

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 10 April 2008

(Extract from book 4)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Privileges Committee — Ms Darveniza, Mr D. Davis, Mr Drum, Mr Jennings, Ms Mikakos, Ms Pennicuik and Mr Rich-Phillips.

Select Committee on Gaming Licensing — Mr Barber, Mr Drum, Mr Guy, Mr Kavanagh, Mr Pakula, Mr Rich-Phillips and Mr Viney.

Select Committee on Public Land Development — Mr D. Davis, Mr Hall, Mr Kavanagh, Mr O'Donohue, Ms Pennicuik, Mr Tee and Mr Thornley.

Standing Orders Committee — The President, Mr Dalla-Riva, Mr P. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney.

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

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

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

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

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

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

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

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

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

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

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

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

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

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Mr PETER HALL

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Mr DAMIAN DRUM

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Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
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Drum, Mr Damian Kevin	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Eideh, Khalil M.	Western Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
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Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William	Southern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

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Thursday, 10 April 2008

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.33 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Sound system

The PRESIDENT — Order! Just before we start I think it appropriate that I give members a report on the incident we had last night, mainly to overcome some of the witty comments I had to endure. The fact is, and it is most unfortunate, that someone else is going to wear this, not me.

Mr Lenders — Unfortunately for them!

The PRESIDENT — Yes.

Mr D. Davis — Although you may not be able to say it.

The PRESIDENT — I am going to say it. This system is brand new; it was installed just a few days ago. Unfortunately it appears that the priority button on the desk was pressed quickly a couple of times, which froze the control panel. I do not know who was in the chair at the time — —

Ms Lovell — It was Bruce.

The PRESIDENT — Order! There you go. There is an old saying in the navy, Mr Atkinson, that if the coat fits, you wear it. The fact is that the problem was rectified very quickly, which is quite pleasing. The contractor-programmer was available within minutes and took us through it on the phone. We unfroze it, and we are back on track. The program will be rebooted at lunchtime to ensure it does not happen again. Could I suggest to those who on occasion relieve me here that they be careful with the priority button.

JUSTICE LEGISLATION AMENDMENT (SEX OFFENCES PROCEDURE) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Planning).

PETITION

Following petition presented to house:

Gaming: Cardinia

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that the residents of Officer and Beaconsfield strongly reject any move to bring and install electronic gaming machines ('pokies') into their community.

The Shire of Cardinia has received applications to install over 200 gaming machines at three separate locations in the townships of Beaconsfield and Officer. If these applications are successful, these townships will have a concentration of electronic gaming machines that is significantly higher than the community desires.

The petitioners request that the state government of Victoria recognise without delay the effect its gaming policies are having on local communities. The petitioners request that the flawed state government gaming policies, which allow the proliferation of gambling, be changed so that local communities such as Beaconsfield and Officer can remain free of electronic gaming machines ('pokies').

**By Mr O'DONOHUE (Eastern Victoria)
(28 signatures)**

Laid on table.

LAW REFORM COMMITTEE

Property investment advisers and marketeers

Mr SCHEFFER (Eastern Victoria) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mr SCHEFFER (Eastern Victoria) — I move:

That the Council take note of the report.

The Law Reform Committee was asked to inquire into the activities of property investment advisers and marketeers in Victoria and how regulation might protect property investors against exploitation without increasing the regulatory burden on business. The committee aimed to identify strategies to help protect consumers from exploitation by unscrupulous advisers and property marketeers.

The committee received 16 submissions from individuals who wrote about their personal experiences,

businesses — including in the real estate sector — operating in the field, investor associations, professional associations, relevant government departments, non-government consumer organisations, and academics. The committee conducted two public hearings. This inquiry was conducted at a time when more Victorians than ever invest in property and the number of people deriving income from rents is increasing. After years of steadily rising property prices, it is not surprising that many Victorians believe that investment in real estate is safe.

Witnesses told the committee that so-called property advisers and marketeers purport to offer financial or retirement advice but are in reality salespeople pushing products. The committee heard about so-called property advisers and marketeers who exaggerate the likely returns from investments while failing to mention the risks. The committee heard also about businesses that take commissions as high as 15 per cent on property sales, and self-styled property millionaires who charge investors thousands of dollars for the so-called secrets of their success.

Complaints came also from within the industry itself. During the inquiry I attended a property expo at the Melbourne Convention and Exhibition Centre. I was surprised at the number of property investment products on offer. Some exhibitors were offering investment opportunities in developments in Tasmania, in Broome in Western Australia and in Queensland. Other exhibitors were offering to teach investors how to become property millionaires with little or no money. The sad truth is that some investors fall prey to unscrupulous operators and lose money they can ill afford to lose. The report presents a number of case studies that show how some individuals have been adversely affected. These case studies show that the state has a responsibility to ensure that there are appropriate regulations in place to protect investors.

The final report contains 45 recommendations that are aimed at providing better protection for consumers and improved standards for the industry. Appropriate regulation is one way that this can be achieved. Members of the committee came to the view that property investment advisers should be subject to the same regulatory requirements as advisers who provide advice relating to financial products. Financial advisers are subject to comprehensive licensing, conduct, and disclosure laws, and those who provide advice on property investment should be required to adhere to a similar regulatory regime. Investors have a right to the same legal protections irrespective of whether they invest directly in property or a financial product.

Members of the committee believe that this protection should be a commonwealth responsibility.

The report notes that there have been two previous inquiries into property investment advice. The first commenced in 2003 and was conducted by a working group of the Ministerial Council on Consumer Affairs. That work has not been concluded. The second inquiry was undertaken by a committee of the Australian Parliament which also recommended that the commonwealth government assume responsibility for the regulation of property investment advice. With the election of the Rudd government in 2007 we should see some progress on this issue, but members of the committee considered that, given the time that has passed and the risks involved for property investors, Victoria should introduce its own regulatory reforms if no national agreement has been reached this year.

The committee has recommended timely and targeted consumer warnings, the production of an information booklet and the publication of more information on property sales. The committee has recommended also that relevant industry bodies review their own codes of conduct and professional development programs and that a collaborative approach be adopted between government and the industry in implementing some of the proposals.

I would like to thank the deputy chair, Robert Clark, the member for Box Hill in the other place, for his advice and support; committee members from the other place, Colin Brooks, the member for Bundoora, Luke Donnellan, the member for Narre Warren North, and Martin Foley, the member for Albert Park; and committee members from this place, Jan Kronberg, a member for the Eastern Metropolitan Region, and Edward O'Donohue, a member for Eastern Victoria Region, for their valuable insights and understanding of the range of issues considered in the inquiry. I also thank the former chair, Brian Tee, a member for Eastern Metropolitan Region in this place, and former members from the other place, Tony Lupton, the member for Prahran, and Judy Maddigan, the member for Essendon, for their contributions during the earlier stage of this inquiry.

I give special recognition to the work of the Law Reform Committee's research and administrative team, Kerryn Riseley, Susan Brent, Kate Buchanan, Helen Ross-Soden and Christian Farinaccio, without whose expertise the research could not have been undertaken and the report produced. I particularly acknowledge the leadership of Kerryn Riseley, the committee's executive officer, and the very fine work and unstinting

dedication of Susan Brent, who was responsible for devising the research and drafting the final report.

Mr O'DONOHUE (Eastern Victoria) — I am also pleased to rise and make a comment on the report of the Law Reform Committee inquiry into property investment advisers and marketeers. I echo the comments made by the committee Chair, Mr Scheffer, in congratulating the staff of the committee, Ms Kerryn Riseley, the executive officer, Ms Susan Brent, the research officer, Ms Kate Buchanan, also a research officer, Ms Helen Ross-Soden, the administrative officer, and Mr Christian Farinaccio, who assisted with research. The committee was aided enormously by the professionalism and hard work of the committee staff. The report tabled in the Parliament today reflects very much the input of not just committee members but also committee staff, and I congratulate and thank them for that.

As Mr Scheffer said, the committee heard from a wide range of witnesses — government regulators, industry representatives, and consumers. The reference we received and the inquiry itself was timely indeed, given the issues facing the industry at the moment and the current uncertainty in the market.

Property investment traditionally is a straightforward style of investment, but it has become increasingly complex with the investment options that are available. Undoubtedly increased consumer education on the one hand and improved disclosure requirements on the other are required to properly arm consumers with the information they need to make investment decisions. Governments cannot and should not attempt to eliminate risk, but rather should aim to properly arm consumers with the information they require.

In that vein, the committee has made a number of recommendations about how Victoria can improve the regulatory environment, but ultimately what is required, as Mr Scheffer said, is a national approach. We operate in a national market and it is therefore incumbent on the new government and all the state jurisdictions to work together to come up with an appropriate national regulation. The proposals that are contained within this report will assist regulation in Victoria and may form a benchmark or precedent for future national regulation.

Again I congratulate the committee staff. It was a pleasure to be part of the committee and I look forward to the report being tabled.

Mrs KRONBERG (Eastern Metropolitan) — I would like to echo the sentiments just stated by my colleague, Mr O'Donohue. I thank the team of the Law

Reform Committee, my fellow committee members and also the very hardworking and diligent team of executive officers led by Kerryn Riseley. I was particularly impressed by their diligence, hard work, professionalism and totally forensic approach in their quest for information, and they were just all-round fabulous people to work with. I have enjoyed the experience thoroughly and I congratulate them.

Motion agreed to.

PAPER

Laid on table by Clerk:

Gambling and Lotteries Licence Review Panel — Report to the Minister for Gaming in relation to the review of the regulatory structure and associated arrangements for the operation of gaming machines, wagering, approved betting competitions and Club Keno and the funding of the racing industry that are to apply after 2012 and Supplementary Report.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 15 April 2008.

Motion agreed to.

MEMBERS STATEMENTS

Electricity: supply

Mr GUY (Northern Metropolitan) — Many residents of the metropolitan area and country Victoria have only recently had their power restored after some significant time without it over the last week and a bit. This is concerning as it is yet another example of how Victoria's electricity supply has not been as reliable as it should have been and indeed as it was post its privatisation in the 1990s.

It is interesting to note that while in 2004 the average customer was off supply for 132.3 minutes per year compared to 510 minutes under the old State Electricity Commission, by 2006 that figure had risen by 25 per cent to 165.4 minutes, the highest figure for a decade. So supply outages are now worse and slowly getting worse. Further, what is concerning is that Labor has spent millions of dollars of taxpayers money to create the Essential Services Commission to supposedly

guarantee power supplies. Some guarantee! In 1999 Mr Do-Nothing, Steve Bracks, even sent out a little business card, which I have obtained, promising to:

Guarantee reliable supplies of gas, water and electricity through an essential services commission with tough new powers.

So we have Steve Bracks's word, delivered for the Labor Party, on the back of a business card supposedly to guarantee our power, gas and water supplies. It is no wonder that people have been without power for eight days; it is no wonder that Labor did nothing to guarantee water supplies for eight years — I guess we are all now counting down until gas supplies go off as well. What is clear is that yet again we have found that the word of the Labor Party means nothing.

Energy: clean coal technology

Mr HALL (Eastern Victoria) — I note with interest that an outcome of the government's Victorian Climate Change Summit, held last Friday in Parliament House, was a \$72 million announcement for funds for the development and demonstration of renewable energy technologies. I welcome that announcement by the government because I have been a strong advocate of renewable energy technologies, particularly solar power, which I think has great potential as a renewable energy generator in this state.

I also want to draw the attention of the house to an announcement in the 2007–08 state budget, where the government committed \$3.8 million over three years to establish a clean coal authority in the Latrobe Valley. While the principle of renewable technologies is all well and good, we need to be realistic and understand that 85 per cent of Victoria's power needs are generated by brown coal fired generators and that there will be a reliance for some time to come on brown coal in Victoria. It is important that new clean coal technologies are developed, and that is why I had some hope and support for the new clean coal authority to be established by the government, as per its announcement in last year's budget.

However, it seems that nothing has occurred since that announcement. Today I call on the government to let Victorians know exactly what the intentions are with the new clean coal authority and whether it will deliver on that promise and financial commitment given in last year's budget.

La Trobe University: Wodonga campus

Ms BROAD (Northern Victoria) — Last Friday I had the privilege of attending the graduation ceremony

at the McAuley Arts Centre in Wodonga for some 230 graduates of La Trobe University in Albany-Wodonga, together with their proud parents, friends and university staff, all of whom are to be congratulated. As was very evident on the day, access to an affordable university education in a regional city has delivered significant benefits to the graduates and their families and to the wider community because of the contributions that graduates will make into the future.

I wish to thank the chancellor, Sylvia Walton, and executive director, Dr Lin Crase, for allowing me the opportunity to present the occasional address on such an important occasion, to wish the graduates prosperous and inspired futures, and to urge them to take on social and community responsibilities where possible. With the costs of attracting professionals to work in regional communities escalating higher and higher, investing in the regional provision of university education makes a lot of sense. I believe that investment needs to come from business as well as all levels of government, in partnership with universities, as we work together to produce better outcomes for families and regional communities.

Invest Victoria: overseas offices

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The recent appointment of former parliamentarians Peter Beattie and Bob Quinn as trade commissioners for Queensland has generated considerable debate over the role of state government representative offices.

Former New South Wales Premier Bob Carr described the roles as entirely redundant, suggesting that the overwhelming majority of trade and investment is facilitated by the private sector, with no role or need for assistance or intervention by state government representatives. Mr Carr's comments were supported by former Austrade chief Ralph Evans, who dismissed state government offices as 'collectively a substantial waste of money' due to a lack of accountability of the performance of such offices.

I have previously raised concerns about the effectiveness of Invest Victoria, with relation to the location and resourcing of its offices as well as key performance indicators and outcomes. However, I am not in total agreement with Mr Carr and Mr Evans. There is a role for state government to have international representation as long as such offices are strategically located, are staffed competently and have specific performance objectives.

Australia is a large and diverse country, and the investment and trade environment varies substantially between the states. Specific state-based knowledge and, most importantly, state-based loyalty are important to regional promotion. What Mr Carr and Mr Evans fail to mention is the complete mishandling by the Rudd government of Australia's international trade marketing and investment facilitation since coming to office.

At a time when the Australian economy is vulnerable to global issues, the Rudd government has disbanded Invest Australia, cut funding to the Department of Foreign Affairs and Trade and is reviewing Austrade, with a moratorium on key staff recruitment. The Rudd government has cut key security and trade representatives in crucial markets including the Middle East, China, Hong Kong and the United States. In this context the Queensland government's decision to boost its overseas representation by appointing people with political standing and skill is an understandable reaction to the running down of Australia's international representation. The challenge for the Victorian government is to ensure that the offices are appropriately resourced and led, to make up for the shortfall by the Rudd government.

Planning: Bendigo development

Mr DRUM (Northern Victoria) — I wish to express my concerns about the way the state government is increasingly interfering with local government's ability to do its job. There are planning issues at Jackass Flat in Bendigo, where a proposed development is to go ahead. The local government is looking to protect the existing natural bushland and still allow for land throughout the area that has already been cleared to have more dense housing on it.

It seems that the Department of Sustainability and Environment has classified the entire parcel of land as completely cleared already, effectively giving the bulldozers the go-ahead to move in and totally clear the land, with the exception of two small parcels of bush. If this happens, thousands of trees will be knocked over, when they could easily have been incorporated into the type of housing subdivision that the City of Greater Bendigo has agreed to.

We also have a situation in the main central business district surrounding the Department of Infrastructure making changes to the main street in relation to the bus depots. We understand this work has been done because Bendigo is to have a different type of bus system. We are very much aware that we need additional public transport, including additional bus services, but these improvements and additions have to

be done in consultation with the business houses, all the people of Bendigo, and the Greater Bendigo City Council. If there is to be a change to the landscapes around regional cities, it should be done in conjunction with the people who are there to look after those cities.

Planning: Preston development

Mr ELASMAR (Northern Metropolitan) — Recently I attended a government briefing organised by the City of Darebin. This briefing was an update on the proposed new Preston central precinct. The development of this major urban project has been ongoing since 1999. The plan also incorporates the principles of Melbourne 2030. Through this plan the council seeks to implement the creation of a bold strategic complex that will not only provide a business hub within Preston but also increase and improve services to the residents of Darebin. I am sure that with dedicated resources and committed people, both elected and appointed, from that city, it will be a centre of excellence that we can all be very proud of.

Victorian Amateur Football Association

Mr ELASMAR — On another matter, on Monday evening I was delighted to attend, with the Minister for Sport, Recreation and Youth Affairs in the other place, Mr Merlino, the Victorian Amateur Football Association dinner. In this age of computer games, it is great to see our young people participating in physically competitive football and being rewarded for playing sport. I know exercise will keep them healthy and extend and improve the quality of their lives. The Victorian Amateur Football Association has announced that for the first time there will be an under-18s competition. I congratulate the association on that, and I thank the organisers most sincerely for a great evening.

Yarra River: pollution

Mr D. DAVIS (Southern Metropolitan) — My matter today concerns the monitoring of the Yarra River by the Environment Protection Authority and the ongoing issue of faecal pollution in the river. The community will be aware that over recent weeks the results have been a long way from the acceptable band. With the safe level being 200 organisms per 100 millilitres, in recent weeks we saw readings of up to 24 000 organisms. In fact, last week the readings for the whole of the Lower Yarra were up around that 24 000 level. It is an extraordinary reading that is simply unacceptable. It is hundreds of times the accepted level. The most recent available readings per 100 millilitres, which relate to 2 April, were: the Yarra River at Johnston Street, 62 organisms; at Melbourne

High School in South Yarra, 430 organisms; at Southgate, 390; and at Docklands, 1000 organisms — which is still five times the accepted level. That is a massive level.

Those readings show that the government has not been able to address this over eight years. It has not done the work with septic tanks that affect the Middle Yarra and it has not done the required work with stormwater. It has not done the mitigation work that is required to improve water quality in the river, and I think Melburnians and Victorians demand that.

Planning: sustainable development

Ms MIKAKOS (Northern Metropolitan) — I would like to congratulate the Brumby government on its environment friendly approach to urban planning and environmental sustainability in encouraging well-planned and designed livable communities. The emphasis on building environmentally sustainable cities to cope with climate change and limited water resources is critically important and is a Brumby government priority.

All new homes built are required to be 5-star water and energy efficient. More than 19 000 Victorian homes have installed a rainwater tank, helping Victorians save around 1.5 billion litres of drinking water inside and outside the home. Victoria's Water Smart Gardens and Homes Rebate scheme has slashed water consumption by around 28 per cent per capita compared to the mid-1990s.

More people have switched to green power in Victoria than in any other Australian state, and they are also recycling half their household waste and cutting their plastic bag usage. It is crucial to Australia's environmental and economic future that we tackle the impact of climate change at a local level.

On that note I take this opportunity to congratulate Stockland for building the first of a planned network of sustainability centres across Victoria. On 7 March I was pleased to officially open a sustainability centre at Mernda Village. This has been recognised for best practice in water management as well as other environmentally sustainable initiatives such as rain gardens, wetlands and an aquifer storage and recovery system. The centre will help the growing community in Melbourne's northern suburbs to live more sustainably.

Housing: South Croydon crisis accommodation

Mr LEANE (Eastern Metropolitan) — I was very honoured to be asked recently to officially open an extension to a crisis accommodation centre in operation

at South Croydon, which is run by a dedicated not-for-profit group that manages to maintain its high-quality essential service to the community though the low rent it receives and through operating an op shop in Ferntree Gully run by a group of dedicated, big-hearted volunteers.

The people who reside in the centre over different periods of time are referred there mainly by organisations such as Wesley Mission and Anchor. Unfortunately usually these people have had struggles in their lives with substance and/or alcohol abuse, which is sometimes complicated by ongoing mental health issues. The centre has strict policies for the residents which they must adhere to in regard to their behaviour. They are responsible to the centre and themselves, and that works very well. The centre's new office has been named after long-time committee members of the centre Doreen Findlow and Sheila Lettwhich. This is a fitting tribute to these two great altruistic, community-minded people.

I also want to thank Steve Kroyherr, the centre's coordinator, who has a wealth of knowledge on homeless issues out in the east. He is also a great contributor to the community, and this includes the time he has afforded me over the past year in further educating me on the important task we all face in dealing with homelessness and its many causes.

STATEMENTS ON REPORTS AND PAPERS

Sustainability and Environment: report 2006–07

Mr P. DAVIS (Eastern Victoria) — I wish to make a statement on the Department of Sustainability and Environment report for 2006–07. I was impressed to hear of the evidence given this week by the secretary of the department to the Parliament's Environment and Natural Resources Committee bushfire inquiry. I was impressed by that evidence in the context of what has occurred in this state over the last several years. We have had some extraordinary events — the 2003 alpine fires; subsequently, a few years later, the Grampians fires; and last year the Great Divide fires. We have managed to burn more than a third of the state's public land in that process over the last five years, and the devastating consequences to the environment, our resource base and our parks has been significant. There is a great deal of impact on the rural communities interspersed amongst the public land, and there is a significant cost in recovery both to the public purse and to individuals. So it was with great interest that that testimony was given and recorded. I have to say, as I

have said earlier in this place, that I was pleased to hear the secretary of the department make his comments.

I would like to pick up from the annual report, which covers last year, Peter Harris's comments in the secretary's foreword:

... a series of lightning strikes resulted in a major outbreak on 1 December. This culminated in the Great Divide fires burning just over 1 million hectares mostly on public land in the north-east and Gippsland. It took 69 days to contain — the longest in Victoria's history — and involved more than 20 000 people drawn from Victorian and interstate agencies, as well as from New Zealand, Canada and the USA, who worked together to manage these major fires over a very long fire season. Although these fires presented a severe threat to Victoria's parks, forests and rural land-holders —

Peter Harris then goes on about the great success. I do not know that you could actually talk about burning a million hectares in one go as a 'success' and I do not think in 2003 burning one and a quarter million hectares in one go was a success either, particularly when you look at the history of the department's abject failure in my view and the view of most rural Victorians, I believe, in its responsibility to manage our Crown land estate, whether it be parks or state forest.

In fact we have been allowing fires to occur which could have been managed more effectively by a better regime of public land management through fuel reduction burning. Pre-European settlement of Australia there was regular and continuous burning of our forest estate.

Mr Barber — How do we know that?

Mr P. DAVIS — We know that because the evidence is available to anybody who has studied this subject in any detail. The issue is that in contemporary times we have suppressed fire. Every lightning strike we see as a threat, notwithstanding that the opportunity exists for some fuel reduction burning. If you look at what we have done with planned burning — that is, fuel reduction burning over a scheduled period over the last decade — we have fuel reduction burnt less than 1 per cent per annum on average. That is a hundred-year rotation of fuel reduction burning, meaning that the gross mass of material available for fires to consume, and to therefore burn extremely hot, has accumulated to such an extent that it is a danger not just to the rural communities that are threatened by fire but to our natural environment.

It was with great pleasure that I noted the secretary's comments, but his comments only reinforced some material which has been circulated in the community in Gippsland as an official publication of the Department

of Sustainability and Environment (DSE) about its fire management strategies called *Gippsland Burning News*, autumn 2008. I was in disbelief until I heard the secretary's comments, but the article headed 'Burning on a large scale — maps and mosaics' states:

The ultimate goal is to mimic the natural fire regime that would have occurred pre-European management.

When I read that I thought it was a bit of a change of policy from DSE. The chief fire officer, Ewan Waller, also quoted in this article, said:

It is critical to address large areas of the bush if we are to return it to something similar to the pre-European state.

Those comments, I accepted, were the intention of some in the department. I was unconvinced that this had a government imprimatur, but when Mr Harris said — —

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

Auditor-General: *Planning for Water Infrastructure in Victoria*

Mr DRUM (Northern Victoria) — I comment on the *Planning for Water Infrastructure in Victoria* report by the Auditor-General which was presented to the Parliament yesterday.

It is an amazing report because for the first time we have had a totally independent auditor in the Auditor-General, someone in and for whom this government has great confidence and respect. The Auditor-General has examined the government's own planning processes for its water policies in Victoria in the last 12 months under the microscope.

The Auditor-General has come up with criticism of the government for being very shoddy indeed. These planning processes have effectively been abandoned. The processes for putting in place the north-south pipeline, the desalination plant at Wonthaggi and the project to build supposedly an \$80 million pipeline to Geelong are all projects that have had planning processes which are absolutely abysmal.

The Auditor-General has stated very clearly that in relation to the \$3.1 billion desalination plant at Wonthaggi, the government had additional information that it knew to be far more accurate in the costings of that project and yet it refused to use what was going to be a cost analysis that had a higher probability of being accurate. It deliberately chose a \$3.1 billion cost even though it knew it had less chance of being the accurate figure for that project.

The \$80 million pipeline to connect Melbourne to Geelong has been revalued; it will now cost \$120 million. We have a whole range of projects that this government has put together shoddily, and the information given about them has been proven to be inaccurate. Concerns have been raised by some of the organisations contacted by the Auditor-General. Some of those concerns are listed at page 33 of the report:

The food bowl steering committee's draft report states that 'it is difficult to determine where the losses occur in the current system'.

This project is about fixing the water losses which are supposedly in the system by improving infrastructure and creating what the government calls new water. Yet this report states that the food bowl steering committee is finding it difficult to determine where the losses occur in the current system. The summaries of the projected savings are provided without the detailed assumptions used to calculate them.

Another concern raised in the report was:

There is a very real danger that there may be significant inaccuracies in the figures that are leading the argument that there are substantial savings available.

These are the arguments that The Nationals have been raising ever since the government came up with the ludicrous idea to take water out of the Goulburn Valley. It is in effect magically going to come up with water savings from the Goulburn River and pipe that water to Melbourne. Now the Auditor-General and his office have come up with exactly the same arguments.

Mr Lenders interjected.

Mr DRUM — They are exactly the same recommendations. You just do not like hearing it!

The PRESIDENT — Order! Mr Drum should address his remarks through the Chair.

Mr DRUM — The Auditor-General has finally understood that the water savings that have been eagerly promoted by the government are not there. The report also states:

The estimated water losses were more refined and lower than those published in the food bowl steering committee's final report.

There appears to be a common thread, that perhaps the government has been a little deceitful once again when it comes to the water savings it says it is going to be able to generate. Regional Victoria may be not as well off as the government claims.

The report then says:

In line with the principle of providing timely, full and accurate information on its activities, the department should share comprehensive information with the wider community.

This is our transparent government promoting itself as being too transparent, too open and too accountable. But the Auditor-General has asked why the government has not shared the information it has with the community. The only reason the government will not do that is because it will show that its claims about water savings are untrue.

Goulburn-Murray Rural Water Authority: report 2006–07

Ms BROAD (Northern Victoria) — In speaking to the *Goulburn-Murray Rural Water Authority Report 2006–07*, I would like to take the opportunity to place on record my thanks to the then chairperson, Don Cummins, members of the board, the managing director, Russell Cooper, and the staff for their efforts in guiding Goulburn-Murray Water through an extremely challenging period due to the worst drought on record, the lowest inflows on record, as well as for their commitment to building a sustainable future for irrigation in northern Victoria.

The Brumby Labor government is also committed to building a sustainable future for irrigation in northern Victoria, as well as to providing a secure water future for the people of Victoria. That is the reason that \$1 billion is being invested in Victoria for stage 1 of the food bowl modernisation project; it is the reason why another \$1 billion has been committed for stage 2 of the project by the federal Labor government as a result of reaching agreement on a new national water plan after securing safeguards that protect the legitimate interests of Victoria's rivers, communities, farmers and families that depend on farming.

These are safeguards that the Victorian Labor government has worked very hard to secure. It is a terrific outcome that it has been possible to reach agreement with the still new federal Labor government. I add that these are safeguards that the Liberal and National parties were very happy to throw away, and that would not have been achieved if Victoria had signed up to the previous Howard government's national water plan.

When you look at the report of the Goulburn-Murray Rural Water Authority it is extraordinary to see all that was achieved through the 2006–07 year despite the unprecedented and extreme circumstances that the authority faced during that period. As well as the things

that I have already mentioned, Goulburn-Murray Water undertook the extensive planning required to implement unbundling of water entitlements. That is a major project which is part of the Victorian government's water reform program and it needed to be implemented for Victoria to meet its obligations under the commonwealth government's national water initiatives announced back in 2004. In implementing those changes and converting entitlements, Goulburn-Murray Water had to deal with some 29 000 water shares, 14 000 delivery shares, 4000 extraction shares and 17 500 water-use licences, which is a massive project in anyone's language and a very good outcome in securing the implementation of the project.

Goulburn-Murray Water has also proceeded apace with reconfiguration plans across all its irrigation districts. These are plans that people outside these areas perhaps do not hear a lot about but, in terms of modernisation of irrigation infrastructure and the securing of water savings, they are very detailed and important plans that require enormous amounts of consultation with all the affected farmers and they are very impressive in terms of what is being achieved, more quietly, perhaps, than some of the other projects that have received so much media attention.

As well as that, members can see from the annual report that the Victorian Labor government provided direct funding to customers of Goulburn-Murray Water to help them meet their water delivery bills on the system as a result of the very low allocations that were possible because of the drought circumstances and to pay for the pumping of the Waranga Basin to extract a further 7 per cent from the system for Goulburn irrigators. That amount of cooperation between Goulburn-Murray Water and —

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

Auditor-General: *Accommodation for People with a Disability*

Mrs KRONBERG (Eastern Metropolitan) — I rise to speak for the second time on the Auditor-General's report of March 2008, entitled *Accommodation for People with a Disability*. I do so because what I had to say in this place was picked up by people who have a direct concern with people who have to go through life with a disability, and I felt I should continue. At this point my area of focus is on section 4, which addresses accommodation and service delivery standards. I think it is best to describe the report in this way, frankly: that it contains a constellation of problems and breaches of service standards.

By way of background to this aspect, we are informed that all service providers were required to fully comply by 2003 with the Department of Human Services service standards which were developed back in 1997. That has not occurred. In an amazing example of the Department of Human Services abrogating its responsibility for the monitoring of compliance by service providers with their industry standards, we discover that after providing annual self-assessment reports these service providers found that the Department of Human Services admitted that it placed little value on them. Furthermore, complaints were registered that DHS provided no feedback on these reports. If you are running a facility and you are asked to do a self-assessment — a little bit of navel gazing — and no-one cares what you write about, how are you ever going to know what expectations there are, what benchmarks there are and how you are adhering and complying? I am dumbfounded by this.

Service providers believe the process would be improved if the report was used to benchmark service providers individually against the performance of others, and even the houses run by the Department of Human Services. The department produces statistics that are aggregated results: that is, it does not shine any beam on individual exemptions to the standards and people who depart from them, and for how long they have departed — whether it is serial behaviour. This is done in spite of the overtures of the service providers. We are told that DHS plans to follow up service providers that do not submit self-assessments, but providers tell the department that it did well, and who is ever going to challenge DHS or tell it where it can make improvements? Frankly, this attitude beggars belief. For me it goes to the nub of the problem of the continuing failure to adhere to standards that fail the disabled.

Commencing some time in 2009 a selection of shared supported accommodation houses will finally be audited independently. What has happened in the past, and what is happening now? Mercifully, some service providers had established their own quality assurance processes through audit; some called them resident satisfaction surveys. During 2003 and 2004 the Department of Human Services carried out condition audits on 458 of its owned houses. Surprise, surprise! Significant condition, functional and occupational health and safety issues were identified. It was estimated that \$225 million would be required to bring 443 houses up to the required standards; that is, 443 houses out of 458 houses were regarded as being substandard. A staggering 200 DHS houses did not meet current building or occupational health and safety standards. These properties needed to be demolished or

significantly refurbished, and we are held in thrall while the DHS estimates the cost of these replacements —

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

Auditor-General: *Planning for Water Infrastructure in Victoria*

Mr BARBER (Northern Metropolitan) — The report of the Auditor-General on planning for water in Victoria is quite timely. The most useful high-level observation he makes is that while the government was going ahead with a long-running, high-community involvement, well-informed and well-explained policy process in relation to water in Victoria, the recent proposals appearing virtually out of nowhere just after the election — and not before, which is an important point — were the opposite. In the process of examining that he found also that there is a variable level of rigour placed against the various proposals for enhancing water supply, notably the desalination plant.

Last time I looked at my water bill I was paying a little excess, probably due to the arrival of a new baby, but my marginal kilolitre of water was costing me about one dollar. Right now you can get a tonne of water delivered to your house for a buck, and that just shows how cheap water is. But the question is: how expensive should water be? The Productivity Commission pointed out recently that the marginal cost of providing that next kilolitre should be reflected in the marginal price I pay for it. With desalination we do not know yet how much that water is going to cost us; that has not been made clear through any process that the government has undertaken, and the Auditor-General is now warning us that perhaps those initial estimates used to make the policy, to decide to go down that path, were not particularly rigorous either. From the estimates I have seen from around the world the cost of desalinated water is coming in at somewhere between \$1 and \$4 a kilolitre. It will be some time before we are given the information about how much the Victorian desalination plant, if it is to be constructed, would end up producing water for at the margin.

It seems to me that if I am currently paying \$1 a kilolitre, and this desalination plant is going to produce water for up to \$4 a kilolitre, then there must be a lot of other options to make water, or conserve water, and thereby provide an extra kilolitre in between those two prices. That is exactly the point the Greens have been making ever since we arrived in Parliament. There are many possible investments to be made in saving water, which is the same thing as providing water, which come out a lot cheaper than \$1 a kilolitre; some of them

come out at 10 cents a kilolitre. The estimates of those costs, and what is likely to be delivered through those programs, is nowhere near as uncertain as those the Auditor-General is referring to in the government's chosen policy options — for example, putting in a water-efficient showerhead in every house in Melbourne.

According to information I have received, about one million Melbourne households do not have one. We are well past the point where there is likely to be any controversy associated with this. If a guy from City West Water knocked on my door with some identification and said, 'I am here to change your showerhead', I would probably say, 'Go ahead and do it' except that in my house we have already done it. But I am sure that in every house there would be compliance with the new terms of service that say that if you want water to come into your house you must have water-efficient appliances.

The government has abandoned those options along the way. They remain part of its previous water strategy, but all of them are to be delivered over time lines of tens of years. This new water strategy, the one the Auditor-General says is so lacking in transparency and, in some cases, lacking in certainty and rigour, is superseding all of that. It is crowding out all the conservation options, and it is pushing forward with providing us with new water supplies at an unknown cost.

University of Melbourne: report 2006

Mr THORNLEY (Southern Metropolitan) — I rise to speak on the University of Melbourne annual report 2006. I thought it would be good to speak on this one as the new one will be out shortly and I will probably speak on that as well. But in this case the report covers a year when I was still a member of the council of the university, so it covers areas that I know reasonably well. There are a couple of points I want to highlight from that time period.

Firstly and most importantly, 2006 saw all of the hard work done in implementation towards the actual beginnings of the new Melbourne model that has now successfully transferred the way the university runs. As members may well be aware, this is a fundamental change, moving the University of Melbourne to a more, shall we say, Northern Hemisphere-like structure of generalist undergraduate degrees and professional masters degrees. I believe that is a profoundly important and positive change for a range of reasons. I think it is particularly important.

When this was first announced a lot of people claimed that it was some form of elitism on the part of the University of Melbourne and was calculated to in some way further entrench the access of people from high socioeconomic backgrounds to the professions of law, medicine and other disciplines. I do not know how they arrived at that conclusion. In fact this change has done exactly the opposite. This change means that, for the first time in 150 years, no matter where you go to high school and no matter how elite the private school your parents may choose to send you to, there is no guarantee that that buys you a ticket into Melbourne University's law or medicine faculties. That is a fundamental change. When you move to generalist undergraduate degrees you create an environment of lower equivalent national tertiary entrance rank scores and it is performance at the undergraduate level which determines access to the key professional courses that typically accrue privilege in our society. It is an enormous change.

Those who understand performance in higher education would know, as has been proven many times, that if students who come from government schools and a range of disadvantaged backgrounds can obtain entry at the undergraduate level they typically outperform those from elite private schools who have equivalent entry scores. By creating this system and moving to a Northern Hemisphere model you snap that nexus that has been the inheritor of privilege in this state for 150 years. I think that is an incredibly important and positive development.

Secondly, it is an important development because, as we all know, 17 is not always the age when you should be choosing your lifelong career. In those first years of independent adult existence most of us go through a period of very substantial personal growth and development and formation of our ideas about who we are, what we believe and how we want to interact with the world. In my view it is a much better thing that people make their longer term career decisions after some period of undergraduate, broad-based education that is focused on training the mind and the capacity to think, rather than immediately training for a future professional career. I believe that those reasons lend strong support to the Melbourne model. The capacity for it to enable students to interact with the great universities of the Northern Hemisphere that have a similar structure is a third benefit. I commend the university for making what is in Australia a new and somewhat courageous decision.

As 2006 was the year of implementation I want to make note of the fact that it was an incredibly smooth transition through major change in a large

organisation — one of the best I have seen across corporate and public operations. It would have been very easy to ram this down from the top without the underlying support of the staff or the students and other stakeholders. That is not the way this occurred. I might say this is in contrast to what happened when Melbourne University Private and Universitas 21 were established. This was done in an extraordinarily effective, consultative manner that really engaged the staff and a range of other stakeholders at all levels. This led to a very smooth transition. I congratulate the university on that massive change. There is a range of other things in this report, particularly on equity and access, that I would like to highlight but I will do that at another time.

Auditor-General: *Planning for Water Infrastructure in Victoria*

Mr O'DONOHUE (Eastern Victoria) — I am pleased to make a contribution this morning on the Auditor-General's report dated April 2008 and entitled *Planning for Water Infrastructure in Victoria*. The delivery of infrastructure is core business for state governments. What we have in this Auditor-General's report is a damning — pardon the pun — indictment of the government and its planning for water security for Victoria.

The Auditor-General says that before June 2007 the state government did not have a plan to deal with the crippling drought Victoria was experiencing. That is despite the fact that, as the Auditor-General demonstrates on page 10 of his report, Victoria had experienced below-average rainfall since 1996. From its election until June last year the government was asleep at the wheel, hoping it would rain. Then the government woke up and realised that we were not going to have heavy rain, so it thought that it had better come up with a solution. In a matter of a few months, the government decided to invest more than \$4 billion in a range of projects, principally the north-south pipeline, the Geelong connector, and the biggest of all, the desalination plant.

In talking about the desalination plant, it is interesting that the Auditor-General says on page 32 of this report:

... the desalination plant costs were based on a significant body of technical work on the project costs and risks. However, the decision was made to publish a lower probability figure (i.e. a lower estimate) when a higher probability figure was available.

In other words, what the Auditor-General is saying is that the government plucked out of the air the lowest figure it could find to justify the construction of the

desalination plant. If the desalination plant goes ahead, we will have to wait and see what the final figure is. Clearly the Auditor-General is saying is that a higher figure was the most probable outcome, but the government chose to disclose and advertise a lower figure, which is misleading at the very least. In his conclusions the Auditor-General says also that with these new projects there was 'minimal stakeholder consultation' and:

... inadequate levels of rigour applied to estimate the costs, benefits and risks of some of the key component projects.

