PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 1 November 2007

(Extract from book 15)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

Legislation Committee — Mr Atkinson, Ms Broad, Mrs Coote, Mr Drum, Ms Mikakos, Ms Pennicuik and Ms Pulford.

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.

Joint committees

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

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 Elasmar 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 Elasmar, Mr Guy and Ms Hartland. (*Assembly*): Ms Green, Mr Hodgett, Mr Nardella, Mr Seitz and Mr K. Smith.

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

Acting Presidents: Mr Elasmar, Mr Finn, Mr Leane, Mr Pakula, Ms Pennicuik, Mrs Peulich, Mr Somyurek and Mr Vogels

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Deputy Leader of the Government:
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Mr PHILIP DAVIS

Deputy Leader of the Opposition:
Mrs ANDREA COOTE

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Ms Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Pakula, Mr Martin Philip	Western Metropolitan	ALP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr Philip Rivers	Eastern Victoria	LP	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
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
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
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, 1 NOVEMBER 2007

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Thursday, 1 November 2007

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

ENERGY LEGISLATION FURTHER AMENDMENT BILL

Clerk's amendments

The PRESIDENT — Order! I have received a report from the Clerk of the Parliaments in relation to the Energy Legislation Further Amendment Bill. It states:

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

PREMIER'S DRUG PREVENTION COUNCIL

Report 2006–07

Mr LENDERS (Treasurer), by leave, presented report.

Laid on table.

PAPERS

Laid on table by Clerk:

Alexandra District Hospital — Report, 2006–07.

Alpine Health — Report, 2006–07 (three papers).

Alpine Resorts Co-ordinating Council — Minister's report of receipt of 2006–07 report.

Altona Memorial Park Trustees — Report, 2006–07.

Ambulance Service Victoria — Metropolitan Region — Report, 2006–07.

Andersons Creek Cemetery Trust — Minister's report of receipt of 2006–07 report.

Austin Health — Report, 2006–07.

Australian Centre for the Moving Image — Report, 2006–07.

Bairnsdale Regional Health Service — Report, 2006–07 (two papers).

Ballaarat General Cemeteries Trust — Minister's report of receipt of 2006–07 report.

Ballarat Health Services — Report, 2006–07.

Barwon Health — Report, 2006–07.

Bass Coast Regional Health — Report, 2006–07 (two papers).

Bayside Health — Report, 2006–07.

Beaufort and Skipton Health Service — Report, 2006–07 (two papers).

Beechworth Health Service — Report, 2006–07 (two papers).

Benalla and District Memorial Hospital — Report, 2006–07 (two papers).

Bendigo Cemeteries Trust — Minister's report of receipt of 2006–07 report.

Bendigo Health Care Group — Report, 2006–07.

Boort District Hospital — Report, 2006–07 (three papers).

Casterton Memorial Hospital — Report, 2006–07 (two papers).

Central Gippsland Health Service — Report, 2006–07 (two papers).

Cheltenham and Regional Cemeteries Trust — Minister's report of receipt of 2006–07 report.

Chinese Medicine Registration Board of Victoria — Minister's report of receipt of 2006–07 report.

Chiropractors Registration Board of Victoria — Minister's report of receipt of 2006–07 report.

Cobram District Hospital — Report, 2006–07 (two papers).

Cohuna District Hospital — Report, 2006–07.

Colac Area Health — Report, 2006–07.

Dental Health Services Victoria — Report, 2006–07.

Dental Practice Board of Victoria — Minister's report of receipt of 2006–07 report.

Djerriwah Health Services — Report, 2006–07 (two papers).

Dunmunkle Health Services — Report, 2006–07.

East Grampians Health Service — Report, 2006–07 (two papers).

East Wimmera Health Service — Report, 2006–07.

Eastern Health — Report, 2006–07.

Echuca Regional Health — Report, 2006–07.

Edenhope and District Memorial Hospital — Report, 2006–07.

Fawkner Crematorium and Memorial Park Trust — Minister's report of failure to submit report for 2005–06 to the Minister within the prescribed period and the reasons therefor.

Report, 2005–06.

Report, 2006–07.

Food Safety Council — Report, 2006–07.

Geelong Cemeteries Trust — Minister's report of receipt of 2006–07 report.

Geelong Performing Arts Centre Trust — Report, 2006–07.

Gippsland Southern Health Service — Report, 2006–07 (two papers).

Health Services Commissioner — Report, 2006–07.

Hepburn Health Service — Report, 2006–07.

Hesse Rural Health Service — Report, 2006–07.

Heywood Rural Health — Report, 2006–07.

Human Services Department — Report, 2006–07.

Infertility Treatment Authority — Minister's report of receipt of 2006–07 report.

Inglewood and Districts Health Service — Report, 2006–07.

Keilor Cemetery Trust — Report, 2006–07.

Kerang District Health — Report, 2006–07.

Kilmore and District Hospital — Report, 2006–07.

Kyabram and District Health Service — Report, 2006–07.

Kyneton District Health Service — Report, 2006–07.

Latrobe Regional Hospital — Report, 2006–07.

Library Board of Victoria — Report, 2006–07.

Lorne Community Hospital — Minister's report of receipt of 2006–07 report.

Maldon Hospital — Minister's report of receipt of 2006–07 report.

Mansfield District Hospital — Report, 2006–07.

Maryborough District Health Service — Report, 2006–07 (two papers).

McIvor Health and Community Services — Report, 2006–07.

Melbourne Health — Report, 2006–07.

Melbourne Recital Centre — Report, 2006–07.

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, 30 September 2007.

Mercy Public Hospitals Incorporated — Report, 2006–07 (two papers).

Moyne Health Services — Report, 2006–07.

Mt Alexander Hospital — Report, 2006–07.

Museums Board of Victoria — Report, 2006–07.

Nathalia District Hospital — Minister's report of receipt of 2006–07 report.

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

Necropolis Springvale Trustees — Report, 2006–07.

Northeast Health Wangaratta — Report, 2006–07.

Northern Health — Report, 2006–07 (two papers).

Numurkah District Health Service — Report, 2006–07 (two papers).

Nurses Board of Victoria — Report, 2006–07.

O'Connell Family Centre — Minister's report of receipt of 2006–07 report.

Ombudsman — Report on Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters.

Omeo District Health — Minister's report of receipt of 2006–07 report.

Orbost Regional Health — Report, 2006–07.

Optometrists Registration Board of Victoria — Minister's report of receipt of 2006–07 report.

Osteopaths Registration Board of Victoria — Minister's report of receipt of 2006–07 report.

Otway Health and Community Services — Report, 2006–07.

Peninsula Health — Report, 2006–07.

Peter MacCallum Cancer Centre — Report, 2006–07.

Pharmacy Board of Victoria — Minister's report of receipt of 2006–07 report.

Physiotherapists Registration Board of Victoria — Minister's report of receipt of 2006–07 report.

Podiatrists Registration Board of Victoria — Minister's report of receipt of 2006–07 report.

Preston Cemetery Trust — Report, 2006–07.

Queen Elizabeth Centre — Report, 2006–07 (two papers).

Radiation Advisory Committee — Report, 2006–07.

Rochester and Elmore District Health Service — Report, 2006–07.

Royal Children's Hospital — Report, 2006–07.

Royal Victorian Eye and Ear Hospital — Report, 2006–07.

Royal Women's Hospital — Report, 2006–07.

Rural Ambulance Victoria — Report, 2006–07.

Rural Northwest Health — Report, 2006–07 (two papers).

Seymour District Memorial Hospital — Report, 2006–07.

South Gippsland Hospital — Report, 2006–07.

South West Healthcare — Report, 2006–07.

Southern Health — Report, 2006–07.

Special Investigations Monitor — Report pursuant to section 86ZM of the *Police Regulation Act 1958* and section 105M of the *Whistleblowers Protection Act 2001*.

St Vincent's Health [incorporating the financial statements of Caritas Christi Hospice Limited, St George's Health Service Limited and St Vincent's Hospital (Melbourne) Limited] — Report, 2006–07 (four papers).

Stawell Regional Health — Report, 2006–07 (two papers).

Swan Hill District Hospital — Report, 2006–07.

Tallangatta Health Service — Report, 2006–07 (two papers).

Templestowe Cemetery Trust — Minister's report of receipt of 2006–07 report.

Terang and Mortlake Health Service — Report, 2006–07.

Timboon and District Healthcare Service — Report, 2006–07 (two papers).

Tweddle Child and Family Health Service — Minister's report of receipt of 2006–07 report.

Upper Murray Health and Community Services — Report, 2006–07 (two papers).

Victorian Arts Centre Trust — Report, 2006–07 (two papers).

Victorian Rail Heritage Operations Pty Ltd — Minister's report of receipt of 2006–07 report.

West Gippsland Heathcare Group — Report, 2006–07.

Western Health — Report, 2006–07 (two papers).

Western District Health Service — Report, 2006–07.

Wimmera Health Care Group — Report, 2006–07.

Wodonga Regional Health Service — Report, 2006–07.

Wyndham Cemeteries Trust — Minister's report of receipt of 2006–07 report.

Yarram and District Health Service — Report, 2006–07 (two papers).

Yarrawonga District Health Service — Report, 2006–07 (two papers).

Yea and District Memorial Hospital — Report, 2006–07.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

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

Motion agreed to.

MEMBERS STATEMENTS

Victorian Communities: report 2006–07

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased to rise to make a brief contribution on the former Department for Victorian Communities annual report, which was tabled yesterday amongst the hundreds of other reports that were dumped into Parliament on the same day. We see also that more reports have been dumped here today, on the last remaining day — in fact, today is one day after the day when they should have been tabled.

I draw to the attention of the house the amount of money this government flogs from the people of Victoria through gaming taxes. This government has a strong reliance on gaming taxes as it funds and props up its ever-out-of-control revenue base. What we see is that the government takes from the punters $1.55 billion through gaming taxes. What does it actually put back through the Community Support Fund? It puts pack a measly $108 million, equating to around 6.2 per cent of the government's total revenue take from gaming taxes.

That is exactly what this government is on about. A billion dollars goes, supposedly without any accountability, into the hospitals fund, and the remaining $400 million goes into the back pocket, into consolidated revenue, as we heard on radio from one of the ministers yesterday. This government has a clear reliance on gaming taxes, and it does not put the money back, as it purports to do.

Black Forest Timbers: closure

Mr DRUM (Northern Victoria) — Black Forest Timbers at Woodend has finally succumbed to the policies of this government and is going to close at the end of this year. It has been the subject of some very deceitful negotiations with this government. When it was locked out of western Victorian forests in 2000, it was in fact promised that it would have access to all the timber that it needed in the east of the state to continue

on in the way it was operating at that time. It had over 50 employees at that stage and the then Treasurer, now Premier, went to Black Forest Timbers to congratulate that firm. He held it up as a shining example of how timber industries in this state can work hand in hand with the state government and its timber policies, into a sustainable future.

Now, less than two years later, the business will close, 50 jobs have been lost, and Black Forest Timbers lays the blame for the loss of all those jobs in regional Victoria solely at the feet of this government and its policies in relation to locking people out of the forests in this state. Those jobs will be lost forever, those people will be lost to the region, they will not be able to hang around a small place like Woodend. Premier Brumby went there and opened its new multimillion-dollar industry with the investment that it had made to effectively diminish the amount of waste being created under its previous practices and taking their processes into the 21st century. All that is now going to be a total waste. This government needs to hang its head in shame.

Planning: St Kilda triangle development

Ms PENNICUIK (Southern Metropolitan) — I am not usually known as a monarchist, but I have a message from Her Majesty the Queen. Her Majesty is inviting people to attend a public rally at the St Kilda triangle site on next Sunday, 4 November. The rally is in relation to the development of the St Kilda triangle site by Babcock and Brown, and Citta Property Group, which are moving to put in 181 retail shops, to squash them in on the St Kilda triangle site, along with five night clubs, a gymnasium and several hundred restaurants — that is probably an exaggeration! Her Majesty the Queen will be speaking at 1.00 p.m., and I understand that she will be symbolically handing the Crown land of the triangle site back to the people of St Kilda on behalf of the unChain St Kilda group.

A couple of months ago I asked the Minister for Planning to say what were the principles governing the allocation of public land to private use. The minister responded that public land may be allocated to private commercial developments where there is a need to create incentive. I do not think there is any need to create an incentive for retail developments or restaurants in St Kilda, which is already overrun with them. I hope members will join the Queen on Sunday.

Diwali festival

Ms MIKAKOS (Northern Metropolitan) — Recently I had the opportunity to attend a number of events that reflect Victoria's multicultural character. On 13 October I had the great pleasure of attending the Diwali 07 at Federation Square, better known as the Festival of Lights, which is one of India's most important festivals. It symbolises the victory of good over evil — a bit like this place!

It was fabulous to see thousands of people dancing and singing to Indian music, enjoying Indian food and the spectacular fireworks display. The festival was organised by the management committee of Celebrate India Inc. — Dr Jana Rao, Dr Berera, Mr Arun Sharma and Dr Martand Joshi. I congratulate the group on organising a successful event, highlighting the Indian community's contribution to enriching Victoria's multicultural identity.

Ohi Day

Ms MIKAKOS — On 28 October I had the pleasure of attending the Ohi Day commemoration at the Domain gardens, which day commemorates the Greek people's fight for freedom during the Second World War. It also honours the more than 17 000 Australian men and women who served in Greece during the war, and the 841 who died there. I congratulate the Hellenic RSL and the Australian Hellenic Memorial Foundation for organising this event.

Somali: women's art exhibition

Ms MIKAKOS — On 19 October I had the great honour to launch the Somali women's artwork which is featured at the Banyule community health centre. I congratulate the Somali women involved in producing this beautiful artwork and also VicHealth, the Banyule community health centre and Olympic Adult Education for their support of this project.

Government: performance

Mr RICH-PHILLIPS (South Eastern Metropolitan) — On no less than 20 occasions the Treasurer has come into this place and boasted of an article in the *Australian Financial Review* of 16 January 2003 which chides the government for being too transparent. Having heard the Treasurer's rhetoric, members could be forgiven for thinking this article was an endorsement of the government's policies. Nothing could be further from the truth. In fact the article by Michael Short, entitled 'Dazzled by too much transparency', criticises the government for using its plethora of reports to announce and reannounce and announce again projects to make it look as though it is doing more than it actually is. The article says:

> What a pity, then, that the Victorian government has generated a transparency surplus that is probably more confusing than edifying and may be, well, an attempt to get credit twice, thrice even, for the same thing.

The article goes on to criticise the government for failing to fund its election promises in its first budgets and notes that the government has presaged an 'update of the update' — its promises to implement its promises. This article is far from an endorsement of the government, and given that Mr Lenders has referred to it no less than 20 times since it was written, maybe he should refer to it in its proper context in future.

Water: Wimmera–Mallee pipeline

Ms BROAD (Northern Victoria) — Water recently flowed through the first stage of the Wimmera-Mallee pipeline, providing greater water security for families on farms, town communities and businesses. It is expected that when construction of the 8800-kilometre pipeline is finished, up to 100 000 megalitres of water will be saved each year, providing benefits to an area of 2 million hectares and 33 towns. The pipeline is now more than 20 per cent complete, and this week the project received a boost when the Premier, John Brumby, announced an extra $99 million for the pipeline, taking the total Victorian contribution to $266 million. GWMWater will also increase its contribution by $50 million to $156 million. I support calls for the federal coalition government to increase its current commitment of $167 million to match the Brumby government's contribution of $266 million.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order!

Ms BROAD — If the federal government commits to matching the Brumby government's contribution, the pipeline will be finished in 2009–10, five years ahead of schedule. Just because this vital water infrastructure project — —

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! The 90-second statements are an important part of Parliament's process, and members have a right to be heard in what is a relatively short time frame with silence and deference, particularly when they are not being provocative. I regard Ms Broad's contribution as not at all provocative nor inviting of interjection. We have a malfunction with the clock, so I would invite Ms Broad just to make a couple of closing remarks, because I have no idea what time she has run. However, I am also prepared to allow Ms Broad a little leeway, because the interjections were not fair, given that there was no provocation in the remarks being made by Ms Broad.

Ms BROAD — Just because this vital water infrastructure project is not in a marginal seat is no reason to withhold funding. Now is the time to once again follow the lead of the Brumby government and make a commitment for future generations.

Water: Plug the Pipe group

Ms LOVELL (Northern Victoria) — I rise to condemn the Minister for Regional and Rural Development in the other place, Jacinta Allan, for her comments during question time yesterday in the other house when she made scathing comments about the good people of northern Victoria, likening them to the violent protesters who protested outside the G20 summit last year. Ms Allan knew quite well that the document she was referring to was not the thoughts of the Plug the Pipe group; it was a document that had been sent to its members for their consideration. The thoughts were not theirs and were never adopted by the group. It was wrong of Ms Allan to attribute the contents of that document to Plug the Pipe. It was also interesting that Ms Allan chose to attack and single out Mr Mike Dalmau, because Ms Allan knows Mr Dalmau quite well. In fact Ms Allan's brother is married to Mr Dalmau's niece, so Ms Allan knows that Mr Dalmau's character is not of the type she tried to paint him it as in the Parliament yesterday.

Plug the Pipe is a group that formed because of the practice of this government of trampling all over country Victoria — of just coming to country Victoria and saying, 'We are taking your water without any consultation'. There is a pattern of behaviour by the government of telling people in country Victoria what it is going to do to them without any consultation and without thought for what it will do to their local communities.

St Nicholas Antiochian Orthodox Church: 75th anniversary

Mr ELASMAR (Northern Metropolitan) — I rise to speak regarding a very special community event I attended last week. I was invited by his Eminence Metropolitan Archbishop Paul Saliba and Fr Dimitri Baroudi, the parish priest for St Nicholas Antiochian Orthodox Church, to celebrate its 75th anniversary in Melbourne. The St Nicholas church was built in 1932 and it was the first Arabic-speaking church before the 1950s in Melbourne. But even more importantly St Nicholas provided the first spiritual home to many

Orthodox refugees and immigrant groups after the Second World War. The church has a long, proud history of helping migrants settle in Victoria from the Middle East. Mr Pandazopoulos, the member for Dandenong in the other place, officiated on behalf of the Premier, and the former Premier of Victoria, Mr Steve Bracks, launched a new book by Trevor Batrouney, a well-known celebrated author within the Lebanese community. I congratulate the parish council on achieving 75 years of service to its community.

Migrants: Sudanese intake

Mr TEE (Eastern Metropolitan) — Following a number of unfounded statements from the federal immigration minister, Mr Kevin Andrews, about the failure of Sudanese refugees to integrate into Australia, there have been a series of attacks on the Sudanese community in the electorate that Mr Andrews and I share. I have received reports that Sudanese migrants in my electorate are being harassed and intimidated, and as a result they are feeling threatened and indeed frightened. These are honest, law-abiding citizens who are being attacked. They are members of my electorate grateful for the new start they have received. They are working hard and succeeding at making a go of their new life in Australia. It is time that Mr Andrews remedied the injustice that he caused. It is time that he did the right thing and repaired the damage he has done to the reputation of Sudanese migrants in the electorate. Mr Andrews needs to acknowledge the contribution made by Sudanese in our shared electorates. It is time Mr Andrews stood up and apologised for the fear and intimidation that has been unleashed in the electorate.

Pearcedale farmers market: establishment

Mr SCHEFFER (Eastern Victoria) — I wish to congratulate Debra Pintur, Pearcedale farmers market manager, Pam McClean, and the Pearcedale Community Centre, Angie Peresso, Cr Colin Butler, the mayor of the City of Casey, Sandra Talty from the Department of Innovation, Industry and Regional Development and everyone involved in getting the Pearcedale farmers market up and running. It was a fantastic honour to have been asked to officially open the farmers market with Mayor Colin Butler on Saturday, 20 October, and to present a Victorian government cheque for $20 000. The work involved in so successfully bringing to life this first farmers market in Pearcedale has been phenomenal, and everyone involved deserves very high praise for a job well done.

The Pearcedale farmers market provides a venue for local producers to sell their goods directly to mostly local consumers. Besides providing healthy, affordable and fresh foods to consumers, farmers markets are also valuable as a way for people to pass on information about farming, food preparation and marketing. The Pearcedale farmers market was the first to receive the $20 000 start-up grant that is part of the Brumby government's $2 million farmers markets program run out of the Department of Innovation, Industry and Regional Development. Farmer markets started about eight years ago, and there now 30 in various locations across Victoria. There were probably something like 40 stalls at Pearcedale selling a very wide variety of quality fruits and vegetables and plants. There were also a number of information stalls. The market was an opportunity for people to catch up with each other over coffee in the sunshine. I wish the Pearcedale farmers market every success and long life, and I congratulate everyone involved.

Whitten Oval, Footscray: children's centre

Mr EIDEH (Western Metropolitan) — The Western Bulldogs are known for being a great football club, with an oval named after their famous son, Teddy Whitten. But soon the site of many a great sporting contest will also be famous for a modern and exciting children's centre, thanks to the Brumby Labor government. The Minister for Children and Early Childhood Development in the other place, Maxine Morand, her lower-house colleague Marsha Thomson, and my upper house colleague Martin Pakula, and I were joined by Western Bulldogs president David Smorgon and players Nathan Eagleton and Brian Harris to turn the first sod of the project.

The Brumby Labor government is investing $500 000 in a $1.85 million special commitment, which is in line with the government's commitment to the children of our state. It follows on from a long list of such commitments to the children of our state, the next generation. This is part of our election commitment to deliver $20 million towards building 40 new children's centre across Victoria. When the centre is completed the community will have access to a service that will cater for up 150 children through a range of services and support. Families will benefit from long day care and occasional care, a kindergarten, maternal and child health services and an early childhood intervention service — all in one convenient and friendly location.

There will also be community meeting rooms and a cafe, along with sporting facilities as the whole precinct is redeveloped. The government has contributed $3 million to this development so that the great Whitten Oval can become a significant and relevant sports and community facility for the residents of the west. I congratulate all involved in this great project.

STATEMENTS ON REPORTS AND PAPERS

Ombudsman: report 2006–07

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased to comment on the Ombudsman's annual report for 2006–07.

Before I commence I might add that it was only the Ombudsman and the Auditor-General who tabled their reports within the required time frame. Whilst reports must be tabled before the end of October, in the last two or three days this government has dumped hundreds of annual reports here, which makes proper scrutiny almost impossible. I think the government's intention and strategy is to maximise its opportunities to limit the capacity of the media and indeed the opposition to scrutinise the reports. It also means that, of the hundreds of reports tabled, obviously the media will only go to one or two reports principally to report the matters at hand, although other significant issues may be raised in other reports tabled at the same time.

Today's list of papers tabled in this house contains numerous pages of the reports that have been tabled, but it is one day after the required date for tabling reports, which demonstrates that the only two organisations that understood the requirement of being open, honest and transparent were the offices of the Ombudsman and the Auditor-General.

I think the Ombudsman's annual report is always a good reflection as to how the government is performing. The government is saying that the community is satisfied with the range of services that are being provided by it, therefore you would assume that the level of complaints would be static or indeed dropping. Government members say continually that they are fixing the health system. They said that in 1999, and they keep on saying it, but it is getting worse.

They also say that they are fixing the transport system. Despite evidence presented at hearings of the Public Accounts and Estimates Committee, the report on which was tabled recently and which showed an increase in the numbers of people using the public transport system, this government's has failed to respond to those needs.

In terms of law and order, we can see that this government will spin out that there has been a reduction in crime when in fact the statistics measuring the level of crimes against the person have grown extensively over the period of this government. In the context of this report I thought it important to turn to page 7, which gives an overview. It is quite amazing to see the growth in the number of complaints received by the Ombudsman over the period of the last five years.

In 2002–03 the number of general jurisdictional complaints to the Ombudsman was 2187; this year's report shows that there have been 3628 complaints received. In fact there has been a growth rate, not only of 15 per cent of complaints to the Ombudsman in the last year but a 60 per cent growth in the number of complaints to the Ombudsman in the last five years — the last five years during which this government has been telling everyone that it is going great, doing well and that there are no problems. This report, for those members who do not have the time to read it, is peppered with examples of where the government and its departments have failed to deal with a range of issues that people have complained about.

I might also say that we know that the Labor government likes to stack local government; we know that around 72 per cent of its factional mates are stacked into local government; and we know that as a result of that, because of their incompetence, we have local government problems. It is interesting to see on page 8 of the report a percentage breakdown of complaints by agency. Guess who wears the top guernsey of complaints? It is local government.

Mr O'Donohue — No!

Mr DALLA-RIVA — That is right; it is local government, Mr O'Donohue. It just shows that local government is as incompetent as the state government. Why is that? Because they are all Labor mates in their Labor positions. We know that we have local councillors who are often factional players and electorate officers based in — —

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

Racing Victoria Ltd: constitution

Mr DRUM (Northern Victoria) — I wish to spend my time this morning talking about the new constitution of Racing Victoria Ltd, an organisation that is in the process of putting together a new board and moving forward into a very exciting new era.

Mr Pakula interjected.

Mr DRUM — No. I am sorry, Deputy President, I misunderstood Mr Pakula's interest in this issue. It is quite interesting the way that the process has been run. This is all as a result of the Crawford report that has been commissioned by this government and reported on now. It actually brings together in a very collaborative

way the Victoria Racing Club along with the Melbourne Racing Club, the Moonee Valley Racing Club and also the collective body of Country Racing Victoria. They have all now been brought under this umbrella in a manner that will, I think, take this industry forward.

The Nationals have looked at the way that the Minister for Racing is restructuring the industry and are quite supportive of the way that this process has been handled. We have spoken to Racing Victoria Ltd and think that this independent board, which is in the process of being established and which will be established prior to Christmas this year, will be in a better position than under the current structure. We currently have the situation where the minister has an appointment process whereby half of the board members of Racing Victoria Ltd are in fact appointed and only the other half are elected.

Three members who have been left on the existing board have joined with a group of stakeholder representatives to go out there and source from right around Australia, particularly Victoria, the best people to actually become the independent committee members and board members of Racing Victoria Ltd. Over 150 applications, I believe, have been sourced and short-listed, and those applications are being worked through as we speak. Therefore within a further 12 months after the formation of the board we will move to a situation where all of the 10 members will, on a rotational basis, face the voters of the respective stakeholder groups. So it is a very exciting time.

One of the real challenges for the new board is going to be working its way through the new joint venture agreement when the gaming licences are renegotiated possibly next year in relation to the post-2012 licensing agreement. That is going to be a very important negotiation process, and this board is going to have to ensure that the racing industry, post the new announcement, will not be in a worse position. That is obviously the expectation, and that is I think the current understanding, but with this new constitution there is a very real chance that the existing understanding may in fact be washed away.

We are going to have to make sure, and I think the people in this chamber are going to have to make sure, that the understanding that currently exists is carried over into the new contracts that will be entered into if the Tabcorp joint venture is continued and Tabcorp is able to secure its part in the gaming licence arrangements, which we are expecting will happen. There will be a question of whether or not Racing Victoria Ltd is then able to take up licences as well. While I personally do not think that the racing industry should have any greater slice of the gaming industry than it already has, I certainly think it is very important that we ensure the industry is not in a negative position once these new agreements have been put in place.

Again I want to stress that The Nationals are very supportive of the processes that are being undertaken at the moment. The restructuring of the racing industry is something that is going to create greater independence for it. There are some real challenges ahead for the racing industry in relation to some of our smaller country tracks — —

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

Gambling and Lotteries Licence Review Panel: report on public lottery licensing process

Mr PAKULA (Western Metropolitan) — I am going to make a statement on the report of the Gambling and Lotteries Licence Review Panel, otherwise known as the Merkel report. I am as sick of talking about lotteries licences as I am sure honourable members are sick of hearing me talk about them, but I did not think I could let this report go without making a statement about it.

At the outset I want to make some comments about the way the committee functioned, the powers it was given and its capacity to inquire into the process in an unfettered way. Throughout the whole controversy about the lotteries licence process there have been a lot of overblown unsubstantiated statements made by the member for Malvern at doorstop interviews, none of which have been borne out by evidence or by the investigations of the Merkel committee. With regard to the setting up of the committee, the member made statements in which there was a lot of chickenhawk hot air about the committee never having met, despite the fact that at the time he made the statement the legislation to set up the committee had only just been passed. As it eventuated, once the legislation did pass the panel convened in short order and met 12 times over a period of four months and also from time to time held additional meetings of one or more panel members to address specific questions.

Despite all the talk about the committee not meeting and not having sufficient powers, it was in fact a very rigorously put together committee. None of the talk from the opposition about it being a sham and a toothless tiger and claiming that the government would nobble it is borne out by the report itself. We always insisted that it was going to be a rigorous process, but I

do not think my word should be taken for that. The committee made various findings about its powers. At paragraph 28, in regard to the coercive powers of the panel, the panel stated:

> That cooperation has been fully forthcoming from all of those parties and the panel is satisfied that … it has not been hindered or impeded by a lack of coercive power.

Regarding the commission, the gambling licence review team, the special commission, the steering committee and the Victorian Government Solicitor, the panel found at paragraph 61:

> No information requested by the panel was withheld. In particular the panel received the full cooperation of all of the relevant entities and other parties, including the applicants, involved in the licensing process.

At paragraph 290 the panel praised the individuals and entities who fully cooperated with the panel in respect of its many requests for information and documents.

The doomsaying of the opposition with regard to the review panel was wholly misplaced by the panel's own findings. In fact the panel conducted a detailed and robust review and in some instances criticised the process. From paragraphs 157 to 182 it criticised the role of lobbyists. It is clear that the panel takes a dim view of lobbying in respect of gambling licences, particularly regarding issues of perception, and it made some recommendations accordingly. It was also critical of some confidentiality breaches, and was particularly concerned about the number of public servants who had access to the Solicitor-General's advice and to committee reports.

But fundamentally the Merkel report found in regard to the process adopted by the steering committee that there were no breaches of probity; that was stated in paragraph 140. In regard to the role of David White, paragraph 161 states that there was no suggestion or evidence that he could have had any influence over any of the processes. Paragraph 171 states that there is no evidence that David White engaged in any prohibited contact — —

Mr O'Donohue interjected.

Mr PAKULA — He was not paid, Mr O'Donohue. That is the finding of the Merkel panel; it is not my view. Paragraph 203 states that there was no evidence of a smear campaign. In conclusion, paragraph 287 states:

> (i) Tattersall's Ltd and Intralot have been treated equally and impartially …
>
> (ii) all protected information has been managed to ensure its security and confidentiality …
>
> (iii) Tattersall's Ltd and Intralot have been evaluated in a systematic manner against explicit predetermined evaluation criteria …
>
> …
>
> (vi) there is no evidence of any improper interference with the making of a recommendation or report —

and that there was no bias or reasonable apprehension of bias. By anyone's language that is a tick. But the language of Premier was this:

> The government is committed to seriously considering comments made by the panel, and is looking at the best options for a national register of lobbyists …
>
> But it is very clear from this report that the many wild and outrageous claims by the opposition about this process have not been substantiated.

Primary Industries: recreational fishing licence trust account report 2006–07

Mr O'DONOHUE (Eastern Victoria) — This morning I am pleased to make a contribution on the report entitled *A Report to Each House of Parliament on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account 2006–07*. The report identifies the importance of the economic contribution that recreational fishing makes to Victoria, particularly to the region of eastern Victoria. There are over half a million recreational fishers in Victoria. Many of the most popular spots are in my electorate and include Port Phillip Bay, Western Port, Lakes Entrance, the Bass Coast, the Ninety Mile Beach and areas all the way to Mallacoota. There are many fantastic places for recreational fishermen and fisherwomen throughout the region of eastern Victoria. It is a very important part of the economic activity in that region. The report states:

> During 2006–07, 251 183 RFLs —

recreational fishing licences —

> were sold … with the sale of the licence generating revenue of more than $5.1 million — an increase of $600 000 on the previous year's sales revenue.

In the last sitting week this Parliament passed amendments to the Fisheries Act to close down, in effect, the commercial fishing industry in Western Port bay. The reason proffered by the government for the decision was to assist the recreational fishing industry. That was an argument which was not necessarily accepted by the opposition, but if one accepts that argument, which was presented in this chamber, and

that the recreational fishing industry is so important to Victoria — and I agree that it is — then it is important that the infrastructure associated with recreational fishing be maintained and enhanced. Unfortunately that is where this government has failed dismally.

The boat launching facilities at Port Phillip Bay are stretched to bursting point. People with boats often have to queue for half an hour or an hour to get a boat into the bay to fish. There is very little planning to expand those facilities in the future, notwithstanding the fact that boat sales in Victoria are increasing by approximately 10 per cent per annum.

In Western Port bay the commercial fishing industry has recently been shut down by this government by the passage of the amendments to the legislation I mentioned previously. The infrastructure associated with recreational fishing is in a perilous state. There is a situation where the jetties of Western Port bay are falling apart, including the Lang Lang jetty and the Corinella jetty, which has recently been closed down due safety concerns. The good people of Corinella are looking for assistance from the state government to rebuild their jetty. They are willing to contribute by fundraising, but they are looking for assistance from the state government. They are looking for $75 000, and I call on the government to provide that funding.

The Corinella jetty is a focus for this community. The community has a long history associated with fishing, and the jetty has a long history of significant use. Its renovation should be supported. If the government is committed to the recreational fishing industry, it has to do more than just eliminate the commercial fishing operators, which is a dubious reason for doing so. It needs to provide the infrastructure that is so sorely needed, whether we are talking about Port Phillip Bay or Western Port bay, so that people can get into their boats in those bays and use the jetties in a safe fashion to fish recreationally.

I call on the government to invest more for recreational fishermen throughout Victoria so that its rhetoric is matched with action.

Queen Victoria Women's Centre: report 2006–07

Ms BROAD (Northern Victoria) — Today I wish to speak to the annual report of the Queen Victoria Women's Centre 2006–07, which is very appropriately titled *Recognising Women*. I would like to commence by acknowledging a number of women for their contributions to the Queen Victoria Women's Centre during the 2006–07 period covered by this report. They include the responsible ministers — former minister Mary Delahunty and the Minister for Regional and Rural Development in the other place, Jacinta Allan — and the centre's chairs. There was quite a lot of change throughout this period; the chairs included Helen Hewett, Susan Brennan, Kay Setches and now Catherine Brown.

I would also like to acknowledge the contributions of a number of trustees who completed their time with the trust during this period after terrific service. They include Carol Andrades, Jenny Beacham, Joan Bennett, Susan Brennan, Helen Hewett, Barbara Jennings and Rachel Kwei. I am pleased to say — and I am sure they were very pleased — that they have handed over to nine new members of the trust, who are now undertaking their responsibilities.

The trust has an incredible history. For members who are not familiar with it, it is worth touching on the amazing history that sits behind the present-day Queen Victoria Women's Centre. It goes all the way back to an extraordinary woman by the name of Constance Stone, who was an inspirational woman whose feminist ideologies stretched far beyond the confines of the 19th century. She was Australia's first female doctor, registering with the then Medical Board of Victoria in 1890, an action which caused an uproar at the time. Together with a number of other women doctors, she founded the Queen Victoria Hospital and the Victorian Medical Women's Society. She only lived for a short 47 years, but she did a great deal to further the equality of women with her accomplishments, compassion and very great spirit during that time.

Moving forward in history from the formation of the Queen Victoria Hospital, in 1982 there was again uproar when the Victorian government announced plans to relocate the medical centre to the Monash Medical Centre in Clayton. Consternation among Victorian women led to a great deal of action at the time, and in response to that there was action by the Victorian government. In 1991 Victoria's first woman Premier, Joan Kirner, was instrumental in saving the site and presenting the group which had been founded to save the site with funding to develop architectural plans. Moving forward again in history, the subsequent Victorian government in 1994 passed legislation to create the Queen Victoria Women's Centre Trust to govern the centre and made provision for the management and ownership of the land.

Moving forward to 2005, for the first time ever funding was provided by the Victorian government in the form of a funding service agreement with the Queen Victoria Women's Centre. That was in acknowledgement of the

dual role of the trust in managing the heritage building, which has a great many challenges, and which houses women's organisations as well as developing capacity building programs for women and women's organisations. A great many women's organisations are now housed at the Queen Victoria Women's Centre, including, amongst others, Emily's List, YWCA Victoria, the Women's Information Exchange, Domestic Violence Victoria, Breacan and many others. The trust is certainly fulfilling its responsibilities in terms of the very great facility it provides for all those organisations.

