call the police? Fortunately many members of the community have not been placed in such a predicament. However, that can also mean that when they serve as jurors they can find it hard to fully appreciate the complexity of such situations and the difficulties that a person might actually face.

Sometimes a perpetrator of family violence may kill the victim, and then claim that they were acting in self-defence because the victim attacked him first. Similar relationship and social-context evidence may also be relevant in such cases to counter false claims of this nature.

The bill moves beyond the traditional notion that the family unit is comprised only of married couples. Through the adoption of a more inclusive definition of family violence, the bill reflects the government's strong commitment to ensuring that the criminal law remains relevant and responsive to a diverse community.

I will now turn to the legal test for self-defence in more detail. The current common-law test is in two parts.

The first part is subjective: did the accused person believe that it was necessary to do what he or she did to defend himself, herself or another?

The second part is more objective: did he or she have reasonable grounds for that belief?

This bill will change the way self-defence operates in relation to murder. For manslaughter the bill will state the common-law test, without making any changes to that test.

The first thing to note about the new test for self-defence in relation to murder is that it applies only if the accused person believed that it was necessary to do what he or she did to defend himself, herself or another from the infliction of death or really serious injury.

The second thing to note is that, in relation to murder, this bill will separate the 'belief' and 'reasonable grounds' components of the common-law test into two separate tests.

Under the first test, the jury would have to consider whether the accused person had the relevant belief. If the prosecution can prove that the accused did not have that belief, the accused will be guilty of murder. If the prosecution cannot prove that, he or she will not be guilty of murder.

However, in such a case, a finding that the accused was not guilty of murder would not be the end of the matter because, under this bill, the second test then arises. The second test is whether the person had reasonable grounds for his or her belief. This test determines whether the accused person is guilty of the new offence of defensive homicide or is completely acquitted.

This two-stage approach retains the same elements as the common-law test but, by separating out those two elements, it will ensure that the law of self-defence appropriately measures the culpability of those people who act in the genuine belief that it is necessary to do so to defend themselves or another person. The culpability of such a person is substantially different to that of a person who kills without such a belief. However, if there are no reasonable grounds for his or her belief, the bill reflects the importance that we attach to human life and ensures that such a person is guilty of the very serious offence of defensive homicide. Like manslaughter, defensive homicide has a maximum penalty of 20 years imprisonment.

The division of the common-law test into a new two-stage process is consistent with the recommendations of the commission and with the law in New South Wales and South Australia. It is also similar in some ways to the common-law rule of 'excessive self-defence' that existed prior to 1987 but was abolished by the High Court decision in Zecevic's case.

Under the earlier common-law rule of excessive self-defence, and the provisions in other jurisdictions, a person who has a genuine belief that his or her conduct is necessary in self-defence, but who is not considered to have acted reasonably is guilty of the lesser offence of manslaughter. However, there could be confusion about the basis of the jury's verdict, as there were several potentially inconsistent ways that a jury could

reach a manslaughter verdict. The new offence of defensive homicide will clearly indicate the basis of the jury's verdict to the sentencing judge. This will enable the sentencing judge to impose a sentence that accurately reflects the crime that the person has committed.

The offence of 'defensive homicide' will operate as a substantive offence in its own right as well as a lesser alternative offence in cases where a person is on trial for murder.

The commission recommended in favour of a two-stage approach to self-defence because it considered that it reflected an important principle. However, it noted that in practice most cases are likely to continue to result in either a conviction for murder or a complete acquittal.

Relatively few cases are likely to fall into the new defensive homicide category. This is because, although the bill formally separates the 'belief' test (which is used in section 9AC) from the 'reasonable grounds' test (which is used in section 9AD), in very many cases the difference between those two tests will not be decisive.

The belief test is subjective, in the sense that it requires a jury to consider whether the accused person had the relevant belief. But in doing so, a jury will certainly take into account whether the belief was reasonable or plausible in the circumstances, in order to decide whether they think that the accused person actually did have the belief. As I indicated earlier, unless the case is one involving particular features, such as family violence, the absence of an immediate threat would ordinarily mean that the belief was implausible — as in the example I referred to earlier concerning criminal rivals. Merely asserting such a belief does not mean that it will be accepted. If there do not appear to have been any reasonable grounds for the belief, a jury may well conclude that the accused person did not actually have that belief at all.

Therefore, in most cases, resolving the first test of whether or not the accused person actually had the belief will also resolve the separate test of whether there were reasonable grounds for the belief. In practice, the difference between the two tests will only matter in cases where it is clear that there is some reason why the person would have genuinely believed that it was necessary even though he or she did not have reasonable grounds for that belief. The situation where this distinction is most likely to arise is where the accused person is not suffering a mental impairment within the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997, but is suffering from a form of paranoia or distorted perception. In such cases a jury might find that he or she did genuinely believe it was necessary to act as he or she did, but that there were no reasonable grounds for the belief.

**Duress and sudden or extraordinary emergency**

Although a person will not be guilty of most crimes if he or she acts under duress, the common-law rule is that duress does not excuse a person from liability for the offence of murder. The common law continues to apply in most Australian jurisdictions.

Whether 'sudden or extraordinary emergency' (sometimes known as necessity) can ever excuse a person from liability for the offence of murder is less clear. Whilst there is established case law authority for the proposition that a person who kills intentionally will be guilty even if they acted out of necessity, recent English judicial pronouncements suggest that they may not be guilty in some situations (e.g., a mountaineer who cuts a rope holding her fellow climber in order to save her own life).

The commission, like the Model Criminal Code Officers Committee and the Law Commission for England and Wales, recommended that the Crimes Act be amended to provide that duress and sudden or extraordinary emergency should be available in cases of homicide.

Consistent with the value which we all place on human life, a high threshold must be passed before the intentional or reckless killing of another person may be excused.

Under this bill, a person will not be guilty of murder if he or she acts under duress. A person is acting under duress if the person reasonably believes that:

> a threat of either death or really serious injury will be carried out unless they kill another person; and
>
> there is no other reasonable way to avoid death or really serious injury.

This provision recognises that a person might be placed in the position of 'kill or be killed'. Where a person has no realistic choice, it is not appropriate to hold such a person responsible for the offence of murder.

The bill provides that duress does not apply if the threat is made by or on behalf of a person with whom the accused person is voluntarily associating for the purpose of carrying out violent conduct. If a person associates with another to carry out violent conduct, such as a bashing or a rape, he or she cannot seek to rely on duress if in the course of that conduct the

violence escalates and he or she gets cold feet and tries to back out but is forced by threats from his or her associate to commit a killing or to participate in a killing.

The bill also provides that a person will not be guilty of murder if he or she acts under a sudden or extraordinary emergency. A sudden or extraordinary emergency exists if the person reasonably believes that:

circumstances of sudden or extraordinary emergency exist that involve the risk of death or serious injury; and

there is no other reasonable way to deal with the emergency; and

their response is a reasonable response to the emergency.

This provision recognises that a person might find themselves in the position where they have no realistic choice to act in another way but their conduct does lead to the death of another person. It is not appropriate to hold such a person responsible for the offence of murder.

The provisions concerning duress and sudden or extraordinary emergency will also apply to other homicide offences, with appropriate modifications. The provisions apply narrowly to the offence of murder given the seriousness of that offence. For homicide offences other than murder, the provisions reflect the existing common-law approach.

**Intoxication**

As the High Court has indicated, evidence of intoxication is relevant to whether an accused in fact possessed the requisite fault element, for example intention, in relation to the commission of an alleged criminal act. However, the relevance of intoxication when assessing reasonableness is less clear. This issue is particularly important to consider when determining whether a person had reasonable grounds for his or her belief that they were acting in self-defence.

The government agrees with the commission's recommendation. The bill expressly provides that when considering the reasonableness of a person's belief or response in relation to murder, manslaughter or defensive homicide, regard must be had to the standard of a reasonable person who is not intoxicated.

The community is right to expect that the reasonableness or otherwise of the belief or response of a person who is intoxicated, for example, as a result of voluntarily consuming alcohol or ingesting some other drug and who then kills, must be measured against that of a person who is not so affected.

**Infanticide**

Like defensive homicide, infanticide is an offence which can be charged in its own right or which can operate as a lesser alternative offence in a trial for murder.

Under the existing criminal law, a woman is guilty of the offence of infanticide if she causes the death of her child, being a child under the age of 12 months, when the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child, or by reason of the effect of lactation consequent upon the birth of the child.

The commission concluded that infanticide recognises a distinctive kind of human tragedy, making it inappropriate to label the mother a 'murderer'. The formulation of infanticide under existing law does not adequately reflect modern medical understanding of the unique and complex factors which, tragically, may lead a mother to act in this way following childbirth. The commission found little evidence to suggest that emotional disturbances which may result in a mother killing her young child are principally due to chemical or hormonal imbalances from the birth itself. Rather, there is a range of complex factors which must be considered.

The government supports the commission's recommendation that the offence of infanticide be reformed to properly take account of these complexities. The bill removes that part of the existing restrictive legal limitation which operates to link a disturbance of the mind to the effect of lactation. The bill replaces it with a provision that infanticide applies where the balance of the woman's mind was disturbed either because she had not fully recovered from the effect of giving birth to that child or because of a disorder consequent on her giving birth to that child.

Having also found that the vast majority of deaths in these circumstances occur in the first two years, the commission further recommended that the age limit be raised from 12 months to two years. The government agrees that the current 12-month age limit needs to be changed. The present requirement that the child be under the age of 12 months is increased by this bill to two years.

**Procedural reform — mental impairment**

At present, even where the prosecution and defence agree that a person is not guilty of an offence by reason of mental impairment, a jury trial must be conducted. Such trials are usually quite short. Most of the evidence is accepted by both parties and several medical experts will usually be called to give evidence. The jury is then asked by the judge to return its verdict. The jury is not directed that it must return a verdict of not guilty by reason of mental impairment, but is given very strong indications about what it should do. Sometimes the jury is asked to consider and return its verdict whilst sitting in the courtroom, without retiring to consider its verdict.

The commission recommended that this type of hearing be conducted before a judge alone. It concluded that where the prosecution, defence and the judge agree that the evidence supports a verdict of not guilty by reason of mental impairment, to then empanel a jury is both unnecessary and inappropriate. The government agrees. In the circumstances, the bill provides for a judge alone to hear and determine such cases. If there is any disagreement about such a verdict, the trial will be conducted before a jury, as is currently the case.

**Conclusion**

This bill introduces significant and much-needed reform to the criminal law. The bill ensures that the law of self-defence will operate in a way which is more effective and responsive to changing community values and expectations, particularly in relation to addressing women's experience of violence, while also delivering on the government's commitment to be tough on crime. This bill helps to make our system of criminal justice as fair, as efficient and as accessible as possible.

I commend the bill to the house.

**Debate adjourned on motion of Mr McINTOSH (Kew).**

**Debate adjourned until Thursday, 20 October.**

## BUSINESS OF THE HOUSE

### Bills: availability

**Mr Walsh** — On a point of order, Acting Speaker, we have just had a debate in this house about how long we are adjourning debate on the water bill. The government has used its large majority to stifle democracy by allowing only two weeks for consultation. We now find that country members who are going home cannot get enough copies of the bill or the second-reading speech to distribute amongst constituents. I seek your guidance, Acting Speaker: what do we do now? We are going to be limited to two weeks of consultation. For one of those weeks we will be back here in Parliament. In that very limited time we are not going to have the opportunity to take home copies of the bill and second-reading speech to distribute and talk to the stakeholders.

**Mr Plowman** — On the point of order, Acting Speaker, I went and asked for 30 copies which I wanted to distribute, particularly on the basis that we have had that time limit imposed on us. This is a very voluminous bill and one of the most comprehensive water bills that has come before this Parliament since the passing of the 1989 Water Act. Acting Speaker, you might remember that before the 1989 Water Bill went through this house it had over 300 amendments. It was actually debated for a month, and certainly the time for consultation with the community to explain the ramifications of that bill was not restricted to two weeks. I asked the papers office for a copy of the second-reading speech, and it did not have one. It said that it would print one off and did so for me. But the point is that I need 30 to take home with me tonight to distribute along with the bill — and there are no bills.

**Ms Lobato** interjected.

**Mr Plowman** — We certainly can copy the second-reading speech, because there are only 26 pages of that, but the bill has over 500 pages. The member for Gembrook, who I am sure has a keen interest in the future of the water industry, suggests photocopying the bill for people in my electorate. But when you consider the situation of the member for Swan Hill, who raised this point of order, and my situation, you realise that we represent the water industry across Victoria, so the number of photocopies we need is in the hundreds, not the tens.

To suggest that this is an appropriate amount of time to enable us to communicate with the community and the individuals who need that information is totally inappropriate. The point of order is saying that the lack of copies of the bill makes our job impossible.

**Mr Maughan** — On the point of order, Acting Speaker, I support the members for Swan Hill and Benambra. I represent a large number of irrigators and I have two bills in my possession. A very significant number of people will want to look at this legislation. As previous speakers have pointed out, it will have a very serious effect on their operations. We have farmers in the Campaspe system, for example, who are at their

wits' end right at the moment with the problems in the irrigation industry. They are very interested in what this legislation contains and I think it is absolutely appalling that the government has not got itself better organised. This is a government that prides itself on being honest, open and accountable and we are trying to get copies of this very important legislation. I have about eight law firms in my area, all of whom urgently want a copy of this bill, and I have one to take home.

**Mr Hulls** — They can get it electronically.

**Mr Maughan** — The Attorney-General says they can get it electronically.

*Honourable members interjecting.*

**Mr Maughan** — Nonetheless, the lawyers also like to have a hard copy. I have had several requests from lawyers who want to have a look at the hard copy. If we are going to do it electronically, let the government stand up and say that from now on it is not going to do the hard copy, we will get it all electronically. If we are going to do that, let us be fair and honest and say so. For the government to not say that and for members to go out and find that there are not sufficient bills there is unacceptable. Therefore, I support the members for Swan Hill and Benambra in their comments on this point of order.

**The ACTING SPEAKER (Mr Nardella)** — Order! I think I have heard enough on the point of order — unless the member for South-West Coast has something new to add.

**Dr Napthine** — On the point of order, Acting Speaker, you have heard from a number of speakers with regard to the irrigation districts and the importance of this legislation to them and the need to distribute it widely among those communities. I have sympathy and understanding for the shadow Minister for Water who has a responsibility to distribute copies of this bill across the state and who needs copies of the bill to do that.

My own electorate is not a highly known irrigation area but it does have some irrigation areas, underground water and water diversion. However, this bill has significant implications for dryland farmers and the management of water rights across Victoria. It is an absolutely vital piece of legislation. For all that the minister said in his discussion that it reflects the content of the green paper and the white paper, when it comes to the crunch what matters is not what is in the green paper or the white paper or what the minister says but what is in the legislation — that is the bottom line. It is therefore absolutely vital that people have a chance to look at the legislation.

I went into the procedures office and I was looking to get 10 to 12 copies of the bill to distribute. That would be the bare minimum I would need because I would be advising my legal firms electronically of the availability of the bill and telling them that they could contact me for a hard copy if they wanted one. However, I have many farmers and many groups of Victorian Farmers Federation members who do not have access to the Internet or do not have high-speed access to the Internet. When you are looking at trying to download — —

**Mr Hulls** interjected.

**Dr Napthine** — If we had a more competitive situation from selling Telstra I am sure broadband would be more widely available in Victoria. It is only the monopoly supply of Telstra that has stopped us having better broadband access. That is an aside.

This is not an easy document to download, particularly for those who have dial-up Internet service. I was looking for a large number of copies to distribute to people so they can effectively understand the implications, particularly, from my point of view, for dryland farmers. This has implications for dryland farmers as well as irrigation farmers. It also has implications for the local councils, the catchment management authorities and the local community groups which all interact in the catchment management approach. When I asked about further copies being available, they said they could perhaps send me six copies in the post early next week — if I was lucky. I am sorry but that simply is not good enough. If that is the delay in having these bills available, then it is incumbent on the government to delay the debate on this legislation.

We have had a debate about that delay, but if bills are simply not available for the community to look at and assess, it is incumbent on the government to say, 'We understand the issue. We genuinely believe in honest, open and accountable government. We genuinely believe in community consultation. We genuinely believe farmers have a right to understand the implications of the legislation. Therefore we will listen to the point of order raised by the honourable member for Swan Hill and delay the debate until we can guarantee that adequate copies of the bill are available and in the hands of the people who need to look at them for some weeks so that they can consider the legislation.

The current situation is totally inadequate, and I would like the government to respond in a positive way to ensure that there is fair and reasonable consultation on this legislation, which is vital for country Victoria.

**Mr Delahunty** — On the point of order, Acting Speaker, I will not go over all the other issues, but as a member who represents the largest area in the state, not only do I have irrigators and dryland farmers in my electorate, but also a lot of ground water people, and all of them are very important. We have read in this week's *Weekly Times* that the government is going to allow 10 per cent of the water to be purchased by green groups and others, so it is not only the farmers, the councils, the catchment management authorities and other organisations who are concerned, but industry in general. The food production industry, dairy factories and many other industries are concerned about what is going to happen with water. Water is the economic driver for people in rural and regional Victoria and it is vital that country members are able to take home copies of this very important bill and second-reading speech. No doubt we can get the information on the Internet tomorrow, but we still need the bill itself to take home tonight.

**The ACTING SPEAKER (Mr Nardella)** — Order! I have heard the comments of honourable members. I have been informed that 160 introduction prints of the bill are made available to honourable members. In the first instance copies are distributed to members within the house, with the rest being made available through the papers office; and honourable members have commented in the house that they have taken a number of them during or after the second-reading speech. I have been advised that there is a heavy demand for this particular print and the Clerk will check on the stock of the bills and inform honourable members via email when they will be available to them.

**Dr Napthine** — That is no good to us.

**The ACTING SPEAKER (Mr Nardella)** — Order! The Clerk will try and advise members this evening.

## ENVIRONMENT EFFECTS (AMENDMENT) BILL

*Second reading*

**Mr HULLS** (Minister for Planning) — I move:

That this bill be now read a second time.