This demonstrates again that the government, in an absolute panic, decided it needed to find the silver bullet for the water crisis that had evolved and still exists in Victoria.

As a member who represents the Bass Coast, I can say that I have been inundated with constituents who are absolutely outraged by the lack of consultation with regard to not only the location but also the size and scale of the desalination plant. The township of Wonthaggi is already struggling with a lack of doctors and a hospital suffering from a lack of resources. This government cruelly closed the Warley Hospital on Phillip Island. There is a lack of police and other critical services. The impact on that community of a desalination plant that will cost in excess of \$3 billion will be significant. Unfortunately there has been very little consultation with that community about the provision of additional resources and infrastructure to accommodate this project, if indeed it goes ahead. I congratulate the local community groups which have risen spontaneously as a result of the announcement of this project to oppose the project and to advocate for their communities.

The Auditor-General also points out that the cost of the construction of the Geelong pipeline has already blown out by 50 per cent, again demonstrating that the government may have chosen to underquote the costs of these projects. It is interesting to note that recycling is not mentioned. Recycling must be a key component or ingredient for securing our water future. It is a pity that the upgrade of the eastern treatment plant has not been accelerated as part of the response to this issue.

Auditor-General: Accommodation for People with a Disability

Mr ELASMAR (Northern Metropolitan) — I rise to speak about the 2008 report on accommodation for people with disabilities. It is disturbing to note that in 2003 an estimated 992 300 Victorians suffered from some form of disability that hindered them from living a comparatively normal life within the community.

Prior to the 1980s special institutions would house and care for these poor unfortunate men and women who, in many instances and through no fault of their own, lived out their entire lives being told what to do from morning until night and having every decision affecting them made by medical professionals or carers. Unfortunately, new figures show us that the number of Victorians with disabilities is rising. Many are born with congenital problems, and some have been involved in terrible accidents. The reality is that they all need care, affection and a degree of self-determination. The deinstitutionalisation of a large section of this community began in the early 1980s. Successive governments have invested many millions of dollars in numerous models for housing people with disabilities. Many hostels have been built to provide supported accommodation for those people who cannot be cared for by their families or do not have any living relatives to take care of them.

Depending on the degree of disability, every attempt has been made to match ethnic backgrounds and language skills to enable a quality of life and an enjoyment of everyday pleasures that most people in our community take for granted. Carers are employed to look after the basic daily requirements of people with disabilities, and by and large their days are not regimented nor their lives devoid of companionship or friendship.

Today we have shortfalls, and yes, we read stories in the media about young people being inappropriately housed within senior citizens homes. I know that more needs to be done, but we also have a much greater percentage of qualified professionals who have dedicated their lives to providing individual case planning instead of a general or generic plan of the nature of one size fits all. There is a recognition within the community that individual requirements need individual case management plans and that human beings need warmth and companionship as well as a roof over their head and a bed to sleep in at night. I personally admire carers and the medical profession for their unswerving dedication to enhancing the quality of life for the less fortunate in our society.

Office of the Public Advocate: community visitors report 2006–07

Mrs COOTE (Southern Metropolitan) — I have pleasure this morning in speaking on the Office of the Public Advocate community visitors annual report for 2006–07 on mental health. Much has been said about mental health in our community recently, and I think it is important that we understand what the issues are. I acknowledge what my colleague, Mr Elasmr, a

member for Northern Metropolitan Region, has just said about the way that, as a compassionate community, we should be making certain that we put in place a framework for the people who are less advantaged within our community and that we make regulations and funding available for people who need additional help.

Mental illness takes many forms. It does not discriminate by age or gender, and it affects most families within our communities. The bottom line is that many people with mental illnesses fall through the net. Many have nowhere to live and end up in rooming houses or on the streets. This is serious, and it is not the way we in this community want to see people with mental illnesses treated.

The executive summary in this report refers to the shortage of beds. That is important, because it has ramifications right down the track. The summary says:

The shortage of acute beds remains a key finding that has been reported by the board to the minister since 2003.

This is unacceptable. This is a 2007 report. It is absolutely imperative that the government starts to address some of these issues. Community visitors, I remind members, go in as volunteers to look at the situations at the coalface within our facilities. Given that they have been saying for four years now that this is a concern, we know it is not something they are saying lightly. It is important that the minister takes note and does something substantial about it.

The report goes on to say that:

There is a shortage of appropriate community accommodation on discharge and a lack of capacity by the state to meet the needs of patients with dual and complex needs.

It is this point I am particularly concerned about. Within my own region, the Southern Metropolitan Region, and in St Kilda and Prahran in particular, we have major issues with people with mental disabilities and people who are homeless. An interesting report has been put out on private rooming houses. I am not certain how many members of this chamber have been to look at some private rooming houses. I suggest that members visit some; if they do not have any within their own electorate, I would be very happy to take them to visit some of those in my electorate. These places are supposed to give people succour, nurture and a home; in fact quite the reverse happens.

HomeGround Services, a non-profit organisation for the homeless, released a report recently which reveals some alarming results about the cleanliness and safety

standards across a sample of 228 residents living in rooming houses, most of them within St Kilda in my electorate. The findings included that 57 per cent of respondents said they did not feel safe, 50 per cent shared a bathroom with 10 or more others, 50 per cent had no heating, one in five had no power point in their room, 14 per cent could not lock their room and 16 per cent had no lights in the hall.

I have spoken to people who are homeless, and I have seen many people who are inflicted, maybe temporarily, with mental illness, who say they would rather sleep rough in the parks than go to a rooming house. This is an indictment on us as a community and is seriously inappropriate.

Comments from respondents in the HomeGround Services survey included that:

... many people are bashed all the time ...

and that it:

... makes me sick when I see syringes lying around.

One resident said they:

could only lock the bedroom door if I paid an extra \$25 ...

That is absolutely appalling and needs to be looked at.

These people have no-one to turn to and nowhere to go and it is absolutely essential that a substantial amount of money is found to make certain that people with a mental illness, and other people who are forced to be homeless within our community — young people, through family breakdown; and people with dual diagnoses of mental and health issues, and drug and alcohol dependencies — have access to supportive housing. We should be caring for these people and making certain that the rooming houses are clean, safe places — in fact, havens — for people to go. It is just not acceptable to have people choosing to sleep rough because the rooming places are not safe. I commend this report.

Drugs and Crime Prevention Committee: misuse/abuse of benzodiazepines and other forms of pharmaceutical drugs in Victoria

Mr EIDEH (Western Metropolitan) — I rise to speak on what we have before us, an excellent and comprehensive report written by a number of members of both houses of the Parliament of Victoria through the Drugs and Crime Prevention Committee. I wish to begin by paying my respects to current and past members of this house who have served on the committee — former chair Johan Scheffer, Sang

Nguyen, Jenny Mikakos and Shaun Leane. I further wish to congratulate members from the other house, including Ann Barker, the Deputy Speaker and member for Oakleigh. All of them were ably led by former Speaker Judy Maddigan, the member for Essendon in the other place. And I wish to congratulate the staff of the committee, who operate effectively; truly they are talented people.

In one sense this report has been far too long in coming because the media and some sectors of the medical and pharmaceutical industries have been whistleblowing for years. It is also deeply saddening to learn from the report that far too many within our Victorian community do not see the taking of prescription drugs as dangerous and so overdo it. Some take far too many of these otherwise healthy drugs. Some mix them with alcohol, others mix them with a variety of other medications. Some visit multiple doctors for greater prescription amounts, and others take their medications long after their use-by dates. Others take medication belonging to someone else, and some take the drugs repeatedly, even though doctors stress that there is a limit on how many and how often they should be taken.

Misusing and abusing prescription drugs can be as lethal as taking poisons. They can kill when taken wrongly. They can lead to a broad variety of side effects when taken without reference to why they were given to the patient by their doctor. While they have been created to help us, far too many in the community are hurting themselves with these drugs.

The report details the problems and abuses, the concerns and the possible remedies that we must consider. These suggested remedies include a range of education programs for the community, doctors, pharmacists and all other health professionals as well as patients and their families. But a more practical and more easily enacted suggestion is for a national prescription recording service. Where this has been done elsewhere, for example in many states in the USA, it has worked remarkably well. However, the committee went even further and suggested additional reforms. This proves how successful the committees are and why they play a great role not only within the Parliament but, more importantly, on behalf of the people whom we all represent — the people of Victoria.

In this case, the committee's recommendations will yet again show that Victoria either leads the nation in action or seeks to guide the nation to establish national protocols. An electronic prescription service linked to the prescription recording service would allow greater control and checks on who gets what, how often and

how much. Hopefully this should stop the practice of doctor shopping where patients seek doctors who are more likely to prescribe drugs or just not check on how many prescriptions they have obtained.

I am shocked to read on page 382 of the report that there are significant numbers of doctors who do not recognise the condition of drug dependency. Education programs for doctors are recommended in the report, but I hope their professional associations would also see a need for their direct involvement. Therefore I believe the outlook must be good.

Auditor-General: *Planning for Water Infrastructure in Victoria*

Ms LOVELL (Northern Victoria) — I rise to speak on the Auditor-General's report *Planning for Water Infrastructure in Victoria* of April 2008, and in doing so I would like to say that the government may have a no-dams policy and no-damming policy but fortunately the Auditor-General does not. This is a damning report on the government's performance in water infrastructure over the past few years. It has confirmed fears that the cost of the Brumby government's water plan is likely to exceed the budgeted amount and that the promised water savings may not exist.

The report highlights the government's lack of action to secure Victoria's water supplies between 1997 and 2006. It highlights what everyone has known, that the government has simply sat on its hands. This government knew, like everyone else, that we were in drought, that we were in a water crisis, but it did nothing. Government members sat on their hands and at night they prayed for rain.

The report also reveals that it was not until June 2007 that the government actually developed a water plan, and that plan was developed within six months. It was only devised as a knee-jerk reaction to the drought, and we all know that this is the case. As Mr Barber said earlier, this water plan was not announced before the election. I am quite sure if it had been announced before the election Ms Darveniza would probably not be sitting in this chamber now because the people of northern Victoria are extremely angry about the government's water plan. They were not told about the plan before the election so that they could vote accordingly. It is a plan that was sprung on them after the election; it is a plan that means to steal 75 gegalitres of water out of the Goulburn River, out of the Murray-Darling Basin, and a plan that could have long-term consequential effects not only on the environment in northern Victoria but also on our economy with the loss of water for irrigation.

The findings of this report show that the Auditor-General has found that the government deliberately used a lower estimate to hide the true cost of the proposed desalination plant at Wonthaggi, and my colleague Mr O'Donohue has spoken about that because that is in his area. That was extremely misleading of this government and is typical of the spin and the lengths that this government will go to to try to make its stories appealing to the electorate. It also shows that the estimated cost of the Geelong–Melbourne pipeline has already blown out by 50 per cent. Who knows what that pipeline, the north–south pipeline and the desalination plant will eventually cost? Given the government's appalling record on major projects, the costs of these blow-outs are likely to be felt by all taxpayers with vastly increased prices for water in this state.

The report adds further weight to calls for a full audit of the claimed water savings associated with the food bowl modernisation plan and confirms that that plan was based on a submission from a group of unelected people in the north and was prepared without a depth of analysis and level of rigour commensurate with a project business case. It was very much a knee-jerk reaction based on very sketchy details, but the government has pushed ahead with it because it was desperate for an answer to Melbourne's water crisis.

I will touch a little more on the food bowl modernisation plan particularly. As I said, this report is damning. It highlights the Brumby government's use of inconsistent water savings figures and recommends that the Department of Sustainability and Environment publish the detailed analysis underpinning the estimates of water savings and costs for the food bowl project. For a long time many people in northern Victoria have been calling for the full details of all aspects of this project to be disclosed to the electorate.

The report highlights on page 29 that:

There was minimal consultation with stakeholders outside government before the decision to commit to the plan components.

On page 32 it highlights that:

The announcement of the food bowl project in June 2007 was not informed by a rigorous cost analysis and full validation of the water savings estimates.

That shows that the government has been negligent in its commitment to this project and that the full business case was not prepared before it committed to it. The report goes on to say that — —

The ACTING PRESIDENT (Mr Vogels) —
Order! The member's time has expired.

Moyne Health Services: report 2006–07

Ms TIERNEY (Western Victoria) — I rise to make comment on the Moyne Health Services annual report for 2006–07. If we were to go back 159 years, I would be making this statement on a report on a four-roomed cottage at 40 James Street, Belfast. Over the past 159 years of its existence, Moyne Health Services has grown into a multimillion-dollar health service encompassing almost an entire block and providing a number of health services essential to the Moyne shire. Those services include acute hospital care, aged care with residential and home-based services, and primary care.

Moyne Health Services includes country Victoria's oldest hospital, the Port Fairy Hospital, which has a grand history of service to the community. All those associated with the hospital have very good reason to feel extremely proud of its service and very long history. During the reporting period Ms Kerry Robertson was elected president of the board of management of the hospital, replacing Gerard Dwyer. I make special mention of Mr Dwyer, as he had been a member of the board since 1975 and served as president for 13 years.

While I am mentioning personal achievements, I also wish to make note of two teams from Moyne Health Services who, in April 2007, took part in Woody's Murray to Moyne bike ride, raising \$22 000 for the health service. The Port Fairy Hospital team was led by Jenny McCarthy and the Belfast Bikers were led by Kate Winnen. Kate is the daughter of Graham Woodrup, after whom Woody's Murray to Moyne bike ride is named. I take this opportunity to congratulate both women and their teams on their enormous efforts and achievements and the contributions they have made not just in taking this ride but also in organising their teams and everything else that goes with it.

Last year Woody's Murray to Moyne bike ride celebrated its 21st year, with the event having 1628 riders comprising 172 teams from different hospitals and health-related organisations right across Victoria, and raising more than \$1.28 million. What a fantastic event! It is no doubt embraced by the entire Port Fairy community, which I witnessed when I was in Port Fairy for the 2007 bike ride. Many people were lined up along Bank Street, all prepared and encouraging the bike riders as they entered Port Fairy that morning. It was not until that morning when I was driving from Port Fairy to Hamilton that I understood the enormous size of the event. There were literally hundreds of bike riders on the road that day, going in the opposite direction. Most of the bike riders had come

from Mildura, Swan Hill or Echuca. There is a mandatory stop in Hamilton overnight and that is why we saw so many cyclists that morning.

The event is steeped in history. The very first event was initiated to raise money for the Port Fairy Hospital but it now attracts participation from hospitals and health services right across the state. It is clear that there is continuous support by the local community and various auxiliaries. As a result of the support and the fundraising people are involved in, the local community was able to purchase new equipment, including a new automatic defibrillator for cardiac emergencies, a digital chair to assist residents' monthly weigh-ins, and a high-flow oxygen generator and attachments for the emergency department, to name just a few.

Several times throughout the report there is reference to the work that volunteers do in Moyne Health Services. This does not go unnoticed by any means. I pay tribute to the cross-generational support that is evident. You see daughters, mothers, uncles and grandparents working side by side to raise funds for this important service.

CO-OPERATIVES AND PRIVATE SECURITY ACTS AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Co-operatives and Private Security Acts Amendment Bill 2008.

In my opinion, the Co-operatives and Private Security Acts Amendment Bill 2008, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill improves the ability of cooperatives to operate nationally and assists their capacity to raise funds. In particular, the bill will:

- recognise and allow a cooperative to issue a new cooperative capital unit, as a means of raising funds for expansion of its operations;

- introduce a more streamlined scheme to allow cooperatives to carry on business around Australia without the need to register separately in each state or territory; and

- provide the registrar of cooperatives with the ability to exempt smaller cooperatives from the need to have their accounts audited annually by a registered company auditor.

The bill also amends the Private Security Act 2004 to extend the date by which a ministerial review of that act must be finalised.

Human rights issues

Proposed sections 371(2)(a)(iv) and 371(3)(c) may engage section 13(a) of the charter in relation to the right to personal privacy in that they provide that where a foreign cooperative proposes to carry on business in Victoria, it must give notice to the registrar of cooperatives. That notice must be accompanied by the full name and address of each person who is to act as agent of the cooperative in this state and (in the case of a non-participating cooperative) the full name, date of birth and address of each director of the cooperative, respectively.

It is considered that proposed sections 371(2)(a)(iv) and 371(3)(c) do not unlawfully or arbitrarily interfere with the right to privacy and are therefore compatible with the charter for the following reasons:

- Proposed section 371(3)(c) is consistent with existing sections 19(1)(d)(iii) and 24(c)(vi) of the Co-operatives Act 1996 that require an application for registration of a cooperative to be accompanied by a list containing the name, address, occupation and place and date of birth of each director. Proposed section 371(3)(c) imposes a slightly lesser information requirement.

- Proposed section 371(2)(a)(iv) substitutes in identical terms the existing requirement contained in part 14 of the Co-operatives Act 1996 that foreign cooperatives wishing to carry on business in Victoria notify the registrar of cooperatives of the full name and address of each person who is to act as agent of the cooperative in Victoria (sections 369 and 370).

The information is gathered for a reasonable purpose and is not arbitrary or unlawful. In relation to directors, it enables the registrar of cooperatives to confirm that a person who is acting as a director or is otherwise directly or indirectly concerned with the management of a cooperative is lawfully able to do so under the act:

- Section 214(1) of the Co-operatives Act 1996 provides that it is unlawful for a person who has been convicted of certain specified offences to act as a director or directly or indirectly take part in or be concerned with the management of a cooperative, within a period of five years after the date of conviction, or if sentenced to imprisonment, five years from the date of their release from prison.

- Section 214(2) provides that a person is disqualified from acting as a director or from directly or indirectly taking part in or being concerned with the management of a cooperative if they have been convicted of an offence under the act within a period of five years after the conviction, have been disqualified from managing a corporation under the Corporations Act 2001 or are an insolvent under administration.

The name, address, occupation and place and date of birth of each director enables precise confirmation of identity for these purposes.

Collecting the full name and address in Victoria of a person acting as the agent of a foreign cooperative is also for a reasonable purpose and is not unlawful or arbitrary. It is required so that the registrar of cooperatives and members of the public who have dealings with the cooperative have a clearly identified contact point in this jurisdiction.

There are appropriate constraints around the management of the information collected as it is retained and managed by the registrar of cooperatives consistent with the requirements of the Information Privacy Act 2000.

The information is accessible from the register of cooperatives only upon payment of a prescribed fee.

The information requirements under proposed section 371(2)(a)(iv) and section 371(3)(c) are therefore not unreasonable, unlawful or arbitrary and are consistent with the charter.

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

Consideration of reasonable limitations — section 7(2)

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

Conclusion

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

HON. JUSTIN MADDEN, MLC
MINISTER FOR PLANNING

Second reading

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the second-reading speech be incorporated into *Hansard*.

I can do so confidently, as the bill does not contain a section 85 statement and has passed the Legislative Assembly without amendment.

Motion agreed to.

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill will amend the Co-operatives Act 1996 to enable cooperatives to issue cooperative capital units, better provide for recognition in this state of cooperatives that have been

registered outside Victoria and enable the registrar of cooperatives to exempt smaller cooperatives from the requirement to have their financial accounts audited.

The bill will also amend the Private Security Act 2004 to extend the date by which a ministerial review of its operations must be finalised and reported to Parliament.

In Victoria, the formation, regulation and development of cooperatives is governed by the Co-operatives Act 1996. As at 30 June 2007, there were 742 cooperatives registered in this state.

As with companies and incorporated associations, a cooperative is a legal entity that allows members the ability to buy and sell property, sue and be sued in the name of the cooperative and affords members limited personal liability. Cooperatives are organisations owned and controlled by members who join for their common benefit. Cooperatives are traditionally based on values of self-help, self-responsibility, democracy, equality, equity and solidarity.

Cooperatives are significant in the primary production sector providing services to the dairy, tobacco, egg and fishing industries and water to irrigators. Apart from rural industries, Victorian cooperatives operate in and across a wide range of areas that provide services to the community, including the provision of child care, housing, taxi services and community radio stations.

The Ministerial Council on Consumer Affairs has agreed to formalise a national scheme of cooperatives legislation. The scheme is to be established pursuant to an Australian uniform cooperative laws agreement, which will provide that jurisdictions may either adopt a proposed national cooperatives code or pass alternative consistent legislation. The ministerial council has agreed to a set of core consistent provisions that are to be contained in national cooperatives legislation.

In 2002 the ministerial council agreed that the national cooperatives legislation would include fundraising provisions based upon a modification of the cooperative capital unit provisions in the NSW Co-operatives Act 1992, and mutual recognition provisions to enable a cooperative to carry on business in more than one jurisdiction provided it has met prescribed notification requirements.

However, due to delays in progress at the national level, to date, cooperative capital units have not been included in Victorian legislation and mutual recognition provisions in the Co-operatives Act have not been updated.

This bill redresses that situation and is consistent with recent ministerial council advice that jurisdictions may proceed to introduce them in advance of the proposed national legislation.

A cooperative capital unit, or a 'CCU', is a fundraising instrument that can be issued by a cooperative and which confers an interest in the capital (but not the share capital) of the cooperative. It is personal property, transferable within the terms of the act, and is capable of devolution by will or by operation of law.

Traditionally, cooperatives have been restricted to raising capital funding for their operations from their membership. However, a CCU can be issued to persons whether or not they are members of the cooperative itself and will provide an

additional form of capital fundraising to support the trading operations of a cooperative.

For cooperatives to survive and be successful in today's markets, they need to be competitive with other forms of corporate structure and have a similar ability to finance and grow their businesses. The availability of a flexible fundraising instrument such as a CCU does not infringe cooperative principles and provides a means of survival and expansion for cooperatives that require additional capital that their members are unable to provide.

CCU provisions in the NSW Co-operatives Act 1992 have served as the basis for model provisions developed by the Australasian Parliamentary Counsels Committee and the provisions in this bill are based on those model provisions.

Part 14 of the Co-operatives Act provides for the recognition in Victoria of 'foreign cooperatives', being cooperatives registered in another jurisdiction. In 2002, the ministerial council agreed to update existing provisions for mutual recognition of cooperatives between jurisdictions based on current provisions contained in the New South Wales Co-operatives Act 1992.

The amendments contained in this bill will simplify the ability of cooperatives registered in another jurisdiction to carry on business in Victoria and are consistent with proposed provisions of the draft national code that will enable recognition of Victorian cooperatives by other jurisdictions.

The amendments prescribe that a foreign cooperative carries on business in Victoria if it solicits for members in Victoria, seeks share capital, takes deposits or offers other securities in the cooperative in Victoria, or provides any goods or services in Victoria.

The amendments authorise the responsible minister to certify that the law of another jurisdiction is a cooperative law for the purposes of the Co-operatives Act 1996 if it substantially corresponds to the provisions of the Co-operatives Act 1996.

The amendments then allow the registrar of cooperatives to authorise a cooperative registered under a recognised cooperative law of another state and territory to carry on business in Victoria without having to separately register in this state.

The bill will also provide the registrar of cooperatives with a discretion to grant an exemption to small cooperatives or cooperatives experiencing financial stress from existing annual financial reporting and audit requirements under the Co-operatives Act.

Under the current provisions of the Co-operatives Act, cooperatives are required to appoint a registered company auditor to conduct an audit of their annual financial statements. Some smaller cooperatives have found the expense of a registered company auditor or the cost of auditing itself unreasonably disproportionate to the value of their books.

Unlike the Co-operatives Act, the regulatory schemes for companies and incorporated associations include an ability to exempt a company or association from the obligation to have their accounts audited by a registered company auditor. The amendments will enable the discretion available to the Australian Securities and Investments Commission for companies under sections 340–342 of the Corporations Act

2001 of the commonwealth to also be available to the registrar in respect of cooperatives.

Section 342 of the Corporations Act establishes criteria for considering an exemption, including that complying with standard requirements would be inappropriate in the circumstances or would impose an unreasonable burden. Extending this discretion to the registrar will assist smaller cooperatives, particularly those in regional Victoria that are struggling to cope with the financial impact of the extended drought.

I now turn to the amendment to the Private Security Act 2004.

The Private Security Act provides for the licensing, registration and regulation of the private security industry in Victoria. It currently requires that the responsible minister complete a review of its operation by 1 June 2008.

The review has commenced. However, over the past two years, significant work has been undertaken at the national level to harmonise the regulation of the private security industry across Australia with the ultimate aim of enabling mutual recognition of licences between jurisdictions.

The Council of Australian Governments (COAG) is progressing the development of national minimum standards for the private security industry including existing workforce proposals, new recommendations for regulating the technical sector of the industry and further proposals to improve the quality and delivery of security industry training.

Given the significant overlap with issues to be considered in the review of the Private Security Act, and to avoid unnecessary duplication, it is sensible that the review of the act be undertaken either alongside or after completion of the work by COAG. Recommendations dealing with the technical sector of the industry will be particularly valuable in informing the review of the act.

Progressing national harmonisation work in tandem with the review of the Private Security Act will enable the development of a consolidated approach to any legislative amendments arising from each process. It will also ensure that there is sufficient time and focus on consultation with the industry, both through the Victorian Security Industry Advisory Council and through broader public consultation.

Accordingly, the bill will extend the time frame for completion of the ministerial review to 1 June 2009.

I commend the bill to the house.

Debate adjourned for Mr GUY (Northern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 17 April.

ESSENTIAL SERVICES COMMISSION AMENDMENT BILL

Statement of compatibility

For Mr LENDERS (Treasurer), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Essential Services Commission Amendment Bill 2008.

In my opinion, the Essential Services Commission Amendment Bill 2008, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the Essential Services Commission Amendment Bill 2008 (the bill) is to amend the Essential Services Commission Act 2001 (the ESC act) to implement the legislative component of the government's final response to the review of the Essential Services Commission Act 2001. The primary purpose of the bill is to ensure that the Essential Services Commission (the commission) has adequate guidance in forming its decisions and the necessary powers to gather critical information and enforce its decisions.

Specifically, the bill proposes to:

- (a) introduce a simpler legislative framework;
- (b) refine the current objective;
- (c) revise and recast the facilitating objectives as matters the commission is to have regard to when undertaking its functions;
- (d) provide the commission with the power to make codes and impose appropriate penalties for their breach;
- (e) clarify that the commission is able to inquire into any matter referred to it by the minister for finance in consultation with relevant ministers, and provide that when conducting inquiries into industries that are not regulated, the minister for finance is to determine the powers available to the commission;
- (f) standardise the powers and penalties available to the commission across the ESC act to reduce the regulatory burden and increase regulatory certainty;
- (g) provide the commission with access to third-party and related contract information, and clarify the release of commercial-in-confidence information;
- (h) introduce a proportional penalty framework; and
- (i) introduce new provisions relating to access regimes to ensure that, as agreed at the Council of Australian Governments, regulation of Victorian regimes is consistent with the nationally agreed approach.

Human rights issues

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

Section 13: privacy

A person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Privacy is bound up with conceptions of personal autonomy and human dignity. It encompasses the idea that individuals should have an area of autonomous development, interaction and liberty — 'a private sphere' free from government intervention and from excessive unsolicited intervention by other individuals.

An interference with privacy will not be unlawful provided if it is permitted by law, is certain, and is appropriately circumscribed. Arbitrariness will not arise provided that the restrictions on privacy are in accordance with the objectives of the charter and are reasonable, given the circumstances.

The information-gathering powers currently available to the commission are spread through a number of acts, or contained within specific licence conditions. The information-gathering powers available to the commission differ according to whether the commission is using its inquiry or regulatory functions.

The proposed amendments in clauses 12 to 16 are intended to create a universally applicable set of stand-alone information-gathering powers within the ESC act. This is largely to be achieved by extending the commission's current inquiry information-gathering powers across all of its functions. Standardising and simplifying the information provisions will reduce the administrative burden on the commission and reduce the regulatory burden on regulated entities and industries subject to inquiry. These provisions will also provide the commission with the stand-alone powers necessary to regulate industries that are not subject to their own act with Parliament.

The proposed amendments in clauses 12 to 16 engage the right to privacy because they give the commission powers to compel persons to provide information. However, it is not intended that this will involve information of a personal nature. Rather, the proposed information-gathering powers will pertain to commercial information that is necessary for the commission to fulfil its functions in an accurate and timely manner. Furthermore, the commission's powers to obtain information and documents are confined and structured and are reasonable in the circumstances. Any interference with privacy must be authorised on a case-by-case basis according to the specific circumstances involved. This includes giving the person affected the opportunity to make submissions as to why the information is of a confidential nature under the new section 38(1A). Furthermore, persons have the right of appeal and, when undertaking an inquiry into an industry that is not regulated, clause 18 indicates that the minister is to have the ability to limit the commission's information-gathering powers. The right of appeal and the minister's power establish further safeguards against arbitrary interferences with privacy by the commission. Therefore clauses 12 to 16 do not authorise unlawful or arbitrary interferences with privacy and there is no limitation of the privacy right.

Section 24: fair hearing

Section 24 of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Clauses 24 and 25 amend the appeal panel procedures in sections 55 and 56 of the act and engage the right to a fair hearing.

Section 56(1) of the ESC act provides that an appeal panel must consist of three members, one being the chairperson, and at least one must have knowledge of administrative law or the law of procedure and evidence. In addition, section 56(2) indicates that an appeal panel is to be constituted from a pool of persons appointed because of their knowledge of, or experience in, one or more of the fields of industry, commerce, economics, law or public administration. These provisions seek to ensure that the appeal panel is competent. Clause 25 of the bill bolsters these provisions and aims to increase the competence level of the appeal panel by directing the registrar to use best endeavours to constitute an appeal panel of:

- (a) a chairperson who has experience running contested hearings; and
- (b) at least one member that has technical or industry experience relevant to the appeal.

The use of the term ‘best endeavours’ appreciates that, in practice, there is a limited pool of experienced people available, appeal panels are infrequent and ad hoc in nature, and there are short time frames within which an appeal panel must be formed and reach its decision. Clause 25 promotes the requirement that a proceeding is decided by a competent panel.

Clause 24 of the bill clarifies that a person who represents a consumer or user group has a right to an appeal. Furthermore, it extends the deadlines for lodging a notice of appeal with the registrar by seven days, thereby reducing the time pressure on potential appellants. These amendments are consistent with the right to a fair hearing.

Section 12: freedom of movement

Every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it, and has the freedom to choose where to live.

The right to move freely within Victoria is not dependent on any particular purpose or reason for a person wanting to move or stay in a particular place. It encompasses a right not to be forced to move to, or from, a particular location. The right includes freedom from physical barriers and procedural impediments.

Sections 44 and 51 of the ESC act provides that the commission may serve upon any person a summons to appear before the commission to give evidence in relation to an inquiry. Clauses 12 and 14 of the bill standardise this power across all of the commission’s functions. The provisions engage and limit the right to freedom of movement because they provide for a person to be required to come before the commission to provide information or a document and there are penalties for non-compliance. To the extent that a person

is required to appear before the commission under these provisions, then the person’s freedom of movement is limited. However, the limit upon the right is clearly reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) The nature of the right being limited

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

(b) The importance of the purpose of the limitation

The limitation is important because it enables the commission with the power to obtain information necessary for it to efficiently regulate essential services. The ability to secure the presence of a person to provide information is essential to the effective administration of the commission’s functions.

(c) The nature and extent of the limitation

The provisions limit a person’s freedom of movement to the extent that a person may be compelled to be physically present at the commission or another location for a limited time for the purpose of giving evidence.

(d) The relationship between the limitation and its purpose

The limitation on the free movement of a person by requiring the presence of the person at the commission is directly and rationally connected to the purpose of ensuring the effective administration of the commission’s functions.

(e) Less restrictive means reasonably available to achieve the purpose

There are no less restrictive means of achieving this purpose.

Section 25: the right not to be compelled to testify against oneself

Section 25(2)(k) of the charter states that a person charged with a criminal offence has the right not to be compelled to testify against himself or herself, or to confess guilt. However, the right only applies to persons charged with a criminal offence and does not extend to the provision of information to the commission in the course of exercising its functions. The bill therefore does not interfere with the right in section 25(2)(k) of the charter. Nevertheless, persons required to provide information to the commission pursuant to its power in clause 14 of the bill will be afforded the privilege against self-incrimination in section 37(1)(5) of the ESC act.

Section 15: freedom of expression

Section 15(2) of the charter provides that every person has the right to freedom of expression — this includes the right not to express. This right is engaged by clause 14 of the bill, which would compel a person to appear before the commission to express certain information. Section 15(3) of the charter provides that special duties and responsibilities attach to this right and it may therefore be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons or for the protection of national security, public order, public health or public morality. Public order can be defined as the sum of rules that ensure the peaceful and

effective functioning of society. The power of the commission to secure the presence of a person to provide information is essential to the effective administration of the commission's regulatory functions. This is a key element of public order. Clause 14 is therefore consistent with the lawful restrictions on the right to freedom of expression.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities for the reasons previously outlined.

JOHN LENDERS
Treasurer

Second reading

Mr JENNINGS (Minister for Environment and Climate Change) — On the basis that this bill has passed the Legislative Assembly without amendment and does not contain a section 85 statement, I would like to proceed to move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill is the central component of the government's final response to the review of the Essential Services Commission Act 2001 (the review). The final response to the review will consist of a suite of reforms designed to significantly reduce the regulatory burden imposed by the Essential Services Commission (the commission) as well as amend the Essential Services Commission Regulations 2001 and associated industry acts and other non-legislative reforms.

These reforms represent an important evolution in Victoria's regulatory framework. They build on the strengths of Victoria's existing regulatory framework, which was introduced in 2001, but propose substantive changes to finetune the legislation and ensure that Victoria continues to benefit, well into the future, from an economic regulatory system that is truly world class.

I now turn to the development of this legislation. In August 2006, the government commissioned Mr Roger Beale, AO, to conduct an independent review of the Essential Services Commission Act 2001 (ESC act). I note that section 66 of the ESC act stipulates that the review had to be undertaken by 31 December 2006.

The purpose of the review was to assess whether the objectives of the ESC act were being achieved, whether they remained appropriate, and whether the ESC act was effective or needed to be amended to further facilitate the objectives or to insert new objectives.

Mr Beale consulted widely with stakeholders during the review and concluded that Victoria could be proud of its regulatory framework, including the ESC act and the work of the commission under the act. The review found that, under the Victorian framework, consumers had benefited from falls in the real price of essential services and, in many cases, from improved quality and reliability.

The review concluded that the objectives of the ESC act were being achieved. However, Mr Beale also recommended a series of changes to the ESC act to emphasise more directly the importance of providing incentives for dynamic, productive and allocative efficiency. He suggested procedures and appeal rights designed to reduce regulatory risk and increase investor certainty, while providing the commission with the powers necessary to gather critical information and enforce its decisions. To this end, he made 28 recommendations and reached 15 conclusions.

Given the complex issues involved and the far-reaching implications for customers, businesses and the general community, the government considered it prudent to consult widely, and to thoroughly analyse each recommended change to the regulatory system. Therefore once the review and the government's strategic response to the review were tabled in Parliament in March 2007, the government contacted approximately 100 regulated entities and interested parties seeking their views on the review and the government's strategic response.

In developing its legislative response to the review, the government was also cognisant of three developments that had arisen since the conclusion of the review, namely:

- the imminent transfer of most of the commission's energy regulatory functions to the Australian Energy Regulator;

- the buyback of the intrastate rail business from Pacific National; and

- the unsuccessful court challenge to the commission's information-gathering powers.

In all, the government has incorporated, either fully, in part or in principle, 27 out of the review's 28 recommendations. The only recommendation that has not been incorporated is the recommendation to change the primary objective of the ESC act to bring it into harmony with the national gas and electricity laws. In not supporting this recommendation, the government considered that the current objective was more inclusive, and that it had served the commission well. Moreover, the imminent transfer of most of the commission's energy regulatory functions to the Australian Energy Regulator reduces the benefits of harmonisation with the national energy laws.

While the government has fully accepted nearly all of the review's recommendations relating to appeals, it has not accepted that part of one recommendation which relates to the introduction of full merit-based appeals. In doing so the government considers that the current model of limited appeals is robust and cost effective. Extending the grounds for appeal further would involve significant establishment and operational costs and could cause significant delays. The government is not convinced that the incidence of appeals against the commission's decisions and determinations justifies the imposition of these delays and costs.

It is important to note that not all of the review's recommendations will require legislative change, as several of the recommendations support the continuation of current provisions, recommend amendments to the Essential Services Commission Regulations 2001 or involve changes that do not require legislative amendments. The government will implement these changes in due course.

In summary, then, the principal purposes of the bill are:

- to introduce a simpler legislative framework;
- to refine the current objective;
- to revise and recast the facilitating objectives as matters the commission is to have regard to when undertaking its functions;
- to provide the commission with the power to make codes and impose appropriate penalties for their breach;
- to clarify that the commission is able to inquire into any matter referred by the minister for finance in consultation with relevant ministers, and provide that when conducting inquiries into industries that are not regulated, the minister for finance is to determine the information powers available to the commission;
- to standardise the powers and penalties available to the commission across the ESC act to reduce the regulatory burden and increase regulatory certainty;
- to provide the commission with powers to access information from regulated and related third parties, and clarify processes and decisions on the release of commercial-in-confidence information;
- to introduce a proportional penalty framework; and
- to introduce new provisions relating to access regimes to ensure that, as agreed at the Council of Australian Governments, regulation of Victorian regimes is consistent with the nationally agreed approach.

To accompany this bill, the government is developing an additional package of reforms that, combined with the amendments, will significantly reduce the regulatory burden on business. This suite of reforms will consist of two reviews to identify and streamline administrative burdens and regulatory obligations. The first of these reviews will focus on the regulatory burden associated with customer protection and metering frameworks for energy retail businesses and on the ongoing suitability of such arrangements in light of the increasing effectiveness of energy retail competition in Victoria and the transition to national regulation. The second review will look more broadly at administrative burden across areas of the commission's regulatory activities. It is important to note that both of the reviews will involve in-depth engagement with regulated businesses.

The review of the ESC act and the development of the legislation and related reforms represent a very significant and complex undertaking. I would like to thank Mr Roger Beale, AO, for his thorough and insightful review, which has paved the way for these reforms and for improvements in the regulatory regime.

I will now provide an outline of the bill.

As stated, the bill amends the primary objective of the ESC act to better reflect the evolving role of the commission, in particular its broader inquiry functions, while maintaining the commission's focus on promoting the long-term interests of Victorian consumers.

The bill also replaces the facilitating objectives with a similar set of matters to which the commission must have regard when carrying out all of its functions. The aim of this revision is to update the scope of the commission's considerations, while clarifying the relationship between these matters and the commission's primary objective. The matters the commission must have regard to in seeking to achieve its objectives are:

- (a) efficiency in the relevant industry and incentives for long-term investment;
- (b) the financial viability of the relevant industry;
- (c) the degree of, and scope for, competition within the regulated industry, including countervailing market power and information asymmetries;
- (d) the relevant health, safety, environmental and social legislation applying to an industry;
- (e) the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for:
 - consumers and users (including low-income and vulnerable consumers);
 - regulated entities;
- (f) consistency in regulation between states and on a national basis; and
- (g) any matters specified in an empowering instrument.