Fundraising has not stopped with the creation of the funding service agreement, and I draw members' attention to the Shilling fund as a great investment that can be made to support programs provided through the centre into the future.

Melbourne Water: *Plenty River Water Supply Protection Area — Stream Flow Management Plan 2007*

Mrs KRONBERG (Eastern Metropolitan) — I wish to speak on the Melbourne Water report entitled *Plenty River Water Supply Protection Area — Stream Flow Management Plan 2007*. According to the report, the purpose of the plan is to better manage surface water resources of catchments. The stream flow management plan was developed because the tenets of schedule 7 of the state environmental protection policy entitled 'Waters of the Yarra catchment 1999' require such a plan to be developed for streams within the Yarra basin to ensure water resources are protected for beneficial uses.

In particular, the flow regime of the Plenty River has undergone significant change. This change may have impacted on the aquatic flora and fauna within the Plenty River system. The Plenty River flows generally north–south with the protection area extending from the Great Dividing Range north of Whittlesea to the junction with the Yarra River at Lower Plenty-Viewbank. Regarded as part of an important wildlife corridor, the Plenty River links the Kinglake National Park with the Yarra River and, astoundingly, upstream from Greensborough in the lower reaches where the river is in confluence with the Yarra as well, the presence of platypuses has been recorded.

The Plenty River is regarded as a priority stream because of its low reliability of supply to licensed water users, high level of water use and environmental concerns. After further reading, one is able to decode this language and these terms, and one is able to conclude that 'high level of water use' means the annual water harvest by Melbourne Water through the Toorourrong and Yan Yean reservoirs to the extent of 7000 megalitres for urban use. These two water supply reservoirs within the protection area have significantly altered the natural flow. In the lower sections of the river through Greensborough the urban stormwater run-off and other associated impacts of urban development have reduced water quality over time, but they may have aided stream flow.

Since July 2004 sewerage treatment plants such as Yarra Valley Water's Whittlesea plant have needed to be upgraded to ensure that sewerage discharges cause no detrimental change to the environmental quality of receiving waters. Following substantial negotiations and feasibility studies, Yarra Valley Water made the decision to cease discharges to the Plenty River as of July 2004. Water from the sewerage treatment plant is now being reused as part of a golf course development. After considering the value of sewage discharges to the Plenty River, the plan advisory committee noted that sewerage treatment plant discharges treated to an appropriate level may be beneficial for the environment. Some members of the committee regretted the decision to cease the discharges from the plant.

The committee reported that it was not in a position to reverse the decision to cease the discharging of this water into the river. The report inter alia contains agreements reached through consensus by the committee; however, it relegates to the appendices specific issues on which consensus was in fact not achieved.

The general committee members — that is, those not representing government agencies — accrued an amazing 46 of the total comments listed in response to the 69 recommendations. Sixteen additional comments were made by the non-government committee members. The City of Whittlesea and Banyule City Council together made 13 comments on the recommendations and also additional comments. The committee recognises that there are limitations in the current Victorian water allocation framework with respect to the ability of stream flow management plans to address water use covered under bulk entitlements held by water authorities such as Melbourne Water, drawing its urban supply again from the Toorourrong-Yan Yean reservoirs system.

The committee's recommendations cannot solve the water needs of the Plenty River system that it has reported and the problems for its agricultural users. In the comments on land use planning, the report says:

> As all water within the allocation limits set is allocated, water for further commercial or irrigation developments will need to be accessed through trading of entitlements. It is crucial that proponents for new developments requiring access to water from within the protection area identify their water requirements — —

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

Accident Compensation Conciliation Service: report 2006–07

Ms PULFORD (Western Victoria) — I wish to make some comments on the Accident Compensation Conciliation Service annual report 2006–07.

The Accident Compensation Conciliation Service is an organisation that is an independent body corporate under the Accident Compensation Act. The function of the Accident Compensation Conciliation Service, as its name would indicate, is to assist in the conciliation of disputes arising in the workers compensation sphere. The Accident Compensation Conciliation Service is independent of the Victorian WorkCover Authority, the WorkCover agents, self-insurers, employers, workers and organisations that might provide them with support from time to time, unions, their lawyers and other advocates.

The conciliation service deals with a variety of different types of disputes — rejected claims, disputes about weekly payments, lump sum claims for compensation, statutory benefits, medical and like expenses, and disputes about return to work and rehabilitation.

The report details the work of the conciliation service for the year. They had 13 733 requests for conciliation; 37.5 per cent of those were disputes about medical and like services, ranging from disputes about a payment for a quite serious operation to smaller claims for perhaps a couple of trips to the physiotherapist and one script for anti-inflammatories at the other end of the spectrum. Rejected claims comprised 17 per cent of disputes; and terminations of payments, 21 per cent.

The conciliation service has an excellent record over many years of resolving disputes and therefore providing great benefit to injured workers and to their employers in keeping them all out of the courts with their disputes, and the resolution rate for this year was a little over 70 per cent, which is up from 68.4 per cent in the previous year. Of these, 63.8 per cent of all disputes were resolved by agreement, and this really highlights the excellent work that is done in a very complicated area of law, often in disputes or disagreements involving a high degree of emotion.

Disputes are dealt with fairly quickly, given their nature and given the requirement often to obtain detailed medical reports from busy medical specialists, who might feel this is not perhaps their first priority and that tending to their patients is. Thirty-four per cent of disputes are resolved within 40 days, many of those without the need for a conference, where it can be established that just a sharing of information and a bit of an exploration of the facts can resolve issues.

The Accident Compensation Conciliation Service does most of its work in Melbourne. About 80 per cent of matters are heard in Melbourne, but the other 20 per cent are heard throughout regional Victoria. Workers are represented in many more cases by representatives who are not lawyers but who are union or other advocates who assist. I certainly spent many, many years in my life before coming to this place at the conciliation service, perhaps involved in as many as six conciliation conferences at times, representing injured workers and assisting them in the resolution of their disputes.

The report details a high level of satisfaction by all users in the scheme. In conclusion, the state government has an excellent record in restoring rights and dignity and basic standards of compensation to injured workers, which stands in great contrast to the Liberals' record in this area — the hotchpotch scheme it oversaw, the draconian removal of common-law rights for injured workers, and the stripping back of statutory benefits. It is great that in this area of workers compensation the Accident Compensation Conciliation Service exists — —

The ACTING PRESIDENT (Mrs Peulich) — Order! The member's time has expired.

Sustainability and Environment: National Parks Act report 2006–07

Mrs COOTE (Southern Metropolitan) — I would like to speak today on the National Parks Act annual report 2006–07. I want to concentrate on the fire situation. I find on page 12 an indictment of all agencies involved with fire management in this state. There is a table on page 12 which outlines the number of hectares burnt in disastrous and catastrophic fires last year, and it also presents the information in percentage terms. The overall amount of land that was burnt was in the vicinity of 1.2 million hectares, most of which was in fact public land. But if you have a look at the percentages, they are a cause for concern: 65 per cent of the Mount Buffalo National Park was burnt; 99 per cent of the Avon Wilderness Park was burnt; and 40 per cent of the Alpine National Park was burnt.

A plethora of annual reports were put out yesterday, and indeed I hope to speak next sitting week on the annual report from Parks Victoria 2006–07, when I will go on with what its explanation is for these fires. Reading behind it all you can see that sufficient funding is not being put into fire protection in this state. CSIRO has come out with a report to suggest that we are going to have a catastrophic year of fires this year. All of the conditions are in place; it will be a year in which each and every one of us needs to be vigilant. When reading this national parks report you can see that many of the fires I have just referred to were in fact started by fuel reduction burns by the Department of Sustainability and Environment itself. This is the department that has been put in charge to make certain that we have reduced fire damage in this state, not to be there enhancing fire in this state. The very agency that is supposed to be protecting us is in fact causing us concern.

We all have some significant sympathy for the firefighters. We are very proud of our firefighters, the volunteers and the Country Fire Authority (CFA) and of the work they do. But they are the volunteers on the ground. We have to sheet home the blame for this to the very top of the tree. Ultimately at the very top of the tree is the minister, and the minister himself should be putting into fighting fires in this state twice as much, 3 times as much or even 10 times as much funding and equipment as is currently allocated.

This report deals with national parks, and when we look at the situation of national parks, as I suggested before, it is of major concern. But we have only to look at the fires in Greece in the European summer this year and more recently in California to see that the fire threat will be present not only in national parks but on the fringes of suburban towns and cities in Victoria. Are they prepared? I do not believe they are prepared. When you have a look at it you will see that people who are living in these fringe areas are not given sufficient material, proper equipment or training. What they are given is in fact very inadequate.

We have probably got a month to go. This department should have been working on this at least since the last fires, learning the lessons, speaking to people, explaining what was going on and making certain people are very aware of what they are facing. This morning on 774 ABC radio we heard about the Californian fires. In California it is an imperative enforced by law that people must leave their homes. We have a choice here; the philosophical choice here in Australia is to decide for yourself what your plan is going to be. Have the people on the fringes of Melbourne been told what their options are? Do they have fire plans? Have they been looked at? It is not the government that is looking into how we can educate people. I have to say — albeit, it is a rare occasion — that 774 radio has a fire awareness day on 1 December. The radio station is taking the initiative to tell our community what it will be facing by way of fire danger this year. It has not been the government taking the initiative; in fact it is a radio station doing this. What is the government's plan? We have a right to know what the strategic plan is for firefighting right across this state this summer.

Office of the Victorian Small Business Commissioner: report 2006–07

Mr SOMYUREK (South Eastern Metropolitan) — I rise today to make a statement on the operations of the Office of the Victorian Small Business Commissioner for 2006–07. Before I delve into the contents of the report, I think it is prudent just to recap and record in *Hansard* the reasons why the government established the Office of the Victorian Small Business Commissioner (VSBC) in 2003 in the first place.

The office was established in 2003 to help foster for small businesses a competitive and fair business environment to grow and is the first of its kind in Australia. The current commissioner is Mr Mark Brennan. The VSBC states on its website that it is dedicated to promoting a fair operating environment for small business and assists by supporting small business; promoting informed decision making, mediating retail tenancy and owner-driver and forestry contractor disputes, investigating complaints about unfair market practices, minimising disputes between small and large businesses and encouraging small business-conscious government administration.

The annual report I have in my hands is comprised of 54 pages and 10 chapters, or 10 parts. I would like to list the various chapters by headings. It is difficult in 5 minutes to give a comprehensive summary of the contents of the report, so I will list the chapter headings because I think that gives a good snapshot and feel for what the report is about.

Chapter 1 is called 'Improving business conduct study'. Chapter 2 is about business scams. Chapter 3 is entitled 'Owner Drivers and Forestry Contractors Act 2005', which was an act introduced in 2006. Chapter 4 is on VSBC functions: information and education. Chapter 5 is also on VSBC functions, but this time on investigations. Chapter 6 is again on VSBC functions, dealing with mediation and alternative dispute resolution. Chapter 7 is on VSBC functions, particularly government practices. Chapter 8 contains Retail Leases Act reporting. Chapter 9 is on the

organisation. Chapter 10 contains financial statements. Appendix A deals with strategy and objectives, appendix B contains the business plan and appendix C details the client service charter.

In the report the small business commissioner, Mark Brennan, puts on record some interesting statistics. Mr Brennan notes that for the first time the office has received over 1000 complaints, which is a 9.3 per cent increase on last year, or an 84.7 per cent increase since the it commenced operations in 2003. A large number — in fact, 25.7 per cent — of these matters were resolved prior to formal mediation by the VSBC providing assistance. I now turn to chapter 2.

The ACTING PRESIDENT (Mrs Peulich) — Order! The member's time has expired, and chapter 2 will have to wait for another time.

Sustainability and Environment: National Parks Act report 2006–07

Mr KOCH (Western Victoria) — I am pleased to comment on the National Parks Act annual report 2006–07. I have during my time read many annual reports, but this one is devoid of relevant information and regrettably is quite empty in respect of the important information we would anticipate would be contained in an annual report such as one covering the National Parks Act.

There are 132 different national park reserves across our state covering some 3.3 million hectares, of which 3 million represent Crown land and the balance is made up of marine and coastal parks, wilderness zones and water supply catchment areas.

My principal interest in this report is in relation to fire management and fire recovery. As we are aware, in the last 12 months we have seen absolute devastation across nearly 10 per cent of the total area of some 388 000 hectares which was ravaged over a six-week period. Victorians have never seen this type of devastation in their history. We can couple with that further fires in both the north-east and the Grampians, and also the previous year at Wilson's Promontory.

There is little doubt that weather conditions played a major part in the devastation, particularly with dry conditions and further forest-floor fuel build-up taking place. This fire burned uncontained for a period of 69 days between 1 December 2006 and 7 February 2007, and during that period some 204 fires consumed that total area of 388 000 hectares. The worst fire experienced was in the Alpine National Park, which took out 280 000 hectares or 45 per cent of the total park.

There are many contributing factors to what we have seen: fuel build-up and certainly the drought conditions as I mentioned, terrible north winds in the period in which these fires started, the lack of controlled burning in recent years was a big factor, retrenchment and retirement of career foresters, and movements in government policies certainly had a big impact. I make no error in saying that this report could have given us more information on what took place. From being involved in regional Victorian activities many of us are aware of what took place, and we are now seeing some recovery and some management issues being put in place that hopefully will remedy what we have seen in the past.

In 2006 and 2007 approximately 60 000 hectares of fuel reduction has taken place, which is very gratifying. It is a great change from what happened previously. In my community of the Grampians I do not think there has been a fire like that and hopefully such a fire will not occur again in my time. I will remember it forever, as I am sure will many of those people who have a close association with the Grampians, including the boundary neighbours, who suffered much destruction of their farming capital improvements.

Recently Environment and Natural Resources Committee public meetings have taken place across Victoria. I attended one at Halls Gap in relation to those fires in the Grampians. This meeting was an absolute sham. It nearly made me sick to see the lines being taken and the contrived responses from those I thought were responsible persons, especially from government agencies.

Many members may have also had the opportunity to read the Stoney report. Graeme Stoney, a former member of this chamber, has a very good feel for what goes on in regional Victoria, especially in the Alpine National Park. I found his report gave more coverage than we found in this annual report.

Yesterday I was concerned to receive a media release from the Grampians asset protection group which indicates that in recent times the group has been a key stakeholder group for the Department of Sustainability and Environment and reports that DSE is reducing its fire burning activities from a targeted amount of 10 664 hectares down to 6876 hectares over the next three-year period. This represents a reduction of 35 per cent and is most disappointing.

The ACTING PRESIDENT (Mrs Peulich) — Order! The member's time has expired.

Auditor-General: *Improving Our Schools — Monitoring and Support*

Mr EIDEH (Western Metropolitan) — I rise to speak on the key educational report that has been handed down only recently called *Improving our Schools — Monitoring and Support*. The report flows on from the Blueprint for Government Schools policy statement which was spearheaded by the state Labor government to strive towards better educational outcomes for students in Victorian government schools.

It is gratifying to note in this landmark report on Victorian education that school performance is improving and support systems to ensure such support are strengthening. However, to be honest, I am concerned, after examining the report, that a number of schools within my electorate do not feature well. Of course this report is not limited to the Western Metropolitan Region, but that is my first concern.

Thankfully the education department and its regional offices, under the former education minister, Mr Lenders, and the current minister in the other place, Ms Pike, are working towards improving standards across all schools. The report clearly shows that they are succeeding, with fewer schools today than there were 10 years ago being below expectations. But more needs to be done, and I am assured by Minister Pike that she is looking at the report with sincere interest and with a view to improving education even further in Victorian government schools.

The Auditor-General has clearly made a thorough and professional examination of the relevant issues and shown an understanding of education that goes far beyond that of many a commentator. His recommendations will assist the minister in advancing further the government's approach to improving standards in Victorian government schools.

Education is the key to the future. The better the standard of education offered, the greater the future will be for all of us. After all, every future doctor, lawyer, engineer, politician, businessperson, emergency services person and other type of worker will be best prepared for their future career through the best education that we can provide. That is what this government is dedicated to achieving without discrimination, without bias and regardless of where our young people live or from what backgrounds they come. That is the Labor government's view on education and why the blueprint was originally developed.

The minister is dedicated to achieving even more for our schools, and given her dedication and her commitment I sincerely believe that she will follow on from the leads created by former education ministers Kosky and Lenders as a part of the great Labor government. I commend the report to the house.

Auditor-General: *Improving Our Schools — Monitoring and Support*

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Victorian Auditor-General's report on improving our schools. In my opinion there is nothing more important for a child to receive than love, security, a good family home and a first-class education to give them a solid start in life. Most of us would agree that many of society's ills are caused by a lack of education. The ability to rationalise and express our thoughts and problems in an intelligent way is brought about by training and understanding. This begins at a very early age in our kindergarten system. That is why we as a government have increased our education funding and our endeavours to ensure that every Victorian child gets the start in life they need to ensure a quality of life that includes full employment of their time and the capacity to enjoy their achievements.

The government schools blueprint reform agenda was initiated in 2003. As with any reform, there is always scope for improvement. No-one has a magic formula to dispel illiteracy or make truancy vanish from our schools, but we have a system that is constantly under review. We have had to identify schools that need targeted support, implement the improvement changes, and monitor and measure those performance improvements over time. It has not always been possible to deliver targeted support where that demand for support has been identified — especially to some regional offices. That is why the Auditor-General's report has several important recommendations, which are most worthy of support.

I totally support continuing improvements to our education system, and this has to be ongoing and continuous. After reading the report, I am satisfied there will be further substantial improvements implemented in 2008. We will make those improvements because we need to equip our young children with the best possible education the state can afford. After all, our children are our future. I commend this report to Parliament.

ELECTRICITY SAFETY AMENDMENT BILL

Statement of compatibility

For Hon. T. C. THEOPHANOUS (Minister For Industry and Trade), Mr Lenders 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 Electricity Safety Amendment Bill 2007.

In my opinion, the Electricity Safety Amendment Bill 2007, 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 bill will amend the Electricity Safety Act 1998 to:

mandate submission of and, once approved, compliance with electricity safety management schemes by major electricity companies, namely, electricity transmission and distribution owners or operators;

harmonise the safety management scheme regime in the Electricity Safety Act 1998 with the gas safety case regime in the Gas Safety Act 1997;

require registered electrical contractors and licensed electrical workers to rectify their defective electrical work that is unsafe;

improve the representation of the railway and tramway industries on the Victorian Electrolysis Committee; and

repeal redundant provisions, including provisions for the approval of electricity safety managers that are no longer required, make statute law revisions and necessary consequential changes.

Human rights issues

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

The bill provides that Energy Safe Victoria may, by written notice, require a registered electrical contractor or licensed electrical worker that carried out unsafe work to rectify it at no additional expense to the customer. Penalties apply for non-compliance with a rectification notice. Section 11(2) of the charter provides that a person must not be made to perform forced or compulsory labour.

The rectification work that a registered electrical contractor or licensed electrical worker may be required to perform is work that the contractor or worker may also be required to perform pursuant to the agreement between the contractor or worker and the consumer. Further, it is work for which the contractor or worker is entitled to be paid by the consumer if payment has not already been made under the agreement.

It is arguable that section 11(2) of the charter is not engaged since elements such as involuntariness and oppression are lacking. A registered electrical contractor or licensed electrical worker can avoid a notice under the bill, and the risk of a penalty for non-compliance, by rectifying unsafe work promptly, as he or she would be contractually bound to do anyway.

In the event, it is considered that work required by a rectification notice issued under the bill is work or service that forms part of normal civil obligations, as provided for in the exception in section 11(3)(c) of the charter.

By providing for the issue of rectification notices, the bill will ensure that defective work that is unsafe is made safe as soon as possible and regardless of whether the consumer chooses to enforce his or her contractual rights. Electricity is inherently dangerous and unsafe electrical work creates significant risks to life and property: for example, from house fires caused by faulty wiring.

Conclusion

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

Hon. T. C. Theophanous, MLC
Minister for Industry and Trade

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The government is committed to ensuring an efficient and secure energy system and reliable and safe delivery of energy services.

As part of this commitment, this bill will amend the Electricity Safety Act 1998 to secure improved safety and reliability of electricity assets.

The key proposal of the bill is to insert new divisions 1 and 2 into part 10 of the Electricity Safety Act 1998. This proposal will require the submission of and, once approved, compliance with electricity safety management schemes (ESMSs) by electricity transmission and major distribution owners or operators. An ESMS specifies the assets or operations to which it applies, the hazards and risks to persons and property arising from those assets or operations, and the safety management system to be followed to minimise as far as practicable those hazards and risks.

This proposal will adopt best practice safety management regulation that facilitates better hazard identification and risk-management activities aimed at preventing incidents and at mitigating the consequences if they do occur.

Most Victorian transmission and distribution companies have seen the benefits associated with voluntarily submitting and complying with an approved ESMS under the existing Electricity Safety Act 1998. The bill will ensure that these

benefits are locked in. The benefits include lower compliance costs under the ESMS regime compared to prescriptive regulations and improved safety performance.

The bill inserts a new division 3 into part 10 of the Electricity Safety Act 1998 to make amendments to the existing voluntary ESMS regime under division 2 of part 10 of the Electricity Safety Act 1998. These amendments are largely as a consequence of the introduction of the new mandatory ESMS regime inserted by new divisions 1 and 2 of part 10.

In addition, the bill will harmonise the ESMS regime with the gas safety case regime in the Gas Safety Act 1997. This includes inserting a new section 103 to provide for the provisional acceptance of an ESMS, based on section 41 of the Gas Safety Act 1997 and inserting a new section 107 to require an ESMS to be maintained up to date, following, for example, developments in technical knowledge and changes in safety risk, based on section 45 of the Gas Safety Act 1997.

By aligning, where appropriate, the gas and electricity safety regimes the bill will reduce the regulatory burden for those entities operating in both the electricity and gas industries.

Furthermore, the bill introduces a new section 120I to clarify that Energy Safe Victoria may conduct audits to determine compliance with an ESMS.

Clause 9 of the bill repeals section 149A of the Electricity Safety Act 1998 which provides for the approval of electricity safety managers — a requirement that is considered redundant.

Currently, section 37 of the Electricity Safety Act 1998 requires that a registered electrical contractor must not permit a person to carry out on the contractor's behalf or direct a person to carry out electrical work which does not comply with the Electricity Safety Act 1998 and associated regulations. As an alternative to prosecution for non-compliance with section 37, clause 12 of the bill provides that, following the issue of a written notice by ESV, registered electrical contractors and licensed electrical workers are required to rectify their defective work that is unsafe. Compliance with such a notice is subject to the right of review by the Victorian Civil and Administrative Tribunal.

The rectification work is to be at no additional expense to the customer. Rectification of unsafe defective electrical work may include the labelling of switchboards, the securing and protection in position of cables and the secure installation of equipment.

A registered electrical contractor or licensed electrical worker can avoid a notice under the bill, and the risk of a penalty for non-compliance, by rectifying unsafe work promptly, as he or she would be contractually bound to do anyway.

In addition, clause 14 of the bill will improve the representation of the railway and tramway industries on the Victorian Electrolysis Committee.

Furthermore, the bill makes statute law revisions, necessary consequential changes and provides for the smooth transition from the existing voluntary ESMS regime to a safety management framework comprising both a mandatory and voluntary ESMS regime.

I commend the bill to the house.

Debate adjourned for Mr VOGELS (Western Victoria) on motion of Mrs Coote.

Debate adjourned until Thursday, 8 November.

MELBOURNE AND OLYMPIC PARKS AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders 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 Act, I make this statement of compatibility with respect to the Melbourne and Olympic Parks Amendment Bill 2007 ('the bill').

In my opinion, the bill, 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 purpose of the bill is to amend the Melbourne and Olympic Parks Act 1985 to consolidate land management arrangements in the Melbourne and Olympic parks precinct.

The Melbourne and Olympic parks precinct is an increasingly important part of Melbourne's sport and major events infrastructure. Already host to the Australian Open Tennis Championships, the Victorian Institute of Sport, Collingwood Football Club and key entertainment events, the development of the new rectangular stadium will make it a key focal point for football (soccer), rugby league, rugby union and the Melbourne Football Club. Efficient land management arrangements are crucial to the operation of this area, particularly to facilitate the changes required to accommodate arrangements for the new stadium.

The bill provides for parcels of land adjacent to the National Tennis Centre and Olympic Park within the precinct to be incorporated into the National Tennis Centre and Olympic Park lands and reserved for 'tennis, other sports, recreation and entertainment' and 'sports, recreation and entertainment' respectively. Some of these parcels of land are currently unreserved while others are reserved as public park but separated by roads or rail corridor from other areas of public park. Most of these lands are already being used by the Melbourne and Olympic Parks Trust ('the trust'), by agreement with the relevant land manager, for purposes related to the management of the National Tennis Centre and Olympic Park. Some very small pieces of land around the edges of the National Tennis Centre and Olympic Park within the precinct are included to tidy up the boundaries at those points.

The bill provides for the area known as Gosch's Paddock to be permanently reserved as public park under the management of the trust. It is recognised that Gosch's Paddock is a highly valued area of public open space that needs to be protected. Some of Gosch's Paddock is currently

public park land managed by the City of Melbourne while two other sections of Gosch's Paddock are unreserved. The bill will rectify an inefficient land management arrangement while protecting the public open space.

The bill provides for the trust to grant non-exclusive licences to use Gosch's Paddock for purposes that are not substantially detrimental to its reservation as a public park, subject to:

written approval by the minister; and

approval of the minister responsible for the Crown Land (Reserves) Act 1978 by order published in the *Government Gazette*, including a statement of reasons; and

consideration by both houses of Parliament where it must be tabled and may be disallowed by a resolution of either house.

It is intended that the purposes for licences would include use of the existing sports facilities in Gosch's Paddock, consistent with current practice. Licences would be for a period of not more than 21 years. The trust would also be able to grant permits to use Gosch's Paddock for events such as community fun runs. There will be no capacity, however, to provide leases for exclusive possession of any part of Gosch's Paddock.

In recognition of the importance of Gosch's Paddock as public open space, the trust would be required to account for its performance in maintaining public access to Gosch's Paddock in its annual report to Parliament under the Financial Management Act 1994.

The bill provides that the trust must not construct or carry out works in Gosch's Paddock without the written approval of the minister, who must consult with the minister responsible for the Crown Land (Reserves) Act before giving approval. This requirement does not, however, apply to minor works including temporary structures such as tents, maintenance and repair works, horticultural works and plantings and works required to maintain public safety.

Human rights issues

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

The bill consolidates land management arrangements in the Melbourne and Olympic parks precinct. The bill includes provisions to:

(a) incorporate small parcels of land that are reserved as public park, into the National Tennis Centre and Olympic Park;

(b) enable the trust, with the written approval of the minister and the minister responsible for the Crown Land (Reserves) Act 1978, and subject to disallowance by resolution of either house of the Parliament, to issue non-exclusive licences for the use of Gosch's Paddock for periods up to 21 years.

The above provisions of the bill limit the right to freedom of movement in section 12 of the charter, which provides that:

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

It is therefore necessary to consider whether the limitations on the right to freedom of movement are demonstrably justified having regard to the factors set out in section 7(2) of the charter.

Section 20 of the charter, which protects against deprivation of property (of natural persons only) other than according to law, also requires consideration in the context of this bill. This is because clauses 11, 12 and 13 of the bill remove trusts, limitations, reservations, restrictions, encumbrances, estates and interests from a number of parcels of land. In doing so, these clauses could also be perceived to take away proprietary interests, which would amount to a deprivation of property in contravention of section 20 of the charter. However there will not be any deprivation of property as a result of these clauses, because:

clause 14 of the bill provides that any leases and licences over the land to which new sections 30G and 32B apply will be protected; and

removal of any property rights of natural persons over other lands affected by the bill would not be arbitrary because it is part of a highly structured and circumscribed process relating to a limited number of small parcels of land. Further, the proposed changes to reservations will be conferred under statute.

For these reasons, it is not expected that this bill will deprive any person of property other than in accordance with law. Accordingly, there will not be any limitation of the property rights protected under section 20 of the charter.

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

(a) The nature of the right being limited

The right to freedom of movement is an important right in international law. It includes the right to move freely within Victoria, including freedom from physical barriers and procedural impediments. It can be impacted by proposals that involve changes in land use that limit the ability of individuals to move through, remain in, or enter or depart from areas of public space.

(b) The importance of the purpose of the limitation

The purposes of the limitations are of critical importance to the efficient operation of the Melbourne and Olympic parks precinct. The limitations are necessary to facilitate the changes required to accommodate arrangements for the new stadium. They are also necessary to accommodate increasing popularity of, and attendance at, the precinct for key events such as the Australian Open. The trust requires efficient management arrangements and flexibility to maintain and improve its high levels of performance in managing its ongoing business.

(c) The nature and extent of the limitation

The extent of the limitations is insignificant.

The incorporation of lands that are reserved as public park into the National Tennis Centre reflects current use of the land and does not significantly further limit freedom of movement

in those areas. The relevant pieces of land are isolated from other areas of public parkland by the rail corridor and/or roads and in practical terms already function as part of the precinct. For example, the 'throwing cage and adjacent land' is used in conjunction with athletics activities in the precinct.

The change in reservation means that the land will be able to be used for purposes of 'tennis, other sports, recreation and entertainment' and that the 'no detriment' test that applies to proposals for development in public parks will no longer be relevant to those areas. This may limit the right to freedom of movement to a minor extent. The existing planning and building approval requirements, however, will continue to apply.

The treatment of Gosch's Paddock in the bill affirms the right to freedom of movement. Significant sections of Gosch's Paddock are currently unreserved, and the bill will reserve the area for public use and thereby protect the right to freedom of movement in the area. The provision in the bill for the trust to grant licences for use of sport facilities in the park continues current practice in terms of use of the park. Indeed it is expected that use of the playing fields may be decreased under the new arrangements because of a need to maintain the surfaces at a higher standard.

The bill provides a substantial safeguard in that any licence for use of Gosch's Paddock must be approved in writing by the minister, approved by the minister responsible for the Crown Land (Reserves) Act 1978 by order published in the *Government Gazette*, including a statement of reasons, and laid before both houses of Parliament where it may be disallowed by a resolution of either house. While the bill provides for licences to be issued for up to 21 years in order to give licensees certainty, this is in effect largely the same as the current arrangement in which three-year licences are renewed upon expiry.

(d) The relationship between the limitation and its purpose

There is a rational and proportionate relationship between the limitations imposed by the bill and the purposes of the limitations. The insignificant extent of the limitations on the right to freedom of movement are proportionate to the important purpose the limitations seek to achieve.

The lands to be incorporated into the National Tennis Centre and Olympic Park are rarely trafficked because of their size and inaccessibility. The limitation on the right to freedom of movement by these provisions of the bill is proportionate to the important purpose of facilitating arrangements to accommodate the new stadium and enabling the trust to efficiently manage continued growth of key events. Further, the lands will continue to be generally accessible and used for highly valued public purposes as part of the lands managed by the trust.

The limitation on the right to freedom of movement which will occur as a result of the granting of licences of up to 21 years for use of Gosch's Paddock is rational and proportionate to the purpose of providing accommodation for the new stadium, and the need for efficiency in managing the demands on the precinct.

Mechanisms to keep the relationship between the limitation and its purpose in proportion are provided on an ongoing basis by the significant checks and balances instituted by the bill. These include the requirement for licences to be approved by two ministers in writing and the provision that licence approvals made by the minister responsible for the Crown Land (Reserves) Act 1978 must be laid before both houses of the Parliament and may be disallowed. The obligation on the trust to report annually on maintenance of public access to Gosch's Paddock is another significant measure.

(e) Any less restrictive means reasonably available to achieve its purpose

As previously stated, the limits in the bill are minor and they are balanced against provisions that promote and protect public access to Gosch's Paddock as a public park.

The nature and scope of the limitations in this bill, such as they are, arise from the need to give the trust increased flexibility to manage its ongoing business more effectively and meet new challenges such as facilitating arrangements to accommodate the new stadium and the increasing popularity of, and attendance at, key events.

There are no less restrictive means available that would reasonably achieve the purpose of the limitations. Other potential management arrangements, like the current arrangements, are inefficient and would continue to hinder the trust in managing its business.

(f) Any other relevant factors

The trust encourages public access to walkways and other open areas throughout the National Tennis Centre and Olympic Park. These are frequently used by recreational walkers and joggers.

Incorporation of marginal lands in the precinct into the National Tennis Centre and Olympic Park under the direct control of the trust will enable the trust to achieve a more integrated appearance as well as functionality for this vital part of Melbourne and Victoria that plays host to many interstate and international visitors.

The provision that the trust must not construct or carry out works in Gosch's Paddock without ministerial consultation and written approval affirms the right to freedom of movement because it reinforces protection of Gosch's Paddock as a public park. This test would have essentially the same effect as the process prescribed by the Crown Land (Reserves) Act 1978 in relation to development in public parks. The ability for the trust to undertake minor works as defined is also consistent with practices in other public parks.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it only limits, restricts or interferes to a minor extent with a human right, being the right to freedom of movement under section 12 of the charter, and the limitation is reasonable and proportionate. This is in view of the important objective of the legislation, which is to consolidate land management arrangements in the Melbourne and Olympic park precinct and to permanently reserve Gosch's Paddock as a public park, and the significant measures in the bill to minimise the nature and scope of the restrictions, as detailed in this statement.

JUSTIN MADDEN
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Melbourne and Olympic parks are at the heart of Melbourne's most important sports and entertainment precinct. The parks' proximity to the CBD and quality and flexibility add enormously to Melbourne's competitive advantage in hosting major events and accommodating sports teams who represent and inspire Victorians.

The precinct hosts one of Australia's most important sporting events — the Australian Open. It regularly hosts important international events such as the Commonwealth Games, the World Swimming Championships, the World Gymnastics Championships, and the World Track Cycling Championships.

It is currently, or will become, the home for tennis, athletics, the Victorian Institute of Sport, Melbourne Storm, Melbourne Victory, the Melbourne Football Club and the Collingwood Football Club.

Following the completion of the new rectangular stadium, the Melbourne and Olympic parks will contain in excess of three-quarters of a billion dollars in sport and entertainment assets under the management of the Melbourne and Olympic Parks Trust.

Because of the history of the area, the Melbourne and Olympic parks precinct is a patchwork of land titles and management arrangements. Part of the land is managed by the Melbourne and Olympic Parks Trust, part by the City of Melbourne, part by the minister responsible for the Crown Land (Reserves) Act 1978 and a part by VicTrack. Some of the land has no formal management arrangements.

The range of different organisations managing and maintaining this land is inefficient, cumbersome and makes it difficult to plan and coordinate a long-term vision for the precinct.

The lack of a cohesive land management structure limits the government's long-term ability to support and improve facilities within the precinct for major events and to provide for key stakeholders such as the Australian Open and the precinct's other tenants.

A recent demonstration of the existing complex management arrangements occurred when the Collingwood Football Club moved its training base from the oval where the rectangular stadium is to be built to its current location in Gosch's Paddock. In this case, the club was required to obtain agreement from the Melbourne and Olympic Parks Trust, who in turn had to get two licences to provide the Collingwood Football Club with a training oval. One licence was required from the Secretary of the Department of Sustainability and Environment for most of the southern oval and another licence from the City of Melbourne for the rest of the oval. These licences then needed to be approved by the minister responsible for the Crown Land (Reserves) Act 1978.

Historically, the majority of the precinct has been and is still currently used by the Melbourne and Olympic Parks Trust and its tenants. This includes the throwing cage area used as a warm up and training facility for athletics, Gosch's Paddock used as a training venue for Collingwood Football Club and Melbourne Storm, four tennis courts in the north-western corner of the tennis centre and land along Batman Avenue which is used for infrastructure during the Australian Open.

In order to promote and develop the precinct as the jewel in Victoria's sporting crown, this bill proposes to consolidate all of the land in this precinct under the management of a single body — the Melbourne and Olympic Parks Trust — with a consistent set of land-use arrangements.

The management and planning of this very important state asset will then be coordinated under a single body that is directly answerable to the state government. A single management authority for this land will enable the land to be coordinated, maintained and presented in the best possible manner.

It will also allow the trust to enter into long-term licences with the Melbourne Football Club, Melbourne Victory and Melbourne Storm for their use of Gosch's Paddock. Currently, the Melbourne City Council as the land manager of part of the land cannot offer a licence of more than three years. However, these tenants need a greater certainty through longer licences if they are to commit to the new rectangular stadium.