**Introduction**

The growth of Victoria's population over the coming decades will require more infrastructure and development projects to support the growth of the economy and jobs that provide quality services and lifestyles for Victorians.

The clarity, efficiency and reliability of the planning system, and facilitating greater public scrutiny in the environmental impact assessment system will result in better planning decisions and better economic, social and environmental outcomes for Victoria.

At the time of its introduction the Environment Effects Act 1978 (the act) was significant, new environmental legislation. However, more than two decades on, the legislation and supporting guidelines are in need of updating to underpin Victoria's world-class, transparent and accountable environmental impact assessment system.

The act provides for the assessment of development projects that may have a significant effect on the environment. The act does this by enabling the minister to direct that an environment effects statement (EES) be prepared and assessed before decisions are made on the approval of a project. The environmental impact assessment system that is established by the act and ministerial guidelines made under section 10 of the act has a key advisory role in the context of relevant statutory approval processes. The system provides important environmental safeguards and a process for engaging with the community and interested stakeholders, who are able to submit views and information which must then be considered.

Improvements to the environmental impact assessment system are to be implemented as a result of this bill and new ministerial guidelines that establish the operational details of the system. These improvements will enshrine the best practice approaches currently being applied in Victoria and provide a clear foundation for the way the environment effects statement process will work into the future.

The reforms do not impact on current projects such as channel deepening. The environmental effects statement processes for these projects are already consistent with the best practice approaches proposed here. Clause 10 of the bill provides the relevant transitional arrangements.

The objectives of the reforms contained in the bill and proposed new ministerial guidelines are specifically to:

support ecologically sustainable development;

ensure transparency and accountability in the environmental impact assessment process in Victoria;

enable more timely assessment of environmentally significant projects; and

deliver process improvements without increasing the cost of the process.

The reforms will further clarify for all participants what is required, and ensure that adequate environmental studies are carried out and thoroughly examined, and meaningful consultation is undertaken

**Key features of the bill**

The act currently provides the minister with the power to require a supplementary statement. This has in the past been interpreted to apply to both public and private works proposals. Clause 6 of the bill will confirm this interpretation by clarifying proponent responsibilities, making it clear that this provision applies to all proposals, irrespective of whether or not they are public or private works.

Clause 7 of the bill replaces section 8 of the current act, substitutes a new section 8 and inserts new sections 8A to 8G. These make a number of amendments to improve the workability and efficiency of the EES process.

New section 8(1) clarifies the ability of the relevant decision-maker to seek the advice of the minister as to whether an EES is required if the proposed works could have a significant effect on the environment. New section 8(2) enables the relevant minister responsible for the statutory approval legislation to require a decision-maker to seek the advice of the minister as to whether an EES is required.

New section 8(3) will enable proponents to refer a proposal directly to the minister for a decision on the need for an EES. This will not only improve the timeliness of the EES process, but will also encourage proponents to be more proactive in considering environmental impacts when planning their proposals.

At present only a relevant 'decision-maker', such as a council, can refer a proposal to the minister. Enabling direct referral of a proposal by a proponent will allow the proponent to decide when preliminary investigations have sufficiently progressed and so avoid the time lags implicit in the existing process.

New section 8(4) will enable the minister to direct a decision-maker to refer a proposal to the minister for advice as to whether an EES should be prepared for the works. This will provide an additional avenue for the minister to ensure that all proposals that may have the potential for significant effects are referred for a determination on the need for an EES.

New section 8A will empower the minister to specify statutory decisions that are to be put 'on hold' pending the minister's decision on whether an EES should be prepared.

New section 8B sets out the process when a matter comes to the minister for advice under section 8.

New section 8B(2) establishes the ability for the minister to require a decision-maker or proponent to provide information that the minister may require in order to decide whether an EES is required.

New sections 8B(3) and 8B(4) of the act will enable the minister to apply conditions to a decision that an EES is not required for a particular proposal. This provision establishes further practical alternatives and additional safeguards when an EES has not been required. This provision will enable the minister to direct a proponent to meet certain conditions. For example, the conditions might relate to a particular form, scale and location of development with specific impact mitigation measures. Another form of condition could be to require that a particular process or specific investigations and/or consultations be carried out before a project is able to commence.

New section 8B(5) enables the minister to specify the procedures and requirements under ministerial guidelines, currently made under section 10 of the act, that are to apply to EES processes for both individual projects and different categories or types of projects. This will enable the minister to specify procedures and requirements that are commensurate with the nature and magnitude of the project and environmental risks or issues involved. The procedures and requirements could include matters to be addressed in the EES, consultation to be undertaken, exhibition time frames and inquiry procedures. It will improve upon the current one-size-fits-all EES process by providing flexibility, allowing for the EES process to match the specific environmental risks involved in a project. The requirement for the minister to specify the procedures and requirements that are to apply will provide greater certainty for proponents and transparency for the wider community. The effect of clause 4 of the bill makes a similar change in relation to public works.

In order to strengthen the coordination of decision making, new section 8C(1) will clarify that statutory

decisions must be put 'on hold' until after the decision-maker has considered the minister's assessment of the environmental effects of a proposal.

New section 8D specifies the time frames for decisions on works to be made by decision-makers in circumstances both where an EES is required and where an EES is not required, and reflects section 8(3) of the current act.

In situations when the minister has advised that a statement is not required for works if specified conditions are met, new section 8E enables the minister to reconsider the requirement for an EES if the specified conditions are not met.

New section 8F specifies that the requirements of new sections 8 to 8E do not apply to decisions under the Planning and Environment Act 1987, except in specified circumstances. This section reflects and updates section 8(6) of the current act.

New section 8G explains that the secretary must give advice, if requested by a proponent, to assist in the preparation of an EES. This section reflects and updates section 8(4) of the current act.

**New ministerial guidelines**

Clause 9 of the bill expands the power for the minister to set out procedures and requirements under ministerial guidelines. This will provide scope for topic-specific and general guidelines to be issued by the minister. It also provides a power for the minister to adopt or incorporate any matter in any document or standard published by an authority or body, for example, the International Standards Organisation (ISO).

While the amended act will provide operational improvements to the environmental impact assessment system, the new guidelines will provide more detailed procedural guidance. For example, the guidelines will provide guidance on the nature of consultation that should be conducted by the proponent in preparing their EES and formal consultation processes within the general framework of the act.

The package of reforms to be implemented through the proposed new guidelines under section 10 of the act will incorporate public hearing options to facilitate the EES process being tailored to the circumstances and environmental risks of individual projects.

Draft new guidelines for assessing environmental effects have been the subject of consultations with stakeholders and subsequent to the proclamation of the bill will be finalised to give effect to the reform package.

The new guidelines will confirm that assessment is to occur in the context of applicable legislation and policy as well as the principles and objectives of ecologically sustainable development. Victoria endorsed these principles and objectives in 1992 as a signatory to the national strategy for ecologically sustainable development. These principles and objectives, and related principles and objectives under Victorian legislation, will be relevant considerations in both the scoping of EES studies and the final assessment of proposed works.

The implications of proposed works for sustainable development will also be examined within the environmental impact assessment in a way that complements other environmental goals. For example, the new guidelines will clearly require referral of proposals with potential greenhouse gas emissions exceeding 200 000 tonnes of carbon dioxide equivalent per annum, directly attributable to the operation of the facility.

The government also endorses the long established approach under the 1992 intergovernmental agreement on the environment in relation to environmental impact assessment. This recognises an inclusive definition of the environment that includes environmental, cultural, economic, social and health factors.

**Conclusion**

Finally, I want to comment on the role that these reforms, introduced by means of both this amending bill and the new ministerial guidelines to be made under the amended act, will play in the system for assessment and approval of major projects in Victoria.

The EES process will remain focused on those projects that have the potential for environmental effects of regional or state significance. The overall system of approvals legislation in Victoria, including for example the Planning and Environment Act 1987, the Environment Protection Act 1970, and the Minerals Resources Development Act 1990, provides a robust framework for decision making on such proposals. The reformed EES process can be applied in combination with these core statutory procedures to effectively address the environmental implications of strategically significant development proposals.

In many ways the Victorian system is clearer and more robust than that in other Australian States. Other States have been trying to 'catch up' with Victoria in recent years by tackling a patchwork of multiple approvals

that apply to major projects. The reforms introduced by this bill and the new guidelines put Victoria further ahead when it comes to striking the right balance between economic, social and environmental goals. In doing so we are protecting the environment for future generations.

The effect of the reforms to the environmental impact assessment system now being introduced will modernise and improve the workability and effectiveness of the system. In developing these reforms the government has listened closely to the views of all stakeholders. The government will continue to listen to both the community and industry as the reformed process is implemented, to ensure that continuous improvement in the administration of the environment assessment process is achieved.

Finally, these reforms confirm the government's commitment both to facilitate major development in this state whilst at the same time advancing the essential priority of achieving an environmentally sustainable state.

I commend the bill to the house.

**Debate adjourned on motion of Mr BAILLIEU (Hawthorn).**

**Debate adjourned until Thursday, 20 October.**

## BUSINESS OF THE HOUSE

### Bills: availability

**The ACTING SPEAKER (Mr Nardella)** — Order! I have been informed that an additional stock of bills will be available by 8.30 a.m. tomorrow. Honourable members who wish to receive additional stocks of the previous bill are to let the staff of the papers office know tonight. They will make arrangements to get them out. In the meanwhile, honourable members and others can use the Internet to either download, read or print the bill.

**Mr Baillieu** — On a point of order, Acting Speaker, were you referring to the Water (Resource Management) Bill or all bills?

**The ACTING SPEAKER (Mr Nardella)** — I was referring to the Water (Resource Management) Bill. That is what the query was about in the previous instance.

## RAIL SAFETY BILL

*Second reading*

**Mr BATCHELOR** (Minister for Transport) — I move:

That this bill be now read a second time.

This bill heralds a new era in rail safety in Victoria. While Victoria has a proud rail safety record over the 150 years of rail operations in the state, new enhanced rail safety regulation and public transport governance is essential in order to maintain our current high safety levels and to generate continuous safety improvements in the future.

Government and transport operators must remain vigilant about rail safety performance. Together, we need to seek further safety improvements in an industry where, as international and interstate experiences show, incidents have the potential for serious consequences for life and limb. This is a particular issue for Victoria where the responsibility for the delivery and operation of passenger and freight rail services has been largely devolved to private operators and away from direct government control.

Victoria's challenge, and more broadly the challenge for the nation, is to learn from the safety regulation improvements in other jurisdictions and industries and to adopt best practice regulation that facilitates better hazard identification and risk management — activities aimed at preventing incidents, and at mitigating their consequences if ever they do occur. With these considerations in mind, it has been a key objective of the government to develop a contemporary best practice rail safety regime for the state.

**The purposes of the bill**

The key purposes of this bill are to:

maintain and improve the safety of rail operations and to further reduce the risks of major rail incidents; and

improve public transport safety regulation and administration at reasonable cost by introducing contemporary regulation and governance which —

draws on proven rail safety regulatory models operating in other key industry sectors and jurisdictions; and

more clearly defines the role, accountability and performance of Victoria's public transport safety regulator; and

effects other necessary regulatory and organisational changes.

**Why is new rail safety legislation needed?**

Metropolitan train and tram services and country rail services in Victoria were until the late 1990s almost solely operated by government or managed by wholly government-owned public entities. These entities were vertically integrated and directly accountable to government for their safety performance. However, from 1996, the delivery of train and tram services was transferred from the former Public Transport Corporation, first to corporatised public entities and then to private transport operators. By 1999, the Victorian rail system had been disaggregated and privatised. The passenger rail system is now managed through partnership agreements between government and rail infrastructure managers and rolling stock operators. Intrastate and interstate rail freight operations and infrastructure management are also now fully privatised.

**Rail safety regulation**

The current rail safety legislative framework was introduced into the Transport Act in 1996 before this disaggregation occurred. Soon after, responsibility for rail safety regulation transferred from the Public Transport Corporation, the then government-owned operator of all Victorian rail and tramway operations, to the Secretary of the Department of Infrastructure.

The centrepiece of the framework is a safety accreditation scheme for rail infrastructure managers and operators of rolling stock, the principal criterion for accreditation being what is described simply as an 'appropriate' safety management system (SMS) accepted by the safety regulator.

It is now recognised that this legislative framework has not kept pace with contemporary developments in safety regulation, particularly given the significant structural changes in the rail industry. For example, the current Transport Act provisions provide little guidance on how the 'appropriateness' of an SMS is to be determined. In practice this leads to negotiated safety outcomes and a divergence in the quality of safety management systems among transport operators.

In addition, the legislation does not establish a coherent chain of responsibility for the effective management of rail safety risks. For example, unlike other modern safety legislation, the act does not identify the key parties or individuals who can control risks and does not impose performance-based safety responsibilities. The existence of an appropriate SMS may not of itself ensure safety if it is not energetically and intelligently implemented and managed by persons who have specific obligations for safety. Further, the Transport Act contains a basic compliance and enforcement regime which can constrain the public transport safety regulator in making safety-related inquiries and taking proportionate responses to safety breaches. In addition, current penalties for safety breaches are below those currently applied in other relevant safety regimes such as occupational health and safety.

The Waterfall rail accident in New South Wales on 31 January 2003 where seven people lost their lives has resulted in critical rail safety lessons for all jurisdictions. In the final report of the special commission of inquiry into the Waterfall accident, Justice McInerney emphasised the need for proactive risk management and effective and independent safety regulation in the rail industry in order to prevent major accidents such as the Waterfall accident and an earlier accident at Glenbrook in NSW on 2 December 1999 which also led to multiple fatalities. In addition, the need to improve the rail safety regulatory framework and to improve risk management practices in Victoria has been highlighted by independent investigations and reviews into rail accidents and incidents in Victoria in recent years which have identified some systemic safety concerns.

There is a need to improve Victoria's rail safety regulation to ensure that the rail industry adopts the modern hazard identification and risk management practices which will enable industry participants to manage risks more effectively. It is also critical that the community have confidence in the safety of the rail system and confidence in public transport safety generally. The public has a right to expect that Victoria will require optimal safety performance from those involved in rail transport.

**Public transport safety governance**

Community, government and industry confidence in the role, independence and accountability of Victoria's public transport safety regulator is also essential. Improving the independence and effectiveness of the regulator is vital to securing improved safety outcomes in Victoria in the rail and bus industries.

Currently, public transport safety regulation in the rail and bus sectors is administered by the Department of Infrastructure. The Transport Act and the Public Transport Competition Act confer safety powers on the secretary of the department. In practice, the secretary's powers are delegated to the director, public transport

safety. The director essentially administers rail and bus accreditation schemes through approval and auditing, as well as approving the safety aspects of new works on the rail networks and conducting safety inquiries and investigations of incidents and breaches of safety requirements. However, the director is not able to enforce safety obligations directly by means of prosecution and other direct enforcement as the current legislation does not make sufficient provision for this to occur.

In addition, the Transport Act does not formally establish the director's position, and consequently it does not set out the objectives of the role or its functions. Accountabilities are also unclear, and there is no provision for formal independence for the office to exercise its safety regulation obligations. Under current arrangements potential conflicts of interest could arise where the secretary is responsible for the appointment and resourcing of the safety regulator and also for the procurement, funding and performance regulation of transport services undertaken by the director of public transport.

The special commission of inquiry into the Waterfall accident in NSW emphasised the need for and importance of an independent and effective rail safety regulator. Those findings have been supported by a review of current governance arrangements for rail safety regulation in Victoria and through consultation with the rail industry and rail industry unions. There is a need for clearer and strengthened organisational arrangements for rail safety regulation and rail safety regulator performance. Reform will also allow the director to concentrate on operational public transport safety regulation, including the development of codes of practice and other guidance material to assist industry safety compliance, while responsibility for safety policy and the delivery of transport services will rest with other areas of the department such as the director of public transport. In addition, no-blame investigations into accidents and incidents will be conducted by the proposed new statutory office of the chief investigator, transport and marine safety investigations.

**A new rail safety framework for Victoria**

In response to the Waterfall accident in NSW and incidents in Victoria, the Department of Infrastructure has undertaken a series of initiatives concerning rolling stock, rail infrastructure and human factors impacting on safety outcomes with the overall objective of improving rail safety in Victoria. The development and implementation of the legislative framework in this bill for improved rail safety is a cornerstone of this concerted effort.

Rail safety regulation initiatives in Victoria have tended to evolve reactively rather than proactively and often in response to investigation reports into specific incidents and accidents. This approach to rail safety regulation has been reviewed as part of a wider review of all public transport legislation. In July 2004 the department released an issues paper entitled *Improving Rail Safety in Victoria*. The paper examined safety regulation developments in the rail industry and other key safety sectors both in Australia and overseas and recommended the key features for a new integrated and best practice regulatory framework.

These features are reflected in the bill now before the house and include the establishment of performance-based rail safety duties for rail operators, managers of rail infrastructure, contractors working on rolling stock or rail infrastructure, and rail safety workers including drivers and maintainers of rolling stock and infrastructure to ensure safety so far as reasonably practicable. This effectively imposes rail safety duties and obligations on each person in the rail industry who is in a position to affect safety and clearly identifies the roles and the safety chain of responsibility between them. The duties emphasise the responsibility of each participant to take steps as far as reasonably practicable to identify hazards and manage risks to safety that are within their control. This includes persons whose influence on safety exists 'upstream', such as persons involved in design, manufacture, maintenance, repair and modification of rail infrastructure and rolling stock. Codes of practice and other guidance material will be issued by the minister and the director to provide guidance to the persons who have duties under the bill.

The bill also includes a more robust safety accreditation scheme for key rail industry participants; that is, infrastructure managers and rolling stock operators who control the critical elements and who have primary responsibility for identifying the hazards and for managing particular risks that have the potential to lead to major rail safety incidents.