In addition, the matters to which the commission must have regard when making a price determination are revised and updated.

The bill also broadens the scope of the commission's remit by clarifying that there is no restriction on the industries or services on which the commission may be required to give advice. To ensure that the commission's independence is maintained, inquiry references are consistent and the commission is appropriately resourced, the minister for finance is to be directly responsible for referring all matters for inquiry, other than those directed by industry acts, to the commission after consulting with relevant ministers.

Importantly, the bill provides the commission with formal code-making powers to allow for increased standardisation of the commission's regulatory functions and to give the commission the flexibility to regulate industries that are not the subject of their own act of Parliament. The code-making power is to be accompanied by parliamentary oversight.

The commission's code-making powers are to be guided by explicit requirements that compel the commission, when considering new codes or changes to existing codes, to thoroughly evaluate the costs and benefits of its proposals, to evaluate alternative options and to consult with industry and consumers on these matters. The chair of the commission will attest to the thoroughness of the evaluation process in a

document that is to be tabled in Parliament together with the code. This process will further discipline the commission's regulatory function and deliver tangible reductions in the regulatory burden.

To ensure compliance with the codes, the commission will be able to serve a notice on a regulated entity for a non-trivial breach of a code. The notice is to require the entity to comply with the code within a specified time frame. Failure to comply with the notice would constitute a breach of this provision, which would be the justification for a fine or a provisional enforcement order.

For the time being, the new code-making powers will operate alongside the commission's existing powers to create codes. When the associated industry acts are reviewed, it is expected that consideration will be given to repealing their code-making provisions and referencing the ESC act's code-making framework.

The bill creates a universally applicable set of information-gathering powers and penalty provisions within the ESC act. This will standardise and simplify the commission's information powers across its functions and the industries it regulates, which will reduce the administrative burden on the commission and reduce the regulatory burden on regulated entities and industries subject to inquiry. These provisions will also contribute towards giving the commission powers necessary to regulate industries that are not subject to their own act of Parliament. When the associated industry acts are reviewed, it is expected that consideration will be given to repealing their information provisions and referencing the ESC act's information framework.

To maximise regulatory certainty the commission will stipulate in its codes the regulatory information that needs to be maintained by regulated entities and associated third parties.

To further enhance the confidential information provisions in the ESC act, the party claiming confidentiality is to have the right to make a formal submission to justify their claim, if notified that the commission deems that the information should be made public.

In order to ensure that the commission's strong information-gathering powers are used judiciously and only when necessary, the commission is to have regard to the relevance of the information it is seeking and the cost imposed on the information provider. In addition, the minister will determine the powers available to the commission when it undertakes a research inquiry or an inquiry into an industry or service that is not subject to regulation by the commission.

The bill clarifies and partly extends the provisions governing appeals against decisions of the commission. In particular, the provisions governing the constituents of an appeal panel are to be further refined, the deadlines for the lodgement of appeals are to be extended by an extra seven working days to reduce the time pressure on potential appellants, and consumer and user groups are to be given the right to initiate or intervene in an appeal, even if it is lodged by others, to ensure that the interests of consumers are represented and protected.

Importantly, the bill introduces into the ESC act provisions pertaining to third-party access regimes that are necessary for Victoria to fulfil its commitments under the Council of

Australian Governments' competition and infrastructure reform agreement.

The bill also directs the minister responsible for the commission to ensure that another review of the ESC act is conducted by 31 December 2016 to ensure the ESC act remains up to date, the commission has appropriate guidance and Victorians continue to benefit from best practice regulation.

I commend the bill to the house.

**Debate adjourned on motion of
Mr RICH-PHILLIPS (South Eastern
Metropolitan).**

Debate adjourned until Thursday, 17 April.

POLICE INTEGRITY BILL

Statement of compatibility

**For Hon. J. M. MADDEN (Minister for Planning),
Mr Jennings tabled following statement in
accordance with Charter of Human Rights and
Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Police Integrity Bill 2008 (the PI bill).

In my opinion, the PI bill, as introduced to the Legislative Council is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purpose of the PI bill is to:

- (a) re-establish the Office of Police Integrity (the OPI);
- (b) prescribe the functions of the OPI and the director, police integrity (the DPI);
- (c) amend the Police Regulation Act 1958 (Vic) (the PR act).

The bill establishes a scheme to investigate police corruption and serious misconduct of members of the Victoria Police and:

- (a) empowers the DPI to issue a witness summons to compel witnesses to attend before the DPI for an investigation or examination and impose penalties on members of the force for failure to respond to the DPI's directions and summonses;
- (b) sets out procedures for charging and arresting members of the force who do not cooperate with the DPI's summonses;
- (c) sets out procedures for the treatment of persons charged and arrested for contempt of the DPI in accordance with the law;

- (d) empowers an authorised officer, including the DPI, to enter premises and seize documents relevant to an investigation;
- (e) sets out a procedure for the special investigations monitor to investigate misconduct of the DPI.

The OPI is both an investigative and a review body and is separate from the Victoria Police. It has its own management and reporting and accountability arrangements. It reports directly to the Victorian Parliament. In addition to investigating complaints against the police, the DPI can of his or her own motion conduct an investigation into any matter relevant to achieving the objectives of his or her office including, but not limited to, an investigation into the conduct of a member of the force, police corruption and serious misconduct, and any of the police policies, practices and procedures of the force or a member of the force or the failure to adhere to the polices, practice or procedure.

Human rights issues

Confidentiality provisions (clauses 22, 23 and 51)

Clauses 22 and 23 impose strict restrictions on OPI personnel and other persons in respect of disclosure of information. Clause 51 exempts documents from disclosure under the Freedom of Information Act 1982. Some of that information would come within the term 'information and ideas' and therefore engage the right to free expression in s 15 of the charter.

The purpose of the provisions is to ensure the confidentiality of information held by the OPI. Disclosure of information other than in the circumstances and for the purposes set out in clauses 22 and 23 has the potential to jeopardise the effectiveness of an OPI investigation and to impact upon the rights of others. In some cases, disclosure of information could jeopardise the safety of a person who has given information to the OPI.

More generally, strict confidentiality provisions are necessary to ensure that the objectives of the DPI are able to be achieved. Those objectives are set out in clause 8(1) of the bill and include ensuring that police corruption and serious misconduct is detected, investigated and prevented. To a large extent the DPI relies upon the preparedness of police officers and other persons to provide information. Without clear assurances as to the confidentiality of information provided by them, potential informants and witnesses would be less willing to provide such information to the DPI.

Whilst the confidentiality provisions restrict free expression they are reasonably necessary to respect the rights and reputations of others and for the protection of public order. Accordingly, they are not incompatible with the charter.

Disclosure of information to law enforcement agencies and corresponding authorities, the privacy commissioner, the Ombudsman, the Auditor-General and the Director of Public Prosecutions (clauses 24 to 27) and reports to the special investigations monitor (clauses 115 to 117)

Clauses 24 to 27 of the bill enable the director to disclose information to the Chief Commissioner, Victoria Police, other law enforcement agencies, the Privacy Commissioner, the Ombudsman and the Auditor-General. That information may well extend to personal information of persons such as to engage the right to privacy and reputation under s 13 of the

charter. However, any interference is lawful and is not arbitrary. The bill is prescriptive with respect to the circumstances and the purposes of disclosure.

Similarly, to the extent that the requirements of the DPI to report summonses, arrest warrants and other matters to the SIM (clauses 115 to 117) may engage the right to privacy and reputation, any interference is lawful and not arbitrary.

Testing of OPI personnel for alcohol and drugs of dependence (clauses 30 to 37)

Clauses 30 to 37 regulate the testing of OPI officers following a critical incident that results in death or serious injury, where the DPI reasonably believes that an officer's ability to perform his or her duties is affected by alcohol or drugs, and where the DPI reasonably believes that an officer ought to be tested to manage the member's performance of his or her duties or to take disciplinary action against the member.

The provisions give effect to the right to life in section 9, the right to liberty and security of the person in section 21, the right to protection from torture and cruel, inhumane or degrading treatment in section 10, and the right to humane treatment when deprived of liberty in section 22 of the charter. These rights require the state to take measures to ensure proper treatment of detained persons and to not arbitrarily deprive a person of their life or interfere with their liberty and security. The rights also require that the state undertake effective investigations where a person is killed or injured by actions of the state or while in the custody of the state. In Victoria, a number of investigatory mechanisms are available including coronial inquests, criminal proceedings, civil proceedings and disciplinary proceedings.

On the other hand, by enabling the DPI to direct that an officer undergo drug and alcohol testing, the provision has the potential to impact upon the rights of individual officers, including the right to liberty and security in section 21, the right not to be subjected to medical treatment without consent in section 10, the right to freedom of movement in section 12, and the right to privacy in section 13. The results of the testing can be used in disciplinary proceedings against the officer. In the case of a critical incident the results can also be used in any proceedings arising out of the incident, including criminal proceedings and coronial inquests.

I consider that the bill represents an appropriate balance between these competing rights and any limitation upon the rights of individual officers is reasonable and justifiable under s 7(2) of the charter:

The nature of the right being limited

The rights of the officers are important and must be respected. However, they are rights that can be limited and must be balanced against the rights of the broader community.

The importance of the purpose of the limitation

OPI officers are given a broad range of powers in order to perform the functions of the OPI. This includes the authority to possess, carry and use defensive equipment and firearms (clauses 102 and 103). The exercise of these powers can limit or interfere with the rights of individuals, including the rights to life, liberty and security. It is essential to the protection and promotion of those rights that the DPI has sufficient powers to effectively investigate cases where actions of an OPI officer have resulted in death or serious injury, to investigate

and take action in cases where alcohol or drug use may be affecting the ability of an OPI officer to carry out his or her duties, and to investigate and manage the performance of OPI officers. The provisions also serve to enable identification of officers with alcohol or drug problems so that treatment and rehabilitation can be provided.

Enabling alcohol and drug testing of officers also assists in maintaining the integrity of the OPI and the public's confidence in it.

The nature and extent of the limitation

The limitations on the rights of individual officers are minimal. An officer's right to liberty and freedom of movement may be limited by requiring him or her to attend for the purpose of drug or alcohol testing. An officer's right to security of the person and not to be subjected to medical treatment without full, free and informed consent may be limited by a direction to allow a blood sample to be taken. Although the officer can refuse to comply with the direction of the director, given that such a refusal could result in disciplinary proceedings, consent cannot be regarded as truly free. Further, clause 33 enables a blood sample to be taken without consent where an officer involved in a critical incident is unconscious, although the officer can subsequently refuse consent for the use of any evidence obtained from such a sample. The right to privacy is not limited as the circumstances in which such testing can be directed cannot be regarded as unlawful or arbitrary, and clauses 35 and 36 protect the confidentiality of the test results.

The relationship between the limitation and its purpose

To the extent that the rights of officers are limited, those limitations are directly connected to the purposes of the scheme. The power to direct officers to undergo testing following a critical incident and the ability to use the results in any proceedings arising out of the incident is necessary to ensure an effective investigation into a death or serious injury arising out of or connected with actions of OPI officers. The powers of the DPI to direct an officer to undergo drug or alcohol testing in other circumstances are broader, but are also directly connected with the purposes of the limitation. The powers apply only where there are concerns that a member's ability to perform his or her duties is affected by drugs or alcohol, or where the DPI reasonably believes the officer ought to be tested in order to manage the member's performance of his or her duties, or to take disciplinary action against the member.

Less restrictive means reasonably available to achieve the purpose

To the extent that the rights of officers are limited, the interference is necessary to achieve the purposes of the scheme. Less restrictive means, such as further limiting the circumstances in which testing can be undertaken or enabling an officer to refuse consent without any disciplinary consequences, would not be as effective in achieving the purposes of the provisions.

Other relevant factors

It should also be noted that OPI officers are subject to the same alcohol and drug testing schemes as other road users under the Road Safety Act 1986.

Compulsory questioning powers

A number of provisions of the bill require persons to give information, answer questions and produce documents.

Clause 47 enables the DPI to direct any member of the Victoria Police to give information, produce documents, or answer questions for the purposes of an investigation into a complaint concerning a possible breach of discipline.

Clause 53 enables the DPI to issue a summons on any person, other than a person known to be under the age of 16 years, to attend an examination before the director and/or to produce documents or other things. Clause 68 requires that a person served with such a summons is required to attend and answer questions and/or produce those documents or things.

Clause 124 enables the special investigations monitor to require a member of OPI personnel to attend the SIM and answer questions and/or produce documents or other things.

These powers engage a number of charter rights, including freedom of movement in s 12, the right to privacy and reputation in s 13, freedom of expression in s 15, the right to a fair hearing in s 24, and the right not to be compelled to testify against oneself or to confess guilt in s 25(2)(k).

Freedom of movement

To the extent that a person may be required to attend and remain at a place to answer questions or produce documents or things, the compulsory questioning powers impose limits upon a person's freedom of movement. However, those limits are reasonable under s 7(2) of the charter:

The nature of the right being limited

The right to move freely within Victoria is one that can be subject to restrictions. The International Covenant on Civil and Political Rights expressly recognises that the right may be subject to restrictions that are necessary to protect public order, public health or morals or the rights and freedoms of others.

The importance of the purpose of the limitation

The limitation on movement is necessary in order to fulfil the functions of the OPI and achieve the objects of the DPI. Those are important functions and objects and would come within the meaning of public order.

The nature and extent of the limitation

The limits placed on free movement are relatively minor. The limits are temporary and last only as long as it is necessary to conduct the examination.

The relationship between the limitation and its purpose

The requirement to attend an examination is directly related to and rationally connected with the need to carry out an examination in order to obtain information for the purposes of the bill.

Less restrictive means reasonably available to achieve the purpose

Any less restrictive means would not achieve the purposes of the provisions as effectively.

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

Privacy and reputation

The requirements to answer questions, provide information and to produce documents are likely to involve interferences with a person's privacy, and may involve attacks on a person's reputation. However, the interferences are necessary in order to achieve the important purposes of the OPI and DPI. They are lawful and cannot be regarded as arbitrary.

Accordingly, I consider that the provisions are compatible with the right to privacy and reputation in s 13 of the charter.

Freedom of expression

The right to freedom of expression, which includes the freedom to impart information, has been interpreted in some jurisdictions to include a right not to impart information.

Insofar as the provisions require a person to impart information, they impose a restriction upon the right in s 15 of the charter. However, those restrictions are necessary in order to fulfil the functions of the OPI and achieve the objects of the DPI. Those are important functions and objects and would come within the meaning of public order in s 15(3).

Accordingly, I consider that the provisions are compatible with the right to free expression in s 15 of the charter.

Abrogation of the privilege against self-incrimination (clauses 46–47; 68–69; and 124–125)

In respect of each of the compulsory questioning powers there are provisions that abrogate the common-law privilege against self-incrimination. In each case, the person must answer the question, or produce the document or thing, notwithstanding that it may incriminate them (clauses 47, 69, 125). However, a 'use' immunity is provided to restrict the use of the answer, document or thing. The answer, document or thing is not admissible in any criminal proceedings, except those in respect of failing to provide the information or in respect of giving false information.

Section 25(2)(k) of the charter provides a person charged with a criminal offence is entitled 'not to be compelled to testify against himself or herself or to confess guilt'.

This right is considerably narrower than the common-law privilege against self-incrimination. It applies only to persons charged with an offence. However, clauses 46 and 120 of the bill make it clear that the compulsory questioning powers in the bill may be used despite the fact that there may be other proceedings on foot. Accordingly, it is possible that the compulsory questioning powers may be used to require a person who has been charged with an offence to answer questions, in which case s 25(2)(k) of the charter would be engaged.

This is not to say that the DPI or SIM could use the compulsory questioning powers for the purpose of gathering further evidence against an accused for the purposes of the criminal proceeding. It may only use its powers for the purposes set out in the bill. However, the fact that a person has been charged with an offence relating to a complaint, should not prevent the OPI from conducting or continuing to conduct an investigation and identifying, for example, the

extent of the involvement of other persons in corrupt police practices.

In other jurisdictions equivalent rights to s 25(2)(k) have been interpreted as being limited to 'testimonial disclosures'. It does not apply to the production of real evidence; for example, fingerprinting, compulsory breath testing, or compulsory production of documents.

Further, the right has been interpreted as not precluding compulsory questioning, in separate proceedings, provided there is a use immunity: see particularly the decision of the Court of Final Appeal of Hong Kong (including Sir Anthony Mason) in *HKSAR v. Lee Ming Tee* (2001) HKFCA 14.

The right clearly makes the accused a non-compellable witness in the criminal proceedings against him or her, and reflects the rule that confessions are admissible only if they are voluntary. However, the right does not preclude compelling an accused to be a witness in other proceedings provided there is an immunity protecting against the use of statements made in those proceedings in respect of the criminal proceedings relating to the accused. The use immunity is sufficient to ensure the accused is not indirectly made a witness against himself.

Accordingly, the provisions are compatible with s 25(2)(k) of the charter.

Fair hearing

The ability to use compulsory questioning powers in respect of persons who have been charged with an offence has the potential to prejudice a fair trial, particularly if the evidence of that person were to be published. However, the bill contains a number of safeguards to ensure a person's fair trial is not prejudiced. Where the DPI is or becomes aware that other proceedings are on foot, clause 46(2) directs the DPI to take all reasonable steps to ensure that the conduct of the investigation does not prejudice the proceedings. A similar safeguard exists in respect of compulsory questioning powers of the SIM. Further, in determining whether an examination is to be open to the public, the director is directed to weigh the benefits of public exposure and public awareness against the potential for prejudice or privacy infringements.

Accordingly, the provisions are compatible with the right to a fair hearing in s 24(1) of the charter.

Abrogation of legal professional privilege (clause 70)

Clause 70 of the bill abrogates legal professional privilege in relation to public authorities and public officers. However, the ability to claim legal professional privilege in relation to criminal proceedings is expressly preserved (clause 70(4)).

As already set out above, the bill expressly enables the DPI to commence or continue an investigation even though other proceedings may be on foot in relation to the same subject matter. Accordingly, although unlikely, it is possible that a police officer who has been charged with an offence may be asked questions in relation to that offence and in the course of doing so be required to disclose communications with his or her lawyer in relation to that offence that is the subject of legal professional privilege. This has the potential to engage the right to legal assistance of a person charged with a criminal offence in s 25(2)(d) of the charter. In particular, the DPI has the power to pass information on to law enforcement agencies. If this included information that related to the

accused's defence strategy, obtained as a result of the abrogation of legal professional privilege, the right to legal assistance would be undermined. The effectiveness of this right depends upon the confidentiality of communications between a client and their legal adviser.

However, where other proceedings are on foot, clause 46(2) requires the director to take all reasonable steps to ensure that the conduct of the investigation does not prejudice those proceedings. This requirement must be exercised in light of the charter and must therefore take account of the accused's entitlement to legal assistance. The steps necessary to ensure the conduct of the investigation does not prejudice the proceedings would include imposing restrictions on the disclosure of information to the prosecuting authorities that would have the effect of undermining the accused's entitlement to legal assistance.

In addition, clause 70(4) expressly provides that a public authority or police officer may object to answering a question or producing a document in relation to a criminal proceeding to which the authority or officer is a party on the ground of legal professional privilege.

A further safeguard exists insofar as any information that is subject to legal professional privilege is also self-incriminatory. That information cannot be used in the criminal proceedings against the accused.

Having regard to these safeguards, I consider that the provisions are compatible with the right to legal assistance in s 25(2)(d) of the charter.

Protections for young people (clauses 53, 55, 61, 63, 64)

The bill contains provisions that restrict the use of the DPI's powers in respect of young persons.

Clause 53(3) prohibits the director from issuing a summons to a person known to be under 16. Clause 55(1) provides that a summons directed to a person under 16 is of no effect. Clause 62 requires the DPI to confirm the age of the witness if he/she suspects that the witness may be under 18 and to release the witness from all compliance with the summons if the witness is under the age of 16 years. Clause 63 requires that, if at any time during an examination, the DPI becomes aware that a witness is under 16, the DPI must immediately release the person from all compliance with the witness summons.

Clause 64(3) provides for additional assistance for witnesses under the age of 18 years, in the form of a parent, guardian or independent person.

Whilst these provisions may involve different treatment for persons under the age of 16 or 18 years, the provisions are protective and take account of the vulnerability of younger persons. To the extent that there may be a limit on the right to equality under s 8 of the charter by not extending the protections to adults, that limit is reasonable under s 7(2) of the charter.

The provisions do, however, distinguish between children based upon their age. Accordingly, they engage s 17(2) of the charter which provides that 'every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child'. Child is defined as a person under the age of 18 years. The provisions only prohibit witness summonses being issued

in respect of persons under the age of 16 years. Persons who are aged 16 or 17 may be summonsed but are entitled to additional assistance as set out in clause 64(3). Given that 16 and 17-year-olds are entitled to work and may well be employed by Victoria Police, it is appropriate that the powers extend to them so that they can be questioned. Such persons do not need the same level of protection as those under 16. Accordingly, there is no limit upon the right in s 17 of the charter.

Accordingly, I consider the provisions are compatible with sections 8 and 17 of the charter.

Protections for persons with disabilities or language difficulties (clause 64)

Clause 64(2) provides for interpreters to be present at examinations of persons with insufficient knowledge of the English language to understand questions asked of him or her.

Clause 64(4) provides special protections for witnesses with mental impairments.

These provisions give effect to the right to equality in s 8 of the charter and do not limit it.

Accordingly, I consider the provisions are compatible with s 8 of the charter.

Offences (clause 113)

The bill creates a number of offences, which include defences of 'lawful excuse' or 'reasonable excuse'.

Pursuant to clause 113(1) it is an offence if a person 'without lawful excuse', wilfully obstructs, hinders or resists the DPI or any other person in the exercise of his or her powers under the act.

Pursuant to clause 113(2) it is an offence if a person 'without lawful excuse' refuses or wilfully fails to comply with any lawful requirement of the director or any other person in the exercise of his or her powers under the act.

The provisions in clause 113 expressly provide that the burden of proving the lawful excuse lies on the person. Accordingly, the defence must be proved by the person on the balance of probabilities. By placing the burden of proof on the defendant, the provisions limit the right to be presumed innocent in section 25(1) of the charter. However, I consider that the limitation is reasonable and justified pursuant to section 7(2) of the charter.

The nature of the right being limited

The right to be presumed innocent is an important right and one that has long been recognised well before the enactment of the charter. However, the courts have recognised that it may be subject to reasonable limits. This is particularly so in relation to defences of lawful or reasonable excuse where, as here, the conduct would generally be regarded as lawful. In *R v Lambert* (2001) 3 WLR 206 Lord Steyn made clear that he was not suggesting that the presumption of innocence was breached in cases 'within the narrow exception "limited to offences arising under enactments which prohibit the doing of an act save in specified circumstances or by persons of specified classes or with specified qualifications or with the licence or permission of specified authorities"'. In the present

case, the prosecution must still prove mens rea; that is, acting wilfully.

The importance of the purpose of the limitation

The purpose of the offence provision is to ensure that persons who wilfully obstruct, hinder or resist the DPI, or who refuse or wilfully fail to comply with any lawful requirement of the DPI are able to be prosecuted. The purpose of the defence is to enable a person who has a lawful excuse to escape liability for what would otherwise be unlawful conduct.

The nature and extent of the limitation

The provision imposes on the defendant the burden of proving, on the balance of probabilities, that he or she had a lawful excuse for wilfully obstructing, hindering or resisting the DPI, or refusing or wilfully failing to comply with any lawful requirement of the DPI.

The relationship between the limitation and its purpose

The imposition of a burden of proof on the defendant is directly related to its purpose.

Less restrictive means reasonably available to achieve the purpose

Less restrictive means would not achieve the purpose of the provisions as effectively. The matters are within the knowledge of the defendant and it is notoriously difficult for the prosecution to prove a negative.

Accordingly, I consider that the provisions are compatible with s 25(1) of the charter.

Contempt (clause 78)

Clause 78 provides that a person is guilty of contempt of the director if the person, without reasonable excuse, fails to produce documents or things, refuses to be sworn or refuses or fails to answer a question. Although not specified in the provision, the burden would be on the person to prove they had a reasonable excuse.

The rights in s 25 of the charter only apply in respect of criminal offences. It is questionable whether the contempt in clause 78 falls within s 25.

However, assuming it does, I consider that the limitation is reasonable and justified pursuant to section 7(2) of the charter.

The nature of the right being limited

The right to be presumed innocent is an important right and one that has long been recognised well before the enactment of the charter. However, the courts have recognised that it may be subject to reasonable limits. This is particularly so in relation to defences of lawful or reasonable excuse where, as here, the conduct would generally be regarded as lawful. In this case, the failure to comply with a lawful requirement would justify criminal liability being attached.

The importance of the purpose of the limitation

The purpose of the offence provision is to ensure compliance with the lawful requirements of the DPI. The purpose of the defence is to enable a person who has a reasonable excuse to

escape liability for what would otherwise be unlawful conduct.

The nature and extent of the limitation

The provision imposes on the defendant the burden of proving, on the balance of probabilities, that he or she had reasonable excuse for failing to produce documents or things, refusing to be sworn or refusing or failing to answer a question.

The relationship between the limitation and its purpose

The imposition of a burden of proof on the defendant is directly related to its purpose.

Less restrictive means reasonably available to achieve the purpose

Less restrictive means would not achieve the purpose of the provisions as effectively. The matters are within the knowledge of the defendant. It would be difficult for the prosecution to anticipate what reasonable excuse a person may have, unless the person volunteers that information.

Accordingly, I consider that the provisions are compatible with s 25(1) of the charter.

Arrest and bail (clauses 79–81 and 84–86)

Clauses 79 to 81 provide for the charging and arrest of persons for contempt and for their bail and/or custody pending their court appearance.

Clauses 84 to 86 provide for the arrest of recalcitrant witnesses and for their bail and/or custody pending their court appearance.

These provisions engage the right to liberty in s 21 of the charter. However, the provisions are compatible with the right. The arrest or detention cannot be regarded as arbitrary. Any deprivation of liberty is on grounds and in accordance with procedures established by law. The provisions ensure that the person is promptly brought before a court in order for bail to be considered.

Powers of entry, search and seizure (clauses 87–101)

Search of premises occupied by public authority

Clause 88 enables an authorised officer to enter and search premises occupied by a public authority, and to inspect or copy documents or things on the premises. Clause 89 enables seizure of documents or other things on the premises.

These powers are able to be exercised without a warrant. However, they relate only to premises occupied by a public authority (as defined in clause 3). Clause 88(4) expressly excludes any part of premises that is used for residential purposes.

The right to privacy in s 13 of the charter protects a personal privacy interest. It is not a property right, nor does it extend to information held in a public capacity. To engage the right there must be a reasonable expectation of privacy. There is either no such expectation or a limited expectation of privacy in respect of information held on police premises. To the extent that the privacy right may be engaged by searching premises occupied by a public authority, the interference is lawful and is not arbitrary. The power is directly linked to

achieving the purposes of the OPI and DPI. Entry is limited to circumstances where there is a reasonable belief that there are documents or other things relevant to an investigation. Procedures are set out for seizing items.

Other premises

The power to enter and search other premises, where the right to privacy is more likely to be engaged, is more restricted and can only be exercised upon issue of a search warrant by a Magistrate. A warrant can only be issued upon the Magistrate being satisfied that the director believes, on reasonable grounds, that entry to the premises is necessary for the purpose of an investigation: clause 93.

A range of procedures and safeguards are set out in clauses 93 to 101 of the bill. In particular, a procedure is set out to safeguard privileged material.

Having regard to limits placed upon the issuing of search warrants for private premises and the procedures and safeguards set out for the exercise of the warrant, I consider that any interference with privacy authorised by the bill is lawful and not arbitrary.

Accordingly, I consider that the provisions are compatible with the right to privacy in s 13 of the charter.

Production and inspection of protected documents and things (clauses 104–108)

Clauses 104 to 108 set out a procedure for dealing with information held by the DPI that, for reasons of public interest, should be kept confidential. These reasons, as set out in clause 105, include: the disclosure would disclose the identity of informers, witnesses or other persons who have provided information to the DPI, or put such persons' safety at risk; the disclosure would disclose the identity of a person the subject of an investigation, or put such a person's safety at risk; the disclosure would jeopardise an ongoing investigation; the disclosure would reveal investigative methods.

Different procedures apply for criminal and civil proceedings.

Criminal proceedings (clauses 107–108)

The procedures for criminal proceedings in clauses 107 to 108 replace the existing procedures adopted by courts in dealing with public interest immunity claims. They give effect to the balancing exercise required where competing interests are at issue and enable greater participation of an accused without undermining the reasons why the documents should be kept confidential.

The provisions allow the DPI to object to the disclosure of documents sought under a subpoena in criminal proceedings. Before objecting to the production of documents, the DPI must notify the party to the proceeding that an objection is being made to the court, indicating at least the category of the material held by the DPI. Generally, the expectation is that the hearing will be conducted inter-parties, enabling the party to the proceeding to make representation to the court regarding the objection. As the House of Lords recognised in *R v. H* (2004) 2 AC 134, courts are usually well placed to assess the material and decide upon the objection to production.

If the objection is to proceed as an ex parte hearing, the court has the discretion to appoint special counsel to represent the interests of the party to the proceeding. The special counsel must be a barrister within the meaning of the Legal Profession Act 2004 (Vic) who, in the opinion of the court, has the appropriate skills and ability to represent the interests of the party to the proceeding in the ex parte hearing. The special counsel is able to communicate with the party prior to receiving the confidential material, but cannot take instructions from the party to the proceeding or the lawyers to the party to the proceeding once he or she has seen the confidential material. The special counsel is obliged to keep confidential any information that cannot be disclosed to reflect the process set out by the House of Lords in *R v. H* (2004) 2 AC 134 as being appropriate in public interest claims.

Pre-trial disclosure is an integral part of a criminal process and is an important element of the 'principle of equality of arms' recognised by s 24 of the charter. However, the OPI is independent of the prosecution and therefore there is no general obligation of disclosure. However, in some cases, it will be an investigation of the OPI that forms the basis of a prosecution. In these cases, the OPI cannot be treated as entirely separate from the prosecution for the purposes of disclosure obligations pursuant to the right to a fair hearing. As the House of Lords has said, 'fairness ordinarily requires that any material held by the prosecution which weakens its case or strengthens that of the defendant, if not relied upon as part of its formal case against the defendant, should be disclosed to the defence': *R v. H*.

The procedures for criminal proceedings in clauses 107 to 108 enable greater participation of an accused without undermining the reasons why the documents should be kept confidential and is consistent with the approach set out by the House of Lords in *R v. H* (2004) 2 AC 134 as being appropriate in public interest claims for non-disclosure of documents or things.

However, courts have been prepared to allow limits on disclosure of material that are necessary to protect the public interest, including where disclosure would place the safety of informants at risk. The concept of a 'fair' hearing takes account not only of the accused's interests, but also those of the victim and society: see, for example, Lord Steyn's comments in *R v. A* (No. 2) (2002) 1 AC 45 at 65. The House of Lords has identified a series of questions which the court must address when any issue of derogation from the golden rule of full disclosure comes before it (*R v. H* at 36). Although the House of Lords judgement does not bind the court, these questions indicate the kinds of considerations the court may have when hearing an objection by the OPI. The procedures set out in the bill do not prevent the court to undertake this approach in determining whether a document is a protected document and whether disclosure should be ordered.

Ultimately, the court must order non-disclosure of the document if the grounds are made out that the document is a protected document. However, even where those grounds are made out, the court may order disclosure if 'exceptional circumstances' exist. Exceptional circumstances would include the circumstances set out by the House of Lords; that is, where non-disclosure would have the effect of rendering the trial process, viewed as a whole, unfair to the defendant.

Accordingly, I consider that these provisions are compatible with the rights in s 24 of the charter.

Proceedings other than criminal proceedings (clause 106)

In respect of proceedings other than criminal proceedings, the DPI or an officer of the OPI cannot be compelled to produce any document or thing that has come into his or her possession in the performance of his or her functions in a court proceeding (other than a criminal proceeding), if the DPI certifies in writing that, in the DPI's opinion, the document or thing is a 'protected document'.

The right to a fair hearing (s 24(1)) would only be engaged if the OPI were a party to the proceeding. There will be a violation of the right to a fair hearing if a respondent state, without good cause, prevents an applicant from gaining access to, or falsely denies the existence of, documents in its possession which are of assistance to the applicant's case: *McGinley and Egan v. United Kingdom* (1998) 27 EHRR 1, ECt HR, para 86. However, the grounds upon which a document may be a protected document would clearly amount to good cause.

Accordingly, I consider that the provisions are compatible with s 24(1) of the charter.

Protection of protected persons

Clause 109 is an immunity provision. It ensures that protected persons are not liable for acts done in good faith in the performance of their duties. However, the immunity does not extend to critical incidents.

In respect of critical incidents, pursuant to clause 110, the protected person will not be personally liable if they have acted in good faith. In these cases, liability attaches to the state. Civil proceedings will still be able to be issued in respect of critical incidents. In this way, there is no limit upon the state complying with its obligation to effectively investigate such incidents.

Letters by people in custody

Clause 129 of the bill provides that letters by persons in custody to the DPI should be forwarded unopened by prison authorities.

Clause 129(4) enables a person to open such a letter if the letter is suspected of containing drugs, weapons or other contraband.

Whilst this is an interference with the correspondence of the person in custody, and therefore engages the right to privacy in s 13 of the charter, it is clearly lawful and is not arbitrary.

Accordingly, I consider that the provision is compatible with the charter.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

HON. JUSTIN MADDEN, MLC
Minister for Planning

*Second reading***Ordered that second-reading speech, except for statement under section 85(5) of the Constitution Act, be incorporated on motion of Mr JENNINGS (Minister for Environment and Climate Change).**

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In 2004, the government set up the Office of Police Integrity (OPI) to detect, investigate and prevent police corruption and serious misconduct. The role of the OPI is to ensure that the highest ethical and professional standards are maintained in Victoria Police. Since that time, the OPI, headed by the director, police integrity, has established itself as an important body, equipped with strong powers and resources to monitor and improve standards of police conduct and performance. The OPI's work reinforces the government's confidence in Victoria Police. As the director observed in his 2006–07 report to the Parliament, 'the vast majority of police men and women in Victoria do a good and conscientious job. This view is reflected in surveys that continue to record high levels of public confidence in Victoria Police'.

The OPI performs an invaluable service to the Victorian community by seeking to ensure that police officers conduct themselves properly in the performance of their significant duties. The unique powers entrusted to police necessitate appropriate oversight so that the public can have ongoing confidence in the police force.

This government is committed to ensuring that Victoria has an effective body, independent of the police force and the government, responsible for maintaining the high professional standards of our police. Moreover, this government is committed to the OPI's work in building a corruption-resistant culture within Victoria Police.

Summary of the bill

An important step in this process is the introduction of this bill, which establishes a stand-alone act to govern the OPI. This bill transfers the provisions relating to the OPI from the Police Regulation Act 1958 to a new Police Integrity Act. It is timely to enact stand-alone legislation to consolidate the relevant provisions that establish and govern the OPI. A separate act recognises the important nature of the OPI's functions as an independent oversight body. It also brings the OPI into line with comparable bodies in other states that have their own specific legislation.

Last year, amendments to the Police Regulation Act 1958 provided for the separation of the office of director from the office of the Ombudsman. This recognised that the OPI is now an effective, proactive and fully operational police anticorruption body.

The bill maintains the OPI as an independent and impartial organisation. The director continues to be an independent officer of Parliament who reports directly to the Victorian Parliament. The director can only be removed after a motion of both houses of Parliament and cannot be directed by the

minister. The director will continue to handle complaints against police as well as conducting own-motion investigations into a range of systemic issues related to police corruption.

In addition to replicating the relevant parts of the Police Regulation Act 1958, the bill makes some improvements to these existing provisions, such as providing clearer, more detailed provisions outlining the obligations of the director and witnesses during the examination of witnesses. No changes, however, are being made to the jurisdiction of the director.

The other improvements contained in this bill implement recommendations made by the special investigations monitor (SIM) (in his report tabled in Parliament on 1 November 2007) to improve the legislative framework governing the OPI. Under the Police Regulation Act 1958, the SIM was required to report to Parliament on the OPI's use of the coercive powers provisions, three years after the provisions commenced.

I now turn to the detail of the bill.

Implementation of recommendations made by the SIM

The bill implements 19 recommendations made by the SIM to clarify and improve the procedures and legislative provisions that underpin the OPI's current functions. This includes a recommendation to consolidate the provisions governing the OPI into one specific act.

Two SIM recommendations were implemented by the Police Regulation Amendment Act 2007. The office of director was separated from the office of the Ombudsman. Sunset provisions concerning contempt of the director were also removed by that amending act.

Clarification of existing procedures

This bill implements the SIM's recommendations to:

clarify provisions concerning the confidentiality of summons issued by the director, provision of confidentiality notices by the director and disclosure of information related to summons;

impose confidentiality obligations on the director and OPI staff in relation to information received by the OPI in carrying out its functions;

clarify the director's powers to summons a person in custody;

simplify and streamline the powers of the director to issue witness summons to give evidence, produce documents or require ongoing attendance during an investigation;

simplify provisions regarding penalties for non-attendance or failure to produce documents;

provide clearer, more detailed provisions outlining the obligations of the director and witnesses during the examination of witnesses;

clarify the processes through which the privilege against self-incrimination is abrogated and claims of legal professional privilege can be determined;

provide a procedure for the director to inform witnesses of their rights before an examination;

enable Victoria Police to assist OPI officers executing warrants that may involve the use of force;

expand the functions and objects of the OPI to emphasise the important role in preventing police corruption and serious misconduct.

Legal assistance

The bill creates a scheme to pay the legal costs incurred by people who appear as witnesses before the OPI. The witness costs scheme will address recommendations from the director and the SIM, and accepted by the government, that the government set up a fund to finance legal representation for witnesses. The OPI already has interim measures in place that give witnesses access to independent legal advice. The bill provides that a person appearing as a witness may apply to the Secretary of the Department of Justice for legal assistance. Regulations will be made prescribing the nature and amounts of assistance to be provided.

Powers in executing warrants

The SIM recommended clarification of the OPI's powers of entry, search and seizure. Currently, the director may apply to a magistrate for a search warrant to enter and search premises. However, section 78 of the Magistrates' Court Act 1989, which authorises the holder of a search warrant to break, enter and search, does not apply to warrants issued to the director. In order to provide a more effective power for the OPI to execute search warrants, the bill extends the search warrant provisions of the Magistrates' Court Act 1989 to apply to search warrants issued to the director.

The government has welcomed the SIM's report on the OPI. These suggestions improve the legislative framework that governs the OPI by introducing valuable reforms that both reinforce the OPI's ability to perform its functions and build in additional safeguards.

Strengthening the OPI's ability to function effectively

In addition to establishing the OPI's legal framework in a stand-alone act and implementing recommendations made by the SIM, the bill provides the OPI with supplementary provisions that will strengthen the capacity of the OPI to function effectively.

