PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 23 August 2007

(Extract from book 12)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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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 Viney.

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, Mr Finn and Mr Hall. (*Assembly*): 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 Scheffer and Mr Somyurek. (*Assembly*): Ms Beattie, Mr Dixon, 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

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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, 23 AUGUST 2007

Thursday, 23 August 2007

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

ABSENCE OF CLERK

The PRESIDENT — Order! As a matter of interest, unfortunately the Clerk is ill and is away today. We wish him well and a speedy recovery.

LAND (REVOCATION OF RESERVATIONS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Minister for Environment and Climate Change).

PAPERS

Laid on table by Deputy Clerk:

Auditor-General's Office — Report, 2006–07

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 18 September 2007.

Motion agreed to.

MEMBERS STATEMENTS

Urban Development Institute of Australia: awards

Mr GUY (Northern Metropolitan) — I wish to inform the house about the recent Urban Development Institute of Australia's annual dinner and awards presentation that I attended on Friday, 7 August, at the Crown entertainment complex. The UDIA's peak annual event here in Victoria was exceptionally well organised and was attended by over 700 guests. It featured a very large silent auction, the profits of which will go to the Ardoch Youth Foundation.

The UDIA aims to promote the urban development industry with an emphasis on sustainable development. It also is exceptionally vocal and influential in its dealings with government decisions that impact on the industry here in Victoria and interstate. The institute has a number of committees that focus on specific elements of the urban development industry, such as Outlook, which focuses on younger members of the industry, and of course Women in Property, the name of which is self-explanatory.

At the dinner three awards were handed out to deserving recipients; two were presented by the minister. I congratulate those who won. The first award, distinguished service award, went to the long-time UDIA director and treasurer, Peter McBride; the Raymond J. Peck award went to the former president of the Victorian Civil and Administrative Tribunal, former Justice Stuart Morris; and the third award, which was the outlook@udiavic Young Professional award, went to Olivia Christie.

The UDIA does a terrific job: it is bipartisan, it is active and its staff does a great job. Full credit must go to the Victorian president, Steve Copland, and Victorian executive director, Tony De Domenico, and his staff for putting on a terrific night and for their continuing good work for the urban development industry here in Victoria.

Alice Pung

Ms HARTLAND (Western Metropolitan) — I will use my statement today to talk about the fantastic festival I went to sponsored by the Maribyrnong City Council. I was able to hear Alice Pung speaking about her book, *Unpolished Gem*. Alice has written a funny, truthful book about growing up as the child of Cambodian refugees in Maidstone. I particularly enjoyed her references to the Footscray market when her father first tried to go shopping there, trying to talk to the Greek, Italian and Macedonian stallholders in a combination English-Cambodian language.

As a former Outreach worker, one of the other things I like about her book is that she describes the many interesting characters in Footscray. Recently we received a letter asking us to nominate women for the honour roll, and I intend to put Alice Pung's name forward as a good example of someone who has grown up in the western suburbs, who has come from a refugee background, who is a lawyer and who continually helps her community and her parents.

Gippsland Water Factory: establishment

Mr SCHEFFER (Eastern Victoria) — I congratulate the Gippsland Water Factory and the Gippsland Water Factory Alliance on the construction of the Gippsland Water Factory and the progress made so far during the construction phase of the project at Maryvale in the Latrobe Valley.

I had the great pleasure of visiting the water factory with Premier Brumby and Matt Viney on Thursday last week to see for myself what is the largest industrial recycling project in Victoria. The project is an innovative wastewater treatment and recycling system that will treat up to 35 million litres of domestic and industrial wastewater each day.

Australian Paper is the first customer for the recycled water that is being produced at the Gippsland Water Factory. Each day up to 8 million litres of high-quality, recycled water will be made available to Australian Paper to use in its operations. The Gippsland Water Factory project will remove all raw sewage from one of the last open sewer channels in Australia, reducing the rather bad sulphur dioxide smells. The Gippsland Water Factory will be a major asset for large parts of the Latrobe Valley and can secure water supplies, support economic growth and improve the environment.

I congratulate Pam Keating, acting chair, Gippsland Water Board; John Mitchell, managing director, Gippsland Water Board; Jeff Schwisow, project manager, Gippsland Water Factory Alliance; and all the many individuals and organisations involved in the project. This is a very significant initiative, and I congratulate everyone concerned.

National Water Sports Centre: funding

Mrs PEULICH (South Eastern Metropolitan) — I would like to draw a matter to the attention of the new Minister for Environment and Climate Change. It is a matter I have raised in this house before concerning the state of the National Water Sports Centre in Carrum. I have recently received a very short petition calling on the minister, through Parks Victoria, for which he has responsibility, to ensure that the facility is adequately maintained and to address some fairly urgent safety needs faced by current users, as well as to resurrect and develop a plan for the future for this potentially significant facility which has neither been completed nor is adequately maintained.

I have written to all the users, including all the local councils, and they agree this is something that needs to be done. However, they point out that they do not have the capacity nor the funds to take responsibility for the project and have asked me to take this matter up with the minister and Parks Victoria.

The centre is in a high-growth area. It has bike and walking tracks and picnic facilities and is used for passive recreation. Water sports are on the increase, and EastLink will make the centre more accessible to the rest of Melbourne. Adjoining municipalities support its redevelopment. There is no other facility of this type in Melbourne. The original master plan has been left on the shelf and forgotten. The Victorian Institute of Sport uses the facility. The amount provided for maintenance currently is only $14 000 a year, which is grossly inadequate. With the Patterson River flowing from the eastern treatment plant through the National Water Sports Centre, unless the state government reviews the master plan for this significant facility — —

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

Bentleigh Bayside Community Health Service: problem gambling services

Mr SOMYUREK (South Eastern Metropolitan) — I rise to commend the state government for allocating $1.7 million in funding for problem gambling services in the southern region. The Bentleigh Bayside Community Health Service will receive more than $1.7 million in 2007–08, a 13 per cent increase from the previous year, to provide problem gambling services in 12 locations within the local government areas of Port Phillip, Stonnington, Bayside, Glen Eira, Kingston, Greater Dandenong, Casey, Cardinia, Frankston and the Mornington Peninsula. Most of these municipalities are located within my electorate. This funding is allocated as part of the Brumby government's $132.3 million five-year strategy Taking Action on Problem Gambling, the most comprehensive problem gambling strategy being implemented in Australia.

Taking Action on Problem Gambling includes initiatives to raise awareness of problem gambling and its impacts and to improve the health and wellbeing of people affected by gambling. There are many great examples of initiatives being developed through collaboration between government and the community. Problem gambling counsellors in the southern region are reaching out to youth, culturally and linguistically diverse communities and isolated older people and have also developed a specialised Cambodian women's program in Springvale. A significant number of the clients in the southern region are from Asian communities in Dandenong and Springvale, which is

why the community health centre has a community education worker fluent in Cambodian to head up this specialised program.