A key attraction of the Melbourne and Olympic parks precinct is its parkland setting. This will continue to be very important, not only for event visitors and tenants of the precinct but also for local residents and the wider community, who are very proud of Melbourne's parkland network. Accordingly, to ensure that Gosch's Paddock is well protected, it will remain as a permanently reserved 'public park' under the Crown Land (Reserves) Act 1978. In fact, the permanent public park reservation will be extended to include the currently unreserved southern section of Gosch's Paddock.

The bill will also establish the Melbourne and Olympic Parks Trust as a committee of management for Gosch's Paddock under the Crown Land (Reserves) Act 1978. They will be required to manage Gosch's Paddock in the same manner as the City of Melbourne.

They will be subject to the same consent arrangements in relation to the issuing of licences to sporting clubs, with the exception of being able to enter into licences of up to 21 years. This will require a consent from the minister responsible for the Crown Land (Reserves) Act 1978 with this consent being published in the *Government Gazette* and being subject to the scrutiny of the Parliament.

Over and above the protections that Gosch's Paddock will enjoy under the Crown Land (Reserves) Act 1978, the trust will also:

> have no power to enter into leases over any part of Gosch's Paddock;

require a consent from both the Minister for Sport, Recreation and Youth Affairs along with the normal consents required from the minister responsible for the Crown Land (Reserves) Act 1978 under the provisions of the Crown Land (Reserves) Act 1978 before the trust can enter into licences of up to 21 years;

need the approval of the Minister for Sport, Recreation and Youth Affairs for any land improvements beyond only minor works in Gosch's Paddock. The Minister for Sport, Recreation and Youth Affairs will be required to consult with the minister responsible for the Crown Land (Reserves) Act 1978 before providing any approval; and

need to report annually to Parliament under the Financial Management Act 1994 on its performance in retaining access to public open space in Gosch's Paddock.

In summary, the bill amends the Melbourne and Olympic Parks Act 1985 (MOP act) to:

revoke any reservations, Crown grants, committees of management and regulations on all reserved land within the precinct not currently either National Tennis Centre land or Olympic Park land;

remove certain redundant road declarations in Gosch's Paddock, Flinders Park and the former army barracks site outside of the CityLink lease area;

temporarily reserve all land to the north of Olympic Boulevard (formerly Swan Street) that is not currently National Tennis Centre land as National Tennis Centre land;

temporarily reserve all land to the south of Olympic Boulevard (formerly Swan Street) that is not currently Olympic Park land or Gosch's Paddock — as Olympic Park land;

permanently reserve Gosch's Paddock as 'public park' under the Crown Land (Reserves) Act 1978;

make the trust responsible for the additional National Tennis Centre land and the additional Olympic Park land under the MOP act;

allow the trust to administer land for public purposes;

establish the trust as a committee of management of Gosch's Paddock under the Crown Land (Reserves) Act 1978;

notwithstanding the restrictions within the Crown Land (Reserves) Act 1978, allow the trust to grant licences of up to 21 years for Gosch's Paddock, subject to the consent of the Minister for Sport, Recreation and Youth Affairs and the minister administering the Crown Land (Reserves) Act 1978;

require the trust to seek the approval of the Minister for Sport, Recreation and Youth Affairs on decisions when carrying out works in Gosch's Paddock. The minister is required to consult with the minister responsible for the Crown Land (Reserves) Act 1978 on these matters before providing any consent;

require the trust to report annually on its performance on retaining access to public open space in Gosch's Paddock to Parliament under the Financial Management Act 1994;

maintain the various leases and licences in place over land being transferred to the trust's care by ensuring that all rights and obligations under those arrangements would continue as if the trust had entered into the arrangements; and

tidy up an outdated reference in section 16D of the MOP act. The reference to 'secretary' has been amended to 'chief executive officer'.

In conclusion, this is a sensible amendment to the Melbourne and Olympic Parks Act 1985 aimed at facilitating good governance of one of Melbourne's most important pieces of public infrastructure.

I commend the bill to the house.

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

Debate adjourned until Thursday, 8 November.

WORKING WITH CHILDREN AMENDMENT BILL

Second reading

Debate resumed from 20 September; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr SOMYUREK (South Eastern Metropolitan) — I rise in support of the Working with Children Amendment Bill 2007. Before I speak to the specifics of the bill, it is prudent to revisit the purpose of the principal act. The purpose of the principal act is to assist in protecting children from sexual or physical harm by ensuring that people who work with or care for children have their suitability to do so checked by a government body so that applicants who pose a risk to children are prevented from working or volunteering with them. The working-with-children check requires people in certain types of child-related work to undergo a check of their criminal record and relevant professional disciplinary findings. If an applicant has a relevant offence, it will be detected and assessed in relation to the risk to the safety of the children. The working-with-children check is unique in that those who have passed the check will be monitored for future offences.

At the outset of my contribution I would like to put on record that this government has introduced the working with children legislation because of the great value this government places on the safety of our children. If that means causing inconvenience to decent, law-abiding

citizens, we as a government make no apologies for that. This bill is just one of many tools that we have put in place to help children reach their full potential.

The key amendments to the act include provision of a limited, exceptional circumstances discretion for the secretary of the department to refuse to issue or revoke an assessment notice to an applicant if satisfied that there is an unjustifiable risk to the physical or sexual safety of children having regard to prescribed criteria; removal of two historical offences of carnal knowledge from within category 1 to category 2, thereby granting the secretary discretion to grant an applicant with an assessment having regard to the prescribed criteria; inclusion of the two new offences of loitering near schools et cetera and stalking where the victim is a child as relevant offences within category 2; inclusion of the two offences of causing injury intentionally or recklessly and obscene exposure as relevant offences within category 3; providing the Victorian Civil and Administrative Tribunal power to stay a negative notice for category 1 applicants; and a range of minor technical amendments to clarify some terms.

We as a government understand that this will cause some minor inconvenience to, as I said, decent, law-abiding citizens, but that is a risk that we are willing to take as a government. The safety of our vulnerable children is paramount as far as the government is concerned. Government is about priorities and it is about balancing various priorities. Clearly in this legislation there is a balance between civil liberties and the protection of children. We have come out on the side of the security and the safety of Victorian children. I commend the bill to the house.

Mrs PEULICH (South Eastern Metropolitan) — Acting Speaker, I wish to make a couple of brief comments — —

The ACTING PRESIDENT (Mr Pakula) — Order! I think Mrs Peulich means Acting President.

Mrs PEULICH — Yes, I beg your pardon. I am recognising your potential leadership and perhaps a transfer to another house may be an appropriate course of action for a young man with a big future ahead of him.

An honourable member interjected.

Mrs PEULICH — Yes, Hotham was not to be.

I would like to make a couple of brief comments. The opposition is not opposing this legislation. The purpose of this amendment bill is to amend various rules and procedures for assessment of whether a person should be authorised to work with children under the Working with Children Act 2005. Basically it is a bill of a few fix-ups of oversights and mistakes that emanated from the government's introduction of the act. I guess it probably should not have been necessary to do a fix-up if the government had undertaken its job carefully in the first instance. Unfortunately that does not seem to happen when the government has a big majority, especially in the lower house, and of course it had control of the upper house as well when the legislation was first debated. It tends to get itself entrenched and refuses to admit when sometimes it makes mistakes, and it is a large operation so mistakes are bound to be made.

There are just two comments that I would like to make. A point was raised by Jeremy Ganz, who is an adviser providing support to the Scrutiny of Acts and Regulations Committee. I commend the work Jeremy does; he provides an added degree of scrutiny and advice to the committee. His work is very detailed. He is very skilled, and he has been able to make recommendations which some ministers have been more than happy to take up. He advised the committee — and the committee certainly agreed — that an error had been made in the statement of compatibility, which implies that loitering near a school is in itself a crime. The reference is to someone who has been charged, when in actual fact the law is that if someone has been found guilty of a sexual offence, loitering around a school is illegal. Clearly some errors continue to be made.

I want to comment on the importance of the scrutiny of government, not only by the Scrutiny of Acts and Regulations Committee but obviously by this chamber as well in the important role it plays, especially, as I said, when the government has such a significant majority in the Legislative Assembly. It is crucial to pick up flaws. I do not know whether the problems are caused by arrogance, incompetence or the misguided pursuit of deeply flawed policies. In this instance one would think it was an oversight and that a number of flaws may have emanated from the principal act.

The other comment I make is that issues have been raised with me by a number of people who are very involved in providing voluntary services to various organisations in our communities. We have many of those across South Eastern Metropolitan Region. Australia is blessed in having a very strong spirit and culture of volunteerism. Many retired people are involved in multiple organisations, and they have raised their concerns about the amount of red tape involved in the process of pursuing multiple police checks, which has the effect of discouraging volunteers.

Naturally the level of scrutiny needs to be maintained — we cannot afford to compromise that — but surely clever bureaucrats can come up with an idea to streamline the process so that the very important support of and contribution to our community by volunteers can be supported and not discouraged. I undertook to make those comments in the house in the hope that when the ministerial staff and advisers read *Hansard*, they may pick up this issue and come up with some creative solutions when next we have an amendment bill on this particular act. With those few comments I conclude my contribution.

Mr ELASMAR (Northern Metropolitan) — I rise to support the Working with Children Amendment Bill 2007. We are all aware of the problems within our society regarding paedophilia and child bashings. Most of us have read shocking stories in the media about paedophiles who have been jailed for sexual assault or out-of-control adults who bash young children who have been placed in the care of those adults, in some cases by the state authorities. This problem occurred in the past because there were not sufficient safeguards under the law to check job applicants properly. Decent, respectable people loathe and detest those individuals in our society who abuse defenceless children. These young people are our future, and whoever damages them damages us all. This amendment, which I support 100 per cent, seeks to add an additional protective measure to the already existing legislation, the Working with Children Act 2005.

As a parent I would have no hesitation in banning known paedophiles from working with children for life. As yet there is no cure for this dreadful mental disorder, so we have to do the next best thing, which is to legislate for tighter control to ensure that children are protected against predators and placed in the protection of suitably qualified personnel, who are given a sacred trust by the state. All employees and volunteers must expect to be checked out prior to appointment, because all children deserve a fair start and a chance at a better quality of life. The amendment provides for a stronger and clearer process for screening employees and volunteers in the area of childminding. This tougher test should, as far as possible, bring to light prior convictions or histories of violence against children and hopefully put a stop to this kind of abuse in our society by paid employees and volunteers. As a community we owe our children that much. I commend the bill to the house.

Mr EIDEH (Western Metropolitan) — I, too, rise to support the Working with Children Amendment Bill 2007. This legislation aims to give better protection to our children. Whilst what we strive to achieve in this house is always important, there is possibly no greater responsibility placed in our hands by the community than the protection of those who are least able to protect themselves. This legislation follows many other laws that have been enacted in this area since Labor came to government. It seeks to do even more to protect and nurture the next generation of community leaders, plumbers, doctors, businesspeople and volunteers. It is about ensuring that those persons who work with or care for children in paid or volunteer roles are people of good character and that they will not place our children at risk. All states and territories have enacted or will enact similar legislation to protect children. Labor governments believe in and are committed to ensuring that there are similar laws across Australia and that those laws will provide effective protection for children.

This bill aims to further safeguard children by introducing new offences designed to stop loitering around schools, stalking, the causing of intentional injury and obscene behaviour. This bill also gives the Department of Justice authority over these issues and related matters to ensure that no-one is denied natural justice while we keep at the forefront of our minds that the key purpose of the law is to protect children. There is no intention that at any stage teachers, carers, doctors, nurses or parents will be penalised by this legislation. The government has a responsibility to weed out those persons whose presence around children places children at risk. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Mr LENDERS (Treasurer) — By leave, I move:

That the bill be now read a third time.

In doing so I thank all members for their contributions to the debate.

Motion agreed to.

Read third time.

CRIMES AMENDMENT (RAPE) BILL

Second reading

Debate resumed from 20 September; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Rape must be one of the most heinous and invasive crimes on the statute book in Victoria, and for that reason it is important that this Parliament treats the issue seriously. I have to say that it is with some regret that we note a substantial increase — 40 per cent — in the reported level of the crime of rape over the last seven years, from 1170 instances in 1999–2000 to 1631 instances in the 2006–07 financial year. That increase should be a matter of concern to this Parliament and a matter of regret for the Victorian community.

It is an issue that raises a substantial question over the way in which we record and report our crime statistics, because there are some in the community who would argue that that substantial increase in reported rape is just that, an increase in reported rape, indicating a willingness of rape victims to report the crimes that they have been subjected to rather than simply allowing them to pass. Of course the counter to that argument is the argument that there has actually been a real increase in the number of offences. Ultimately that comes down to a political debate as to whether it is merely an increase in the number of reports rather than an increase in the number of offences, but it should be a matter of concern that we have had a 40 per cent increase in the number of reported rape offences over that seven-year period.

Rape is a crime that affects many in the community. It is not a crime that affects just women, although of course they are predominantly victims of the crime. It is an offence that affects its victims very substantially. In most instances the effects of it are lifelong effects — they remain well after the actual physical offence has occurred. It is appropriate that the community and we in this Parliament do everything we can to prevent the crime of rape occurring in the first instance and then to ensure that the perpetrators are brought to justice. It is also important that the victims of rape are protected to the greatest extent possible during the criminal trial process that inevitably follows a charge of rape and that we provide as much support as possible to those victims once the judicial aspects of the crime have been dealt with.

The bill before the house this morning will not be opposed by the Liberal Party. The Liberal Party does express a concern about the bill's potential application, which I will come to shortly, but the principles that it espouses are certainly not opposed by the Liberal Party. This bill implements a third tranche of reform that arises from the report of the Law Reform Commission on sexual offences. The Attorney-General in his second-reading speech and elsewhere has suggested that the government is ahead of the game in implementing these reforms.

The reality is that this tranche of reforms that the Parliament is considering today is well overdue. It has been delayed substantially, and I have to say that is often the case. We have press statements from the Attorney-General and we have second-reading speeches from the Attorney-General suggesting that the government is ahead of the game when in reality it is lagging behind other jurisdictions and is well behind on picking up recommendations from bodies such as the Law Reform Commission, and this bill is an example of that.

The bill makes two substantial changes to the Crimes Act and to the way in which the crime of rape is dealt with. The first — and this is the area where the Liberal Party has some concerns — relates to the amendment of section 37 of the Crimes Act, which prescribes the way in which a judge is to direct a jury that is sitting on a rape case. The bill substantially restructures the current provisions that exist in terms of the directions that a judge must give to a jury. On a prima facie reading of the current provisions and the proposed provisions, there is no substantial difference between them as to the nature of the directions that a judge must give to a jury, with the exception of a change that is picked up later in this bill, but the structure of the directions that the judge must give is substantially more complex.

This has led to concerns being expressed by the Law Institute of Victoria, and those concerns are shared by the Liberal Party, that making more complex the requirements imposed upon a judge as to the way in which they should direct a jury increases the prospect of the judge erring when giving those directions to the jury. As a consequence of that there is an increased prospect of a defendant who is convicted having grounds to appeal because the judge erred in giving directions to a jury under these provisions. We are concerned that the laying out of directions to a jury in a more complex manner could result in judges erring in giving those directions and result in defendants being able to use that as a ground for seeking an appeal or other review of a conviction. As I said, that is a concern that is shared by the Law Institute of Victoria.

The second key provision of the bill, and one that is supported by the Liberal Party, is a change in the definition of the crime of rape. Section 38 of the Crimes Act outlines the offence of rape, and the act currently provides that the offence of rape occurs when the perpetrator intentionally sexually penetrates another person without that person's consent while being aware

that the person is not consenting or might not be consenting. What the current act does not provide for is a circumstance where the defendant argues that they did not know if the person was consenting or not. What this bill seeks to do is correct that.

It seems to this side of the house to be an anomaly that the current law exists as it does and that the offence of rape requires the perpetrator to be aware that the victim was not consenting or might not be consenting. The current position in which a perpetrator can argue they did not know is one that we have to say is unsatisfactory, and we are pleased to see that this bill corrects that situation by substituting in section 38(2)(a) a new test that extends the original test and states that a perpetrator is guilty if:

> he or she intentionally sexually penetrates another person without that person's consent —
>
> (i) while being aware that the person is not consenting or might not be consenting —

which mirrors the existing provision —

> or
>
> (ii) while not giving any thought to whether the person is not consenting or might not be consenting …

The bill now eliminates the ability for a perpetrator to argue that they did not know and requires them to have given thought to whether their victim was consenting or was not consenting. It is the view of those on this side of the house that this closes the loophole on that defence and is a welcome change to the definition of the crime of rape. This is a change that is also picked up in the provisions for directions to a jury and is an appropriate step in that regard.

The Liberal Party appreciates the intent of this bill in upgrading the definition of the offence of rape and clarifying the position regarding the defence of not knowing about the victim's consent or otherwise. As I said, we are concerned that the more complex way in which a judge is required to direct a jury may lead to a misdirection and to a subsequent mistrial occurring.

The government has advised that it will move amendments related to the offence of incest in the committee stage, which presumably the government lead speaker or the minister will move. I indicate at this point that the Liberal Party will not oppose those amendments in principle — we will deal with them in more detail in the committee stage — and does not oppose the bill.

Ms HARTLAND (Western Metropolitan) — The Greens will be supporting this bill. We believe it is good legislation. I have to say I have a great deal of respect for the way the government has gone about implementing the recommendations of the 2004 Victorian Law Reform Commission report entitled *Sexual Offences — Final Report.* This is the third legislative change and there has been a suite of other reforms that have garnered praise from the community, including from centres against sexual assault (CASAs). I have a great respect for the work those centres do and the exceptional support they give victims of sexual assault.

The government has rightly implemented the expensive recommendations first, such as the new child witness units with closed-circuit TV and the capacity to prerecord the evidence of children, adults with cognitive impairments and anybody else for whom that is required. These new specialist units in the Magistrates and County courts give higher priority to and are much more sensitive to the needs of victims than was previously the case. There has been a trial of multidisciplinary sexual assault centres in Frankston and Mildura, where police, forensics and CASA staff are all in the one place. There is also new money to implement other reforms with the aim of changing the culture of the police force and the court system and giving better support to people who report sexual offences.

In my region, the Western Region Centre Against Sexual Assault (West CASA) has been full of praise for these reforms. It says there has never been enough money in this field but that these reforms mean for the first time they have been able to bring down their waiting lists considerably. That can only be good. West CASA also supports, as do I, the cultural changes that are taking place as part of the government's reforms. While CASAs do not deal with children, they say the reforms relating to children with sexually damaging behaviours and child victims of violent crime have been outstanding.

The Crimes Amendment (Rape) Bill will change the law so that a person is guilty not only if they are aware that the other person was not or may not have been consenting to sex but also if they did not turn their mind to the issue. I think this is one of the major and most important parts of this bill, because so often in the past men have used the excuse, 'Oh, I didn't know', when the woman was unconscious, was asleep, had been drugged or was not able to give informed consent, or they have said, 'Well she came back to my flat so she knew what to expect'. It is good to know that such stupid excuses will no longer be tolerated.

The bill will change the law so that the accused person must explain the steps they took to find out if the other person consented or was in fact capable of consenting. In my previous occupation I worked with a lot of people who were never able to give informed consent, and that is a very important issue. There are also obvious problems with young people who may have engaged in binge drinking or drug taking. How could they possibly give informed consent? The second problem that has been addressed in this area is the possibility under the principal act of an accused person being acquitted if they do not care one way or another whether the person they are having sex with is consenting. Currently the prosecution has to prove that the accused was aware that the victim was not or might not have been consenting. The bill adds a new element which means that in addition to believing the person is consenting, as described above, the accused must have turned their mind to the issue of consent. People are going to have to actually think about their actions and the consequences of them.

The bill also sets out the way in which a judge must address the jury. The judge must, where relevant, explain the concept of awareness and explain consent issues. The bill changes what the judge must tell the jury about belief in consent, which supports the communicative model of consent. The judge's directions must be put in the context of the actual allegations and must be given if they are relevant to the allegations and must not be given if they are not relevant. This makes sense. Juries are made up of ordinary people, who often have to deal with complicated aspects of law when they are on a jury. This will make the whole process much more straightforward.

I am concerned though that despite the government's best effort there is still an extremely high rate of rape cases being contested and a high rate of acquittal. I have been told anecdotally that upwards of 75 per cent of people charged with rape who contest the charges are successful. This is the polar opposite of the situation with other violent crimes, such as armed robbery and violent assault. Nearly all other violent crimes begin in the court system with a guilty plea and end with the lawyer saying, 'My client has cooperated fully and has expressed remorse and has assisted the police' and so on. For some reason the unexpected effect of the new legislation has been for lawyers to take a very entrenched position, and they are often telling their clients to contest everything.

It is not good for victims to be dragged through a contested court case, even with the advantage of the government reforms to protect and counsel them. Often women talk about feeling as if they had been raped a second time when they have had to confront their accusers in court. It would be heartbreaking if these reforms, which have the intention of making more people come forward to tell their stories, had the unintended effect of putting a lot more victims through the ringer for nothing. I hope the government will keep an eye on this issue to see what can be done to alleviate the effect of this anxious time on victims of sexual assault.

My sincere hope is that the changes outlined in the bill will help convict more people who have committed rape and sexual assault. I know that is the government's intention. In conclusion, I think it has to be said that there is now a different understanding of what rape is about. It is not about sex. It is a crime of dominance, of violence and of hatred of women. Many people are raped by people they know. The problem of rape has nothing to do with some of the comments that were made in the other house about there being too many bushes and uncut shrubbery in parks. Most people are assaulted by people they know, unfortunately including people with whom they may have had a relationship or whom they may have loved in a previous situation.

Rape is also a common war crime; it is seen as a part of conquering and humiliating a country and its people. It is largely, but not exclusively, a crime of men against women, of men against men and of men against children. Rape unfortunately is a violent acting out of our society's culture, in which there is a belief that dominance and submission, especially of women, is an acceptable thing. Hopefully this bill will help to address these issues. The Greens will certainly be voting for it.

Mr TEE (Eastern Metropolitan) — We all know that the victims of rape often suffer both physical and emotional trauma. We also know that many then suffer additional and unnecessary trauma in the criminal justice system. This bill seeks to address that unnecessary trauma. As it has already been identified, the catalyst for the introduction of this bill is the Victorian Law Reform Commission's report on sexual offences, law and procedure. That report has some disturbing findings about sexual assault.

The law reform commission found that there is a high incidence of sexual assault, a low disclosure rate, serious health consequences for sexual assault victims and relatively low prosecution and conviction rates. Studies have suggested that 85 per cent of sexual assaults are not reported to police. The law reform commission report found that instead of providing justice, the criminal justice system often added to the victim's trauma. Victims went into the criminal justice

system as victims and then came out of the system as victims. This bill is the third legislative response in the implementation of the recommendations of the Victorian Law Reform Commission's report.

The bill addresses the mental element of rape. The current position is that the prosecution has to prove that the accused was aware that the victim was not or may not have consented to sex. But what this means is that an offender may escape conviction by arguing that they did not know whether the victim was consenting to sex because the offender did not turn their mind to it. The consequences of this are appalling. This means that an offender could escape a conviction because they were so oblivious to whether the victim was consenting that they did not even turn their mind to it. This is in conflict with community expectations that a person having sex has a responsibility to find out whether the other person is consenting. Under this bill the accused can no longer escape conviction because they did not give any thought to whether the person was consenting.

Additionally, the bill clarifies the directions that have to be given by judges to juries. It is common for a defendant to say in their defence to sexual assault charges that they believed the victim was consenting. In these circumstances there has been some confusion about the correct mental element and the jury's attention being directed to the offender's belief that the victim was consenting rather than the actual mental element — namely, whether the offender was aware that the person was consenting. This bill will make things clearer in that, where the issue of belief is raised, the judge will direct the jury to as the proper mental element for the jury to consider.

A third aspect of the bill deals with directions to help the jury decide whether there was consent and whether consent was freely given. There are directions that the judge will give to the jury in relevant cases. The directions provide that a complainant did not consent to sex if they were so affected by alcohol or another drug that were incapable of freely agreeing to sex. The directions provide that there is no consent if the complainant is asleep or unable to understand the sexual nature of an act. There is no consent, under these directions, if the complainant submitted to the act out of force or fear of harm to themselves or anyone else. If there is any doubt in the mind of the person instigating a sexual act, there is a responsibility on that person to communicate with the other person to remove that doubt. The bill provides a number of consequential amendments consistent with this test.

For example, the bill amends the offence of compelling sexual penetration so that a person is guilty if he or she compels the victim to engage in a sexual act where the offender does not turn their mind to the issue of consent. There is a similar amendment for the offence of indecent assault. In relation to the issue of incest, there are a number of amendments that will be moved by the Minister for Planning, and I ask that those amendments in his name be circulated to the house.

Government amendments circulated for Hon. J. M. MADDEN (Minister for Planning) by Mr Tee pursuant to standing orders.

Mr TEE — I will touch on the amendments briefly and speak to them in greater detail in the committee stage. Essentially these amendments address concerns raised by the Scrutiny of Acts and Regulations Committee. They deal with the offence of procuring incest and remove a requirement for the victim to demonstrate that not only were they compelled to engage in incest but also that the person who compelled them to participate in the act was aware that they were not consenting. This part of the test is being removed by these amendments, which, as I said, I will address further in the committee stage.

I return to the bill. It is another step in making the criminal system respond to sexual assault in a fairer way and in a way that moves towards not retraumatising the victim. The bill goes a long way towards reflecting community expectations around the issue of consent by requiring that the accused can no longer ignore whether or not the victim is consenting. It is my hope that these reforms will build the trust and confidence of victims to take that very brave step of reporting these very dramatic offences to police. These changes will make the law clearer. It is certainly my expectation that they will reduce the number of appeals and retrials. If they achieve this outcome, they will help victims get out of the criminal justice system sooner and get on with their lives. There is no justice when 85 per cent of rape victims do not report offences to police. There needs to be a cultural change in the community around this issue, but there also need to be changes to how the justice system treats victims of rape. These amendments will go some way towards making the justice system more accessible to victims of sexual assault. This is important and welcomed legislation, and I commend the bill to the house.

Mr DRUM (Northern Victoria) — I am happy to rise to talk on the Crimes Amendment (Rape) Bill. It is a very serious issue we are talking about. I hope the men in this chamber never have to worry about going through this experience. We can only think very solemnly about the horrendous experiences some women in our society have to deal with in this area.

The purpose of the bill is to clarify the position regarding the offence of rape and other sexual offences which require proof that the accused was aware that the victim might not have been consenting to the sexual act and the directions judges give to juries on the issues of consent and the accused's awareness in trials involving such offences. These are the two main areas of this legislation that will amend the principal act. As we know, rape and other sexual offences are highly traumatic for the victims. Ms Hartland spent a good deal of time talking through some of those issues. The lasting legacy of these offences is the enormous amount of distress and trauma that they cause to victims. The distress obviously does not end immediately after the offence has been committed. We understand that the harm caused by these attacks can last for many years.

Victoria has seen a significant increase in the number of reported rapes over the last seven years. In 1999–2000 there were 1170 reported rapes in this state, whereas in 2006–07 that number had increased to 1631, an increase of nearly 40 per cent. Sometimes the government can get defensive about statistics showing a significant increase in the incidence of serious criminal offences. It usually refuses to acknowledge that the incidence of serious crimes is on the increase. Quite often you will find the government claiming that these increases are only being caused by the fact that a far greater percentage of crimes are being reported than was once the case. It says that in today's society women are more likely to come forward and do the right thing than they once were. But it is also worth noting that over the same period of time serious assaults have also increased by a significant 56 per cent. We have a very real upward trend in relation to serious crimes such as assault and sexual offences, which are occurring at a terrifying rate. The government needs to ask some questions as to why there has been such a sharp increase in the incidence of serious offences.

If we are making laws that will change the current legislative structure in relation to rape and other sexual offences, there needs to be a tremendous amount of emphasis put on the need for balance. The final report on sexual offences of the former Victorian Law Reform Commission, which was released in October 2004, went a long way towards dealing with this need for balance. The report states:

> The recommendations in this report are intended to achieve the twin goals of providing decent treatment for complainants, who perform a public service when they report offences and give evidence in court, and ensuring a fair trial for people accused of sexual offences.

That paragraph sums up what we must guard very carefully when we are looking at changing laws in relation to sexual offences in this state. The report made a wide range of recommendations, and three pieces of legislation have been brought to this house by the government in response to that report. We have previously passed the Crimes (Sexual Offences) Act 2006 and the Crimes (Sexual Offences) (Further Amendment) Act 2006. This bill we have before the house today will be the third part of the legislative reform in response to the commission's report.

As I stated earlier, this bill can be divided into two main parts. The first relates to jury directions given by a judge. The second relates to the mental element of the accused in trials of charges of sexual offences. The amendments in relation jury directions are made by adding two new sections into the principal act, section 37AAA and section 37AA.

These amendments are quite complex. They are largely to deal with making the instructions given to juries better reflect the duty that they will need to perform. In terms of these new sections to be inserted in the act, new section 37(3) requires that:

> A judge must relate any direction given to the jury … to —
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> …
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> (b) the elements of the offence being tried in respect of which the direction is given …

Again, it is very clearly stating that the directions that are given by the judge to the jury must be very specific to the offence that has been committed, and also to the directions relating to the offence that they are going to have to try with respect to the respective trial.

Section 36 is a very critical part of this legislation. It effectively deals with the area of consent. I again want to read a little from this section. Section 36 of the existing act defines the meaning of consent, and that provision was inserted into the Victorian legislation back in 1991. It sets out various circumstances in which a person does not freely agree to the act and therefore does not consent to the act that has occurred. That covers situations such as a person submitting as a result of fear or where they are asleep, unconscious or so affected by alcohol or drugs that they are incapable of freely agreeing. The amendments that are being made by these provisions require the judge to specifically canvass these issues when it is relevant to the trial. So again it very clearly sets out what is consenting and what is not. The legislation refers to the case of a proceeding in which the jury finds that a circumstance specified in section 36 exists: firstly, whether the accused was aware that that circumstance existed in relation to the complainant; secondly, whether the

accused took any steps to ascertain whether the complainant was consenting or might not be consenting, and if so, the nature of those steps; and thirdly, any other relevant matters. I think it is worth putting section 36 on the record because it forms such a critical part of the legislation.

It is also worth mentioning new section 37AAA because paragraph (c) states:

> that if the jury is satisfied beyond reasonable doubt that a circumstance specified in section 36 exists in relation to the complainant, the jury must find that the complainant was not consenting …

So it is again backing up section 36. Paragraph (d) states:

> that the fact that a person did not say or do anything to indicate free agreement to a sexual act at the time at which the act took place is enough to show that the act took place without that person's free agreement …

Paragraph (e) states:

> that the jury is not to regard a person as having freely agreed to a sexual act just because —
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> (i) she or he did not protest or physically resist; or
>
> (ii) she or he did not sustain physical injury; or
>
> (iii) on that or an earlier occasion, she or he freely agreed to engage in another sexual act (whether or not of the same type) with that person, or a sexual act with another person.

Again, it is putting greater clarity into the whole area regarding consent. It hopefully will give juries around this state a far greater understanding of where they sit in relation to the evidence they are likely to hear and to be able to ascertain that evidence against the direction they are going to be given. New section 37AA simply talks about the jury's directions on the accused's awareness. I will not go into that one because it is again quite complex.

The Nationals are supporting this legislation. It will hopefully give us a better set of guidelines for juries around this state to hear these cases. Hopefully if we can get greater clarity in the cases we can get a more just system and have a system where women feel less traumatised by the whole trial system. If we can get greater acceptance that this type of behaviour is simply totally outside of any decent person's thinking and that this type of behaviour that leads to sexual assaults can be totally wiped out from the thinking of all decent people in this state, then this legislation has gone a small way to improving the lives of many people in this state.

Mrs KRONBERG (Eastern Metropolitan) — I am pleased to speak on the Crimes Amendment (Rape) Bill of 2007. It seems we have had to wait such a long time to have the opportunity to deal with this legislation. I understand that this is the third tranche in the government's response to the Victorian Law Reform Commission's final report on sexual offences — the document I have is entitled *Sexual Offences Final Report — Summary and Recommendations in Plain English* — but considering the fact that we have had a rise in assaults and rape, one must think that while the government has been dillydallying we have had much suffering going on in the background.

These amendments are designed to reflect the essential requirement to provide better conditions in which people who have been sexually assaulted can report crimes to the police. While we are on this subject, it is important and timely to point out that if you were a rape victim and went to the Maroondah Hospital in Ringwood after hours, it is highly unlikely that you would have the support of forensic officers and someone to help manage your case from the Department of Human Services. Rape victims are regularly shunted from the Maroondah Hospital to other hospitals outside of the region.

Imagine if you had been raped in, say, Croydon, and you found the strength and courage to go and have yourself attended to medically and develop the resolve to take the matter through to the first stage of reporting it to the police. You would then face a big bump in the road and be told that there was no forensic officer on duty because they only work from 9.00 a.m. to 5.00 p.m. I do not know what time of the day rapes generally occur, but I have the impression that much crime and criminal assault, particularly rape, occur outside of office hours.

The government needs to look immediately at its response to the management of rape victims and provide the mechanism for them to have their case managed by forensic officers and not have them transferred and traipsing around from one hospital campus to another. We could be talking about somebody driving around at 2 o'clock in the morning from Ringwood to, say, the Northern Hospital in Epping. Imagine if that was you or your daughter.

We also know that in the crime of rape and other forms of sexual assault many of the victims know the people who have perpetrated these sexual offences, and obviously many of these perpetrators are not held to account. I would like to read from an article in the *Herald Sun* of 9 October headed 'Sex abuse haunts half of all women':

> Research shows a staggering 45 per cent of women were abused as children by family members, friends or strangers.
>
> Abuse ranged from non-contact behaviour — such as indecent exposure or being forced to watch pornography — through to rape.
>
> …
>
> It found 75 per cent of abuse involved some contact, most of which was shockingly severe, such as forced intercourse.

We know that the prevalence of child sexual abuse is hugely underestimated because the nature of the crime, perpetrated against children mostly by people they trust such as fathers and brothers, is such that victims often do not report it. Abuse by family members has tended to be more severe than abuse by friends or strangers. It also tended to occur earlier, was generally perpetrated over a longer time and had worse personal outcomes for the victims.

A victim may feel ashamed or humiliated, and they may feel they have to protect their self-esteem by not talking about the attack to anyone. Another reason that this has been at the forefront of concern when the realities of non-reporting have ever been discussed is of course how they anticipate being treated when they are finally swept up by the criminal justice system. I repeat that that is why it is important that the government immediately turns its attention to the management of the forensic services in our public hospitals. It is so basic. Perhaps somebody could get an email going and a little meeting even this afternoon to make sure tonight that the Maroondah Hospital in particular is adequately staffed with forensic people to manage the victims.

Members here today will be horrified to know that only a small proportion of a very large number of sexual assaults are reported to police, and the number drops off markedly when we examine the number of those who take it right through the criminal justice system to see a prosecution launched.

The first changes in this legislative amendment are to the provisions which relate to the directions the judge must give a jury in relation to the offence of rape and various other sexual offences. The second change concerns the amendment to section 38 of the act by introducing a new type of fault element for when an offender intentionally sexually penetrates another person — we have been talking about women being victims here, but young men and little boys are also raped — but does so whilst not turning their minds as to whether their victim is consenting or not consenting. In that regard we need to refer to the Scrutiny of Acts and Regulations Committee's *Alert Digest* No. 12 of 2007.

Whilst the opposition will not be opposing this legislation, it has its concerns. The Law Institute of Victoria has argued that these changes are in fact unlikely to improve a victim's experience of the criminal justice system. Changes, such as what a judge may direct a jury to consider in sexual offence trials, are considered superficial. Furthermore, one is also concerned about whether jury direction requirements will work in practice and whether they will create necessary appeals based on allegations that the judge did not fully comply with the new requirements.

There are many other ways this government can alleviate the suffering of victims of sexual assault. It could start with the police and court processes looking through the eyes of victims and treating people with great sensitivity. I would like to draw the house's attention to some comments contained in the Law Reform Commission's *Sexual Offences — Final Report,* which I think are worth reading into *Hansard*. It states:

> People with a cognitive impairment are particularly vulnerable to assault as they often rely on other people to help them with daily life. People with a cognitive impairment include those with an intellectual disability, mental illness or brain injury.
>
> They can have difficulty in reporting assaults and answering questions from police and lawyers. They may not understand sexual assault is a crime, and they face the added problem that people may not always understand their impairment and may not believe them when they say they have been assaulted.