Judicial review and redress

The level of judicial review available for actions of the director and OPI is maintained, not reduced, by this bill.

Furthermore, additional provisions are included in this bill to increase the circumstances in which legal redress is available in relation to OPI personnel. The existing protections from legal proceedings will no longer extend to liability arising from the involvement of OPI staff in a critical incident, such as a car accident.

Under the Police Regulation Act 1958, the Supreme Court is able to review actions of the director and officers of the OPI that are performed in bad faith. The court is also able to determine whether the director has the jurisdiction to investigate a complaint. These provisions are retained in the bill.

The narrow scope to review the OPI's actions is comparable with arrangements for most similar bodies in other Australian jurisdictions. The Fitzgerald (Queensland) and Wood (New South Wales) royal commissions on police corruption found that review of the actions of investigatory bodies by the courts can lead to significant delays that prevent their effective operation and the conduct of their investigations. These royal commissions reported that judicial review should not be used to improperly reveal activities of anticorruption bodies.

It is appropriate to retain the existing limitation on the courts' scope to review the OPI's actions. This prevents legal actions designed to impede and delay OPI investigations. The proposed provision is consistent with the protection of the Ombudsman and his officers under the Ombudsman Act 1973. A re-enactment of the current provision is also consistent with the level of statutory protection given to the director's predecessors.

Role of the SIM

The Ombudsman and SIM have powers to investigate the actions of the OPI and its officers. These arrangements are retained in the bill to ensure the OPI is accountable for the exercise of its coercive functions. In addition, the bill will clarify the operation of the confidentiality provisions that apply in relation to OPI investigations so that it is clear that a person can disclose information about such investigations for the purpose of making a complaint to the Ombudsman.

The bill does not reduce the role of the SIM, who performs an important role in overseeing the OPI's use of its powers. In addition, the bill enhances the oversight of the OPI by making it clear that complaints about the director and the OPI can be made to the Ombudsman. The imminent separation of the two offices will ensure that any perceived conflict of interest between the offices is removed.

The bill retains the statutory office of the SIM, which is the primary body responsible for overseeing the actions of the OPI. The SIM will continue to report to Parliament on the operations of the OPI and investigate complaints made about the office by any person who has attended the OPI to provide information, give evidence, or produce documents. The government considers that this arrangement has worked very effectively.

The SIM can investigate complaints made by someone who has attended the OPI to provide information, give evidence or produce documents or things. The bill will extend the time for a person to make a complaint to the SIM from 3 days to 90 days from their attendance.

The Ombudsman has the power to investigate aspects of the OPI's operations which fall outside the jurisdiction of the SIM. The Ombudsman is well equipped to investigate actions of the OPI because he is responsible for investigating administrative actions of public bodies including government departments and statutory bodies. The bill provides that the SIM and Ombudsman retain their current complaints handling jurisdictions. The bill has been drafted to ensure that the confidentiality and secrecy provisions governing OPI investigations do not prevent a person from making a complaint to the Ombudsman.

Production of OPI documents

Like other investigatory and oversight bodies, such as the Ombudsman's office and the SIM, OPI staff have a statutory

protection from being called to give evidence in legal proceedings. Similar arrangements exist in equivalent interstate bodies. There are also considerable restrictions that apply when documents of interstate investigatory bodies are subpoenaed in legal proceedings. For example, staff of the NSW Police Integrity Commission cannot be required to produce in any court any document that has come into their possession by reason of their functions under the Police Integrity Commission Act 1996 (New South Wales).

In Victoria, OPI documents and files can be produced in such proceedings, although the circumstances in which this occurs are very limited. This is because, at common law, the OPI can argue that disclosure of its documents is against the public interest, according to principles governing public interest immunity claims. Such claims take into account that disclosure of documents held by investigatory bodies such as the OPI can have very serious consequences. For example, disclosure of an investigatory body's information and strategies may undermine its investigations and potentially jeopardise the safety of informants and OPI staff. Informants could also be deterred from confiding in the OPI if this material can be accessed in legal proceedings.

The courts have discretion to weigh these public interest considerations against the nature of any documents that could, for example, be material to a verdict in a criminal trial. In practice, this has meant there have been few occasions where documents have been released and these have been limited to criminal cases. The government takes the view that the court should have a discretion to determine that such documents should be available to a defendant in limited cases where they can be used to demonstrate, for example, a defendant's innocence.

This bill introduces a scheme that clarifies the procedure for disclosure of protected documents by codifying the public interest grounds to be taken into account in determining whether a document should be a 'protected document'.

A document is a protected document if, for example, access to the document would disclose information about OPI informers, OPI investigations and the OPI's investigatory methods. The bill does not alter the court's ability to consider the relevance or validity of a subpoena according to existing common-law principles.

In relation to civil proceedings, the bill enables the director to certify that OPI documents should be protected, according to the likelihood that the documents reveal sensitive information about OPI investigations and other public interest considerations.

In relation to criminal proceedings, the bill establishes processes that enhance the OPI's ability to present confidential arguments, to the judge alone, against disclosure of its sensitive material. The court then determines whether the material can be introduced into evidence.

The case of *R v. Mokbel* (decided by Justice Gillard of the Supreme Court on 4 November 2005) highlighted issues concerning how the OPI's public interest arguments about its documents are considered. In that case, the court considered it was difficult to balance the OPI's request to present its arguments against disclosure confidentially, against the defendant's right to a fair trial. However, in some circumstances, this presents a problem as, by hearing the arguments with the defendant present, a defendant may

become aware of information that the OPI considers sensitive, such as information about its investigations and investigatory methods.

The bill overcomes these issues by providing for clear processes for the OPI to present arguments against disclosure through confidential affidavit or ex parte hearing. At the same time, appropriate safeguards are to be included to protect the defendant's right to a fair trial. For example, a court can appoint special counsel to appear at an ex parte hearing to advance arguments on behalf of a defendant. The facility to appoint special counsel to test the evidence is a measure that is not available under the current statute. The bill sets out considerations for the court in determining the appropriate manner of hearing any objection by the OPI to production of its sensitive documents. The bill also sets out considerations for the court in determining whether to grant access to the OPI's material.

The process provides clear statutory guidance to ensure consistent considerations are applied as to when OPI documents can be protected and how arguments against disclosure can be heard.

Ultimately, it will be a matter for the courts to determine, according to the statutory considerations, the manner in which these arguments are heard, as well as whether it is appropriate for the OPI's documents to be disclosed. In particular, the process retains a discretion for the court to allow disclosure in exceptional circumstances.

This approach strikes the right balance between protecting sensitive information held by the OPI while retaining the court's role in determining that it may be appropriate to disclose this information (in exceptional circumstances) to protect a defendant's rights. This bill ensures the court's discretion to require disclosure of a document if, for example, it is material to the verdict in a criminal trial.

Use of defensive equipment and firearms

OPI officers do not have access to defensive equipment, such as body armour, batons, capicum spray and handcuffs, or firearms. Currently, the OPI can call on Victoria Police in situations that may require defensive equipment or firearms. The bill expressly allows the OPI to request Victoria Police assistance to enter premises and execute warrants. Requesting police assistance is the OPI's preferred approach. However, there are situations where the OPI may want to act independently.

The bill, therefore, will enable the director to authorise a limited number of OPI officers to carry and use such equipment. Similar provisions operate in other jurisdictions, such as under the Police Integrity Commission Act 1996 (New South Wales). The officers to be authorised to carry such equipment work in high-risk situations, often alone, and may encounter armed offenders in confrontational situations.

The small number of officers who will be individually authorised by the director to carry and use firearms for operations are operatives experienced in undercover work. These officers will complete training and ongoing re-certification to Australian Federal Police and Victoria Police accreditation standards. Similarly, OPI officers who are to carry defensive equipment (such as batons and body armour) will be trained to Victoria Police standards.

The Police Regulation Amendment Act 2007 introduced a drug and alcohol testing regime applicable to Victoria Police members involved in a 'critical incident'. A 'critical incident' is an incident that results in death or serious injury to a person; and involves the discharge of a firearm, the use of defensive equipment, the use of force, the use of a motor vehicle or where a person is held in custody. The bill establishes an equivalent testing regime for OPI officers.

Liability in relation to critical incidents

In recognition of the additional provisions authorising force in executing search warrants and authorising OPI officers to carry and use defensive equipment and firearms, the bill creates an exception to the statutory protection that applies to the director and his staff. In other words, the bill reduces, rather than increases, the statutory protection of the OPI. The bill provides that the state will be liable where plaintiffs have a successful cause of action involving 'critical incidents' arising from acts done in good faith.

Commencement

The OPI can undertake telecommunications intercepts as a prescribed agency under the Commonwealth Telecommunications (Interception and Access) Act 1997. The introduction of the bill requires an amendment to the commonwealth law to maintain the OPI's access to telecommunications intercept powers. In order to give effect to many of the SIM's recommendations, as well as other enhancements to the OPI's legal framework, the bill includes some amendments to the Police Regulation Act 1958 which will commence the day after royal assent. These amendments include the provision of legal assistance to witnesses, allowing OPI officers to use force (where necessary) in the execution of a search warrant, protecting OPI files from production in legal proceedings, limiting powers under a search warrant where a claim of privilege is made and enabling OPI officers to seek assistance from Victoria Police officers when executing warrants.

These provisions will be repealed and reinstated in the proposed Police Integrity Act 2008 when it commences. The remainder of the provisions will commence on proclamation, following amendment of the commonwealth law.

Section 85 of the Constitution Act

Mr JENNINGS — I also wish to make a statement under section 85 of the Constitution Act 1975 of the reasons for altering or varying that section under this bill.

Section 86J of the Police Regulation Act 1958 currently limits the liability of the director, OPI staff and persons engaged by the director who have taken an oath or affirmation under section 102D. The capacity of any person to bring proceedings against the director and these officers is limited to those acts that are done in bad faith. The provision also limits the scope of orders that may be made by a court in relation to the director, OPI staff and persons engaged by the director who have taken an oath or affirmation under section 102D, and prohibits the director and these officers from being called to give evidence.

Clause 109 of the bill replaces section 86J. Clause 109 similarly provides that proceedings against a 'protected person' are limited to acts done in bad faith. A 'protected person' includes the director, OPI staff and persons engaged by the director who have taken an oath or affirmation under section 18(2) of the bill.

Clause 109 also limits the scope of orders that may be made by a court in relation to the director, OPI staff and persons engaged by the director who have taken an oath or affirmation under section 18(2), and prohibits the director and these officers from being called to give evidence in any legal proceeding. Clause 130 of the bill provides that it is the intention of section 109 of the bill to alter or vary section 85 of the Constitution Act 1975.

The protection of these persons is required to prevent the director's investigations from being impeded by legal challenges and proceedings on grounds other than allegations of bad faith. The existing protection in the Police Regulation Act 1958 has been successful in allowing the director and OPI staff to perform their current functions, and the protection afforded to them under the current law should continue for that reason.

It is necessary that the bill commences in two stages. Accordingly, clause 135 of the bill will insert a new section 86KJ into the Police Regulation Act 1958 to ensure that the protection afforded to the director and his staff under the current law continues prior to the commencement of the new clauses 109 and 130 of the bill.

This new section 86KJ will initially replace section 86J (which will be repealed). Section 86KJ provides that proceedings against a 'protected person' are limited to acts done in bad faith. A 'protected person' includes the director, OPI staff and persons engaged by the director who have taken an oath or affirmation under section 102D of the Police Regulation Act 1958. Section 86KJ also limits the scope of orders that may be made by a court in relation to the director, OPI staff and persons engaged by the director who have taken an oath or affirmation under section 102D. The provision also prohibits the director and these officers from being called to give evidence.

Clause 140 of the bill provides that it is the intention of section 86KJ of the Police Regulation Act 1958 to alter or vary section 85 of the Constitution Act 1975.

Both clause 109 and the proposed section 86KJ provide the protection necessary for the director and staff of the OPI to perform their significant public functions properly and efficiently, without the prospect of delay or interference by legal actions, on grounds other than allegations of bad faith.

Clause 142 of the Bill will amend section 107 of the Whistleblowers Protection Act 2001. Section 107 grants immunity in relation to acts done under the Whistleblowers Protection Act 2001 to the director, OPI staff and persons engaged by the director who have taken an oath or affirmation. Section 110 of the Whistleblowers Protection Act 2001 expressly states that section 107 intended to alter or vary section 85 of the Constitution Act 1975.

Clause 142 makes the consequential amendments to section 107 of the Whistleblowers Protection Act 2001 listed in item 14.12 in schedule 2. These amendments update references to the provisions under which persons are engaged by the director and, accordingly, fall within the protection of section 107. The government does not consider it necessary to make a section 85 statement in relation to clause 142 as it does not make any substantive amendments to section 107 or increase the possible range of persons who are protected under that section.

Incorporated speech continues:

Conclusion

The government has confidence that Victoria Police is the best police force in Australia. The overwhelming majority of police members work hard and conduct themselves with integrity. It is important that, in support of these members, Victoria has a strong oversight body to ensure that the instances of corruption and misconduct are detected.

OPI has achieved significant success in uncovering and combating police corruption since its establishment four years ago. The OPI's achievements include over 60 investigations during 2005 and 2006, leading to criminal charges and proceedings, as well as reports on fatal shootings, witness security, sexual assault and missing persons investigations.

This government is committed to ensuring that Victoria has an effective body, independent of the police force and the government, responsible for maintaining the professional standards of police and investigating police corruption and serious misconduct.

This bill ensures that the OPI is equipped with the necessary powers and resources to rigorously perform its functions of detecting, investigating and preventing police corruption and misconduct.

I commend the bill to the house.

Debate adjourned for Mr DALLA-RIVA (Eastern Metropolitan) on motion of Mr Koch.

Debate adjourned until Thursday, 17 April.

JUSTICE LEGISLATION AMENDMENT (SEX OFFENCES PROCEDURE) BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Justice Legislation Amendment (Sex Offences Procedure) Bill 2008.

In my opinion, the Justice Legislation Amendment (Sex Offences Procedure) Bill 2008, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill seeks to amend the following acts:

Crimes Act 1958

Crimes (Criminal Trials) Act 1999

Evidence Act 1958

Sentencing Act 1991

Sex Offenders Registration Act 2004

The underlying purpose of the bill is to amend the legislative time frames within which special hearings (pre-recording of evidence and cross-examination) for child and cognitively impaired complainants in sex offence trials are held.

The bill also provides for administrative and procedural amendments to other provisions of the acts which relate to sex offence procedures.

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

Section 24 — fair hearing

Section 24 of the charter provides that:

- (1) A person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.
- (2) Despite subsection (1), a court or tribunal may exclude members of media organisations or other person or the general public from all or part of a hearing if permitted to do so by a law other than this charter.
- (3) All judgements or decisions made by a court or tribunal in a criminal or civil proceeding must be made public unless the best interests of a child otherwise requires or a law other than this charter otherwise permits.

Clause 10 of the bill provides that evidence of previous representations made by child complainants is admissible in

some circumstances and that the hearsay rule does not apply. The clause arguably engages section 24 of the charter because rules of evidence are designed to promote accuracy in legal fact finding.

However, what amounts to a fair hearing takes account of all relevant interests, including those of the accused, witnesses and society. Clause 10 requires the evidence to be relevant and sufficiently probative and provides the judge with discretion to exclude the evidence. If such evidence is admitted, the judge must give appropriate warnings to the jury. Accordingly, the right to a fair trial is preserved by clause 10 and is not limited.

Clause 11 of the bill provides that the court may permit only specified persons to be present in court while a child or cognitively impaired person is giving evidence. This clause arguably engages section 24(1) of the charter because it infringes on the defendant's right to a public hearing. However, section 24(2) of the charter enables the exclusion of people from part of a hearing if permitted to do so by another law.

The Evidence Act currently allows for exclusions of specified persons during the testimony of vulnerable witnesses and this is intended to protect vulnerable persons. Accordingly, whilst the right is engaged by clause 11, it is not limited.

Section 27 — retrospective criminal laws

Section 27 of the charter provides that:

- (1) A person must not be found guilty of a criminal offence because of conduct that was not a criminal offence when it was engaged.
- (2) A penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed ...

Clauses 8, 13 and 16 provide for transitional arrangements for the substantive clauses in the bill. However, clauses 8 and 13 do not deal with criminal conduct or penalties and do not engage this right. Clause 16 does not apply retrospectively.

Clause 19 may appear to engage section 27 of the charter because it concerns sentencing of offenders. It imposes a life reporting condition on offenders sentenced after the commencement of the bill, regardless of when the offence was committed.

However, section 27 applies to penalties only, and the clause does not impose any new or increased penalties on offenders. Reporting obligations as a sex offender are not considered a penalty under the Sentencing Act 1991 and the Sex Offenders Registration Act 2004. Accordingly, the right is not engaged and therefore not limited.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit, restrict or interfere with any human rights protected by the charter.

JUSTIN MADDEN MP
Minister for Planning

Second reading

Mr JENNINGS (Minister for Environment and Climate Change) — On the basis that this bill has actually passed the Legislative Assembly and does not contain a section 85 statement, I would like to proceed to move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In 2004 the Victorian Law Reform Commission (VLRC) released the 'Sex Offences Final Report' which made a number of significant recommendations for legislative and non-legislative reform in relation to sex offences in the Victorian justice system.

The majority of the legislative reforms were implemented through the Crimes (Sexual Offences) Act 2006 (the first act), the Crimes (Sexual Offences) (Further Amendment) Act 2006 and the Crimes Amendment (Rape) Act 2007.

One recommendation (implemented through the first act) was to provide that vulnerable witnesses — child and cognitively impaired complainants — would only have to give evidence once in sex offence trials. Further, the VLRC recommended that this evidence should be given at a 'special hearing', via a remote recording facility, before the trial starts and without a jury present.

The current provisions governing the special hearing process have achieved the aims of this recommendation to a significant extent. All key legal stakeholders have worked hard to ensure the special hearing process is effective. In some instances, however, the short time frame for the holding of the special hearing has resulted in a number of unforeseen consequences for all parties involved in this process.

The 21-day period has sometimes provided insufficient time to prepare adequately for the special hearing. There has also been duplication in resources with two different judges presiding and two different defence counsel appearing at the special hearing and the subsequent trial. The benefits of the early special hearing have also been reduced by the waiting period between the special hearing and the trial itself.

This bill will address these concerns by building on the VLRC recommendations and further improving the experience of these vulnerable witnesses in sex offence trials. Accordingly, the bill amends the Evidence Act 1958 and related acts to provide a more effective and efficient timetabling process for the holding of special hearings. The bill is necessary to ensure one primary object of the VLRC recommendations — to improve the system for child and cognitively impaired witnesses — is not undermined.

In summary, the main amendments in the bill are to:

extend the time requirement for the holding of a special hearing from 21 days to three months. This will address the administrative and timetabling difficulties experienced to date. It will provide adequate time for parties to prepare for the special hearing.

provide that the County Court trial for relevant sex offence matters must commence within three months after the Magistrates Court committal unless it is in the interests of justice to extend this time.

The amendments are designed to enable the special hearing to be held and the trial commenced before the same judge within three months of the accused person being committed for trial. The bill is designed to ensure that vulnerable witnesses still only attend once to give evidence whilst simultaneously expediting the entire trial process, providing certainty for complainants and other witnesses involved in the trial.

It will also realise efficiency gains by reducing duplication of court resources (as both the special hearing and the trial will be listed before the same judge).

It is further designed to ensure that pretrial matters are resolved prior to the scheduled special hearing, thereby preserving the benefits for complainants of only one attendance to give evidence.

In addition to amendments to the special hearing process, the bill makes a small number of technical amendments and other changes as a consequence of the experience gained through implementation of the VLRC recommendations. In essence, the additional proposed amendments will:

achieve consistency in terminology used across the acts (for example, the definition of child will be increased in one section from under 17 to under 18);

remove ambiguity in the operation of some provisions (for example, the use that can be made of certain types of evidence);

update relevant sentencing schedules (for example, to incorporate recently amended sexual offences as 'serious sexual offender' offences for the purposes of sentencing).

The bill is consistent with the government's Access to Justice policy and will further improve the experience of child and cognitively impaired witnesses who have to give evidence in sexual offence matters.

I commend the bill to the house.

**Debate adjourned on motion of
Mr RICH-PHILLIPS (South Eastern
Metropolitan).**

Debate adjourned until Thursday, 17 April.

RELATIONSHIPS BILL

Committed.

*Committee***Clause 1**

Mrs COOTE (Southern Metropolitan) — I would like a point of clarification from the minister, particularly in relation to confidentiality. There are two aspects. Firstly, the minister has assured the Greens that this bill will be coming back again later in the year, and I would like an explanation from the minister as to whether confidentiality is going to be one of the issues that is going to be looked at and revisited when this bill is re-presented.

Hon. J. M. MADDEN (Minister for Planning) — I ask for some qualification of the request by Mrs Coote. When she said ‘confidentiality’ — confidentiality in what sense?

Mrs COOTE (Southern Metropolitan) — I refer to the Law Institute of Victoria, which put in a submission. In that submission it makes eight recommendations. Recommendation 5 refers to confidentiality and the restriction on reporting proceedings. The argument goes — and I would agree with this; and I would like some clarification as to whether these issues are going to be reinvestigated — often there are children involved in matters that proceed before the courts.

In same-sex marriages particularly the children may come with one or other of the partners, and if this relationship is going to break up, what is then going to happen in relation to the court proceedings? Are they going to be open slather? When the relationship breaks up and there are children involved, under this legislation in front of us today the media or anyone at all could go out and spread the information widely. My concern is for the children that may be involved. Will confidentiality be included in a revised bill so that children can be protected as they are under other family law acts?

Hon. J. M. MADDEN (Minister for Planning) — We are happy to talk to the law institute about these matters in the future. We are not changing the law in that instance. We are talking about registering relationships, but we are not changing, in a sense, the public expression of these things taking place other than through registration. We are happy to take on board any request by the law institute and have those conversations. When we come back later in the year, as has been mentioned, we will look at the implementation and any other qualification that needs to be made in relation to this legislation for alignment nationally, depending on what the other states do. As mentioned, it

is likely we will have to come back to make adjustments in one form or another, and we are happy to look at those considerations and listen to those issues that other stakeholders like the law institute might have.

Mrs COOTE (Southern Metropolitan) — To help and assist with those discussions, I point out that the Law Institute of Victoria recommends that the bill be amended to include a provision similar to section 121 of the commonwealth Family Law Act 1975, which would restrict the publication of any account of proceedings which identifies a party to the proceedings, a person who is related to or associated with a party to the proceedings, is alleged to be in any way concerned in the matter to which the proceedings relate, or a witness in the proceedings. It also says that it considers that such a restriction is consistent with sections 13 and 17 of the Victorian charter of human rights and the principle that the best interests of the child should be a primary consideration in all actions concerning children. I ask the minister to make certain that those particular sections will be looked at when it is being revised and give me some assurances that that will in fact happen.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mrs Coote’s contribution. It is my understanding we are not changing the Family Law Act in this instance. But I suspect in the future, if there are revisions to the legislation based on what happens nationally, that those matters will be considered. I am unable to give the member any guarantees because I am not necessarily the responsible minister, but I say to the member that I am happy to convey her concerns to the minister in the other chamber, who is responsible for any adjustments to the legislation. I am happy to reflect Mrs Coote’s comments and encourage the minister to give consideration to taking on board those matters beyond just those flagged across the debate and to look at some of the broader issues that have been raised by her.

Mrs COOTE (Southern Metropolitan) — I thank the minister; I am very pleased to have that assurance. I just have one final question with respect to the clause, and that is: when is this going to be revised? Can we expect this by the end of this year? Will this legislation be reintroduced by the end of the year?

Hon. J. M. MADDEN (Minister for Planning) — I cannot give guarantees as to when and to what extent any adjustments to this legislation might be made. I think it has been indicated in this chamber in one way or another that, given that there are like pieces of legislation currently sitting in other states, and it is likely that other pieces of legislation not dissimilar to

this one will be introduced, it is really about the alignment of those pieces of legislation and establishing a broader national approach. I would expect that when we have a much fuller understanding of what is taking place in other jurisdictions in one form or another we will be able to develop a consistent approach, and I would expect that consistent approach to be taken through the attorneys-general who meet on a regular basis. They would look at ways in which to bring forth a uniform mechanism. That of course is anticipating that there will be uniform agreement before that. I cannot give the member any solid dates, but I anticipate that these talks will be progressed pretty rapidly by the relevant attorneys-general over the next six months or so.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — In the second-reading debate Mr Tee talked about the extraordinary situation that the government has indicated its intention, even before the bill is passed in this sitting, to introduce later in the year amendments to the legislation to address the issue of carers and caring relationships. The issue of caring relationships has been raised during the consultation period, certainly by the law institute. Why was that issue not dealt with in this legislation before it was introduced?

Hon. J. M. MADDEN (Minister for Planning) — A number of issues have been raised around carers in relation to this bill. It is about having some consistency. The issues around carers have predominantly involved the extent to which the definition of 'carer' means a carer or a paid professional — or whether it is a professional relationship or a personal relationship. There have been some discussions around that in the debate, and there might even be some amendments sought in relation to that to be moved by one or other of the opposition parties. If Mr Rich-Phillips would like to be more specific in relation to that, I would be happy to try to assist him with an answer.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The issue arises when two parties are in a non-sexual relationship, a caring relationship where one party is responsible for the care of the other but not for fee or reward, and that is a matter that is already dealt with in this bill. This is a matter that has been canvassed by a number of the parties who made submissions during the consultation on this bill. It is a fairly clear issue: it is provided for in the Tasmanian legislation and, given that the parliamentary secretary and the Attorney-General have already flagged that the government will amend this bill even before it has passed, I am curious as to why the government did not address this issue before it brought the bill to the house.

Hon. J. M. MADDEN (Minister for Planning) — My understanding is that the issue of carers is not one we are trying to avoid, but more one that is particularly complex. I know there have been other jurisdictions like Tasmania which have already moved into this space. I am led to believe that there are very few relationships involving carers registered in those jurisdictions.

It is not a matter of not wanting to move into that space. I understand it has been flagged in the second-reading speech that the Attorney-General has instructed his department to develop legislation that will allow for the registration of caring relationships, and we anticipate that, all going well, that will be introduced by the end of this year. It is not a case of avoiding the issue, but it is in some ways, I understand, more complex than it appeared on first impressions.

There is a fair degree of complexity in many of these arrangements and relationships other than just that of carer per se. There are many variations and variables so it is more or less a matter of finding the right mechanisms within the legislative framework to do justice to those relationships. I understand that the Attorney-General has a work in progress on that as we speak.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Could the minister elaborate on what he means when he says that there are complications with the issue? What does the Victorian government see as deficient in the Tasmanian approach?

Hon. J. M. MADDEN (Minister for Planning) — It is not for me to speculate on the work that the department might be doing at this point in time, but as I mentioned before, my understanding is that while the option is there in the Tasmanian legislation, it has not been taken up significantly. That might be an indication that the arrangements in Tasmania might not do justice to the sorts of carer relationships that people would like to have registered.

I am not saying it is good or it is not good in Tasmania. What I am saying is that it may or may not be broad enough. Hence the work being undertaken by the department will seek to understand in more detail why the definition of carer in other jurisdictions through their legislation is accommodating or not accommodating the needs of those relationships.

It is not as straightforward as it might seem in relation to the sorts of relationships that are established by carers. Whilst their role might be straightforward, the relationships may not be easy to define. The work that

will be or is currently being undertaken by the department is to look at the best way to address these issues, to do justice to those relationships, so that people can opt to take up the registration of relationships in a way that does justice to them rather than, as might occur, defining the relationships in the first place and then seeking to have people conform to that definition by the Parliament, instead of providing some flexibility as to what may or may not be the case out there in the broader community.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Why was that issue not dealt with before this bill was brought to the house?

Hon. J. M. MADDEN (Minister for Planning) — As has been mentioned, these are complex matters. Some jurisdictions have moved into this space quite rapidly, but my understanding is that in other jurisdictions there has been little or virtually no take-up of the option of registration by carers. Only a very small number have taken up that option.

It begs the question then, and there is obviously a broader body of work to be done, because in those smaller jurisdictions that have taken this up, it might be a reflection on the legislation and not a reflection on the number of relationships that could be registered. We want to give fuller consideration to this and make sure that when we introduce those sorts of changes that will need to come to this chamber, the issue has been fully considered and reflects on what has or has not been the experience of other jurisdictions.

Clause agreed to; clauses 2 to 4 agreed to.

Clause 5

Ms PENNICUIK (Southern Metropolitan) — I have two questions on this clause. The first is a broad question. I am curious to know, given the ALP's policy of a nationally consistent regime for state-based registration systems, why the basic terminology of a 'registrable relationship' rather than a 'significant relationship', as it is called in Tasmania, is used. We already have a departure in terms and we will end up, if we have six states and two territories with different terms, with a plethora of terms.

Hon. J. M. MADDEN (Minister for Planning) — Without reflecting too much on the current legislation in Tasmania — although it seems to me that some of the discussion today will do that — when we bring legislation to this Parliament we expect it to do what we intend it to do. We work and act on the legal advice provided to us through parliamentary counsel, those who draft the legislation. My understanding is that the

terminology of the Tasmanian legislation is different; we have already raised issues about this. It is often the case that you may agree to have a nationally consistent party policy approach, but it is another thing to get it. Sometimes to get it you need to work through those issues: the variance in issues based on relevant jurisdictions, the mechanisms, the legislation and precedents in relation to these matters.

At this point in time there may be inconsistencies between state jurisdictions on these matters, but over time — and in the fullness of time — attorneys-general will work in collaboration and we will see a more consistent approach.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to hear the phrase 'in the fullness of time' mentioned. I have another question about clause 5. I am curious to know about the definition 'registrable relationship'. Clause 5 says that a registrable relationship is:

... a couple where one or each of the persons in the relationship provides personal or financial commitment and support of a domestic nature for the material benefit of the other ...

That is not a requirement, for example, for marriage.

Hon. J. M. MADDEN (Minister for Planning) — I note the point Ms Pennicuik has made, but what is her question?

Ms PENNICUIK (Southern Metropolitan) — Why is that there?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that that part of clause 5 is based on the current definition of a domestic relationship.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Clause 5 establishes the definition of a registrable relationship. One element of that definition is:

... two adult persons who are not married to each other but are a couple where one or each of the persons in the relationship provides personal or financial commitment ...

I am keen to understand what the government means by the use of the term 'couple'. It is not a term which is defined in this legislation. There are various common-use definitions of the word 'couple' which include two items of the same kind and two people together. What is the government's meaning of the word 'couple' in this context? Could the word, by definition, be taken to mean a parent and a child or two siblings?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that the answer is no.

Ms PENNICUIK (Southern Metropolitan) — The minister's answer to my earlier question opened more cans of worms than it closed in terms of the definition of a domestic relationship. Section 9 of the Property Law Act states:

Domestic relationship means the relationship between two people who, although not married to each other, are living or have lived together as a couple on a genuine domestic basis (irrespective of gender).

However, the definition of a registrable relationship in the bill does not refer to the definition in that act; another definition is established in the bill. The minister said that a registrable relationship was based on a domestic relationship, but, if that were so, this bill would contain the same wording or refer to 'domestic relationship' as it is defined in that act, would it not? The definition of registrable relationship containing the phrase that I mentioned — about providing personal financial commitment, support and material benefit — is not in the definition of domestic relationship under the Property Law Act or in this bill. The definition of registrable relationship in the bill applies to people who do not have to live together under the same roof, whereas the term 'domestic relationship', as defined by the Property Law Act, states that a couple must be genuinely living together. The more you read the definitions of this bill, the more confusing and less clear they become.

Hon. J. M. MADDEN (Minister for Planning) — Can I ask Mr Pennicuk to streamline the question? She has made a number of points, but I am not sure what the question is.

Ms PENNICUIK (Southern Metropolitan) — The question I ask is: why are the criteria for a registrable relationship not based on what a domestic relationship is?

The DEPUTY PRESIDENT — Order! I think the question has to do with the inconsistency between the definitions in two different acts.

Hon. J. M. MADDEN (Minister for Planning) — There are two definitions of domestic relationships in Victorian law; there is a broad definition and a more specific definition. I understand and I am advised that in this case the broader definition has been used.

Ms PENNICUIK (Southern Metropolitan) — Can the minister direct me to where the broader definition of domestic relationship is, because it is not here in the bill or the acts I have referred to.

Hon. J. M. MADDEN (Minister for Planning) — I am advised that a number of acts are relevant, but I understand the Legal Profession Act is the one.

Ms PENNICUIK (Southern Metropolitan) — I raised the question because this is a higher hurdle. I assume under this bill people have to prove that they are providing personal or financial commitment and support of a domestic nature for the material benefit of each other before they can register their relationship, which is not the case if two people front up to get married. I am wondering why that is the case and why we are referring to a definition in the Legal Profession Act, which is not mentioned anywhere in the bill.

Hon. J. M. MADDEN (Minister for Planning) — I am informed that you do not have to live together to register the relationship. I understand this is a simpler definition to achieve that.

Ms PENNICUIK (Southern Metropolitan) — I do not think the minister has gone to my question. My question was about why two people in a registrable relationship have to be providing a personal or financial commitment and support. I mentioned the other issue about the change in the meaning of a domestic relationship under the Property Law Act and clause 39 of this bill, which does not mention not living together. I am asking why in registering a relationship there are these hurdles or criteria about providing personal or financial commitment and support? My simple question is: why cannot two people say, 'We want to register our relationship', and not have to say why?

Hon. J. M. MADDEN (Minister for Planning) — I understand your question. The point of your question is lost on the fact that people do not have to prove these matters in order to register the relationship. As I have mentioned before, a couple can seek to have their relationship registered, but they do not have to prove these matters.

Ms PENNICUIK (Southern Metropolitan) — That is my question. I do not want to labour the point any more, but why is that definition there if it is not a requirement? I finish by saying that perhaps the government could look at that definition to ensure there is consistency with other definitions.

Hon. J. M. MADDEN (Minister for Planning) — As in the case with registering relationships in this instance or in other instances, the two individuals would seek to have their relationship registered in one form or another, but the point — and these have always been difficult circumstances — is that when those individuals seek to annul or finish the relationship, then

the relationship needs to be defined. Where those individuals wish to register their relationship, one for another, the defining point is at the termination of that relationship. This is a broad definition in relation to those matters so that if at some point in time the relationship is terminated, there is a definition for not being in the relationship as opposed to being in the relationship.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I turn to the definition of registrable relationship, which contains an exclusion in subclauses (a) and (b) where support is provided for fee or reward on behalf of another person or an organisation. Could the minister clarify this scenario: if one party in a relationship is receiving a carers allowance under the commonwealth social security legislation to provide care for the other party, would that be regarded as a fee or reward under subclause (a) or, if on behalf of another person or organisation, under subclause (b), and therefore not constitute a registrable relationship?

Hon. J. M. MADDEN (Minister for Planning) — I understand that is not the case. Those matters relate to a professional providing services and not someone who is in the relationship or who seeks to be in the relationship who has a role as a carer and receives a fee. The concerns expressed relate more to a professional.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Would the minister clarify his comments, because he referred to someone receiving a fee. My question referred only to a carers allowance paid under the commonwealth social security legislation. I think the minister has broadened things considerably in referring to a fee.

Hon. J. M. MADDEN (Minister for Planning) — I do not believe I mentioned that. What I was trying to express, and I may not have expressed myself clearly, was that the provisions relate more to people who are professionals as opposed to someone who is being assisted to provide those services as a carer.

Ms PENNICUIK (Southern Metropolitan) — I wish to go back to the definition of registrable relationship where it says that people can be in a registrable relationship whether or not they are living under the same roof. I do not wish the committee to believe that I am opposed to that, because my first amendment relies on that, but I am wondering where that comes from. There is no definition of domestic relationship that includes that provision. Is that a new provision and has the government decided to broaden the definition of domestic relationship?

Hon. J. M. MADDEN (Minister for Planning) — Does the matter raised by the member relate to people living together in a registrable relationship? Is the member talking about people living under the one roof? I ask the member if she could be more specific about the point she is making.

Ms PENNICUIK (Southern Metropolitan) — The point is the current definition of a domestic relationship does not include people who live apart, but this definition of a registrable relationship does include people who live apart. I am not saying there is anything wrong with that. I am just asking out of curiosity whether it is a new definition that the government has come up with.

Hon. J. M. MADDEN (Minister for Planning) — No. I understand there are a number of examples where that is pre-existing in other definitions in law.

Ms PENNICUIK (Southern Metropolitan) — The minister can probably not supply me with those now, but could he undertake to do so?

Hon. J. M. MADDEN (Minister for Planning) — I can seek to undertake to provide you with some specific examples of that.

Clause agreed to.

Clause 6

The DEPUTY PRESIDENT — Order! The committee should be advised that Ms Pennicuk has circulated amendment 1 inviting the committee to vote against the clause and in favour of the insertion of a new clause 6, which will be dealt with subsequently. That is her amendment 3, which is consequential on the amendment we are to deal with here in clause 6, which would be that clause 6 not stand part of the bill. I am advised that Ms Pennicuk does not have to formally move her amendment on this occasion. The more important thing is to invite the committee to vote against it.

Ms PENNICUIK (Southern Metropolitan) — I invite the committee to vote against clause 6. As the Deputy President explained, that would invoke my amendment 3 which would replace clause 6 with a new clause. That clause would change the existing clause 7 which states that an applicant must be resident in the state of Victoria. As I mentioned previously, the definition of a registrable relationship allows that people can be in a registrable relationship whether or not they are living together. The Law Institute of Victoria stated in paragraph 2.2 of its submission on this bill that:

... clause 7(a) should be extended, so that all unmarried couples who meet the requirements for a registrable relationship and who are present in Victoria are eligible to be registered.

The law institute advocates that there should be no requirement in the bill for applicants to reside in Victoria in order to register their relationship. I understand this issue is also under discussion in terms of the Tasmanian act. There are active discussions to remove the requirement under that act for people to be resident in Tasmania. It is a live issue.

I mentioned in my contribution to the debate that in several discussions with parliamentary counsel they advised they thought this would be difficult, but it would not be difficult to alter the clause so that it read that at least one person had to be domiciled or resident in Victoria. For me, that was preferable to having the exiting clause, but not as good as having what the Law Institute of Victoria is advocating. I am sure it is familiar with Victorian law, and if it feels it is legally possible to have a relationship register that does not have that requirement, then I am happy to believe that is the case.

However, my amendment proposes that under the bill only one person would be required to be resident in Victoria. One of the examples I gave for this amendment in my earlier contribution, for example, was that this widens access for a couple, one of whom is resident in Victoria and one of whom is temporarily — for an extended period — working or living in another state for whatever reason, who still want to register their relationship under this scheme, and I would have thought that would be an aim of the register.

If you are going to have a register, there should be as wide as possible access to it. Other obvious examples are people who live close to state borders such as those in Albury and Wodonga or those who live in Portland or Nelson near the South Australian border. Those are the reasons why I propose this amendment. It is not a difficult amendment. Basically it is a technical amendment. There is no problem legally, and I urge all members to vote against clause 6.