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

Automotive industry: industrial action

Mr D. DAVIS (Southern Metropolitan) — Members of the chamber will be aware that a number of large manufacturing concerns, Ford and perhaps Holden, are in the process of standing down many workers, including up to 2000 workers at the Ford plant in Broadmeadows. This follows a decision by 500 staff at Venture Industries, who I am informed are expected to strike today.

This is a very concerning matter because of its impact. If unions have legitimate concerns, they should be resolved by cooperation, negotiation and legal means. Strike action should be a very last resort. I want the Minister for Industry and Trade to come into the chamber today and give an account of what is occurring. This will have a very serious impact on the motor industry at a particularly critical time.

Honourable members interjecting.

Mr D. DAVIS — I have to say that the minister has a habit of going missing recently. A number of people here were at the farewell dinner for Mr Coulson at the Victorian Employers Chamber of Commerce and Industry the other night. One person who was not in attendance was the industry minister. His card was left — —

Honourable members interjecting.

Mr D. DAVIS — Mr Theophanous could not be bothered attending. I do not know what he was doing on the night, but I would have thought that given the long period Neil Coulson spent in that job it would have been important for him to attend. Certainly a wide range of the people from across the political parties attended. I call on the industry minister to give to the chamber today an account of what is occurring.

Liberal Party: economic policies

Mr THORNLEY (Southern Metropolitan) — A little while back I spoke in the budget debate about the new science of Torynomics. I have now discovered that, whilst the state Liberal Party is committed to Torynomics, the federal Liberal Party is committed to Textornomics. Textornomics involves the following: change your economic policy every week depending on what you learn about how people are thinking about things. One in the distant past of about a week ago really springs to mind, and some members may recall it.

About a week ago everybody opposite was blaming state Labor government infrastructure investments for the rise in interest rates. There was only one problem with that line: no-one bought it. Not a single economist, not a single business leader and not a single journalist bought it — no-one bought it. Have we heard about it during the past week? No. It has gone. It has disappeared because it was nonsense. It was nonsense that came out of some focus groups that said, 'Geez, the only play you've got left, guys, is to blame the unions and the states because you've got nothing else going for you'. So the federal government tried to blame the states for interest rate rises and nobody bought it. This week we had not heard of it. Textornomics is a very innovative system; it moves and changes very quickly.

Then they said, 'Well, we've got to blame IR. You see, if you elect the Labor Party, interest rates are going to go up'. Then Mr Swan said, 'Gee, that's funny, we've had four interest rate rises since the introduction of WorkChoices. So that's been a fantastic brake on inflation; it's been a fantastic support for interest rates'. For as long as the federal Liberal Party drives its economic policy on week-by-week qualitative research —

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

Mr THORNLEY — we will have this sort of nonsense.

The PRESIDENT — Order! When I tell Mr Thornley that his time has expired, it has expired. That means he should sit down.

Employment: regional skills stores

Ms BROAD (Northern Victoria) — I wish to welcome today a $23 million initiative to encourage Victorians to undertake further education and training, recognise existing skills and help employers meet emerging skill needs. An important part of this initiative is the regional skills stores which were recently launched.

This is a great initiative, where people can literally walk in off the street into one of these skills stores and get free expert advice about their current skills and future skills development options and training they need to turn their skills into qualifications. It will also help businesses identify training needs and solutions for their workforces as well as assist school leavers.

I am particularly pleased that one of the two first regional skills stores will service the Goulburn–Ovens area, and in 2008 the seven other regions that will be recipients of this initiative will include Bendigo, Wodonga and Sunraysia. It is a terrific initiative which will help sustain the strong performance of employment growth in regional Victoria, where we have seen employment grow by 4.4 per cent over the year ending in the July quarter.

Australian Football League: priority draft picks

Mr PAKULA (Western Metropolitan) — For a bit of levity I am back on the footy, because I found this week a bit disturbing. As a Carlton supporter, I have never really recovered from Neale Daniher kicking three goals in time-on in 1981 to beat us by a point. Through the hoodoo and the Sheedy years, like all Carlton supporters, I have maintained a healthy and passionate dislike for the Essendon Football Club.

But with a priority draft pick on offer if Carlton does not win another game, something terrible has happened. Judging by talkback radio, I and thousands of other Carlton supporters watched the Carlton versus Essendon game this week secretly and shamefully hoping for an Essendon victory.

Honourable members interjecting.

Mr PAKULA — In fact, Mr O'Donohue and I share a friend — let us call him Adam Portelli — who is a mad Carlton supporter. He sent me a text message after the game saying, 'Phew, that was close'. Not only that, some Essendon supporters hoped Carlton would win simply from spite. And I believe Mr Finn and you, President, as supporters of Richmond, the other likely beneficiary of a Carlton victory, were also hoping for Carlton to win.

I do not have a solution to the priority pick conundrum, and I would be happy if we got two of the three best teenagers in the land, but when Carlton supporters want to lose to Essendon and when Essendon supporters want to lose to Carlton and when Richmond supporters are singing *Lily of Laguna*, something is awfully wrong. The football world has been turned on its head, and I for one feel very, very uncomfortable.

Children: Young Readers program

Mr EIDEH (Western Metropolitan) — The state Labor government has announced a significant new initiative in the area of learning. As from 2008, 45 000 books will be given to parents to encourage them to read to their young children. This initiative is aimed at children long before they enter school and before they enter kindergarten. It is designed to encourage parents to read to their children and has a number of benefits, including building deeper bonds within families, allowing parents to better understand the learning process and encouraging their children to read. Similar programs overseas have proven to be a great success.

This initiative recognises that learning begins at home, within the family, and so acknowledges the key role that parents play in inspiring and motivating their children to learn. It also recognises the key role that literacy plays in our lives and how a strong background in literacy is essential to future learning, education and greater career opportunities.

I am further proud of the fact that the books will be chosen by our state library from amongst the great works by Australian authors. This is a part of the relationship that the state Labor government wishes to foster with libraries to promote Australian authors. I am very pleased that parents and children in my electorate and indeed across Victoria will benefit from this program.

Penshurst Football Netball Club: facilities

Ms TIERNEY (Western Victoria) — On 4 August, along with hundreds of other country football fans, I enjoyed a very entertaining football match between Penshurst and Woorndoo. My colleague for Western Victoria Region, David Koch, was also present. We then opened the new amenity facilities at the Penshurst Football Netball Club.

The $67 000 amenity room redevelopment was able to be built after funding was secured from the state government, Southern Grampians Shire Council and local community cash contributions. The redevelopment has increased the toilet and shower capacity and enhanced the venue, which will hopefully result in an influx of members, whether they be players, volunteer medical staff or sports trainers committing to the club. The passion, sense of identity and communalism that was brought to the club by its supporters was obvious to me as I watched the game.