The bill will substantially increase the rigour in the accreditation regime by requiring documentation on hazard identification, risk assessment and risk controls to prove that an organisation has the capacity and ability to achieve the required level of safety performance. The new bill will also require that greater detail be provided in the content of each safety management system and set out the objectives of an SMS. Each SMS will be reviewed by the director to

ensure that it complies with requirements and represents a complete and effective method of safe rail operation. These provisions should substantially reduce the risk of rail accidents and incidents by providing a greater level of assurance about the adequacy of safety management systems and their ability to improve the level of safety performance across all rail operations. The new accreditation system will be a more effective regulatory tool in a complex industry with multiple participants and complex network interfaces.

The bill also contains a graduated hierarchy of sanctions and penalties to enable proportionate compliance and enforcement responses to rail safety breaches and contraventions of notices to improve safety performance.

The specification of a spectrum of penalties and sanctions is consistent with best practice safety regulation and is intended to emphasise prevention and provide greater incentives for better risk management, especially by accredited rail organisations. The wider range of compliance options made available by the bill will give the rail safety regulator greater flexibility to take appropriate action consistent with the nature and severity of the safety breach. Where the safety regulator detects a non-compliance with an SMS, he or she will be empowered to issue a mandatory improvement or prohibition notice followed by a penalty if it is not complied with.

The bill also establishes the director of public transport safety as a statutory office to provide greater independence from government and to clarify the role and its accountabilities and powers.

While the new framework is expected to deliver substantial safety benefits, the government has taken particular care in its design to maintain an appropriate balance between safety and financial considerations. This will continue the sensible allocation of private and public resources and avoid unnecessary burdens on industry, rail users and government. With this in mind, unless it is in the interests of the protection of public safety to act immediately, the director, public transport safety, and the director of public transport must undertake cost benefit analyses and consultation on mandatory rail safety decisions (such as the imposition of conditions of accreditation) and on the implementation of safety recommendations which have potential for significant cost. This must be done by following guidelines developed and issued by the Minister for Transport following consultation with the Premier and the Treasurer.

**The key elements of the bill**

The key elements of the bill are as follows.

Parts 1 and 2 of the bill set out preliminary matters including definitions and a set of overarching rail safety principles.

Part 3 establishes performance-based duties for key parties with risk management responsibilities as part of the chain of responsibility for rail safety.

Part 4 enables the director, public transport safety to take action, in consultation with the relevant utility safety regulator, in relation to utilities or rail operators, where there is a threat to the safety of the operations of the rail operator or utility.

Part 5 sets out the framework of accreditation including provision for applications, offences, assessment criteria, conditions and variations of accreditation and disciplinary action.

Part 6 continues the alcohol and drug control provisions for rail safety workers which are currently contained in part 6 of the Transport Act.

Part 7 contains provisions to facilitate the internal and external review of decisions of the director. External review is permitted by the Victorian Civil and Administrative Tribunal in relation to a list of reviewable decisions which includes decisions relating to accreditation.

Part 8 makes provision for the development, approval and availability of codes of practice for the purpose of providing practical guidance to accredited rail operators and other persons with obligations under the bill.

Part 9 concerns offences by bodies corporate, partnerships and unincorporated bodies or associations and their officers. The part confirms the seamless interaction of the bill with the Occupational Health and Safety Act 2004 and sets out regulation-making powers and other matters.

Part 10 amends the Transport Act to —

establish a new statutory office of the director of public transport safety. The part specifies the functions, powers and accountabilities of the office, including a requirement that the director act independently. Other provisions such as that limiting direction also highlight the independence of the role. The director will report to the minister on statutory matters and to the Secretary of the Department of Infrastructure on other issues such as administration.

The part also requires cost-benefit analyses and consultation on certain decisions and recommendations of the director;

require the director of public transport to take safety into account and to conduct cost-benefit analyses and consultation on certain decisions and recommendations of the director of public transport safety and the chief investigator, transport and marine safety investigations;

include some general offences concerning the safe behaviour of persons in relation to public transport infrastructure and vehicles which are serious enough to require their transfer from current regulations to the act;

make appropriate provision for the enforcement of transport safety including by providing for the appointment of transport safety officers and the powers of officers for entry, inspections, searches and seizures; and

establish powers and sanctions including improvement notices, prohibition notices and other sanctions such as commercial benefits orders and supervisory intervention orders.

Part 11 makes substantive changes to the Public Transport Competition Act 1995 to incorporate the establishment of the new office of the director of public transport safety and to provide for the functions of the office in relation to the accreditation scheme established for bus operators under that act. The government intends to review the current bus safety regulation regime in that act in the near future. The part also amends the Rail Corporations Act 1996 to require VicTrack to take account of safety matters when performing its functions. It also amends the Electricity Industry Act 2000, the Gas Industry Act 2001, the Road Management Act 2004, the Water Act 1989 and the Water Industry Act 1994 to establish performance-based safety duties for the utilities covered by those acts when they exercise their powers on or near rail infrastructure or rolling stock. The part also provides for savings and transitional matters.

**Implementation of the new rail safety framework**

The bill will come into operation on proclamation and the government has targeted 1 July 2006 for its commencement. A staged implementation process and an appropriate transitional period are necessary for some key aspects of the bill. This will facilitate an appropriate pace of risk management and compliance change for industry and allow for necessary systems, training and administrative changes.

Regulations required for the commencement and operation of the bill are currently in development. The draft regulations and an accompanying regulatory impact statement are expected to be available for industry and wider public comment shortly after the passage of the bill.

**Conclusion**

In addition to the momentum in Victoria on rail safety matters, reform of rail safety regulation is an important national priority and the National Transport Commission is developing a national model Rail Safety (Reform) Bill. There has been a high degree of cooperation between the National Transport Commission and Victoria in that process and Victoria's proposal is highly consistent with the current draft national bill. However, if substantial and material differences unexpectedly emerge between the two bills, Victoria will seek to modify its legislation to the extent necessary to discharge its responsibilities for national uniformity or consistency. In any intervening period, the mutual recognition provisions of Victoria's bill will ensure seamless interstate rail safety regulation.

The bill continues the government's reform of public transport legislation and the necessary transition to better, clearer and more streamlined performance and process-based regulation. This is a direction which is being explored for public transport legislation generally.

This bill is undoubtedly one of the most important public transport legislative proposals in the last 20 years. It continues Victoria's journey towards the ongoing maintenance and continuous improvement of the already high rail safety standards which apply throughout the state.

I commend the bill to the house.

**Debate adjourned on motion of Mr MULDER (Polwarth).**

**Debate adjourned until Thursday, 20 October.**

## TRANSPORT LEGISLATION (SAFETY INVESTIGATIONS) BILL

*Second reading*

**Mr BATCHELOR** (Minister for Transport) — I move:

That this bill be now read a second time.

Victoria has a proud safety record in the public transport and marine sectors. Passenger travel and freight movements by rail, bus or vessel are very safe. However, government and operators in particular must remain vigilant to maintain the current high levels of safety performance in these industries and to generate continuous safety improvements in the future. In particular, we must be prepared to consider and adopt best practice reforms and be willing to learn from the safety experiences of other jurisdictions.

With these considerations in mind, the purpose of this bill is to provide for independent public Transport and Marine Safety Investigations. The bill will establish an office of Chief Investigator, transport and marine safety investigations to give Victoria an ongoing capability for independent no blame safety investigations of public transport and marine accidents and incidents. The bill is a further important step in providing more effective frameworks for public transport and marine safety in Victoria. It is expected that the bill will facilitate —

reduced accident and incident rates through the identification and elimination of causal factors;

improved safety performance by industry at management and operational levels;

improved safety governance and increased public confidence in public transport and marine safety; and

reduced costs of public transport and marine accidents to industry, the community and government.

The current regulatory frameworks for rail (train and tram) and bus safety are set out in the Transport Act 1983 and the Public Transport Competition Act 1995 respectively. The centrepiece of each framework is a safety accreditation regime for rail infrastructure managers and rolling stock operators and bus operators.

The director, public transport safety in the Department of Infrastructure is responsible under delegation from the secretary for the administration of public transport safety regulation in Victoria. This includes the investigation of incidents or potential breaches of safety accreditation, for both compliance and no blame purposes, by train, tram and bus operators and rail infrastructure managers. While the acts provide authority for the minister or the secretary to require rail and bus incidents to be investigated, currently Victoria does not have a dedicated resource to conduct no-blame investigations. For the most serious public transport accidents and incidents, the state has relied most recently on the Australian Transport Safety Bureau or nominated independent experts to guarantee impartiality.

The Marine Act 1988 contains licensing and certification regimes for the safe and efficient operation of commercial shipping and recreational boating in Victoria. The act also confers power on the director of marine safety for the investigation of marine incidents for both compliance and no blame purposes.

The *Review of the Role and Accountability Arrangements for Public Transport and Marine Safety Regulation in Victoria* by TFG International Pty Ltd recently examined the current governance arrangements for safety regulation and investigation in the public transport and marine sectors in Victoria. The review considered reforms in other relevant jurisdictions, consulted key industry and government stakeholders and made recommendations to improve the governance, accountability, structure and methodology of public transport and marine transport safety regulation and investigation.

The review found that apart from the inconsistency between the administrative and legislative frameworks for the conduct of public transport and marine accident safety investigations, no-blame investigations needed to be conducted independently of the respective safety regulators to avoid conflicts of interest. This is particularly important where it is necessary to examine or question the role of the relevant safety regulator as part of an investigation. National standards for no-blame safety investigation of transport accidents also require them to be conducted in a manner which is independent, impartial and unbiased. The review recommended that the function of accident investigation be conducted by an investigator who had statutory independence from the relevant safety regulator. It also concluded that public transport and marine accident investigation functions should be combined in a single office.

The establishment of a dedicated investigations capability is also essential to reduce the current reliance on operator self-investigation of rail incidents. On average, only five to six of reported category A rail occurrences are independently investigated each year

by the Australian Transport Safety Bureau or independent experts. The remainder are subject to internal investigation by the rail operator concerned. Category A incidents and accidents include those that involve fatalities, serious injuries, derailments and collisions. As the Auditor-General highlighted in his report *Regulating Operational Rail Safety* issued in February 2005, individual operators can lack the competence, resources and objectivity necessary to undertake these investigations to an appropriate standard. It is, however, not possible or practicable for every category A occurrence to be independently investigated. However, it is imperative that the more serious occurrences such as those involving significant collisions or those where there is evidence of systemic safety deficiencies, are subject to independent investigation.

The situation is similar in the marine sector where incidents involving Victorian registered commercial and hire-and-drive vessels respectively are reported to the director of marine safety. Very few incidents are currently subject to independent investigation while some are investigated for compliance with marine safety regulation. Accidents involving recreational vessels are normally subject to investigation by the Victoria Police for compliance purposes.

Property and infrastructure damage costs resulting from accidents and incidents, including costs to repair damage caused by rail derailments and collisions, can be significant. There are also the human costs of accidents and incidents and other costs for service delays, emergency services, insurance and legal matters which must be taken into account. By identifying underlying causal factors, independent safety investigations will improve public transport and marine safety outcomes and reduce human, operator, industry and government costs through recommendations which will lead to reduced accident and incident rates.

New South Wales now has an independent Office of Transport Safety Investigations prompted by recommendations arising out the Glenbrook and Waterfall rail accidents in 1999 and 2003, which resulted in 14 fatalities. The experience there shows that better quality aggregate accident causation data contributes to overall safety improvements and potential cost reductions by underpinning more effective and strategic investment of available safety funding. It is not practical or possible to make greater use of the Australian Transport Safety Bureau. The bureau's primary mandate is to investigate aviation accidents and accidents on the national rail system and those involving international or interstate shipping.

Industry stakeholders have indicated a strong preference for the separation of the accident investigation role from the statutory safety regulation role. The view has also been expressed that accident safety investigations should be kept close enough to the industry to remain relevant. There was also no industry support for the separation of the investigation function from the transport portfolio to another area of government.

Accordingly, the bill inserts a new part V in the Transport Act, the key feature of which is the establishment of the new statutory office of the chief investigator, transport and marine safety investigations. The bill underscores the independence of the new office by imposing an explicit duty on the investigator to act independently when conducting investigations, including those directed by the minister to whom the position will report. In addition, the terms of office of the investigator cannot be varied during the term of appointment and suspension and removal are subject to parliamentary review.

The bill makes it clear that the principal function of the office is the independent investigation of no blame public transport and marine safety matters and the reporting of the results of investigations to the minister. In conducting accident or incident investigations, the chief investigator will not apportion blame and must focus primarily on determining the factors which caused the accident or incident. The chief investigator must also identify safety issues that may require further review, monitoring or consideration.

The bill provides for the proper and efficient administration of the office of the chief investigator including by making provision for acting arrangements, staffing, delegation and indemnity. I note that it is expected that the chief investigator will have a small staff. Appropriate provision is also made for the specific and general investigation powers and other powers needed to support the effectiveness of the office.

It is important that the chief investigator's function be properly coordinated with the functions of other persons or bodies that may inquire into transport accidents and incidents. This includes the director, public transport safety, the Victoria Police, WorkSafe and the coroner. To this end, the chief investigator will enter into memoranda of understanding with those persons or bodies to ensure that transport investigations proceed in an orderly and complementary manner.

This initiative is another important government reform aimed at improving transport safety governance and,

more broadly, improving safety outcomes in the public transport and marine sectors.

I commend the bill to the house.

**Debate adjourned on motion of Mr MULDER (Polwarth).**

**Debate adjourned until Thursday, 20 October.**

## CHILD WELLBEING AND SAFETY BILL

*Second reading*

**Ms GARBUTT** (Minister for Children) — I move:

That this bill be now read a second time.

Our government's vision is for children and young people to thrive, learn and grow, to be respected and valued, and to become strong adult members of the community. A shared commitment among communities, professionals and the different levels of government is required to give children and young people the best possible start in life, and to provide families and communities with the help they need to achieve this.

Our policy recognises that children have particular capacities, strengths and problems and that their needs do not neatly fall into single categories. Health, learning, development, wellbeing and safety are all essential, overlapping areas of importance in achieving positive outcomes for all children and young people, including the most vulnerable.

> Child development includes their physical development and the opportunities needed for growth, maturation and greater complexity in behaviour and interactions with others, all of which change as children grow and mature.
>
> Child health includes not just the absence of disease — since some ill-health is part of life — but protection from damage or danger as a result of disease, whether physical or psychological.
>
> Child learning includes opportunities for interactions with others and discovery of the world, the acquisition of skills and understanding.
>
> Child wellbeing includes resilience, social confidence, secure cultural identity and protection from prolonged isolation, emotional trauma or exclusion.
>
> Child safety implies protection from unreasonable risk of injury, accident, harm, abuse or exploitation; and that the places and the people involved in their care do not increase these risks. We want to provide safe environments for children and young people — in their homes and in their broader communities.

The Child Wellbeing and Safety Bill provides a legislative framework to encourage and support a shared commitment toward children and young people. It provides overarching principles to guide the delivery of child, youth and family services within Victoria, which will apply to universal, secondary and tertiary child, youth and family services. It provides mechanisms for whole-of-government collaboration to promote children's wellbeing and safety.

More specific pieces of legislation will provide detailed guidance on the responsibilities and functions of specific child, youth and family services. The existing Children's Services Act will continue to provide the legislative framework for licensing and regulation of universal children's services. The Adoption Act will continue to guide adoption processes in Victoria. The Children, Youth and Families Bill, which will be considered separately by the Parliament, more specifically addresses family support, child protection and out-of-home care services. That bill provides detailed guidance on the particular functions and responsibilities of the secondary support and tertiary sector that comprise the child, youth and families service system.

### Guiding principles to promote a child-focused and integrated child, youth and family service system

A critical focus of our reforms is to build a more integrated service system — a service system in which the universal, secondary and tertiary services work together to provide a graduated range of responses that adapt over time to the changing needs of families. While each tier of the service system will have a particular focus, all services should share a common set of goals and values. The Child Wellbeing and Safety Bill spells out that common set of guiding principles.

These principles recognise that all children need capable, nurturing parents and a caring community that is child and family friendly. Parents are a child's first teachers, and their strongest supporters — the guardians of their wellbeing. But just as children need supportive parents, parents in turn need support from the broader community to help them to succeed as parents.

Parents can gain strength from informal supports and social networks — just as children benefit from wider

opportunities and safer environments. The Child Wellbeing and Safety Bill acknowledges and encourages the important partnership between parents, professionals and services, and their local community to protect children and young people and to guide their healthy development.

In order to support a more integrated service system, the bill provides guidance on the importance of:

services working together to form an accessible and responsive support system that is oriented to common goals and integrated through local and regional partnerships and planning;

services based on the best available knowledge of what children and young people need and how they develop;

targeting assistance to the most vulnerable groups in Victoria;

providing culturally appropriate and inclusive services;

maximising families' awareness of the available services and their opportunities to benefit by services, especially for those families who are most in need.

The guiding principles in the bill also emphasise the importance of empowering children and families to participate in decision making, and to ensure that all decision making is timely and respectful of a child's individual and cultural identity.

These principles therefore provide high-level guidance on the roles and responsibilities of child, youth and family services. Family support, child protection and out-of-home care services that are subject to the Children, Youth and Families Bill will also be subject to more detailed principles about the key factors to take into account when making a decision and the required good practice in working with vulnerable children and family. The principles set out in the Child Wellbeing and Safety Bill and the Children, Youth and Families Bill are complementary.

**Promoting children and young people's health, learning, development and wellbeing**

Importantly, the bill places a responsibility on the Minister for Children to develop and promote a charter of wellbeing and safety for Aboriginal children and young people. In recognition that Aboriginal children and young people continue to experience significantly worse outcomes in life than the non-indigenous community, this charter will spell out the key actions and measures of progress in improving their health, learning, wellbeing, development and safety.

The bill establishes two key structures to being a whole-of-government responsibility to planning, enhancing and improving outcomes for children and young people.