Hon. J. M. MADDEN (Minister for Planning) — I certainly appreciate the sentiments expressed by Ms Pennicuik. We are trying to do justice to those relationships, either those that are pre-existing or those that are to be established. I understand and sympathise with the point she is making, but I am informed that it is not without a degree of complexity. It is complexity about the law, not complexity about the relationships. It is a complexity about situations where one party to a

relationship is resident in another jurisdiction, and about what is or is not the prevailing law in relation to the relationship and the implications and complexity of the law when you are talking about different jurisdictions.

That is not to say we do not have empathy for people in those circumstances, but I understand it is not without a substantial degree of legal complexity. While we have empathy on the point Ms Pennicuik is making — and potentially going into the future a uniform national approach may be more opportune for making progress in this area, and we look forward to that — at this point we do not feel we can do justice to those circumstances within a legislative framework without adding layers of legal complexity and red tape.

Ms PENNICUIK (Southern Metropolitan) — I suppose my only comment would be that if a body like the Law Institute of Victoria advocates in its submission that there be no residency requirements, and as I said this is a matter for discussion in relation to the Tasmanian act, and I have been advised that it is perfectly legal to put the amendment I am putting, perhaps the government is overstating the legal complexities with regard to this amendment.

Hon. J. M. MADDEN (Minister for Planning) — I certainly appreciate the point Ms Pennicuik is making and I have empathy with it and would seek to move in that direction, but I also caution her that while the law institute has an interest and advocacy in these matters, the situation also has to be seen in the light that the more complex the law the more benefit to the law profession, whereas the simpler the law the better for everybody. Rather than making the law more complex in this instance, at the end of the day it can be better to make it simpler, less complex and less confusing. As I said earlier on, sometimes the test is not at the commencement of a relationship but at its termination, and hence for the sake of making progress in this area at this stage, and potentially looking towards making further progress in years to come, we have to bear in mind that less complexity is probably of benefit to all at this time.

The DEPUTY PRESIDENT — Order! I propose to test clause 6. The question is that clause 6 stand part of the bill. Ms Pennicuik's amendment 1 invites the house to vote against that proposal.

Committee divided on clause:

Ayes, 28

Broad, Ms	Lovell, Ms
Darveniza, Ms	Madden, Mr
Davis, Mr P. (<i>Teller</i>)	Mikakos, Ms

Drum, Mr	O'Donohue, Mr
Eideh, Mr	Pakula, Mr
Elasmarr, Mr	Scheffer, Mr
Finn, Mr	Smith, Mr
Guy, Mr	Somyurek, Mr (<i>Teller</i>)
Hall, Mr	Tee, Mr
Jennings, Mr	Theophanous, Mr
Kavanagh, Mr	Thornley, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr	Viney, Mr
Lenders, Mr	Vogels, Mr

Noes, 9

Atkinson, Mr	Hartland, Ms (<i>Teller</i>)
Barber, Mr	Pennicuik, Ms
Coote, Mrs (<i>Teller</i>)	Petrovich, Mrs
Dalla-Riva, Mr	Rich-Phillips, Mr
Davis, Mr D.	

Clause agreed to.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Water: national plan

Mr D. DAVIS (Southern Metropolitan) — My question is to the Minister for Environment and Climate Change. I refer to the government's release on Sunday of the biodiversity green paper and indicate to the house that the opposition supports the broadest consultation in establishing a new and effective biodiversity protection framework. I therefore ask the minister what steps he has taken to prevent the 40 per cent cuts to environment programs administered by Victorian catchment management authorities (CMAs), announced by the federal Minister for the Environment, Heritage and the Arts, Peter Garrett. Does the minister share the opposition's concern that if these cuts are carried through Minister Garrett will be guilty of an act of environmental vandalism that will see irreparable damage done to Victorian catchments and land through the gutting of these environmental programs?

Mr JENNINGS (Minister for Environment and Climate Change) — I could respond to Mr Davis's question and some of his suppositions in a variety of ways, but let me start in the spirit in which he started. If our community can find some common ground in relation to protecting land and biodiversity values and find appropriate ways of preserving and enhancing them, hopefully that will hold our community in good stead. I appreciate that that is the opposition's starting point in that endeavour. Let us start with that level of agreement.

There are a number of assumptions and assertions in the rest of the Leader of the Opposition's question which I would not necessarily want to align myself with in total. There are some challenges confronting the management of the Natural Heritage Trust program going forward in the light of new priorities that have been inserted into that program by the federal government. In the transitional arrangements for this program there has been some delineation of a new funding pool — 40 per cent of the funding pool at the national level — to address national priorities in terms of protecting environmental values and creating a competitive pool of funds for catchment management authorities and other community organisations involved in land management practices in other jurisdictions. These bodies have previously been subject to direct allocation from the commonwealth. In the case of Victoria, these bodies have received matching funding as the commonwealth and the state have had a high degree of integration in terms of funding arrangements.

The past practices of the Natural Heritage Trust in Victoria have by and large seen \$2 coming from the state of Victoria for every \$1 of commonwealth investment in the program in Victoria going to those catchment management authorities. We recognise the value of creating a stable ongoing structure for that program, because the state of Victoria recognises the significant contribution made by our catchment management authorities and our heavy reliance on them into the future in the provision of those land and catchment management activities. That is a model which has been extremely successful in Victoria and which we will want to protect and enhance.

At the very least the new federal funding arrangements will have some teething issues in relation to the potential effect on the ongoing operations of catchment management authorities. From the time the state of Victoria received notification from the commonwealth of its intention to change the design and structure of the program, it was made very clear to the commonwealth by the state of Victoria that it would expect the net effort in Victoria to at least be maintained and that the outcome that it would be seeking to ensure for land management practices within Victoria would be a maintenance of effort. It continues to be our intention to secure that undertaking from the commonwealth. It is certainly also our intention to ensure that we provide for certainty and stability in the roles of and responsibilities undertaken by those catchment management authorities going forward. We would be bitterly disappointed if there was any lack of jobs available to those currently employed within that sector. It is our intention in dealing with these transitional arrangements to provide for maximum certainty going forward. If at the end of

the day it is the intention of the Leader of the Opposition to get me to make those commitments, I very willingly make them.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — This may be a matter in Victoria on which there is some bipartisanship. I hope so. Therefore and in light of the minister’s answer, I ask: is the minister aware that some Victorian CMAs receive more than half their funding for environment and catchment protection programs from the commonwealth government and that if the subsequent financial year cuts of 100 per cent are carried through by Minister Garrett, some Victorian CMAs will see their annual financial position deteriorate by more than 60 per cent, with the result that urgent environmental protection works will be forgone?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank you, President, for the opportunity to answer without your necessarily intervening to suggest to Mr Davis that that was a very hypothetical question. Indeed it was an extremely hypothetical question. I would not want to assume that the scenario he has outlined in his question will come to fruition. That is clearly not my intention. I am very confident that, to the degree to which those changes might occur, his hypothetical scenario will not take effect. That is certainly my intention.

Footscray: transit city

Mr PAKULA (Western Metropolitan) — My question is to the Minister for Planning. The transit city program for Footscray seeks to revitalise the precinct through improved infrastructure and urban design, and the facilitation of private investment. On that basis I ask the minister to inform the house of what action the Brumby Labor government has taken to maximise private sector investment in the Footscray transit city project.

Honourable members interjecting.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Pakula’s question, which has obviously excited the chamber. There is a reasonable degree of interest in this matter, so I am very enthusiastic about providing the chamber with an answer in relation to it. I talked about this yesterday, and I want to continue talking today about what a fantastic project the Footscray transit city is. I am pleased to report that there is movement at the station in relation to this matter. I am pleased to announce today the approval of

the first new major residential development project in Footscray.

Honourable members interjecting.

Hon. J. M. MADDEN — I know that there will be members of this chamber heartened by that announcement. Around six months ago we launched the one-stop planning shop. On that occasion I was joined by Ms Thomson, the member for Footscray in the other place, and Mr Pakula and Mr Eideh.

Mr Finn — I was not invited!

Hon. J. M. MADDEN — The point of that, Mr Finn, was to make sure we facilitate private sector investment in the precinct. The announcement I am making today will see a seven-storey development which will breathe new life into what I understand is the disused site at 51 Hopkins Street. It will feature 81 apartments and ground-level shops. This is a great result. Already, within 24 hours, we have seen work occur on this front! This has been done in conjunction with the Maribyrnong City Council, and I would like to compliment not only the local members in this place, who have been very active, but also the Maribyrnong City Council, which has been very enthusiastic about sharing and working in partnership with the planning minister in relation to the planning authority status. That has been a critical component of getting activity in this space.

As well as that, there is the potential for unlocking even more economic and social potential in Footscray. The priority here is to provide housing choice, with more attractive and diverse living options close to shops and transport right in the heart of Footscray, and also to build on those fundamental components that make Footscray a great place already and will make it even better going into the future. Given its multiculturalism and its diversity, we want to build on those attributes and maintain those characteristics.

We have seen upgrades of the mall and streetscape works, and as mentioned yesterday, in the not-too-distant future we will see work commencing on the new Footscray station footbridge. In particular we have to make sure that ongoing work is done in partnership with the Maribyrnong City Council and the community so that everybody works together to progress this development to make Footscray not only a better but a great place to live, work and raise a family.

Planning: Growth Areas Authority

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. I refer to leaked

high-level advice from the Department of Infrastructure on the government's sham housing affordability announcement made in March, and I ask: can the minister advise the house whether he or his department has considered granting or is planning to grant the Growth Areas Authority any formal planning powers?

Hon. J. M. MADDEN (Minister for Planning) — I welcome the member's question, because the other day there was no doubt particular interest in matters around this. The only people who seem to think that this will not be effective are opposition members. The Urban Development Institute of Australia, the Master Builders Association and the Housing Industry Association — all key and critical groups that are involved in housing, building and land development — are overwhelmingly enthusiastic about the announcement made by the Premier.

What is vitally important is that in planning — and I am not sure it is fully understood by the opposition — you can either be confrontational or stir up a fear campaign, or you can work collaboratively with communities and local government and work in partnership to accommodate the growth needs of this state. I continue to mention and compliment local governments which are eager to work in partnership with the government. Mr Guy even raised the other day a matter about the authority of the minister to work in this space, become the authority in this space or grant status to other authorities in this space. There are a whole lot of different models from which to choose in deciding what may or may not be the opportune model to get progress in this area.

There are two ways of doing it. There is the Maclellanesque way of old under a coalition government or —

Mr Drum — The Maddenesque way.

Hon. J. M. MADDEN — Mr Drum raises the point. You can be a lover or a fighter. I am not sure which one you are, Mr Drum, but I propose that I might be a lover rather than a fighter.

The PRESIDENT — Order! The minister will address the Chair.

Mr Drum interjected.

Hon. J. M. MADDEN — When I look at the faces on the other side of the chamber I suspect some of them might have been fighters in their time. The critical issue in accommodating the demand for growth in this state is to work collaboratively with communities, to make somewhat difficult decisions from time to time but to

make sure we work in partnership and maintain that commitment to the livability of Melbourne and Victoria and to making Victoria a great place to live, work and raise a family.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for that very confused answer. Noting that many councils and community groups have not embraced and will not embrace Melbourne 2030, I ask: can the minister advise the house whether the government will override communities by removing some or all planning powers from local government?

Hon. J. M. MADDEN (Minister for Planning) — I find it very interesting that the opposition spokesperson for planning wants two bob each way. He wants me to say, 'We are going to be strong', and upset communities more broadly; but then if I do not do something in that sort of space and take a strong stand, he says the government is not doing enough. The opposition would have two bob each way. The two bob would be on not doing enough and going too hard. But as I pointed out, the best way to get movement in this space is not to use the authoritarian Maclellanesque style, the confrontational style, but in actual fact —

The PRESIDENT — Order! I am sorry to interrupt the minister. Members in the chamber know it is inappropriate to be contacting people in the gallery, and I remind people in the gallery that it is most inappropriate for them to be engaging with members in the house. If they continue, I will remove them.

Hon. J. M. MADDEN — The critical issue here is to get movement on all fronts in many of these areas of great demand, and the way to accommodate the growth and livability of Melbourne is to work collaboratively with the communities.

Mr Guy interjected.

Hon. J. M. MADDEN — I have given Mr Guy an example with the Footscray transit city. Why have we seen \$52 million invested in the Footscray transit city? Because the City of Maribyrnong and the local members have been prepared to work collaboratively with the government to move on this front. I look forward in the future to working collaboratively with local government, communities and developers to make sure that we provide sufficient housing numbers to accommodate the growth and maintain the livability of Melbourne and Victoria so that we make sure that this is a great place to live, work and raise a family.

Water: Goulburn River–Broadford pipeline

Ms DARVENIZA (Northern Victoria) — My question is also to Minister Madden, the Minister for Planning. I ask the minister to update the house on the recent actions taken by the Brumby Labor government to progress the development of the Broadford pipeline to secure water supplies for this important region of Victoria.

Hon. J. M. MADDEN (Minister for Planning) — I welcome this question because I know that water is a very topical issue currently. It is at the forefront of people's minds — and when it comes to a strategy we know that the opposition goes to water! We are taking action now to meet the challenges of the future and to make Victoria a great place to live, work and raise a family.

I am pleased to announce to the house that I recently gave planning approval for the development of a 25-kilometre pipeline from the Goulburn River to the Broadford township to ensure that we secure a water supply for the future for the region in particular. The approval comes after studies into the region's water supply found that the Sunday Creek Reservoir cannot meet current and future water demands for the townships of Broadford, Kilmore, Wandong-Heathcote Junction and Waterford Park. The development of the Goulburn River–Broadford pipeline will help meet the future water demands of the town, which has been on stage 4 water restrictions. This is a great investment in regional Victoria, once again.

At the request of Goulburn Valley Water, the development of the Broadford pipeline under amendment C53 to the Mitchell planning scheme has been approved. Amendment C53 enables Goulburn Valley Water to construct a pipeline, a pump station and associated infrastructure to ensure a secure water supply for Broadford in the coming summer period.

The approval of this is subject to a project impact assessment and an environmental management and native vegetation offset plan. The 25-kilometre project will see not only an enormous direct benefit to the community but also added economic activity in that community through the expenditure that will occur as the works are undertaken and maintained into the future. Unlike coalition governments in this state that ignored country Victorians and referred to them as the toenails of the state, we are investing right across the state to make sure that not only Melbourne but Victoria, across every frontier, is a great place to live, work and raise a family.

Wallan Secondary College: funding

Mrs PETROVICH (Northern Victoria) — My question is for the Treasurer, John Lenders. When will the Treasurer provide a capital allocation for the urgently needed construction of classrooms at the Wallan Secondary College to ensure that students no longer face having their classes conducted in the school corridor?

Mr LENDERS (Treasurer) — As the minister representing the Minister for Education in the Assembly I am happy to take the question from Mrs Petrovich. What I will say to Mrs Petrovich — as I said to the house yesterday and I said to the house the day before, and I suspect I will say to the house next Tuesday, Wednesday and Thursday — is that, in the Westminster tradition, budget items are not ones that treasurers flag in parliaments before budgets are delivered. There is a courtesy about this. On 6 May an appropriation bill will be introduced into the Parliament presenting, after a message from the Governor, the government's plans for the budget for next year.

Mr D. Davis — So there will be no pre-announcements?

Mr LENDERS — What Mrs Petrovich is asking — and her leader is contradicting her by his interjection — is that somehow or other I as a minister break those Westminster traditions. For Mrs Petrovich's benefit, there was a revolution in England — at Runnymede, involving King John and all the rest of it — over getting this right in the first place. For the benefit of Mrs Petrovich — and I will not go through the tree at Runnymede and link the tree at Runnymede to Mrs Petrovich's question — I will take her through what this Labor government has done on education. What we had under the regime that preceded us was a slashing, a cutting and a closure of more than 300 schools. There was a slashing of the teacher workforce, and there was no regard whatsoever for education. What this government has done since being elected in 1999, and more particularly since the last election — —

Mrs Peulich — On a point of order, President, the Treasurer knows full well that under standing orders he is not allowed to debate the question. He was asked a simple question in relation to a specific school, and he should answer it accordingly.

The PRESIDENT — Order! Mrs Peulich knows full well that points of order have to be relevant. There are such things as frivolous points of order. Mrs Peulich knows full well that the minister is entitled to answer

the question in any way he sees fit. I will determine whether it is relevant or not.

Mr LENDERS — At the last election this Labor government announced that it would rebuild schools, including 500 schools during this four-year term. I make this point to Mrs Petrovich: she talks about students being in corridors, but under the Kennett government there were not even corridors, because the schools were closed. Under this government we are rebuilding, or modernising, 500 schools during this term — —

Honourable members interjecting.

The PRESIDENT — Order! If the house wants to degenerate into a ruckus, I will accommodate that.

Mr LENDERS — In the last budget Treasurer Brumby at the time announced 131 of those 500 schools in the first year. I also say to Mrs Petrovich that I know what happens; members come into the house, they call for a capital works program and they go out to their communities and promise it. I also know that in November 2006 persons in the other house promised \$10 billion of projects in communities — —

Mr D. Davis — You say!

Mr LENDERS — Mr Davis says, ‘You say’. I will give him the press release if he likes. His esteemed leader in the other house, Mr Baillieu, and his comrade in arms, Mr Ryan — —

Honourable members interjecting.

The PRESIDENT — Order! I warn Mr Atkinson.

Mr LENDERS — They promised \$10 billion in projects. It is, as Mr Madden said, two bob each way — all things to all people. It is very easy for people to come into this house and promise every single community a project with no intention or capacity to deliver. Ten billion dollars on the splurgemeter, \$10 billion extra in projects on a state budget of \$37 billion, means that people either are not delivering or are cutting something out. The track record is to cut police, teachers, nurses, schools, roads and the Grey Sisters.

I say to Mrs Petrovich that this government will look at every school community’s bids for resources. We treat schools with respect. The regional directors of education and the senior education officers will be speaking to school principals and they will be speaking to school council presidents, and that will be part of the governments deliberations. Of the 1594 government

schools in this state, bids for capital and bids for maintenance are addressed through a budget process.

I say to the Wallan school community and every other school community that this government has delivered 131 school improvements in the last budget, and it is committed to at least 369 further school improvements in this budget, the next one and the one after. We will stick to our commitments, but we will not fall for the game of promising all things to all people and promising \$10 billion more than there is in the budget — like the opposition did — which only means broken promises, increased taxes, cut services or debt. That is what la-la land — Baillieu land — means. This government will deliver the schools, and we will deliver well.

Supplementary question

Mrs PETROVICH (Northern Victoria) — On a supplementary question, as a former education minister the Treasurer will be familiar with Labor’s to date unfulfilled promises to Wallan Secondary College. I therefore ask: when will the Treasurer allocate sufficient funding for the capital upgrade to keep its earlier promise that that school will be a full year 7–12 secondary college?

The PRESIDENT — Order! A little while ago a query was raised about answers to questions and the like. I remind the house that it is inappropriate, in the course of asking a question, to raise an argument or an opinion. I ask members to take that into account next time they are asking a question.

Mr LENDERS (Treasurer) — As I outlined in my substantive answer, this Labor government has delivered more on education than any other government in the history of the state of Victoria. It has delivered more in capital. We have the largest education budget in the state’s history. And it is more than budgets: it is what you do with the resources, how you allocate the resources, how you target the resources and how you have a blueprint for education which aims at achieving outcomes in that system. This government will continue to deliver on educational services, and I can assure Mrs Petrovich that this government will deliver its 500 schools, as promised, during this term, and we will announce in the budget which of those schools are the ones that will receive capital this financial year.

**Australian Automotive Research Centre:
Anglesea testing facility**

Mr LEANE (Eastern Metropolitan) — My question is to the Minister for Industry and Trade. Can the

minister report to the house any recent investment that will facilitate new research and development in the local automotive industry?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for his question. I know he has a significant interest in the automotive industry because it employs such a vast number of Victorians and provides a livelihood for them. One of the things the automotive industry needs is of course the capacity to do testing — that is, to be able to test in real situations the technology that is being developed in Victoria. There has been a bit of a lack of such testing facilities, so I was pleased to be able to be part of launching the Australian Automotive Research Centre's new testing facility down at Anglesea. That site has been the subject of an upgrade which was jointly funded by Robert Bosch, the Linfox Property Group, the Brumby government and the Transport Accident Commission.

The facility is being prepared in order to test some of the new technology, in particular technology like the electronic stability control and antilock braking systems (ABS) that we now have in most of our vehicles. What is important is that when we have developed these technologies for application in the Australian circumstance, in the past we have had to send the cars and the technology overseas for testing in real situations to see whether they actually work. This facility will now allow us not only to test them but also to get international accreditation for that technology and the testing of that technology.

I have to say that while I was out there I was given a demonstration in a vehicle where the driver could turn off the ABS and the electronic stability control in various circumstances. I got to sit in the passenger seat with a professional driver, who drove the car at varying speeds between 80 and 110 kilometres an hour and then had to try to brake or avoid a collision in some way. I can tell the house that the difference between having the technology and not having it is absolutely amazing. It is also pretty frightening if you happen to be in the car! When the driver switched off the technology I think the car did two or three spins before it came to rest on the test site.

This is real technology that can save lives. It is part of what we are going to do going forward in all our cars, because the government has taken the action of insisting that all new cars have this technology incorporated within them. But the missing link has been the ability to test the technology in our vehicles without having to send them overseas to be tested — that is, the ability to have the vehicles right here in Australia, to

test the technology here, to register it here and to obtain international accreditation. All of that has come together in this new facility. I thank the Linfox Property Group, Robert Bosch and the Transport Accident Commission for their participation and involvement in this very important initiative.

Government: financial statements

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to Treasurer. Will the Treasurer explain to the house why the forecast general cash government deficit for 2008–09 reported to the Australian Loan Council last month was \$230 million higher than that reported to Victorians in the budget update?

Mr Dalla-Riva interjected.

Mr LENDERS (Treasurer) — Mr Dalla-Riva interjected, 'We are in the red', and Mr Rich-Phillips talked about figures reported to the loan council. It is amazing how one moment we are accused of having filthy big surpluses that we are not spending and in the same breath we are accused of being in the red. The economics baffles me! It is probably what George Bush, Sr, described Ronald Reagan's economics as: voodoo economics.

Mr Rich-Phillips asked about the debt we report to the loan council and how we reconcile that particular figure with the debt reported in budget figures. These are quite complex accounting issues. David Davis says 'Oh?'. If he feels it inappropriate for a Treasurer to be frank and forthright in a house of Parliament, which is part of the openness, transparency and accountability with which we seek to answer questions, then it makes question time a farce. But I will respond to Mr Rich-Phillips in the form that he sought.

There are several forms whereby government measures debt. Leaving aside the multiple accounting practices — whether it be the generally accepted accounting practices, Australian equivalents to international financial reporting standards, government statistics, net debt or the various forms by which we measure accounts in the budget — the budget is clearly divided into three separate components. We have the general government sector, which is normally what the government talks to, of the debt and the surplus; we have the public non-financial corporations; and we also have the public financial corporations. You aggregate the three of them into the state of Victoria, so you have a figure for each of those subsets and you have a figure for the state of Victoria as a whole. We have all of those, and they are the figures that we report in the

budget, in the budget update and in the mid-year financial report. In fact, we report financially to the Parliament and the community five times a year.

As the *Australian Financial Review* said on 15 January 2003, we are too transparent, we report so often. As I said, we report five times across a number of measures. But what I am required to report to the loan council — once a year — is a net figure for the state of Victoria, and the net figure for the state of Victoria includes the government itself and the government instrumentalities, whether it be Melbourne Water, the Port of Melbourne Corporation or a number of other instrumentalities that obviously have accrued debt in delivering such important services as water and port services.

At a given period of time I report to the Australian Loan Council a figure for what is the net debt of the state of Victoria. There are also five separate times a year when figures are reported on the various subsets for Victoria. It is a complex area, but I guess the message I would give to Mr Rich-Phillips and to the house is that this government is clearly focused on the key areas of how we operate in government.

Firstly we need to be prudent financial managers. The AAA credit rating is something this government values, which means that you have to operate budgets with budget surpluses, as we do and as we have done in every particular year. We know that some of our budget surplus every year then becomes next year's investment in schools — and I note Mrs Petrovich is very keen on a particular school; in hospitals, and Mr Vogels is very keen on a particular hospital; in other hospitals which Mrs Kronberg is particularly keen on; and in all those other projects that members on this side of the house advocate so strongly for.

Our first premise is that we need to run budget operating surpluses so we can then invest in infrastructure in the following year. Secondly, we need to invest that money wisely, so we have targeted service delivery, targeted capital projects and targeted infrastructure investment. And we need to measure this in a prudent sense; it all has to be balanced. That is what it is about.

I report to the loan council once a year, as treasurers of this state have done since the loan council was established in the early 20th century. That is a common figure. It is a reported figure, and that is how government is transparent. I welcome Mr Rich-Phillips's questions on all matters accounting and financial and look forward to his supplementary question, which I am sure is designed to be particularly helpful.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Why is Victoria the only major state to record an increase, and indeed in this case a doubling, of its loan council allocation for 2008–09?

Honourable members interjecting.

Mr LENDERS (Treasurer) — I would be delighted at any time to have a discussion with Mr Guy, who seems to enjoy interjecting on prudent financial management, particularly as his leader, as I enunciated before, wishes to spend \$10 billion that we do not have. He seeks to be all things to all people in a way that would make Juan Peron blush.

Mr Rich-Phillips asked where Victoria stands vis-a-vis other states in the spending on infrastructure. I would say to Mr Rich-Phillips: every Australian jurisdiction is investing in infrastructure. South-west Queensland is like a war zone, it is building so fast to try to catch up with things it needs to do. What we are seeing is that every jurisdiction in this country is investing in infrastructure because the community is requiring us to invest. Victoria was ahead of the pack. When we got into government in 1999 the former government had spent \$1 billion a year on infrastructure. This government now spends \$4 billion a year on infrastructure, a fourfold increase.

For Mr Rich-Phillips and Mr Guy's edification, our net financial liabilities in this state, despite quadrupling our infrastructure expenditure, are the lowest they have been for 50 — five zero! — years. That goes back to those days of the Bolte-Peron governments, if we are talking about Juan Peron on any of these issues. This government is managing the economy with net financial liabilities at the lowest level they have been in 50 years, despite the quadrupling of infrastructure expenditure and despite the service delivery in targeted areas.

I welcome economic questions from Mr Rich-Phillips at any time, and I welcome them from the rest of the opposition. This government is determined to work the economy to create jobs, jobs, jobs, which are so critical for the next generation of Victorians. We will have more jobs so our next generation can aspire to all the things that go with employment. They are the things that make this state such a great place to be: a Victoria that is an even better place to live, work and raise a family.

**Information and communications technology:
Australian Interactive Media Industry
Association awards**

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Information and Communication Technology. Can the minister inform the house of any recent awards that recognise innovation and leadership in the local information and communications technology industry?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for his question. The Australian Interactive Media Industry Association awards are the interactive media industry's night-of-nights awards presentation, and I am pleased to be able to inform the house that three Victorian companies were successful in their categories. They were successful in the categories of best entertainment, best financial service and best online retail. I am very pleased to put on the record the contribution of these three companies, because it is important for Parliament, and certainly for the government, to recognise the achievement of these companies in this industry.

I say that because the information and communications technology industry now employs 83 000 Victorians. It is an industry which is estimated to be worth about \$23 billion annually and provides exports of about a billion dollars. That makes it bigger in terms of exports than even the wine industry. It is a very significant industry for Victoria. In that context, recognition of the companies that are at the cutting edge is extremely important.

I want to recognise Clemenger BLUE Digital, which won the best financial service award for the service it provides in relation to NAB — that is, National Australia Bank — Life. It is an interactive guide providing banking and planning advice for consumers.

The next one I want to recognise is a company called Citrus, which won the best online retail award for its Sportsgirl website. The website provides a shopping experience rich with options, including an option to share clothing choices with friends and others via the internet. It is an innovative use of the web by this company to improve the shopping experience.

The last one I want to recognise is a company called Girl Friday, which won the coveted best entertainment award. This award is for an interactive comedy series delivered via online and mobile technology.

Whilst some members might find these awards humorous, they actually have a serious side to them. The serious side is that they represent the recognition of an emerging industry. It is an industry where innovation is the name of the game. Being able to come up with new and innovative ways of using IT through companies like these is going to further add to employment and export opportunities for Victoria.

Building industry: warranty insurance

Mr KAVANAGH (Western Victoria) — My question is for the Minister for Planning, Mr Madden. It relates to an issue that I understand is relevant to his own portfolio and also to consumer affairs. It concerns home builders warranty insurance. Victoria's compulsory home building warranty insurance offers extremely limited coverage in a narrow range of circumstances. This insurance can be obtained only if a builder first shows that he or she has sufficient assets or a bank guarantee to cover likely claims. To obtain a payout from the insurer, however, the homeowner must have sued the builder and obtained a favourable judgement but been unable to recover on that judgement against the builder because the builder is dead, has disappeared or is insolvent.

In 2007 the Australian Consumers Association labelled the current mandatory privatised last-resort builders warranty insurance as 'junk insurance'. Home builders warranty insurance is currently being investigated by a Senate committee. I understand Queensland has a vastly better system than Victoria, and Tasmania has just announced its intention to replace its scheme, which is like Victoria's scheme at the moment. I ask the minister when Victoria will require that builders warranty insurance offer consumers genuine protection on reasonable terms.

Hon. J. M. MADDEN (Minister for Planning) — I compliment Mr Kavanagh on his question. It is worthy of recognition that it has probably been a long time since I have had a genuine question on either the building or the planning front from the opposition which has been of significance and not about fear and loathing. It is about a significant public issue, and I compliment Mr Kavanagh on the question.

In relation to builders warranty insurance let me say, first of all, that in 95 per cent of domestic building works consumers do not have any disputes and that in the vast majority of cases builders are doing the job they need to do. They do that job particularly well, and only a very small number — a niche, in a sense — involve disputes in relation to building works. What we have seen with the changes to insurance issues over

recent years is a qualification of the desirability for warranty insurance of all sorts, and right across the country it is being redefined and recalibrated.

What is particularly important in this instance is that we have seen two different strategies followed by two different states. New South Wales and Tasmania have headed in slightly different directions. I understand in New South Wales they have sought to strengthen those arrangements and in Tasmania they have sought to remove those arrangements and give clarity to what has been the traditional model of last resort, insurance. In many ways builders warranty insurance is probably best described as insurance of last resort.

Mr Kavanagh's question is a very appropriate one. There is currently work being undertaken within government in relation to these matters to give more clarity and more certainty in terms of what the insurance will and will not do. I think it is also a worthy intent that consumers be informed of what is and is not their entitlement in relation to this insurance. I suspect that any further work in this space and any further announcements will relate not only to a redefining of what the insurance should or should not be but also and in particular to making sure that consumers are well aware of what that means.

I am currently working on this matter in collaboration with my ministerial colleague the Minister for Consumer Affairs in the other place, and I look forward to making further announcements in the not-too-distant future.

Supplementary question

Mr KAVANAGH (Western Victoria) — I thank the minister for his answer and the kind comments, but the question came not from the opposition but from the Democratic Labor Party. On behalf of the government, can the minister assure the consumers of Victoria that the government's policies on this matter will be unaffected by any political donations to any political party?

Hon. J. M. MADDEN (Minister for Planning) — I can absolutely guarantee Mr Kavanagh that any decisions in relation to this matter will be determined by a full, thorough and frank process on the advice of my department, working in collaboration with my ministerial colleague the Minister for Consumer Affairs in the other place, as are all the matters decided within my portfolio and all the responsibilities that I undertake. They are always determined in the best interests of the broader, general public.

Innovation: stem cell research

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Innovation. Could the minister inform the house how the Brumby Labor government is partnering with the New South Wales government to support a new program to expand important leading-edge stem cell research?

Mr JENNINGS (Minister for Innovation) — I thank Mr Tee for his question and the opportunity to inform the house of a program that has been announced today jointly between the state of Victoria and the state of New South Wales. I was very pleased to announce with my ministerial colleague in New South Wales the Minister for Science and Medical Research, Verity Firth, a new, collaborative million dollar program that will be provided jointly by the state of Victoria and the state of New South Wales to support stem cell research. We are hopeful that important scientific developments will occur within our jurisdictions on important matters such as remedies for cancer, Parkinson's disease and Alzheimer's disease as well as work that might lead to mitigation of the adverse effects of diabetes or regeneration after spinal injuries.

These research endeavours are far more important than state boundaries. These are global health issues that are challenging communities right around the world. I am very pleased to say that ours is a jurisdiction, just as is New South Wales, that has provided for the appropriate regulatory regime to deal with stem cell research so that our community can have confidence that the highest degree of rigour, scrutiny and quality can be provided in terms of this important and exciting piece of research.

I know that the house divided on the piece of legislation that provided for that regulation in Victoria. Within the terms of the debate that was generated in this house and the community, there was interest about the relative importance of embryonic stem cell research vis-a-vis adult stem cells and their capacity to be manipulated. Some people were very optimistic. I remember Mr Kavanagh was very optimistic about the reproductive capacity of adult stem cells compared to embryonic stem cells.

I am pleased to say that much of the research is being undertaken in a number of institutions around Victoria at this very moment. This is a centre of excellence and expertise that is being enhanced on a daily basis. Whether it be through the Australian Stem Cell Centre at Monash, the Monash Immunology and Stem Cell Laboratories, the Monash Institute of Medical Research or St Vincent's Institute, or the work that is being

undertaken at the Walter and Eliza Hall Institute of Medical Research or the Howard Florey Institute, there are scientists of great renown in Victoria who are embarking on this important piece of stem cell research.

Indeed their work in the areas that I have underlined — whether it be cancer, Parkinson’s, Alzheimer’s or dealing with spinal injuries — will be enhanced through project funding that will be available from the states of Victoria and New South Wales jointly going forward. I am very pleased to say that there is a heightened degree of collaboration between our jurisdictions. In some areas the states see themselves as competitors. We see that this is an area where we can share learning and opportunities that will be for the benefit not only of scientists in our state but ultimately of our citizens and citizens around the globe who are bedevilled by these various health matters that sometimes restrict their quality of life. We are ultimately interested in enhancing the quality of life of our citizens in the years to come.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 801, 959, 1416, 1650, 1801.

Sitting suspended 1.00 p.m. until 2.03 p.m.

RELATIONSHIPS BILL

Committee

Resumed from earlier this day.

Clause 7 agreed to.

Clause 8

Ms PENNICUIK (Southern Metropolitan) — Clause 8 states:

The Registrar may require persons who have applied under section 6 to provide any further information that the Registrar requires for the purposes of determining the application.

Will the minister tell the committee what further information would be required?

Hon. J. M. MADDEN (Minister for Planning) — I am informed it is really in relation to the application. It may be that the application does not provide sufficient information. I do not think there is any add-on to the

information that has already been provided. It just applies if the information provided in the application is incomplete.

Clause agreed to; clause 9 agreed to.

Clause 10

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Clause 10, after line 32 insert—

“(4) The Registrar may conduct a ceremony in connection with the registration of a registrable relationship under this section.”.

While the registry is open to all couples, it is the only avenue open to same-sex partners to register their relationship. The Victorian Gay and Lesbian Rights Lobby and the Civil Union Action Group in Victoria have called for a ceremony. Mixed-sex partners can get married and therefore have a ceremony associated with that marriage, but the registry is the only avenue open to same-sex couples and it does not have a ceremony associated with it.

This would not be needed if the Marriage Act was amended to ensure that all citizens could be married. There is no reason why that should not happen. Those who wish to avail themselves of a religious ceremony or the other aspects of marriage could do that and those who wish to register their relationships in a legal sense could do that. I know there are a variety of views, but the main groups that are advocating for same-sex registration, same-sex relationships, are calling for the inclusion of a ceremony and I fully support that, as do the Greens.

Yesterday following the debate I received an email from a constituent who states that, as a gay man who is about to celebrate 30 years with his partner, he will not seek to formalise his relationship until such time as there is a formal ceremonial aspect to it. He says:

Unless that happens registration is just a process. I should say I do welcome the debate but the reforms do not go far enough. Until such time as all Australian[s] enter into a civil union our relationships will always be second class at best.

That underpins the reasons for my amendment. This is an era of human rights. We talk about the equality of all people. While marriage is restricted only to heterosexual couples we do not have human rights and we do not have equality of all people. Marriage is an historic relic in terms of not keeping up with the context in which we live; the context of universal human rights and equality of all people. Opening up marriage to all people should and must happen. I again remind the

house that Senator Kerry Nettle introduced a private members bill to that effect into the Senate.

I do not believe that opening up marriage to any two persons who wish to enter into it will undermine it. In fact I believe it will strengthen it, because it will no longer be discriminatory or exclusive. It is exclusive because it excludes people based on their sex, not on their sexual relationship. It is based just on their sex. The action of the Howard government to alter the Marriage Act so it referred to a man and a woman only was a regressive step that entrenched that exclusiveness.

Yesterday I attended a Centenary of Women's Suffrage event in Parliament House. The Attorney-General in the other house spoke about the fact that prior to women getting the vote in 1908 they were discriminated against on the basis of their sex. He also read out parts of *Hansard* from the debate at the time. Of course there were only male members of the Parliament at that stage, one of whom said that if women were given the vote it would be the end of civilisation as we know it, and it would lead to the banning — this is what one of the members said — of cricket, football and racing, which the minister took to heart as he is also the Minister for Racing. That and some of the other examples he put forward are so funny now. How could people even think that way, and how could we discriminate against women in terms of voting based on their sex? Remember — —

The DEPUTY PRESIDENT — Order! I am a little reluctant to do this, but — —

Ms PENNICUIK — I am getting there.

The DEPUTY PRESIDENT — Order! Yes. Ms Pennicuik has moved a motion which I think is fairly specific, and the clause itself is fairly specific. She has canvassed other issues which are outside the scope of her amendment. While I appreciate that perhaps they add some context to her amendment, I would prefer it if she kept her remarks in the committee stage a little closer to what is contained in her amendment.

Business interrupted.

DISTINGUISHED VISITOR

The DEPUTY PRESIDENT — Order! I seek the member's indulgence to acknowledge a former member of the Council who is in the gallery, the Honourable Robert Lawson. Welcome, Robert.

Business resumed.

Ms PENNICUIK (Southern Metropolitan) — Thank you for your assistance, Deputy President. I have been asked by many people why I am moving this amendment so I am trying to establish its context. I will not go too much further. I am suggesting that women were discriminated against based on their sex, and I am suggesting the Marriage Act is almost a relic of that era. Women did not have property rights then either. In an era of human rights and equal opportunity, marriage should be available to any two people who wish to avail themselves of it.

Going back to the reason why I have proposed the amendment, the registration scheme is the only scheme under which same-sex partners will be able to register their relationship. It has been requested that a ceremony be added in connection with that, and I cannot see how that would hurt anybody. That is why I am proposing my amendment this afternoon.