Sports and sporting clubs in rural areas enable all members of a community to have a common bond, whether it be as a player, a spectator or an administrator. In good times and bad it is often sport that helps keep the heart in country towns across this state, and this funding encourages people to get involved in sport and stay connected to their communities. Thus it is crucial to be vigorous in

campaigning for the wellbeing of sports in rural Victoria. A commitment to this area continues to be a priority of this government of which I am proud to be a member.

Smoking: bans

Mr DRUM (Northern Victoria) — It was with great amazement yesterday that I read the Quit Victoria organisation was looking for legislation to ban cigarette smoking by minors in Victoria. I have had previous conversations with Quit, as have other members of The Nationals — and we have been sternly advised that this course of action would in fact be contrary to antismoking programs currently in place. Over the past two years we have been compiling data from around the world in relation to smoking laws, and in particular the purchase, use or possession (PUP) laws that exist in the United States of America. The PUP laws are designed to put the emphasis back on youth who are endangering their health by smoking.

The Nationals will be holding regional forums in the near future to gather public views on this very serious health issue. We will be compiling a discussion paper on the issue which will hopefully give us a clear direction as to where we should be going on laws relating to minors and smoking.

The work we have been doing over the past couple of years has identified that while the existing programs that have been put in place by Quit are having a small impact on minors and their smoking take-up rates, that impact has been insufficient. We still have a situation where too many young boys and girls in Victoria are in effect endangering their long-term health by continuing to take up smoking. This is still one of the great killers in our society.

STATEMENTS ON REPORTS AND PAPERS

Auditor-General: *Promoting Better Health through Healthy Eating and Physical Activity*

Mr O'DONOHUE (Eastern Victoria) — This morning I am pleased to make a contribution on the Victorian Auditor-General's report dated June 2007 and entitled *Promoting Better Health through Healthy Eating and Physical Activity*. I would like to start by quoting from the report's executive summary. It states:

> The number of Victorians living with diabetes increased by 77 per cent between 2001 and 2006 driven by the additional 68 000 people diagnosed with type 2 diabetes. Hospital admissions for diabetes complications have more than doubled over the same period. The direct, annual health costs of diabetes in Victoria rose from $361 million in 2001 to $637 million in 2006. On current trends, costs will exceed $1 billion by 2015.

In the conclusions it further states:

> However, to date, the combined efforts of government have not significantly slowed the increase in obesity underpinning the rise in preventable chronic diseases such as type 2 diabetes.
>
> This audit found some gaps and weaknesses in the current approach to promoting healthy eating and physical activity.

The audit found a need to strengthen:

> the evidence base used to guide and refine the state's investment
>
> the planning and coordination of programs across government.

We obviously have a significant health issue in Victoria with the rise of obesity and consequential rise in diabetes, particularly type 2 diabetes.

I quote from a response by the chief executive officer of the Shire of Macedon Ranges. It says:

> … as our community health colleagues have identified, the resources available to agencies in the shire for health promotion activities are minimal, and make it difficult to adequately address many of the priorities identified in health planning.

It continues:

> Funds for programs based in Bendigo but ostensibly targeted at the wider regional (Loddon Mallee) population rarely find their way to outlying shires like ours. Health promotion associated with women's health would be a prime example of this. Similarly, small project funds such as Go for Your Life are diluted even further when distributed via primary care partnerships to participating local government areas.

Those comments echo the experiences I have had when touring around the Eastern Victoria Region. It is sad that in country regions, and indeed in interface regions, school completion rates are lower than in metropolitan areas. There is a direct correlation between socioeconomic status and obesity, and consequently type 2 diabetes. It goes back to the fact that students in outlying parts of Melbourne and country areas are not completing school or progressing to post-secondary, tertiary or other studies. Those people are more susceptible to obesity, and therefore to type 2 diabetes. It is concerning that the state is not doing more to address school completion rates.

I found from my visits to schools in eastern Victoria that physical education is not widely available as a subject in some schools, that school sports are not supported by some schools and the department and that inactivity is not being addressed. The underlying issue

appears to be educational opportunities and the promotion of physical activity. Healthy eating is one side of the equation, but a healthy lifestyle and understanding the importance of physical activity is also very important. A lot more could be done to promote physical activity. That requires resources from the state government, resources that I do not think the government is providing.

I also note that the cost of the audit that produced this report was $715 000. Whilst I understand that these reports cost money, I have to question whether some of that money could have been better spent in promoting sport or providing sporting facilities for school students to get them exercising and being active, which is what should be promoted and what this is all about.

Victorian Electoral Commission: report to Parliament on the 2006 Victorian state election

Mr BARBER (Northern Metropolitan) — I wish to speak on the Victorian Electoral Commission's report on the administration of the recent state election. I know all members have received this report, but I am not sure how many of them have read as far as page 97, where the VEC has produced an interesting section showing the results of what it called the how-to-vote card conformity survey, tracking how many voters from each political party followed their party's how-to-vote card exactly.

The findings of the survey are that supporters of the major parties — Labor, Liberal and The Nationals — tended to conform most with the how-to-vote cards from their party. The strongest conformists were Labor voters in Northcote — there are still a few of those — at 58.2 per cent, followed closely by Liberal voters in Shepparton at 57.9 per cent. Overall 49 per cent of Labor voters followed the ALP how-to-vote cards; 45.7 per cent of Liberal voters followed the Liberal cards; and 47.8 per cent of The Nationals voters followed The Nationals cards. Voters for smaller parties were less inclined to follow how-to-vote cards. Less than one-third of Greens voters voted according to the Greens cards, 20.8 per cent of Family First voters followed Family First cards, and the figure for People Power voters is only 11.8 per cent, which makes you wonder — why would you want to do a preference deal with Family First, as Labor did at the last federal election and which it seems to be lining itself up to do again in the next federal election?

About 20 per cent of Family First voters follow the card, but Family First is only getting about 2 per cent of the vote overall, which makes it a pretty small prize for Mr S. Newnham to achieve down there, whereas the Greens, on 8 per cent of the vote, are finding that at least 30 per cent of their voters follow the how-to-vote card.

The Labor Party, as we know, gets extraordinarily excited when the Greens put out a how-to-vote card that simply says, 'Make up your own mind'. It is an absolute offence against everything that Labor stands for that voters might get to make up their own minds and fill in seven boxes according to their choices. There are all sorts of conspiracy theories getting thrown around every time the Greens simply put out a card saying, 'Here it is, vote Green, and fill in your own choices'.