The Victorian Children's Council will support the Minister for Children by providing expert independent advice about policy for Victorian children and young people. The bill provides legislative guidance on the operation of this council, whose members will have expertise in child health, learning, wellbeing, development and safety. The council will provide expert advice to the Premier and the Minister for Children on the policies and services that will enhance children's life outcomes.

Cross-government collaboration will also be supported by a Children's Coordination Board. The bill spells out that the board will comprise the secretaries of the departments of Premier and Cabinet, Treasury and Finance, Human Services, Education and Training, Victorian Communities, Justice, and the Chief Commissioner of Police. Its role will be to monitor the effectiveness of government programs in supporting positive outcomes for children, particularly the most vulnerable, and to monitor that new administrative arrangements are effective in coordinating at the local and regional levels the state's actions relating to children.

**Promoting safe environments for children — the role of the child safety commissioner**

The child safety commissioner will promote the safety and wellbeing of children and young people. He will represent the interests of all Victorian children, with a special emphasis on vulnerable children, including those in out-of-home care. He will address child safety matters in several ways, including through community education campaigns to promote child-friendly and safe environments in the community.

The commissioner will conduct an annual independent review of the working-with-children check. The working-with-children check will assist to protect children by preventing people who have a criminal record indicating that they may be a risk to children from working or volunteering in children's activities. The Department of Justice will conduct the checks. The child safety commissioner will review the administration of the check process. His oversight will

assist to ensure that checks are effective and carried out in accordance with appropriate procedure.

The commissioner will, in consultation with the Secretary of the Department of Justice, work with employers, volunteer groups, community groups and government agencies to promote how the working-with-children check relates to their activities.

Most children already have adults to look after them and protect them from harm — principally their parents and guardians. However, some children, those in out-of-home care services — who have experienced abuse and neglect or whose families are unable to look after them — are a particularly vulnerable group and require an extra voice on their behalf.

The child safety commissioner will carry on the work of advocating for children in care, monitoring the out-of-home care system, and recommending improvements to better meet the needs of children and young people. He will also promote a service system that actively encourages children to participate in the decisions that affect their lives.

The commissioner will be responsible for conducting inquiries into the deaths of children who were known to child protection. This function has hitherto been conducted within the Department of Human Services' Office for Children.

Child death inquiries examine the effectiveness of the services and practices of those services involved in the lives of deceased children. Whether children in the care of the state die from illness, accidents, or as a result of criminal acts, we should always learn from their lives and from their deaths. Child death inquiries are part of this learning process, identifying service system practice issues, which help government and services to better protect and care for children.

The bill provides for the minister to establish advisory committees in relation to functions under the act. The Victorian Child Death Review Committee was established as such an advisory committee in 1995. This committee will continue to provide expert monitoring and advice on the child death inquiry process, identifying ways in which policies and practices can improve the health and welfare of children and families at risk. No one part of the service system is solely responsible for a successful outcome, and all services must cooperate together if we are to protect and nurture vulnerable children and young people. In reflecting upon the inquiries conducted by the child safety commissioner, the committee will continue to provide a multidisciplinary focus on child deaths.

**Consolidating the Minister for Children's responsibilities**

Finally, the bill will provide a vehicle to consolidate the Minister for Children's responsibilities — now and into the future. For example, responsibilities in relation to recording the births of all children in order to link families to maternal and child health services are currently set out in the Health Act. These provisions will now be imported into the Child Wellbeing and Safety Bill.

**Conclusion**

All children and young people deserve the best possible start in life. The Child Wellbeing and Safety Bill provides a critical legislative foundation for government and non-government services to work together to better support families and to promote children's health, development, learning, wellbeing and safety. The bill embeds this commitment across both the state and local governments and amongst the entire child, youth and family service system.

For the first time, professionals working across the universal, secondary and tertiary service sectors will be subject to a consistent set of principles that prioritise a child-focused approach to service delivery and provide guidance on critical factors in helping all children reach their full potential and participate in society, irrespective of their family circumstances and background. Importantly, strong attention is given to the most vulnerable children, young people and families, so that they receive the assistance they need, at the time when it will be the most helpful.

The bill provides a framework for collaboration across the universal, secondary and tertiary tiers of the service system and will support better coordination of effort across government.

It establishes critical mechanisms to monitor how children are faring and involves experts in building a strong evidence base that informs future policy, planning and program development. The child safety commissioner will provide a vehicle to promote safe and nurturing environments for children.

I commend this bill to the house.

**Debate adjourned on motion of Mrs SHARDEY (Caulfield).**

**Debate adjourned until Thursday, 20 October.**

## CHILDREN, YOUTH AND FAMILIES BILL

*Second reading*

**Ms GARBUTT** (Minister for Children) — I move:

That this bill be now read a second time.

Since being elected, the government has worked in partnership with community service organisations to provide the most vulnerable children and young people in Victoria with the best possible start in life. Our reforms are about putting children and young people first. Our goal is to ensure that vulnerable children and young people thrive, learn and grow and are respected and valued to become effective adults.

Significant reforms to child, youth and family services in Victoria are already under way to promote earlier intervention, prevention and more effective responses to children and young people who are in need of protection. These reforms are underpinned by a commitment to best practice. They have been informed by national and international learnings and innovative approaches to strengthening vulnerable families, protecting children and young people and promoting vulnerable children's healthy development — learnings that have been carefully tailored to Victorian circumstances and needs.

The Children, Youth and Families Bill is a critical foundation to take these reforms forward. With this bill, we have a once-in-a-generation opportunity for comprehensive legislative change — changes that are critical to implement new policies and ways of delivering services to make a sustainable difference in the lives of vulnerable children and young people. Over the past two years I have been consulting with families, young people, experts and those working with children, young people and families — from earlier intervention through to the Children's Court — to make sure that we provide a legislative framework that will support communities, professionals and the courts to meet the changing needs of today's families. The resulting bill draws on a wealth of experience and expertise to provide a consistent framework for decision making and service delivery in the best interests of children and young people.

Our white paper, *Protecting Children — The Next Steps*, spells out our policy framework for vulnerable children, young people and families that underpins the Children, Youth and Families Bill. Our approach recognises that all children need capable, nurturing parents and a caring child and family friendly community. Parents are a child's first teachers, their strongest supporters — the guardians of their wellbeing. Our reforms emphasise the importance of supporting parents to play this role. Where parents experience stresses that impact on their care of children, our first goal is always to work supportively with them to keep families together. If children cannot live safely at home, we will continue to work intensively with their parents to address problems, build resilience and enable a child to return home safely as quickly as possible. Where this is not possible, our goal is to ensure that children experience stable and high-quality alternative care.

We have recognised that the protection of children cannot be separated from policies and programs to improve children's lives as a whole. The protection of children, and the support of families to enable them to do the best for their children, is not just a matter for community services, not just a matter for governments or for the courts. It is a much wider community responsibility.

Under our policy framework the next steps in reforms of child, youth and family services involve:

enshrining children and young people's best interests at the heart of all decision making and service delivery;

encouraging the participation of children, young people and their families in the decision-making processes that affect their lives;

building a more integrated service system across the universal, secondary and tertiary tiers of child, youth and family services — a service system that is localised, better coordinated and that is responsive to family needs;

boosting earlier intervention and prevention though the use of community-based intake, assessment and referral when families first show signs of difficulty, and targeting family support services at the most vulnerable groups and communities;

improving children's stability, especially in critical early childhood years;

strengthening the cultural responsiveness of services so that community services are inclusive of children and young people from Aboriginal and other cultural backgrounds;

keeping Aboriginal children and young people better connected to their culture and community when in care;

ensuring that all child, youth and family services are accountable and of high quality;

giving greater emphasis and focus to the needs of adolescents; and

modernising the terminology of the juvenile justice system and expanding the use of group conferencing as a pre-sentence diversion for suitable young offenders, consistent with restorative justice principles.

Into the future, family support services will have a more targeted role to assist the most vulnerable children, young people and families. Child protection will retain its specialist function — to respond when children and young people are in need of protection. Child protection will also have a community partnership role — providing expert advice and assistance to community services to support earlier intervention. In this way, secondary and tertiary sectors will work together to provide a graduated range of services and respond effectively to changes in family needs and risks. The Children's Court will remain central to the statutory system of child protection — especially when children and young people cannot live safely at home and decisions need to be made about their custody and guardianship.

The Children, Youth and Families Bill combines and updates the existing Children and Young Persons Act 1989 and the Community Services Act 1970. The bill provides the legal authority necessary to enable changes in practice — for example, to enable community services and child protection services to work together more effectively. It also provides clear guidance on some significant shifts in practice. For example —

A growing number of children and young people are repeatedly notified to child protection. Whilst individual reports may not meet the threshold for protective intervention, we know that harm can accumulate over time — having long-term damaging effects on a child. Rather than considering needs and risk on an episodic basis, we want the new legislation to direct community service organisations and child protection to focus on cumulative harm.

We also know that Aboriginal children and young people continue to be overrepresented in child protection and out-of-home care services. This is unacceptable. We want to establish a legislative framework that promotes a new approach to maintaining children's connection to their family and culture, rather than breaking this connection.

We want a legislative framework that establishes stronger levers to monitor the impact of decision making on a child's development. In particular, we want to encourage changes in practice to prevent harm to children associated with years of drifting between home and multiple out-of-home-care placements.

I note that transitional arrangements for the bill and consequential amendments to other legislation will be brought forward in autumn next year, well in advance of the commencement of the act in October 2006.

I would also reiterate that the bill is only one element of the government's reforms. Significant system and practice changes are also involved in implementing the government's policy framework. We will work with our partners in the sector to make these changes so that we make a positive difference in the lives of vulnerable children, young people and families.

**Enshrining children's best interests at the heart of all decision making**

The first of the major themes of the Children, Youth and Families Bill is to ensure that child, youth and family services are focused on the needs of children and young people. The bill recognises that strengthening families is a critical responsibility of child, youth and family services. For the first time, the bill emphasises that services also need to take action to ensure that vulnerable children and young people meet developmental milestones.

This is an important shift in approach. The Children and Young Persons Act had a narrow focus on the role of the state in protecting children from immediate risks of harm. The Children, Youth and Families Bill goes further to build a shared responsibility for protecting children and young people, but also to proactively promote their development and longer term wellbeing. Harm needs to be better understood so as to encompass accumulated harm, as well as acute crises, or a single serious incident.

Achieving this shift depends on a shared understanding between workers and services, from earlier intervention and prevention, right through to the Children's Court, about the issues that matter most in the life of a child. The new best interests principle provides that common framework for everyone working under this act.

The best interests principle spells out that consideration must always be given to protecting children from harm, promoting their development and protecting their rights. More detailed factors are listed for consideration as relevant depending on the child's circumstances and

type of service response being offered. For example, these detailed factors address the importance of preserving children's positive relationships with their family and the desirability of a child living at home. The importance of stable, continuous care for a child's healthy development, and the importance of taking account of children's wishes and their cultural identity.

If there are other people's interests to be considered, then the bill provides that the child or young person's interests are the most important.

These principles will apply to child, youth and family services.

**Decision-making principles**

As well as providing a consistent basis for decision making, the Children, Youth and Families Bill also establishes consistent principles about the decision-making processes that will apply to community and departmental services. The case-planning principles in the Children and Young Persons Act have been updated, and will be extended to community service organisations.

These decision-making principles promote the active involvement of children, young people and families in the decisions about them. The principles will help to guide the use of dispute resolution processes, such as family group conferencing.

The bill also spells out a new framework for appropriate dispute resolution within the Children's Court. The Children and Young Persons Act only supports pre-hearing conferences. The very name of pre-hearing conferences suggests that they are a precursor to a contested hearing.

The Children, Youth and Families Bill renames pre-hearing conferences as 'dispute resolution conferences', so as to refocus proceedings on the finding of common ground and agreeing a way forward to protect a child and promote their healthy development. The bill provides a framework to redevelop these conferences, so that they can occur earlier in the court process. This new framework provides greater flexibility to develop conferences utilising facilitative approaches and advisory models of dispute resolution. Once again, strong emphasis will be given to supporting participation, including by providing guidance that children and young people should be given opportunities to involve somebody to support them in appropriate dispute resolution meetings.

**Building an integrated service system that is more localised, better coordinated and is responsive to family needs**

The problems facing vulnerable families have become more complex since the introduction of the Children and Young Persons Act in 1989. Substance abuse and family violence have become the most common characteristics of families in contact with child protection. Where children and young people are at risk of harm, their families are often grappling with one or more issues from amongst long-term poverty, social exclusion, relationship breakdown, family violence, substance abuse, mental illness or disability.

A one-size-fits-all approach will not work. Our services need to be tailored to local conditions and needs. A service model that works in Bairnsdale, for example, may not be the best fit in Darebin. Importantly, services need to be able to respond to changes in family circumstances over time.

There is no evidence from anywhere in the world that relying on child protection as the primary service to protect vulnerable children and families makes a sufficient lasting difference. Our approach is based on building a flexible and graduated range of service responses. It involves major system reform to bring the earlier intervention sector and child protection sector together, and link them to early childhood services to form a more coordinated system. Together with community agencies, we have sought to ensure that this service system is built in such a way to enable it to adapt to local needs, and able to respond to changing circumstances within a family.

The Children, Youth and Family Services Bill restates the primary role of families in caring for their children, and reinforces the responsibilities of families, communities, community services and government for children's safety, development and future wellbeing. It provides a critical foundation for progressing this system reform.

**Boosting earlier intervention**

The existing family support innovation projects have demonstrated a new model of earlier intervention, prevention, and service coordination. Rather than over-relying on child protection to provide a gateway into services for children and their families, we have been working with support services to establish highly visible community-based intake, assessment and referral services as entry points into voluntary community services. These intake, assessment and referral services have started to be rolled out on a

sub-regional basis through the family support innovation projects. An important goal of these projects has been to develop a local network of services that work together and share responsibility for protecting children and young people, promoting their development and supporting families.

**Clarifying the purpose of family support services**

The Children, Youth and Family Services Bill will support further development of a more systematic approach to earlier intervention by describing the role and functions of community-based intake and referral services and by clarifying the legal framework for the collection, use and disclosure of information.

The bill emphasises that family support services should be targeted at the most vulnerable children and families. It clarifies the relationship between community-based intake, assessment and referral services and child protection intake services, namely that:

Child protection will continue to be targeted at children and young people who are in need of protection, based on concerns they may be at risk of significant harm.

Community-based intake, assessment and referral services will provide a central point within a local community for professionals and other community members to raise significant concerns about the wellbeing of a child or young person. Professionals and any member of the public will have somewhere to go for help, if they have concerns that a family is under stress and would benefit from support. This is before problems escalate to the point that the children are placed at risk of significant harm.

**Collection, use and disclosure of information to support earlier intervention**

In order to operate a community-based intake, assessment and referral service, agencies will need to be registered with the Secretary to the Department of Human Services. Registration will be provided on the basis of compliance with service standards, including their demonstrated competence in needs and risk assessment and appropriate handling of sensitive information.

Once registered, agencies will be authorised to receive referrals. The bill empowers registered agencies to consult with other health and community services in order to assess risks to a child and to determine which service is best placed to contact the family. Other local agencies are similarly authorised to provide advice to the registered community service for these purposes. Importantly, the ongoing coordination of services will require the family's consent. The family's participation in family support services will continue to be voluntary.

The bill also promotes stronger relationships between family support and child protection services. Recognising that family circumstances change, consultations are permitted while a family is involved with a family support service. This will enable child protection to provide support, advice and referrals between services as necessary. If a family support agency forms a belief that a child may be at risk of significant harm, they will be required to inform child protection.

These provisions signal that the family support innovation projects are here to stay. The bill is only part of implementing a more robust and systematic approach to earlier intervention and prevention. Common needs and risk assessment tools will be developed to provide a common language and assessment framework for both family support and child protection services.

Another important earlier intervention and prevention reform involves empowering community services and child protection to receive referrals where someone is concerned that an unborn child may be at risk after their birth. This will enable services to work supportively with vulnerable mothers and to better plan the services that she will need after the child's birth. Child protection will not be able to make any protective interventions or bring any applications to the Children's Court until after the birth of the child.

**Keeping children safe — the role of child protection**

Child protection retains its specialist role, focusing on children and young people who are in need of protection.

The Children and Young Persons Act provides that child protection should intervene in family life, where a child is in need of protection because any of the following has or is likely to occur:

the child has been abandoned by his or her parents;

the child's parents are dead or incapacitated;

the child has suffered physical abuse;

the child has suffered sexual abuse;

the child has suffered emotional or psychological abuse;

the child has been neglected.

The existing act provides strong guidance that intervention by child protection should be to the minimum extent necessary to the secure the protection of the child. The grounds for child protection have been interpreted on an episodic basis, with greatest emphasis on resolving immediate risks of harm.

Consistent with the emphasis of the Children, Youth and Families Bill on protecting children from harm, and promoting children's healthy development, the best interests principle provides guidance to protective workers that their intervention should be limited to that extent necessary to secure the safety and wellbeing of children.

The bill responds to community demands for child protection to respond earlier to cases of cumulative harm. The grounds for child protection intervention are retained, but the bill provides more explicit guidance about child protection's role in responding earlier to repeated notifications revealing cumulative harm and in working with families over a longer period to address more entrenched problems.

**Strengthening investigations**

In recent years the Ombudsman has been critical about the inadequacy of child protection's investigation powers — even noting that the RSPCA has greater powers to protect animals than we have to protect children. The bill empowers the Children's Court to direct parents to allow child protection access to a child or young person, or to authorise child protection to access relevant information (such as the child or young person's medical records).

**Collection, use and disclosure of information when a child is in need of protection**

The Secretary to the Department Human Services has a fundamental responsibility to protect and care for children and young people who are in need of protection. In order to acquit this legal duty of care, it is critical that the secretary has access to the information necessary to enable effective planning and decision making.