As a former teacher of a number of students who suffered acquired brain jury, I have great sensitivity to this; it certainly takes a lot of patience. I am hoping that any review of professional development of police and people who are first ports of call within the courts system picks up the need to ensure that they are really well acquainted with some of the basic impairments that sexual assault victims could have when presenting in the first place.

From here on in the government must do everything in its power to focus on the needs of the complainants. The government already has a poor reputation in this area. I put a question to the Minister for Police and Emergency Services in another place about the problems of forensic services at the Maroondah Hospital. I really only received very glib responses when I questioned him about the staffing levels of forensic professionals. I am looking around the house, and I am not sure that the minister representing the government in the chamber is particularly focusing on what I am saying. It is a very important message, Minister.

Mr Jennings — I absolutely happen to be talking about what you are talking about, to be honest.

Mrs KRONBERG — I am pleased to hear that.

According to an AAP report of 5 October headed 'New task force cracks down on night fights' there has been an increase in reported rapes. Rape is up 13.9 per cent. This horrendous statistic has been further compounded with the revelation that in the period 2005–06 there was a further increase of 13.9 per cent. The government's response to the Victorian Law Commission's *Sexual Offences — Final Report* is such that there is still much to be dealt with in this Parliament.

Following the filibustering in this house after dinner last night, I am so glad we have actually got around to debating this bill, and hopefully it will be passed speedily and effectively. One can conclude only that, because of the Brumby government's characteristic paucity of legislation, we will see reforms that are regarded as urgent basically on the drip-feed in order to fill the gaps over time, as borne out by the filibustering of last night. In the meantime Victorian women, young men and boys who are victims of sexual assault continue to suffer and are further traumatised at every twist and turn.

Ms TIERNEY (Western Victoria) — I am also pleased to rise and make a contribution to the debate on the Crimes Amendment (Rape) Bill 2007. As we have heard from other speakers, this is the third stage in a raft of changes arising from the Law Reform Commission's *Sexual Offences — Final Report* on law and procedures. As we have also heard from previous speakers, the incidence of reporting of rape is very low. It is estimated that 85 per cent of sexual offences, including rape, are not reported.

It is worth just thinking about that for a moment and looking at the reasons why a lot of women consciously decide not to report sexual offences, in particular rape. Some of the reasons go to the very heart of the matter, like being fearful of retribution. There are also elements of embarrassment. There is also concern about what family, friends and colleagues might think or say. There is also the fear of any potential negative impact on one's career, and of course any consequential negative financial impact. It is also an assessment that a woman needs to make in terms of time and the amount of time that would be consumed as a result of reporting rape. The other thing that cannot be underestimated under any circumstances is the fact that the woman will have to go through a number of processes where she will continuously relive the rape incident.

It is no real surprise why women, in lots of cases, weigh up what they should do and decide not to report rape. Indeed, in my mother's time, in talking to women of her generation and the generation before that, and in terms of my experience of being at university where sexual politics and gender politics were discussed at length and there was informed debate about the politics of rape, there was a widely held view that reporting rape and going through the process was all a bit too hard for women, regardless of your class or level of education. It was just far too onerous, particularly given that it often seemed to be the victim who was on trial.

In a number of cases, women or victims had to produce physical corroborative evidence. We all know that many women were also aggressively cross-examined and indeed a woman's sexual history was not just explored but was examined and questioned. All of that was a tactic to ruin the victim's reputation and to raise questions about the victim's very credibility.

It was also a judicial exercise in having a woman's whole life stripped bare. Many of us have very many vivid memories of what happened to women who reported rape and went through the court process. We had a judicial system that allowed this, where victims, whether they were men, women or children — but mostly women and children — who had been subjected to an act of rape had an experience that just simply added to the initial trauma. There was little support, little care and little protection.

Over time, many of us have now developed a bank of vivid memories of what has also happened to women who experienced rape and decided not to report it. I have memories in my lifetime of women I have known who chose not to report rape and have unfortunately suppressed many of the things that happened during that incident. Much of that has contributed to mental illness.

I also know of cases where physical illness has been brought about as a result of trauma caused by that rape, and I also know of women who have decided to suicide as a result. A lot of that is because what has played on those women's minds during that time, apart from their essence being violated not just as human beings but as women, is that the perpetrator has been able to get off scot-free. At the back of their minds they also know that there has been a really good chance that the rapist has not only got off scot-free from that incident but has also performed the act of rape on other people, including women and the sisterhood. The decision as to whether she should report the rape plays on a woman's mind to a dreadful extent.

The bill before us today attempts to create an environment which will hopefully encourage women to report rape. As previous speakers have mentioned, one of the most significant aspects of this amendment is the closing of the loophole, which means that the accused, not the victim, will be held to account; the accused will be held to account for whether they even bothered to think about if it was or was not a consent situation.

It is important that we put in *Hansard* this quote from the Victorian Law Reform Commission's final report on sexual offences, law and procedure. In relation to chapter 8, at page xl the executive summary states in part:

> … it prevents an accused who has not even considered whether the other person is consenting, or who has failed to take reasonable steps to ascertain whether that person is consenting, from benefiting from such inaction. The onus is shifted to the initiator to determine that there is consent; and
>
> it supports the communicative model of consent.

There needs to be an active action to ascertain whether it is a consent situation, and this hopefully will also make young men in particular think not just once but twice or three times that drink spiking is not a sport, and they will be held accountable for their actions. It also provides for the judge to give a clearer direction to juries, it provides clarity and hopefully provides juries with a greater focus for their deliberations. That has been discussed by Mr Tee quite succinctly in his contribution.

Overall it is about correcting the imbalance we have seen in this matter of treatment of rape victims and hopefully victims will feel more confident to report. It is also about trying to increase an environment that will allow for a fair go and minimises the degree of trauma. It should be stated that by doing so, it also ensures that there will be a fair trial for the alleged perpetrator and for all others involved in the process.

Generally the bill is about sending the right messages to the community. It reinforces that rape is a crime, that it is about exerting power over another person and that it will not be tolerated. By making sure that people need to check whether they are in a consenting situation or not, hopefully it may place the seed in certain people's brains that respectful relationships are the types of relationships we want to encourage and that we want members of the community to aspire to and that that is increasingly becoming the norm in our society.

In terms of community support for what is before us today, I know a number of community organisations have not only been consulted but have been heavily involved with and have had input into the changes. Senior university academics, Victoria Police and the Royal Children's Hospital have also played significant roles. I take this opportunity to thank the Victorian centres against sexual assault for the work they have done, in particular the educational work done in regional Victoria. When there are well-publicised rape cases it often falls on CASA members to deal with the media on top of all the other work they do. In doing so they attempt to remind the public that rape is not about women who are out late at night, women who go jogging early in the morning or women wearing certain clothes, and it is certainly not about blaming government departments like the Department of Sustainability and Environment for supposedly not trimming bushes on the Warrnambool foreshore. I have to say that I absolutely abhor the political opportunism that was involved in playing party politics in that situation.

I also thank the South Western CASA for sparing me some time two weeks ago to discuss resources, trends and forward planning and to provide me with further insights on numerous challenges in our communities, which are faced not just by women but by children of all ages, girls and boys; the increased sexualisation of children; and of that occurring at a much earlier age. I think that needs to be an issue we need to focus on into the future. I wish the bill a speedy passage and commend it to the house.

Mrs PEULICH (South Eastern Metropolitan) — I would just like to make a very brief contribution on this bill, which the opposition is not opposing. I thought our lead speaker, Gordon Rich-Phillips, gave a very good technical summary of the purposes and intent of this bill and some concerns about the way that it may be implemented. I thought the contributions made by all members so far have been enlightening and interesting and have added to the general debate. Ms Hartland made the very important point that rape is in fact not just a crime against women. Although probably it most commonly is committed against women — and most of us think of women as being the largest demographic of rape victim — it is also a crime against children and can be a crime against men as well, in particular young men.

An important point made by Mrs Kronberg in her contribution was that the services that need to be available to victims of rape are often inadequate and should be provided not just between 9.00 a.m. and 5.00 p.m. Whether the services are for rape victims or people who suffer from mental health problems, government services and services provided by agencies funded by governments need to be available at the times when those needs are most prominent. Clearly in

Mrs Kronberg's example, this was not the case, and I would imagine this is the experience that is replicated right across the board.

The experience of rape was the dimension the previous speaker, Ms Tierney, focused on. She commented on the attitudinal change in society, the enlightenment of our society in its perceptions of rape, and the manner in which rape has been treated by the legal system over time. This is reflected in the legislative change to do with the crime of rape. It goes back further than the Victorian Law Reform Commission report on rape, which a number of members have used as a starting point, commenting that this is a third stage of legislation of the Bracks and Brumby governments in responding to that report, which was handed down in August 2004.

In fact the reforms to the entire area of the criminal law as it pertains to rape go back to previous governments. The Kennett government was responsible for some significant reform in 1997, as was the Kirner government before that. So these reforms reflect society's changing attitudes to rape and the evolution and change of the role of women in society — the moving away from our concept of women as chattels or possessions to being seen now as equal participants in all the dynamics of society.

Obviously there are differences we need to be cognisant of, as do those who are and will be administering the laws, in particular the cultural differences. We will need to be more proactive in that regard, because we are a country that brings people from all over the world, both men and women, with a range of perceptions about the role of men and women and the rituals of sexual courting and sexual practice. Whereas we perhaps understand that no means no, in many other cultures where women are not typically socialised into a more independent sexual role and where the articulation of their views, especially when it comes to sexual engagement, is not as independent or assertive unfortunately no may mean yes. Programs for the education of both men and women need to be in place if we are going truly to address the myriad issues pertaining to this particular crime.

This legislation focuses on closing a loophole and preventing a defence lawyer getting an offender off on the technicality that they had not turned their mind to procuring, understanding or requiring consent, thereby diminishing the fault element. The second purpose of the act relates to the directions judges give to juries. Judges will need to be abreast of the changes and be careful to ensure the changes do not result in an opening of the floodgates to appeals.

As the figures show, there is a burgeoning incidence of rape, with a significant leap in recent times. Many would argue that is happening because old crimes of rape are being reported. It takes personal commitment and courage to do that — to set the record straight and seek some sort of legal redress — and I commend those who have gone down that path. I note that in the year 1999–2000 there were 1170 reported instances of rape but that, according to the latest figures published, by 2006–07 the number had risen to 1631 — an increase of nearly 40 per cent. That is a very significant increase. I certainly hope that the vast bulk of those are old crimes that have been reported, but I am not convinced that is the case. I share the concerns expressed by the shadow Attorney-General in the other place that these may not be just the old crimes but that there may be a spike in the incidence of rape occurring in our community. The community deserves protection.

There is one point that I do not share with Ms Tierney, and I understand where Ms Hartland has come from. All crime can in part be opportunistic, including the crime of rape. The way our community is laid out in a town planning sense, the way our streets are lit and the visibility of police on the streets are all important issues in deterring crime, including rape. A piece of very common practical advice that is given by police and Neighbourhood Watch to people about diminishing the likelihood of their becoming victims of crime is to prune back bushes where assailants can hide. At a recent Neighbourhood Watch meeting I was most interested to learn, for example, that planting rose bushes near the windows of houses is a very effective way of preventing windows from being accessed by intruders, because the rose bushes are obviously a bit of a deterrent. Overhanging bushes, poor lighting, poor visibility are all important issues to be addressed, and all levels of government need to take responsibility for making sure that we reduce the opportunistic element in the commission of crimes, whether they be rape, assault or some other form of criminal activity.

In drafting this legislation the government has used a fairly broadbrush approach, and the amendments foreshadowed by Mr Tee will rectify a flaw which in effect would have given a technical escape or defence to a charge of incest because the perpetrator may not have established whether or not consent was given. The reality is when it comes to incest, whether consent is given or not is immaterial — incest is incest. I was pleased to see that the Attorney-General responded positively to a letter from the Scrutiny of Acts and Regulations Committee and in his ministerial response thanked the committee for identifying this particular inadvertent drafting error. Perhaps it was not a drafting error, but certainly it was an inadvertent change which

would have allowed perpetrators of incest to get off on a technicality.

You have to give credit to the minister. Not all ministers are as receptive or as positive in their response. That is why the structures that provide scrutiny in our parliamentary democracy, whether they be the Scrutiny of Acts and Regulations Committee, other committees — select committees or joint house committees — or even the existence of an upper house, are crucial if we are going to get better legislation, better implementation of legislation and government programs and better outcomes for the community. Without any further comment, I wish the bill and the amendments foreshadowed by Mr Tee a speedy passage.

Ms LOVELL (Northern Victoria) — I rise to speak on the Crimes Amendment (Rape) Bill and in doing so state that the opposition will not be opposing this piece of legislation, which amends the Crimes Act in relation to offences of rape and other sexual offences. In particular it will make changes to the requirements for jury directions in cases of rape and will change an aspect of the definition of the mental element an accused person must have in order to constitute guilt in the offence of rape or various other sexual offences.

I welcome the amendment the government has put forward to close a loophole that exists in cases of incest. I would like to congratulate members of the Scrutiny of Acts and Regulations Committee for picking up that loophole and putting forward that recommendation to close it to the government. It is commendable that the minister accepted that recommendation and, while the bill was between houses, agreed to amend the bill to reflect the concerns of the committee.

The second-reading speech on this bill refers to the bill as being part of a:

> … broader package of reform this government has delivered …

As usual, this government has a selective memory and talks only about things that have happened in the last eight years. It fails to give credit where credit is due — that is, to former governments which started and continued to reform rape laws in this state, starting back in the 1970s under the Hamer government. The then Attorney-General, the Honourable Haddon Storey, was the first to identify that we needed to reform rape laws in Victoria.

The offence of rape within marriage did not exist until the 1970s. In fact even if a married couple had separated, the offence of rape did not apply. Barristers would tear a woman's reputation to shreds, even though her sexual experience or sexual history had nothing to do with the rape case before the court. Haddon Storey recognised that there needed to be major reform of rape laws, which he initiated. That was followed by further major reforms under both the Cain and Kirner governments and the Kennett government, and there have been further reforms by this government. However, if you read the second-reading speech for this bill, you would think the only reform of rape laws that had ever been conducted in this state had taken place under the current government.

The reforms before us have come about through the recommendations in a report made by the Victorian Law Reform Commission (VLRC) called *Sexual Offences — Final Report*, which was handed down in 2004. It was initiated in 2001, and the final report came out in 2004. I would question why it has taken so long — from 2004 until 2007 — for this legislation to actually come before the house, especially when it is legislation that deals with such an important matter. We even had an election in late 2006, so you would have thought that the government, having initiated this report, would have ensured that legislation arising from its recommendations would have been introduced into Parliament prior to last November's election. Anyway, it has finally come before the house, and we welcome these changes.

Chapter 8 of the VLRC's report is headed 'The Mental Element of Rape'. I will quote from that chapter. Its introduction says:

> The chapter recommends a change to the mental element. The proposed change will prevent an accused person from avoiding culpability if he did not take reasonable steps in circumstances known to him at the time to ascertain whether or not the complainant was consenting.

It goes on to say:

> Under current Victorian law an accused may be able to avoid culpability where he did not give any thought at all as to whether the complainant was consenting or not.

It further says:

> No accused should be acquitted because he has completely failed to turn his mind to the question of consent.
>
> …
>
> If an accused is physically capable of penetration and mentally capable of forming the intent to penetrate, then it should be expected that he is also able to turn his mind to whether or not the other person is consenting to the act. The mental element should be changed to prevent an accused from escaping criminal liability if he has simply failed to consider whether the woman is consenting.

This is an important change because, as we know, rape is a very personal crime, and women who have gone through it would not want to experience it again. When women are faced with those circumstances, often they are so paralysed with fear that people have escaped prosecution in the past because the women did not say no, even though every other physical thing about them would tell the offenders that the women had not consented, that they were petrified and too scared to actually enunciate their rejection of the acts. However, because of this change, the mental element will be taken into account — that is, whether the perpetrators have considered the women's consent. That is a very good change to the rape laws in this state.

I welcome these reforms. I feel they will assist in progressing the long and continuing fight to improve laws dealing with the crime of rape in Victoria; however, I still think much work needs to be done. We must constantly review legislation to ensure laws protect women from what is one of the most violent and personal crimes that can possibly be experienced. Rape is a crime that destroys lives: it can destroy the lives both a victim and somebody who has been falsely accused of rape. We must always ensure the laws are balanced so that both complainants and accused have the opportunity to receive a fair trial.

I would like to speak briefly about a high profile case in this state a few years ago. The case involved two AFL (Australian Football League) footballers. I believe that everybody in this state has a right to privacy until proven guilty. I also believe that anyone who reports a crime has a right to privacy. The thing which disturbed me most about that particular case was that as soon as the young women left the police station they were met by a press pack. They went to a police station to report an incident that may or may not have been rape, but when they left that police station they walked out to face a press pack.

The young men involved in the case were tried in the media before they were even charged, because they happened to be high-profile AFL footballers. That is wrong! It should not matter whether someone is a footballer, a plumber, a baker, an electrician or an accountant or follows any other profession. The crime should be treated the same, and everyone must have the right to privacy. As I said, the young women walked out of the police station straight into a press gallery. They had a right to privacy. If we are going to encourage young women in Victoria to come forward and report rapes, then we need to ensure they are not faced with press packs as they walk out of police stations. The treatment of both the young women and young men in that case may prevent other young women from coming forward to report rapes, particularly if a celebrity or a sportsman is involved in the case.

To report a rape and to discuss its details with police and legal representatives is difficult enough, but if those details are exposed in the papers, you feel that people are probably not going to come forward and report those offences, especially if they feel that by doing so they will have to come up against the press and perhaps take on the fans of the accused and the might of a powerful organisation such as an AFL club or the AFL itself. If that prevented young women from reporting rapes, it would be a travesty of justice. I think we need to tighten up some of the laws around the reporting of cases in the media prior to a verdict being reached.

As I said before, both parties deserve a fair trial, and laws must be balanced in order to achieve that, but we must also continue to reform rape laws to close loopholes that allow perpetrators to escape conviction, and that is what this bill sets out to achieve.

Mrs PETROVICH (Northern Victoria) — I am pleased to participate in today's important debate on the Crimes Amendment (Rape) Bill 2007. The amendments to this bill have a clarifying effect on many aspects of this abhorrent crime. Rape is not only an issue which affects women, although I imagine the number of cases reported would be largely represented by women victims. Rape and sexual assault is a crime in relation to which all members of the community have a vulnerability, and it should be remembered that men and boys are also vulnerable victims, as are older people and children. Rape is not a sexual act; it is an act of aggression, and it is to be viewed as a violent crime.

This bill seeks to clarify the area in which some members of the community have always had some confusion, and that is that no should always mean no. The issue of consent is made clear through the amendments to section 38 of the act, which in particular offers protection to those who cannot consent and those members of the communities who are incapacitated in some way and may be unaware of what is going on around them.

I can cite the example of a person who was in a coma and was raped; of course that individual had no way of consenting or resisting. In that cowardly assault the victim, through no fault of her own, was vulnerable to this predatory attack which took place while she was in care. At that time the judge hearing the case had the view that, because the victim was in a coma, it was a lesser crime of rape. Another example is the case of a woman undertaking an ultrasound, and an inappropriate

procedure was performed on her. Because there was a lack of explanation of what was the appropriate procedure, this individual was taken advantage of.

It is clear that we need to do everything we can to improve the legislation to address this devastating crime and give protection to those who are most vulnerable. The last example cites a case for improved education of individuals who are undergoing medical procedures so that they are very clear about what is appropriate and what is certainly inappropriate.

This bill amends the Crimes Act 1958 and makes further provisions relating to the offence of rape and certain other sexual offences that currently require the prosecution to prove that the accused was aware that the victim was not consenting or might not have been consenting to the sexual act. It also makes further provisions relating to the use of directions to juries on consent and on the accused's awareness of consent in trials relating to charges for such offences.

I would like to quote from a *Herald Sun* article of last month, which states:

> Almost half of Australian women aged 18 to 41 were sexually abused as a child.
>
> Research shows a staggering 45 per cent of women were abused as children by family members, friends or strangers.
>
> …
>
> A survey of 1300 women selected at random from electoral rolls by Griffith University psychology researchers found 80 per cent of victims knew their abusers.
>
> It found 75 per cent of abuse involved some contact, most of which was shockingly severe, such as forced intercourse.
>
> …
>
> Centre Against Sexual Assault spokeswoman Helen Makregiorgos said that, anecdotally, about one in three women under 18 was sexually abused, but the new figures did not surprise her.

It is simply an unacceptable state of affairs that our young women are having these sorts of acts performed on them in such huge numbers and that our community is not completely outraged.

One grave area of concern I have is where a rape victim cannot give consent — that is, when a person has been drugged. In a case we heard about through the media recently the offender was tagged 'the hot chocolate rapist' because of his habit of drugging and raping his many victims. Many of these victims were totally unaware that they had been raped and were not made aware of the crime against them until the time of this man's arrest, when there was media coverage and calls were made for other victims to come forward if they had a recollection of that person.

That was a terrible case, and it related to a number of other instances where young women have gone to nightclubs and had their drinks spiked. These crimes often go unreported because of lack of clarity of knowledge of what has happened to them. They wake up and find themselves in a state of undress and disorientation. It is a faceless crime in many cases, and it leaves these women feeling very confused and in a state of great distress.

In many cases the crime of rape leaves victims not only physically affected but also mentally and psychologically distraught, and I believe it has far-reaching implications for relationships they may have in the future. Rape also affects self-image and leaves lifelong scars on many victims that may not be apparent but which have grave effects on the lives of those individuals. One of the most often hidden and worst crimes is against children, that being incest. People who are in what are considered to be positions of trust often portray these indecent acts as being part of a loving relationship rather than being criminal acts. This betrayal of trust leaves its victims with lifelong guilt and shame and is a crime that is completely abhorrent to all members of the community.

One instance where a judge can direct a jury is when the victim is incapable of understanding the sexual nature of the act and has submitted to it because of force or fear of harm to themselves or others. The judge can give the jury a variety of directions on the definition of what consent is under the act; if the jury believes that consent is not given because of any of these factors, then it must find that the complainant or victim did not give consent.

One of the areas of interest I have in relation to this bill is the complexity of sexual relationships between mature adults, which are in many cases complicated and which should be — and usually are — private. In these instances the issue of whether an accused reasonably believed that consent was given is not always clear. That can be difficult to determine in mature relationships, particularly when both parties have partaken in drugs and alcohol. Whilst we might not condone some of those behaviours, it is a reality, and it is probably part of the culture of some of our young people — and some of our older people, too. The act of consent is one that needs to be made clear and well established through education, particularly of our young boys. There needs to be some protection in this for both sexes, and I believe this will require some

sort of education program to ensure that these cultures are changed.

Directions to juries may also be provided as guidance on assessing evidence given about the state of mind of the accused. My hope is that by supporting this amendment, the changes we are introducing will give support to victims of these abhorrent crimes. We will continue to advocate for greater support for victims and for education of the community to encourage a change in attitude to those most vulnerable in our community.

I would also like to commend the comments made earlier by Mrs Peulich relating to community safety. I am also very conscious of the fact that we need to make sure that as part of education and town planning issues, our young people, particularly our young women, know what are safe practices and what is the best way to ensure that they are not vulnerable and that they do not become victims of these predatory behaviours.

I think it is important that we have good urban planning and that we have clear pathways with good lighting and access to well-lit car parks. It is also very important to talk to our young people about not moving around on their own of an evening in those circumstances where they may be vulnerable, and perhaps also about looking to their instincts. If you actually feel unsafe, then you probably are unsafe, and I think it is very important that we instil in our young people the confidence to follow their instincts in these circumstances.

I would also like to quote from an article in the *Herald Sun* of 19 October, which talks about a sex DVD victim being blamed:

> The parents of one youth involved in the infamous Werribee sex DVD said the victim was partly to blame for what happened, a court heard yesterday.
>
> A children's court was told the boy's father in particular had sought to excuse the behaviour by saying it was 'just filming friends'.

Anyone who has seen that DVD and listened to reports about it in the media would know there is absolutely no excuse for the disgraceful behaviour that night of the gang of individuals who degraded that poor girl in a way that I believe was subhuman. She has my complete sympathy. I think that if we have any sort of humanity we should be encouraging intensive education for such people. If there is a problem with youth in a particular area or youth in general considering this behaviour to be in any way acceptable, it should be made clear that it is not something we condone as a community in any way, shape or form.

I think this relates to the issues we have with the removal of the Police in Schools program. We no longer have the opportunity to educate our young people in the appropriate use and consumption of drugs and alcohol. I think we should be looking at re-implementing that program in schools. As part of a holistic approach to community health, safety and wellbeing we should be making sure that our young people have the opportunity to be very well informed about not only sexuality but the effects of the abuse of drugs and alcohol and the best ways of protecting themselves from any of those excesses or abuses. I will end on that point. I commend the bill and the amendments to the house.

Sitting suspended 12.57 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Government: financial management

Mr P. DAVIS (Eastern Victoria) — I direct my question without notice to the Treasurer. Given the windfall budget surplus of $1.37 billion for the last financial year and the additional windfall of GST revenue of $120 million forecast by the federal Treasury for this year, will the Treasurer commit to spending the windfall to fix Victoria's hospital service which the Australian Medical Association has found is the lowest funded of the nation?

Mr LENDERS (Treasurer) — I thank Mr Davis for his question, and I remind him that $600 million of the windfall he referred to was used to spend on the food bowl, an important project in northern Victoria which will actually reduce waste in northern Victorian water to the ultimate point where it can be almost at the level of the entire consumption of water in Melbourne. So $600 million has been committed to capital improvements in the food bowl and $300 million has been committed to bringing forward rolling stock on public transport.

This government believes in strong surpluses. We believe in delivering targeted infrastructure expenditure. These are two particular areas where we believe in delivering targeted service delivery as we have done across the spectrum, whether it be 8000 more nurses, 6000 more teachers, the police we have put on the beat or the support we have given to regional communities through the drought package and in other areas.

We will deliver, but we will not recklessly put this state into the red. Mr Davis asked, 'Will you use the surplus?' We have — we have used it for water and public transport. This means that Victoria is in the black, is targeting infrastructure to deliver the important things, is keeping a AAA credit rating and is making Victoria a better place to live, work and raise a family.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for his answer. Will the Treasurer assure the house that the government will spend its windfall GST funds amounting to $1.5 billion above budget estimates over the next four years on programs to strengthen the Victorian community and not squander the money on self-promotional advertising and mismanaged projects?

Mr LENDERS (Treasurer) — Yes.

The PRESIDENT — Order! As almost a point of order or interest from the Chair, members are aware that they can ask a supplementary question, if they wish. I will give them the call, but I would appreciate it if those members could wait until I give them the call before they begin to ask their question.

Government: red tape initiative

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Industry and Trade. What specific red tape reductions is his department making towards the Treasurer's target of reducing the regulatory burden this year?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for his question, because I almost felt a bit left out — the opposition had asked about the regulatory burden of each of the other ministers in this chamber but it failed to ask me a question about this issue. As you, President, will hear from my answer, there is a very good reason why the opposition has not asked me a question, because I have an overall brief in relation to reporting on the regulatory burden as it applies to Victoria. The opposition was not interested in getting the complete story out; it was simply attempting some sort of cheap political stunt by asking three out of four ministers questions about regulatory burden.

By answering the question, I will indicate that the Brumby government has committed to cutting the existing administrative burden of regulation by 15 per cent over three years and 25 per cent over the next five years. This is a significant target. It is a target which no other state and no other jurisdiction have been prepared to take up.

What has the Department of Innovation, Industry and Regional Development done? It is on track to meet its own targets for reducing its share of the administrative burden on business. I will give a few examples to the Parliament. One example is that the business test panel feasibility study and pilot database, which is now known as the business consultation database, has been completed. Members might recall that this database is based on asking business about the best way to reduce regulatory burden. The interstate business transport service feasibility study has been completed as well. The Labor and Industry Act 1958 review has also been completed, and there are ongoing reviews of the Child Employment Act and the regulatory burden on post-school providers, including TAFE.

The department and the government are working furiously to ensure that our internal processes are based on reducing red tape. But there is another aspect to this. The aspect I want to highlight is: what do independent bodies say about Victoria's cutting of red tape? The Victorian government's efforts to reduce the regulatory burden on business was recognised by none other than the Business Council of Australia. According to the Business Council of Australia in its report entitled *A Scorecard of State Red Tape Reform* — you cannot ask for anything more on the topic — guess which state is the leading state or territory in the red tape reform process?

Mr Drum — Tasmania?

Hon. T. C. THEOPHANOUS — No, it is not Tasmania. Any other guesses?

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — No, it is not the Australian Capital Territory. It is none of the other jurisdictions, President. The leading state or territory nominated by the Business Council of Australia is in fact Victoria. Have a look at this, President. What have you got? The first strategy I have seen from opposition members is to ask three questions on the same theme. They omit one minister and ask the same three questions. Guess what the answer is. According to the Business Council of Australia, Victoria is doing better than any other jurisdiction. That is the answer to the question. It just shows that the opposition has absolutely no idea of what is going on in relation to this.

It is important that we reduce red tape. We estimate that by achieving our target a massive $256 million a year will be the saving for business. So we are very determined to continue our efforts to reduce that red

tape through all of the processes I have indicated. But there are a range of other initiatives that we have taken, including the *Victorian Guide to Regulation*, which we prepared to assist business and to take up the issues that are around to ensure that we do reduce red tape. I again stress that the way to look at these things is to ask: what does an independent arbiter say, what does an independent body say? And the Business Council of Australia has given Victoria a huge tick.

Bushfires: water sources

Mrs PETROVICH (Northern Victoria) — My question is to the Minister for Environment and Climate Change. It is predicted that Victoria is facing a catastrophic fire season, with country towns at risk from fuel loads on public land. Echuca, amongst other towns in rural Victoria, has critically low water supplies. The Country Fire Authority has confirmed that water supplies are close to being below the pumping station level. My question is: has the minister's department identified which towns in regional Victoria do not have adequate water supplies for fighting fires?

Mr JENNINGS (Minister for Environment and Climate Change) — At the heart of Ms Petrovich's question is a very important issue. I am not quite sure that I agree that the couching of the question was the best it could have been, because whilst Victoria is confronted with a major challenge and there is an imminent threat, I do not think we want to start talking up the potential for catastrophic events or adding to the degree of anxiety within our community. In terms of the common language that we might adopt, we need to be vigilant, aware and prepared without raising people's anxiety. It is a balancing act, I would suggest, for all of us in public life when considering our contributions. We need to make sure that we try to respond to the real issues and the real threat and not run away from them — not at all — and not talk up fear and anxiety. We must be determined as a community to respond. That is the basis on which we should find some language, if we can. We should try to share, as much as we can, the objective of making sure that our community is prepared, well armed and taking action.

Honourable members interjecting.

Mr JENNINGS — It does play a role. Sometimes when people are bedevilled by fear they do not recognise their internal capacity, they do not focus on what resources are available and they do not focus on the amount of effort that is available to provide support at a time of crisis. The consistent message the Victorian government has been giving — and I have sent it in this house on a number of occasions — has involved talking about our preparation in relation to the fuel reduction on some 135 000 hectares between the last fire season and this one, our preparation in terms of additional resources — —

Mrs Coote interjected.

Mr JENNINGS — Absolutely, 135 000 hectares, almost 136 000 hectares, since the last fire season. I have talked about the additional resources such as bulldozers, aircraft, slip-ons, water tankers and the variety of other supports we have encouraged. The support — —

Mrs Petrovich interjected.

Mr JENNINGS — I am happy to get to the whole aspect of the question. We are also training and supporting volunteers — 59 000 Country Fire Authority (CFA) volunteers, which is a significant additional firefighting investment coming through the Department of Sustainability and Environment (DSE). We are recruiting new firefighting capacity. This is part of the preparation.

During the last sitting week the same member asked me a question about the allocation of water. On that occasion we reflected on the availability of water and recognised that there were some concerns in our community about being able to provide certainty in the degree of preparation and planning and whether we could account for the timely access to and delivery of water that may be required. During part of my answer to the member's question during the last sitting week I talked about the plan that we have for the availability of water. I conveyed to the house our preparedness to give undertakings to the Victorian community about the water we may take from private properties in terms financial compensation for and, very importantly, replacement of that essential water. I reiterate that commitment. That is an essential building block of our preparation.

The last element of the equation relates to the specific nature of the member's question. The DSE and the CFA have provided me with confidence and certainty that we can account for a variety of scenarios in terms of the imminent threat and spread of fire, particularly in the context of the interface between urban areas and rural townships and their vulnerability and how we can account for the emergency provision of water supplies among the other resources that we will bring to bear.

I have not been informed of any location in the state of Victoria where we cannot deal with an emergency situation. I am happy to take on further examination in

relation to any particular reference, whether it be at Echuca or any other location in Victoria. If there are community concerns about water availability, how we can account for the accessing of it for firefighting in an emergency, I am very happy to respond to any concerns that may be out there in the community. It all depends on the scenarios, the spread and scale of the fires and our capacity to respond to them, but in relation to the scenario of an isolated incident of fire in a particular location I do not have a body of advice at the moment to indicate that there is any part of the Victorian community that we could not account for.

Supplementary question

Mrs PETROVICH (Northern Victoria) — I ask the minister what contingency plans are in place to provide an alternative source of water in the event of a major fire?

Mr JENNINGS (Minister for Environment and Climate Change) — My response in relation to some supplementary questions is that they are prepared and delivered as a script regardless of how I answer the original question. I have spent 5 minutes comprehensively answering the question that is at the heart of this supplementary question in absolute terms and not shirking any issue that was at the heart of the question. Every single matter that is in the heart of the supplementary question was covered in my substantive answer. I think it is an insult to question time for members of the opposition to ask supplementary questions that do not seek additional information from the substantive answer they have been given.

The PRESIDENT — Order! I remind the house that the debating of questions and answers is not appropriate.

Korean Air and Tiger Airways: services

Mr LEANE (Eastern Metropolitan) — My question is to the Minister for Industry and Trade. Can the minister inform the house of any new domestic and international air services that will give Victorians even greater choice for destinations and fares and therefore boost the Victorian economy?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for his question and for his interest in this particular area. I am pleased to be able to inform the house that the government has been working for some time with Korean Air and with the authorities in South Korea in order to try to secure direct flights from Seoul to Melbourne. This has been a goal we have had for some time. It is one which I certainly put as a priority in relation to my responsibilities in this area, so I was very pleased to be able to take part in the inaugural flight by Korean Air from Seoul to Melbourne last week. It was an important occasion for South Korea. For those who might say, 'Well, so what?' about Korea, let me make the point that South Korea is Australia's third largest export destination. I know that David Davis does not care about the level of exports or have any understanding of why we make these kinds of efforts, but the fact is that we have a huge trade relationship with Korea at the moment.

We also have an opportunity to increase the number of Korean visitors to Victoria, and we estimate this will increase exponentially over the next few years as these flights become institutionalised. At the present moment Melbourne has 43 000 visitors from Korea annually, so it is not an insignificant amount even now, and the fact that they will be now able to access direct flights into Melbourne will be a big boon for those visitors. By way of aside, that number is a 45 per cent increase on the previous year, so we are building a very solid relationship with South Korea, and it is important for us to continue that relationship. This is another great get for the aviation industry in this state.

I have informed the house previously that this is part of a strategic approach that we have in relation to the aviation industry. Part of that approach was to get Tiger Airways to come to Melbourne and base itself here as a low-cost airline providing low-cost fares for the benefit of not only Victorians but, more importantly, for the benefit of people who want to come to Victoria from interstate. I was very pleased earlier this week to be part of the launch by Tiger Airways of new routes. Those new routes add to the existing routes that have already been announced. It is going to be a significant occasion when later this month Tiger Airways gets into the skies on a commercial basis and starts flying around Australia. It will create 100 new direct jobs, but it also will create an enormous number of additional jobs associated with the operation.