My view is we should ban how-to-vote cards. We could get rid of all this in one go. Tasmanians have done it. We Victorians are at least as smart as Tasmanians. I am pretty sure the Victorian electorate could cope with filling in five boxes without assistance from any of our respective party machines. We should ban how-to-vote cards and, like in the Australian Capital Territory and Tasmania, introduce the Robson Rotation, which is the fairest system in the world, and we would be rid of this problem. We would also be rid of the problem of Family First, because it would not have been in the Parliament without the assistance of Labor's preferences.

Hopefully that situation will not arise again; if it did, it would be a great shame. Labor voters — and for that matter the people who hand out Labor tickets seem to be very inclined to fill in the boxes below the line — will be deeply concerned if they think their vote is being taken off them and given to Family First, especially, I am pretty sure, in the sense of policy alignment. Family First's policy includes banning abortion — not just limiting it, but banning it — and abolishing student unions. Effectively we have lost student unions here in Victoria and across the rest of Australia. That act was written and authorised by S. Newnham when he gave his preferences to Family First. Whether we get them back under Mr Rudd and Mr Brumby remains to be seen. Importantly, in relation to the ripping up of WorkChoices, we cannot afford to have Family First with the balance of power in the Senate if we are to achieve that in the next term.

Auditor-General: *Promoting Better Health through Healthy Eating and Physical Activity*

Mr THORNLEY (Southern Metropolitan) — I rise to speak on the Victorian Auditor-General's report *Promoting Better Health through Healthy Eating and Physical Activity* of June 2007. This report, as has been outlined by previous speakers, deals in particular with

the challenges of chronic disease around type 2 diabetes, and it has been a matter of great priority for this government that this very important and rapidly growing problem is addressed.

I do not think it is appropriate to speak about what is in the report without putting it within the broader context of what we have been doing under the national reform agenda and what the commonwealth government's response to that has been. We recognised very early on that the reason people have been talking about type 2 diabetes as a big problem for a decade but very little successful action has been taken is that it requires not only significantly increased resources but coordinated activity across all levels of government.

Mr O'Donohue mentioned some of the commentary by the Macedon Ranges Shire Council and other local government bodies, and they need to be and will be an important part of an integrated program — as does state government and as does federal government. Two years ago the state of Victoria led the nation in campaigning to have this as a top national priority, in reaching agreement with all the states and the commonwealth that it would be a top national priority and in getting agreement that each jurisdiction would bring its part of the plan to the Council of Australian Governments meeting in April 2007 so we could have an integrated response — so we could have the commonwealth help to drive the diagnostic work through the GPs, so we could have the states help to drive the fitness programs through the schools, so we could have local government and state government driving community activity and so we could integrate the programs for at-risk people in their workplaces through the commonwealth.

We needed operational cooperation, and up until April 2007 all levels of government, every newspaper in this country, the Business Council of Australia, the Productivity Commission and everybody else agreed that that was the way we would finally break the back of this problem and address it seriously. The states brought forward their very detailed operational plans dealing with primary prevention, early protection and intervention and better care once people have the disease — those very detailed and integrated plans and recommendations for a commonwealth response — and the commonwealth showed up but a dog ate its homework. It delivered a blank page, not an operating plan. There was nothing there.

The states came forward and said they were willing to put in excess of $1 billion on the table to address these plans. They had the operational component that they needed to integrate with the commonwealth and local governments. They needed to fund it, and they had $1 billion to fund it. The Productivity Commission did the assessment of how much should be put in by the state and federal governments. It came out with a ratio of about 60:40 federal to state as the appropriate contribution, given the long-term return on these investments in human capital. And the commonwealth government delivered a blank page. When that looked a bit too shabby it threw out a paltry $100 million and said, 'That is our contribution, now get about your business'. There was no operating cooperation and not even a 10th of the commitment that had been made by the states. Its own Productivity Commission said it should have put in 50 per cent more than the states.

Four months later Textornomics provided $50 million for one hospital in one seat in north-west Tasmania — half as much as the commonwealth government committed to the biggest chronic disease issue in this country. It provided no operating commitment and just a paltry $100 million on the table. It walked away from its public commitments. It walked away from the Productivity Commission. It walked away from the business council, which is concerned about workforce participation and the impact type 2 diabetes has in taking people out of the workforce.

Mr O'Donohue also raised the issue of retention rates in schools and the interaction between socioeconomic status and chronic disease, in particular type 2 diabetes. I am glad he did this because I think he has raised a very important point. I note that under the Hawke and Keating governments the greatest economic reform in the history of this country was improving high school retention rates from 33 per cent to 75 per cent over a 12-year period. What has the Howard government done since then? Nothing. It has completely flatlined it. However, there was a solution.

One of the biggest causes of people leaving high school is literacy and numeracy problems. We agreed to a national reform agenda that not only tackled type 2 diabetes but which tackled literacy and numeracy. The commonwealth agreed to it, the Productivity Commission assessed it and the business council supported it. What happened? We showed up in April 2007 and Textor said the commonwealth government could not cooperate with the states, it had to blame them. What happened? How much money did it put into literacy and numeracy? A doughnut, zero, nothing. Mr O'Donohue comes here to complain about high school retention rates when he comes from the party that has the most disgraceful record when it comes to high school retention rates in this country.

Auditor-General: *Promoting Better Health through Healthy Eating and Physical Activity*

Mrs KRONBERG (Eastern Metropolitan) — I also want to make a contribution on the Victorian Auditor-General's report of June 2007.

Mr Dalla-Riva — But you will talk about state issues.

Mrs KRONBERG — Yes, I will concentrate on state issues, my learned colleague. The report is headed *Promoting Better Health through Healthy Eating and Physical Activity*. In continuing my report on this chronic health issue I feel it is vital to bring to the Parliament the messages of specialists in childhood obesity. I have some facts that were given to me by obesity experts at the Murdoch Children's Research Institute just a couple of weeks ago. The facts are that Australian children are fatter and less fit than they have ever been. There are 1.1 million Victorian children aged between 2 years and 18 years. Of these children, 22 000 are described as seriously obese, 33 000 are described as obese, 220 000 are described as overweight and 830 000 are normal — but 10 000 of them are moving up into being overweight each year. We all know that obese children are likely to become obese adults and will therefore live lives of illness, sadness, perhaps depression, and they will contribute directly to the rising health costs. From here on in prevention is the key word. However, there needs to be a commitment to effective treatment for those who are already obese. The state government needs to term this a funding priority.