The Children, Youth and Families bill clarifies when such information can be shared. In particular, the bill spells out that:

child protection can provide advice to community services and other professionals about the care and protection of children;

professionals can provide information to child protection beyond initial investigations, to support ongoing case planning;

where a child has been found by the Children's Court to be in need of protection, it is essential that the Secretary to the Department of Human Services has a full picture about a child's family circumstances, to inform decision making about the child's best interests. The bill therefore authorises the secretary to direct certain professionals to provide the information needed to make the most appropriate plans in order to keep children safe and provide appropriate care. The department's first aim will be to develop a sense of shared responsibility and build stronger relationships with professionals so that they are willing to share such information voluntarily;

the Children's Court can publish the reasons for its decisions on its web site, as long as this does not identify a child or another party;

the presumption will be that Children's Court clinic reports should be made available to the department to inform planning and decision making, unless the Children's Court determines that the release of a report may cause significant psychological harm to a child.

Importantly, the bill also spells out the safeguards that will apply to all sharing of information. These will include:

principles about the handling of sensitive information;

standards for information management will be part of the registration for child, youth and family community services;

clear statements about what information can be shared by whom, and for what purpose — to limit inappropriate disclosures of personal information;

protection for individuals making referrals or reports to community-based intake, assessment and referral services or to child protection;

clear rules about the confidentiality of child protection investigations and court-based appropriate dispute resolution proceedings;

a penalty for the misuse of information;

that a family's consent will be required for ongoing coordination of services.

The Information Privacy Act 2000 and Health Services Act 1988 will continue to provide the overarching framework for information management by child, youth and family services. For example, this means that the privacy complaints mechanisms and principles about access to personal information set out under those acts will apply.

The bill is only one part of the government's initiatives in this area. The Department of Justice and Department of Human Services will jointly develop guidelines about collection, use and disclosure of information under the bill.

**A new response to children aged 10–14 exhibiting sexually abusive behaviour**

As well as strengthening and clarifying the existing functions of child protection, the bill provides a new basis for intervening earlier with young people who exhibit sexually abusive behaviour to help prevent ongoing and more serious sexual offences. For children aged 10–14, the criminal justice system does not provide a reliable pathway into treatment. For this age group, it is often difficult to prove the necessary mental intent to secure a conviction.

The bill therefore provides two new Children's Court orders for children aged 10–14 years old who are exhibiting sexually abusive behaviour. The court will be able to order a child into therapeutic treatment and, where necessary for that treatment, place the child in out-of-home care. This is an important early intervention if we are to stop these children from becoming adult offenders. This reform is intended to supplement, not replace, voluntary access to treatment. It will always be preferable for parents to connect a child exhibiting sexually abusive behaviour to treatment voluntarily and avoid exposing them to any court process.

**Children in out-of-home care — improving children's stability**

An absolutely critical theme of the bill is to improve vulnerable children and young people's stability of care. We now know more about the lasting impact of early experiences on the development of young children's brains. Children who do not experience stable relationships in early childhood are at greater risk of significant developmental delay, learning difficulties, behavioural problems and difficulties in forming meaningful relationships throughout their lives.

Case planning with a child or young person commences when child protection becomes involved with a child and family. From the outset, planning will address where a child or young person should live. It is in most children's best interests to grow up with their families, and families have the primary responsibility to care for their children. That is why we are placing such strong emphasis on working with families when problems first emerge, to keep families together. Where children cannot live safely at home the emphasis will be on working with families to enable children to return home quickly and safely. Service models will continue to be developed, based on strong partnerships with community services and adult services like mental health, drug and alcohol and disability services, to improve the level of access to services and to maximise the likelihood of reunification.

While work may continue for reunification where the likelihood of successful reunification is diminishing, child protection will be expected to develop a component of the case plan (a stability plan) which provides for stable out-of-home care arrangements for the child or young person. The stability plan will therefore address how a child will receive continuous, stable care away from home.

The Children, Youth and Families Bill establishes maximum time frames at which point child protection must have assessed parental capacity and the likelihood of reunification and prepared this stability plan (unless this is not in the best interests of the child or young person). These time frames are differentiated according to the age of a child and the length of time they have spent away from home.

If it is not in the best interests of the child or young person to seek a longer term stable placement away from home at this point, child protection will continue the parallel process of planning for reunification and managing the child's placement. In these circumstances a stability plan would not be developed.

Child protection will be accountable to the Children's Court to explain why it is not in the best interests of the child or young person to work towards a stable, longer term out-of-home care placement even though they have been in out-of-home care for a significant period of time relative to their age.

Time frames for the preparation of stability plans will therefore create a lever to ensure that child protection assesses whether continued attempts at reunification are in the best interests of the child. Our reforms will therefore help to prevent the additional harm that is caused by multiple failed attempts at reunification. They will provide children and young people with the stable relationships that they need to grow up healthier, happier and better able to fulfil their potential.

Stable, out-of-home care placements can be supported by a range of Children's Court orders. In order to give the Children's Court greater flexibility to determine the appropriate order to support a stable out-of-home care placement, the orders available to the court have been updated.

In addition, the minimum time frames for permanent care orders are reduced to prevent the potential for long periods of uncertainty between the making of a stability plan and seeking a permanent care order. A new longer term guardianship order will support stable placements for young people over 12 until their 18th birthday, without the need to return to court each year to extend the guardianship arrangements. This order will only be made with the young person's consent.

**The role of the Children's Court**

The Children's Court will remain central to the statutory system of child protection.

As is the case now, the court will hear a range of applications and be empowered to make a variety of orders in relation to the protection and care of any person under the age of 17 years. In particular the court will continue to make decisions about the custody and guardianship of a child who cannot live safely at home.

The bill creates new powers for the Children's Court.

The bill provides greater authority for the court to manage adjournments in family division proceedings. The court will be able to refuse to grant an adjournment unless it is of the opinion that the adjournment is in the best interests of the child or young person, or there is some other cogent or substantial reason to do so.

A new power to subpoena witnesses will enable the court to inquire into matters relevant to decision making concerning the child or young person, and family.

The Children's Court will be authorised to publish its decisions on its web site, provided that the decision does not identify a child or any other party.

**Legal representation of children**

In addition, the bill makes an important change to the model of legal representation of children within the Children's Court. As is the case now, children who are sufficiently mature to provide instructions will be entitled to separate legal representation, in order to have their views and wishes communicated to the court. For children who are not sufficiently mature to provide instructions, the bill now empowers the court — in exceptional circumstances — to appoint a lawyer to represent the child's best interests. This legal representative will also have a responsibility to communicate the child's views and wishes to the extent possible.

**Supporting young people involved in child protection and out-of-home care services**

The Children and Young Persons Act has been criticised for focusing on the protection of young children, without sufficient emphasis on protective responses to adolescents.

The Children, Youth and Families Bill places greater emphasis on the needs of young people, as well as young children. In considering children's development, decision makers must take account of the stage of development of the child. They must take account of children and young people's wishes and support children and young people's participation in the decision-making processes about them. Importantly, the bill states that a child or young person's best interests include being supported to participate in education and health services, and access to social opportunities and appropriate accommodation.

For the first time, the bill creates a responsibility for the secretary to promote the implementation of a charter for children in out-of-home care across government and non-government services. This charter will provide a framework of principles to promote the wellbeing of children in out-of-home care.

Abuse and neglect can have lifelong effects on a child. Disrupted relationships, risk-taking behaviour, higher rates of involvement in the criminal justice system and poor care of their own children have all been linked to abuse and neglect. The new bill places stronger emphasis on intervening early when children and young people first enter out-of-home care, placing a responsibility on the secretary to consider the child's treatment needs.

In order to better respond to adolescents at risk of harm, to support therapeutic responses and to promote a more effective process of stepping down from secure welfare facilities, the bill builds on existing provisions in the current act about the placement of children in secure welfare facilities, to:

enable placement of a child in secure welfare if the secretary is satisfied that there is a substantial and immediate risk of harm on the basis of a single incident or of accumulated risk.

provide that the secretary must have regard to planning and supporting the re-integration of the

child into an out-of-home care or other suitable placement.

**Supporting young people leaving care**

Most parents support their children in the early years of their adulthood. For the first time, the Children, Youth and Families Bill spells out the responsibilities of the secretary for children and young people in their care. One of the secretary's key responsibilities will be to assist young people up until the age of 21 to make the transition from out-of-home care to independent living. The bill spells out the types of assistance that may be provided to support a young person's transition to independent living.

**Improvements to juvenile justice**

In spring 2004 this government introduced legislation to increase the age jurisdiction of the Children's Court to include 17-year-olds. In autumn 2005 the government introduced further legislation that contained a raft of changes that has improved the operation of the criminal justice system as it applies to children and young people. Both pieces of legislation were passed by Parliament and have come into effect on 1 July 2005.

The Children, Youth and Families Bill builds on these reforms to modernise the terminology of juvenile justice and provide for group conferencing as a pre-sentence option for suitable young offenders.

The use of the word juvenile has become negative and stigmatised due to its association with the label 'juvenile delinquent', so the term 'juvenile justice' will be replaced with the more modern 'youth justice'.

Group conferencing has been operating without express legislative provision in metropolitan Melbourne and parts of the Gippsland and Hume regions. Its potential to redirect young offenders away from the criminal justice system and prevent recidivism will be boosted by the incorporation of group conferencing into the bill as a pre-sentence diversionary option for suitable young people who are facing a probation or youth supervision order. Group conferencing aims to bring the young offenders, police, victims and the families of young offenders together to raise the young person's understanding of the impact of their actions and reduce the likelihood that they will reoffend. The participants will work together to agree on an outcome plan, assisting the young person to take responsibility for their actions with the support of their family.

Group conferencing is founded on restorative justice principles. The intention of the group conference is that the young person participates in the conference on a consenting basis and agrees to the outcome plan.

**Aboriginal children and young people**

The Children, Youth and Families Bill also contains new provisions to more effectively support Aboriginal families, so that we reduce the very high overrepresentation of Aboriginal and Torres Strait Islander children and young people in the child protection system.

New approaches to earlier intervention will be tailored to meet the needs of Aboriginal children and families. This depends on all levels of government working with communities and community-controlled organisations to strengthen their capacity to help families earlier and prevent crises. Our reforms emphasise the importance of building robust, viable and skilled Aboriginal agencies, so that Aboriginal families and communities have access to services that are managed and delivered by Aboriginal people. We need to work with these agencies to increase community understanding about where families can go for help and the roles, responsibilities and decision-making processes of community-based services and child protection services alike.

A consistent theme of the reforms is to empower Aboriginal families and communities to make decisions about how best to strengthen their families, protect their children and promote their healthy development. The bill promotes the use of Aboriginal family decision making, whereby an Aboriginal convenor facilitates a meeting of family members to plan how to assure children's safety and better promote their healthy development. We want to explore opportunities to use family decision-making processes as early as possible. Extended family, community members and professionals working with the family will be involved, as appropriate.

Our reforms also recognise the need for mainstream services to support Aboriginal children and families. All child youth and family services need to be culturally inclusive and culturally responsive. Under the bill, all community services — Aboriginal and non-Aboriginal alike — will be required to build cultural competence and to demonstrate compliance with new cultural standards. These standards will be developed in consultation with Aboriginal communities and community-controlled organisations.

Where children cannot live safely at home, we want new legislation to help keep children connected to their family and culture. Where an Aboriginal child or young

person cannot live safely at home, the bill therefore requires community services and child protection to take account of the Aboriginal child placement principle in making decisions about the placement of the child. This principle emphasises that the highest priority should be given to placing a child within their extended family and then within their community. For children placed in non-Aboriginal placements, the bill provides for the making of cultural plans, which will detail how cultural connection will be maintained. On a case-by-case basis, cultural plans will be developed in consultation with families and community-controlled agencies. The Children's Court will have the authority to make cultural plans a condition of various orders.

Consistent with our aim of empowering community decision making, a longer term reform is to transfer the responsibility for making decisions about Aboriginal children to Aboriginal communities. The Children, Youth and Families Bill enables the Secretary of the Department of Human Services to assign responsibility for managing a court order to the head of an approved Aboriginal organisation.

The government will work with Aboriginal organisations to build their capacity to assume greater case planning and case management responsibilities for Aboriginal children involved in child protection.

The effect of the reforms will be that Aboriginal children, young people and families will receive more effective early intervention and prevention services, so that we keep Aboriginal families together. Where Aboriginal children cannot live safely with their parents, they will be more likely to reside with their extended families in kinship care arrangements. If this is not possible and children cannot be placed with extended family, more will be done to ensure that they maintain greater links to their community and culture. Aboriginal families and communities will have more say in the protection of children from earlier intervention through to the Children's Court.

**Children and young people from other cultural groups**

The bill also recognises the particular needs of children and families from other cultural backgrounds. All decision-makers will be guided to take account of children's cultural identity and to promote the inclusion of children and families from culturally and linguistically diverse backgrounds. Emphasis is given to placing all children with their extended family, and where this is not possible, to maintaining their cultural connection. The bill also spells out the responsibility of the department, community services and the court to support full participation in decision-making processes. Where necessary, this will involve the use of interpreters, and enabling children and families to involve somebody to assist in their understanding and participation in case planning, family group conferencing, and any court-based appropriate dispute-resolution processes.

**High quality and accountable services**

The final theme of the reforms relates to ensuring that all service delivery — whether by departmental or community services — is accountable and of a high quality.

The Children and Young Persons Act created a strong framework of accountability and quality assurance for the care and protection of children. The Children, Youth and Families Bill retains the current safeguards on state intrusion into family life and further strengthens the legal framework for promoting high quality and safe environments for children.

**Administrative oversight of voluntary placements**

The Community Services Act 1970 currently provides for parents to enter agreements with the Department of Human Services or a community service organisation to place their child away from home. Voluntary agreements are used to provide respite placements and longer term placements, both in a protective context and also for children with a disability.

In order to better monitor the appropriate use of voluntary placements, the Children, Youth and Families Bill places a stronger onus on the Secretary of the Department of Human Services to review any placement. Whereas currently reviews are often undertaken by agencies, into the future the secretary will be required to review the appropriateness of a placement after six months, and then on an annual basis. It is also proposed that agencies report to the secretary, on an annual basis, on the number and duration of voluntary placements and that the secretary publish this information on the departmental web site.

**Quality assurance**

The bill also provides for a new process of registering community service organisations, based on compliance with service standards. Standards will be set by the Minister for Children and decisions about registration will be made by the Secretary of the Department of Human Services. Registration will last for three years. Agencies will be subject to an independent, external review prior to each registration process. Where child, youth and family services do not meet service

standards, the focus will be on working supportively with agencies to make the necessary improvements.

Under the bill, children will only be able to be placed with registered out-of-home care agencies, or carers approved by the secretary or a registered agency. New regulations will spell out the criteria for approving kith, kin, foster and permanent carers and employees of out-of-home care agencies responsible for caring for children. While agencies will retain responsibility for approving foster carers and employees, the secretary must establish a list of approved foster carers and employees of out-of-home care agencies.

The bill spells out a new process for responding to allegations of physical and sexual abuse by foster carers and employees of out-of-home care agencies which involves independent investigations and a hearing by an independent suitability panel. Investigations will not commence while there is a criminal investigation in progress. Where an allegation is substantiated on the balance of probabilities and a panel (which will be chaired by a legal practitioner) finds that an individual poses an unacceptable risk to children, they will be disqualified from volunteering as a foster carer or being employed to undertake a child-related function by an out-of-home care agency.

**Extending the Ombudsman's jurisdiction**

The bill will empower the Ombudsman to enquire into or investigate any administrative action of non-government agencies related to functions spelt out in the Children, Youth and Families Bill. For example, this would allow the Ombudsman to receive and investigate complaints about community-based intake, the conduct of independent investigations in professional disciplinary proceedings, and the provision of out-of-home care services.

**Statement under section 85 of the Constitution Act 1975**

Finally, I make the following statement under section 85 of the Constitution Act 1975 of the reasons for altering or varying that section in this bill.

Clause 599 of the bill provides that it is the intention of clauses 328 and 424 of the bill to alter or vary section 85 of the Constitution Act.

Clause 328 provides for rights of appeal to the County Court and in some circumstances the trial division of the Supreme Court against various decisions of the Children's Court in relation to child protection matters. Clause 328(5) of the bill provides that if a person appeals to the Supreme Court under the bill on a question of law the person is deemed to have abandoned any right under that clause to appeal to the trial division of the Supreme Court.

Clause 424 makes similar provision in relation to appeals against sentencing orders by the Children's Court.

These sections re-enact sections 116 and 197 of the Children and Young Persons Act 1989.

The reason for limiting the jurisdiction of the Supreme Court is to prevent a proliferation of lengthy proceedings in relation to decisions of the Children's Court under the act. The act provides for a clear process for appeals and it is clearly to the benefit of a child to have matters relating to them dealt with expeditiously.

**Conclusion**

In Victoria, we are fortunate to be building our system reforms from a position of strength. Our reforms are not driven by a crisis. They have been built from the ground up, based on strong partnerships with community service organisations. They are based on a long-term strategy that is already under way — a strategy that has been informed by experts and underpinned by a strong evidence base and commitment to best practice.

This means that our services can continue to change — to better meet the needs of today's families. The Children, Youth and Families Bill provides the legal authority and impetus to support positive changes in policy and service delivery difference. It allows for greater flexibility and responsiveness, so that services can adapt to the changing needs of today's families — while at the same time maintaining appropriate checks and balances on the actions of government and community services.

I commend the bill to the house.

**Debate adjourned on motion of Mrs SHARDEY (Caulfield).**

**Ms GARBUTT** (Minister for Children) — I move:

That the debate be adjourned for two weeks.

**Mrs SHARDEY** (Caulfield) — I wish to move, as an amendment to the minister's motion:

That the word 'two' be omitted with the view of inserting in its place the word 'four'.