We were able to sponsor and help Tiger Airways in reaching agreement with John Holland Aviation Services. Members might recall that John Holland Aviation Services took over and expanded the old Ansett facility, so we have a new maintenance facility at Melbourne Airport which we did not have before and which has a long-term future. John Holland has also been able to reach agreement with Tiger Airways in relation to the maintenance of its aircraft — and members should remember that the aircraft will be based in Melbourne, so this is again building on Melbourne becoming an airline hub.

It is a difficult task to bring this all together, and I want to thank the department and the various people who have been involved in that process. Beyond that, as I said earlier in the week, for $10 people can come to Melbourne from anywhere on the eastern seaboard, fly out of Melbourne instead of flying out of Sydney or come to Melbourne to go to our major events — to the Spring Racing Carnival, the Australian Open, the grand prix and various others things. It is not really designed to make it cheaper for people to come to Melbourne. It is designed to increase the numbers coming to Melbourne. This is very important for our economy because of the tourists who are coming to this state. In fact, as I have said, it is now cheaper for somebody to fly from Newcastle to Melbourne, hop on an international flight at Melbourne and go back than it is to go through Sydney airport. This an exciting time for the aviation industry in Melbourne. We are very pleased to be a part of building the aviation industry for the benefit of Victorians and the Victorian economy.

Boating: Queenscliff berthing fees

Mr VOGELS (Western Victoria) — My question is to the Minister for Environment and Climate Change. Queenscliff is a traditional country working port where working-class families and retirees harbour small pleasure craft and fishing boats. They like to take their families out for a spot of fishing or sailing and hold club events. The Labor government's decision to privatise the port has led to skyrocketing berthing fees. The cost of a berth for a 10-metre boat was $1750 per annum. It is now $7117 per annum, with an upfront cost of $121 000. The upfront cost for a 15-metre fishing boat is now $247 000. What action does the minister intend to take to maintain this historic working-class port for the local community instead of turning it into a multimillionaires playground?

Mr JENNINGS (Minister for Environment and Climate Change) — I am very pleased that Mr Vogels represents the enlightened side of his party, a party that is respectful of the cost pressures that our citizens are subjected to, and is now questioning what was an unquestioned policy for a very long period of time of his party, which was its preference for privatising a whole range of essential services and utilities in the state of Victoria — things that impact on the daily cost structures of every citizen, not just boat owners. I welcome his general concern and look forward to his sharing that philosophical position with other members of his party.

I am not quite sure how many share that view, but I am very grateful that he is concerned about this matter. As all members would understand, the history of attracting private investment to some parts of infrastructure is that in its life over the last eight years our government has made a number of decisions to engage in partnering arrangements with the private sector to attract private investment into various infrastructure, but that has not been at the cost of an abrogation of the provision of essential services and essential infrastructure by the state of Victoria. The government understands the importance of providing essential services and a range of infrastructure that is available to all our citizens, regardless of where they live throughout Victoria, and to try as best as we can to find the appropriate pricing and market mechanisms to enable that to occur.

As to the information on the boat fees that Mr Vogels referred to with the new regime at the Queenscliff port and/or the marina capacity at Queenscliff, given that this issue has moved outside the scope of my direct ministerial responsibility, it is something that I do not have at hand. But I share his concern about equitable fee structures and increasing the availability of accessible berths and launching places for recreational fishers or people who actually like to go out on the bay.

I am very happy to have an examination undertaken of the range of issues Mr Vogels has raised in the house today to explore what opportunities may exist to try to provide access to the bay for boating people who may find this infrastructure prohibitive and may not find that very attractive.

I am certain that if the fee structure that Mr Vogels has alluded to is not market sensitive, it will not achieve its business case. So the first thing is that the new regime itself might have to revisit it. I am not certain about that, but certainly from its perspective the government is interested in ensuring access to the bay and providing in a cost-effective way opportunities for boating people right across Victoria to get access to the bay. I am happy, within the scope of my responsibility, to look into that issue and to broaden the context to see what assistance I can provide through facilities for which I am directly responsible.

Supplementary question

Mr VOGELS (Western Victoria) — I thank the minister very much for his answer. When the Bracks government set up a steering committee to look at the future of the Queenscliff port, a list of 10 basic rules were adopted and signed off by the government. In essence they say the harbour has to be maintained as a working port and it must keep its original character to support the demands of its many users while maintaining the history of the port. The minister has just confirmed, I think, that the new port does not meet

these new contractual principles. I think the minister said he was prepared to look at them. Is that right?

Mr JENNINGS (Minister for Environment and Climate Change) — President, as I am sure you would be astute enough to know, I fell a little bit short of what Mr Vogels attributes to me, except that I recognise the general principle and the principle by which the Victorian government would want to support financially equitable and reasonable fee structures for any infrastructure that relates to Victorian citizens' access to undertake their boating opportunities. Mr Vogels can take it that I have confirmed that I will have a look at this fee structure and look at anything within the realm of my responsibility that I can do over the course of my life as minister responsible for the environment and Parks Victoria to consider ways in which we can increase access to and the affordability of boating activities on the bay.

Ms Lovell (Northern Victoria): notice of motion

Mr THORNLEY (Southern Metropolitan) — My question without notice is to Ms Lovell. As she is listed on the notice paper to be the mover of general business, notice of motion no. 36, given that that notice of motion of 7 August calls for urgent action, when will she bring the motion on for debate?

Ms LOVELL (Northern Victoria) — In due course.

Hon. T. C. Theophanous — On a point of order, President — —

The PRESIDENT — Order! Mr Theophanous has obviously regained his health from yesterday.

Hon. T. C. Theophanous — As your aware, President, when members give an answwer they are required to be responsive to the question. I put it to you that Ms Lovell's response was unrelated to the question and did not answer the question, and that she should be asked to answer it.

Mr P. Davis — On the point of order, President, as Mr Theophanous knows full well, the answerer of a question without notice may dispose of the question in the way they see fit.

Honourable members interjecting.

The PRESIDENT — Order! As members know, anyone asked a question has the option of answering or not answering. If they decide to answer, it must be responsive and relevant. I consider the answer given by Ms Lovell of 'In due course' to be a responsive answer and relevant to the question. If there is a supplementary question, I call Mr Thornley.

Supplementary question

Mr THORNLEY (Southern Metropolitan) — My supplementary question is: if 'urgent' is taking two and a half months, is 'in due course' slower or faster than 'urgent'?

The PRESIDENT — Order! This question time is a bit interesting. I think Mr Thornley is simply asking for an opinion, and as such I am ruling that question out of order.

Sustainability and Environment: firefighting contracts

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Minister for Environment and Climate Change. I ask the minister to assure the house that all outstanding accounts for equipment and services incurred by his department for last summer's bushfires have been paid.

Mr JENNINGS (Minister for Environment and Climate Change) — In terms of providing the assurance that Mr Davis is seeking, I would like to be able to provide that assurance immediately, but I actually want to take some advice on that. Whilst it is my expectation that the department has exercised its best endeavours, and I have not been furnished with any advice to indicate those accounts have not been settled, I am happy to take advice on that and provide him or anybody he may be representing in the heart of this question with the answer.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the minister for his answer. In seeking that advice I draw the minister's attention to the case of Ian and Glenda Gillick, who operate Gillick's Buslines at Bairnsdale. Last December and January, at the request of the minister's department, they contracted to provide buses to transport personnel deployed in East Gippsland to fight the summer's disastrous bushfires and to place buses on stand-by through that emergency. Nine months later they have not been paid around $20 000 owed for the stand-by arrangement. I note that for 20 years they have been providing services to his department and other government departments and agencies. The others have all met their obligations.

I therefore ask the minister to provide an explanation for the non-payment and to provide an assurance that the contract will be honoured and that the Gillicks will

receive an abject apology for the dismissive manner in which the department continues to treat them.

Mr JENNINGS (Minister for Environment and Climate Change) — That is the best supplementary question I have been asked for some time: it has substance to it and it actually has issues that need to be responded to. I will do my best to endeavour to respond to them in the appropriate fashion in accordance with my invitation for the member to provide me with that information, so I thank him.

Planning: Walk Bendigo program

Mr EIDEH (Western Metropolitan) — My question is to the Minister for Planning. I ask the minister to inform the house how the Brumby government is putting health at the centre of planning and what recent initiatives have been launched to turn this goal into reality.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Eideh's interest in this area. Recently I had the good fortune of being in Bendigo to announce and launch the Walk Bendigo program. This is a particularly important program because we have a regional centre that will trial or, in a sense, test for the first time in Australia the making of an activity centre — a city centre which will be pedestrian friendly over and above car movements but which will complement the car movements as well.

I know that at the announcement people might have been concerned that it would just stop car movements in the Bendigo city precinct. It will not do that. What it will do is complement that. This is a model which I understand has been trialled overseas and used in European cities such as Copenhagen and Zurich, I understand. I think it was the *Bendigo Advertiser* that mentioned in the headline the next day in relation to endorsing this program 'Euro vision'. I think that was overdoing it a bit, but it did amuse me.

What I can say is that this will potentially slow traffic, but people will get to their destination at about the same time. It will save fuel, so it is good for those in cars. It will also enable pedestrians to move more freely in the heart of Bendigo and potentially extend that to other parts of the city. Bendigo is primarily endorsing walking as an activity and as a way to get around the city. This is great because at the end of the day, when we have obesity issues in the community and when we have climate change issues in the community, it is good to know that through good planning we can be burning kilojoules rather than fossil fuels. This is a great way to deliver good policy — I will say again 'policy' — at a regional level from the city of Bendigo.

Honourable members interjecting.

Hon. J. M. MADDEN — Policy. I can even spell it, although I know there are some people in this chamber that cannot even spell it, let alone do it. But what this is delivering is a better outcome all round. The statistics show us that in communities where we have more people out there walking and more activity as pedestrians walk around those precincts we see better economic activity, we see better physical health and it is better for the environment — all round people feel more safe and there is a degree of friendliness and an increase in morale in those communities.

Mr Drum interjected.

Hon. J. M. MADDEN — At the end of the day everyone is a winner, Mr Drum, everyone is a winner, and particularly the city of Bendigo, because in complementing that policy and policy initiative the state government of Victoria, the Brumby government, allocated $900 000 through a range of programs to see this take off. Not only that, but this got exposure Australia-wide to the point where even the mayor of Sydney was so impressed by the concept that that council wants to pinch it; Sydney wants to poach this initiative. What it goes to show you is that this government is at the forefront of good planning policy. Not only are we at the forefront of good policy but other people want to acquire the good policy. We will lead the way, we will continue to do what we do to make sure that people burn kilojoules instead of fossil fuels to make Victoria a better place to live, work and raise a family.

Port Phillip Bay: channel deepening

Ms PENNICUIK (Southern Metropolitan) — My question is for the Treasurer, John Lenders. Given that the government has seen fit to approve the channel deepening project as proposed by the Port of Melbourne Corporation, can the Treasurer advise the chamber of the most recent estimate of the cost of the channel deepening?

Mr LENDERS (Treasurer) — I am happy to take Ms Pennicuik's question. I am aware of her ongoing interest in the issue of channel deepening, but I think Ms Pennicuik needs to get this question into perspective. The member is asking me for an estimate of costs, but she is jumping way ahead of the process here. The Minister for Planning has actually made a determination and it is now in front of a series of other

state and federal regulatory authorities. Any of the decisions that they make will obviously include a determination as to the final cost of the project.

Mrs Peulich — What about an estimate?

Mr LENDERS — I take the question seriously, unlike Mrs Peulich, who is interjecting, but I will take on notice Ms Pennicuik's question. Clearly on these matters there are a series of other processes that need to be in place before the government can give any firm estimate on this.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — Does the Treasurer think it is appropriate for the project to be approved when the cost is unknown?

Mr LENDERS (Treasurer) — I answered in my substantive response.

Biotechnology industry: government initiatives

Mr PAKULA (Western Metropolitan) — My question without notice is for the Minister for Innovation, Gavin Jennings. Can the minister inform the house how the Brumby government is working to make Melbourne and Victoria one of the top five destinations for biotechnology?

Mr JENNINGS (Minister for Innovation) — I thank Mr Pakula for actually catching me out, and catching me with some degree of surprise, about this important question and the enthusiasm of the Brumby government to support the biotechnology sector in Victoria, and indeed to be provided with the opportunity to report on very, very successful investments and activities that are being undertaken in the biotech sector in Victoria.

As recently as the last fortnight I was at the formal opening of a wonderful pharmaceutical formulation and finishing centre at CSL Ltd in Parkville. This $8 million facility that the Brumby government has provided support to through the science, technology and innovation infrastructure grants — a $2.7 million investment from that fund has led to an $8 million facility — will provide state-of-the-art manufacturing practice, or good manufacturing practice as it is known within the industry, in terms of providing certainty for the quality of the work, the genetic integrity of the work, within that facility. That investment will see the future growth of opportunities for pharmaceutical biotechnology companies in this state.

I am absolutely amazed at the lack of interest that is demonstrated by the Liberal Party in relation to this issue. It has been quite extraordinary that the commonwealth government has abrogated the field in relation to innovation generally but biotech in particular. It has not been prepared to move with the Victorian government to ensure that we develop an international capacity for biotechnology. That has been something that, in competitive terms, has been an advantage for the state of Victoria, because Victoria has been able to step into that national vacuum, with the complete disinterest of the Liberal Party in relation to this matter and the complete abrogation of its sense of innovation and support for biotechnology and the growth industries in the global marketplace.

Victoria has assumed that leadership position. We have invested the significant amount of $2 billion, whether through the CSL capacity, the synchrotron or the Bio21 precinct. Time and again when Victoria has moved, the commonwealth has stood still; when the sector has moved, the commonwealth has stood still. It is quite extraordinary. I would not have thought that Liberal Party members sitting on the other side of the chamber would need to be reminded of that, but they appear to share the collective disinterest of their federal counterparts. It is quite extraordinary given that there is over $4 billion worth of economic activity.
Mr Dalla-Riva seems to be the only person in the Liberal Party who might have an interest in innovation.

Honourable members interjecting.

Mr JENNINGS — The only one who appears to have some interest! I appreciate the degree of engagement Mr Dalla-Riva has with the innovation space. It is a pity it is not shared by his colleagues.

Honourable members interjecting.

Mr JENNINGS — I am very pleased that there is an awakening on the other side of the chamber about this issue! There is an awakening also within the community about what biotechnology can mean. Whether it be in terms of pharmaceuticals, the dairy industry, neuroscience or regenerative medicine, major investments are taking place right across Victoria that will play a significant role in growth and opportunities in Victoria.

Young people will be enthused about science. They will be seeking out jobs in the biotech sector and in science generally. We can already see the benefits of this approach. There has been a 66 per cent increase in research and development within the sector in the last couple of years. Forty per cent of the National Health

and Medical Research Council grants come to the state of Victoria. There has been significant growth and investment, with $5.7 billion worth of commercial benefit returning to the state of Victoria that would not have existed had it not been for the biotech and innovation investment of the Brumby government.

This has been a success story and will continue to be a success story. We will become one of the top five locations in the globe for biotech in accordance with our plan and the plan that was launched at the very successful opening event of the CSL facility. The biotech industry is alive and well and growing in Victoria thanks to the support of the Brumby government.

CRIMES AMENDMENT (RAPE) BILL

Second reading

Debate resumed.

Mrs COOTE (Southern Metropolitan) — I have pleasure in speaking on the Crimes Amendment (Rape) Bill and in following so many very good speeches by members from all sides of this chamber. There have been some particularly poignant speeches and examples from my female colleagues on this bill. We must be mindful that this bill will impact on people's lives. I would like to congratulate everyone who has been involved in debating the bill and advise that the Liberal Party will not be opposing it.

I do, however, want to say at the outset that I find it quite extraordinary that we have these amendments of the government. This bill is part of a trilogy, the third in a series of bills the government has brought on dealing with sexual offences and legal procedure, which have come as a result of the Victorian Law Reform Commission's final report on sexual offences, law and procedure.

As I said, this bill completes a trilogy of these bills relating to sexual abuse — the first two were the Crimes (Sexual Offences) Bill and the Crimes (Sexual Offences) (Further Amendment) Bill 2006 — so you would have thought the government would have got the terminology and detail in this bill correct. Instead of that, we are looking at 10 clauses with minor amendments and a new clause being put into this bill.

We all want these bills to be right. I do not think there is any doubt that everyone in this chamber wants this to be right — we want to feel that it can be passed with confidence — but this is another example of a government that has taken its eye off the ball. It is just not looking at this meaningfully enough. Government members are not being careful or cautious enough. This bill forms part of a long, long list of bills that have been presented to this place but which have not had due diligence taken with them. This sloppy approach is really just not good enough.

The Liberal Party will not be opposing these amendments, but I want to make the point again that it is very sloppy work, and it is time government members went back to the drawing board and got accuracy into the bills they present to this chamber. We try very hard to do our job as well as it can possibly be done. The bills we pass that go out into the wider community as acts need to be accurate. The government has resources at its fingertips and should make certain that it uses them. It is quite disgraceful that this bill came to us in this form.

As others have said, the purpose of this bill is to change the requirements for directions to the jury in cases of rape and the definition of the mental element required for rape and other sexual offences. The main provisions are to change the requirement for jury directions in cases of rape in relation to the accused's state of mind about whether the alleged victim was consenting. The bill will also amend the offence of rape and other sexual offences to which consent is relevant to provide that inadvertence or indifference to consent is an alternate fault element.

The second-reading speech is actually quite interesting when it refers to consent, and I will read a paragraph from it. It states:

> These amendments recognise that it is common in sexual offence trials for an accused person to assert that they believed the complainant was consenting. This evidence or assertion is most likely to arise either when police interview the accused or when the accused is giving testimony.

I would like to give some examples of how and in what range of circumstances rape takes place. In the examples I am going to give, consent is not even a consideration. The people involved in these examples had no idea at all; many were attacked by people they had never met or had met only vaguely. It is important for us to understand what the victims in these circumstances have felt. But before I give some explicit details of people who have been raped, it is important to have a look at some of the ramifications.

When a rape is committed it is not just the victim who is impacted upon; it is their family, it is their friends, it is their neighbours and it is the community at large. The current information sheet from the WIRE women's

information website talks about some of the feelings that the rape victims experience. It states:

> While it's important to understand that everybody's response is different, it's quite common for women or children to experience immediate shock, fear and anger after an assault. Later, it is quite normal for them to feel guilty and depressed. Common responses include: self blame … feeling numb, dirty or afraid … anger and outrage … thinking you're going mad … crying a lot … feeling alone and friendless … having disturbed sleep … experiencing anxiety and panic attacks … mistrust and fear of men … denial … feeling ambivalent towards the perpetrator … silence … confusion and a feeling of vagueness and unreality … thinking you should 'look after' everyone else

No-one going about their normal business should have to feel any of those emotions, and it is unacceptable that this is what is imposed upon them by their being raped.

Let us look at the diverse circumstances of these rapes and at how unexpected so many of them are. Most of these are recent examples. Sadly there are hundreds of thousands of examples that are not reported, many of which we have been told about today by other members who have spoken on this bill, but it is their diversity that I ask members to remember in the examples I am going to give them. The *Herald Sun* of Saturday, 20 October, reports that a man has been jailed for at least nine years for raping four women and attacking two others. He terrorised the women in the northern suburbs. The article states:

> One victim was about to drive off when —

this man —

> asked to use her mobile phone. He then forced his way into her car and repeatedly raped her.
>
> In a victim impact statement read in court, the woman said her life had been turned upside down.
>
> 'I will have to work every day of my life to make sure this doesn't define who I am', she said.

Many of the men in this chamber have wives, girlfriends or partners and many of us have daughters. If you are asked for the use of a mobile phone, you do not expect to be raped for helping out.

The *Herald Sun* of 14 October reports:

> A woman was knocked out before being blindfolded and raped in her Chirnside Park home.
>
> The 38-year-old was getting ready to go to sleep at 4.40 a.m. … when the intruder confronted her in her bedroom.
>
> He hit the woman over the head before tying her up and sexually assaulting her.

Once again this is a case of a woman going about her own business in her own home and not expecting for a minute that she will be attacked and sexually abused.

An article on 22 September in the *Herald Sun* reports that a boy of 16 years was jailed for raping a grandmother. It states:

> A 15-year-old repeat rapist who bashed and violated an 83-year-old gran as she prayed to Jesus for help has been jailed for 13 years.

The article goes on to quote the judge as saying:

> The degrading assault showed contempt for the woman's human dignity and there was little sign the youth, now 16, had any empathy or remorse for his crimes …

The articles continues:

> The deeply religious woman, believing she would die, cried out 'Help, Lord Jesus, help me'.

The perpetrator said:

> We'll see about your Lord Jesus later.

The article continues:

> She had since developed heart problems and no longer walked on the bike path, drives into town, or teaches Sunday school.
>
> But she had shown faith and charity in hoping that her attacker received 'mental, moral and spiritual help' …
>
> In a victim statement she wished that the boy would get 'the chance to be the good person God gave him life to be'.

In the interim her life has been damaged irreparably.

Another example from the *Herald Sun,* of August, is about a teenage rapist who spied on his victim's house for two years before he attacked her as she slept. He sat on the fence of the victim's family home and peered through the bathroom window and walked past the house every Friday night for two years. He entered the house at about 2.20 a.m. by cutting through a flywire screen on a window when only the woman was at home. She told police she woke to a man standing in her bedroom dressed in black. He flicked the lights on and off rapidly to blind her, then, wearing a balaclava and surgical gloves, he bound her with plastic cable and raped her repeatedly during the terrifying 20-minute ordeal. He removed the doorknob to trap her inside the bedroom and fled. The woman said her life will never be the same again.

I could go on and on because this is the sad and tragic situation that we are dealing with today. It is important that this bill pass today. It is important that we as legislators understand the impact of this type of attack

on the people concerned and on the community. I have a problem in my own area in Southern Metropolitan Region. The rape statistics that were recently released are horrendous. As I said at the outset of my contribution, it is not just the person who has been the victim; it is their family, it is their friends, it is their neighbours and it is their community. Within my community the incidence of rape in Stonnington was up by 41.4 per cent, and in Glen Eira it increased by 26.7 per cent. Behind each one of these statistics is a person, a family, neighbours and a community.

Recently in my electorate we had the hot chocolate rapist. I ask members to think for just a moment on the fact that this man had been involved with tens of victims and had a long career of raping people unexpectedly. The community at large was very pleased to know that he had finally been caught. However, the fact that he had been doing this for decades and the manner of his approach puts fear into everyone of us who has a sister, a mother, a friend or a neighbour or is concerned for other members of our community. I would like to relate what he did. He would meet with girls and offer them a hot chocolate. The last two — the ones who finally exposed him for the person he was — thought that there was safety in numbers, but in fact he had been drugging their hot chocolates and then went home to rape them. The worst part of this is that many of his victims did not even realise they had been raped. This is the community in which we are living!

More recently, last week a victim was asleep on a train in my electorate. I will read from an article which appeared in the *Herald Sun* of 25 October. It says that a 54-year-old man:

> … sat opposite the sleeping woman and waited for an opportunity to assault her …

She was in broad daylight, and he assaulted her in front of other people on the train.

In the examples I have given I have spoken about girls going out to a nightclub and minding their own business, a woman raped and assaulted in her own home, someone assaulted while sleeping in broad daylight on a train and the assault of a grandmother. It is important that the final of the three bills dealing with sexual assault be passed, and I call upon this chamber to pass this bill.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I seek from the minister an understanding of the government's position with respect to the provision dealing with directions to the jury. During the course of the second-reading debate concerns were raised about the potential of those expanded provisions to lead to misdirection of the jury — as was expanded during the second-reading debate — and, for the record, I would like the minister to outline the government's position with respect to those provisions.

Hon. J. M. MADDEN (Minister for Planning) — I am happy to have the member specifically pinpoint what those requests were. If he provides me with them, I will be happy to obtain those answers for him. I do not have those answers here in front of me, but I am happy to assist him in any way I can.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — As was outlined in the second-reading debate — if the minister had been here, he would have heard it — the law institute has expressed concern, and that concern is supported by the Liberal Party, that the changes to the jury direction provisions, one of the two key elements of this bill, are unlikely to produce a better result in terms of jury direction and have the potential to lead to mistrial or other avenues of appeal for a defendant in a rape case, as they will greatly expand and complicate the manner in which a judge is required to direct a jury once these provisions have been implemented.

Hon. J. M. MADDEN (Minister for Planning) — I have been advised that in relation to those matters which Mr Rich-Phillips raised there has been extensive consultation with members of the judiciary and the bar, and we would beg to disagree with the suggestions made by Mr Rich-Phillips on this matter.

Mr TEE (Eastern Metropolitan) — I would like to make a contribution on the probable impact of the amendments as a whole. They are the result of concerns raised through the Scrutiny of Acts and Regulations Committee. Their broad impact goes to the interaction of amendments that were made to the Crimes (Sexual Offences) Act 2006 and the impact upon provisions dealing with compelling a person to engage in incest. I am supportive of those amendments, and I would appreciate the opportunity to detail why I think those amendments are necessary.

The DEPUTY PRESIDENT — Order! I would be happy for Mr Tee to make that contribution, but I suggest that probably it would be better on clause 2, when the amendments are formally moved and there is discussion on the amendments themselves. I accept that when Mr Tee makes that contribution, he may well speak to all the amendments at once.

Clause agreed to.

Clause 2

The DEPUTY PRESIDENT — Order! I call on the minister to move his amendment no. 1, which is actually a test for his amendments 2 to 10 and the consequential insertion of a new clause, as circulated. In that respect the minister may foreshadow those related amendments in remarks he might make to amendment no. 1.

Hon. J. M. MADDEN (Minister for Planning) — I move:

1. Clause 2, line 2, omit "subsection (2)" and insert "subsections (2) and (3)".

I am happy to make a few brief comments, and I think Mr Tee wants to make a few more comments following my comments. Basically I understand that in *Alert Digest* No. 12 the Scrutiny of Acts and Regulations Committee raised concerns about amendments to the incest provision in the Crimes (Sexual Offences) Act. Basically, these amendments seek to remedy technical wording so that there is clarity around those issues in relation to those matters.

The PRESIDENT — Order! Are there any further contributions on clause 2 in respect of amendment 1? I will accept debate or comment on the other amendments that are consequential.

Mr TEE (Eastern Metropolitan) — In 2006 the Crimes (Sexual Offences) Act made a number of amendments to the Crimes Act 1958 dealing with a situation where an offender compels another person to sexually penetrate a third person. These amendments provided a consistent mental element for those offences. The relevant mental element was that there be a lack of consent and, for our purposes, an awareness that the victim did not consent or might not have been consenting. This mental element was transposed to a number of offences, including the offence of compelling a person to engage in incest. The offence of incest has a defence whereby the victim can prove that they were compelled by a third party. It is the interrelationship of this defence and the 2006 amendments that we are seeking to amend today. The way it operates is that, under the 2006 amendments, the victim of incest must demonstrate that they were compelled to engage in incest, and they need to prove that the person who compelled them to participate in the act was aware of the absence of consent. The criticism that has been raised is that it is a bridge too far to have to prove that the person compelling the offence of incest was aware that the victim was not or might not have been consenting. This amendment, or the amendments taken together, remove this requirement, and for those reasons I support the amendments.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I note Mr Tee's explanation of this amendment and the consequential amendments and indicate that the Liberal Party does not oppose changing this element of the defence where a third-party compulsion is involved. We are happy to not oppose those amendments.

I note, though, that I find it extraordinary that it has been left to a government backbencher to explain amendments that presented are in the name of a minister of eight years standing in this place and that the minister has made no attempt himself to explain the amendments that he is responsible for before this committee. Apparently he had no understanding of what had transpired earlier in the second-reading debate on this important bill. I place on the record that he has left it to a government backbencher to deal with this matter; perhaps he might make some further comments on it himself.

Hon. J. M. MADDEN (Minister for Planning) — I will try not to say too much, because I do not want to dignify the remarks of the member opposite. We come into this chamber often in an adversarial role in the committee process. In this instance the technical issues in relation to these matters are such that I do not seek to be combative, because I think members of this chamber have been very supportive of this bill and members of the chamber are also very supportive of the amendments. They are logical, they have been recommended by the Scrutiny of Acts and Regulations Committee, and we are in a sense making those technical amendments to ensure that we do justice to the bill as well.

I am disappointed with the tone of the member opposite. Mr Tee is very competent when it comes to technical legal issues. Mr Rich-Phillips may not appreciate that. Mr Tee is also, I understand, trained in the law. It is sometimes very useful to assist your own team by delegating and also by showing faith in backbenchers. I note that Mr Rich-Phillips's party does

not show the same degree of faith in some of its backbenchers that we do. I do not seek to make this any more personal than I have to, but if Mr Rich-Phillips wants to engage in a bun fight, I am happy to engage in one.

The DEPUTY PRESIDENT — Order! The amendment is fairly narrow and specific and has been referred to as a technical amendment. I think that is where any debate or remarks ought to remain.

Amendment agreed to.

Hon. J. M. MADDEN (Minister for Planning) — I move:

2. Clause 2, after line 3 insert —

   "( ) Sections 8 and 9 come into operation on the day after the day on which this Act receives the Royal Assent.".

3. Clause 2, line 4, after "If" insert "a provision of".

Amendments agreed to; amended clause agreed to; clauses 3 to 7 agreed to.

Clause 8

The DEPUTY PRESIDENT — Order! I am advised that the best procedure to deal with Minister Madden's amendment 4, which is in effect to delete clause 8, is that I put the question that the clause stand part of the bill. The minister has invited the committee to vote against this clause.

Clause negatived.

Clause 9

Hon. J. M. MADDEN (Minister for Planning) — I move:

5. Clause 9, lines 28 and 29, omit "section 3 or 4" and insert "section 3, 4 or 8".

6. Clause 9, line 31, after "commencement of" insert "that section of".

7. Clause 9, page 7, line 4, omit "6, 7 or 8" and insert "6 or 7".

8. Clause 9, page 7, line 7, after "commencement of" insert "those sections of".

9. Clause 9, page 7, line 15, after "commencement of" insert "sections 5, 6 and 7 of".

10. Clause 9, page 7, line 18, after "commencement of" insert "those sections of".

Amendments agreed to; amended clause agreed to; clause 10 agreed to.

New clause

Hon. J. M. MADDEN (Minister for Planning) — I move:

11. Insert the following New Clause to follow clause 7—

'AA. Incest

In section 44(6A) of the **Crimes Act 1958**, for the expression commencing "in that act— " and ending at the end of the subsection **substitute** "in that act without the victim's consent.".'.

New clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

BUILDING AMENDMENT BILL

Second reading

Debate resumed from 11 October; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr GUY (Northern Metropolitan) — I rise to speak on the Building Amendment Bill 2007, a bill that the Liberal Party will not oppose. On examination of this bill you find it is what you would call a Clayton's bill — it is a bill you have when you are not having a bill. It has the kick of a Datsun 120Y motor in a prime mover. There is very little in the bill. In fact it has all of a dozen pages, if that, and it only has three major purposes. The first is to clarify the purposes and objectives of the Building Act, the current act. The second is to clarify the functions and powers of the commissions — that is, the Building Commission and the Plumbing Industry Commission — which come under the current act. The third is to make some minor changes in the ordering of the act, as was recommended by the Victorian Competition and Efficiency Commission. I will come to that a little later, but the VCEC published a report *Housing Regulation in Victoria — Building Better Outcomes*, which provided some of the main points that resulted in the introduction of this bill.

As has been stated, those provisions in the bill have come mainly out of the VCEC report. The bill in essence simply reorders a number of sections of the principal act to separate the powers of the building and plumbing industry commissions from their functions. In a sense I understand that the bill simply provides some clarity where there was a little bit of ambiguity before, and certainly that is welcomed by the Liberal Party. The bill also seeks to simplify the functions of the commissions through clearly expanding their purposes and objectives in the act as separate entities, which of course is quite important and, again, is welcomed by the Liberal Party.

I would say though that there is one key exception we take to this bill, and that is that the policy arm of the Building Commission is to be shifted from the commission to the Department of Planning and Community Development. It almost seems that that is the only significant provision in this bill. During our bill briefing, as we would normally do, we asked, 'What will the impact be on the Building Commission? What will the impact be on the department in terms of employment numbers, recurrent employment numbers, and whether they are ongoing or part time? Are staff going to be moved? Are they going to be kept?'.

We discovered that a number of positions are obviously being created in the department to accommodate this new section. Although the advisory role is being taken off the commission, there will obviously be a new section created in the department, but of course there will not be any corresponding reduction of jobs in the commission. Although the commission is losing a power and a function, it will keep those staff. I am not sure what they will be doing — maybe searching *Hansard* or Google searching, as the government is so fond of doing. We do not know the final numbers for the new section of the department. As I said, that question from the Liberal Party has gone unanswered.

As I said at the start of my very short contribution, this bill was certainly based on the VCEC report *Housing Regulation in Victoria — Building Better Outcomes*. I note that that report was presented to the government in April 2006 and it is now November 2007. It seems quite astounding that a bill which seemingly achieves so little should be introduced a year and seven months later. I guess it is one of the hallmarks of this government that things seem to move slowly. The government seems to have moved fairly slowly with the bill that we are currently debating in the house.

I note a number of points about the VCEC report, particularly a foreword by the then Treasurer, John Brumby, who is now our new supposed action man, Premier John Brumby. I want to make a couple of comments about his contribution to the report, on which the bill we are looking at today is based. The foreword states in paragraph 4:

> Melbourne's housing is already the most affordable of all the major capital cities on the eastern seaboard …

I looked at that and thought that was a very interesting comment for the now Premier to make. I take it he is referring to the three capital cities on the eastern seaboard — that is, Sydney, Brisbane and Melbourne. That is a huge claim to make in relation to three cities, but there it is in bold letters pumped up by the now Premier.

Despite the fact that Melbourne's average house price is now $431 000, having gone up by $50 000 in the quarter, there is the boast of the Premier. It is very interesting to note, on the subject of that boast of the Premier in this report, that for the increase in the average house price, which came in at $431 000, there is a corresponding increase in stamp duty. It is interesting to note that from September 2006 to September 2007 in Hampton East, for example, stamp duty collection by the government was up 135 per cent to $31 000; it was up 139 per cent in Mentone to $28 000; and in Blackburn — a lovely suburb for many families out in the eastern suburbs — the average stamp duty went up 82 per cent to $17 010.

Melbourne, according to the boast of the Premier in this VCEC report, is the most affordable of the major capital cities on the eastern seaboard. The Premier is certainly not referring to the stamp duty rate, because if you were a first home buyer in Queensland you would receive concessions, and in New South Wales you would not pay any, but in Victoria you are subject to those high levels of stamp duty, which would certainly place Melbourne's average house price above that of Brisbane — a factor not included by the Premier in his boast in the foreword to the VCEC report, on which this bill is based.

It is also interesting to note in the foreword of the then Treasurer, now Premier, to the report the following paragraph:

> In its final report —

the report we are talking about —

> the VCEC identified 47 recommendations in relation to permits and registration, insurance, regulators' roles, performance reporting, fees and charges and Victoria's development contribution system.

Indeed it did. It found 47 recommendations to make comment on, which is very interesting. I went through all 27 pages of this report and looked at all the 47 recommendations. I am not sure if other members of the house have, but I certainly did. Let me enlighten the house about those 47 recommendations. I found common ground in about 40 per cent of cases; 18 of the 47 recommendations were actually reviews or examinations. I found it quite bizarre that a review could come up with 18 further reviews, but, lo and behold — the action-man Premier we now have has written the foreword to this document, which forms the majority of the bill we are debating today — 18 out of 47 recommendations involve a review or examination.

Reviews are contained in the following recommendations: 5.6, 6.2, 6.6, 8.1, 8.2, 8.3, 9, 9.1, 9.4, 9.7, 9.8, 10.1, 11.3 and 12. There was an examination in the opening statement of recommendations 5.5, 8.5 and 11.2. So much for a decision and a decisive government of action! We have 40 per cent of a government report being nothing more than just a review. But we in this chamber, certainly we on this side of the house, are used to that. We are used to the government focusing on reviews, examinations, looking into things, getting back to people and taking, as this report has, it seems, one year and seven months to get the point. But our action-man Premier says he will solve that but unfortunately he is endorsing this document which contains 40 per cent of reviews.

One of the other points to note about the foreword contained in the Victorian Competition and Efficiency Commission report is when the now Premier discusses the regulatory burdens in the housing and construction sector. He says explicitly:

> It is within this context that the government asked VCEC (Victorian Competition and Efficiency Commission) to assess the regulatory burdens in the housing construction sector.