Looking at some of the elements of the Auditor-General's report we see that there is a continuation of the theme established in my previous report. When it comes to public health promotion for local communities, the fundamental problem is a lack of coordinated planning at a state level. I have to say to my colleague Mr Thornley that this is one time you cannot flick pass this to the federal government. Accordingly, a joint commonwealth-state plan has been proposed. This is critical in light of the findings of Hesketh et al for the Centre for Community Child Health at the Murdoch Children's Research Institute and the University of Melbourne at the Royal Children's Hospital. In their study entitled *Healthy Eating, Activity and Obesity Prevention — A Qualitative Study of Parent and Child Perceptions in Australia* they found that:

> … contradictions in messages children receive were reported to be a barrier to a healthy lifestyle … Contradictions in the explicit and implicit messages children receive around diet and physical activity need to be prevented. Consistent promotion of healthy food and activity choices across settings is core to population prevention programs for childhood obesity.

I recommend this study to the state government. I urge its members to read it today.

The Auditor General's report goes on to emphasise that current funding models limit the ability of agencies to properly plan for, coordinate and sustain health promotion programs. This flies in the face of what is recommended in the study I mentioned previously. Furthermore, program evaluations themselves simply do not provide enough information to determine whether plans have been effective — more of this government flying blind or putting its head in the sand. The report also found that when it comes to the planning and delivery of health promotion, whilst local agencies had adopted a planning framework, the extent to which this had been applied as a shared and coordinated approach varied. However, councils such as Whitehorse, Whittlesea and Macedon Ranges are to be applauded for their structured and comprehensive approach to consulting across council and the wider community. This proves it can be done.

The challenges of integrating health promotion into community health service delivery include determining just what the incorporation of a health promotion role meant for the day-to-day activities of a range of health professionals. That seems to be almost a no-brainer. Helping these professionals to understand their health promotion role and how this should be incorporated within their existing work practices is something that could probably be solved in a couple of hours. Other challenges include equipping staff with the skills to exercise their expanded role; deciding how to effectively allocate the health promotion budget across a range of areas including staff training, integrating health promotion into service delivery — —

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

Victorian Electoral Commission: report to Parliament on the 2006 Victorian state election

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Victorian Electoral Commission's report on the 2006 Victorian election. The VEC has a long, proud history of conducting democratic elections, both local and state, within the state of Victoria. We, as an elected Parliament, cherish the principles of democracy and we govern by the will of the people. We are publicly and clearly elected by the citizens of this state. We have a transparent system that is open to scrutiny and question — and believe me I know!

When my own parliamentary election was mishandled I was able to stand up and ask that the ballot papers be recounted, and indeed they were. I am pleased to say that as a direct result of my own harrowing experience, the process for counting has been changed so that an audio relaying of numbers has become mononumeric. Another change I would love to see is a third count if the margin is too narrow and the call from one party for a recount changes the result to the benefit of the other party by the same margin.

Many adult migrants, once they have taken the important decision to become citizens, are able to cast a vote in some circumstances for the very first time, but we need to make the experience simpler and perhaps more enjoyable, as is clearly outlined in the recommendations in the VEC report. There are several service improvement recommendations contained in the report, and they are worthy of consideration. More staff are needed at polling booths to eliminate unnecessary delays and waiting times for voters. The number of early voting stations should be increased, because the 2006 election clearly demonstrated that there were extremely long queues and some confusion as to the locations where people could cast their votes. Essentially more staff are needed to provide a more efficient service.

We need to further increase our use of technology, and we should be providing adequate communication to voters on voting locations and voting options. Far too many informal votes are being cast, and we need to seriously consider simplifying the procedure. Mr Barber said before that we should abolish how-to-vote cards. However, that would not minimise the number of informal votes; it would increase them. The proposal to designate election managers to no more than two districts in the metropolitan region is a vast improvement on the current situation. Last but not least, election managers should be appointed to manage ballot papers and counting without any other district responsibilities. I would not wish on anyone what I went through during the process of counting the ballot in the Northern Metropolitan Region. I commend this report to the Parliament.

Primary Industries: code of accepted farming practice for the welfare of pigs

Mr VOGELS (Western Victoria) — I would like to make a few comments on the 2007 code of accepted farming practice for the welfare of pigs, revision no. 2, which was tabled in Parliament this week. This code is intended as a guide for all people responsible for the welfare of pigs under intensive, deep litter and outdoor systems. It recognises that the basic requirement for the welfare of pigs is a husbandry system managed by trained and skilled stockpeople. Victoria's pork industry is worth approximately $200 million and constitutes a quarter of total Australian production. A further $275 million is contributed to the state's economy by further pork processing.

The health and welfare of animals is a key concern of all Australian pork producers, and that is why we need a code of accepted farming practice for the welfare of all animals, and in this case pigs. The days are long gone when farmers ran a few pigs in the backyard, fed them swill and often kept them in very unhygienic conditions. We all remember hearing such things as, 'This place looks like a pigsty', and that someone was as happy as a pig in the proverbial et cetera. Those comments would have been true in the past but they are not any more. Like all livestock industries in Victoria the pork industry is continually under scrutiny by not only consumers of pork but by animal rights activists who, for example, try to spread the message that when we eat pork we are consuming the star of the movie *Babe*.

There is a planning code for piggeries, as there are codes for broiler farms and cattle feedlots, and this review is timely because the present code has been in place since 1992. The new code is based on the technology and knowledge available at this time and states that it will be updated as knowledge improves and technology evolves. A measure of good welfare in pig farming is that the pigs are coping with the environment and are on farms which can demonstrate growth and reproductive performance with disease levels, injuries and death rates being kept to a minimum and within industry standards. I know there are some people out there who believe there should be absolutely no injuries, no disease and no problems at all in the pig industry, but we cannot even manage that for the human race. What we now have is a code that can achieve the best possible outcomes.

Importantly the code states that persons who are responsible for the day-to-day needs of pigs must ensure that animals under their control are cared for in accordance with the code. They must be cared for by personnel who are skilled in pig husbandry and competent to maintain the health and welfare of the animals in accordance with the standards listed in the code or who are under the direct supervision of someone who has passed certain exams. I think it recommends the certificate III in agriculture (pig production). That is very important, because we all understand that the most important thing in any animal husbandry is the personnel who are in charge of and look after the animals. If those people are genuine, as

most farmers are, and they have this code behind them, the pork industry can only go forward.

I do not know about other people in this house, but I love a feed of pork and always have. However, I also want to know that the industry is supervised and has codes of practice so that we all know that the industry is being well catered for. I congratulate the people who put together this code of accepted farming practice for the welfare of pigs. As I said, the last code was brought out in 1992, so it is 15 years old. This new code will be accepted by the industry. I am pleased to say that I have read it carefully and I think it will benefit all pig producers and pigs.

Victorian Multicultural Commission: Victorian government achievements in multicultural affairs 2005–06

Mr SCHEFFER (Eastern Victoria) — I wish to make some remarks on a report entitled *Victorian Government Achievements in Multicultural Affairs 2005–2006*. This report is the result of provisions in the Multicultural Victoria Act, which was passed by this Parliament in 2004. The provisions require government departments to report each year on how they are working to meet the needs of culturally diverse communities. The Multicultural Victoria Act is a very important piece of legislation, and it is worth taking a moment to reflect on why this is the case. The act enshrines the Parliament's recognition of the value of the cultural, religious, racial and linguistic diversity of Victorian citizens.