I notice that on page 1 of the second-reading speech the minister claims that this is a once-in-a-generation opportunity. This is indeed a very large bill and it was a

very long second-reading speech. It is also a very important piece of legislation. The last time this legislation was significantly changed was back in 1989, with the introduction of the Children and Young Persons Act. This is therefore a very important bill which I believe requires the maximum amount of time for proper examination and proper consultation.

The minister will have noted that in relation to the first bill, the Child Wellbeing and Safety Bill, the Liberal Party opposition was happy to allow for a two-week adjournment, which means it can first be debated on 20 October — that is, next Thursday week. There was of course no exposure draft of this piece of legislation, although I believe a small group of organisations were made privy to the draft bill. However, no-one else was. Certainly the community was not, and nor was the opposition. The only detail of that bill that has been made available was through the white paper, and it was about the principles. I note that even the principles in the bill brought before the house today appear to be different from the principles outlined in the white paper. So even with this legislation, there is a need for a great deal of examination and consultation.

In relation to this second bill, this very large piece of legislation, the Liberal Party is not happy for it to be debated in just two weeks time. That would mean that the other parties in this Parliament, which have not had the opportunity to consult on the detail of this bill, will only have one week to consult on the bill, one week to draw up our position on the bill, one week to go through the detail of this bill and compare it with the draft bill that was made available not very long ago. Representatives of the sector have said to me that they found the five weeks that they were given to respond to the draft bill too short. They were stressed by the period of time they had to respond in detail. I note that those submissions were due on 15 September, yet less than three weeks later we have this full bill before the house. Of course one wonders about those 88 submissions.

**Ms Garbutt** interjected.

**Mrs SHARDEY** — The minister may not think it is very important. I think it is very important that submissions are taken into account. I will certainly be reading those 88 submissions and taking into account the issues they raise.

But it is very important for all of us to be able to look at this piece of legislation and give it the attention it deserves. It has been suggested that if this debate were put off for four weeks it would mean this bill would have to be debated in the last week of the sitting. That is the government's timing. I note that the commencement of this bill — —

**An honourable member** interjected.

**Mrs SHARDEY** — No, this is the government's timing. The government decided when to introduce this bill, the government set the sitting pattern and the government decided to take the Parliament down to Geelong. In fact the this legislation will not commence until October 2006, so where is the urgency? To accommodate the minister and to accommodate the Parliament the Liberal Party is quite happy to allow this bill to lie over, if that is what the government would desire. We do not wish to make a political mess of this. We would like the Parliament to be given ample opportunity to look at this piece of legislation, and we would like the community to be able look at it in detail and compare the bill that is in the house with the bill that was put out under the exposure draft. We would like all that detail to be taken into account. This is very important, and I think the minister should listen to our arguments and reconsider her position. I think we have put a very sensible proposition, one that will serve the best interests of Victorian children and Victorian families.

**Ms GARBUTT** (Minister for Children) — I want to oppose the opposition's amendment. The opposition has suggested that we need four weeks, largely to undertake further consultation. The member for Caulfield mentioned that we also need time to consider the Child Wellbeing and Safety Bill, the previous bill, which I have already second-read. The opposition accepted a two-week adjournment in that case, so if the member really felt strongly about it, obviously that was the time to speak up. Now we are talking about a bill that is the result of two and half years work.

The origins of this bill go back to May 2003 and to a ministerial statement I made in this house. Since then there have been three discussion papers, a white paper and an exposure draft, and there have been four rounds of consultation, when submissions were invited. I have to say that the opposition has been silent during that two and a half years of work. Opposition members made no submissions on any of the occasions when submissions were invited. What we are seeing here is a lazy opposition that is trying to catch up on two and a half years of work during which it has been absolutely silent and has not been part of the debate. Members opposite have not been there — they have not attended the consultations, they have not read the discussion papers and they have not put in submissions. Now they are trying to catch up when everyone else has, for two and a half years, been discussing, reading and writing

submissions, and doing the work. The opposition simply has not done it.

Now, two and half years later, the opposition is asking for more time to scramble around, read the discussion papers and consult with people. Everyone else has been working for a long time, and we have consulted very considerably. When the exposure draft went out — that was in August — it was accompanied by a white paper outlining the broader policy directions. Some 3500 copies of that exposure draft were distributed, and it went up on the web site. There were 25 regional forums and 1000 participants; there were 75 specific consultations with peak bodies, including professional groups, the privacy and health commissioners and so on; and 88 written submissions were received. Not once did the opposition put its head up or say anything about that.

This four weeks proposition is an absolute sham. What it will mean, of course, is that it is either squeezed into the last week of the sitting, where it will not be able to be debated properly, or it will be delayed and held over until next year. That is what is really behind this amendment, and I absolutely reject it.

This is a lazy opposition whose members have not kept up to date, who have not informed themselves and who have not been out there talking to people about a major reform process. This is a once-in-a-generation opportunity. The opposition has been absolutely missing in action, and now it is trying to catch up. It is absolutely revealed for all the world to see that this lazy shadow minister does not do the work!

**Mr DIXON** (Nepean) — I support the member for Caulfield's amendment. We have had 16 second-reading speeches this week. Looking at just two important bills from today, the Crimes (Homicide) Bill and the Transport Legislation (Safety Investigations) Bill have about 20 pages each, so we are quite happy for the debates on those to be adjourned for two weeks. However, this bill has 542 pages.

I take issue with what the minister said about members of the opposition not having done the work. This is the first time we have actually seen the bill. The motion has nothing to do with the discussion paper and everything else, including the consultation that has gone on beforehand. The motion is about the bill that has now been presented to us. I challenge the minister to tell me what is in clause 24 on page 38 or clause 576 on page 468. She does not have that depth of knowledge. This is the first time that members of the opposition have seen it, and we certainly do not have that depth of knowledge. It is okay for the minister to say 'Do the work over the next two weeks'. How can we possibly do that? All shadow ministers have only two staff, and they have their electorates to work in. It is all right for ministers. Every minister's office has six times the number of staff that any minister in the previous government had. They have media sycophants following them around the building, and they have a bloated bureaucracy, with thousands of people at their beck and call. Of course they can do that.

The member for Caulfield has to do all the hard work herself. As I said, she also has an electorate to work in. A lot of people are involved in this. The bill proposes a huge change in how we look after the children of this state. To say, 'You've got two weeks to look at it and go through it in depth and get people to comment on it', is to also say to the children of Victoria, 'That's what we think of you — we're just going to rush it through'.

I could not believe it when I found out that the legislation will not come into operation until October next year. Why the rush? We have plenty of time to do this. We have 12 months to have discussion about it. I have heard some of the interjections of members on the other side, saying, 'You should've done the work over the last two years'. I repeat: this bill came into existence today. Members of the opposition are seeing it today for the first time. The motion has nothing to do with it. It does not matter about the discussions that went on beforehand. Two years ago, last year or six months ago we did not know what was going to be in the bill — nobody did — and we just found out today. To say that we have only two weeks to look at this bill and get comments from the general public on the huge proposed changes to the welfare of the children of Victoria is an absolute disgrace!

**Mr LANGUILLER** (Derrimut) — Let us establish for the record the following: one, there has been consultation over a period of two years; and two, the government has indeed been talking to families, young people and every expert in the state for the past two years. It must be established that on 3 August the government released an exposure draft, which members of the opposition have not bothered to read. A web site was established by the department, and 3500 copies of the exposure draft were distributed to stakeholders and other interested parties. There have been 25 regional forums and consultations, and of the order of 1000 people have taken part in those forums. There have been 74 specific consultation sessions throughout the state, including sessions conducted by the ministerial advisory committee, the Victorian Children's Council and all the peak bodies in Victoria.

Something that members of the opposition have not understood is that over the past two years we have had consultations and discussions at length with all the professional groups, including paediatricians, the Australian Medical Association, psychologists and representatives of youth services. It is important to register that all the legal stakeholders, including the Children's Court and associated legal practitioners, the Victorian Aboriginal Legal Service, the Federation of Community Legal Centres and Victoria Legal Aid, have been engaged in discussions and consultation.

There has been an exposure draft in the public domain for a number of months. It is a shame that the opposition has not done its homework and has not engaged in the process of consultation and commentary on the exposure draft. Also, over the last two years the opposition has not engaged in the processes, forums and discussions that the government has facilitated with the Victorian community. Children cannot wait. We have to move on. We have to bring this on. Youth and family cannot wait. Opposition members have not engaged because they are lazy. Shame on them! The opposition spokesperson should give better consideration to the exposure draft, to the two and a half years of consultation and pay a bit of respect to the community and those involved and get on with the job of supporting good legislation.

**Dr NAPTHINE** (South-West Coast) — I think it is time to take a little bit of heat and division out of this discussion. The real challenge for us as members of the Parliament of Victoria is to do the right thing for the welfare of children in Victoria. That is the challenge for us in this legislation, not to have division, not to have bitterness, not to have anger. What could be more important for the Parliament than getting this legislation right? That is the challenge for the Parliament.

I have been in Parliament a long while, some say too long. I was here in 1989 when the Children and Young Persons Act went through Parliament over a number of weeks after considerable discussion and tripartite agreement. I remember being involved with Rob Knowles, the then shadow minister, the government and Peter Allen from the department in considerable discussions so that Parliament was satisfied that that legislation, at the time groundbreaking, had a positive effect on the welfare of children in the state of Victoria, and it did. It was good legislation. It was good legislation because it involved the Parliament working together to get a good outcome.

We do not want an 'us and them' approach to the welfare of children. That is the wrong approach. This backbiting across the table on this issue is a disgrace to the Parliament, and I mean that absolutely sincerely. What we should be looking at is what is the best way forward to get the best outcome for the welfare of children. If we do not put that as our primary objective, then we defeat some of the fundamental principles in the bill before the house. What is the best way forward? The best way forward is to take our time and do it properly. Let us look at the second-reading speech and ask why the urgency — —

**Mr Cameron** — We don't want to work through the racing season.

**Dr NAPTHINE** — That is a disgraceful comment from the Minister for Agriculture.

The second-reading speech says there is further legislation coming before Parliament in autumn next year for transitional provisions to enable this legislation to be enacted, so this legislation, even if passed by Parliament this session, cannot be operational before the transitional provisions come in in autumn next year:

> … in advance of the commencement of the act in October 2006.

There is no absolute urgency for Parliament to deal with this as a priority this year. The priority should be: let us get it right. If that is not the priority of each and every member of Parliament, to get this legislation right for the welfare of children, then I genuinely question why we are here. Let us look at the legislation. The bill itself is 543 pages; the table of provisions is 23 pages; the explanatory memorandum is 117 pages; there are 606 clauses; 4 schedules; the second-reading speech is 29 pages; and there are a number of changes to the constitution of Victoria. This is very comprehensive legislation covering the most vital issue to the people of Victoria — the welfare of children.

Let us take the acrimony out of it; let us take the heat out of it; let us get the right process as a Parliament. I have heard the comments before that we have had discussion papers, we have had exposure drafts, and I understand that. The discussion has been with the government and the department, but the discussion papers and exposure drafts, with due respect, count for nothing when it comes to this bill. This is what counts in terms of the legislation, this is what counts to the courts, this is what counts in terms of how it affects the welfare of children. This bill of 543 pages is what counts. This is what is important for members of Parliament — in government, the opposition, The Nationals and the Independents; it counts for them to be able to talk to their community groups, community agencies, their people who are involved in the welfare of children in a direct, front-line service, to be able to

talk about how this new legislation will affect the welfare of children in the state of Victoria.

We as parliamentarians have an absolute obligation to make sure we do that job — and do it well. I hark back to 1989 when it was a Labor government which took the time to have proper consultation and allow the Parliament to work effectively. That is what we are asking for — proper time to allow the Parliament to work effectively.

**Ms MARSHALL** (Forest Hill) — I oppose the shadow minister's motion, most of all because this is an incredible stall tactic by the opposition. This is about the protection of children.

**Mr Smith** — Two weeks to look at the bill!

**Ms MARSHALL** — It is astounding to me that it took over 300 days to come up with a half-baked, half-tolls policy and now the opposition wants to stall, to — —

**Mr Smith** — You are disgraceful.

**The ACTING SPEAKER (Ms Barker)** — Order! The member for Bass!

**Ms MARSHALL** — This is the job of a member in actually looking at the legislation. There has been over two years of consultation. It is ridiculous to think that an additional two weeks is going to make a difference. The two years of consultation with all the stakeholders involved is when the work should have been done. It is our job! The opposition does not need more time, I do not believe for a second that the opposition is putting the priorities of Victorians, Victorian children and this legislation in front of its own selfish needs because two weeks is more than enough time for this to be looked at.

Over 3500 copies were distributed to interested stakeholders, but members of the opposition failed constantly to support — —

**Mr Smith** interjected.

**The ACTING SPEAKER (Ms Barker)** — Order! The member for Bass will cease interjecting in that manner.

**Ms MARSHALL** — The opposition failed to support Victorians in what it has been asked to do. This is a very fair expectation — that is, that it is able to do the job. What the opposition is actually saying to this house is, 'We are not able to do our job efficiently, effectively and within the normal time frame that every other member on the other side of the house is able to'.

**Mr Smith** — You will get your notes sent to you!

**The ACTING SPEAKER (Ms Barker)** — Order! The member for Bass! There have been six speakers on this amendment. The minister has moved that the debate be adjourned for two weeks. The member for Caulfield has moved an amendment that the word 'two' be omitted with a view to inserting in the place thereof the word 'four'.

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

*Ayes, 46*

| | |
|---|---|
| Allan, Ms | Jenkins, Mr |
| Andrews, Mr | Langdon, Mr |
| Barker, Ms | Languiller, Mr |
| Batchelor, Mr | Leighton, Mr |
| Beard, Ms | Lim, Mr |
| Beattie, Ms | Lindell, Ms |
| Brumby, Mr | Lockwood, Mr |
| Buchanan, Ms | Lupton, Mr |
| Cameron, Mr | Marshall, Ms |
| Carli, Mr | Maxfield, Mr |
| Crutchfield, Mr | Merlino, Mr |
| Donnellan, Mr | Munt, Ms |
| Duncan, Ms | Nardella, Mr |
| Eckstein, Ms | Neville, Ms |
| Garbutt, Ms | Overington, Ms |
| Gillett, Ms | Perera, Mr |
| Hardman, Mr | Pike, Ms |
| Harkness, Mr | Robinson, Mr |
| Helper, Mr | Seitz, Mr |
| Herbert, Mr | Stensholt, Mr |
| Holding, Mr | Trezise, Mr |
| Hudson, Mr | Wilson, Mr |
| Hulls, Mr | Wynne, Mr |

*Noes, 9*

| | |
|---|---|
| Delahunty, Mr | Napthine, Dr |
| Dixon, Mr | Plowman, Mr |
| Ingram, Mr | Shardey, Mrs |
| Kotsiras, Mr | Smith, Mr |
| McIntosh, Mr | |

**Amendment defeated.**

**Motion agreed to and debate adjourned until Thursday, 20 October.**

## RETAIL LEASES (AMENDMENT) BILL

*Second reading*

**Mr CAMERON** (Minister for Agriculture) — I move:

That this bill be now read a second time.

The purpose of the bill is to provide for a range of amendments to the Retail Leases Act 2003 to

streamline and improve its practical operation. The bill also promotes the fairness of property law in regards to 'notice for breach of lease' requirements under the Property Law Act 1958.

Before turning to its key provisions, I wish to broadly outline the context of the bill.

The government came to office in 1999 with specific commitments to overhaul Victoria's retail tenancy laws to strike a fairer balance between the interests of landlords and small retail tenants. Accordingly, following a comprehensive policy review that included extensive public consultation, the government delivered on its commitment with the introduction of the Retail Leases Act 2003.

The act established a new regulatory framework to govern the commercial relationship between landlords and tenants and has enhanced certainty and fairness in relation to retail leasing arrangements.

Important provisions that were enacted included protections for tenants and landlords against unconscionable conduct, requirements for disclosure of important information by a landlord to a tenant — —

**Dr Napthine** — On a point of order, Speaker, I do not mind the minister reading rapidly but it would be nice if he were able to be understood.

**The SPEAKER** — Order! The member for South-West Coast is unable to understand the Minister for Agriculture. I ask him to speak more slowly.

**Mr CAMERON** — It reflects very poorly on the school I went to.

Important provisions that were enacted included protections for tenants and landlords against unconscionable conduct, requirements for disclosure of important information by a landlord to a tenant, a prohibition on land tax being passed on to tenants, protections for tenants in the event of relocation or demolition and the right to a minimum five-year lease term. The coverage of the act was broadened, as the replacement of the 1000 square metre rule with an occupancy cost threshold extended protections under the act to more tenants.

A major feature of the act was to improve the process for resolving retail tenancy disputes by creating a low-cost and efficient alternative dispute-resolution mechanism. The act established a number of key functions for the Victorian small business commissioner (SBC), including the power of the SBC to investigate and mediate disputes, and to assist landlords and tenants with the provision of preliminary advice concerning their rights and obligations with respect to dispute resolution.

This dispute resolution mechanism is proving to be particularly effective, with the SBC's success rate for mediations at 74 per cent. As a result, disputes are being settled in a timely and inexpensive way, with formal legal action minimised.

The act was successfully implemented and appears to be working well, with general support from both tenant and landlord groups.

However, retail tenancy is a complex and fluid area of law, being based on a combination of legal principles and several statutory regimes. From time to time, industry stakeholders have brought to the attention of the government some operational improvements and clarifications that could be made to address emerging issues and improve the practical operation of the act. In this context it is appropriate, now that over two years have passed, to implement improvements to the practical operation of the act.

The government has ensured that the feedback of key industry stakeholders within the retail leasing industry has been taken into account in developing the amendments proposed under the bill.

I turn now to the key elements of the bill.

**A fairer balance**

The bill reaffirms the government's commitment to strike a fair balance between the interests of landlords and small tenants.

The bill improves the notice provisions contained in the Property Law Act 1958 to give greater protection to tenants where there has been a breach of a lease by the tenant, including a breach amounting to repudiation.