If the Premier wants to have a look at some of the major burdens in the housing and construction sectors, he probably should have a discussion at the cabinet table with his colleague the Minister for Planning. He might find that the state planning policy Melbourne 2030 — or, in the case of Melbourne, the metropolitan planning policy — is indeed the major burden when it comes to the housing and construction sector. I do not have to remind members in this chamber of the many times that a lot of us have talked about the urban growth boundary, its highly prescriptive nature and what it has done to house prices.

I mentioned some stamp duty figures previously; I am happy to go through those at another time in order to save some time. In regard to the level of change in metropolitan house prices over the last 12 months, the average house price in Melbourne is now over $431 000. It is amazing to look at the relevant graphs and figures of 2001–02 and consider the construction cost of a dwelling compared to the purchase price of the land. As Mr Theophanous and other ministers would know, the land component of a house and land package, or in other words the land component of the purchase price of a home, has skyrocketed not just in Melbourne — —

Ms Mikakos — It is the cheapest in the country.

Mr GUY — I will take Ms Mikakos up on her interjection. I will actually do something for Ms Mikakos: I will check up on her point in terms of the last quarter, I will return to this chamber and we will discuss it, because I think we will find that that is not the case. We will talk about that soon.

As I was saying, one regulatory burden in the housing construction sector is the Melbourne 2030 policy and the lack of strategic planning by the government regarding planning policy throughout the metropolitan area. How can you have a planning policy that considers the containment of population growth when, as members opposite would know, you have a population policy that encourages growth, because the two are obviously not exclusive? What use is it having a government that issues a planning policy in 2002, a transport policy a couple of years later which has no bearing on the planning policy, and a population policy which has no bearing on any of those above? So we have a high-growth population policy, a containment policy of the urban growth boundary and a transport policy that says, 'We will only build on the parameters of the current urban footprint'. That makes no sense.

The now Premier, who was formerly the Treasurer, makes a key point in the foreword of the VCEC report which forms the basis of this Clayton's bill, that the regulatory burdens of the housing and construction sector need to be examined. What he should do, as I have said from the start, is examine his own government's metropolitan planning policy and possibly work out whether or not those policies should be integrated. This might be a unique thought to the members opposite: if you actually have strategic policies and a strategic direction, they should all be integrated in terms of planning, transport and population. Then you may have a situation where your policy structures all work together. People then might be less combative, aggressive and infuriated about the current planning policies for Melbourne.

In conclusion, the Liberal Party will not oppose this Clayton's bill that we have before us today — it is a bill you have when you do not have a bill, because it does nothing except create a couple of jobs in Planning and Community Development offices. We do not oppose the bill on the basis that a number of industry groups and others have said that they welcome some of the clarifications that are contained within the first part of the bill. We also certainly welcome those clarifications. We will be doing our best to hope and encourage this bill to pass through this Parliament without amendment. We hope that it will work handsomely and that it will work for the building and construction industry.

Despite the 18 of 47 recommendations of the VCEC report being based on reviews, I actually hope the government acts on some of them. I am sure that some other members of this chamber have not read the recommendations like I have. However, I recommend the minister to act on some of them rather than just consign them to reviews or examinations which never seem to eventuate into actualities.

Mr DRUM (Northern Victoria) — It is great to rise to speak on the Building Amendment Bill. It is also great to be able to speak about issues that relate to your life before you came into Parliament.

I left school as a 17-year-old to take up a building apprenticeship and work with a local builder. I was lucky to work in those olden days when a builder was actually able to do everything involved in building a house. We would pour a slab, frame the walls and pitch the roof. We would line plaster walls and then we would build kitchen cupboards. It was great experience to work with the old-fashioned builders in a world where everything was becoming specialised.

On other building sites roof trussers would usually turn up, kitchen cupboards were pre-made and specialists would pour concrete slabs. It was great to be able to have a range of skills and to learn them in the old way. Even digging trenches was something that we all learned to do firsthand.

The purpose of this bill is to amend the Building Act 1993 and to make changes to the roles of the Building Commission and the Plumbing Industry Commission. Both of those commissions will have revised functions, roles and objectives, which is reflected in the bill. The new functions will be similar to those that are already carried out, but some roles and functions that are no longer being carried out will not be retained.

Building Advice and Conciliation Victoria (BACV) plays a very important role in providing free and accurate advice to both consumers and smaller builders, and it will now perform the role of resolving domestic building disputes as well. Building disputes are a real problem. I am sure many members have a number of constituents coming to them with legal problems to do with small builders or builders in general, because there is nowhere for consumers and smaller builders to go for dispute resolution apart from the courts. It is good that Building Advice and Conciliation Victoria will now be able to provide that first port of call for a range of advice. It will be able to let consumers and builders know where they stand in disputes.

Consumer Affairs Victoria (CAV) will hand over that role to Building Advice and Conciliation Victoria. It will be critical that all the advice given is totally impartial. It will also have to be given by staff who have in-depth and genuine knowledge of the building sector. When this change of responsibility occurs it will be very important for the staff handing out the advice to have building sector experience. The Master Builders Association of Victoria is supportive of this handing over of responsibility by CAV to BACV, primarily because it believes it is going to have one organisation handling a whole range of roles as opposed to having split responsibility, which is the current situation.

Another change that will be made by the bill relates to how policy is created by the Building Commission. Policy will now be the responsibility of the Department of Planning and Community Development. This is a new department that has been set up in the last few months. Once again it is going to be critical that the staff involved in developing policy on behalf of the government have strong, in-depth knowledge of the building sector and not simply be ex-planners or those employed in bureaucratic circles. As a former builder and businessman who has had to employ people and go through the necessary regulations, I can say it is extremely frustrating when the people you are dealing with behind the counter or behind the desks do not have in-depth knowledge of the industry. It is crucial that we have a genuine understanding that policy must encourage the industry instead of what sometimes takes place currently, because it can stifle the building sector and can result in our being tied up with regulation and red tape.

In April 2006 the government put out its response to a report it commissioned the Victorian Competition and Efficiency Commission to prepare to assess the regulatory burden on the housing and construction sector. The report by the VCEC made 47 recommendations, and Mr Guy went through some of them. They are mainly in relation to permits and regulations. There were issues in relation to the role of

insurance regulators and also some of the fees and charges that put a burden on the building sector. Many of the recommendations have been acted on with this legislation but not all of them. The one I found quite interesting is recommendation 6.2, which is:

> That cost-based thresholds be aligned for building practitioner registration, major domestic building contracts, the payment of the building permit levies, and owner-builders having to obtain a certificate of consent, initially at $12 000 but with provision to increase over time in response to further information.

That particular recommendation was not supported by the government, and in effect we now have the situation where smaller projects are treated as major building projects. The inability of the government to differentiate between smaller contracts and larger contracts effectively makes it more difficult for people in situations similar to the one I was in — people building $6000 or $7000 garages will have to go through the whole shooting match to get those smaller contracts up. It is quite understandable that the margins on those smaller contracts are not there, but all builders are paying similar registration, licence and permit fees and that is quite disadvantageous for a lot of those smaller contractors. We should be trying to make it easier to put up a patio or a garage with a cost under the $12 000 level as opposed to having such jobs treated as major building projects.

Part 12A of the Building Act sets out the different roles of the Plumbing Industry Commission. The Plumbing Industry Commission was established to ensure the health, safety and sustainability of all Victorians and to carry out a whole range of compliance measures by carrying out monitoring and conducting random audits and inspections within the industry. The Plumbing Industry Commission also has responsibility for maintaining the industry's regulatory system, and has to deal with complaints. This bill sets out a range of new regulations relating to cooling towers — how they are cleaned, where they are located, who is responsible for cleaning them, to what standard they need to be cleaned and the like. These regulations are being enacted due to the legionnaire's disease scares. The bill has provided for greater scrutiny and tighter regulatory provisions in relation to cooling towers in Victoria.

We understand that the building sector in Victoria is an enormous industry. In the response to the report, which was put out in April 2006, the then Treasurer and now Premier quotes a figure for this state of in excess of $1 billion over 49 months. I note the Treasurer yesterday in an answer to a question without notice quoted the number of consecutive months over $1 billion as being more than 70. Whether it be 49 or in the 70s, for many years now Victoria has been churning out over $1 billion in housing development per month. The industry is an enormous employer and economic driver in this state, and it is critically important that we do everything we can to cut down the regulation and the burden associated with red tape. We need to do everything we can to ensure we safeguard consumers and make it as easy as we can for young people to get themselves registered and started in careers as registered builders in this state.

We still have not been able to combat the problem associated with indemnities and homeowners insurance. It is an absolute disgrace that we have a situation where most consumers who want to get a house built pay somewhere in the vicinity of $2500 for an insurance policy they are never going to use. That money is paid by the builders and the cost gets passed on to the consumers. We all pay it when we get a house built, but you could count the number of people who have actually claimed on those insurance policies on one hand. We need to keep creating competition and putting pressure on insurance companies. It will provide a further boost to the building sector if we can get a more realistic and honourable premium that reflects the insurance cover you actually receive.

Without any more ado, The Nationals will not be opposing this legislation. We believe the changes within the commissions, whilst Mr Guy acknowledges that that they are going to be small, nevertheless are hopefully going to result in some sense of lessening of the regulatory burden, and The Nationals are going to support anything that does that.

Mr BARBER (Northern Metropolitan) — The Greens will be supporting this bill.

Ms MIKAKOS (Northern Metropolitan) — I think Mr Barber has taken to heart the information he has received recently about the European Parliament and the fact that the minor parties there have proportionality and only get 30 seconds on average to make their contributions. But coming back to the bill, I strongly support this bill. It is a very important bill.

The building industry, as we know, is a significant industry in the Victorian economy, and indeed in the Australian economy. The annual report for 2006–07 tabled only yesterday in this house by the Building Commission states:

> The building industry achieved a major milestone in 2006–07 by reaching the one millionth building permit. Building activity in 2006–07 reached a total value of $16.7 billion, an increase of 7.1 per cent from the previous year's total value of $15.6 billion.

> During this record year Victoria issued more than a quarter of Australia's building permits.

The report also goes on to note, on page 7, that building activity in Victoria now represents 5 per cent of the gross state product. So by any measure the building industry is vitally important to jobs and to the Victorian economy. It is for that reason that the Brumby Labor government supports a strong building industry in this state.

I think it is important to say that in the establishment of a dedicated department that covers the planning area, the new Planning and Community Development department, the new Premier, John Brumby, has identified the issues that relate to the building industry as one of his top priorities. He indicated when he came to office only a few months ago that he wanted to see that department continue to work on issues such as streamlining our planning system. We have already seen the implementation of the Carbines review on cutting red tape reforms, and they continue to be rolled out.

The Premier also wanted us to focus on issues such as housing affordability and livability. That is what the philosophy of the department is all about. It is bringing together planners with those in government who also work on things such as sport and recreation programs and facilities to ensure that we build strong communities and not just subdivisions. That is about ensuring that we have all the proper infrastructure put into those communities, as Melbourne and Victoria continue to grow. It is very pleasing that we have a very strong building sector in Victoria at the moment. In relation to the Building Commission report tabled yesterday, that certainly shows that that is the case.

In addition, the figures for the September 2007 quarter show that we have recorded the strongest quarter for 13 years, with $5.1 billion of building permits issued. That is spread across the whole of the various sectors — domestic, residential, commercial, hospitality, health care, public and industrial. These have all increased quite considerably during the last quarter that we have figures for.

It is important also to note that we have very strong growth in our rural and regional communities with rural building permit growth experiencing 12.5 per cent growth in the north-east, 17.1 per cent growth in the north-west and 16 per cent growth in the south-western regions of the state, which is quite significant growth. Metropolitan Victorian building permits issued also grew by 15.4 per cent to $4 billion, so for those people who have their lifeblood in the building sector and earn their living in the building sector, as so many thousands of Victorians do, it is vitally important that our building permit growth for the last quarter demonstrates a significant number of building projects that are in the pipeline across our state. It is important that we have a very strong regulatory framework that does not produce unnecessary impediments to the construction industry. That is the purpose of this legislation.

The main purpose of the bill is to substitute new purposes and objectives into the Building Act and to revise the functions of the Building Commission and the Plumbing Industry Commission. The reforms have come about because of this government's commitment to ensuring that we reduce the regulatory burden. In November 2004 the Victorian Competition and Efficiency Commission commenced an inquiry into regulation of the housing construction sector and related issues. The Treasurer released the VCEC report *Housing Regulation in Victoria — Building Better Outcomes* in April 2006, and the government also announced that it would be looking at implementing the majority of the recommendations made by VCEC. It is that review that forms the basis of this bill. In particular I note that VCEC recommended that the objectives of the act be separated from the means of achieving the objectives, and it also recommended to government that we simplify and clarify the objectives of those two regulatory bodies. That is what the government is seeking to do in this bill. It is seeking to clarify the role of those two bodies to ensure that they and also industry players fully understand what their role is.

The two substantive clauses in the bill — clauses 6 and 8 — relate to the functions of the Building Commission and the Plumbing Industry Commission. I do not propose to go over them in any great detail, other than to say that the clauses substitute a simplified set of functions for each of these bodies to make it easier for them to understand and comply with their roles. As part of that it is also implementing another VCEC recommendation, which was that both of those bodies not have primary responsibility for providing policy advice to government, but that they should be consulted on the practicality of the policy options. The policy advice role will now be undertaken within the Department of Planning and Community Development, but of course both the Building Commission and the Plumbing Industry Commission, being key stakeholders in the industry, will be consulted by the department in making recommendations for policy reform to government.

The other aspect I wanted to comment on relates to Mr Guy's comments earlier about the regulatory burden and particularly the issue of housing affordability. We had this debate not too long ago. I remind Mr Guy that

'when we looked at the data in the *HIA-APM Land Monitor* we found that in fact Victoria had the most affordable land across the country, particularly in rural Victoria. That is because we do work in a collaborative way with industry, but also with local government, to ensure we can streamline our planning systems and that we do not put unnecessary hurdles in the path of our vitally important building sector.

I note that in contrast to our approach, which has been to develop policies that all players and the community can understand, such as our Melbourne 2030 policy and our establishment of an urban growth boundary to consolidate growth within the limits set by that boundary, the Liberal Party does not have any policies in this area. Opposition members can come into this place and knock the government's policies, but they are not putting forward any alternatives.

We have an approach of saying that we need to plan for the future and we need to recognise that our population will continue to grow in this state. We need to ensure it continues to grow in a sustainable way and that we have growth within the existing suburbs of Melbourne and also in the growth suburbs, but not into our green wedges, which we think are vital to protect. Yet Mr Guy comes in here and seeks to denigrate our urban growth boundary, suggesting today by implication that the Liberal Party thinks it is okay to build in an ad hoc way in our green wedges and not to provide any vision for the future about how we are going to house an extra million or maybe more people in the next decade or so.

In concluding my remarks I want to particularly congratulate both the Building Commission and the Plumbing Industry Commission for the important work they do. They work closely with industry, but also with consumers, in ensuring people understand the regulatory requirements that people in the building industry need to comply with. As I said at the outset, only yesterday the annual reports for those bodies were tabled in this house; the timing of that tabling was very convenient for this debate.

It is important to acknowledge the important work that those bodies do. If you look through those annual reports you will find that both bodies have had a number of significant achievements during the last financial year — for example, the Building Commission has implemented the amendments to the Building Code of Australia and has promoted those new requirements across the industry. There has been a 35 per cent increase in the number of building practitioners participating in continuing professional development. That is a very important thing they are undertaking. There has also been the release of the *Guide to Standards and Tolerances 2007*, which includes practical tips and guidance for building practitioners to build better quality homes and avoid potential disputes on workmanship.

The commission also has been working on things such as liaising with key stakeholders to promote sustainable building practices, including the 5-star standard for housing. Members have talked about the issue of global warming a number of times in this house. Of course that is a very important issue that we all need to respond to as a government and as parliamentarians. It is important that the building industry also plays a role in this area and seeks to move towards implementing more sustainable building practices and technologies.

The Building Commission also had an increase in the number of building practitioner registrations during the last financial year. There was also an increase of 4 per cent on the previous year of the auditing of domestic builders. As I said, if we are going to ensure we achieve good outcomes for Victorian consumers, we need to ensure that complaints mechanisms are available for consumers.

The Plumbing Industry Commission had a number of important achievements over the last financial year, particularly a significant 9 per cent increase in the lodgement of compliance certificates, and the examination of practitioners' qualifications, particularly for apprentices, has also increased. The commission has undertaken the PlumbSmarter initiative, which is an industry-wide joint project that seeks to achieve greater sustainability in Victoria through water and energy savings in plumbing. As I said, it is important that our plumbers across the state seek to introduce the best possible technologies into our homes for saving water.

In concluding my remarks, it is important to acknowledge that we have a very sound regulatory framework around this state. We have two bodies that work effectively with industry but also protect and inform consumers. That has led to very good outcomes for the building industry across the state. The bill will seek to ensure that that strong growth continues into the future. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — By leave, I move:

That the bill be now read a third time.

In so doing I thank all members for their contributions.

Motion agreed to.

Read third time.

EDUCATION AND TRAINING REFORM MISCELLANEOUS AMENDMENTS BILL

Second reading

Debate resumed from 11 October; motion of Mr LENDERS (Treasurer).

Mr P. DAVIS (Eastern Victoria) — Acting President, I think this is the first time I have had the pleasure to have reason to speak when you have been in the chair. I am delighted to have the opportunity to hold you in my thrall for the next several hours!

Hon. J. M. Madden — In your craw, did you say?

Mr P. DAVIS — 'Thrall', Minister. Look it up in the *Macquarie Dictionary*. It might help you.

In respect to this bill, the Education and Training Reform Miscellaneous Amendments Bill 2007, the purposes are clearly stated in the explanatory memorandum:

> … the main purposes of the bill … are to amend the Education and Training Reform Act 2006 to provide for the approval of student exchange organisations, to prevent double payments for personal injuries to volunteer school workers, to permit students aged up to 18 years to be registered for home schooling, to make further provision for criminal records checks for registered teachers, to improve generally the operation of that act and to make consequential and other changes to other acts.

That is what is says, but I will go to something more substantial.

I note that in fact this is an omnibus housekeeping bill that proposes amendments to the Education and Training Reform Act, the Accident Compensation (WorkCover Insurance) Act, the Child Employment Act, the Community Services Act, the Children's Services Act 1996, the Interpretation of Legislation Act, the Child Wellbeing and Safety Act, the Forests Act and the Public Administration Act and will repeal the Vocational Education and Training (Amendment) Act 1994.

Within the bill there are some 48 amendments to nine related acts, and the bill also retrieves provisions from some repealed acts. In summary it is clear that the purpose of the bill is to introduce a range of measures to assist in the administration of the Education and Training Reform Act 2006. It also proposes to reflect recent machinery-of-government changes and to make statute law revision changes and technical amendments to improve the drafting of the Education and Training Reform Act 2006 and to address other matters which have arisen since it was passed. It also homogenises relevant terminology and corrects titles and other very minor details.

The main provisions are to enable fees to be paid by instalments. The act currently enables the minister to fix the various fees that are payable under the act by education providers for things like the registration of schools or education and training organisations.

It proposes to enable the Victorian Curriculum and Assessment Authority to appoint a committee without first having to obtain the minister's approval to appoint a committee. It proposes to enable full-time employees of universities to be paid a fee for membership of an authority such as the Victorian Registration and Qualifications Authority. It proposes to enable the secretary of the department to delegate his employment powers in respect of school services employees to a government school principal.

It also proposes to enable the minister to delegate to the chairperson of the merit protection boards the power to appoint an acting member of a merit protection board. It also proposes to enable the Victorian Institute of Teaching to ensure that every registered teacher has a criminal check every five years and for the institute to undertake the check and invoice teachers.

It proposes that the Victorian Institute of Teaching should obtain relevant details of teachers from schools to enable it to cross-check its details of registered teachers. Finally, it also enables children up to 18 years of age to be registered for homeschooling.

Those are the major provisions, and I have to happily report that the opposition finds nothing sinister in the bill, which is entirely unusual in this place. On many occasions I have had the pleasure of bringing to the attention of the house that the government has brought before Parliament legislation which is sinister in its motive. But I cannot report that this time, and I am happy to announce that the opposition will support the bill.

One could say it would now be an appropriate moment to sit down. However, there is much more that can be said, and indeed should be said, about education. The question I am contemplating at this moment is whether I should say it now.

Mrs Coote — Are you going to do it with dignity?

Mr P. DAVIS — Well, I have got all these things I want to say, and this is a grand opportunity to say them. What do members think?

Mr Hall interjected.

Mr P. DAVIS — I have had 5 minutes and 22 seconds, Mr Hall. What I would really like to say is that there is a major problem in education in this state, and I want to say that in 4 minutes. The problems amount to a collapsing school infrastructure, notwithstanding the policy commitments made at the last election and re-announced in the budget by the government, to implement some upgrading of buildings. The fact of the matter is that the maintenance of our school infrastructure is, frankly, a disgrace.

In the limited time I was shadow education minister I visited a number of schools and was absolutely appalled that, Victoria being in such a sound financial position — no thanks to the current government — the reality is that those funds have not been wisely spent. They have not been spent on maintaining the proper bases of schools to the satisfaction of the professionals who work in them, being teachers, and for the benefit of the children who are being educated.

Interestingly, for example, a senior lecturer in education at Deakin University, Dr Rod Maclean, has observed that many schools in Victoria are of a Third World standard, that funding in the state budget is welcome but that there is a 25-year backlog. That is evident on any cursory inspection of the school building stock.

The maintenance backlog at June 2006 stood at $268 million, and I regret to say that I have not been able to update that figure as yet. Since 1999 the backlog has more than doubled from $130 million, which was the backlog at the end of the term of the Kennett government, whereas the Kennett government had inherited in 1992 a backlog of $670 million. In other words it had reduced the backlog by more than $500 million over a seven-year period. It is evident to me that the estimated backlog of $268 million is incredibly conservative. Indeed my inspection of schools found that where there was an estimated backlog of maintenance of, say, $100 000, it was not hard to see that it would take $1 million to repair the dilapidated condition of the school.

The government has a big challenge in front of it, and it should get on with it. The announcement recently by the government that it is going to look to private-public partnerships as an option for facilitating school upgrades reflects on the fact that the government has not allocated sufficient funds in the forward estimates in this year's budget, and it is quite clear that the government's real commitment to education is not as it continues to claim — that is, making education the no. 1 priority. Indeed I think it ranks a pretty lowly priority, and I note that the former Minister for Education, now the Treasurer, has not made any attempt to convince me otherwise.

It is also clear that there is a crisis of confidence in Victorian government schools. I believe in absolute freedom of choice. I do not think there is choice in the education system in Victoria at present. I think the evidence for that is in the drift from the government school sector to the private school sector is a judgement by families about the ability of their children to receive a satisfactory education. I do not believe that the tens of thousands of families shifting their children from government to non-government schools are doing so because it is something they see as aspirational; they are doing it because they see it as an important way of ensuring that their children receive an educational standard they require.

I think the state has an obligation to ensure that there is an effective freedom of choice in education and that families should be able to determine whether their children be educated in the government or non-government sector according to preference, not on the basis of income level or differential quality. There will always be differences in the values families have in regard to education — for example, one of the issues that will inform parents' decisions about where their children should attend school will obviously be a faith issue.

Mrs Coote — Short and light.

Mr P. DAVIS — Those are the issues upon which families are making decisions. Just to put this in context, between 1986 and 2004, secondary school enrolments in Victorian non-government schools increased by 35 per cent or 17 000 students. By comparison, enrolments in the government school sector declined by 23 600 students or 10 per cent. The drift from government to non-government schools continued over 2005–06, with government school enrolments declining by 518 and non-government schools recording an increase of 4406 over the same period.

Mrs Coote — In conclusion — —

Mr P. DAVIS — I think it is important also to note that apart from bricks and mortar and declining enrolments in government schools compared to the

non-government school sector, we have a problem in Victorian schools with numeracy and literacy. I have talked about that in the house before, and I will not go over that ground again at the present time. However, clearly the most recent data available, the program for international student assessment (PISA) record of 2003 — I understand more recent data will be available later this year — recorded Victoria as having the worst performing education system on mainland Australia in the areas of numeracy and literacy. It is difficult to obtain more detailed data, because although the government obtains the data from schools, it refuses to publish those results. As a result we rely on the Organisation for Economic Cooperation and Development PISA assessment for publicly available data.

It is important to recognise the difficulties of students in the northern and western suburbs. Clearly we know those students are struggling, and there has been some very good analysis undertaken by the *Age* newspaper in particular on this issue. It is an issue about which I have been speaking for the last year. Indeed upon my commencement as former shadow Minister for Education I took the opportunity to make the point that the northern and western suburbs have very similar challenges to those of regional Victoria. Many rural students are singularly disadvantaged, as are those in the northern and western suburbs. It is important that Victoria's slipping academic standards, which reflect on and contribute to the drift to the non-government school sector, are reversed. I hope the government's rhetoric is matched by action.

In conclusion, I also note that there is a major problem with discipline in schools. The data shows that between 2000 and 2004 under this government substance abuse in Victorian schools rose by 160 per cent, physical threats rose by 317 per cent, sexual assaults rose by 123 per cent, physical assaults rose by 219 per cent and assaults with a weapon rose by 76 per cent. It is clear that the government has no direction in dealing with these matters.

On the advice of my colleague the Deputy Leader of the Opposition, Mrs Coote, who has been assisting me with her encouragement, I will conclude on that point. I regard education as singularly the most important aspect of government service delivery, because it informs how our society will operate functionally, in a social and economic sense, into the future. Our children are our most precious asset, and I think that most members in this place would support me in saying that education should be no. 1. I regret that it is clearly not no. 1 on the government's priority agenda.

Mr HALL (Eastern Victoria) — Last year this chamber passed a fairly significant piece of legislation, the Education and Training Reform Act 2006, which was a coming-together of 12 separate acts of Parliament, some of them quite complex in nature. Indeed it was a major effort to reform those 12 acts and combine them into one — the Education and Training Reform Act. Obviously, with such significant changes, inevitably we were going to have to come back and do some finetuning, and essentially this bill is all about finetuning that act.

There are some 58 clauses in the bill, with a significant number of amendments to a large number of acts. I will not detail all of them, but some of them go to things like enabling fees for the registration of courses to be paid by instalment and enabling the Victorian Curriculum and Assessment Authority to appoint a committee without first obtaining ministerial approval to do so. A large range of administrative-type provisions are contained in the bill.

Another important provision will update the volunteer school worker compensation arrangements. The bill will also require the Victorian Institute of Teaching to ensure every registered teacher has a criminal check every five years. The institute is to undertake the check and invoice teachers for the relevant amount. The bill will also permit children up to 18 years of age to be registered for homeschooling.

That is just a very quick overview or sample of the very many changes contained within this piece of legislation. Like the opposition, The Nationals have gone through each of those, and we think that they are predominantly very sensible changes. We have consulted with a wide range of people, including the Australian Education Union, the various principal groups, the independent school sector, the Catholic school sector, the Victorian TAFE Association and even local learning and employment networks. The feedback we have received from each of those organisations is, in the main, positive. So it is that we too have come to the conclusion that we will be supporting this piece of legislation.

I want to give to the house the comments made by the Australian Education Union in respect of this bill. An email from Brian Henderson, the branch secretary, says:

> We have been consulted about the changes and we have no objections to the proposed changes. We do object to teachers employed by DE&ECD —

Department of Education and Early Childhood Development —

> having to pay for police checks …

The email goes on to say later:

> We do not believe that the amendments go far enough. For instance under the principal act a teacher can be sacked by the department and they receive no income from the time they are dismissed until the Discipline Appeals Board makes a determination. In a recent case the DAB took 15 months to find that the teacher should not have been dismissed and ordered his reinstatement. Under the act the teacher is not entitled to back pay for the period of their wrongful dismissal.

That is a valid issue raised by the Australian Education Union. I trust the government will respond to it with further discussions about matters of that nature. It was pleasing to know that the body that represents probably the majority of teachers in Victoria, the Australian Education Union, is happy to support this legislation. The feedback we have received from other organisations suggests likewise.

The legislation contains some changes to the Victorian Institute of Teaching Act, and I mentioned a requirement from VIT (Victorian Institute of Teaching) to invoice teachers for the police checks that they are required to undertake. It is not that I have any problem with the issue of teachers requiring police checks, but whether teachers should pay or whether an employer should pay is an issue that needs to be debated. Also, this year VIT itself is the subject of a review. The act establishing VIT requires a five-yearly review of the institute, and that is in the process now. It will be an interesting review, because over the period of time there has been some comment from teachers and teacher organisations about the role VIT is playing and whether it is fulfilling its functions.

There has been a lot of criticism that VIT has not fulfilled one of its primary functions — that is, to promote and be the advocate for the teaching profession. There are also some concerns about the role VIT was playing in the police checks that I have mentioned. Predominantly the criticism has been that VIT has been a regulator rather than a promoter and defender of the profession.

In terms of the profession itself I want to make this quick comment. Last Friday, 25 October, was World Teachers Day. I took the opportunity to write to all of the schools in the Morwell and East Gippsland Legislative Assembly electorates. I did not have the capacity to write to all of the schools in my large Eastern Victoria Region. I congratulated those teachers on the fine job they do in educating our children in a pretty difficult profession. I made the effort to do that and acknowledge the fine work they do because I recognise that it is a tough ask of them sometimes to educate our young people. As a whole the profession in Victoria does itself proud in the way it carries out its role.

I want to make some general comments in conclusion, because I know there is another speaker to go before we reach the cut-off time for this debate this afternoon. Education should be all about student outcomes. While education, like the piece of legislation we have before us today, is important in establishing the framework, equally there is a whole range of other important inputs into educational outcomes. Teaching practice, policy and resourcing are also important inputs. The government needs to keep its eye on the ball with respect to some of those other areas. In resourcing, it needs to ensure our schools and teachers have the resources to deliver what we expect them to deliver and have the support through policy to enable them to perform that task well. There are discrepancies in terms of outcomes across the state.

Earlier this year I was pleased to have the support of the Parliament in moving to have a major inquiry by the Education and Training Committee look at some of the inequities in outcomes in respect to the geographic differences across Victoria as a whole. I am looking forward to that inquiry, and I trust the investigations will be instructive for the committee as it moves to that task. I know you, Acting President, are not on that committee anymore but would love to be because of your interest in education. A lot more could be said, but I will conclude my remarks.

As I said, this is largely a machinery bill. It contains some important principles which individually we could debate for a long time, but we will not. I am happy to repeat The Nationals support for this piece of legislation.

Ms PENNICUIK (Southern Metropolitan) — The Greens will also be supporting this bill, which is very much a series of minor changes to the Education and Training Reform Act, which was passed in the previous Parliament. From our consultations, mainly with the Australian Education Union and the Victorian Association of State Secondary Principals, it appears there is broad support for the bill, although both organisations said to us that they were relying on departmental assurances that the bill made no policy changes. We rely on that as well.

There is a view in the education community that there are some major omissions in the bill or aspects of the education system that could be included in the review of education. Take, for example, early childhood development and a better funding model for state

schools, especially for buildings and maintenance. Philip Davis spoke at length on the buildings and maintenance issue, so I will not go over that in the short time I have available. Needless to say, there are issues with building maintenance in public schools that need to be urgently addressed. We have a program that will stretch out possibly for the next eight years. There needs to be much more urgency if we are to bring many of our schools up to scratch in terms of their buildings and resources.

There are also the issues of improved rates of pay and better teaching workforce planning and career structures. Mr Hall mentioned that 25 October was World Teachers Day. I also made some public comments on that day, especially to say that I thought it was a disgrace that Victorian teachers are amongst the lowest paid in the nation and that if we want a truly first-class education system, we should be rewarding our teachers properly. Underpaying them and not valuing them properly is forcing them either to move interstate, where there are better wages and conditions, or leave the profession altogether.

I also made the point that contract staff in teaching, while below the 1999 peak of 19.6 per cent of all teaching staff, continues to represent around one in five teachers in the government teaching services workforce and has been trending up. This needs to be trending down, and there needs to be better job security and permanency for teachers.

There has also been a bit of a cloud over the area of courses for overseas students relating to the quality of some of those courses, value for money and appropriate resourcing, both of teachers and facilities. We sought some advice from the Department of Education and Early Childhood Services on whether the Victorian Registration and Qualifications Authority considers any of these issues in its suitability test. We received an email back from the authority drawing our attention to the criteria and guidelines for the approval of courses as suitable for provision for overseas students in Victoria under the jurisdiction of the Victorian Registration and Qualifications Authority and assuring us they are comprehensive guidelines which go to the suitability of those courses and teachers.

Having made those comments, I repeat that teachers are the backbone of the education system. We would not like to see a repeat of the nurses dispute in respect of teachers in the state of Victoria. I hope the government is looking to bring our teachers up from the bottom of the national pay scale to the top of it in terms of pay and conditions.

Debate adjourned on motion of Ms PULFORD (Western Victoria).

Debate adjourned until next day.

AGENT-GENERAL AND COMMISSIONERS FOR VICTORIA BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Treasurer) on motion of Hon. J. M. Madden.

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Agent-General and Commissioners for Victoria Bill 2007.

In my opinion, the Agent-General and Commissioners for Victoria Bill 2007, 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

Human rights issues

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

The bill does not engage any of the rights under the charter.

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

As the bill does not engage any of the rights under the charter, it is not necessary to consider section 7(2) of the charter.

Conclusion

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

HON. THEO THEOPHANOUS, MLC
Minister for Industry and Trade

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time

Incorporated speech as follows:

Victoria is a small player on a large world stage, where it is imperative to both promote and differentiate ourselves. We need to demonstrate the benefits of our goods, services and expertise, as well as our natural advantages of diversity of culture and language, which make Victoria particularly well suited to meet world expectations and exceed them.

To continue to grow the Victorian economy we need to increase our exports and seize the opportunities abroad, particularly in fast-growing economies. To identify how we can make the most of our overseas presence and connections, the government has recently undertaken a review of the Victorian government's international networks.

This review identified a series of reforms for the Victorian government's overseas offices, which will boost Victoria's economic performance and standing in the global economy. The reforms included the recommendation that the Premier appoint commissioners for Victoria, as statutory appointments, to Victoria's network. This will ensure that any such appointments are based on merit and made via a transparent process. This bill will give effect to implementing this recommendation.

The purpose of this bill is to create a new class of statutory office-holders to complement Victoria's representative to the United Kingdom, the Agent-General. These new office-holders will be known as commissioners for Victoria. This bill will continue to provide for the position of the Agent-General, a longstanding connection between the United Kingdom and Victoria.

Commissioners based overseas will undertake similar roles to the Agent-General, who will also hold office as a commissioner. These positions are designed to replace a range of existing Victorian representatives outside Australia with similar responsibilities but different titles and arrangements.

In some cases, commissioners can be resident in Victoria to provide representation to a specific overseas location. The success of this model is evidenced by the work of Sir James Gobbo, Victoria's recently retired Commissioner for Italy. Sir James has been an excellent representative, using the wealth of his experience to provide a vital connection between Italy and Victoria, and furthering the extensive commercial, cultural and community links between us.

The creation of commissioners for Victoria will form a brand for Victorian trade and investment promotion professionals, increasing the international profile of the state in an increasingly global market.

The creation of this category will also complement the government's recent investment in Brand Victoria and Brand Melbourne, focusing on differentiating ourselves amongst myriad other competitors for international trade, business, tourism and exchange.

The bill sets out clear functions and duties. Commissioners will be responsible for furthering Victoria's commercial, economic, cultural, scientific and technological relations outside the state. This list reflects the diversity of Victoria's products, services and skills which we can proudly offer to the world, including trade, tourism, culture, sport and major events.

The bill will enable the Victorian government to attract and appoint high-calibre individuals with demonstrated leadership skills, considerable experience and appropriate qualifications to these specialist trade and promotion roles. These recognised leaders could come from a range of fields, including commerce, business, tourism, government and public administration.

The bill reflects the existing Agent-General's Act 1994, but updates it to reflect the current needs of Victoria's expanding market opportunities overseas. Importantly, this update also incorporates greater accountability mechanisms, including making commissioners subject to specific provisions of the Public Administration Act 2004, with a requirement for annual reports and more stringent criteria regarding suspension and removal. These provisions will make commissioners for Victoria and their overseas operations transparent and accountable. This approach reflects the government's commitment to more accountable government for Victorians.