In my contribution in the second-reading debate in 2004 I said the act embodies and proclaims Victoria as a united community with shared laws, values, aspirations and responsibilities within which people from a diversity of backgrounds have the freedom and opportunity to preserve and express their cultural heritage, the freedom and opportunity to participate in and contribute to the broader life of society, and equal rights and responsibilities before the law.

At the time I also made the point that successive Victorian governments had contributed to the development of multiculturalism in this state but that there is an important difference in the way the Liberal and Labor traditions understand rights. I quoted former Premier Jeff Kennett's view that the Liberals acknowledge the right to freedom from discrimination on the basis of race, sex, ethnicity, religion and culture — in other words, freedom from interference. In 2004 in debating the bill I drew attention to the fact that that view overlooks the possibility that real freedom is to be found positively in our relations with other people in the collective — in society. It is to be found in community.

The Multicultural Victoria Act is rooted in a different and more positive understanding of freedom proclaimed in the four principles of multiculturalism that support and promote diversity: an entitlement to mutual respect; the preservation of diversity and cultural heritage; the affirmation of the fact that Victorians work together; and the affirmation of equal entitlement to contribute to all aspects of life in this state — social, cultural and political — and the responsibility to abide by its laws and respect democratic law-making processes.

As has been indicated, the Multicultural Victoria Act requires Victorian government departments to report annually on their achievements in multicultural affairs across four key reporting areas, which brings us to the practical areas. The first is the use of language services, the second is communication in languages other than English, the third is major improvements and initiatives and the fourth is the representation of culturally and linguistically diverse people on boards and committees. It is very gratifying three years on to see the second report from the Department for Victorian Communities, as it was in June this year prior to the department being renamed in late July as the Department of Planning and Community Development.

While every department is required to report on how well it is meeting the needs of its multicultural communities, this report provides a whole-of-government view of departmental responses and is the second report to be produced under the requirements of the Multicultural Victoria Act. The report contains a useful sociocultural diversity profile of the Victorian community that includes sections on recent immigration, country of birth of settler arrivals and settler arrivals in Victoria by migration stream.

In summary, Victoria welcomed almost a quarter of all migrants to Australia and the number is increasing. Most immigrants still come from the United Kingdom and New Zealand, and that was confirmed in a report this morning on the radio that indicated that in the United Kingdom more people than ever are leaving that country, and most of them are coming to Australia. The next biggest number of arrivals come from India and China. They come to this country as skilled migrants, sponsored family members, or having special eligibility of some sort.

There is also a humanitarian program open to refugees. This section presents the raw numbers and percentages to enable comparisons to be made. The report structure

corresponds to the four reporting areas mentioned previously — that is, the use of language services, communication in languages other than English, major improvements and so on.

All government departments — which include the former Department for Victorian Communities, the Department of Human Services, the Department of Justice, the former Department of Education and Training, the Department of Infrastructure, the Department of Premier and Cabinet, the Department of Innovation, Industry and Regional Development, the Department of Primary Industries, the Department of Treasury and Finance and the former Department of Sustainability and Environment — are reported on. It is an excellent document, and I commend it to members. It also includes some cases studies that give a closer and more personal experiential example for the reader to gain a clearer picture of how our immigrants are faring, and how departments are supporting their needs. It is a very useful report and I commend it to the house.

Primary Industries: code of accepted farming practice for the welfare of pigs

Mrs PETROVICH (Northern Victoria) — I rise to speak today on the Code of Accepted Farming Practice for the Welfare of Pigs, revision 2. I quote from the introduction because it sets the tone of the report:

> The Code of Accepted Farming Practice for the Welfare of Pigs (the code) is intended as a guide for all people responsible for the welfare of pigs under both intensive, deep litter and outdoor systems. It recognises that the basic requirement for the welfare of pigs is a husbandry system, managed by trained and skilled stockpeople.
>
> The basic needs of pigs are:
>
> > readily accessible appropriate and sufficient food and water;
> >
> > adequate shelter to protect from climate extremes …

It goes on to set out a variety of common-sense points which I believe constitute a core value system for all good animal management and practice. I commend the thoughtful animal handling and husbandry practices outlined in the rest of this document.

I also raise three issues relating to the fabulous work of volunteer organisations which look after a variety of animals on a volunteer basis. They receive no external funding and no state government assistance for infrastructure to house those animals, for the feed that is required to sustain them or for the veterinary bills for the care that many of them require. These organisations survive through private money and fundraising, which imposes an additional workload on them.

One of the groups I acknowledge today, which has done some significant work in the central Victorian region, is called Project Hope. The driving forces in that region are two women, Sam Forest and Kerryn Solomon. As a result of the drought over the last probably 12 to 18 months there has been a significant number of cases of starving animals and animal neglect related to either ignorance or the sheer inability to afford to feed these animals. The time that these people put in to rescuing animals, relocating them, and nurturing them back to health is significant. It has taken them away from their main employment many times. They do this willingly and happily, but it has certainly been a huge cost impost on their families.

My concern with this is that we have seen the effects of drought, we know that there is legislation available to assist through the Department of Primary Industries in these cases, but the funding is not forthcoming. It is left to these volunteer organisations to carry the can on this. Whilst they are willing to do it, I think that is fabulous and I commend them, but I also think there is an abrogation of responsibility by departments such as the Department of Primary Industries. I know it works collaboratively with the Royal Society for the Prevention of Cruelty to Animals, but often the terrible task of actually deciding the fate, including euthanasia, of some of these animals is left to those volunteers, in consultation with the RSPCA.

I also acknowledge that the same circumstances exist for private animal-aid organisations which construct accommodation for, house and desex large numbers of abandoned and neglected animals. A lass called Trish Burke, who runs a facility in Woodend, took over from an icon in the community, Clive Morton, who in his time rehoused thousands of cats and dogs. The Woodend group continues its work with no external assistance whatsoever.

I recently spoke about wildlife shelters, where volunteers played a great part by assisting burnt animals during the recent fires in the north-east. They assisted in rehabilitating and euthanasing animals, and they carry the can for the funding of that work themselves. I commend all those Victorians who volunteer and who deal with what are often very traumatic cases. Words cannot really describe some of the cases these people deal with. As an advocate for Northern Victoria Region, including those who cannot speak for themselves, I commend this report to the house.