Hon. J. M. MADDEN (Minister for Planning) — We are not opposing the right of individuals to mark the occasion of their registration with a ceremony. That is a matter for the individuals concerned. There is nothing in this legislation that prohibits the holding of a ceremony, or which defines the nature of a ceremony that can be held. It is entirely a matter for the couples concerned. It is very much about a public proclamation and noting the occasion with a ceremony. We are not prohibiting that. People like to publicly celebrate significant events in their lives, and we would encourage people to do that, but this legislation does not prohibit individuals from entering into a relationship and marking it in a public way. We believe it is a matter for the individuals concerned.

Ms PENNICUIK (Southern Metropolitan) — I fully appreciate there is no prohibition of a ceremony, but the point really is that there is no inclusion of a ceremony either. As I said — —

Mr Finn — Do you want to make it compulsory?

Ms PENNICUIK — It would not be compulsory. The amendment says 'may'. A ceremony is incorporated in the Marriage Act; it is part and parcel of it, and it is a public event. As one of my constituents said, the registration scheme is just a process. You go there and register your relationship, there is no ceremony involved. My amendment does not require a ceremony, but it allows for the inclusion of one. That is what people have called for; the choice to have a ceremony conducted by the registrar. I understand they can have a ceremony elsewhere, but that is not what we

are talking about here. We are talking about a formal ceremony that is part of the registration process which is a public event and a public acknowledgement of the relationship. That is what people want. There has been a lot of talk about superannuation rights and medical rights, which are all very important things, but the cultural and social recognition aspect of it is important to people as well, and that is why the amendment has been moved.

Mrs PEULICH (South Eastern Metropolitan) — It is my understanding that the federal government has responsibility for and carriage of the Marriage Act and that a precise definition of the Marriage Act involves the concept of a ceremony. By adopting this amendment the state government would be intruding upon federal jurisdiction.

Hon. J. M. MADDEN (Minister for Planning) — I understand that to be the case.

Ms PENNICUIK (Southern Metropolitan) — Will the minister explain how that impinges on federal jurisdiction?

Hon. J. M. MADDEN (Minister for Planning) — Without spending too long on the point, my understanding is that the member seeks the equivalent of what is in the Marriage Act. That is a federal responsibility. We have powers and authority over certain matters, but so does the federal government. It is really about which government has authority over certain specific civil matters in relation to the likes of the Marriage Act.

Ms PENNICUIK (Southern Metropolitan) — I was not suggesting that we reproduce the Marriage Act. I am suggesting that we include the provision for a ceremony in this legislation. I want to know how that impinges on federal jurisdiction.

Hon. J. M. MADDEN (Minister for Planning) — In that sense we are not trying to. As I mentioned before, there is nothing to stop couples from holding a public event or a celebration or a ceremony. They have that choice. We are not undermining that choice, so we do not believe there is a need to incorporate it in the legislation.

The DEPUTY PRESIDENT — Order! The minister's answer is that a ceremony is not precluded by the legislation presented by the government, but in fact the government is saying, in the way the legislation is constructed, that in its view the registrar would not necessarily be an appropriate person to conduct a ceremony. A person is actually registering a relationship. I ask the minister if I am correct.

Hon. J. M. MADDEN (Minister for Planning) — I believe so.

Committee divided on amendment:

Ayes, 3

Barber, Mr (*Teller*)
Hartland, Ms

Pennicuik, Ms (*Teller*)

Noes, 36

Atkinson, Mr
Broad, Ms
Coote, Mrs
Dalla-Riva, Mr
Darveniza, Ms
Davis, Mr D.
Davis, Mr P.
Drum, Mr
Eideh, Mr
Elasmar, Mr
Finn, Mr
Guy, Mr
Hall, Mr
Jennings, Mr
Kavanagh, Mr
Koch, Mr
Kronberg, Mrs
Leane, Mr

Lenders, Mr
Lovell, Ms
Madden, Mr
Mikakos, Ms
O'Donohue, Mr
Pakula, Mr
Petrovich, Mrs
Peulich, Mrs (*Teller*)
Rich-Phillips, Mr
Scheffer, Mr
Smith, Mr
Somyurek, Mr
Tee, Mr (*Teller*)
Theophanous, Mr
Thornley, Mr
Tierney, Ms
Viney, Mr
Vogels, Mr

Amendment negatived.

Clause agreed to; clauses 11 to 20 agreed to.

Clause 21

Ms PENNICUIK (Southern Metropolitan) — Clause 21 states:

The Registrar may, on application, search the Relationships Register for an entry about a particular registered relationship.

It talks about the applicant and says the applicant must do quite a range of things. I am just asking who the typical applicant under this clause would be.

Hon. J. M. MADDEN (Minister for Planning) — The applicants would be the two people involved in the relationship, I would assume. I would not assume anybody would be making an application on their behalf.

Ms PENNICUIK (Southern Metropolitan) — I am just clarifying that it is not a third party.

Hon. J. M. MADDEN (Minister for Planning) — I understand it is unlikely that a third party would apply, but there are also privacy protections there.

Clause agreed to; clause 22 agreed to.

Clause 23

Ms PENNICUIK (Southern Metropolitan) — A simple question: does the registrar have an existing privacy policy?

Hon. J. M. MADDEN (Minister for Planning) — I am informed the answer is yes.

Clause agreed to.**Clause 24**

Ms PENNICUIK (Southern Metropolitan) — Clause 24 states:

The Registrar may, on conditions the Registrar considers appropriate —

- (a) allow a person or organisation that has an adequate reason for wanting access to the Relationships Register ...

Who would be an organisation or a person that has an adequate reason?

Hon. J. M. MADDEN (Minister for Planning) — I am informed it could be somebody like an academic who might be conducting some research or something, but there would be privacy issues in relation to the register, which would be covered.

Ms PENNICUIK (Southern Metropolitan) — Is there any reason that that was not better stipulated? Basically I am motivated to ask this question to assure myself that nobody with mischievous intent would be wanting to apply for information from the registrar.

Hon. J. M. MADDEN (Minister for Planning) — My understanding is that there are privacy considerations across all of this legislation, and that would be the case in relation to this.

Clause agreed to; clause 25 agreed to.**Clause 26**

Ms PENNICUIK (Southern Metropolitan) — Clause 26 states:

Despite anything to the contrary in this Act, the Registrar may maintain records of information, other than registrable information, relating to registered relationships.

What type of information would that other information be?

Hon. J. M. MADDEN (Minister for Planning) — My understanding is it could be something as simple as changes of address and previous addresses or it could

be something like the duration of the relationship and the term of the relationship if the relationship comes to an end.

Ms PENNICUIK (Southern Metropolitan) — I am again concerned about the broadness of these provisions in terms of what extra information can be maintained. This would not be the case in terms of births, deaths or marriages, where very specific information is kept. This says 'information, other than registrable information'. It also states in subclause (3):

The Registrar may include information in the records maintained under this section at the request of a person interested in the registered relationship ...

Who is 'a person interested in the registered relationship'?

Hon. J. M. MADDEN (Minister for Planning) — I understand that these provisions are the same as those in the births register and the deaths register.

Ms PENNICUIK (Southern Metropolitan) — Does that mean that the information collected would be on a standard form, as it is with births, deaths and marriages?

Hon. J. M. MADDEN (Minister for Planning) — I do not want to go into great detail about how an administrator might seek to administer this, but I would expect it would take that form and there would be a standardised system of collection of information. I suppose if there had to be an adjustment to that information there would be a standardised form or application process, be it computer related or paper related. I anticipate that the collection and retention of that information would be standard also.

Ms PENNICUIK (Southern Metropolitan) — I will probably contact the department for more information on that, as it is an issue I have some concerns with.

Clause agreed to; clauses 27 to 75 agreed to.

The DEPUTY PRESIDENT — Order! I am of the view that Ms Pennicuik's amendment 3 was effectively tested by her amendment 1. As I declared that amendment lost, I suggest we do not proceed with amendment 3 standing in Ms Pennicuik's name.

Schedule agreed to.**Reported to house without amendment.****Report adopted.**

Third reading

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a third time.

I wish to thank the members of the chamber for their interest in the debate in the committee stage. I appreciate the assistance of Brian Tee, the Parliamentary Secretary for Justice, who has assisted in many discussions around this legislation.

House divided on motion:*Ayes, 29*

Atkinson, Mr	Madden, Mr
Barber, Mr	Mikakos, Ms
Broad, Ms (<i>Teller</i>)	O'Donohue, Mr
Coote, Mrs	Pakula, Mr
Dalla-Riva, Mr	Pennicuik, Ms
Darveniza, Ms	Petrovich, Mrs
Davis, Mr D.	Scheffer, Mr
Eideh, Mr	Smith, Mr
Elasmar, Mr	Somyurek, Mr
Guy, Mr	Tee, Mr
Hartland, Ms	Theophanous, Mr
Jennings, Mr	Thornley, Mr
Leane, Mr	Tierney, Ms (<i>Teller</i>)
Lenders, Mr	Viney, Mr
Lovell, Ms	

Noes, 9

Davis, Mr P.	Kronberg, Mrs
Finn, Mr	Peulich, Mrs (<i>Teller</i>)
Hall, Mr	Rich-Phillips, Mr
Kavanagh, Mr (<i>Teller</i>)	Vogels, Mr
Koch, Mr	

Motion agreed to.**Read third time.****DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL***Introduction and first reading***Received from Assembly.****Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).****CROWN LAND (RESERVES) AMENDMENT (CARLTON GARDENS) BILL***Second reading***Debate resumed from 13 March; motion of Mr JENNINGS (Minister for Environment and Climate Change).**

Mr D. DAVIS (Southern Metropolitan) — I am pleased to make a contribution to the Crown Land (Reserves) Amendment (Carlton Gardens) Bill. In doing so, I indicate the opposition will not oppose the bill, but I will make a wide range of comments.

I start by putting this in the broadest context. The Melbourne International Flower and Garden Show is a signature event for Melbourne, a flagship event for the flower and garden industry, a very important event for tourism in Melbourne, and an event that the opposition strongly supports. The history of the flower and garden show, and the move to the current site, goes back to the middle period of the Kennett government, a very successful government and a government that used the international events strategy as a way to pull Victoria up by its bootstraps.

Victorians will remember the period in the late 1980s and early 1990s where the state was in catastrophic freefall. The economy was a disaster, unemployment reached 12.9 per cent, and the population of Victoria was in significant decline as people moved to Queensland. A number of people on the other side of this chamber had a part in the handiwork of destroying much of the state's economy, its industrial base and its small business base, and it fell to the Kennett government, when it was elected in 1992, to begin the process of rebuilding Victoria's economy.

The then Premier understood the importance of this strategy to not only mobilise the activities of important industries but also as a way of putting Melbourne on the international map. The Australian Formula One Grand Prix was part of that process, but the flower and garden show had that strong link back into the nursery and garden industries, which are a big part of Victoria's economy. Under the Hamer government Victoria was dubbed the 'garden state'. This is a good image for the state — a clean and green state that is determined to embrace its heritage in that regard and in a sensible way to step forward.

Heritage is also an important part of this bill because the Royal Exhibition Building is a World Heritage listed icon and something of which all Victorians can

be proud. Some members in this chamber may well remember the debate on the Heritage (World Heritage) Bill. I was proud to speak on that bill in this chamber and support the nomination and the final successful process that saw the Royal Exhibition Building and precinct given World Heritage List status. The precinct is an important part of this process; it is not just the building but also the surrounding gardens. It is clear when you look at the World Heritage List nomination materials that it encompasses the surrounding buildings and streets as well. It is a wide area of which Victoria can be justly proud.

Our predecessors in the age of the great exhibitions and expositions were people gifted with great foresight. They were able to put Melbourne on the map in the 1880s in a way that was important for the economy at that time. The strategy of using these events as signature events is not new, but the Kennett government took it to new heights in the late 1990s. It is true to say that the situation in Victoria has deteriorated since the Kennett government lost power in 1999. The recent figures for domestic tourism are particularly worrying. Victoria's retention of its own tourists has slid significantly since those Kennett government days. That is indicative of this government's failing events strategy and its failure to understand the importance of events.

I want to pay tribute here to that Kennett government period when the now Deputy Leader of the Opposition in the other house, Louise Asher, was Minister for Tourism. She used to sit in the same chair that the Minister for Planning is now sitting in. She was very successful in driving that major events strategy for the Kennett government. She was successful in ensuring that Victoria pushed its way up the national and international agendas and dragged in tourists from around the world. I pay tribute to her work as well as to the work of the former Premier, Jeff Kennett.

I want to put on record that the opposition has some real concerns about this bill. The bill is sloppy and has been driven by what I might call the narrow politics of the activities of the Minister for Tourism and Major Events in the other place, Mr Holding. I, for one, am not convinced about certain aspects of the structure of the bill. Let me be clear about what the bill does. The bill claims that its purpose is to provide for the management of land in the Carlton Gardens Reserve during special events and to allow the continuance of the Melbourne International Flower and Garden Show at the Carlton Gardens site beyond the current year.

I know the council made a series of decisions recently, but in my view it did not provide the long-term security

that the flower and garden show needed, and that could be because of negotiations that involved two or three parties. In a sense it also involves the government. The council, whilst supporting the flower and garden show, did not support it continuing on the current site beyond this year. The flower and garden show, as people will know, has just finished. There was a lack of security into the future about the site and location.

I am aware that offers were made by council and others of other venues. I am frankly not in a position to judge the viability or sincerity of those offers, or the capacity of the council or the government to deliver on alternative venues. It would seem to me that moving it to a different venue would fundamentally change the current flower show.

Having said that, I am conscious that a range of legitimate issues have been raised about the conduct of the flower show in the World Heritage listed Exhibition Building gardens. There are issues of compaction and other related matters. I will not detail every one of those; they are now well known, and there has been significant public debate. As members of the public land inquiry, members of this chamber, including me, have been provided with information on the protection of the gardens. A number of groups — the Residents 3000 group, the Carlton Gardens group, the Protectors of Public Lands and others — have provided the inquiry with sincere and, in many respects, significant evidence.

I do not believe it is suitable to sweep these issues under the carpet. They have to be dealt with, and a clear-eyed view has to be taken to ensure that those World Heritage List gardens and buildings are protected adequately. That is not to say that the opposition does not support them, because it does. But at the same time it, along with others, has a fair set of questions to put about how it will operate. It seems a whole range of steps could be taken to provide greater public assurance about the protection of those gardens. I would seek that the government take those steps.

I have said that this is sloppy drafting and is a sloppy bill in many regards. Its main provisions permit the minister to recommend to the Governor in Council that events suitable to be held in the Carlton Gardens Reserve that are of significance to the state be declared special events — they are not defined, they are just special events. The provisions permit the suspension of powers of the trustees or committee of management of the Carlton Gardens — that is the council in this case — for the period of special events and the granting of specific powers to the secretary or the Melbourne Convention and Exhibition Trust. They also permit the

suspension of local laws to the extent that they apply to the Carlton Gardens Reserve and, where the event organiser fails to ensure the restoration of the gardens after each special event, empower the secretary or the trust to carry out restoration work and recover the costs of those works from the event organiser.

It is interesting to note that during the briefing I asked the bureaucrats, 'What happens if one of those ancient and World Heritage listed trees is killed in this process? How do you make restitution there?'. In the exchange I flippantly asked, 'What do you do? Do you plant a seedling and water it for 45 years? Is that how you do it?'. My point, though, is that there is real need to exercise great care and caution with the gardens and to have proper protections in place. This is another area of criticism from me of this government — that it has not put in place all the protections it should have.

The management plan that is required under the World Heritage listing is, as far as I can see, not in place, and that is a serious problem. It is an omission; it is derelict in many respects to say that that should not be in place, given the international obligations that the state and the nation have accepted by placing forward and then accepting a World Heritage List nomination for this significant building.

The question I ask the minister, so that he may turn his mind to it now rather than later in the proceedings, is: why is there no complete management plan in operation? That is also a relevant question that can be put to the federal minister. I have to say that the federal Minister for the Environment, Heritage and the Arts, Mr Garrett, has not covered himself in glory in the recent period. I just hope he does not push through with the environmental cuts he is planning for Victoria, the first being the 40 per cent wind back of funding to catchment management authorities across Victoria as of 1 July 2009, with that money becoming contestable, unfortunately for Victoria, against a set of priorities that disfavour Victoria. Mr Garrett's proposed mechanism is that as of 1 July 2009, 100 per cent of the money in a reduced pool will be contestable; Victorian catchment management authorities will be assured of nothing — precisely zero — and will have to bid for all of their funding from this pool against matters that do not favour Victorian environmental projects and catchment protection steps.

The reality is that Victoria has the best catchment management protection system in the country, with catchment-based authorities, the so-called catchment management authorities, in place. These authorities, which are appointed by the state government, are put in place with responsibilities to coordinate the land, water

and restoration projects in those catchments, and they rely in part on federal money, in part on state money, and in part on other sources of funding.

For the sake of discussion on this bill, let me pick the Port Phillip and Westernport Catchment Management Authority. It has a budget of around \$6 million a year; about \$4 million of that is federal money. This year the Port Phillip and Westernport Catchment Management Authority will face a cut of 40 per cent — about \$1.46 million — and on 1 July 2009, for all of its \$4 million of federal funding, it will have to bid into the pool against a set of priorities that explicitly list the Great Barrier Reef and the Tasmanian devil and so forth as worthy environmental projects.

The fact is that all of the catchment management authorities will face real trouble in competing where the priorities have been jiggled — indeed, rigged — in favour of projects that are not in Victoria. We will see that wind back. The Carlton Gardens is in the area of the Port Phillip and Westernport Catchment Management Authority, and I make the point that if there were some environmental work to be done on a site like that, it would have to bid from that pool of money that will almost certainly be increasingly siphoned into interstate projects at the expense of Victoria's catchments and environment.

As we heard in the biodiversity paper delivered on Sunday — and Mr Barber will remember the climate change summit — land clearing in Victoria, on both public and private land, has proceeded further in Victoria than in any other state, so in that respect it is the most degraded state in the country. Yet Mr Garrett, the federal minister, proposes to wrench money out of Victoria and circulate it to other states.

Whilst I am talking about the climate change summit I will put on the public record my displeasure at the Premier's decision to deny the opposition two, or even three, places at the summit. The Leader of the Opposition in the other house, Ted Baillieu, after discussions with me, spoke to the Premier's office and sought invitations for the opposition. He was told that a single invitation was all that would be provided. He asked whether that invitation was transferable. He sought to go in the morning and to have me go in the afternoon. He was told that it was not transferable. In the interests of having the maximum representation from the Liberal Party, I was there all day. From the opposition ranks, Mr Baillieu would have gone in the morning; Mr Wells, the member for Scoresby in the other place, was interested in attending; and a number of others were interested. Robert Clark, the opposition

energy spokesman in the other house, was also interested in attending the summit.

Perhaps the Labor Party, showing its true colours here, was determined not to allow proper representation by the opposition. I think that was churlish and ultimately a bit counterproductive, in the sense that I would have thought these issues involving climate change were far and away beyond the sorts of issues that should involve what I might describe as petty party politics.

Returning very strictly to the bill, I think there is a role for the federal minister to ensure that the state minister and the state government live up to the obligations they have undertaken under the United Nations Educational, Scientific and Cultural Organisation instruments. The federal Minister for the Environment, Heritage and the Arts, Peter Garrett, has indicated in writing that he will not intervene in matters surrounding the Melbourne International Flower and Garden Show. He has indicated that he accepts the assurances of the state government. I do not know that he has taken all the steps that he should.

I want to say something about the nursery and garden industry, which is facing a difficult time at the moment. Prior to that I indicate that the reason I see this bill as sloppily drafted is that, contrary to what is purported in the second-reading speech, it does not provide a protection for the Melbourne flower and garden show. No such explicit protection is provided. Whilst I accept the assurances of the current minister that he will provide protections for the flower and garden show, no protections exist in the bill which guarantee the future of the show in the longer term, when a different minister or indeed a different government under a different leader may be in power. The bill does not provide the full level of security that the flower and garden show people sought.

There is also a concern that the bill is very broad. It actually provides the minister with enormous powers to declare special events. As I have said, these are ill-defined powers. What will that mean in terms of what sorts of shows may be held on the Carlton Gardens site? The answer is that no-one knows. The minister has been silent on whether he has other events planned, what the nature of those planned events may be, and how he intends — —

Mr Barber — A Jimmy Barnes reunion concert!

Mr D. DAVIS — I can think of some other things that might not be satisfactory for the Carlton Gardens. A minister who is responsible in the future may not exercise the caution and thought that is required to

protect the gardens. In my view it is a weakness that full protections are not provided by this bill.

I want to say something about the importance of the nursery and garden industry to Victoria and the difficult challenges it has faced in recent periods. Over recent years during the drought the state government's failure to provide proper water infrastructure has been a major challenge to the flower industry and the nursery and gardening industry. The water levels in Melbourne's reservoirs are still, even today, far lower than any of us would feel secure about. This government has failed to put in place the proper infrastructure programs and conservation measures to guarantee water supply and to take the proper recycling steps that could have given much greater security to Victorians, and to Melburnians in particular.

It is interesting and enlightening but also very concerning to read the Auditor-General's report tabled yesterday which shows the ad hoc nature of policy-making by this government with respect to water infrastructure. Clearly there was no plan. Clearly as the drought began to bite the government scurried around in a desperate attempt to find some solutions to the water issues, and frankly it has yet to deliver on any of those major programs. We learn in the Auditor-General's report about the difficulties of costings on these projects and we learn that the government had not done the full analyses that you would expect of governments undertaking major projects.

People in the nursery and gardening industry have every reason to be angry with this government and to point to the fact that their industry has faced unnecessary challenges that could have been mitigated by putting in place a proper water-saving regime and additional water supply measures. I pay tribute to the nursery and gardening industry for its significant contribution to the Victorian economy and I think in a certain way to the Victorian psyche. We are a city and state that is proud of our gardens and trees, and is prepared to invest in this important aspect of our culture and environment. The gardening and nursery associations are a very important part of that. To that extent I make the point that the flower and garden show does play that very critical role as an emblem or a flagship for that industry. For that reason, the opposition will not be opposing this bill.

Mr BARBER (Northern Metropolitan) — The Greens will be voting against this bill, not for any technical reasons that might have been able to be corrected by amendment but simply because we do not support the principles of the bill. We think the bill fails

to get the values right, and two values that this bill fails the test on are World Heritage listing and local democracy. I have nothing against the flower and garden show. It is very successful. Judging by the number of people who attend the show, it is clearly an enjoyable experience for many, many people, and that reflects the fact that gardening itself is a very enjoyable and worthwhile pastime. But the question that must be answered and the consideration that must come first is about the protection of a World Heritage listed site.

Article 4 of the World Heritage Convention says:

Each state party to this convention recognises that the duty of ensuring the identification, protection ... presentation and transmission to future generations of the cultural and natural heritage ... situated on its territory, belongs primarily to that state. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and cooperation ... which it may be able to obtain.

Of course, this being a World Heritage List site, it is also governed by federal law, the Environment Protection and Biodiversity Conservation Act. In fact, that law itself states:

A person must not take an action that:

...

is likely to have a significant impact on the World Heritage values of a declared World Heritage property.

World Heritage List matters are a trigger for the EPBC act to come into play — that is, in any circumstance where a significant impact may occur. So the question is: is the Melbourne International Flower and Garden Show having a significant impact? The federal government has ducked answering that question properly and so have those responsible for putting the show together. It is a requirement of any person who is going to take that action to seek advice from the federal minister as to what level of approval they may require. Given that there are 50 000 penalty units involved for failing to do so, it is not surprising that most people, most developers and most entities taking an action play it safe and prepare an application for a referral under the federal act.

If members go to the Environment Protection and Biodiversity Conservation Act website, they will see many applications there, the vast majority of which just receive a formal letter from the minister saying, 'No approval required'. But that has never occurred in this case under any minister, including the predecessor Liberal environment ministers. To my mind there has been a failure by those responsible for organising the event to have made that application and assured themselves. There has been a failure by those federal

ministers who have the power to request such an application, and the state government also has the power to refer an action to the federal government under the EPBC act for any matter. That has never happened, and it was only after a long exchange of correspondence and a range of other actions that Peter Garrett wrote back to those community groups and said that he was not going to require referral, carefully leaving aside the issue of any assessment of the significance of the impacts.

We have about 17 World Heritage List sites in Australia. Since this is a young country, not surprisingly, not a lot of the listings are for buildings — in fact only two of them are: the Sydney Opera House and the Exhibition Building. Most of them are sites registered for their natural values, and in a lot of cases also for their cultural values where living Aboriginal cultures coincide with those natural areas. As a country we are very young in our European history. We do not have many buildings that are important to our culture and tell the story of our culture: so far there are just the Exhibition Building and the opera house.

Is there a significant impact going on? This is a matter of dispute between the organisers, concerned local residents, the council and now the state government, having dragged itself into this. The concern is that with the large number of visitors going through the Exhibition Building area damage could be done to the gardens, which provide an important part of the site and an important context to the story of this cultural heritage site. Over the last 10 years there have been a million pairs of feet walking back and forth over those gardens. In a fairly short span of time that has had some real impacts on the lawns and trees and has contributed to the impaction of the soil. There has been damage to the physical infrastructure, such as the watering systems. There has been the restriction on watering over the entire period of the set-up of the Melbourne International Flower and Garden Show and then the breakdown, which means trees and lawns are not getting water at that time. To my mind those impacts have not been properly managed.

Denise Underwood from Site One consultants provided independent advice on the assessment of damage, suggesting that first of all the view that there had been no serious compaction to the soil was not correct. In fact 5 out of the 10 tests failed the standard. She also argued that the measurement of the condition of the canopy of the trees was not an appropriate measure of potential damage, being done as it was during autumn when all the leaves are going brown and falling off anyway. Trees need adequate water and nutrients to build up the sorts of stores of energy they need to

survive not just the winter when they have their leaves but also summer when drought conditions mean they cannot grow as fast as they normally would. So there is an unanswered question as to the impact that a flower show of this scale is having on those gardens, especially over the longer time.

I have nothing against the flower show itself. It is very successful; it is so successful that if got any bigger, it probably would not fit into the gardens. There are other flower shows in Melbourne. There is the big one at Caulfield. There are a lot of opportunities: there are many alternative sites where such an event could be held. It could be held at the Melbourne Cricket Ground or at other open space areas. It could be held at the Melbourne showgrounds, which have been provided for that purpose. That is a real concern. The government has not offered any new level of assurance on that. In fact the legislation as it is drafted makes only this requirement under proposed new section 29S, inserted by clause 4:

- (1) The event organiser of a special event must immediately after each special event period, restore, or ensure the restoration of, the special event management area to a condition reasonably comparable to its condition before the beginning of the special event period.

It could certainly have been framed in the other direction. It could have said, 'no worse than'; or it could have said, 'at least as good as and possibly better than'. It could have been an aim of this exercise to restore and protect the values rather than simply returning them to a reasonably comparable condition without any detail on what will be the measures of condition being assessed. It could be not just that we get some grass back, but that the long-term health of the trees and the other infrastructure elements of what makes this a valuable place are protected. Never mind the government's responsibilities — I am talking about the federal government now; it is the same government; it is a Labor Party government — to protect, present and showcase this place!

As we heard from an earlier contributor, no World Heritage List management plan has ever been prepared, so the sorts of issues that we are discussing here cannot be addressed through an open process, nor can they be put into a management plan where management actions would be properly delineated. Instead we get this tissue piece of legislation, which says we hope for the best and that the conditions will be reasonably comparable, with the second paragraph of proposed new section 29S stating:

- If the event organiser does not comply with subsection (1), the Secretary or the Trust may carry out the restoration works

and recover the costs of those works from the event organiser as a debt due to the Secretary or the Trust.

Then it hands it back to the council as the custodian of the site forever more but leaves the council with no power to enforce its own standards for protection; it simply leaves that up to the discretion of the trustee, who is only being sandwiched in here for a short period of time with the control of the piece of land.

That brings me to my second issue. This bill also destroys local democracy, and it does it in a very unconcerned fashion. For the state government to be intervening on any particular event and saying to local government, 'You know what, we do not like the way you do your job there; we are going to take over in the most limited way, in the most minimalist fashion that we need to get what we want, and then we will hand back to you all of your ongoing responsibilities' is quite a bad political precedent, not to mention the potential legal entanglements that it sets up. If that is the government's attitude to local government — 'We will give them all the responsibilities in the world until they do something we do not like; because we cannot simply walk into a council meeting and reverse its decision, we will just legislate it out of existence' — it may create an incredibly dangerous precedent.

Maybe some will argue that this is a major event and one of statewide significance and ask how it can be left to a local council to be the responsible authority. You can leave that to a local council because local councillors, being close to the people — closer than most of us including those here with half a million electors in our seats — are intensely aware of whom they are there to represent and what their responsibilities are.

As a capital city council, of course Melbourne City Council understands that it is responsible for major events and events of state significance. In fact most of Melbourne City Council's activities have state significance. It has responsibility for transport infrastructure, buildings, other icons and educational institutions of state significance. Every time the Melbourne City Council makes a decision, it is constantly aware that it is the capital city council.

This is not about parochialism or nimbyism of an individual local council. This is simply about the fact that the government disagrees politically with the order of priorities that Melbourne City Council has set up. That is surprising, given what a rotten borough the Melbourne City Council is in terms of its voting system, a system set up and maintained by the Bracks government, that guarantees a millionaire will be lord mayor and gives people with a car parking space a vote

at the same level as an individual resident or stakeholder. That the government allows this system to continue shows complete contempt for the principles of democracy, not to mention local democracy as it is so highly valued here in Victoria.

The bill suspends not only council's control over the site for the necessary period but all relevant by-laws. That could make things interesting. I have not actually checked all the local council by-laws that have been created by the Melbourne City Council but I imagine they include things such as parking, litter, graffiti, animal management, people management, possibly drinking — alcohol consumption — and so forth. At the stroke of a pen the government has decided to wipe out all the council's by-laws. Because the government cannot be bothered sitting down and working out which ones may or may not impact on this event, it has just wiped them all with the stroke of a pen. The by-laws now are in effect on one side of the fence but not the other.

This is just absolutely contemptuous of the role of local government and the importance placed on it, not by the technical wording in a local government act but by individuals in their own attitudes to local government. Those of us who have been local councillors and those of us whose role here involves working frequently with local councillors and helping them to do their jobs as local representatives would be very disturbed by such a cavalier attitude to local government. For that reason the Greens will be voting against the bill. Now the responsibility for this event and this site has been placed firmly in the hands of the government. They asked for it.

My understanding from the information that I obtained when talking to Greens Cr Fraser Brindley is that the event managers and the council were in negotiations, that councillors were offering options designed to limit the most damaging aspects of the show — its highest impact activities — by moving them to the hard-surface areas and that those negotiations were broken off when the state government obviously gave the nod to the organisers that it was going to introduce this bill. Not surprisingly, the negotiations did not go much further.

Mr Pakula — Not true!

Mr BARBER — There are many versions.

Mr Pakula — I will give you mine next.

Mr BARBER — I will give that much to Mr Pakula, there are many versions of where those negotiations got to. One version would be the government's version, another would be the council

administration's version, and there may be other councillors' versions. I am sure John So has his own version. As I said, my information from Cr Fraser Brindley was that at least one councillor was prepared to discuss the option of moving the highest impact activities of the show to the hard-surface areas.

Ms Pennicuik — Would that be the four-wheel drive show?

Mr BARBER — I am not sure if it is the four-wheel drive component of the flower and garden and four-wheel drive show, but they could move those to the hard-surface areas. Those negotiations were broken off when the state government decided to make itself the responsible authority. We will work with the local community to make sure that the state government is responsible in the role that it has asked for for itself.

Mr PAKULA (Western Metropolitan) — I rise to speak in support of the Crown Land (Reserves) Amendment (Carlton Gardens) Bill 2008. I do so primarily because the Melbourne International Flower and Garden Show is one of Victoria's premier tourism events, which attracts more than 100 000 visitors each year. It is the largest flower and garden show in the southern hemisphere, and one of the five largest flower and garden shows in the world. It is an event that has been running for 12 years but unfortunately it has become the victim of politics, specifically the politics of the Melbourne City Council. I will come back to that later in my contribution.

I touch on one of the issues that Mr Barber raised when he referred to the term 'local democracy' and whether nimbyism was in play, which is an important sideline to this issue. Mr Barber elevates local democracy above almost all else but, as he presciently predicted, it is important for us as the Parliament to recognise that in certain circumstances there are more pressing interests, the interests of the community more generally, the interests of the state more generally and interests which are not always considered properly by local government. I think that has been borne out in this instance. The principal objectors to the ongoing presence of the Melbourne International Flower and Garden Show in the Carlton Gardens have been the Carlton Residents Association and the Carlton Gardens Group.

I want to refer to an article written by the demographer Bernard Salt about a month ago in the *Weekend Australian*, in which he identified a growing trend, one which is not exclusive to Melbourne but which he argues is more prevalent in Melbourne than elsewhere — the syndrome commonly known as 'not

in my backyard'. It tends to rear its head in circumstances where events or infrastructure projects are proposed, and in those circumstances it is characterised by groups of residents in reference to that event or infrastructure being primarily or almost exclusively concerned with their own personal amenity. Their concern with their own personal amenity occurs almost to the complete exclusion of all other considerations, whether they be the interests of members of the community from another postcode, the interests of the community more generally, hobbies or activities that other members of the community enjoy and believe quite rightly that they have a right to enjoy, or matters that impact on the state's economic fortunes, on employment or on questions of personal mobility. All of those considerations can find themselves discarded in the pursuit of outcomes which have been described by someone else as a mindset of 'Don't build anything anywhere near anyone'.

I think the campaign against the Melbourne International Flower and Garden Show takes that kind of mindset to a new level. We need to face facts. We are not in this circumstance talking about a grand prix or a triangle development or a tunnel or a residential tower or office block. We are talking about a flower and garden show being exhibited in the Carlton Gardens for five days out of 365.

Mr Barber interjected.

Mr PAKULA — From 2 April to 6 April — five days. The residents need to recognise that the Carlton Gardens are not their backyard and are not for their exclusive use.

Mr Barber — They don't have backyards.

Mr PAKULA — One of the things you sacrifice if you live in Carlton is a backyard. The residents need to recognise that it is not their backyard and that it is an asset to be enjoyed by all Melburnians and all Victorians. Visitations to the Melbourne International Flower and Garden Show from all parts of Melbourne and all parts of regional and rural Victoria demonstrate that it is an immensely popular event right across the state.

The Carlton Residents Association and the Carlton Gardens Group made what was a lengthy submission, a 12-page written submission to the Legislative Council select committee into public land development. The submission had lots of supporting documentation, before and after photos — interestingly, the before shot was from the 1950s and the after shot was 2007 — but when you actually synthesised their argument into its

nutshell it seemed to be this: that the Carlton Gardens should not be appropriated for private profit, especially when the pursuit of that profit causes significant environmental damage to internationally listed gardens. I do not want to verbal them, but in a nutshell that is their argument.

Mr Barber — You heard my argument.

Mr PAKULA — I did hear Mr Barber's argument. I argue that it is a stretch at best to describe the Melbourne International Flower and Garden Show as being primarily about the pursuit of private profit. I think to characterise it in that way does the event and the exhibitors at the event a great disservice. Quite apart from the event's popularity amongst Victorians and visitors from elsewhere, it also plays a significant role in raising both the profile and the expertise of the Victorian horticultural industry. It provides a platform for the cream of people in our gardening industry to showcase their talents to the best in the world and to give them the opportunity to compete against the best in the world. To blithely describe the event as a trade fair, which is all about private profit, does the event itself a great disservice.

As to the environmental damage to the Carlton Gardens, the question that arises in my mind is: how long does this event have to be held at these gardens before we accept that it does not do any significant environmental damage to the gardens? The event has been held there for many years and, what is more, the Melbourne City Council — which, as Mr Barber indicated, is the body that made the decision to ban the garden show from the gardens — commissioned its own reports into the damage, and those reports indicated that the flower and garden show does not do any significant harm to the Exhibition gardens. I will not quote those reports, because I have been through *Hansard* and I saw that they were quoted extensively in the contribution by the member for Brighton in the other place.

Mr Barber — You haven't read them.

Mr PAKULA — I have read them, and as I said, they have already been read into *Hansard* by the member for Brighton in the other place and I do not think it is of great value to this chamber to do it all again. I will pick out a couple of the main bits. The council found there had been minimal impact on the physical condition of the soil and no discernible impact on the health of the vegetation, being the trees, shrubs and grass, in the gardens. That second analysis was carried out by a heritage consultant approved by Heritage Victoria. It makes one wonder why the

council would make the decision to not permit the show after 2008, and I think that is a very good question. The only reasonable answer is the internal politics of the Melbourne City Council.

Mr Lenders — The eternal or the internal?

Mr PAKULA — Eternal and internal, Treasurer. The residents are entitled to feel very let down by the council, because as a result of the game playing that has been carried on by councillors by their refusal to compromise — and I will come to the issue of compromise — it has necessitated the government intervening and taking the action that it has taken in bringing forward this bill.

I want to go to the question of compromise because Mr Barber raised it in his contribution, and it is important to record my understanding of what occurred. Council officers attempted to negotiate a compromise with the International Marketing Group, the event organisers, and in fact council officers and the event organisers successfully reached a compromise agreement which would have reduced the footprint of the flower and garden show on the Exhibition gardens by 40 per cent. That agreement was overturned by the councillors. An agreement was reached between the organisers and the council officers, but the councillors refused to endorse that agreement. I would argue that is not an approach that is outcome driven, and it is not an approach that is sensible. It is a kind of pointless posturing that has actually led to an inferior outcome for the residents, and they are entitled to hold the council responsible for that.

As a result we now have the bill before this chamber. As Mr Davis indicated in his contribution, it ensures the flower and garden show can continue to be held in the gardens, but it enshrines in legislation the view of this government that decisions about the future of this event need to be the responsibility of the government rather than the responsibility of the council, particularly given the conduct of the council in those negotiations. Unlike some of the doomsday scenarios that have been suggested, the suspension of the council's powers are only temporary; they are only for the purpose of holding this event. If council wants to rethink its approach and its position in the years ahead, it will not be necessary for the minister to make a recommendation for a special event declaration under this legislation.

As for the criticism by Mr Davis about the breadth of the legislation, yet again it is a case of never letting the truth get in the way of a good story. The criticism is that the bill provides powers that go beyond a declaration

specifically relating to the flower and garden show. The facts of the matter are these: the bill has been prepared to respond to a specific set of circumstances; it applies only to the Exhibition gardens; and it is intended only to apply to the flower and garden show. Mr Barber somewhat facetiously referred to a Jimmy Barnes reunion concert as being the sort of event that might be able to held there.

Let me go to proposed section 29L(3) which states:

A special event management declaration cannot confer power to permit the use of the Carlton Gardens Reserve for a purpose that is inconsistent with the reservation of the land unless it is a purpose that is, or is connected with, an exhibition purpose.

It can only be used for an exhibition in those gardens, not for a concert.

Mr Barber — A monster truck show?