The bill will also repeal the existing Agent-General's Act 1994 with transitional provisions to ensure the continuity of the office, which has proudly served Victoria for more than a century.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILIPS (South Eastern Metropolitan) on motion of Mr Vogels.

Debate adjourned until Thursday, 8 November.

ANIMALS LEGISLATION AMENDMENT (ANIMAL CARE) BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) on motion of Hon. J. M. Madden.

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Animals Legislation Amendment (Animal Care) Bill 2007.

In my opinion, the Animals Legislation Amendment (Animal Care) Bill 2007, 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 Animals Legislation Amendment (Animal Care) Bill 2007 ('the bill') is to improve the administration and enforcement of animal welfare legislation and provide for more effective management and protection of animals in Victoria.

The bill amends the Impounding of Livestock Act 1994 ('the livestock act'), the Domestic (Feral and Nuisance) Animals Act 1994 ('the DFNA act'), and the Prevention of Cruelty to Animals Act 1986 ('the POCTA act') to:

implement government's pre-election commitment to increase penalty levels for animal cruelty offences;

strengthen the POCTA act to better handle investigations and prosecutions;

provide wider powers of search and seizure, and disposal of animals that are abandoned or neglected;

establish microchip animal identification standards to underpin voluntary permanent identification of horses;

provide for notices to be issued to owners to control their trespassing animals;

create a power to impound suspected restricted breed dogs pending the declaration process;

provide for infringement notices to be issued for minor dog attacks and other minor offences;

make it an offence to undertake prohibited procedures on an animal;

make it an offence to use, set or sell non-approved harmful animal traps;

make it an offence to breed animals that have a proved heritable defect that causes serious welfare consequences in their offspring;

provide for an annual licence for accredited rodeo operators; and

make a number of machinery amendments to facilitate the administration of powers and enforcement.

The bill also rearranges existing provisions setting out the powers of authorised officers and inspectors in the DFNA act and the POCTA act to improve the structure of the enforcement powers.

Human rights issues

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

The bill engages four of the human rights provided for in the Charter of Human Rights and Responsibilities ('the charter').

Section 11: freedom from forced work

Section 11 establishes a right for an individual not to be held in slavery or servitude, and not to be made to perform forced or compulsory labour.

In the bill, the following two provisions engage the right to freedom from forced work:

Where an authorised officer of a council reasonably believes that livestock are not adequately confined on a property, he or she may serve a notice on the owner of the livestock under the livestock act, directing the owner to undertake measures set out in the notice to ensure the livestock are adequately confined. A failure to comply with the notice will result in a penalty not exceeding 50 penalty units. The requirement to adequately confine the animal is in the general interest of the community, since trespassing livestock, particularly on roads, can pose a danger to the public, as well as to the animal itself. For this reason, the requirement to confine the animal falls within the exemption for forced work in section 11(3)(c) of the charter as it forms part of normal civil obligations.

As part of the restructure of the enforcement powers under the DFNA act, the bill provides that the Magistrates Court may order the owner of a dog or cat to perform works, where the owner is found guilty of certain trespassing offences under the DFNA act, for the purpose of ensuring the animal is not able to escape from the owner's premises again. Since the owner is ordered to perform work in the community under a lawful court order, this is exempt from the prohibition on forced labour.

The bill does not limit the right to freedom from forced work. Therefore, the right is not discussed further in this statement.

Section 13: privacy and reputation

Section 13 establishes a right for an individual not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have his or her reputation unlawfully attacked.

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

In the bill, there are a number of provisions which engage the right to privacy. However, in each instance, the interference with privacy is neither unlawful or arbitrary for the reasons set out below.

Where an authorised officer reasonably suspects that there is an abandoned animal in or on private premises, including residential premises under the DFNA act, but not including a building occupied as a residence under the livestock act, that officer has the power to enter the premises and impound the animal. The power can only be exercised at the request of the owner or occupier of the premises under the DFNA act, and cannot be

exercised in relation to a building occupied as a residence under the livestock act. Therefore, if a person resides at the premises, there is no interference with their right. Further, the interference with privacy under the DFNA act and the livestock act is nevertheless lawful and not arbitrary, because the power to enter the person's home is confined to circumstances where the authorised officer has a reasonable suspicion that there is an abandoned animal in or on the premises.

The bill provides that an authorised officer under the DFNA act may require the owner of an animal suspected of committing an offence to provide his or her current address. The power is only available in defined circumstances, where the officer reasonably suspects the owner has committed an offence under the act and does not have sufficient information about the owner to enable the commencement of prosecution for the offence.

An authorised officer that believes, on reasonable grounds, certain infringement offences under the DFNA act have been committed, may request a person to give his or her name and place of residence, and ask questions. This requirement is a re-enactment of an existing provision, except for the inclusion of additional infringement offences. Further, the decision to interfere with privacy in these cases can only occur where the officer has a reasonable belief an offence has been committed.

The bill authorises an inspector to enter any premises, not including a person's dwelling, under the POCTA act and seize or dispose of an animal if he or she believes on reasonable grounds that the animal is abandoned, distressed or disabled. However, since an inspector may not exercise this power of entry in relation to a person's dwelling, this ensures that there is no or minimal interference with a person's rights under section 13 of the charter.

The bill provides an inspector the power to enter and search premises, including residential premises, as well as a person's vehicle, where the inspector believes on reasonable grounds that there is in or on the premises or vehicle evidence of a contravention of the POCTA act. This power of entry and search can only be exercised if a warrant has been issued by a court. Importantly, the warrant can only be granted by a court in accordance with the rules relating to search warrants under the Magistrates' Court Act 1989. The power is only available in discretely defined circumstances, whereby the court determines that it is necessary to support the objectives of the POCTA act to protect the welfare of animals.

A POCTA inspector may request that a person provide information when exercising a power of entry under the act, as well as request a person to provide their name and address. These powers are largely a re-enactment of existing powers. The power to request information may only be exercised to the extent that is reasonably necessary to determine whether an offence against the act or regulations has been or is about to be committed. The power to request a person's name and address can only be exercised where an inspector believes on reasonable grounds the person has committed an offence against the act.

A magistrate may by order authorise an inspector under the POCTA act to enter premises and search for an animal. This power is only available where the magistrate is satisfied by the evidence of an inspector that there are reasonable grounds to believe the person is contravening a banning order under the act.

A POCTA inspector may enter premises, not including a person's dwelling, under the POCTA act in certain emergency situations. Since an inspector may not exercise this power of entry in relation to a person's dwelling, this ensures that there is minimal interference with a person's privacy. This power is re-enacted as a result of the improved restructure of the enforcement powers. The power of entry can only be exercised where the inspector suspects on reasonable grounds that on the premises, baiting, trapshooting or the use of animals as lures is occurring, that animals are confined without food or water, that the animals are in an entanglement, tether or bog, showing signs of pain or suffering, or that they are likely to cause death or serious injury to any person or another animal.

A specialist inspector may enter premises, not including a person's dwelling, under the POCTA act for the purpose of exercising enforcement powers under the act and regulations. This power is a re-enactment of an existing power under the act. The power can only be exercised with the written authority of the minister, and not in relation to a person's dwelling, therefore minimising the interference with privacy.

An authorised officer of a council under the DFNA act and a POCTA inspector may apply to the magistrate for the issue of a warrant to enter and search premises. These powers are re-enacted as a result of the improved restructure of the enforcement powers. This power of entry and search can only be exercised if a warrant has been issued by a court, and the warrant can only be granted by a court in accordance with the rules relating to search warrants under the Magistrates' Court Act 1989. Further, an officer may only apply for a warrant under the DFNA act where he or she believes on reasonable grounds an animal is present on premises, which the officer is entitled to seize under the act. Similarly, an inspector may apply for a warrant under the POCTA act only where the inspector believes on reasonable grounds that there is on the premises an abandoned, diseased, distressed or disabled animal, the inspector believes on reasonable grounds the welfare of the animal is at risk, or a contravention of the act is occurring or has occurred.

A person must not refuse admission to a POCTA inspector exercising a power of entry under the act. This is an existing requirement, and must only be complied with in respect to inspector's powers of entry under the act.

Accordingly, the bill does not provide for the unlawful or arbitrary interference with privacy and therefore there is no limitation on the right to privacy. Therefore, this right is not discussed further in this statement.

Section 20: property rights

Section 20 establishes a right for an individual not to be deprived of his or her property other than in accordance with

law. This right ensures that the institution of property is recognised and acknowledges that the state of Victoria is a market economy that depends on the institution of private property. The right in section 20 of the charter only prohibits a deprivation of property that is carried out other than in accordance with law. This requires that the powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than arbitrary or unclear, and are accessible to the public and formulated precisely.

In the bill, there are a number of provisions which engage the right to property. However, in each instance, the deprivation of property meets the conditions for lawfulness described above and is therefore in accordance with law, as discussed below.

The bill permits an authorised officer under the DFNA act or the livestock act to seize and dispose of an animal the officer reasonably suspects to be abandoned on any private property. The power to seize and dispose of an abandoned animal found on any private premises can only be exercised if certain articulated criteria under the act are met. An officer can impound an animal where the officer reasonably suspects the owner of the animal has absconded and the animal is abandoned and at peril. An officer must leave a notice in writing at the premises or with the occupier at the time of seizing the animal, stating that the animal has been seized and the contact details of the person holding the animal. A further notice must be served under the DFNA act on the owner of the animal within four days of seizure stating that the animal will be disposed of by sale, rehousing arrangements or humane euthanasia if the animal is not reclaimed within 14 days. The provisions permitting the impounding and disposal of animals in these cases are therefore limited and subject to a number of safeguards.

The bill provides that an authorised officer under the DFNA act may seize a dog suspected of being a restricted breed dog, until such time as the breed is determined. This provision is designed to supplement existing restricted breed legislation regulating the ownership and keeping of dogs whose importation into Australia is prohibited under the Customs (Prohibited Imports) Regulations 1956 (commonwealth). An animal will only be seized if the authorised officer has a reasonable belief the dog is a restricted breed. If it is found that the seized dog is not a restricted breed dog, the animal will be returned to its owner, and the owner will not be liable for any costs to council for retaining custody of the dog. Where the dog is found to be a restricted breed dog, the animal may be recovered in limited circumstances or disposed of in accordance with disposal powers under the act.

The bill provides that where an animal is found abandoned, distressed or disabled on private premises, not including a person's dwelling, an inspector under the POCTA act may either immediately seize the animal, or seize the animal within two days of first finding the animal. The inspector must reasonably believe the animal is at risk before immediately seizing the animal and a notice must be served on the owner, stating that the animal may be recovered within 14 days after service of the notice and the contact details of the person holding the animal. Where an animal is found abandoned on private premises, an inspector must leave notice in writing at the premises before seizing the animal, stating that the inspector intends to seize the animal within two days of giving the notice if the animal is not recovered.

The bill provides that an inspector has the power to apply to the court to order the disposal of a seized animal where the owner or person in charge of the animal has been charged with an offence against the POCTA act or regulations, proceedings have commenced against the person for an offence under the act or regulations, where that person has been found guilty for an offence under the act or regulations, or the welfare of the animal is at risk. An order for the disposal of an animal will only be made where the return of the animal to its owner or carer will put the animal's welfare at risk, the person has been found guilty of an offence under the act or regulations, or fails to pay a bond ordered by the court. The disposal of a seized animal will therefore only occur in confined circumstances on a case-by-case basis.

The bill provides that an inspector may dispose of an animal where an animal has been seized under the POCTA act and the owner or person in charge is able to be contacted or a notice of seizure has been sent to their last known address, and that person fails to recover the animal within the specified time. Only if these criteria are satisfied can the inspector dispose of the animal. Further, the costs for maintaining an animal for a full 12-month period can be considerable, and often the council will not have the resources to provide ongoing care.

The bill provides that an authorised officer under the DFNA act, and an inspector under the POCTA act, may seize, retain and dispose of animals and other things in specified circumstances. These powers are mainly existing powers and have been re-enacted to improve the structure of the enforcement powers under the acts. The law clearly articulates the circumstances in which the property may be seized, retained or disposed of. The power to seize an animal or thing may be exercised in such cases where the owner of the animal is guilty of an offence or suspected of committing an offence under the act, the animal is found trespassing, the animal's welfare is at risk, the animal poses a danger to the community, to provide support and care to the animal, or to assist in the investigation of an offence under the act. Further, the power to seize an animal or thing is often exercised under a warrant issued by a magistrate or in emergency situations where an animal is in need of urgent care. The power to retain or dispose of an animal only occurs if certain criteria are satisfied, and includes where court proceedings are on foot, where a veterinary practitioner has certified that the animal should be immediately destroyed, where the owner or person in charge has failed to recover the animal, or where returning the animal places its welfare at risk.

A magistrate may order the forfeiture of seized animals or things to the Crown under the POCTA act. This is an existing power under the act and in accordance with the law. Further, a magistrate may only order the forfeiture of an animal if a person found guilty of an offence under the act or regulations is the owner or person in charge of the animal, or the seized thing was used by a person in connection with an offence against the act or regulations.

The right not to be deprived of property other than in accordance with the law is therefore not limited by the bill. Accordingly, this right is not discussed further in this statement.

Section 25(1): the right to be presumed innocent

Section 25(1) provides that an individual charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

The bill limits this right because it makes section 15A of the POCTA act an 'operator onus' offence under part 6AA of the Road Safety Act 1986. Section 15A of the POCTA act makes it an offence for a person to drive a motor vehicle with a dog travelling unsecured in the tray or trailer of the vehicle. The operator onus enforcement system applies to certain traffic, parking and tolling offences where the identity of the offender is not established at the time the offence is detected. The system provides that the person last known to have possession or control of the vehicle is liable for the offence unless the person can identify another person to whom they had passed control of the vehicle, can demonstrate that the vehicle was stolen or that the next person in the chain of control cannot be identified for a legitimate reason.

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

Section 25(1): the right to be presumed innocent

(a) the nature of the right being limited

The right to be presumed innocent until proven guilty is a fundamental common-law principle and a fundamental value of a free and democratic society based on human dignity, equality and freedom. It requires that the prosecution has the burden of proving that the accused committed the charged offence and must prove all elements of a criminal offence. However the right is not absolute and may be subject to reasonable limitations.

(b) the importance of the purpose of the limitation

Driving a vehicle with an unrestrained dog on an open tray or trailer has a high likelihood of causing an unnecessary serious injury or death to the dog. It can also lead to serious road safety risks for other road users if a dog falls off a vehicle. Society is increasingly concerned with protecting animal welfare and attitudes have changed such that driving a vehicle with an unrestrained dog is generally considered unacceptable by society. Without the proposed utilisation of the operator onus system, it is very difficult for the prosecution to provide evidence as to the driver of the vehicle because the general public or inspector that witnesses the offence often cannot identify the driver and cannot pull the vehicle over.

(c) the nature and the extent of the limitation

A reverse onus provision may undermine the presumption of innocence because there is a risk that an accused can be convicted despite reasonable doubt of his or her guilt. By making section 15A of the POCTA act an 'operator onus' offence, the onus of proof is reversed in respect of the identity of the offender, which is difficult for the prosecution to prove. It is within the knowledge of the person last known to be in possession or control of the vehicle to know who the next person to take possession or control of the vehicle was. If the person can provide sufficient information via a nomination, the onus shifts to the person nominated to disprove that they were in control of the vehicle. A chain of such nominations may be made until a responsible person is identified or until it is established that the identity of the person ultimately responsible cannot be identified. This mechanism minimises the risk that the person last known to be in possession or control of the vehicle can be convicted where there is a reasonable doubt about whether he or she was driving the vehicle. The maximum court penalty for the offence is proposed under the bill to be 10 penalty units, which is at the low end of the scale of penalties and minimises the impact of the limitation.

(d) the relationship between the limitation and its purpose

The use of the operator onus system will significantly improve the ability to enforce this offence and therefore the limitation is strongly aligned to its purpose.

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

There are no less restrictive means reasonably available to achieve the purpose of securing convictions for the offence.

(f) any other relevant factors

The operator onus system is well established in Victoria for vehicle-related offences.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it does limit one human right, the limitation is reasonable and proportionate. The limitation strikes the correct balance by providing the person last known to be in possession or control of the vehicle with the ability to nominate who the next person to take possession or control of the vehicle was.

Hon. T. C. Theophanous. MLC
Minister for Industry and Trade.

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Animals Legislation Amendment (Animal Care) Bill 2007 makes amendments to three acts within the agriculture portfolio: the Domestic (Feral and Nuisance) Animals Act 1994, the Impounding of Livestock Act 1994, and the Prevention of Cruelty to Animals Act 1986.

Firstly, I will speak about the amendments to the Domestic (Feral and Nuisance) Animals Act 1994.

The amendments to the act will improve provisions relating to the administration and enforcement of that act, introduce higher penalties, provide the power to issue infringement notices for certain offences, and provide standards for

permanent identification of horses by microchip implant in Victoria.

The act will be amended to increase the maximum penalty that can be prescribed under the regulations for an infringement notice offence from 2 penalty units to 5 penalty units. Also, the maximum penalty that can be imposed for an offence against the regulations will be increased from 5 penalty units to 10 penalty units. This is consistent with current government policy, particularly in light of the Infringements Act 2006.

A primary purpose of the act is to identify cats and dogs through their registration with local council. Currently, the act provides that owners of a cat or dog must apply for registration or renewal of registration of the animal, a failure to do so resulting in a penalty not exceeding 5 penalty units. Despite its importance, some owners appear to risk being caught breaching this requirement given that it is cheaper to take the risk of paying the occasional low penalty rather than the annual registration fee. The act is therefore to be amended so the penalty is increased to a maximum court penalty of 10 penalty units for non-compliance.

Despite the minor nature of existing offences under the act relating to the permanent identification of cats and dogs, and the displaying of warning signs by owners of dangerous, menacing and restricted breed dogs, these offences can only be enforced by prosecution in court, which is costly and not always appropriate. Similarly, many dog attacks are quite minor in nature, yet such offences can only be prosecuted in court. Therefore, the act is to be amended to provide authorised officers with the power to issue infringement notices for these offences. The bill also increases the penalty for more serious dog attacks to a maximum court penalty of 20 penalty units.

As it stands, there is no head of power under the act to allow for the service of infringement notices for any offence against the regulations. Many of these offences are minor in nature and the cost to the department and local councils to prosecute is significant. It is therefore considered appropriate to include in the act the power to serve an infringement notice by an authorised officer for an offence against the regulations.

In 2003, the government introduced restricted breed dog legislation into Victoria regulating the ownership and keeping of those dogs whose importation into Australia is prohibited under the Commonwealth Customs (Prohibited Imports) Regulations 1956. Currently under the act, an authorised officer of a council may seize a restricted breed dog in certain non-compliance circumstances. To further support compliance with the government's restricted breed legislation, the bill will allow an authorised officer to seize a dog, solely on the basis that the officer reasonably believes the dog is a restricted breed dog, until such time that the breed is determined. This will provide immediate protection for the community and prevent risk of concealment of the dog from further compliance actions.

Although a person cannot own more than two restricted breed dogs under the act, it has been identified that local councils are powerless to restrict the number of restricted breed dogs kept on a single property, unless the council has enacted separate by-laws prohibiting the keeping of excess animals. The act will be amended to make it an offence to keep more than two restricted breed dogs on a single private property, unless a permit to do so is issued by the local council.

Currently the act provides that a person who seizes a dog or cat must deliver it to an authorised officer of the council. Although this is a statutory requirement, it is unenforceable since a person cannot be held liable for breaching this requirement, and people have been known to keep the animal to the detriment of the rightful owner. It is proposed to amend the act so that a penalty may be imposed on a person who fails to return the animal to an authorised officer as soon as is reasonably possible. Further, a magistrate may order the return of the animal.

An authorised officer of the council will have the power under the act to seize a suspected abandoned dog or cat left on private premises, including a person's dwelling. This will allow for councils to deal with situations where previous occupiers or tenants move out of premises, leaving behind their animal without adequate food or care, and the landowner does not have the power to remove or dispose of the abandoned animal. This power to enter private premises can only be exercised at the landowner's or occupier's request.

Breed societies and sport or equestrian horse organisations maintain their own microchip or brand registries. In addition to the Victorian approved registries, there are at least six other horse microchip registries and at least 50 brand registries operating nationally. Local government, DPI and the RSPCA are therefore finding it increasingly difficult to establish ownership of diseased, injured, straying, trespassing or abandoned horses. According to the horse industry, a lack of registry standards has resulted in variability of permanent identification devices, and the inconsistent placement of those devices in horses.

The implantation of microchips in horses provides a permanent identification method that assists in the identification of owners in the event that a horse is diseased, injured, lost or impounded. Additionally, a standardised system of identification of horses and the ability to contact their associated owners in emergency situations, such as the recent equine influenza outbreak in Australia, would assist in facilitating the response to such emergencies.

The act already contains all the necessary elements required for the operation and management of animal microchip registries as well as implanting standards, training competencies, scanning standards, auditing and trace-back operation to locate owners. Part 4A of the act that deals with microchip identification is to be adapted to include horse microchip identification standards. As a result of these amendments, the title of the act will be amended to the Domestic Animals Act 1994.

In order to provide industry, particularly non-veterinary implanters, with proper training and education, and since the Domestic (Feral and Nuisance) Animals Regulations 2005 will also need to be amended, the proposal will come into operation on a day or days to be proclaimed, with a forced commencement of 1 December 2009.

The bill includes some machinery amendments to clarify provisions of the act and their intended meaning. In addition there has been a restructure and amalgamation of the enforcement powers of authorised officers to ensure consistency throughout the legislation.

I will now turn to the amendments to the Impounding of Livestock Act 1994.

It is currently an offence under the act for a person to wilfully permit or cause livestock to trespass. The act is to be amended to allow an authorised officer of the council to issue a notice of objection to the owner or person in charge of an animal, alerting them that the animal has trespassed and must not trespass again. A notice to confine requiring the person to ensure adequate confinement of the animal to the property will also be able to be issued where livestock are not adequately confined to the property. In particular this will allow officers to prevent stock from wandering on roads and prevent putting drivers and the animal itself at risk of an accident. A failure to comply with a notice of objection will result in a penalty not exceeding 20 penalty units, while failure to comply with a notice to confine is subject to a penalty not exceeding 50 penalty units. An authorised officer may, as an alternative, issue an infringement notice.

This bill provides authorised officers of a council with the power to enter any land or building, not including any building occupied as a residence, to impound and care for livestock if they believe it is abandoned. Currently, local councils are powerless to impound livestock that are left abandoned on land, particularly in situations where previous occupiers or tenants have moved out. This power to enter private land can only be exercised at the request of the owner of the land.

An authorised officer of a council may issue an infringement notice where an unauthorised person under the act impounds livestock, or drives livestock from a person's land without proper authority.

The bill introduces the power for an authorised officer of a council or other authorised officer under the act to file charges for an offence under the act, and includes generic regulation-making powers, such as the ability to prescribe forms and fees.

Lastly, I will outline the amendments to the Prevention of Cruelty to Animals Act 1986.

The amendments to the act will increase penalties, improve provisions relating to cruelty offences, inspectors powers and provisions relating to rodeos, as well as enhance the administration and enforcement of the act.

The bill will double penalty levels and introduces corporate penalties for offences relating to cruelty, aggravated cruelty, baiting and luring, trapshooting, trapping, illegal scientific use of animals and rodeos under the act. Also, a contravention of an offence under the regulations will be doubled to 20 penalty units. Corporate penalties have been introduced to allow for appropriate penalties to apply where large corporations commit a cruelty offence. This is a result of the government's pre-election commitment to increase penalty levels for animal cruelty offences.

In order to remedy inconsistencies in the legislation, the bill shifts cruelty-related animal procedures offences such as the tail docking of a dog and firing of a horse, which are currently under the regulations, into the act, alongside similar existing act offences. It also introduces new offences for procedures such as grinding or trimming the teeth of a sheep or removing the claws of a cat or the venom sacs of a reptile, unless performed by a veterinary practitioner for therapeutic purposes. Further, it makes it an offence for the owner of an animal to allow such a prohibited procedure to be performed. A breach of any cruelty offence will be increased to a penalty not exceeding 120 penalty units or imprisonment for 12 months, in the case of a natural person, or 600 penalty units in the case of a body corporate. A penalty of 20 penalty units will also apply for showing or exhibiting an animal or allowing another person to show or exhibit an animal subjected to a prohibited procedure.

The bill will also make it an offence for a person to set, use or sell a trap that is not of a kind prescribed under the regulations, or not set, use or sell a trap in accordance with prescribed conditions. Museums and collectors are exempt from the prohibition of selling traps, provided the traps are sold for collection or display purposes only. Further, the minister will have the power to declare, by order, the areas in Victoria in which prescribed large leg-hold traps may be used. A breach of these offences will result in a penalty not exceeding 240 penalty units or imprisonment for two years, for a natural person, and 1200 penalty units for a body corporate.

The bill makes it an offence to intentionally or recklessly allow an animal with a specified heritable defect to breed or for selling an animal with a specified heritable defect without first advising the new owner. A breach of this offence will result in a penalty not exceeding 60 penalty units, for a natural person, and 300 penalty units for a body corporate. A list of the specified heritable defects and associated species that will constitute an offence is provided in the bill. This list has been prepared in consultation with the Australian Veterinary Association (AVA). These offences improve protection of the welfare of animals.

While it is currently an offence for a person to travel with a dog unsecured on the tray or trailer of a motor vehicle, proving who was driving can be difficult, since the general public or inspector that witnesses the offence often cannot see the driver or pull the vehicle over. The bill makes this offence an 'operator onus' offence under part 6AA of the Road Safety Act 1986. The system provides that an infringement notice is served on the registered owner of the vehicle who can then nominate the person known to have possession or control of the vehicle at the time of the offence. The nominee in turn is liable for the offence unless they can identify another person to whom they had passed control of the vehicle, that the vehicle was stolen or that the next person in the chain of control cannot be identified for a legitimate reason.

Inspectors powers under the act are also to be improved. Inspectors have the power to seize anything they reasonably believe has been used in connection with the commission of an offence under the act. However, since inspectors do not have the power to proactively search for evidentiary materials, they are often refused access to documents, records and other relevant information, thus resulting in a failure to properly investigate alleged offences. The amendment will allow an inspector to apply to a magistrate for the issue of a search warrant allowing the inspector to enter premises, including residential premises and vehicles, and search and take anything described in the warrant, as well as require a person to provide information to an inspector where requested to determine whether an offence against the act has or is about to be committed.

Animals can be abandoned on private land. While currently an inspector may exercise a power to impound an abandoned animal found in a public place, it is proposed to extend this power and allow impoundment of animals found on private property that is not a person's dwelling. The inspector may

immediately seize the animal only if he or she reasonably believes the animal's welfare is at risk. In all other cases, the inspector must leave notice at the premises stating that the animal will be seized within two days of giving the notice, if they are not contacted. Once an animal is seized, a notice must be served on the owner or left at the premises, stating that the animal may be recovered within 14 days after service of the notice.

The act currently provides that where a person has been convicted under the act and the court considers the offence is of a serious nature, the court may order that the person be disqualified from having custody of any animal or class of animal for a period not exceeding five years. The term 'custody' has led to enforcement problems, since a person can technically still be in control or ownership of an animal without necessarily being in custody of the animal. Also, offenders can be repeat offenders, and by previous conviction have demonstrated they are incapable of providing proper care to an animal. However, courts do not have the discretionary power to impose a longer ban period. The act is therefore to be amended so that the court may order that the person be disqualified, subject to any conditions, from being the 'person in charge' as defined under the act, or from having ownership of any animal for a period of up to 10 years. An inspector may also apply to the magistrate to order the seizure and disposal of an animal of a class described in the order.

There are currently limited grounds on which to dispose of a seized animal where the owner or person in charge of an animal has been charged with an offence against the act, where proceedings for an offence against the act have commenced, the person has been found guilty under the act, or the seized animal's welfare is considered to be at risk as the owner has failed to demonstrate he or she is capable of providing the animal with adequate care. The bill will therefore provide greater powers to the court on application by an inspector to order the disposal of an animal in these circumstances, or order that the owner pay a bond or security, or payment of any other identified costs for the animal's care and maintenance during the proceedings. Disposal powers will also be improved in circumstances where the animal has been seized, and the identity of the owner or person in charge of an animal is established and has been notified but fails to recover the animal.

Minor amendments are made to:

narrow the definition of 'animal', which will help achieve national harmonisation on the use of animals in research and teaching;

allow an annual licence to be issued to accredited rodeo operators who operate numerous rodeos annually and thereby reduce the administrative burden;

allow the department head to vary conditions of a rodeo or rodeo school permit or rodeo licence;

provide a new head of power to regulate the conduct of rodeos and operation of rodeo schools;

allow for the delegation of ministerial and department head powers under the regulations, and

extend the statute of limitations period to three years for certain animal cruelty offences.

In addition, the enforcement powers of the act have been rearranged and some minor changes made to ensure consistency and improve the application of these powers throughout the legislation.

I commend the bill to the house.

Debate adjourned on motion of Mr VOGELS (Western Victoria).

Debate adjourned until Thursday, 8 November.

EQUAL OPPORTUNITY AMENDMENT (FAMILY RESPONSIBILITIES) BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Hon. J. M. MADDEN (Minister for Planning) 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 Equal Opportunity Amendment (Family Responsibilities) Bill 2007 (the bill).

In my opinion, the bill, 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 bill amends the Equal Opportunity Act 1995 to provide that an employer, a principal or a firm must not, in relation to work arrangements, unreasonably refuse to accommodate the parental or carer responsibilities of a person offered employment, an employee, a contract worker, a person invited to become a partner in a firm or a partner in a firm. All relevant facts and circumstances must be considered in determining whether a refusal was unreasonable, including the needs of the employer, principal or firm, and the circumstances of the worker who has requested the accommodation.

The bill also clarifies the meaning of discrimination in the Equal Opportunity Act, and makes it discrimination for an employer, principal or firm to contravene the requirement not to unreasonably refuse to accommodate parental or carer responsibilities.

Human rights issues

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

Section 3(1) of the charter defines discrimination to mean discrimination within the meaning of the EO act on the basis

of an attribute set out in that act. This includes the attribute of parental status or status as a carer on which the amendments in the bill are based.

The bill amends the meaning of discrimination in the Equal Opportunity Act to include discrimination constituted by a contravention of the new sections dealing with unreasonable refusals to accommodate (sections 13A, 14A, 15A and 31A) as well as current sections 51 and 52 of the Equal Opportunity Act. This means that discrimination under the charter will now include this wider meaning.

For example, section 8 of the charter provides that everyone has the right to recognition and equality before the law. Under section 8(2), every person has the right to enjoy his or her human rights without discrimination and under section 8(3), every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. With the amendments in the bill, these rights will include not being unreasonably disadvantaged in the workplace because of parental and carer responsibilities. It is noted that section 8(4) of the charter provides that measures taken for the purpose of assisting or advancing persons disadvantaged because of discrimination do not constitute discrimination.

The bill is also compatible with section 17 of the charter, which provides for the protection of families and children. Section 17(2) recognises that families are the fundamental group unit of society and are entitled to be protected by society and the state. Section 17(2) recognises 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.

The bill therefore enhances human rights without limiting them.

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

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

Conclusion

I consider that the bill is compatible with, and does not limit, the human rights protected by the charter.

JUSTIN MADDEN, MLC

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Victorian government has a clear and unequivocal commitment to protecting Victorian families and helping working Victorians find a decent balance between their work and family responsibilities. Parents and carers need to know that they will not be disadvantaged because of their responsibilities, or prevented from fully participating in the workforce.

We particularly recognise the harm WorkChoices is having, and will continue to have, on the ability of Victorian families to pay mortgages, household bills and provide for their children's future.

As we are well aware, WorkChoices has attacked the rights of working families by cutting wages and conditions but also introducing AWAs that even the federal government's own research shows are bad for working families: their own study of individual and collective agreements shows that those on collective arrangements have a much greater chance of having family-friendly provisions.

WorkChoices is an undeniably anti-family policy, which embodies unfairness. For its part, the Victorian government will always stand up for working families, and the Equal Opportunity Amendment (Family Responsibilities) Bill is designed to do exactly that.

The bill amends the Equal Opportunity Act 1995 to provide further protection from discrimination in the workplace to workers with parental and carer responsibilities. As such, the bill enhances the objectives of the Equal Opportunity Act, by promoting recognition and acceptance of everyone's right to equality of opportunity, and eliminating discrimination as far as possible.

The bill does this by providing that an employer, a principal or a firm must not, in relation to work arrangements, unreasonably refuse to accommodate a person's parental or carer responsibilities. New provisions are to be inserted in part 3 of the Equal Opportunity Act setting out this requirement, and the meaning of 'discrimination' is to be amended to make clear that a contravention of the requirement is discriminatory conduct.

The bill includes examples of how a worker's responsibilities might be accommodated. For example, an employer may be able to accommodate an employee's responsibilities by allowing the employee to work from home on a particular morning each week to look after their child, or to reschedule a regular staff meeting so that a part-time employee can attend.

These are, of course, simply examples of possible work arrangements. There may be a number of ways in which an employee's responsibilities might be accommodated, depending on all the circumstances.

The bill seeks to balance the needs of the working parent or carer and the disadvantage suffered by them if their family responsibilities are not accommodated, with the capacity of the employer, principal or firm to accommodate the responsibilities and the impact of doing so. Importantly, the bill only requires an employer, principal or firm to accommodate the responsibilities, where this is reasonable. It does this by providing that a breach will only occur where an employer, principal or firm unreasonably refuses to accommodate the person's parental or carer responsibilities, taking into account all relevant facts and circumstances.

A list of considerations is included in the bill in order to determine whether a refusal is unreasonable. The considerations include:

the nature of the person's work and family responsibilities

the nature and cost of the arrangements required to accommodate the responsibilities

the financial circumstances of the employer, principal or firm

the size and nature of the workplace and the business of the employer, principal or firm

the effect on the workplace of the accommodation, including the financial impact on the business

the consequences for the employer, principal or firm of making the accommodation

the consequences for the person of not making the accommodation.

This list is not exhaustive, and none of these factors are determinative on their own. They are, however, common-sense considerations that aim to encompass the needs of both parties.

Other factors that could be relevant in a particular case might, for example, include when the arrangements are to commence, how long they are to continue for, what information has been provided by the worker in respect of their situation, the accrued entitlements of the worker, and whether there are any legal or other constraints that affect the feasibility of the employer accommodating the responsibilities.

If, for example, a partner working in a firm has asked the firm to work from home on certain days because child-care arrangements are not available on those days, the firm should then ask itself questions such as:

Is the nature of the work such that the partner can work from home?

If the partner is allowed to work from home, will other partners or employees be affected?

Will any of the partner's clients or customers be affected?

How much will it cost the firm to set the partner up to work from home?

can the firm afford this?

if it is not possible to let the partner work from home, what other alternatives might there be?

are there any other relevant considerations such as occupational health and safety issues?

The bill makes it clear that it will be discriminatory for an employer, principal or firm to contravene the requirement not to unreasonably refuse to accommodate parental or carer responsibilities, and a person will be able to make a complaint of discrimination to the Victorian Equal Opportunity and Human Rights Commission about this contravention. The person will not have to separately prove direct or indirect discrimination in making the complaint.

Further practical guidance about these requirements will be provided in guidelines that are to be developed by the Victorian Equal Opportunity and Human Rights Commission, in collaboration with Industrial Relations Victoria, and in consultation with key stakeholders. The guidelines will be available prior to commencement of the bill.

In summary, the bill, and its guidelines, will provide guidance to employers, principals and firms about how to accommodate parental and carer responsibilities. It is well recognised that flexible working arrangements benefit employers, employees and their families and that improving work and family balance is directly related to retaining skilled staff, especially women with family and carer responsibilities. This saves employers recruitment and training costs and ultimately boosts productivity.

The Victorian government has done the maths. Research shows that the real cost of recruiting and training a worker is just over $17 000, which is an extraordinary 38 per cent of an annual salary of $45 000. This is a message that most employers understand: if you operate an organisation with a high turnover in staff, it directly impacts on your budget.

While many employers no doubt endeavour to adopt a flexible approach to working arrangements, there are some employers who are unlikely to accommodate family responsibilities even where it is practicable to do so. It is therefore necessary to take this positive legislative step to ensure that workers with family responsibilities are not disadvantaged in their participation in the workforce.