Victorian Multicultural Commission: Victorian government achievements in multicultural affairs 2005–06

Ms DARVENIZA (Northern Victoria) — I, too, would like to make some comments on the Victorian government's achievements as set out in the Victorian Multicultural Commission report for 2005–06. I echo what my parliamentary colleague Johan Scheffer said: this report is before the Parliament only because our government put forward the Multicultural Victoria Act 2004. That act, which was passed by this Parliament, enshrined in legislation that every government department has to report to the Parliament on its achievements and the actions it is taking to ensure that the policies, programs and services that are being delivered by government-funded organisations are actually meeting the needs of our culturally diverse communities, whether those communities be in the metropolitan area or in rural and regional Victoria.

That is the case whether the services they are seeking are human services such as community service programs; children's services or early childhood development services, including kindergarten services; health services, including acute or emergency health services; aged care services; services for people suffering from a psychiatric illness or an intellectual disability; or policing or justice services. They are just a few very important services that the government funds.

We want to ensure that the money we are providing to government departments actually meets the needs of our culturally diverse communities. As I said, the act passed in 2004 enshrined in legislation the requirement for government departments to report to the Parliament. Prior to that departments did report to the Parliament but it was not a legislative requirement that they do so. Our government insisted on that reporting, but it could easily have been wound back by a future government and we wanted to ensure that it was enshrined in legislation. I was particularly pleased to be part of the Parliament that put that legislation into effect.

I refer to some of the things that I am particularly proud of in what occurred in 2005–06. Some of the achievements include the support that our government gave to the language services strategy, which is about interpreting and translating. It is not about LOTE, or languages other than English, and ESL, or English as a second language, which are areas in which we took action and achieved a lot. In the 2006 budget our government provided $3.1 million for the language services strategy over four years to continue to improve the ways that translation and interpreting services were provided to people from a non-English-speaking background. A national symbol was developed. Victoria led the way in this initiative by bringing together the states and territories to endorse an agreed symbol. We introduced the interpreter symbol that can now be seen in government departments.

We also introduced the Victorian interpreter card. It was launched both in the metropolitan area and in rural and regional Victoria because we have many migrants, people with a culturally and linguistically diverse background in rural and regional Victoria. We were making sure they would know that the symbol was around and that the interpreter card was available. We got the message out as far and wide as we could so that people would understand what it meant. As I said, we have many newly arrived people settling in rural and regional Victoria.

Those are just two of the achievements of the many mentioned in the report that I am able to talk about. I urge members to take the time to look at the report to see just how our government departments are meeting the needs of Victorians from culturally diverse backgrounds.

Terrorism (Community Protection) Act: report on operation 2006–07

Mr DALLA-RIVA (Eastern Metropolitan) — I rise to speak on the report of the powers provided by the Terrorism (Community Protection) Act 2003. The bill was introduced into the other place on 26 February 2003 by the then Premier, Steve Bracks, with much fanfare about the government's intentions to provide support. The act provides for a range of underlying principles to ensure that covert action can be undertaken in gaining information. I am sad to say though that in consecutive years we have seen a nil-nil report. What I mean by that is that in this report, which was tabled in this chamber this week, the numbers for preventative detention orders and special powers reported were both nil. No applications for preventative detention orders were made by Victoria Police to the Supreme Court. As no orders were made, no person was taken into custody or detained for any period. Obviously no complaints were made, because no orders were made. No prohibited contact orders were made. For the same period, no applications were made by the Chief Commissioner of Police to use the stop, search and seize powers.

I decided to look back, because I speak about this every year. It should sound alarm bells about how the government responds to terrorism in this state. If we look at the previous years, the 2005–06 report was a

nil-all report — in other words, no applications made, no preventative orders were made and there were no applications to use stop, search and seize powers. The 2004–05 report shows that since the legislation was introduced that was the only period during which the powers were used. During that period six applications were made, six warrants were issued and six premises were entered covertly. The report makes no reference to the special powers available under section 21 for an application to stop, search and seize. The report for the year it was introduced, 2003–04, also shows a nil result: no applications, no warrants issued, no telephone applications et cetera.

I raise a couple of issues about this report. It is another example of the spin of the Bracks and Brumby governments — all fluff and wind but no substance. Over a number of consecutive years we see the end result of that. We see that over four years the total number of applications made has been six and that in the past two years there have been nil. In the past two years no warrants have been issued, no telephone applications have been made and no premises have been entered covertly. It is as though terrorism in Victoria has stopped under the Brumby government. It annoys me that when legislation is brought in with such urgency, as was the case when this bill was introduced, and we grant such great powers we do not enable those who need them to utilise those powers. It is an absolute shame that Victorians believe they have some form of protection from terrorism. The title of the act is the Terrorism (Community Protection) Act 2003 yet this report shows that in consecutive years nothing has happened.

I went to the Victoria Police website to see if it has a terrorism unit, and I struggled to find it. There was some structure buried right at the bottom. I do not know whether there is a lack of resources or just a lack of commitment by the government and Victoria Police in this very crucial area. We cannot assume that terrorism has gone away. As we see in other places around the world, terrorism does rear its ugly head. Unless we are prepared to act on those issues before there is a major concern on the streets of Melbourne or anywhere else in Victoria, we will forever be at the beck and call of terrorism activity. This report paints a picture of very great concern for Victorians that although the power is there — it was made available many years ago, in February 2003 — nothing has occurred. I think it demonstrates again that the government is good at reacting to community concern with legislation but the end result is that no action is ever taken.

Supreme Court judges: report 2005–06

Ms TIERNEY (Western Victoria) — I rise to speak on the annual report of the Supreme Court of Victoria for 2005–06. The Supreme Court of Victoria is the supreme court in the state and is governed by the Supreme Court Act 1986. It is equal in status to the legislature and the executive government, and it is imperative in a socially cohesive community that it have a high level of performance. It can claim credit for its high performance during the reporting period in question.

With its title and function as this state's superior court, the Supreme Court constantly deals with very complex and time-consuming issues. These include murder and attempted murder trials and civil cases generally exceeding damages of $200 000, and they regularly involve appointing and instructing a jury on points of law in criminal matters.

During the reporting period covered, 2005–06, a number of initiatives were undertaken in the court. The first that I will mention is the mediation by masters. This allows the masters of the courts, after completion of a specialised mediation training course, to mediate certain cases that come before the court. While it is too early to assess this situation, there is already clear evidence that a number of positives have been achieved — namely, the freeing up of judge time, parties being saved from the stress, inconvenience and cost of trials, and a decreased workload on the court itself.

Another initiative set up in the reporting period was the appointment of the self-represented litigants coordinator, who is in place to provide procedural guidance and assistance to litigants in person who wish to commence proceedings on their own behalf or appear before the court. This is another scheme that makes the law accessible to all members of the community and strives to give the best opportunity for a fair trial — a right all Victorians are entitled to.