The outcome of recent common-law cases suggests that a tenant may be subject to termination without notice, potentially on the basis of a trivial breach of the lease. Faced with the landlord regaining possession of the premises, for example, by changing the locks to the premises overnight, a tenant may be forced to go to the courts to seek relief against forfeiture. The bill restores the original intent of the notice provision contained in the Property Law Act 1958 of providing tenants with advance notice that the landlord is acting on a breach of lease.

In such cases, a landlord will be required to give the tenant a notice of breach and at least 14 days to rectify

the breach prior to the landlord entering the premises. The amendment also provides greater clarity for landlords in specifying when a notice is required. The right of a landlord to re-enter premises in the case of non-payment of rent will remain.

The bill also addresses the application of the old Retail Tenancies Reform Act 1998 which, as a result of recent court decisions, has enabled tenants covered by the 1998 act, to recover rent that was paid during any period in respect of which they were not provided with a disclosure statement. This potentially means that a tenant could unfairly obtain a windfall gain by seeking to recover its rent paid over several years, even though it has enjoyed the use of the premises over that period and is no worse off for not having received a disclosure statement.

The government is of the view that it is desirable and fair that any outstanding claims by current and former tenants be resolved, and that landlords and former landlords are not subject to the uncertainty of future claims particularly where they may have changed their positions.

The bill addresses this situation by limiting claims that may be made in relation to 1998 act leases by providing that claims of this type may not be made after 1 May 2006. However, any court proceedings or retail tenancy disputes commenced under part 10 of the current act before then will not be prejudiced.

Tenants who may still be operating under a 1998 act lease that renew their lease after the bill receives royal assent will be subject to a regime similar to that provided for in the current act. The current 2003 act limits the likelihood of claims remaining unresolved by requiring the tenant to notify the landlord if a disclosure statement has not been provided within 90 days of entering into a lease. The tenant is only able to withhold rent after providing the notice of non-receipt to the landlord. It is considered that the changes result in consistency with the notice regime in the 2003 act and provide a balanced approach where a tenant has not been provided with a disclosure statement.

To enable these changes to take effect from 1 May 2006 the amendments made by the bill to the 1998 act disclosure and notice regime come into operation at the last moment of 30 April 2003. This is to ensure consistency with the operation of the 1998 act.

The bill also makes the protections regarding a landlord or tenant engaging in unconscionable conduct clearer. The act prohibits a landlord or tenant in connection with a lease from engaging in unconscionable conduct. Consequently, it was not clear that the prohibition extended to dealings in relation to proposed leases. The bill clarifies the application of the unconscionable conduct provisions of the act to prohibit unconscionable conduct by a landlord or tenant in relation to a proposed retail premises lease.

**A streamlined and clearer Retail Leases Act 2003**

The bill contains improvements which improve the practical operation and clarity of the act.

Under the current legislation, where a specialist retail valuer has been appointed, it is not always possible to carry out a market valuation of the rent within 45 days as required by the act. The bill addresses this issue by providing flexibility, whereby the landlord or tenant can agree to another mutually suitable time frame.

The landlord must currently give a tenant a copy of the retail premises lease signed by both the landlord and tenant within 28 days of the tenant providing the landlord with a signed lease. The bill introduces further flexibility so that a landlord and tenant may agree in writing to extend the period within which the landlord must comply with this requirement.

The bill improves the determination-making power in the act by enabling the minister to make a determination from a date that is specified in the determination. Further flexibility is introduced in that a determination may leave a matter to be certified by another minister.

The bill streamlines the disclosure procedures that are to be followed where a renewal of a lease takes place. Currently, as an agreement for lease is a 'lease' for the purposes of the act, disclosure is required in relation to the agreement for lease and then, again, in relation to the lease proper. The bill will require that the landlord give the tenant only one disclosure statement at the time an agreement for lease is entered into, if the lease which is subsequently entered into is in accordance with the provisions of the agreement for lease.

Further streamlining has been made to the provision in the act governing security deposits. Tenants that have performed all of their obligations under a lease will now be entitled to the return of any security deposit paid, as soon as practicable after the lease ends. This is an improvement on the current section which did not place any obligation on a landlord to return a security deposit in a timely manner.

The definition of 'retail premises' is clarified by the bill. The current definition in part, has created uncertainty in relation to the application of the act in

circumstances where a small retail area forms part of a much larger and predominately non-retail area. The bill clarifies that a premises must be used wholly or predominantly for retail purposes for the act to apply. The bill also provides that any area of a premises intended for use as a residence is not to be taken into account for the purpose of defining a 'retail premises'.

The bill ensures that the SBC's register of retail lease details is kept up to date, by including the date that a lease or renewal was entered into in the notification requirements. The bill also gives the SBC the ability to use the information obtained for the purpose of carrying out his or her functions under any other act. This will enable the SBC to better inform and educate landlords and tenants as to their rights and obligations.

The outcomes of retail tenancy court decisions suggests that legal certainty is promoted when amending legislation is deemed to have commenced from the same commencement dates as the principal legislation. Accordingly, several clauses of the bill commence in line with the original commencement dates of those acts.

**Repeal of Small Business Victoria (Repeal) Act 1996**

The bill repeals redundant legislation. In 1996, Small Business Victoria was abolished under the Small Business Victoria (Repeal) Act 1996, with the activities of that body being incorporated into a government department. As this process is complete, it is appropriate that the repealing legislation should itself now be repealed. Its repeal will not affect the enduring rights and obligations of the corporation.

In conclusion, the bill complements the government's original reforms in this area by strengthening notice protections for tenants and by streamlining the practical operation of Victoria's retail tenancy legislation.

I commend the bill to the house.

**Debate adjourned on motion of Mr McINTOSH (Kew).**

**Debate adjourned until Thursday, 20 October.**

**Remaining business postponed on motion of Mr CAMERON (Minister for Agriculture).**

## ADJOURNMENT

**The SPEAKER** — Order! The question is:

That the house do now adjourn.

## Conveyancing: review

**Mr McINTOSH** (Kew) — I have a matter for the attention of the Minister for Consumer Affairs in another place or alternatively the Attorney-General. The matter I wish to raise with the minister relates to the government's review of the conveyancing industry. The action I seek from the minister is to stop the delay and immediately announce who should be able to practise as conveyancers in Victoria.

Following the collapse of a large conveyancing company in Geelong in November 2004 a number of consumers were exposed to losing great sums of money as a consequence of the collapse, and the government ultimately engaged the Allen Consulting Group to undertake a review of the conveyancing industry in Victoria with a view to releasing a discussion paper in early 2005. It is now October and nothing further has been heard from the government. I understand that the Allen Consulting Group reported to the government some time ago, and I also understand that the Allen Consulting Group recommended that national competition policy dictates that conveyancing companies be permitted to undertake work in relation to conveyancing and the preparation of simple documents and that they be able to practise in Victoria under a strict regulatory regime in the interest of protecting consumers.

Obviously any regime would involve the registration of appropriately qualified persons and require them to have appropriate levels of professional indemnity insurance and a method of handling complaints. Unfortunately we have complete silence from the government, with no clarity on what is meant by 'legal work' in Victoria. With the exception of Queensland, every other state allows persons who have appropriate qualifications to undertake conveyancing work, notwithstanding that some aspects of the work may be considered legal work and that they are not legal practitioners.

This lack of clarity has an impact. Recently the law institute undertook a Supreme Court proceeding against a conveyancing company, Home Conveyancing, and a Ms Maric. I cannot canvass the case but note that the proceeding arose under the now almost redundant Legal Practice Act, which prohibits anybody other than a qualified lawyer from undertaking legal work. Regrettably the new Legal Profession Act, which comes into operation in December, likewise sheds no clarity on what constitutes legal work. It is now up to the government to end this delay and provide clarity. Again, I ask the minister to end the delay and instead of merely looking into it, to announce as a matter of

urgency who is allowed to practise as a conveyancer in Victoria and to provide clarity to conveyancers, the legal profession, the courts and, above all, Victorian consumers.

## Home and community care program: funding

**Mr PERERA** (Cranbourne) — I raise a matter for the attention of the Minister for Aged Care in the other place regarding access to home and community care (HACC) services by people from culturally and linguistically diverse communities. The action I seek from the minister is that he advise in detail what steps have been taken by the government to ensure that older people living in Cranbourne, in particular people from culturally and linguistically diverse communities, are able to access the home and community care services they require to live fulfilling and independent lives at home.

I understand that since 1999 funding for HACC services provided by the Casey City Council, a major provider of HACC services in an area that incorporates Cranbourne, has increased by just over 118 per cent. I congratulate the Casey City Council. It provides a range of HACC services, including delivered meals, home care, property maintenance, personal care and assessment and care management. These services are vital to ensuring that older and frail aged people living in Cranbourne are able to stay living at home independently. I am particularly concerned that people from culturally and linguistically diverse communities are able to access these services if required. In 2004–05 the Bracks government funded HACC at $47 million above and beyond what is required by the joint commonwealth-state HACC funding arrangements.

This is the Victorian government punching above its weight in funding the delivery of HACC services in this state. In 2005–06 I am told this figure will grow to just under $51 million. I congratulate the Bracks government in general and particularly the Minister for Aged Care for the great generosity towards the home and community care program in Victoria.

## School buses: rural and regional Victoria

**Mr DELAHUNTY** (Lowan) — On behalf of students doing vocational education and training (VET) and Victorian certificate of applied learning (VCAL) courses, their parents and schools in country Victoria, I raise a matter for the attention of the Minister for Education and Training. The action I ask of the minister is that she allocate the funds needed to not only continue the running of VET buses in the Wimmera–Mallee region but also develop a funding program that will enable VET buses to be run sustainably across country Victoria.

In the Wimmera–Mallee during 2001 the government started funding the VET buses, and last year I am informed that 340 students from 15 schools attended VET courses at Horsham and Longerenong. Three buses which start at Rainbow, Hopetoun and Edenhope are presently funded by the Wimmera network of principals and the Wimmera Southern Mallee Local Learning and Employment Network, with contributions from the parents ranging up to $280 per student.

It was reported in the *Wimmera Mail-Times* of 23 September that the buses overflow with students but that cash is short. I am bitterly disappointed, as I have raised this issue with the minister over the last couple of years. It is not only a problem in the northern part of the Lowan electorate, it is a bigger problem in the southern area of my electorate. In Hamilton there are over 100 students doing VET courses, and many travel to Warrnambool by private transport. Lake Bolac students are required to travel to Ararat.

I am informed that in Lowan up to 70 per cent of students do not go to university, so the VET and VCAL pathways are an extremely important and relevant education experience. VET meets the needs of many country students and will help the government reach its retention targets. I quote from a report prepared by the University of Ballarat:

> Lack of public transport is a major concern for young people living in rural areas.

It further states:

> The completion of secondary education allows young people wider employment options post school, but frustration from inability to access services in rural areas, coupled with dissatisfaction with a narrow curriculum, can predispose young people to leave school early.

It goes on:

> Due to these high social and economic costs, some students and many parents indicated that their —

child's —

> participation in VET courses was dependent on the VET transport service.

This evaluation clearly demonstrated the need for the funded buses if the VET programs are to be sustainable.

Education and training is vital to the continuing development of western Victoria, and our students are entitled to access top quality education training courses regardless of where they live. I again call on the

Minister for Education and Training to ensure that VET and VCAL courses are attainable and affordable to our country students. This will address some of the skill shortages in our area, but we need VET buses. This government will stand condemned if it does not fund these essential VET buses in country Victoria.

## Willmott Park Primary School: upgrade

**Ms BEATTIE** (Yuroke) — The matter I raise for the urgent attention of the Minister for Education and Training concerns Willmott Park Primary School in Craigieburn. It is a terrific school with a wonderful principal, Evan Hughes, and a terrific school council, which I spoke to recently. It was unsuccessful in getting funding for four classrooms, a technology centre, a music room and new toilets. I understand the cost of the project is about $1.4 million. I am asking the minister to secure that funding for the school.

For those members, perhaps from the country or other regions, who do not know Craigieburn very well, it is within the urban growth boundary and is undergoing phenomenal growth. Willmott Park Primary School urgently needs new classrooms. The enrolments are ballooning out, and that is carried through as the children get older. It is on the edge of the town at the moment, but a new display centre has opened up just nearby, and we are now seeing an influx of houses all around that display centre, so of course there will be even more students starting at the school.

It is a terrific school, as I said, and has a very active school council. The council knows that I am eager to assist it in getting the funding. The council has called on me to raise the matter for the urgent attention of the minister. Again I call on the minister to secure that funding. Willmott Park Primary School is a terrific school. The school is growing at a phenomenal rate, and it really needs extra classrooms as a matter of urgency.

## Public transport: Pakenham

**Mr SMITH** (Bass) — Today I wish to raise an issue with the Minister for Transport regarding public transport in the Pakenham area. As the minister would be aware, Pakenham is one of the fastest growing areas in Victoria, and now is the time for the minister to give consideration to providing to the people of Pakenham and surrounding areas a decent public transport service.

The Delfin Lakeside development backs onto the Melbourne–Pakenham electric train line, and it is of extreme importance that a new railway station be built in this area to provide a service that suburban people consider to be the norm. The council has provided the land adjacent to the track and Cardinia Road. This could also be said for the Heritage Springs and Blue Horizon estates — Henley estates — which also back onto the railway line, and the estates to the east of Pakenham — namely, Cardinia Lakes and Falling Waters. Currently 55 to 60 families a week move into the Cardinia shire area — young people, families and seniors who are coming to an area that has no proper public transport — and they have some expectations that public transport should be available to them.

This is a time when one-car or no-car families need to have access to proper public transport, whether it is in the form of trains or buses, but this socialist government and the minister, who talk the talk of using public transport, suggest the locals just walk the walk. The minister should know that this is the time to have people start using public transport so they get used to it and so they do not need to purchase a car. They should not have to walk kilometres to go shopping, to work, to school or to visit friends and family. But if they do not have a car and they do not have public transport, they have to walk.

Currently there is a bus that runs up the Princes Highway from the Pakenham central business district to Dandenong, with no stops along the way. The council ran a pilot bus service to the north of the highway, but that has now stopped. And why should the council have to pay when it is the government's responsibility to provide public transport? This is only seen to be more cost shifting by this government.

There is one privately run bus service that covers one estate in an older part of Pakenham and into the township. As I mentioned before, there is the electric train service, which constantly runs late, from Pakenham to Melbourne, for which they have to pay zone 3 fares. In a rapidly developing area like Pakenham these people are entitled to a service that is similar to that of the people of metropolitan Melbourne, because that is what this government has zoned their area as — metropolitan Melbourne. They pay the same rip-off taxes that other metropolitan taxpayers pay and the same high fees, but they do not have the benefit of trams, trains or buses within a 5 or 10-minute walk.

I ask the minister not to fob these people off any longer, and I suggest the government provide sufficient funding to allow a decent, proper public transport service to the people of Pakenham and district.

## Macedon Regional Park: gazettal

**Ms DUNCAN** (Macedon) — The matter I wish to raise is for the attention of the Minister for Environment. The action I ask of the minister is to finalise arrangements to allow the gazetting of the Macedon Regional Park. Members would be aware of the Macedon Regional Park, which is best known for the memorial cross which sits at the top of Mount Macedon. The regional park was originally established as a forest park under the Forests Act 1958. This park has a long history and in 1977 the Land Conservation Council recommended the establishment of this park, with a recommendation for a regional park in 1986.

Currently there is a hotchpotch of land tenure and ownership. Gazetting the park will make it absolutely clear that this is a regional park and will provide certainty for the management of the park itself, ensure protection of the flora and fauna, and protect the water catchment. For this gazettal to occur, finalisation of the survey of boundaries needs to be completed, and I am asking the minister to ensure this survey work is done.

The Macedon Regional Park is an icon in the Macedon Ranges, and as a regional park it will continue to provide an area of public land that is readily accessible to Melbourne, being located on the Great Dividing Range approximately 60 kilometres north-west of Melbourne. Covering an area of 2379 hectares, this park is a major tourist route and provides recreation to a large number of people, visitors and locals alike.

Approximately 250 000 people visit the park annually. Over 400 species of native plants are recorded there. It has an abundance of native wildlife, with 157 bird and 20 mammal, reptile and amphibian species, some of which are rare or have restricted distribution, on either a regional or a statewide basis.

It is a beautiful place but without gazettal the Macedon Regional Park is a regional park in name only and there is no certainty about the regulations that control it. I encourage members to come and visit the Macedon Regional Park, see the beauty of the place, go bushwalking or ride their horse. I encourage them to have a cuppa at the Top of the Range tearooms and enjoy the view, the fresh air and the peace and quiet.

## Fishing: native fish conservation

**Mr INGRAM** (Gippsland East) — I raise an issue for the attention of the Minister for Agriculture. The action I seek is for the minister to review the government's current fisheries policies on the protection of native fish. Clearly the current fisheries policies have real inequities between introduced fish like salmonoids, brown trout, and rainbow trout in particular, and native fish conservation. The current policies are not providing good outcomes for either recreational fishing both for natives and introduced fish such as trout. There is a compromise in the conservation of native fish. The minister needs to consider changing the current policies and setting aside clear classifications for waters that are set aside for native fish conservation and other waters that are for mixed species containing both introduced fish and native fish, and as a compromise some waters that are managed as trout waters.

Native fish systems clearly would have to be managed for native fish conservation. In particular there are two areas in that — threatened species protection, which is about the highest conservation of threatened native fish; and other native fish systems, which are managed to protect native fish values, including removing the current policy direction that we have whereby in all Victorian waters introduced salmonoids are protected during their spawning season, to the detriment of native fish. In areas such as Gippsland, which has some of the most pristine waters in Australia, we have a ludicrous situation where there are threatened native fish species in areas where trout are supposedly not to be stocked in the catchment, yet those trout are protected during their spawning season, so the introduced predatory fish are being protected while we are allowing the threatened native fish to perish.