I commend the bill to the house.

Debate adjourned for Mr P. DAVIS (Eastern Victoria) on motion of Mr Koch.

Debate adjourned until Thursday, 8 November.

PORT SERVICES AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Major Projects) on motion of Hon. J. M. Madden.

Statement of compatibility

Hon J. M. MADDEN (Minister for Planning) 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 Port Services Amendment Bill 2007.

In my opinion, the Port Services Amendment Bill 2007, 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 bill will enact a suite of amendments to:

(a) affirm the powers of the Port of Melbourne Corporation and the Victorian Regional Channels Authority to deposit and place dredged material and undertake works for this purpose;

(b) enable the creation of restricted access areas in respect of which the abovementioned port managers can manage access to facilitate the carrying out of their respective powers or functions and give effect to their objectives. In most situations, these areas will be required to ensure public safety, although other important purposes may be to facilitate security, environmental management, and important activities, works and projects;

(c) clarify the imposition of wharfage and channel fees and increase the flexibility of the Port of Melbourne Corporation and other channel operators to charge channel fees; and

(d) make a range of other unrelated amendments including regarding the auditing of safety and environment management plans, and deregulation of certain non-infrastructure prescribed services.

Human rights issues

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

Section 12: freedom of movement

The proposed part 5A of the Port Services Act 1995 will enable the minister on recommendation of the respective Port of Melbourne Corporation or the Victorian Regional Channels Authority as recommending authorities, to declare that part of port of Melbourne waters or land or port waters of the Victorian Regional Channels Authority, as applicable, are areas to which access is restricted. The minister must not make the declaration unless satisfied that it is necessary for the purposes of the powers or functions and objectives of the recommending authority. It will be an offence for someone who is not authorised, to enter or remain in the restricted access area.

More specifically:

Clause 84 provides that the minister on recommendation of the relevant recommending authority, may declare that:

part of port of Melbourne waters or land, or port waters of the Victorian Regional Channels Authority is an area to which access is restricted; or

when a vessel is in port of Melbourne waters or port waters of the Victorian Regional Channels Authority, that an area within a specified distance of the vessel is an area to which access is restricted.

Clause 84 also provides that the minister must not make the declaration unless satisfied that it is necessary to enable the recommending authority to carry out its powers or functions and give effect to its objectives.

Clause 85 permits the minister to make the declaration so that certain vessels or persons are permitted access or prohibited access.

Clause 88B provides that it is an offence for a person to enter or remain in a restricted access area in contravention of a declaration unless the person is within a category of persons who may be authorised to enter. Various categories of persons will be permitted to enter the restricted access area as follows:

any persons requiring entry who are authorised by the recommending authority to enter. This would include officers, employees or contractors of the recommending authority as authorised by that authority;

a member of the police force;

employees in the public service within the meaning of the Public Administration Act 2004 and officers or employees of public bodies, performing duties or functions under specified legislation.

Clause 88B also provides that it is a defence if the person charged has a reasonable excuse for entering into or remaining in the area.

Clause 88C provides that it is an offence, unless otherwise permitted within the terms of the act, to interfere with/hinder or cause another person to interfere with or hinder activities being carried out by the recommending authority in the restricted access area or the entry into the restricted access area of a person authorised by the recommending authority.

These provisions limit a person's right to move freely within port of Melbourne waters and land or port waters of the Victorian Regional Channels Authority to the extent that a restricted access area is declared over the areas. The provisions limit a person's right to move because they restrict a person's right to enter restricted access areas unless they are permitted to enter or are specifically authorised within the terms of the provisions and as outlined above.

Section 15(2) and (3): freedom of expression

Section 15(2) of the charter gives a person the right of freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside of Victoria in a variety of forms.

The right to freedom of expression encompasses a freedom not to express; to say nothing.

Section 15(3) provides amongst other things that the right may be subject to lawful restrictions reasonably necessary, for instance, for the protection of national security, public order, public health or public morality.

Clause 88D engages the right to freedom of expression by compelling a person to express information or produce documents. It provides that:

(1) a person who is in a restricted access area must, if asked to do so by a member of the police force, give certain details about him or herself or provide certain evidence about his or her authority to be in the area.

(2) a person who is not entitled to enter or remain in a restricted access area without a relevant certificate of authorisation, when asked to do so by a member of the police force, must produce the certificate.

Failure to comply with either of clauses 88D (1) or (2) are offences.

These provisions limit a person's right to freedom of expression.

Section 13(a): privacy

Clause 88D engages, but does not limit, the right to privacy as provided in section 13(a) of the charter.

Clause 88D(1) requires a person who is in a restricted access area, if required to do so by a member of the police force, to give his or her name and address, state the authority under which he or she is entitled to be in the area and provide evidence relating to that authority.

Clause 88D(2) requires a person who is not entitled to enter or remain in a restricted access area without a certificate of authorisation, when asked to do so by a member of the police, to produce the certificate.

The right to privacy 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.

A law will contravene this provision if it interferes with a person's privacy 'unlawfully or arbitrarily'. An interference with privacy will not be 'unlawful' where the interference is permitted by law and where the provisions are precise and circumscribed so that there are not broad discretions in authorising an interference with privacy. An interference with privacy will not be arbitrary where it is in accordance with the provisions, aims and objectives of the charter and is reasonable in the circumstances.

The interferences with privacy outlined above are not unlawful. The power to interfere with privacy will be conferred by statute, and is of confined scope and for a reasonable purpose. The information which must be provided on request of Victoria Police is limited to that information which is reasonably required to assess whether a person is authorised to be in the restricted access area.

Furthermore, the interferences with privacy are not arbitrary. The information which the police may request is limited and the power may only be exercised in precise circumstances.

Therefore, the above provisions do not limit the right to privacy as they do not interfere with privacy either unlawfully or arbitrarily.

Section 20: property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

In the proposed section 88F, a member of the police force may take charge of a vessel and move it to an appropriate place or direct that another person do so if the person in charge of the vessel commits an offence within sight of that member of the police force.

Clause 88F raises the property right because it will permit a member of the police force to take charge of a person's vessel. However, the right is not limited because there is no deprivation of property other than in accordance with law. If the precondition to taking charge of the vessel is met, that is, if a person has committed an offence under the relevant provisions within the sight of the member of the police force, then the deprivation of property will be 'in accordance with law' and will not occur on an arbitrary basis.

Section 25: rights in criminal proceedings

Clause 88D of the bill requires a person who is in a restricted access area to comply with a requirement to provide their name and address and state the authority under which they are in the area and provide any evidence of that authority.

Section 25(2)(k) of the charter provides that a person charged with a criminal offence has the right not to be compelled to testify against himself or to confess guilt. This is a very limited protection of the right to silence as it applies only to persons charged with an offence. At the time the person is required to provide information under clause 88D, he/she will not have been charged with an offence. On this basis, the right in section 25(2)(k) of the charter would have no application. Further, during any criminal proceeding regarding the offence, the court will have a discretion regarding whether information produced under clause 88D is admissible and will exercise its power in a manner compatible with the charter.

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

Section 12: freedom of movement

(a) the nature of the right being limited

An aspect of the right to freedom of movement is that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it. The right is not dependent on any particular purpose or reason for a person wanting to move or stay in a particular place. Under the charter, it may be subject to reasonable limitations that are demonstrably justified.

(b) the importance of the purpose of the limitation

Clause 84 is necessary for the Port of Melbourne Corporation and the Victorian Regional Channels Authority to have clear access to and power to regulate access to their respective waters, and in the case of Port of Melbourne Corporation, its land. This is to enable their respective powers or functions to be carried out in furtherance of their objectives. Clear access and the ability to regulate access may arise in situations of urgency or emergency or in the carriage of activities, such as special projects.

Clear access and the ability to regulate access may not only be necessary to facilitate the particular activity but will in most cases be necessary to protect persons from a safety perspective in the context of a proposed activity or due to safety risks arising from other circumstances.

Examples of where access might be restricted or regulated are:

> where potentially hazardous activities such as capital dredging are to be carried out in port waters or those managed by the Victorian Regional Channels Authority and it is necessary and responsible to restrict access of persons to ensure their safety;
>
> where a large cruise ship is visiting port waters or waters managed by the Victorian Regional Channels Authority and there is public interest in the event, such that persons may seek to come in close proximity to the vessel to observe it;
>
> where a warship is visiting port waters or waters managed by the Victorian Regional Channels Authority and there is public protest to the visit such that persons may seek to obstruct the entry or movement of the vessel in relevant waters.

The offences specified in the proposed division 3 of part 5A, being clauses 88B, 88C and 88D are required to address the safety risk posed by the presence of persons in waters in situations of potential danger, as well as where there might be other risks such as security or environmental risk. In most circumstances, it will not be sufficient that a person who has committed a relevant offence is served with an infringement notice. Particularly in the context of safety risk, it is imperative that persons are moved away from areas that are potentially hazardous.

Clause 88E is required to bring into play additional offences under the Summary Offences Act 1966 to further support the prevention of safety and other risks.

Clause 88F which enables Victoria Police to take or move or direct another person to move a vessel where the person in charge has committed an offence under the proposed provisions, also restricts a person's freedom of movement to the extent persons are in charge of the vessel or on the vessel and are not free to move. The clause is needed to address the safety risk posed by the presence of vessels or persons in vessels in situations of potential danger, as well as other risks such as security and environmental risks. The clause, in conjunction with the power of arrest, for example under the Crimes Act 1958, also is necessary to enable Victoria Police to enforce the requirement not to enter a restricted access area without authority.

(c) the nature and the extent of the limitation

As provided in clause 84(3), declaration of a designated access area may only be made by the minister if the minister is satisfied that the declaration is necessary to enable the recommending authority to carry out its powers or functions and give effect to its objectives. These powers, functions and objectives are set out in the Port Services Act 1995 and consequently access to waters and land cannot be restricted unless necessitated by a statutory purpose.

Clause 86(3) provides that a restricted access area declaration only remains in force for the period specified in the declaration unless revoked earlier, and in any event, is limited to a maximum of no more than 12 months.

In a variety of circumstances, access to restricted access areas will still be permitted and clause 83, in conjunction with clauses 88B and 88C, sets these out. Importantly, the intention is not to restrict public service employees and officers and employees of public bodies in performing duties and functions under relevant legislation and their right to carry out statutory duties and functions in restricted access areas is expressly preserved.

So too, the definition of 'authorised person' in clause 83, in conjunction with clauses 88B and 88C, recognises the right of a member of the police force to enter a restricted access area.

Clause 88G also permits the Port of Melbourne Corporation and the Victorian Regional Channels Authority to permit access to restricted access areas, subject to conditions. Accordingly, there may be circumstances where persons are permitted to enter with appropriate controls or precautions for their safety.

Also, clause 85 permits the minister to make the declaration so that certain vessels or persons or classes of vessels or persons are permitted access (or prohibited access) and so that conditions may be inserted into the declaration so that the prohibition is not all encompassing if circumstances permit this.

(d) the relationship between the limitation and its purpose

The limitations are rationally connected to the purpose they seek to achieve. They establish an effective means by which:

> access to port of Melbourne waters and land, and waters managed by the Victorian Regional Channels Authority is restricted or can be managed through authorisation to facilitate what those recommending authorities need to do in accordance with their statutory purposes;
>
> access to the waters and land in the circumstances above can be restricted or managed as appropriate, to protect persons from safety risk. A safety risk might occur in the context of a proposed activity or project or as a result of an unexpected incident;
>
> safety and other risks can be managed in areas where clear or regulated access to waters is required by Port of Melbourne Corporation or the Victorian Regional Channels Authority (and land in the case of Port of Melbourne Corporation).

Importantly, the restrictions are narrow and focused on the purpose and objectives of the relevant sections of the bill. The restrictions on entering a declared restricted access area are only applicable:

> during the period specified in the restricted access area declaration, which cannot be for more than 12 months; and
>
> in the area specified in the restricted access area declaration, which in the case of an area around a vessel cannot be greater than 1.4 km from the vessel and in the case of a fixed area, cannot be greater than 12 square km.

Further, certain public bodies will be automatically permitted to enter the area in the carriage of their statutory functions and powers and otherwise access may be permitted by the Port of Melbourne Corporation and the Victorian Regional Channels Authority.

In addition, the terms of the declaration may specifically permit (or prohibit) certain vessels or classes of vessel or persons or classes of person to enter the restricted access area. As noted above, conditions may also be inserted into the declaration so that the prohibition is not all encompassing if circumstances permit this.

There may be circumstances where the minister on recommendation of the recommending authority considers that it is entirely safe, appropriate and reasonable for certain access to continue in an area which becomes declared as a restricted access area.

The restrictions by virtue of Victoria Police's powers to take charge and direct the movement of vessels are also narrow and focused as they are limited to circumstances where an offence under the relevant provision has been committed within the sight of a member of the police force.

Accordingly, the restrictions are narrow and focused on the purpose and objectives of the bill and are therefore proportionate.

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

No other means are considered reasonably available to achieve the purpose of the restrictions imposed.

In fact, there are precedents for the creation of zones where freedom of movement is restricted such as:

Commonwealth Maritime Transport and Offshore Facilities Security Act 2003, where a range of maritime security zones can be created and access can be restricted or otherwise managed;

Safety on Public Land Act 2004 (Vic.), where public safety zones can be created in state forests and entry and activities in the zones can be restricted and regulated.

Section 15: freedom of expression

(a) the nature of the right being limited

The freedom of expression is a right of fundamental importance in our society.

(b) the importance of the purpose of the limitation

Section 15 of the charter is engaged and limited because clause 88D compels a person to express information or produce documents. The purpose of the limitation in section 15 is to determine compliance with the act. Victoria Police needs to be able to identify whether a person is validly in a restricted access area or whether an offence has been committed.

(c) the nature and the extent of the limitation

The requirement to provide information is limited to seeking information from persons in a restricted access area seeking a certificate of authorisation from persons who require one to be validly in the restricted access area. Accordingly, the request is not one that can be made arbitrarily.

(d) the relationship between the limitation and its purpose

The limitation is proportionate to achieve effective compliance as the information can only be requested in the limited circumstances referred to in paragraph (c) above. The limitation is also necessary to determine compliance with the act and to facilitate public safety and security and carriage of important objectives, powers and functions of the Port of Melbourne Corporation and the Victorian Regional Channels Authority.

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

No other means are considered reasonably available to achieve the purpose of the restrictions imposed.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because while it does restrict certain human rights, the restrictions are reasonable and demonstrably justifiable in accordance with the criteria set out in section 7(2) of the charter.

Theo Theophanous
Minister for Major Projects

Second reading

Ordered that second-reading speech be incorporated on motion of Hon. J. M. MADDEN (Minister for Planning).

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill makes a number of important amendments to the Port Services Act 1995.

Powers to facilitate dredging

While the Port of Melbourne Corporation and the Victorian Regional Channels Authority are considered to have sufficient powers under the Port Services Act 1995 to undertake dredging activity, there is no express power to 'place' the dredged material. The bill amends the Port Services Act to expressly provide that those operators can place/dispose of dredged material and undertake works for this purpose, and thereby affirms their power to do so.

Restricted access areas

The bill inserts a regime into the Port Services Act whereby restricted access areas can be declared by the Minister for Roads and Ports in the waters of the Port of Melbourne Corporation and the Victorian Regional Channels Authority and on relevant land of the Port of Melbourne Corporation. This is a very important measure designed to facilitate public safety and security and facilitate those operators in carrying out their statutory objectives and functions and powers.

The amendments address a gap identified in the current legislative regime. While there is some power to control and regulate vessels by the director of marine safety and harbourmasters, there are severe limitations on the ability to regulate the access of people, such as divers and swimmers,

unless they have some connection to vessels. The amendment will allow the operators to regulate the access of people (and vessels).

It is the intention that the restricted access areas are not limited to a horizontal space but include vertical space and include the full depth of the relevant waters.

The restricted access areas might be utilised in a variety of circumstances, such as where:

> potentially hazardous activities are to be carried out in port waters and it is necessary and responsible to restrict the access of persons to ensure their safety;
>
> a large cruise ship is visiting port waters or those managed by the Victorian Regional Channels Authority and there is public interest in the event such that persons may seek to come in close, dangerous and disruptive proximity to the vessel to observe it; and
>
> where a warship is visiting port waters or those managed by the Victorian Regional Channels Authority and people seek to obstruct the entry or movement of the vessel in the waters.

In most situations, public safety will be a prime driver for creation of the restricted access areas, although they will also facilitate management of security risk, environmental risk and the carriage of important activities, works and projects in the bay.

The provisions do limit a person's right to freedom of movement but the limitations are necessary and reasonable and justified. The areas cannot be created for more than 12 months (and otherwise would need to be re-declared), and may not be more than 1.4 km from a vessel and 12 square km in a fixed area. Further, they can only be declared where they are necessary to enable the operators to carry out the statutory objectives, functions and powers.

Importantly, statutory bodies (for example, Victoria Police, WorkSafe and the Environment Protection Authority) are not restricted from entering the areas to carry out their statutory functions and powers and the operators can authorise the access of other persons. Additionally, there is enough flexibility in creating the declarations so that they can permit the access of certain persons and vessels where circumstances permit and with appropriate controls.

Wharfage fees and channel fees

A number of technical amendments are made to the charging of wharfage fees and channel fees under part 6A of the Port Services Act to clarify their impost and more properly reflect commercial imperatives and practice.

More particularly, the requirement for ministerial approval of the fees is removed as it duplicates the role of the Essential Services Commission.

The current wharfage provisions restrict Port of Melbourne Corporation's ability to charge wharfage to particular lease sites and were inserted at a time when the economic policy for ports revenue supported the idea that the main source of revenue would be leasing of a port's assets rather than transfer of cargo over its wharves. The bill removes the leasing requirement and reflects how the Port of Melbourne Corporation earns its revenue.

Section 74 is also amended to provide that wharfage can be charged to vessel owners where empty containers are unloaded from vessels. This is not currently covered by the Port Services Act.

The bill also amends section 75 of the Port Services Act so that channel fees can be payable by either or both the owner of the vessel and the owner of the cargo to make the charging regime more flexible.

Removal of price control of certain services

The bill adopts a recommendation of the Essential Services Commission in its final report on the Review of Port Services 2004 by removing certain services from the price control of the commission on the basis that there is little evidence of market power in the services. The services are connection of water and electricity to berthed vessels in Geelong and Portland, and towage in the ports of Geelong, Portland and Hastings. The commission has confirmed that its recommendation stands.

Safety and environment management plans

The bill addresses several omissions identified in the Port Services Act relating to safety and environment management plans.

More particularly, the bill gives the minister the power to vary the time allowed for certification of management plans to cater for situations where there may be reasonable reasons why a port cannot complete an audit within the statutory time frames.

The bill also allows local ports to engage Environment Protection Authority auditors to audit environment management plans, in addition to those auditors approved by the minister. This addresses an oversight in the act.

The bill finally makes it an offence for a port manager not to ensure that a safety management plan or environment management plan is prepared and certified in accordance with the Port Services Act. There is an oversight in the current provisions not making failure to audit plans an offence.

Charter of human rights

In accordance with the review of legislation being undertaken by government departments to ensure that it accords with the Charter of Human Rights and Responsibilities Act 2006, an amendment is being made to section 31(1) of the Port Services Act so that there is consistent treatment of domestic partners with spouses. This addresses an apparent oversight in not making these amendments in 2001 when discrimination based on marital status was removed in various pieces of legislation.

I commend the bill to the house

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

Debate adjourned until Thursday, 8 November.

VICTORIAN WORKERS' WAGES PROTECTION BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) on motion of Hon. J. M. Madden.

ADJOURNMENT

Hon. J. M. MADDEN (Minister for Planning) — I move:

That the house do now adjourn.

Planning: Docklands tower

Mr GUY (Northern Metropolitan) — I raise an issue and seek action from the Minister for Planning in relation to the construction of a new mixed-use tower in Melbourne's newest suburb, Docklands. To be located at 834 Bourke Street on the corner of Merchant Street, the new Merchant tower is planned to be 13 levels and 40 metres high. It is anticipated there will be three levels of shops and offices, followed by 10 more floors of residential units. A number of residents in Docklands have significant concerns with the proposed tower and have organised numerous residents meetings to discuss these issues.

Some of the key concerns are as follows: the nature of a super-high-density apartment block on a small footprint of land, with 181 apartments planned over 10 levels, which will see three-bedroom apartments constructed no more than 100 square metres in size, and some single-occupancy apartments of no more than 50 square metres; the lack of community facilities to accommodate such a large influx of people to this specific part of the Docklands, as it is anticipated that up to 500 people may be accommodated in this small residential tower; the lack of parking associated with the proposed building and lack of parking in this part of Docklands in general, and the ability of that area to accommodate such a large influx of people; and the design and style of the construction, which is out of character with others located around it in Docklands. There are also questions as to whether or not this development fits in with the existing urban character of what is, as I said before, Melbourne's newest suburb.

Residents with whom I have been in contact have also expressed some concerns to me that they were not told of the full extent of the height of the planned Merchant tower when they purchased units in the neighbouring Dock 5 building, which will be significantly shadowed by the construction of the Merchant tower. Some residents are suitably concerned about the lack of ability for objections to be made to the planned tower and, unlike in other suburbs, the lack of ability to provide their views on this neighbouring construction or to have a consultation phase.

There are some serious issues, and I have been made aware of hundreds of people who have objections to and concerns about the proposed construction at 834 Bourke Street. It is not just a small band of objectors; it appears to me certainly to be a large number of people in this new suburb of Docklands who object to the development.

It must be noted that the planning minister, as I am sure he is well aware, is the responsible authority for planning approvals in Docklands, and it is his decision alone to grant the permit to build the Merchant tower at 834 Bourke Street. So tonight I ask the minister to act on the concerns of these hundreds of residents and to fully explain the government's position on the Merchant tower at 834 Bourke Street to date and to advise the residents in Docklands what the government's views are on the concerns raised tonight in this adjournment matter.

Cardinia: municipal classification

Mr HALL (Eastern Victoria) — I wish to raise a matter for the attention of the Premier regarding the classification of Cardinia shire as metropolitan. I am sure the Minister for Planning, who is in the chamber, would also have an interest in this.

On Monday the Leader of The Nationals in the other place, Peter Ryan, and I went to Pakenham to meet with the Cardinia Shire Council. At that meeting we discussed a whole range of issues, one of which was this issue about the classification of Cardinia shire as metropolitan. Cardinia is at the rural-urban interface, and certainly one could argue it is part metropolitan, but I think equally any reasonable person visiting the shire would regard a significant component of it to be rural in its nature, yet for the purpose of a good number of government funding programs it is classified as totally metropolitan.

The council itself would argue that about 30 per cent of the shire could be classified as metropolitan — and that 30 per cent is the growth corridor which extends largely along the Princes Highway as far as Pakenham — but that the other 70 per cent is rural. For example, if you look at places like Bunyip, Nar Nar Goon, Cockatoo,

Longwarry and Koo Wee Rup, it is clear that they are very much rural in their nature.

One of the disadvantages experienced by the shire in respect to this problem is in regard to road funding. As a metropolitan municipality it has to compete with the large metropolitan municipalities and compete against major Melbourne arterial roads for funding, and therefore it does not do as well out of road funding. Because it is a metropolitan shire, it is required to contribute funds on a one-to-one basis for project funding from the Regional Infrastructure Development Fund, whereas if it were classified as a rural municipality, that ratio would be two parts government contribution and one part local council contribution.

Kindergarten funding is another major issue for the shire. There are a number of kindergartens in the shire that are now in jeopardy of being classified as metropolitan and of receiving far less funding. The kindergartens in Longwarry and Koo Wee Rup in particular this year have had to go through a fight to obtain sufficient funding to enable them to continue to run a program. They are not big places, and they are not big kindergartens with big numbers. The other area of disadvantage the council mentioned was in receiving help to attract doctors to some of those areas like Bunyip and Cockatoo. It is unable to access some of the programs run by the commonwealth rural workforce agency to help it attract doctors to the small practices in those towns.

They are some of the disadvantages that Cardinia shire suffers because it has been classified as metropolitan and not country. It did suggest a solution to the parliamentary committee that was inquiring into local economic development in outer suburban areas in September 2006, and it said in its submission that Cardinia should be reclassified as a rural shire or be able to access rural programs. I suggest the real answer is to redefine the urban growth boundary so it just takes in part of the municipality and not the whole of it, so that it can access rural programs for those areas that are truly rural. I ask the Premier to look closely into this matter and to consider those views.

Environment: Cairnlea estate

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is directed to the Minister for Environment and Climate Change, and it is in relation to Steve Daicos, who I have been working with for the past year. Steve was a contractor at the former Albion Explosives Factory site, which is now the Cairnlea estate. I have grave concerns for the health of workers who developed this site and also possibly for the people currently living in the Cairnlea estate.

Mr Daicos fell ill while working at the site. The Environment Protection Authority has shown complete disregard for environmental safety by not following up Mr Daicos's health problems. The EPA requested an opinion from DHS (Department of Human Services) as to whether Mr Daicos's health issues were individual or a public health risk. There was a series of correspondence about this, but all came to a halt in April 2006 when the EPA bungled a request for permission to access Mr Daicos's health files.

The EPA has failed to follow up with Mr Daicos's medical practitioner and has not given the medical practitioner the information he needs in order to form an opinion about whether Mr Daicos's symptoms could have occurred from working at the site. I was amazed to find out last week at a meeting with the EPA that it has not followed up the matter with DHS, even though it has been going on for over 18 months.

My request is that the minister follow the matter up with Mr Daicos's doctor, ask his doctor to obtain Mr Daicos's formal permission to access his health files, request the EPA to provide the doctor with relevant information about the site and take whatever steps are necessary to discover how Mr Daicos became ill and whether his illness is an individual problem or poses a public health concern.

Aboriginals: early childhood development

Ms BROAD (Northern Victoria) — I have a matter for the attention of the Minister for Children and Early Childhood Development in the other place, Maxine Morand. My matter concerns a terrific initiative by the Brumby government to deliver $1.4 million to train more Koori kindergarten teachers as part of a drive to boost kindergarten participation rates for indigenous children across Victoria, including the Northern Victoria Region.

The action I seek from the minister is that she provide information about the steps that eligible Aboriginal students need to take to gain access to this scholarship program. This initiative has been announced by the minister because the Brumby government is committed to ensuring that all children have access to quality early childhood education and care. Fewer Aboriginal children are achieving national benchmarks in reading, writing and numeracy, and Aboriginal children also have lower rates of preschool participation than the general population.

The significant educational difficulties faced by Aboriginal children make the issue of developing and sustaining a high-quality Aboriginal workforce in early childhood education and care particularly important as a strategy for turning around this situation.

As part of the $1.4 million scholarship program announced by the minister, the Brumby government will fund 21 scholarships, and they will be valued at $24 470 each, for Koori early childhood workers to complete early childhood degrees tailored for Aboriginal students at Deakin University's Institute of Koorie Education.

This program will target Aboriginal students who have already completed the diploma in children's services and will provide a pathway to a degree qualification via a further two and a half years of full-time study. At the end of that period graduating teachers will then be qualified to work with children aged 0 to 5 years. I believe this is a terrific initiative by the Brumby government. It will be very welcome to a number of Aboriginal communities in northern Victoria in my electorate, and I would be very pleased to provide further information to eligible students who may wish to take up this opportunity.

Police: Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — I raise a matter on the adjournment debate for the Minister for Police and Emergency Services in the other place. I have become increasingly concerned about the availability of police, police resources and police presence in the Berwick–Pakenham growth corridor and up through the hills, including Cockatoo, Emerald, Gembrook and other such towns. A number of situations have occurred to heighten my concern.

The township of Cockatoo has been experiencing a spate of wanton vandalism and destruction of private property, with the knocking over of letterboxes, graffiti, and the smashing of windows of small businesses and shopfronts for no apparent reason. Unfortunately the police station in Emerald is closed at night-time and therefore police have to come from Pakenham. If that single van from Pakenham is busy at another job in Koo Wee Rup or Lang Lang there are no police available, and of course young people know that. The township of Cockatoo has a lot of challenges. I congratulate the federal government for providing assistance with the installation of closed-circuit TV cameras and other such facilities, but more police are needed in the hills.

Last week I was contacted on a separate matter by a constituent who lives in Berwick. This constituent saw a young man demolish 10 letterboxes. He confronted the young man who was doing the wanton damage and apprehended him. He called the police and waited for the police to arrive, but the police never came. Eventually he had to release the young man. To the best of my knowledge the police have not been able to apprehend this person, and he has got away with these crimes.

Another constituent from the same suburb, Berwick, also contacted me recently and told me that he and his family had moved into the area recently for safety reasons from what was perceived to be a high crime area, and they had been burgled three times in the last 12 months. There is obviously a crisis in the growth corridor and the hills with police resourcing. The lack of police officers, particularly at night-time, very few 24-hour police stations and very few vans on the road is leading to a lot of concern and a lot of crime going undetected. I ask the minister to review the police station opening times and police resources available in the growth corridor and the hills and the number of police vehicles that are available after hours.

The PRESIDENT — Order! I have a concern about the matter raised by Mr O'Donohue because in my view he is asking the minister to do something that he has no real power to do. It is my view that the allocation of police and distribution of police resources and so forth is a matter for police command. On that basis I do not believe it is appropriate to ask the minister to directly allocate those resources or review their distribution. I will give the member the opportunity to rephrase his matter.

Mr O'DONOHUE — Thank you, President, for the opportunity to clarify the matter. The action I seek is for the police minister to review the police resources that are available with a view to increasing those police resources so that the community is adequately protected.

The PRESIDENT — Order! I think that just about gets there.

Students: residential accommodation

Mr ELASMAR (Northern Metropolitan) — I raise a matter for the attention of the Minister for Consumer Affairs in another place concerning residential tenancy issues faced by students living on campuses and in other often informal arrangements.

In my electorate there are large numbers of students, both international and local, studying at universities and TAFEs living on campus in purpose-built student accommodation. However, some students who live on university grounds are not protected by the Residential Tenancies Act. This situation is not ideal, and I urge the minister to take action to improve the residential tenancy regulations covering students. It is important not just for the students themselves but also for the broader community to understand that we as a government provide proper protection.

I know that the minister is deeply committed to getting the balance right between tenants and landlords, and I trust that he will bring a wise and considered approach to the issue of student housing. The action I request is that the minister investigate the residential tenancy issues faced by students and meet with representatives of educational institutions and with students.

Princes Highway: upgrade

Mr KOCH (Western Victoria) — My matter is for the Minister for Roads and Ports in the other place and concerns the deplorable and unsafe condition of the Princes Highway between Geelong and Colac. The Winchelsea and District Tourism and Traders Association wrote to me last week about the tragic loss of life and serious injury to motorists and passengers involved in road accidents along this 70-kilometre stretch of highway leading into south-western Victoria. The contribution of this section of the highway to Victoria's road toll of serious injuries and fatalities clearly warrants its upgrading to dual carriageways.

I refer to a sample of road accidents since May 2005. In May 2005 a pedestrian died when struck by a car just outside Winchelsea; in July two people were killed and one critically injured in a head-on collision at Winchelsea; in May 2006 one man was hospitalised with multiple life-threatening injuries after a crash between his car and a B-double truck near Colac; in June 2006, 18 tourists were injured when the van they were travelling in collided with a car near Colac; again in June 2006 an 87-year-old woman was critically injured; in July 2006 five people were seriously injured after their car careered off the road and down a steep embankment; in October 2006 there was one fatality when a motorcyclist ran into the back of a utility; and in March 2007 two people were seriously injured, one of whom trapped for 80 minutes, after a crash at Buckley.

The list goes on. Motorists travelling on the Princes Highway west of Geelong are already at high risk of injury or death in this high accident zone. The completion of the Geelong ring-road in 2009 will mean that increasing traffic volumes will add to the danger of travelling on this already stressed highway. Local Winchelsea residents and residents of the district are rightly concerned about their safety and the safety of those who pass through their community. The government must commit to doing all it can to make this highway safer. As this issue is a state responsibility, I request that the minister urgently addresses the dangerous condition of the Princes Highway west of Geelong and fund a dual carriageway between Geelong and Colac.

Timber industry: government strategy

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the Treasurer, Mr Lenders, in his capacity as the minister responsible for VicForests. I rise to speak today with some sadness about the loss of 50 jobs that has come about because of the closure of Black Forest Timbers in Woodend. The 33-year-old mill will close on 21 December. As a result of the regional forest agreements supported by the Bracks government and the Brumby government and the strong support of the VicForests auction system by Geoff Howard, the member for Ballarat East in the other place, and Joanne Duncan, the member for Macedon in the other place, Black Forest Timbers has succumbed to the unsustainability of the current timber industry which has been created by this government.

When Wombat forest was closed to logging, Black Forest Timbers sourced timber from eastern Victoria. The mill value-added using timber which would have previously been thought to be an inferior quality. It used microwave technology and produced timber for furniture and flooring. At its opening in 2005 the then Treasurer, John Brumby, commended it and held it up as a shining example. This was highlighted in the document *Moving Forward — Making Provincial Victoria the Best Place to Work, Live and Invest*.

Dianne Tregoning, the chief executive of Black Forest Timbers, and the workers have put up a huge fight to diversify and to work to change because of constantly shifting goal posts imposed on the timber industry by this state government. The final straw came with the implementation of the VicForests auction system, which started off with 58 customers and now has approximately 12. This system has achieved its goal by putting small mills out of business. This government has taken a viable and sustainable timber industry, created duopolies and wiped out jobs in rural Victoria. As an act of even further ignorance this government has supported the cheap importation of rainforest timber and claims environmental superiority.

The action I seek from the minister is that he investigate the impact of the VicForests auction system on the timber industry in Victoria and the relationship between the Labor government policies regarding a sustainable timber industry and the number of jobs lost as a result of those policies.

Equine influenza: Living Legends

Mr VOGELS (Western Victoria) — I raise an issue with the Minister for Agriculture in the other place, Joe Helper, concerning the viability of the Woodlands Historic Park, one of the most historic horse properties in the Southern Hemisphere. It is over 700 hectares in size and it has a total of 400 hectares of natural bushland. It is now also the home of some of the most famous racehorses which have been all group 1 winners. They include Fields of Omagh, Might and Power, Saintly, Better Loosen Up, Brew, Rogan Josh, Doriemus, Sky Heights and Paris Lane. But therein lies the problem.

The historic homestead with its beautiful gardens, picturesque walking tracks and biking trails with abundant wildlife is closed to the public because of EI (equine influenza). This facility is desperately in need of 11 doses of EI vaccine. If those horses are vaccinated, Living Legends can again be open to the public. The Living Legends retirement home for champion horses is a not-for-profit organisation set up by generous donations with the support of Parks Victoria. The home of Living Legends is unique to Victoria — there is no others in Australia — and we must not let it fail.

The action I seek from the minister is to get his department to consult with Dr Andrew Clarke, chief executive officer and chief veterinary officer of Living Legends, to ensure that 11 doses of EI vaccine are made available as soon as possible.

Responses

Hon. J. M. MADDEN (Minister for Planning) — Matthew Guy raised a matter concerning the Merchant tower and associated planning issues. I am happy to give that matter greater inspection and consideration so I can monitor the processes of it within my department. I also look forward to making any relevant decisions or assessments in relation to that project.

Peter Hall raised the matter of the Cardinia shire being classified as a metropolitan municipality. I will refer that matter to the Premier.

Colleen Hartland raised a matter regarding the Cairnlea Estate and the health problems of a particular constituent. I will refer that matter to the Minister for Environment and Climate Change.

Candy Broad raised a matter regarding a scholarship program for Aboriginal children. I will forward that matter to the Minister for Children and Early Childhood Development in the other place.

Edward O'Donohue raised an issue with regard to the Berwick–Pakenham growth corridor and police resourcing matters. I will refer that matter to the Minister for Police and Emergency Services in the other place.

Nazih Elasmar raised a matter regarding residential campus issues and residential tenancies. I will refer that matter to the Minister for Consumer Affairs in the other place.

David Koch raised a matter concerning the duplication of the highway between Geelong and Colac. I will refer that matter to the Minister for Roads and Ports in the other place.

Donna Petrovich raised a matter concerning Black Forest Timbers and VicForests. I will refer that matter to the Treasurer.

John Vogels raised a matter concerning Woodlands Historic Park. I will refer that matter to the Minister for Agriculture in the other place.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 5.01 p.m. until Tuesday, 20 November.