Mr PAKULA — Not a monster truck show. The reason it refers to an event rather than to the flower and garden show specifically, as I am sure Mr Barber would know from his time on council, is a matter of legislative prudence. If the name of the show changes or if there is an incremental evolution in the nature of the show, we will not have to come back and legislate for it. The bill is about the event. It is necessary because of the conduct of the council. The flower and garden show is an essential part of Victoria's tourism matrix. It is a very popular event. The bill is necessary to protect the flower and garden show, and I commend it to the house.

Mr HALL (Eastern Victoria) — I am pleased to have the opportunity this afternoon to comment on the Crown Land (Reserves) Amendment (Carlton Gardens) Bill. Some time ago the nursery industry met with The Nationals to express some concerns about the future of the Melbourne International Flower and Garden Show. Predominantly its concerns centred around the uncertainty of tenure of its current location at the Exhibition gardens, as Mr Pakula called them. I am not sure whether they are officially called the Carlton Gardens or the Exhibition gardens, because there is an area of very nice garden to the north of the museum which is part of the Carlton Gardens as well. For the sake of the argument here this afternoon I will stick to the Exhibition gardens as being the venue of the Melbourne International Flower and Garden Show.

At the time we met with the nursery industry representatives — the horticultural industry was also represented at that meeting — they indicated to us that the Melbourne City Council was considering the prohibition of the flower and garden show beyond this

year, being 2008, and therefore expressed some alarm about the lack of venue and opportunity to display Victoria's nursery and horticultural industries.

The flower and garden show is a terrific event. I did not get there this year because it clashed with Gippsland Field Days, and for three of the four days I was down there. However, both of those events have some things in common. Of course some of the exhibitors from the Melbourne flower and garden show would normally be at the Gippsland Field Days and vice versa, given that some of the exhibitors at the field days are in the nursery business, so some of them overlap to some extent.

I have been a fairly regular visitor to the flower and garden show over the 12 years of its existence, and I know my wife enjoys her visits there. It is a great opportunity for our nursery, horticultural and landscaping businesses to demonstrate the fine skills they possess, and I find the landscape garden competition to be one of the highlights of the Melbourne International Flower and Garden Show. We have seen some outstanding garden designers who have done well here and who have gone on to do well overseas at some of the big international flower and garden shows. I recall that Fleming's Nurseries had success recently at the Chelsea garden show in terms of garden design. In recent years that company has done particularly well.

I might add that the show is great for Melburnians and great for Victorians. It is particularly good for country Victorians too. When I have visited the show I have come across many of my constituents and people from country Victoria who see it as a convenient location to visit in Melbourne and a desirable event to come and see. Country Victorians are pretty proud of their gardens and are willing to travel to see exhibitions such as the Melbourne International Flower and Garden Show. You will see quite a number of buses from country Victoria roll up there each year. It is an event very much enjoyed by Melburnians, but equally enjoyed by country Victorians as well.

Some of the issues that have been raised in the course of this debate include the impact that the staging of the show has on the environmental conditions of the Exhibition gardens. While I do not claim to be an expert in this area, when I have visited the gardens after the exhibition, I have not observed any signs of permanent damage to the lawns, to the gardens or to the trees within the Exhibition garden area. Obviously there is a short-term impact as lawns recover after people have walked across them and exhibitions have been held on them. They need time to recover. I

acknowledge that for around two weeks of the year access to that area of the Exhibition gardens is limited for local people.

I acknowledge they are denied that access for up to two weeks to account for the setting up, display and dismantling of the exhibition over a period of five days. I do not see that as an undue hardship when you consider the relevant merits and benefits for all Victorians as opposed to the inconvenience to some residents over that period of time. As I said before, there are the Carlton Gardens to the north of the museum which are still available to people for recreation during that time of the garden show.

In terms of consideration of alternative sites, you could get none better than the current Exhibition gardens and the Exhibition Building itself, because both of those form an integral part of the Melbourne International Flower and Garden Show. We could look to relocate the show to other areas — Caulfield racecourse and the showgrounds were suggested — but again this venue, the Exhibition gardens, using the Exhibition Building as well, is the most convenient location, being central not only for the people of Melbourne but also for the people of country Victoria to reach. There is good public transport access, with the Parliament loop station and tram travel, which takes people right to the door of the current venue.

I say in closing that Victoria was once called the garden state. That was a pretty good phrase to describe this lovely area in which we live. I hope that one day we go back to being well recognised — —

Mr Scheffer interjected.

Mr HALL — I am happy to acknowledge that. I do not care who it was, it was beautiful — the garden state. That is an appropriate symbol to represent Victoria as a state. I hope one day we will return to that. If we have hopes of returning to being recognised as and called the garden state then it is important that we continue to hold the Melbourne International Flower and Garden Show at such an appropriate location as the Exhibition Building and the Exhibition gardens. That is why I am happy to support this bill to ensure the future of that excellent show that has been put on for the past 12 years, and I hope it will continue for many years to come.

Mr TEE (Eastern Metropolitan) — I agree with the views of Mr Hall that the Melbourne International Flower and Garden Show is an important part of the Melbourne calendar. We know that some 100 000 people from around the state and indeed from around

the world come to the show, and it is recognised as one of the top five horticultural shows in the world. The significance of the show to the state is such that its fate ought not rest in the hands of the economic committee of the Melbourne City Council, which in June of 2007 resolved in effect that the show would no longer be held at the gardens after the expiry of the existing contracts.

There are reasons why this show is significant and why that significance means it ought to be dealt with at a state rather than a local government level. We know that the site itself is an iconic part of the Victorian, and indeed the Australian, landscape. It was where the state Parliament sat for some 27 years following Federation. It rightly received World Heritage listing. For those reasons it is too important to leave the fate of the flower show in the hands of the economic committee of the Melbourne City Council.

The decision by the Melbourne City Council flew in the face of the reports the council received which indicated there had been minimal impact on the gardens because of the holding of the flower show there. It is worth acknowledging that a number of allegations have been made about the impact on the flower show on the gardens, and they are serious allegations. For me they enhance the argument that we ought to ensure that the state rather than council has the authority and responsibility to look after those gardens.

Mr Pakula has alluded to a number of independent reports which consistently show that the flower show has no long-term impact on the holding of the show on the gardens. I draw the attention of the house to one of those reports — Mr Pakula has identified a number — which is the soil and compaction assessment of the Carlton Gardens, which was done for the City of Melbourne, and in that report the council said it was confident that the level of soil compaction in the Carlton Gardens poses no threat to the existing trees or vegetation.

It is worth noting that the opponents of the flower show have sought, and indeed obtained, their own report. They have their own report by Galbraith and Associates which, as you would expect, found that some of the trees may be affected by the show. It is interesting to note that the report finds that these impacts can easily be ameliorated by mulching. The report says that a degree of mulching will ensure that the show does not have any impact on the trees. Even the reports of those who are opposed to the holding of the show have indicated that through some mulching the impact on the trees and the risk to them can be ameliorated.

I am comforted by the fact that Heritage Victoria imposes a number of rigorous standards and safeguards by way of a permit, the conditions of which the organisers need to comply with in holding the show. There is a degree of independence in the important role played by Heritage Victoria, which gives me comfort that it is ensuring that the gardens are kept in a pristine condition.

I am very supportive of the model for holding the garden show that has been provided for in this bill. The bill envisages that council can continue to maintain the gardens and manage the show, but its role will, rightly, be overseen by government. I urge the council to work constructively with the flower show organisers and the state government. Hopefully the three can work together so we can get the best outcomes for the state of Victoria, for the gardens and for the environment that is represented there.

Mr Pakula alluded to some of the concerns about the process the council has adopted and its behaviour in relation to the holding of the show. I share those concerns. However, what I like about this bill is that it gives the council another chance. It provides the council with an opportunity to amend the way it has operated, to be more constructive, and to work with the organisers and the government to ensure we get an outcome that protects this iconic site. I am pleased about the bill. I am pleased about the oversight by the state government that it imposes. I urge the house to support the bill.

Ms LOVELL (Northern Victoria) — It gives me great pleasure to stand and speak on the Crown Land (Reserves) Amendment (Carlton Gardens) Bill 2008. The purpose of this bill is to provide for the management of land in the Carlton Gardens reserve during special events — and, I hope, to allow for the continuation of the Melbourne International Flower and Garden Show at the Carlton Gardens beyond this year. Unfortunately the Melbourne International Flower and Garden Show is not named in the bill. I think we have a precedent for that in the aerial advertising legislation where events that could not be ambushed by aerial advertising were named in that bill. It would have been appropriate in this case for the Melbourne International Flower and Garden Show to be named in this bill, to give it security of tenure. I would like to ask the minister in his summing up to give us an assurance that the Melbourne International Flower and Garden Show will have security of tenure at the Carlton Gardens.

Another effect of not naming events in the bill but rather leaving it open is there is nothing to prevent a different type of promotion being held in the gardens. I

am concerned that although the bill says it must be an event that is in accordance with the type of event that should be held in the gardens, next weekend we could have the Crusty Demons blazing through the Carlton Gardens on their trail bikes. I would not be in favour of that. The Melbourne International Flower and Garden Show lends itself to that location. It is a beautiful location for a flower and garden show, but it would not be appropriate for something such as a Crusty Demons show, as enjoyable and spectacular as a Crusty Demons show may be.

The flower and garden show is a flagship event for the nursery and garden industry. It is not simply a key tourism event, generating significant revenue flows for Melbourne and Victoria, but one of our hallmark tourism events. It is part of the hallmark events calendar, which includes the Australian Open Tennis Championships, the Melbourne Cup carnival, the Australian grand prix and the Melbourne international festival.

I know there has been opposition from local residents to the flower and garden show continuing to be held in the Carlton Gardens and that those local residents have put a lot of pressure on the Melbourne City Council, but as I have already said, the Melbourne International Flower and Garden Show is a hallmark event. It attracts about 125 000 visitors to the gardens every year. The lack of security of tenure has caused a lot of concern for the nursery and garden industry and the management of the show. The flower and garden show brings about \$8 million in economic benefits to Victoria, which is a significant amount of revenue for the state. There is also direct event expenditure of around \$2 million. At its peak around 300 staff are working at the Melbourne International Flower and Garden Show each day. The flower and garden show is recognised internationally as one of the best flower and garden shows in the world. The venue is actually recognised as the best venue. Chelsea is recognised as the best show, but the Chelsea venue is not nearly as appealing as our Carlton Gardens.

As Mr Pakula said, a number of reports have been prepared on the impact that the flower and garden show has on the Carlton Gardens. Most of those reports conclude that the show has very little impact. I have a few of the reports here. One has the subheading 'Melbourne International Flower and Garden Show 2006 — Monitoring of tree protection and other vegetation management'. It was written by R. W. Small of Rob Small Unlimited, who states:

I believe that the show has had a negligible impact, if any at all, on tree health in Carlton Gardens. The show organisers

are exercising strong control and discipline over garden installers and public visiting the site, and the compliance with conditions appears to be exemplary. The show organisers appear open to viable alternatives that will ensure the protection of the heritage features of the Carlton Gardens site and its trees.

A report commissioned by the City of Melbourne, entitled 'Melbourne International Flower and Garden Show — March 2007 — Tree condition and soil water monitoring — Carlton Gardens South', states:

Trees are a major feature of the landscape of the Carlton Gardens and are a significant element of the heritage character. Ensuring the ongoing health of the trees is of paramount importance. The prevention of stress from the current drought conditions and restrictions is essential.

It states also that three significant rain events occurred during the testing period and that appears to have maintained soil moisture and prevented any increase in drought stress in the tree population. Basically this report says there was very little impact on the trees because of the flower and garden show.

A third report is headed 'Report on heritage tree protection — Carlton Gardens during Melbourne International Flower and Garden Show 2007'. This report was also written by Rob Small. It is dated 27 April 2007 and states:

During this period I was employed by MIFGS to monitor activities with a view to determining if any of these elements involved in putting the exhibition together, hosting it over five days, and dismantling it, had any detrimental effect on the trees in Carlton Gardens, in particular.

He concluded:

It is my opinion that the conduct of the Melbourne International Flower and Garden Show in 2007 has had no discernible impact on the health or vegetation (trees, shrubs or grass) in Carlton Gardens.

There is fairly stringent scrutiny of the impact the flower and garden show has on the gardens, both by the show itself and by the Melbourne City Council. Audits are undertaken before the show begins and after it concludes to ensure that the show is not having a negative impact on the gardens.

As I said, I acknowledge that local residents have concerns about the show being in the gardens. I have my Melbourne base — my apartment — just opposite the Carlton Gardens. I enjoy a view of the gardens from my apartment. They are not something I would ever want to see destroyed, because I love the view of them from my apartment. However, I am at the apartment on many weekends of the year, and when I look out at the gardens I rarely see the people of Melbourne using those gardens and enjoying them. On the week the

Melbourne International Flower and Garden Show is on, however, I see many Melburnians, visitors to our state and visitors to our country enjoying the magnificent gardens. This is a good use of the gardens. It encourages the people of Victoria, the people of Australia and our international visitors to enjoy the magnificent gardens we have here in Melbourne.

Last week I attended the flower and garden show on Friday. It was disappointing that this year we had such unpleasant weather for the show; had it been this week, the weather would have been much more suited to an outdoor event. On Wednesday of last week, with the horrendous winds that hit Melbourne, some damage was done to the Exhibition gardens, not because of the flower and garden show being there, but because of the freak weather event. That had an impact on the show, with visitors having to leave the Carlton Gardens so that the flagpole that fell could be removed along with a limb that fell from a tree because of the wind. Many patrons were rather upset at being asked to leave, but it was for their own safety. However, it would have been nice had the show been this week, with the spectacular weather we have enjoyed. It would have been even more appealing to be in the Carlton Gardens enjoying the wonderful weather as well as enjoying our very famous flower and garden show.

I was shown around the show by Steven Potts from Nursery and Garden Industry Victoria, something I enjoyed, because I got to meet several of the exhibitors and had the main exhibition features and purposes pointed out to me. Among the gardens I enjoyed seeing — and whose creators I enjoyed meeting — was the Sei-Sei-Tei garden, a traditional Japanese garden designed by renowned Japanese designer Koji Ninomiya. The Sei-Sei-Tei is a garden of enlightenment and calmness, which opens the door to nature. It is a traditional waiting garden for a tea ceremony — a garden in which people invited to the tea ceremony are able to sit or walk about until the tea ceremony begins. In Japanese culture it is the only place where a samurai might talk to a labourer; it is a genuine meeting place where all levels of society cross. This was a beautiful garden, made all the more spectacular by the backdrop of the city of Melbourne. I particularly enjoyed the garden, having formerly been to Japan on exchange and also recently visiting Japan as part of a delegation from Victoria. That traditional Japanese culture in Australia with a backdrop of our beautiful city of Melbourne was sensational. It was the winner of one of the awards.

I also met Yen Ong, a student from the North Melbourne Institute of Technology, who had created a garden called ‘Cooling the planet one backyard at a

time’, a very spectacular garden with many autumn colours in it. Yen won the young designers award at the show, and I congratulate her on her achievement. The third garden I saw, also a winner in its category, was an outdoor extension that had two outdoor living areas, a sitting area and a quite spectacular kitchen, and there was a lap pool down the middle. It was beautifully designed.

It can be difficult to pick what is there temporarily and what is there as a permanent display. It is amazing that someone who knows the gardens as well as I do, having an apartment just opposite them, once they have been transformed for the garden show, cannot pick what has been created for the show and what is part of the gardens. Naturally, the lap pool and the rooms were created! But even parts of these gardens have been built up and created as well. That was an exciting and spectacular part of the exhibition.

Another spectacular part of the exhibition was the Sir Walter Greenart Garden, designed by Jason Hodges, who is on the *Better Homes and Gardens* show. I met Jason at that attraction. He explained how the garden had been built. The creators had built up quite a significant amount of earth to raise the level of the garden. The garden was not actually sitting on the grass underneath it; there was air in between. They had created a platform to put the earth in. They had planted a tree in that platform, quite a large tree, and had built rock walls all around it.

They had a plunge pool in there. There was also an outdoor living area which was sensational. As I said, even though this area had been built up significantly, you would not know that it was there as only a temporary design and not part of the ordinary gardens.

The show is being dismantled at the moment, and this week I have been watching it come down tent by tent, day by day. It will be disappointing when it has all gone, when all that activity has gone and we just have one or two people wandering around the gardens again. I look forward to looking out my window and seeing the flower and garden show structures erected next year, to visiting the show and to watching 125 000 people enjoy the spectacular Carlton Gardens.

I first met with the organisers of this show about 18 months ago when I was a tourism shadow spokesperson. At that time the venue was under threat, as was the future of the event in Victoria, because the event organisers knew that there was not another location in Victoria that would host this show. There was a real threat that they would take it interstate to Adelaide, or maybe to New South Wales or somewhere

else. At that time I was appalled that no-one from the state government had met with the flower and garden industries.

We asked some questions in this house about the future of the show and what the government was doing to ensure its future. We were met with a blank stare from the minister, who knew nothing about it. It was disappointing that the government had not done more to secure future tenure for the Melbourne International Flower and Garden Show. However, we now have this bill before the house, which we hope will ensure the tenure of the show. I ask the minister to give me that assurance during his summing up on the bill. I wish the Melbourne International Flower and Garden Show a successful future, and I look forward to visiting it again many times.

Mr KAVANAGH (Western Victoria) — I have been told that about 60 years ago a sporting event was held in a marquee in the Carlton Gardens. I think it was a boxing match. The then member for Carlton, my grandfather, wanted to attend, but he did not want to buy a ticket because he wanted to make a point. He was denied entry and made the biggest fuss that he could, saying, 'I am a member of the public; these gardens are public so they belong to me. You should not stop me going in here'. That principle was correct, but of course there are exceptions. My grandfather was largely responsible for locating the children's hospital in Royal Park, for example. As a ward councillor and local member he paid a high price for that, but he thought treating sick children was more worthy than watching people punch each other.

There are other exceptions. This chamber is part of a public place, but it is not open seven days a week, every week of the year for people to wander in and out whenever they like. In general, it would seem desirable that a council's permission should be a prerequisite to allowing any groups to temporarily usurp the public's right to access public land. Unfortunately that is not the case with this example. On the other hand, the flower and garden show is a huge event of great benefit to Melbourne and to Victoria, which puts me in something of a dilemma because of the competing interests and principles involved. I will just have to think between now and when the vote is taken as to how I should vote.

Mr ELASMAR (Northern Metropolitan) — I rise to speak in support of the Crown Land (Reserves) Amendment (Carlton Gardens) Bill 2008. The Melbourne International Flower and Garden Show, held annually over the last 12 years in the Carlton Gardens, is under threat because the Melbourne City Council has decided it will no longer allow the Carlton

Gardens to be the venue for this magnificent floral extravaganza. I agree with my colleague Ms Lovell that the show has a large following and attracts revenue for Victoria of approximately \$8 million.

In these harsh times of drought and brown lawns and nature strips, the methods used to irrigate plants and flowers are testimony to the ingenuity of the men and women who nurture them, and then present a display of flowers and plants that over 100 000 people from all over Australia pay to see.

The horticultural, floristry and landscape industries are understandably going through tough times. It is very important that these industries be supported, not just because they raise revenue for Victoria and encourage and support our tourism industry but also because they create great beauty. Although that beauty is fleeting, it is still most worthy of the mighty efforts of those men and women who make us proud of the Carlton Gardens and their floral displays.

A couple of days ago I read some correspondence which was sent to my office. It states that, as the number of attendees to the garden show has been steadily increasing every year since the first show in 1996, the trees are stressed and losing their branches as a direct result of human footfalls. While I have never approved of sarcasm, it beggars belief that this environmental assessment report should also accuse the indigenous wildlife, whose natural habitat is in the garden, of adding even more stress to the trees by scratching the tree bark. Possums in particular come in for criticism, as they are allegedly responsible for the trees losing foliage and branches. Melbourne City Council commissioned an environmental impact study which actually supported the fact that no detrimental damage has occurred so far, either to the gardens or to the trees.

The bill amends the Crown Land (Reserves) Act 1978. The purpose of the bill is to secure the ongoing future of the World Heritage listed Royal Exhibition Building and Carlton Gardens show and exhibition in Melbourne. It enables the Governor in Council to make a special event declaration if the minister responsible for that act considers that an event such as the flower and garden show is of state significance and should be held at the Carlton Gardens. This is an important event on the Victorian calendar and deserves to be supported. The bill will ensure this happens. I commend the bill.

Mrs KRONBERG (Eastern Metropolitan) — In rising to speak to the bill I indicate that, whilst I will not be opposing it, I believe there are a number of important issues that require amplification. The

Melbourne International Flower and Garden Show is not only an important event on the tourism calendar but is also the signature event for Victoria's and Australia's horticultural, nursery and gardening industries. We have heard calls for the cessation of this event at the Carlton Gardens, with particular emphasis on the southern part of the gardens, from both local residents groups and the Melbourne City Council.

We need to be aware that the Royal Exhibition Building was inscribed on the World Heritage List in July 2004. This is why very careful consideration is required about the management of not only the magnificent building but also its environs and the gardens which are such a complementary and integral part of the overall design of the site.

Although the Exhibition Building is still used for exhibitions, since the opening in 1996 by the Kennett government of the Melbourne Convention and Exhibition Centre at Southbank the facility is not used as frequently as it was in the past because the Southbank facility has become the prime destination for exhibitions. I have a concern that young Victorians, newly arrived immigrants and tourists would not necessarily be drawn to this World Heritage List site unless there were an event there that gave it some sort of exposure. I am very interested in an event such as the flower show being maintained there, because it not only gives people the opportunity to look at the commercial offerings and displays and learn how to manage gardens in drought conditions but also gives them a heightened awareness about and confidence to manage gardens and have a green thumb. It also gives people the opportunity to marvel at the splendour of the building and its murals.

I personally have a very deep attachment to the building. My great-grandparents lived in nearby Barkly Street, and I still remember the little stories my grandmother regaled me with when I was a little girl about the pride and excitement in Melbourne and how they felt about the arrival of the Exhibition Fountain designed in 1880 by sculptor Joseph Hochgurtel. The fountain is set at the head of the Grand Allée in the South Garden, and it is the South Garden that local groups such as Residents 3000 are most concerned about.

I am proud that this event was conceived and brought about by the Kennett government. But my area of concern about this bill is that while the minister has indicated that its purpose is to guarantee the future of the flower show, it opens up the Carlton Gardens for a wider range of events that may not be suited to this wonderful World Heritage listed site. Because of the

important educative element I think the flower show should be kept there, but I urge the government to be assiduous in its efforts to develop plans for the management of not only the pathways and avenues and the state of health of the trees but also the flower beds, ponds and sculptures and the impact on lawns. I understand a study was done on the compaction of soil that might lead to damage of the roots of precious trees. That was given the okay. We need to be aware that there are important plantings of European and Australian trees in the precinct.

The land was originally reserved in 1839 by then Superintendent Charles La Trobe, and the building has gone through many usages since its opening in 1888. It was used as a hospital in the influenza pandemic of 1919; it was the site of the first Australian Parliament; and the Victorian Parliament resided in its western annexe for 27 years.

We all have a very intense interest in the welfare of this building and its environs. I urge the government to be assiduous in its care and to uphold its responsibilities and the principles behind what having Australia's only World Heritage listed building means to the people.

Debate adjourned on motion of Mr JENNINGS (Minister for Environment and Climate Change).

Debate adjourned until next day.

ADJOURNMENT

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

That the house do now adjourn.

Rail: Shepparton line

Ms LOVELL (Northern Victoria) — The matter that I wish to raise for the attention of the Minister for Public Transport in the other house, Lynne Kosky, is delays with passenger rail services on the Shepparton line. My request of the minister is that a review be conducted of the weekday timetable for the Shepparton line to provide sufficient time between the 6.33 p.m. express train to Shepparton and the 6.42 p.m. service stopping all stations to Seymour to ensure that the express train will always depart first. The delays on the Shepparton line have been an issue for some time and they are currently being compounded by Victoria's critical locomotive shortage.

I have a constituent who has been raising this issue with me since the start of last year, when the departure time

for the Shepparton evening service leaving Southern Cross station was changed from 6.15 p.m. to 6.33 p.m. She and a group of frustrated Goulburn Valley residents have been reporting in the press a range of problems brought about by the ill-suited timetable, including an excruciating delay on Thursday, 27 March 2008, that caused some passengers to arrive home almost an hour and a half late.

The 6.33 p.m. Shepparton service was made an express in October last year and V/Line put on another service, the 6.42 p.m. train stopping all stations to Seymour, to accommodate passengers between Melbourne and Seymour. The problem is that the 6.33 p.m. train so often has problems with its locomotive that it does not end up leaving until after the 6.42 p.m. service has departed. This means the so-called express train to Shepparton is delayed initially because of a fault and then further delayed because it is stuck behind the stopping-all-stations train and forced to travel at a snail's pace. One option that could alleviate the problem would be to better space out the departure times for the Shepparton, Seymour and Albury trains, which use the same stretch of line to Seymour.

My constituent believes that if the Albury-bound train left at 6.13 p.m., the Shepparton express at 6.20 p.m., and the Seymour stopping-all-stations at 6.40 p.m., this would solve some of the train delay problems. But unfortunately these timetable problems are a symptom of a much bigger problem — Victoria's chronic locomotive shortage.

I call on the minister to conduct a review of the weekday timetable for the Shepparton line and in particular to address the problem of the 6.33 p.m. Shepparton express train departing after the 6.42 p.m. stopping-all-stations service to Seymour.

Port Campbell: coastal erosion

Mr THORNLEY (Southern Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change. Essentially the request is that the minister investigate the possible public safety risks associated with the headland at Port Campbell, which is subject to erosion by the sea, as, obviously, is the entire coastline along there.

We have seen what has happened with the Twelve Apostles. If I can give a bit of background for the minister, during the hearings of the Select Committee on Public Land Development scheduled in Port Campbell, we heard testimony around a particular development down there which was being opposed by a range of people. But one of the concerns that was raised

and that witnesses brought forward was that that particular development was very close to the headland and that the sea caverns burrowing, if you will, underneath the headland had continued to burrow further. There was the potential — in fact it was a certainty — that at some unspecified point in the future there would be further collapse of that coastline, as there has been for millions of years along there. That was part of their argument against the particular development, but regardless of the development, which I think in this case has been knocked off by the council, there is a public safety concern.

I understood from Mr Russell Brown, who gave evidence to the committee and who used to work for VicRoads, that VicRoads used to have the expertise in this area because it had managed the Great Ocean Road and had moved the Great Ocean Road from this corner because of that concern. But I gather that expertise is no longer resident there.

My request of the minister is that he investigate the concerns for public safety along that headland and whether any further action should be taken. That investigation should include, if possible, the minister or his office meeting with Dr Marion Manifold or Mr Russell Brown or some of the other people who gave expert evidence on the matter, just to make sure that we do not have happen something that should not happen.

Rail: Frankston line

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Public Transport in the other place, and it is to do with the public transport services in Bentleigh particularly. The problem in Bentleigh is that people are waiting for long hours because their trains are being cancelled all the time. Every moment that one of those people has to wait on a platform for a train is a moment they cannot spend with their family and their loved ones. This is not good enough. They should be able to get to work and home on time, with confidence in the knowledge that when they go to get a train, they can get to their destination on time.

The Frankston line service, which goes through Bentleigh, is particularly bad. The 2007 figures for that line show late trains occurred as frequently as 17.2 per cent of the time, which means it had significantly more late trains than on other lines, which averaged 3.4 per cent. The minister made an announcement yesterday about putting on a whole heap of new trains. First of all I would like to know where these trains are coming from, but that is not my question.

Mrs Peulich — They are not coming, that is the problem.

Mrs COOTE — My problem is that I do not think this reshuffling of extra trains will fix what is an endemic problem. The people in Bentleigh deserve better. The figures show that the number of train cancellations in Melbourne rose by 46.5 per cent last year, which is huge; there were 5004 cancellations in 2006 and in 2007 there were 7330. Each one of those cancellations means that some family member is going to be late home and the quality of family life is going to be impacted upon. That is not at all appropriate.

The action I seek from the minister is that, as a matter of urgency, she provide additional funding for upgrading public transport services to the Bentleigh electorate. I am sure this is over and above a budget requirement.

Planning: Mornington Peninsula

Mr GUY (Northern Metropolitan) — Tonight I raise an issue for the Minister for Planning that concerns the Mornington Peninsula. Last night I raised an issue about Shoreham, and tonight I raise an issue in relation to the peninsula as a whole. Members will be aware that the Mornington Peninsula is the only regional area that is contained within the Melbourne statistical division, which is similar to the central coast of New South Wales being classified, for technical purposes, as demographically part of Sydney.

The peninsula is a specific region of Victoria. Apart from being 50 to 90 kilometres from the central business district, it has its own tourism marketing campaign and is treated as a separate entity in a number of other ways by business and government. However, as a result of the statistical classification, the Mornington Peninsula is also treated as part of Melbourne in the eyes of the *Melbourne 2030* document. While I accept that many peninsula residents commute within the metropolitan area for work on a daily basis, that is also the case with other peri-urban municipalities such as Mitchell, Baw Baw, Geelong and Moorabool.

Over recent times a series of developments have been planned for the peninsula that could broadly be described as being outside its traditional town and urban character. At present we have multilevel developments proposed for McCrae, Dromana, Flinders and Shoreham, and another large development outside the urban growth boundary in Red Hill South. One of the key features of the peninsula has always been that it has a different architectural style from Melbourne in the

main. A number of decades ago the small fibro beach huts were built; then they moved to the holiday-style homes of the 1980s and 1990s; and nowadays I would have thought we would have a chance to contemporise architecturally to further beach-style accommodation similar to what is being constructed quite successfully in the Surf Coast region. This would help the peninsula maintain its unique and defined architectural style outside the built-up areas and preserve its town character.

Unfortunately the peninsula is being subjected to proposals for high-rise blocks of flats, the design of which is better suited to inner city Melbourne. Some of the proposals, like those at Shoreham and Red Hill South, do not share the established town character of the area in which they are proposed. They will in fact lead to the slow demise of the localities in which they are situated, which are unique in the Melbourne statistical area. Many tourists visit these localities not just for the wine, the produce or the beaches, but because there is a lifestyle change on the peninsula which is different from the rest of Melbourne, and it is very important that we maintain that.

Tonight I ask the minister to act to save the peninsula from inappropriate development and begin the process of a planning scheme specifically for the Mornington Peninsula. In doing so he will help save the character of one of the best parts of our state.

Bena-Kongwak Road, South Gippsland: bridge

Mr O'DONOHUE (Eastern Victoria) — I raise a matter this evening for the Minister for Public Transport in the other place as the minister responsible for VicTrack. I have been approached by constituents in the South Gippsland area who are concerned about the Bena-Kongwak Road over-rail bridge, which is a single-lane rail bridge located on the Bena-Kongwak Road approximately 1 kilometre south of Bena.

In December 2007 VicTrack advised the South Gippsland Shire Council that a 15-tonne load limit would be imposed on the bridge. The bridge superstructure is the responsibility of VicTrack, whilst the running deck is the responsibility of the council. Of course the 15-tonne load limit affected the milk tankers and other trucks, school buses and other heavy vehicles which used that bridge and which weighed in excess of the 15-tonne load limit. Significant capital investment is needed to bring the bridge up to a standard where it is again safe to carry the milk tankers, school buses and other heavy vehicles.

At this stage VicTrack has indicated it is prepared to contribute \$120 000 towards the replacement of the bridge and assist with the design. It is estimated, however, that a new bridge and associated roadworks would cost a million dollars or more. Therefore the action I seek from the minister is to work with the local council — a council that is not flush with enormous resources, as it has a small ratepayer base and many of those ratepayers have suffered as a result of the extended drought — and supply sufficient funds to allow the bridge to be rebuilt so it can carry safely the required vehicles and let the farmers vehicles, the milk tankers and other vehicles use it, as has happened in the past.

Water: infrastructure

Ms BROAD (Northern Victoria) — My matter is for the Minister for Water in the other place, Tim Holding. Yesterday the Victorian Auditor-General presented a report to Parliament titled *Planning for Water Infrastructure in Victoria*. The report contains 10 recommendations directed at improving the processes we use to track the progress of water strategies, the information provided to the community about these strategies, and the review of water authorities plans.

I welcome the Brumby Labor government's commitment to adopt and implement all recommendations; 8 of the 10 recommendations contained in the report go to providing information to the community on an ongoing basis. I note that these recommendations are consistent with the government's commitment to finding new ways to engage with Victorians, as demonstrated by the Premier's new website and the opportunities offered by the 2008 statement of government intentions.

Therefore the action I seek from the minister in implementing the Auditor-General's recommendations is to ensure that information is broadcast as widely as possible in order to provide as many members of the community as possible with accurate and timely information about the government's record \$4.9 billion investment in water infrastructure in Victoria.

Schools: Monash closures

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Education in the other place, and it also has some relevance to the minister at the table, the Minister for Environment and Climate Change; I am glad he is here tonight. It is in relation to two schools in South Eastern Metropolitan Region which have been closed by the

government. I understand the government is considering the disposal of the land through sale to the highest bidder. The schools are Monash Primary School and Monash Secondary College. The issues were raised through the Notting Hill Residents Action Group, and I know it has also had some dealings with Mr Rich-Phillips.

The proposal to rezone the land and sell it to the highest bidder was brought before the Monash council recently. The matter was then belatedly withdrawn by the education department. As it is a high-density development, the community is very concerned about the impact this will have on parking, the loss of recreation space and the loss of educational facilities. People are uncertain as to what the future of those sites will be.

The government has not been forthcoming in the provision of information or of any level of engagement with the community on this. It may well be that it has withdrawn those plans because it plans to avail itself of the Minister for Planning's new planning proposals, as this land would fall into the go-go zone. Basically it would not require the advertising of any future developments or give the community any avenue for appeal to the Victorian Civil and Administrative Tribunal. It may expedient for the government to hang back, wait and cash in, but I believe this would be a dereliction of its duty.

The community has sought a meeting with the Minister for Children and Early Childhood Development, who is the member for Mount Waverley, as well as with the Minister for Education, both of whom are in the other place, in relation to these two sites. I ask the government to also consider in the not-too-distant future the consolidation of Telstra activities at a nearby site, which will see an additional several thousand people move into the area and could change the projection of enrolments at the local schools I ask it to review the situation, disclose what its plans are for the site, minimise the loss of open space and minimise the loss of educational facilities for the community at the earliest opportunity without letting this go under the radar before it is too late for the community to retrieve the situation or get the best deal it can, which it certainly deserves.

I would like to commend the Notting Hill Residents Action Group for its dedicated campaign over a long period of time. It will not give in.

Rail: station bicycle lockers

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is to the Minister for Public Transport in the other place and regards bicycle lockers at train stations in Western Metropolitan Region. The government has spoken a lot about wanting to encourage people out of their cars and to walk or cycle to their train stations, but for cyclists to do this there need to be secure bike lockers at stations. In Melbourne we have a ratio of 1 secure bike parking spot for every 30 car parking spaces. I am told that in Brisbane there is one secure bike parking spot for every nine cars, and the stations there are fully staffed, so it makes security much easier. I would like to see most stations staffed, but that is because I use the trains quite a lot.

A quick check of car and bike parking at major stations in the Western Metropolitan Region shows that Laverton has one secure bike parking spot for every 24 cars. That ratio for Footscray is 1 to 29; for Watergardens, 1 to 42; for St Albans, 1 to 40; and so on. Things are much better at the Werribee and Sunshine stations, but about 40 per cent of car parking spaces are used by commuters who drive less than 2 kilometres to a station. Bicycle lockers can be created at a fraction of the cost of car parking spaces.

Minister Kosky, who is responsible for public transport, has announced a \$1 million fund to build 20 new bicycle cages at railway stations. That is fantastic news and those cages will get a lot of people onto their bikes, but it is not enough. We need cages at all stations and we need more of them. Of course cages will not work for everyone. They will not work well at unstaffed stations and they take up a lot of room. We also need to be looking at individual secure bike lockers, management of secure bike parking, bike hoops and safe cycle routes to stations. My request to the minister is to ensure that there is funding in the forthcoming budget to increase bike parking at train stations to a ratio of at least one secure bike park per nine car parks.

Police: chief commissioner

Mr FINN (Western Metropolitan) — I wish to address a matter for the attention of the Minister for Police and Emergency Services in the other place. It is not the first time I have raised the issue in this house. It concerns policing in Victoria. I believe that recent events dictate that I should raise this matter again. Victoria Police is in crisis, and as a result law and order in this state is in crisis as well. If members do not believe me, ask the police themselves. The *Herald Sun* survey this week showed that 69 per cent of police rated the chief commissioner's performance as 'bad' or

'below average', 97 per cent said not enough police were on the streets, and 64 per cent had thought of quitting within the last year.

The PRESIDENT — Order! By his own admission Mr Finn is raising this matter again, and there is a time constraint on that. In fact he cannot raise the same matter within a six-month period. I am thus assuming that he is raising different matters — maybe on the same subject, but different.

Mr FINN — Indeed so, President. The release of the figures follows the mass meeting of police earlier this week, which called for the removal of the chief commissioner and the police minister from their positions, and the unprecedented march on this Parliament calling for the two to be sacked. I was on the steps of Parliament House on Tuesday and saw and heard firsthand the frustration and anger of Victoria's finest. Victoria's thin blue line on Tuesday was not so thin as police gathered in the shadow of this Parliament.

The concern goes way beyond the police force, of course. Today on the *Herald Sun* voteline over 6000 votes were cast — a very strong response — with 72.5 per cent of those showing no confidence in the chief commissioner. This reflects recent polls showing that for the first time ever the majority of Victorians do not have confidence in the Victoria Police, and I believe that to be a tragedy in itself. It is not entirely surprising. After all, violent crime is rampant on our streets and gang warfare is rife in many suburbs, while the chief commissioner plays little word games by refusing to as much as utter the word 'gang'. The Victoria Police are underresourced, overworked and dispirited, with morale hitting rock bottom.

This is an intolerable situation and it clearly must change. I ask the minister to take two actions to expedite an improvement in this particular situation: firstly, pick up the phone, call Chief Commissioner Nixon and inform her that her services are no longer required — sack her, in other words. I then request the minister to take a brisk walk to 1 Treasury Place and hand his resignation to the Premier.

The PRESIDENT — Order! The last part of Mr Finn's contribution is clearly out of order, and I ask him to withdraw it. If he is not willing to do that, I will rule the whole contribution out of order. It is his choice.

Mr FINN — Given the gun that is at my head, I withdraw.

Mrs Coote interjected.

Mr FINN — No, not the whole thing, just the last bit.

The PRESIDENT — Order! I understand, just the last part.

Planning: residential zones

Mr D. DAVIS (Southern Metropolitan) — My matter for the adjournment is for the attention of the Minister for Planning, and it concerns the proposed introduction of the new residential zones that have been highlighted so effectively by Mr Guy, the shadow Minister for Planning.