This needs to be addressed, and I suggest that the East Gippsland Snowy catchment be included as a native fish area, including clearly the lower Murray–Darling Basin systems. We also need to consider some of the upland Murray–Darling Basin catchments so the government can adhere to its flora and fauna guarantee policy and its recently signed interstate agreement with the commonwealth regarding the native fish policy for the Murray–Darling Basin. If a system like this were implemented it would remove some of the conflict between native fishermen and recreational trout anglers. It would also provide good environmental outcomes.

## Cats and dogs: control

**Ms MARSHALL** (Forest Hill) — I rise this evening to raise a matter with the Minister for Agriculture. The action I seek is an undertaking by the minister to continue to work with local councils and other community groups to build on the current programs to reduce the number of stray cats and dogs in our community. In a recent electorate-wide survey I conducted, a number of constituents raised their concerns with me regarding the environmental harm

caused by stray animals and the cruelty that abandoned pets endure.

More than 40 000 cats and dogs are euthanased every single year. During the 2003–04 financial year the Royal Society for the Prevention of Cruelty to Animals (RSPCA) at Burwood alone admitted 6205 dogs and 5841 cats. Of these, over 3500 animals had to be euthanased because their owners could not be located and a new owner could not be found. The Australian Nature Conservation Agency estimates that the average domestic cat kills about 25 native animals per year. This number would be significantly higher for stray animals, given that they are underfed and are not kept inside at night-time.

I strongly commend the Bracks government for its ongoing commitment to reducing the number of stray cats and dogs in Victoria. Not only has the government developed an educational web site and produced between 500 000 and 800 000 educative brochures annually, it has also provided a free annual visit by a pet educator to every Victorian primary and preschool. Further, under the Local Government Act municipal councils have the power to introduce local laws requiring the compulsory de-sexing of animals kept within their municipality.

It is imperative that local governments be encouraged to consider the option of compulsory de-sexing, given the dire need to reduce the numbers of stray cats and abandoned pets. According to the RSPCA, de-sexing a cat is actually beneficial for the animal, allowing it to live a longer, healthier life. The RSPCA web site explains that de-sexed cats are more affectionate, better companions and less likely to suffer from antisocial behaviour. Further, de-sexing eliminates the heat cycles in female cats which means that male cats are less likely to spray and mark their territory. De-sexed cats are less likely to run away and get into fights, thereby reducing the chance of injury.

I am also aware that compulsory microchipping will see people reunited with their lost pets quickly and easily. This should also act as a deterrent for those seeking to abandon their pets. It is important that the minister work closely — —

**The SPEAKER** — Order! The member is required to ask the minister to undertake a certain action. I am not clear from what she has said so far exactly what that action is.

**Ms MARSHALL** — The action I seek is an undertaking by the minister to continue to work with local councils and other community groups to build on the current programs to reduce the number of stray cats and dogs in the community. That was the second point I made.

**The SPEAKER** — Order! Continue to the end, and I will rule then.

**Ms MARSHALL** — It is important that the minister work closely with local government to raise awareness of these benefits and, for the sake of our environment and the lives of our furry friends, encourage local councils to consider implementing the compulsory de-sexing of cats and dogs.

## Commonwealth Games: ticket sales

**Mr KOTSIRAS** (Bulleen) — I raise a matter for the attention of the Minister for Commonwealth Games in another place. I ask the minister to investigate whether the conditions under which tickets for the games are sold to the public are breaching the Fair Trading Act, and in particular part 2B of the act. I have been advised by a constituent who has purchased some tickets that the conditions breach the Fair Trading Act. I have downloaded the conditions that apply where a person has purchased tickets from the Internet. Paragraph 2 says:

> By purchasing a ticket and/or attending an event of the Melbourne 2006 Commonwealth Games … you are deemed to have accepted all applicable conditions and any … risks, obligations and responsibilities.

Paragraph 22 goes on to say that M2006:

> … is not obliged to replace tickets under any circumstances, including but not limited to, loss or theft.

Paragraph 25 states:

> If you choose to exchange your ticket for a ticket of lower face value, you agree not to claim the difference between the tickets as a debt owed to you by M2006 —

that is, the corporation. Paragraph 26 says:

> You cannot exchange your ticket and you cannot obtain a refund if:
>
> (a) after a session has started it is cancelled for any reason, including due to … weather;
>
> (b) the time of, participants competing in, or events included in a session change after the date you purchased your ticket;
>
> (c) the participants competing in an event … change at any time without notice, whether through unavailability, injury, illness or for any other reason …

Paragraph 29 then says:

> The corporation reserves the right … to refuse entry to any ticket holder or remove any ticket holder from a venue.

If you have a look at the Fair Trading Act, you can see that section 32X of part 2B, headed 'Assessment of unfair terms', refers to:

> (a) permitting the supplier but not the consumer to avoid or limit performance of the contract;
>
> (b) permitting the supplier but not the consumer to terminate the contract;
>
> (c) penalising the consumer but not the supplier for a breach or termination of the contract;
>
> (d) permitting the supplier but not the consumer to vary the terms of the contract;
>
> (f) permitting the supplier to determine the price without the right of the consumer to terminate the contract;
>
> (g) permitting the supplier … to vary the characteristics of the goods or services to be supplied under the contract;
>
> (k) limiting the consumer's right to sue the supplier.

The conditions mean that if you purchase a ticket for a particular price and the event is cancelled, you will not be able to get a refund or be issued with a ticket of equal value. According to the Fair Trading Act this is against the law, and I ask minister to investigate to see whether it does breach the Fair Trading Act.

## Dogs: responsible ownership program

**Ms BEARD** (Kilsyth) — I too wish to raise an issue with the Minister for Agriculture. The Department of Primary Industries has a responsible pet ownership program. I ask the minister if he will consider visiting children in my electorate to assist in their education regarding approaching and caring for animals. Children under the age of five are at particular risk of dog attacks. More preschool children — those aged 1 to 4 years — are hospitalised for dog attack injuries than for car accidents, with most children being bitten by their own dog or a dog known to them.

The program I am interested in teaches preschool children how and when it is safe to interact with a dog, what to do if approached by an angry or unknown dog and how to correctly approach and greet a dog. Forty per cent of Australian households have a dog, and 26 per cent have a cat. It is therefore imperative that young children learn how to care responsibly for them and know how to be safe around their animals. If these issues are addressed while children are still young, the whole animal experience can be enjoyable. It is preferable that all children enjoy the wonderfully positive experience of the company of pets.

I have spoken before in the house about my labradors, Ned and Nellie. I remind members once again that you have not been loved until you have been loved by a labrador, even if that love means having your cup knocked from the coffee table by furiously wagging tails or never being able to find more than one slipper at any time. My wish would be that everyone could experience that joy, but it happens only through lots of care, exercise and attention. Animals add another dimension to the lives of so many, but a neglected pet can become a burden to its owner and a nuisance to others.

The Department of Primary Industries provides an interactive web site for junior and senior primary students. I recommend this fantastic site to members of the house, where they will be able to make the acquaintance of Victor and Victoria, the mascots of the government's responsible pet ownership program. The site contains loads of useful information and helpful ideas presented in a challenging and attractive way. It offers membership in the pet club and opportunities for children to become contributors by submitting drawings, written items and ideas. It is wonderful that the site is provided free of charge by the Bracks government to all Victorian schools, government and non-government. I will be passing on this information to them next week, as I visit so many of them.

The program includes a parent session where parents can learn how to supervise their children around dogs and get hints on choosing a suitable pet for their family. I hope the minister will find time to share this program with children in the electorate of Kilsyth.

**The SPEAKER** — Order! Just before asking the minister to respond I will read from the clarification on raising matters in the adjournment debate which I gave to the house in the last sitting week, specifically the part that says:

> Simply requesting a minister to continue doing something does not meet the requirement of urgency. Members must make it clear what new action is required to address a particular urgent concern.

Unfortunately therefore I will have to rule out of order the matter raised by the member for Forest Hill. She might like to rephrase it and do it again at another stage in a different way.

## Responses

**Mr CAMERON** (Minister for Agriculture) — The honourable member for Kilsyth raised the issue of responsible pet ownership and encouraging children to become responsible pet owners but also to recognise

that, although domestic animals can bring great joy, dogs can also create great risks. She asked if I would attend her electorate, and certainly that is a tremendous idea. I thank her for the support she gives in promoting responsible dog ownership with kids and the importance of teaching children how to handle dogs — not only their own dogs but also dogs they may come across.

The honourable member for Gippsland East sought to have Fisheries Victoria review its policies in relation to fisheries. I will convey his request to Fisheries Victoria. Fisheries Victoria is always looking broadly at the issue of fisheries and how to do them better. For example, one of the things Fisheries Victoria does is stocking. If you look at the past five years compared to the previous five years you find that we have had a 30 per cent increase in stockings with native fish and a 30 per cent increase with trout as well.

The honourable members for Kew, Cranbourne, Lowan, Yuroke, Bass, Macedon and Bulleen raised matters for ministers, and I will refer those matters to them.

**The SPEAKER** — Order! The house is now adjourned.

**House adjourned 7.37 p.m. until Tuesday, 18 October.**

# QUESTIONS ON NOTICE

***Answers to the following questions on notice were circulated on the date shown.***
***Questions have been incorporated from the notice paper of the Legislative Assembly.***
***Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.***
***The portfolio of the minister answering the question on notice starts each heading.***

## Tuesday, 4 October 2005

### Industrial relations: Shannon's Way Pty Ltd

**596(v).** **Ms ASHER** to ask the Minister for Industrial Relations with reference to Shannon's Way Pty Ltd —

(1) What payments have been made to the company by the Minister's department or private office or any agency or statutory body under the Minister's administration since 28 October 2003.

(2) On what dates were the payments made.

(3) Briefly describe the project for which payment was made.

**ANSWER:**

I am informed as follows:

No payments were made to Shannon's Way Pty Ltd since 28 October 2003.

### Tourism: Shannon's Way Pty Ltd

**596(ae).** **Ms ASHER** to ask the Minister for Tourism with reference to Shannon's Way Pty Ltd —

(1) What payments have been made to the company by the Minister's department or private office or any agency or statutory body under the Minister's administration since 28 October 2003.

(2) On what dates were the payments made.

(3) Briefly describe the project for which payment was made.

**ANSWER:**

I am informed as follows:

No payments were made to Shannon's Way Pty Ltd since 28 October 2003.

### Education services: primary school roads

**632.** **Mr MAUGHAN** to ask the Minister for Education Services — which primary schools are not serviced by a sealed access road.

**ANSWER:**

I am informed as follows:

The information requested is not held by the Department of Education and Training.

## Police and emergency services: Thomas Street–North Road, Brighton East — fixed traffic camera

**765.** **Ms ASHER** to ask the Minister for Police and Emergency Services with reference to the fixed traffic camera at the corner of Thomas Street and North Road, Brighton East — how many fines have been issued between 1 April 2004 and 19 July 2005.

**ANSWER:**

I am informed that:

The site referred to above has been selected to be upgraded from a wet film camera site to a digital dual function speed and red light camera site. The hardware relating to the wet film site was dismantled 18 months ago and the site has not been used since then. This site is expected to be operational at the end of 2005. As a result, no offences were detected at that intersection using a fixed automatic detection device between 1 April 2004 and 19 July 2005.

## Education services: Werribee Islamic College

**792(a).** **Mr PERTON** to ask the Minister for Education Services —

Has the Minister or the Department of Education and Training received any complaints about the Werribee Islamic College; if so, what were the complaints and what investigation and/or action has the Minister or the Department undertaken in response.

**ANSWER:**

I am informed as follows:

This question does not fall within my portfolio responsibilities.

# QUESTIONS ON NOTICE

***Answers to the following questions on notice were circulated on the date shown.***
***Questions have been incorporated from the notice paper of the Legislative Assembly.***
***Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.***
***The portfolio of the minister answering the question on notice starts each heading.***

## Wednesday, 5 October 2005

### Health: Central Health Interpreter Service chairperson

**416.** **Mr THOMPSON** to ask the Minister for Health with reference to the appointment of Mr Stan Naylor as Chairperson of the Central Health Interpreter Service —

(1) What were the terms of reference for his appointment.

(2) What were the reasons all former Board members declined to be reappointed.

(3) What was the name of the report prepared by Mr Naylor which reviewed the Service.

(4) What were the recommendations in the report.

**ANSWER:**

I am informed that:

(1) Mr Naylor was appointed as Chairperson of the interim Committee of Management for the Central Health Interpreter Service.

(2) This was a personal decision on the part of the former members of the Committee of Management.

(3) The Report forms a detailed letter and as such has no formal title. It refers to the Central Health Interpreter Service.

(4) The recommendations in the report have not been publicly released at this time.

### Industrial relations: Haystac Public Affairs Pty Ltd

**595(v).** **Ms ASHER** to ask the Minister for Industrial Relations with reference to Haystac Public Affairs Pty Ltd —

(1) What payments have been made to the company by the Minister's department or private office or any agency or statutory body under the Minister's administration since 26 August 2003.

(2) On what dates were the payments made.

(3) Briefly describe the project for which payment was made.

**ANSWER:**

I am informed as follows:

No payments were made to Haystac Public Affairs Pty Ltd since 26 August 2003.

## Tourism: Social Shift Pty Ltd

**597(ae).** **Ms ASHER** to ask the Minister for Tourism with reference to Social Shift Pty Ltd —

(1) What payments have been made to the company by the Minister's department or private office or any agency or statutory body under the Minister's administration since 28 October 2003.

(2) On what dates were the payments made.

(3) Briefly describe the project for which payment was made.

**ANSWER:**

I am informed as follows:

No payments were made to Social Shift Pty Ltd since 28 October 2003

## Education services: Truganina South and Laurimar Park primary schools

**743(b).** **MR PERTON** to ask the Minister for Education Services with reference to the Government's 2002 election commitments regarding Truganina South Primary School located north of Werribee and Laurimar Park Primary School located near Yan Yean —

(1) In what time frame are the schools proposed to be completed.

(2) When will works commence.

**ANSWER:**

I am informed as follows:

This question does not fall within my portfolio responsibilities.

## Education services: Operation Newstart

**762(a).** **Mr PERTON** to ask the Minister for Education Services —

(1) What is the Department of Education and Training's allocation of funds and staff to Operation Newstart.

(2) How many students have been enrolled in Operation Newstart.

(3) What success has been achieved by students in Operation Newstart.

**ANSWER:**

I am informed as follows:

This question does not fall within my portfolio responsibilities.

## Education services: Merriang Special Development School

**788(a).** **Mr PERTON** to ask the Minister for Education Services —

What plans, if any, are in place to upgrade the facilities for Merriang Special Development School.

**ANSWER:**

I am informed as follows:

This question does not fall within my portfolio responsibilities.

## Tourism: international visitors

**815.** **Mr DIXON** to ask the Minister for Tourism what were the International Visitor numbers to Victoria from —

(1) January 2004 to June 2004.

(2) January 2005 to June 2005.

**ANSWER:**

Visitor numbers for the period of January 2005 to June 2005 are not publicly released by Tourism Research Australia until September. However, in the period January 2005 to March 2005, Victoria received 394,300 international visitors. This represents a 5% increase from the same period in 2004 when Victoria received 377,300 international visitors.

In the six months to March 2005, Victoria received 787,500 international visitors, a 4% increase from 759,300 from the same period in 2004.

# QUESTIONS ON NOTICE

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## Thursday, 6 October 2005

### Tourism: Haystac Public Affairs Pty Ltd

**595(ae).** **Ms ASHER** to ask the Minister for Tourism with reference to Haystac Public Affairs Pty Ltd —

(1) What payments have been made to the company by the Minister's department or private office or any agency or statutory body under the Minister's administration since 26 August 2003.

(2) On what dates were the payments made.

(3) Briefly describe the project for which payment was made.

**ANSWER:**

I am informed as follows:

No payments were made to Haystac Public Affairs Pty Ltd since 26 August 2003.

### Industrial relations: Social Shift Pty Ltd

**597(v).** **Ms ASHER** to ask the Minister for Industrial Relations with reference to Social Shift Pty Ltd —

(1) What payments have been made to the company by the Minister's department or private office or any agency or statutory body under the Minister's administration since 28 October 2003.

(2) On what dates were the payments made.

(3) Briefly describe the project for which payment was made.

**ANSWER:**

I am informed as follows:

No payments were made to Social Shift Pty Ltd since 28 October 2003.

### Environment: Great Otway National Park

**819.** **Mr THOMPSON** to ask the Minister for Environment with reference to the establishment of the Great Otway National Park —

(1) What is the practical application of the definition of 'cooperative management'.

(2) Noting the Victorian Environment Assessment Council's recommendation for joint management between indigenous Victorians and Parks Victoria —

(a) what is the difference between joint management and cooperative management;

(b) is the Government going to facilitate meetings to explore the cooperative management arrangements.

(3) Noting the last census figures for the Colac Otway shire, which recorded that there were 180 indigenous Victorians, many of whom are not represented by local organisations — what role will these indigenous Victorians play and what mechanisms are in place to enable them to be represented in any model of management.

**ANSWER:**

I am informed that:

The Bracks Government is protecting Victoria's environment by creating an expanded system of Parks — with extra funding. Compare this to the Opposition who are totally divided on Parks.

Our local Members of Parliament are able to be strong advocates for Parks in their local areas because the Bracks Government stands for Parks — for all Victorians.

And we are supporting our Parks with extra funding. Parks are one of the major priorities of this year's State Budget.

In relation to the Victorian Environment Assessment Council (VEAC) Angahook-Otway investigation final report, I am further informed that cooperative management is an umbrella term for a range of consultative or collaborative arrangements. The term joint management is often used to refer to indigenous owned land leased to the State and managed jointly by the group and the State. In its Report, VEAC used this term with a wider meaning akin to the common usage of the term cooperative management. There will be consultation on a wide range of matters, including management arrangements. As well as consulting with groups, individuals will be provided an opportunity to participate.

The new Great Otway National Park will be an enormous attraction for people from all over the world.