I have had representations from a series of councillors and others from the city of Boroondara and a number from the city of Bayside over the impact of these proposed height controls in residential areas. It appears that a 9-metre limit is proposed in certain areas, and that is the favoured height. As the Liberal Party predicted prior to the last election, in effect it would create a terrible arrangement where in certain areas there would be a 9-metre height limit, which would create a three-storey arrangement of nasty, cheap and ugly boxes, house by house, property by property, forming a uniform facade because the appearance is dictated by the rigid controls that have been put on by the Minister for Planning, Justin Madden.

My concern is that local heritage is at risk and the livability of our suburbs is at risk as it is driven by these rigid proposals that will see a sameness and a predictability in our suburbs. I am concerned particularly about areas near smaller shopping centres which are highly exposed to the way these new zones would operate, and this may well go hundreds of metres back from some of those areas, or cover whole swathes of suburbs as these new zones are introduced.

In a sense my plea to the minister today is to slow this process to introduce more consultation arrangements across the suburbs because, as I have discovered, very few people are as yet aware of what the government proposes. I know other members in this chamber have asked for a delay in this process and an opening up of the consultation process so that more people can be made aware of what the government is proposing. However, all of the evidence is that the government is proceeding with indecent haste.

Mrs Coote — Again!

Mr D. DAVIS — Again, and I hope strongly that the minister will take on board my request for a pause and greater, broader and deeper consultation so that the

community in these suburbs can fully understand the proposals.

Air services: landing fees

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Industry and Trade in his capacity as the minister responsible for the Aerodrome Landing Fees Act 2003. This act was introduced in that year as a mechanism to assist, in particular, regional aerodrome operators to recover fees and charges for the use of the facilities they provide. The mechanism used was to assign responsibility for the fee or charge to the certificate of the registration holder of the aircraft using the facilities, rather than having to identify a particular aircraft operator.

When the bill was passed there were a number of concerns about how it would operate, including the capacity for an aerodrome to levy a fee where facilities were not used, where an aircraft was merely using airspace associated with an aerodrome rather than facilities provided by the aerodrome. At the time the responsible minister in the other place, who was then the Minister for State and Regional Development, Mr Brumby, stated in summing up on the matter that:

It should also be noted that concerns about airports charging fees for the use of general airspace above the airport are without foundation as the bill does nothing to alter the existing legal inability of airports to impose such charges.

So the minister was quite clear as to the government's intentions.

Under the act any airports seeking to use the provisions were required to gazette their charges in the *Government Gazette* and publish them in a newspaper. We can see subsequently that the only airports that have availed themselves of the act are those at Moorabbin, Essendon and Avalon. The latter two are part of the Linfox Group. Although the original intention was that the legislation would facilitate the recovery of charges for regional airports, it has been used only by metropolitan airports.

One of the concerns is that the way the fees have been gazetted, particularly by Avalon and Essendon airports, those in the Linfox group, puts them beyond the scope of charges outlined by the Minister for Regional and Rural Development in the other place insofar as they relate to the use of airspace rather than just the use of facilities provided by the aerodrome operator.

When the bill was passed in 2003 the then minister gave a commitment that the aviation strategy

committee of the Department of Innovation, Industry and Regional Development would undertake a review of the legislation and report back. As five years have now elapsed since that bill was enacted, I ask the Minister for Industry and Trade to undertake the review that was promised five years ago, particularly focusing on the matters of concern I have raised tonight.

Parks Victoria: Gibson Steps

Mr VOGELS (Western Victoria) — I raise a matter for the Minister for Environment and Climate Change. It concerns the closure by Parks Victoria of Gibson Steps which are adjacent to the Twelve Apostles. Gibson Steps attracts around 300 000 visitors annually and is one of the last sets of historic steps cut into the cliff face in the area.

The steps allow access to the beach in the Port Campbell National Park. In my younger days there were a number of sets of steps between the Bay of Islands and Princetown, which allowed tourists, local fishermen and surfboard riders access to various beach heads. However, over time they have gradually all been closed to the public.

When the Twelve Apostles Marine National Park was declared, Gibson Steps was included in the draft report by the Victorian Environmental Assessment Council. However, due to heavy lobbying by the local community, the member for Polwarth in the other place and me, they were excluded — no doubt because the Labor Party did not control the numbers in the upper house at that time. I understand fully that the safety of the public is paramount when making decisions like the one to close Gibson Steps, but I am concerned that, as with all the other access points that have been closed along the coastline over the years, there is very little willpower by Parks Victoria to reopen this site.

The action I seek from the minister is to ensure that work commences as soon as is practically possible to allow Gibson Steps to be reopened safely to the public. A tourism icon that attracts 300 000 visitors annually is too important to the region to be allowed to fall into disrepair. I understand the geography of the area because it is in my backyard, but we cannot sit idly by and watch one of the last access points for tourists, fishermen and surfboard riders be closed indefinitely.

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — Thank you, President, for the opportunity to respond to the matters raised during the

adjournment this evening. I will pretty much stick to the order in which they were given.

Wendy Lovell raised a matter for the Minister for Public Transport in the other place, seeking her intervention in relation to timetabling for trains that travel to and from Shepparton, to try to make sure there is appropriate and timely service delivery. I would expect the minister to respond to the matters that she raised.

I would also expect the minister to take the opportunity to respond to the issues raised by Andrea Coote relating to services on the Frankston line in the Bentleigh area, given that, as Mrs Coote recognised, this has been a week when the minister announced significant increases in the number of trains and services within the timetable across the metropolitan system. I think the minister will be well placed to respond to her request.

Matthew Guy raised a matter for the Minister for Planning. He gave us a very learned and lengthy dissertation on planning matters on the Mornington Peninsula, which culminated in him calling on the minister to save the peninsula. But probably beyond the generic intervention, I think the minister will respond to his specific request relating to the planning scheme structure that relates to the Mornington Peninsula.

I will jump to David Davis. He used very few words actually, but he used them repeatedly in relation to his request for the Minister for Planning to delay processes in planning reforms. He asked the minister to delay and engage in consultation around these matters. I would assume that the minister will want to demonstrate to him and to other members of the Victorian community his preparedness to engage in a consultative process.

Mr O'Donohue raised a matter for the Minister for Public Transport in the other place, seeking her support for funding for a bridge over the railway line between Bena and Kongwak in the Gippsland region. I would expect the minister to respond to that.

As indeed I would expect her to respond to the matter raised by Colleen Hartland relating to bicycle lockers. I note Ms Hartland referred to some fantastic news in her presentation in relation to the provision of bicycle lockers but would like further rollout of that support to those who ride their bikes to a public transport system and then join the service.

Inga Peulich raised a matter for the attention of the Minister for Education in the other place, seeking her intervention in the planning decisions as they may relate to the closure of Monash Primary School and Monash Secondary College. She requested that the

minister work in collaboration with the local community to provide for appropriate open space in whatever determination is made about those school precincts.

Gordon Rich-Phillips asked the Minister for Industry and Trade to review a matter, consistent with undertakings given with the introduction of legislative reform relating to aerodrome fees so as to make sure that the intention of the fee structure is being followed and that the recovery charges are being delivered in an appropriate fashion to support regional airlines. He gave evidence that that may not be the case. I am sure the minister will be pleased to undertake the review to convince him otherwise, if that is at all possible.

Mr Thornley raised a matter — —

Mrs Coote — What about Mr Finn?

Mr JENNINGS — I will get to Mr Finn. Mr Thornley raised a matter for my attention. I would like to indicate to Mr Thornley that, given that I am mindful of the issues he has raised and will be absolutely committed to ensuring that we will provide confidence and certainty to mitigate the potential erosion in the Port Campbell region, I can give him an undertaking that I am happy to facilitate a meeting with my office for some of the individuals who are concerned about that matter. Together we can work through a process of reflection upon what those risks might be to try, within a concerted framework, to provide support and encouragement to the community, particularly Russell Brown and Marion Manifold, and indicate that we would be mindful of the concerns that they may have. It would be my intention to discharge the matter this evening.

As indeed it would be my intention to discharge the matter that Ms Broad raised for the attention of the Minister for Water in the other place. I can attest from my conversations with the minister that it is the government's intention to positively respond to each of the 10 recommendations of the Auditor-General in relation to the water plan. I am absolutely sure — both within the minister's responsibilities and any responsibilities that I may share in relation to certain environmental flow matters, as well as with other measures — that information about the water plan and our ongoing commitment to provide for infrastructure to address our community's water needs should be available to the community more broadly. We accept the recommendations of the Auditor-General in relation to providing timely and appropriate advice to the community. It is my intention to discharge that matter this evening.

I can discharge Mr Vogels's matter. That is not to say that this might be the last time — he may hear again from me in relation to this matter — but I am acutely aware of the Gibson Steps issue. I have had briefings from Parks Victoria, and I subsequently sought to have a personal intervention in this, because my original briefing was relatively inconclusive about the timing of works which may be undertaken to restore access to the beach.

My cautionary tale to Mr Vogels is that, whilst there may be some concerns about whether this is fair dinkum or not, I can absolutely assure him that safety is the driver of this decision. There are inconclusive assessments at this point in time about the cost and the nature and the reliability of the reconstruction of those steps. I am absolutely determined to provide confidence, if we can in a timely fashion, to the community about when those works can be undertaken. I have to alert Mr Vogels to the fact that some of the estimates show that the costs might be prohibitive, but we are working through that issue. I can tentatively discharge that matter this evening, but I assure Mr Vogels that I am intending to keep an eye on this matter and respond on it appropriately.

In relation to Mr Finn's matter, already the President has given Mr Finn some direction on some parts of it that perhaps were inappropriate. I would like to back in the President with his concern about the persistence of a certain matter. Whether it be through the adjournment, inaugural speeches or a whole variety of pieces in between, there is a constant theme in Mr Finn's intervention and his request today. This matter will not be responded to in accordance with his request by the Minister for Police and Emergency Services. I am absolutely certain that that will not be the case. On that basis, because of my confidence and because in a technical way Mr Finn's matter might be ruled out of order in any case, it is my intention to discharge that matter this evening.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 5.04 p.m.

WRITTEN ADJOURNMENT RESPONSES

Responses have been incorporated in the form supplied by the departments on behalf of the appropriate ministers

Tuesday, 8 April 2008

Murray River: police divers

Raised with: Police and Emergency Services

Raised by: Mr Drum

Raised on: 5 February 2008

REPLY:

I concur that the drowning of a child in the Murray River on 3 February 2008, after falling from a houseboat, was tragic and that this will have affected many people. I do appreciate that in such circumstances, the recovery of the body becomes an important and urgent priority.

In this regard, the information contained in my letter to you of 23 July 2007 has not been superseded and is still relevant. In summary, this explains that immediately following an incident on the river, the most pressing priority is the rescue of any person or persons believed to be in the water. There is no restriction placed upon participation at this point, and any person at or nearby the scene may assist with the rescue. This is irrespective whether that person is a police officer, an emergency services volunteer or any other capable person; similarly, there is no distinction made whether this person is from Victoria or New South Wales (NSW).

However, once it becomes evident that the search has proceeded to the recovery of a deceased person, this becomes the responsibility of NSW Police. Therefore, only persons or groups authorised by NSW Police are able to participate in the search beyond this point. This restriction is necessary to ensure that evidence is secured and preserved for the Coroner. A co-operative arrangement between Victoria Police and NSW Police has been in place for some time and, resources permitting, Victoria Police regularly participates in these searches following a formal request from NSW.

In regard to the incident of 3 February 2008, I am advised that a number of persons assisted with the initial but unsuccessful search for the child at approximately 7 pm. There was no restriction placed upon any representative of the Echuca Volunteer Search and Rescue Squad assisting during this phase of the search. Once it was determined that a drowning had occurred, NSW Police sought the assistance of Victoria Police. Divers from Victoria Police subsequently travelled to the scene and recovered the body at approximately 10 am the following morning.

I am further advised that the assistance of the Echuca Volunteer Search and Rescue Squad was not sought by NSW with the recovery of the child's body. This is a matter for the NSW authorities and it would be inappropriate for me to comment regarding the reasons for this. However, I am able to confirm that a Service Agreement between Victoria and NSW to facilitate the deployment of appropriately trained divers for the recovery of bodies from the Murray River is being finalised. This should ensure that the recovery of bodies in the future is completed as quickly as possible and that all requirements are met.

Mitsubishi Motors Australia: Adelaide plant

Raised with: Industry and Trade

Raised by: Mr D. Davis

Raised on: 5 February 2008

REPLY:

During 2007 Mitsubishi made just under 11,000 cars at its Adelaide assembly plant. This number contrasts strongly with the 337,000 cars made collectively by Ford, GM Holden, Mitsubishi and Toyota (including cars for export). Mitsubishi's volume was just 3% of the total production. We expect that Mitsubishi's closure will have a small overall impact on component production in Victoria.

I therefore reject your assertions that "many will be affected by this", and that, "there will be an impact on the industry overall due to critical mass". These comments are nothing but scare-mongering and talking down the Industry for political purposes.

There may, of course, be a small number of component companies with a greater exposure than others and we will work with them to identify the impacts. Support will be provided as needed including the Skill Up program managed by the Office of Training and Tertiary Education (OTTE) within the Department of Innovation, Industry and Regional Development (DIIRD).

The Canberra-based Federation of Automotive Products Manufacturers (FAPM) has been monitoring its member companies to assess the number of component jobs that may be at risk and data on their Victorian component members is being provided to DIIRD on an ongoing basis.

Aboriginals: Gateways to Justice calendar

Raised with: Attorney-General

Raised by: Mr Finn

Raised on: 5 February 2008

REPLY:

I refer to the matter you raise in the Adjournment Debate of 5 February 2008 regarding the Gateways to Justice Calendar.

The Gateways to Justice Calendar initiative, proposed by Indigenous Victorians under the Aboriginal Justice Agreement to promote employment opportunities within the public sector, is fully supported by the Government. This Government is proud to work in partnership with Indigenous Victorians under the umbrella of the Aboriginal Justice Agreement.

Since the Aboriginal Justice Agreement was signed in June 2000, Koori employment within the Department of Justice has grown from just 4 Koori staff to over sixty. This figure does not take into account the large numbers of elders and community members volunteering their time as bail justices and as members of Regional Aboriginal Justice Advisory Committees.

The individuals and initiatives featured in the 2008 calendar are great role models for the Koori community and celebrate the achievements of both individuals as well as community initiatives. The photographs show examples of what can be achieved through the strong partnerships between the Koori community and government. At a cost of a little over \$37,000 for production and postage, one half of a per cent of the budget for the Aboriginal Justice Agreement, this is a commendable and worthy investment.

The calendar is circulated within the Department and throughout government to encourage other government departments to become more proactive in attracting Koories into their workforce. These calendars are also circulated to Koori organisations throughout the state, and in particular to secondary and tertiary educational institutions.

Through investment in the Gateways to Justice Calendar and other initiatives under the Victorian Aboriginal Justice Agreement, this government believes it can assist in addressing the reasons for Indigenous over-representation and create opportunities for lasting change.

Wind energy: planning guidelines**Raised with: Planning****Raised by: Mr Hall****Raised on: 5 February 2008****REPLY:**

It is my understanding that a planning permit application for the proposed Berrybank wind farm has not been made to date. Once an application is lodged for a wind farm the planning process offers extensive opportunity for the views of the community to be taken into account.

The Department of Planning and Community Development monitors the operation of the *Policy and planning guidelines for the development of wind energy facilities in Victoria (2003)* (Guidelines) on an ongoing basis. I have asked that when the Guidelines are next updated, they describe where information can be obtained regarding current wind farm proposals including planning permit applications and decisions of the Minister for Planning on the need for an Environment Effects Statement.

I confirm that information regarding current wind farm proposals is available on the Department of Primary Industries web site and a web link to this site has been included on the Department of Planning and Community Development's planning website to assist intended land purchasers and others interested in these proposals.

Duck hunting: season**Raised with: Environment and Climate Change****Raised by: Mr Hall****Raised on: 6 February 2008****REPLY:**

On 19 December 2007, I announced that the 2008 Victorian duck season would be cancelled due to the ongoing drought, which has resulted in limited habitat availability and historically low duck numbers across eastern Australia.

At the time the announcement was made, conditions for waterfowl were worse than those recorded for 2006, which led to the cancellation of the 2007 duck season. Conditions during 2007 produced the lowest wetland habitat availability and the second lowest index of game duck abundance recorded in the last 25 years.

Since that time, there has been widespread flooding in areas of northern New South Wales and Queensland. However, extensive areas of New South Wales and Victoria remain dry. Given this, it is highly unlikely that waterfowl will move into Victoria during the period when duck hunting can occur.

Further, it is considered that any improvement in environmental conditions would not allow eastern Australia's depleted waterfowl populations sufficient time to recover to allow hunting to occur this year.

Duck hunting will return to Victoria once conditions and waterfowl numbers sufficiently recover to allow sustainable hunting.

Wodonga: hunting and firearms expo**Raised with: Police and Emergency Services****Raised by: Mr Barber**

Raised on: 6 February 2008

REPLY:

I refer to the Adjournment Debate matter in the Legislative Council dated 6 February 2008.

You have asked for assurances that all necessary permits were obtained, and all relevant laws complied with in the conduct of the Wodonga Hunting and Firearms Expo held on 9 and 10 February.

In particular, you sought assurance that all Victorian laws were complied with relating to the storage and sale of firearms at the event, and that there was an adequate police presence to ensure this compliance.

As you are aware, the Victorian Government is committed to the principles of the National Firearms Agreement and the National Handgun Control Agreement, and has enacted the principles of these agreements in the *Firearms Act 1996* (the Act). The Act establishes a rigorous licensing regime with respect to the acquisition, ownership and use of firearms.

I am advised by the Licensing Services Division of Victoria Police that all of the firearms dealers displaying firearms at the Expo had obtained the necessary dealer display permits under section 91 of the *Firearms Act*, and that these display permits were subject to stringent conditions regarding storage.

I understand that representatives of the Licensing Services Division of Victoria Police were present at the Wodonga Hunting and Firearms Expo, and two local Regional Firearms Officers also attended the Expo.

I am further advised that all of the other requirements of the Act, including those relating the issue of licences and permits, were met. Representatives of the Licensing Services Division accepted applications for licences and permits at the Expo, and these are being processed in accordance with the requirements of the *Firearms Act*.

Thank you for the opportunity to respond to your concerns.

Wallan Secondary College: funding

Raised with: Treasurer

Raised by: Mrs Petrovich

Raised on: 6 February 2008

REPLY:

Since 1999, the Victorian Government has spent more than \$2.3 billion on capital investment in schools, including the renovation or rebuilding of 400 schools.

As part of that commitment, the Government has already allocated \$5.1 million in the 2004-05 Budget to complete Stage 1 at Wallan Secondary College, including classrooms, art, graphics, fabrics and administration facilities.

A further \$3 million was announced in 2005-06 for Stage 2. The scope of works included music, drama, home economics and science facilities. A further \$300,000 was allocated from the Community Facilities Fund to extend the drama facilities into community facilities to be shared by school and local community.

The Government is very proud of the facilities provided to date, with both stages of the school winning design awards at the annual School Design Awards.

The completion of the new school development at Wallan Secondary College has always been a high priority for the Government and planning for the third stage of the master plan development will include the gymnasium, library, additional classrooms and science and technology facilities.

The Government will continue to support the needs of Wallan Secondary College and all other school communities.

Schools: maintenance

Raised with: Education

Raised by: Mr Rich-Phillips

Raised on: 7 February 2008

REPLY:

Since 1999, the Victorian Government has invested over \$480 million in school maintenance and almost \$2.3 billion on capital investment in schools. The Government's Labor Financial Statement 2006 committed \$1.9 billion to renovate or rebuild a further 500 schools in four years as part of the broader long term vision for every government school to have been rebuilt or modernised by 2016-17.

The 2007-08 Budget delivered on more than one-quarter of the promised 500 schools, with 131 schools receiving funding to commence works.

Since 2005 the Government has also purchased 300 new relocatable classroom buildings with a commitment to purchase another 200 new relocatable buildings.

On an annual basis, \$41 million is allocated to schools each year for maintenance works. \$29 million is distributed to schools as a quarterly grant via the Student Resource Package to finance both planned maintenance and urgent or unplanned maintenance. The remaining \$12 million is used to supplement schools which experience an urgent maintenance issue that exceeds their available resources.

South Eastern Metropolitan Area schools have received more than \$51 million in maintenance funding since 1999 and continue to receive \$3.9 million each year via the Student Resource Package.

Any school experiencing an urgent maintenance issue which exceeds available funds can contact the relevant regional office to have the matter investigated.

The Government will continue to support the needs of schools within the South Eastern Metropolitan Area and all other school communities.

Police: St Kilda

Raised with: Police and Emergency Services

Raised by: Mrs Coote

Raised on: 7 February 2008

REPLY:

The Brumby Government is committed to providing safe streets and homes for Victorians by ensuring Victoria Police is a highly professional and well resourced organisation.

The Government has invested considerable effort and resources to put in place anti-corruption measures. In 2004, the Government established the Office of Police Integrity (OPI). This independent office has investigatory powers equivalent to and in many ways greater than, those of any standing anti-corruption commission in Australia. This has strengthened the ability of Victoria Police to maintain high ethical standards.

Since its establishment, the OPI, in conjunction with the Ethical Standards Department (ESD) of Victoria Police, has been active and successful in tackling police corruption and illegal behaviour. The OPI works closely with the ESD, which uses skilled police investigators under the oversight of the independent, objective and impartial Office of Police Integrity. This has been demonstrated by the successful prosecution of a number of police officers for serious criminal offences. During 2006-07 OPI's activities resulted in 152 criminal charges being laid against police with 20 police and civilians facing criminal charges. In addition, six police officers tendered their resignation while under investigation.

The Director of OPI has wide powers, including the ability to conduct telecommunications intercepts and the authority to compel police officers to answer questions. He is also able to conduct his own investigations, including into the conduct of individual officers and police policies and procedures generally, and reports directly to Parliament.

The Government strongly supports the efforts of Chief Commissioner Nixon to address the problem of police corruption, and has equipped her with the necessary tools and resources. In this context, I am proud of the work done by the Victoria Police Ceja Taskforce, which has been successful in prosecuting corruption. The Taskforce has been instrumental in the charging of nine police members and six non-uniformed staff. Ultimately, seven police members were convicted, with six former drug squad officers receiving imprisonment sentences totalling over 46 years for their serious offences.

Planning: urban development program report

Raised with: Planning

Raised by: Mr Guy

Raised on: 7 February 2008

REPLY:

The Urban Development Program (UDP) Annual Report is valued by the Government, councils and the development industry for its attention to detail on the supply, demand and adequacy of residential and industrial land in metropolitan Melbourne and Geelong.

As a result of strategic actions recommended in that UDP Annual Report the Government has provided assistance to councils in the growth area municipalities of Melton, Wyndham, Hume, Whittlesea, Casey and Cardinia for Precinct Structure Plans and other strategic planning assistance to increase the supply of zoned residential land. The Growth Areas Authority has been actively leading this effort.

The 2007 UDP Annual Report uses new 2006 Census and immigration data supplied by the Commonwealth Government. This information is used by the Department of Planning and Community Development to analyse demand for residential land, and produce projections on land available into the future.

The 2007 UDP Annual Report was released by the Premier on 4 March 2008 at the UDIA National Conference, and is available on the DPCD website at www.dpcd.vic.gov.au/urbandevelopmentprogram.

Manufacturing industry: imported trains

Raised with: Industry and Trade

Raised by: Mr D. Davis

Raised on: 7 February 2008

REPLY:

I am advised that the requirements of the Victorian Industry Participation Policy (VIPP) were correctly applied by the DOI when considering the tenders.

In this instance, the price of the trainsets with significant local content was considerably higher than the price being offered for the imported trainset.

I am advised that this differential was well outside the tolerance to allow VIPP to be applied.

The recent competitive tender for 18 new metropolitan trains was limited to ALSTOM and Siemens. These companies have built the most recent trains operating on Melbourne's network which have current approvals from the safety regulator. Limiting this tender process to those two suppliers ensured that the government could increase capacity and services for Melbourne commuters in the shortest possible timeframe.

Late last year ALSTOM was awarded the contract, which was announced at the time.

The additional 8 V'Locity carriages recently funded by the Government were added to an existing order with local manufacturer Bombardier for the same reasons, to ensure that regional train passengers will benefit from extra capacity as soon as possible.

On balance, the Government decided that providing Victorians with extra capacity on the metropolitan and regional train systems as soon as possible was the highest priority.

The Government is always seeking local manufacturing opportunities. To that end, I have asked the Industry Capability Network (ICN) to work with the successful tenderer ALSTOM to see if there are opportunities for local manufacturers to provide local content. Whilst the ALSTOM trains will be built overseas, stabling facilities, ongoing maintenance operations and train crews will produce local jobs.

I would also point out that the trainsets ordered by the previous Kennett Government made no provision for any local content. It was only by the action of this Government that any local content was applied to the previous trainset order.

Housing: affordability

Raised with: Planning

Raised by: Mr Eideh

Raised on: 7 February 2008

REPLY:

There are a range of factors that impact on the cost of housing and its affordability, including supply and demand, taxation and financial management measures, and the world economy. Planning is a component, but not the only one.

As Victoria's Minister for Planning, my focus is on ensuring that the planning system does everything it possibly can to effectively address housing affordability. Removing unnecessary delays in the planning system and ensuring an adequate supply of housing and land are the key things that the Government can control. An efficient planning system will increase well located housing supply, improve housing affordability, create and sustain vibrant liveable communities and ensure that Melbourne's urban growth is sustainable.

The Government's commitment to this was demonstrated by the announcement on 5 March by the Premier of Victoria of the establishment of the new Urban Growth Zone, which will effectively release all remaining developable greenfield land in our five growth corridors within the Urban Growth Boundary. The application of this new zone in growth areas will help speed up residential development and contribute to the Government maintaining a 10 year supply of zoned land.

This is the first step in new planning measure that will bring forward the development of land for housing. Other steps include replacing complex planning processes currently used in growth areas with new Precinct Structure Plans, with a stronger role for the Growth Areas Authority, in consultation with local government.

The new Planning and Environment Bill, proposed for 2009, will support a reduced regulatory burden by simplifying current laws, eliminating duplication, removing redundant provisions, modernising statutory language, and strengthening the certainty and timeliness of decision making.

The recent *Statement of Government Intentions* delivered by the Premier on 5 February, announced the establishment of an expert panel to review the *Planning and Environment Act 1987* and report by the end of 2008. The Department of Planning and Community Development is developing a program for this review process and I will make an announcement once it has been finalised.

Automotive industry: national plan

Raised with: Industry and Trade

Raised by: Ms Tierney

Raised on: 7 February 2008

REPLY:

The automotive industry is the centre-piece of Victoria's vibrant manufacturing sector and a focus for economic development by the Government.

The Government has had in place a Victorian Automotive Manufacturing Industry Strategic Plan since 2001. This document addresses a number of Strategic priorities and objectives for the industry, namely: People, Products, Processes, Policy, Positioning and Promotion. A suite of initiatives identified in the plan have been implemented in partnership with industry.

Given the rapid changes that have occurred recently in the automotive industry, I have instructed my Department to prepare an updated blueprint for development of the sector. Industry consultation on this initiative is currently in progress.

The Government will also be making a submission to the Review of the Australian Automotive Industry announced recently by the Federal Government.

Police: Olinda station

Raised with: Police and Emergency Services

Raised by: Mr O'Donohue

Raised on: 7 February 2008

REPLY:

Since coming to office, the State Government has increased the number of police by over 1,400. Further, we have increased funding to Victoria Police to a record budget of more than \$1.6 billion in 2007-08, and funded the construction and refurbishment of 149 police stations across the state.

The State Government invested \$1.4 million in the new Olinda Police Station to provide local police with state of the art facilities that better reflect the changing needs of modern policing. The community input into the design of the police station to suit the look and feel of Olinda also reflects a strong partnership between the local people and police, resulting in the best possible police facility for the area.

Reports of the Olinda Police Station permanently closing are unfounded. The station represents a significant investment by the Government in the Olinda area and builds on our commitment to provide police with the best facilities and equipment possible to enhance their ability to serve their local communities.

The level of policing in any area of Victoria is continuously monitored by the respective Regional Command Officers, with a view to maintaining optimum policing effectiveness. In an urban fringe area like Olinda where the fire danger is great, fire patrol duty forms an important part of local policing. One officer from the Olinda Police Station patrols Olinda and the surrounding area in this capacity. In addition, the senior officer at Olinda is currently on leave and will return shortly, boosting the police presence in the area.

The State Government's investment in police resources in the Olinda electorate is showing good results with the overall crime rate in Yarra Ranges dropping 24.1 per cent since 2000/2001. I congratulate local police for all their hard work in making the Olinda community even safer.

Council of Australian Governments: reforms

Raised with: Premier

Raised by: Mr Thornley

Raised on: 7 February 2008

REPLY:

The Victorian Government has a strong record of driving national reform at the Council of Australian Governments (COAG). This is demonstrated by our leadership in the development of gas and electricity markets, and more recently, our key role in the development of the National Reform Agenda.

On 20 December 2007, COAG agreed to a renewed comprehensive reform agenda which will drive reforms across a range of policy areas, including a commitment to tackle the key issues of climate change and water.

Under COAG, the Climate Change and Water Working Group has been established to develop reform proposals in these priority areas, complementing the Victorian Government's strategic priorities in water reform and emissions trading.

Emissions trading, including the development of a carbon market, offers the most cost-effective way of reducing our greenhouse gas emissions. Victoria has played a pivotal role in the work of the National Emissions Trading Taskforce, with States' and Territories' commitment to an Emissions Trading Scheme (ETS) and a national emissions reduction target driving a national response on this issue.

With the Commonwealth now committed to an ETS, the Victorian Government is working through COAG to ensure Victoria's interests are taken into account in the design of such a scheme, with due consideration of the impact on our gas and electricity sectors.

Ultimately, a well-designed ETS will help ensure that emissions reductions are consistent with continued strong economic growth.

Victoria, along with our neighbouring States, is also a leader in developing and establishing a water market. Trading of water within Victoria and interstate is generating immense benefits, revealing water's value and encouraging highest value use while becoming a major part of business strategies.

Through COAG, and at a state level, Victoria is working to ensure that water markets continue to operate efficiently and effectively, and act as an important mechanism to assist communities to adapt to the impacts of drought and ensure better use of a scarce resource.

Victoria will continue to play a leadership role in the development of reforms of national and State significance at COAG and I look forward to providing updates on progress in these priority areas as reforms are developed.

Disability services: support program

Raised with: Minister for Children and Early Childhood Development

Raised by: Ms Pennicuik

Raised on: 27 February 2008

REPLY:

Information on the Program for Students with Disabilities is available in the Auditor-General's Report of September 2007.

Since this Government was elected in 1999, expenditure for students with additional learning needs has increased by 82 per cent.

In 2008, the Government is investing more than \$359 million in the Program for Students with a Disability including \$29 million in the Language Support Program.

Every Victorian government school now receives funding to support students with language difficulties.

In addition to the Program for Students with Disabilities and Language Support Program, \$50 million is being allocated in 2008 for a range of other support services such as psychologists, speech pathologists, social workers and occupational therapists to assist students with disabilities in all Victorian government schools.

Weeds: control

Raised with: Environment and Climate Change

Raised by: Mr P. Davis

Raised on: 28 February 2008

REPLY:

To protect and enhance the biodiversity within our parks, the Government has committed \$5.0M per annum from 2006-07 as part of the Sustainable Management of Victoria's Parks Initiative. Of all the activities carried out by Parks Victoria staff, weeds are a very important priority; controlling weeds is at the very heart of maintaining a healthy park system for Victorians to enjoy, and we are continuing to attack priority pest weeds.

Parks Victoria treats almost 100,000 hectares of weed in parks annually, in programs focusing on protection of biodiversity values, threats to neighbouring land posed by weeds and pests, and targeting new and emerging weeds and pests in smaller parks bounded by non-native vegetation across the State. Blackberry is one of the most common species targeted in weed programs with 18,000 hectares treated across the State in 2006-07.

Blackberry is also one of the major weeds treated in the Alpine National Park; 2000 hectares of the Alpine National Park were treated for blackberry in 2006-07. Ongoing blackberry control works are targeted at boundaries with neighbours, small catchments or outlying sites disconnected from other infestations where eradication may be achievable, important sites for biodiversity conservation, such as spotted tree frog habitat, and visitor sites where camping and access to rivers is required.

In addition, the State Government's Weeds and Pests on Public Land initiative allowed blackberry rust fungus to be released at locations across the State including Germantown, Morses Creek and Buffalo Creek areas and Kiewa and Buckland Valleys. As you may be aware, the rust fungus is a biological control agent that targets a large number of the 40-plus types of blackberry currently growing in Victoria, without causing damage to other plants or animals.

Dandenong Hospital: emergency department**Raised with: Health****Raised by: Mr Rich-Phillips****Raised on: 28 February 2008****REPLY:**

I am able to advise that, since November 2006 when this commitment was announced, planning has been underway for the redevelopment of the Dandenong Hospital Emergency Department to be considered in the 2008-09 State Budget. This commitment will be considered alongside the other asset investment proposals for the 2008-09 Budget.

National parks: management**Raised with: Environment and Climate Change****Raised by: Mr P. Davis****Raised on: 11 March 2008****REPLY:**

The Mitchell River Walking Track provides a semi-remote experience for visitors; a walk for visitors preferring less rugged and better signposted tracks is the nearby Den of Nargun walking track.

In September and October last year, the entire length of the Mitchell River walking track benefited from extensive works following the June 2007 flood and storm events. These works included track clearing, storm debris removal, erosion and drainage works.

The Mitchell River Walking Track from the Den of Nargun to Billygoat Bend is having routine maintenance works, including tree clearing, done now. No reports have been received recently from users, school groups or tour operators who regularly use the track and generally report back any issues.

I apologise that the signs for the Den of Nargun toilet facility were out of date. I am assured that the sign to the toilet is being relocated to a better position. In addition, the park note for the Mitchell River National Park is currently being reviewed and will include any necessary updates such as the reference to the toilet location.

With regards to signage in the Alpine National Park, as you are aware, in December 2006 and January 2007 the Great Divide fire swept through much of the high country burning over 1 million hectares and affecting hundreds of roads, walking tracks built assets, including signs.

The fire recovery program is well established, restoring safe visitor access through the progressive re-opening of many kilometres of roads and walking tracks and re-establishment of built assets. Hundreds of signs were burnt and are in the process of being assessed and replaced through the program. Given the scale of damage, works have been scheduled to be completed over a two year period. There has been, and continues to be, broad consultation on the scheduling of works to ensure we deal with key areas early in the program.

The area you describe near Mount Howitt was deep in the fire affected area. While the track was re-opened as a priority due to it being popular with walkers keen to get back into the area, the progressive ordering and placement of new signs has not yet occurred in that area. It is scheduled for after this winter snow season, and in the meantime rangers will continue to provide temporary signage.

The government has invested heavily in the fire recovery program which, along with built asset repair and replacement, includes weed and pest animal control, catchment protection and indigenous heritage survey and site protection work.

Torquay and Lorne caravan parks: redevelopment

Raised with: Environment and Climate Change

Raised by: Ms Lovell

Raised on: 12 March 2008

REPLY:

The Victorian Government has delegated responsibility for the current and future management of the Lorne and Torquay Caravan Parks to the Great Ocean Road Coastal Committee. I do not propose to intervene in the committee's current process to consult with the community in relation to its proposed refurbishment plans.

I understand the committee has presented the refurbishment plans for the parks to its stakeholder communities and park users along the coast. In doing this the committee invited public comment on the proposals. The committee will re-consider its plans in light of the submitted comments and intends once again to consult with its stakeholder communities about the refurbishment proposals.

The committee is proposing to upgrade these caravan parks to ensure that appropriate facilities are available for visitors to the area into the future. The proposed upgrades aim to improve the amenities, provide enhanced environmental management and attain financial returns which will provide for improved coastal management. To achieve this, an integrated and comprehensive approach to the management of the caravan park is being taken and this will underpin the refurbishment proposal.

I believe the Great Ocean Road Committee of Management is demonstrating sensitivity to the needs of the local and broader community and are demonstrating their interest in accommodating community needs through its consultation process. There is every intention to retain these improved parks as affordable coastal camping grounds for the many visitors who travel to the Surf Coast each year.

WRITTEN ADJOURNMENT RESPONSES

Responses have been incorporated in the form supplied by the departments on behalf of the appropriate ministers

Wednesday, 9 April 2008

Government: statement of intentions

Raised with: Premier

Raised by: Ms Broad

Raised on: 5 February 2008

REPLY:

Farmers and the service sectors within agricultural industries play a vital role in minimising the impact of pests and diseases on our livestock, agricultural and horticultural industries.

Victoria has robust and contemporary biosecurity legislation and a clear commitment to the continuous improvement of that legislation. The Department of Primary Industries (DPI) actively consulted with farmers and industry in the drafting of the legislation and will continue to do so.

I invite all farmers to become involved with industry organisations, through which they can be involved in the ongoing development of biosecurity measures for the protection of our agricultural and horticultural industries. The government regularly consults with industry groups, and relies on the expertise of farming organisations and their members, in such development processes.

WRITTEN ADJOURNMENT RESPONSES

Responses have been incorporated in the form supplied by the departments on behalf of the appropriate ministers

Thursday, 10 April 2008

Equal Opportunity Act: review

Raised with: Attorney-General

Raised by: Mr Tee

Raised on: 7 February 2008

REPLY:

I refer to your statement in Parliament on 7 February 2008 in relation to the review of the *Victorian Equal Opportunity Act 1995* (the Act).

In that statement you called for the Equal Opportunity Review to consider incorporating the best aspects of the equal opportunity regimes in other Australian and international jurisdictions. You also asked me to communicate with other States and Territories with a view to working towards national uniform standards for modern equal opportunity legislation, to the greatest possible extent.

I appointed Mr Julian Gardner in August 2007, to undertake an independent review of the Act. The Terms of Reference for the Review require any proposals for reform to take into consideration the different models for anti-discrimination legislation in Australian and relevant overseas jurisdictions. While there are many innovations in overseas jurisdictions, the Terms of Reference also require the Reviewer to bear in mind the Victorian context and government's aim to reduce the regulatory burden on business.

The Equal Opportunity Review Options Paper is due to be released in mid-March 2008. The Options Paper raises various options for reform to the *Equal Opportunity Act 1995* for public consultation. Several of the options draw upon innovations in equal opportunity legislation in other Australian and international jurisdictions.

It is desirable for business and citizens to have uniform standards to the greatest possible extent, to provide certainty and consistency and to reduce the regulatory burden upon business. Clearer and consistent laws also help to improve compliance with the law and make the law more accessible for victims of discrimination.

At the March 2008 Standing Committee of Attorneys-General (SCAG) meeting, Attorneys-General propose to discuss the possible harmonisation of anti-discrimination laws. The outcome of Mr Gardner's review, expected in June 2008, could inform any consideration of harmonisation of anti-discrimination laws by SCAG.

Thank you for raising these important issues.