I am also pleased that through this reporting period the regional circuits continued, ensuring that all Victorians had access to the courts. The courts sat in regional areas such as Ballarat, Bendigo, Hamilton, Horsham, Geelong, Mildura, Sale, Shepparton, Wangaratta, Warrnambool and Wodonga.

During the reporting period the court, together with the Department of Justice, was in discussion on the Melbourne legal precinct master plan for the Supreme Court redevelopment. The state government has committed $37.7 million for the early works package

pending stage 1 of the Supreme Court redevelopment. The Supreme Court of Victoria and the state government are committed to achieving a contemporary and well-designed court facility in the context of preserving the historically significant court building to serve the Victorian community.

The reporting period also included the first major criminal e-trial for the Supreme Court. The e-trial involved the well-known *Pong Su* case and took advantage of the state-of-the-art technologies available. The technologies used included touch-sensitive plasma screens, multiple liquid crystal display monitors and projectors and the latest courtbook management system available. This was the first e-trial in Australia to introduce and incorporate all these court technologies together. The judge presiding over the case, the Honourable Justice Kellam, reported that the e-trial was a success. He said:

> Constantly having documents up on screen for all to see … meant everyone gained a better understanding. So much was visual that fewer questions were asked by barristers and less explaining was needed.

Justice Kellam also reported that the electronic management of evidence reduced the need to keep exhibits in court and saved weeks in trial time.

In accordance with the court's focus on the importance of a competent jury, a short juror-orientation film was developed to be used as part of the juror induction program. A module which focuses on the importance of jury service and its duty within the context of citizenship has also been developed for year 9, 10, 11 and 12 students.

I congratulate the Supreme Court of Victoria and its 38 judges, particularly the Chief Justice, the Honourable Marilyn Warren, AC, the eight masters and other staff of the court on a very successful period.

Victorian Multicultural Commission: Victorian government achievements in multicultural affairs 2005–06

Mr EIDEH (Western Metropolitan) — I rise to speak on the Victorian Multicultural Commission report *Victorian Government Achievements in Multicultural Affairs 2005–2006*. At the outset I wish to acknowledge the honest and dedicated commitment of the Victorian Labor government to multiculturalism in this state. It was that commitment which in part led to my interest in becoming a member of Parliament, and today I have the honour to represent the most multiculturally diverse electorate in Victoria.

I wish to acknowledge the former Premier, Steve Bracks, who was the relevant minister, and also George Lekakis, who has led the commission so impressively over a number of years. It is not just that the Labor government — first the Bracks government and now the Brumby government — has the right policies in multiculturalism; the government also has the right people to lead in an area that cuts across all boundaries.

The report begins with the words:

> Victoria's diversity is our greatest cultural, social and economic asset.

This is at the very core of this government's policies and programs in every area, as the report clearly highlights. We are the state of Australia that has long been recognised as the 'nation's multicultural state', to again quote from the report. No other state in Australia attracts as many people from so many diverse cultures, nor has any state benefited so much from what these wonderful people have brought with them when they have migrated to Victorian shores. Indeed we experience some of that wealth of culture, of ideas and of skills in this very house, with the wonderful diversity of members elected by the people of our multiculturally diverse state.

Victoria's post-World War II Labor governments have had a strong tradition of achieving positive results for our diverse multicultural community, as have the federal Labor governments. That stated, we have not regarded Australia's new blood and Victoria's new blood as factory fodder and nothing more. Whilst we have fully welcomed those who have filled key labouring roles in our factories in the manufacturing, clothing, footwear, automotive, food production and so many other industries, we have also been blessed by their other talents in art, music and fashion.

We should all note that only recently His Excellency the Governor gave a number of awards in multiculturalism to a number of citizens, quite a few of whom live and work in my electorate of Western Metropolitan Region. This report recognises far more. It acknowledges and records the sincere efforts to improve support services for people from non-English-speaking backgrounds. It declares the dedication of this government to improving the services of each and every government department for our diverse multicultural community. And Victoria is a much better place to be today due to the doctors, scientists, architects, engineers, teachers, lawyers, fashion designers, actors, journalists — indeed people in every profession — who were either born overseas or are the children of people born overseas.

In one sense what the state Labor government is doing today in the area of multicultural programs is paying homage and showing a deep-felt respect for that which we all inherited from those persons who came to these shores before us. But when reading the report we should not be fooled into thinking that we have solved every problem, because that would be impossible. We should not read the report as if it were a closed summary of achievements. For this government, under Premier John Brumby, will strive even further and higher to achieve even more on behalf of the people of our wonderful state. Whether it be in the provision of new services for recently arrived persons or restructured and reprioritised services for older communities, this government will not rest on its laurels.

We in this house should also be proud of the great people who work for the government across all departments and offices on behalf of all Victorians. From police to the state library, from health to justice, from education to innovation — indeed in every area our great public service has fully supported the commitment of the state Labor government to multiculturalism.

While I am still relatively new in my position as a member of Parliament, I was previously deeply involved in multicultural affairs at a community level, and I maintain that interest and remain in touch with many of the people I have met over the years. I have also learnt from former Premier, Steve Bracks, former Minister Pandazopoulos, and the new Parliamentary Secretary to the Premier on Multicultural Affairs, Liz Beattie, about the deep-felt commitment of this government to multicultural affairs. I commend the report to the house.

ROYAL CHILDREN'S HOSPITAL (LAND) BILL

Statement of compatibility

For Mr JENNINGS (Minister for Environment and Climate Change), 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 Royal Children's Hospital (Land) Bill 2007.

In my opinion, the Royal Children's Hospital (Land) Bill 2007, as introduced in 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:

remove the permanent reservation on the proposed site of the new Royal Children's Hospital in Royal Park to facilitate development of the new hospital;

ensure that the project does not result in any net reduction in the size of Royal Park, by limiting the size of the new hospital and requiring the return to parkland of the surplus construction site land and the site of the old hospital; and

allow the committee of management of the new hospital to enter into a lease or a licence over the new site for a period up to 30 years.

Human rights issues

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

The right to freedom of movement is relevant to the bill. This right is protected by section 12 of the charter. Section 12 stipulates that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The right's broad focus is to protect against arbitrary restrictions on people's ability to move freely. A particular aspect of the right is protection of people's ability to choose their own route when exercising their right to move freely within the state. The bill will touch upon this aspect of the right.

Presently, all of the open areas of Royal Park are available to people to choose as part of their route when moving freely within Victoria. The new hospital site is part of that area. People are presently free to pass through the site, as with any other area of the park.

When the bill removes the new hospital site from Royal Park, people will no longer have the Crown's implied permission to enter and pass through the site. People will need to choose alternative routes, such as walking around, rather than through, the new hospital site. This consequence can be perceived as a limitation on the right to freedom of movement protected by section 12 of the charter.

Section 20 of the charter, which protects against deprivation of property other than according to law, also requires consideration in the context of this bill. This is because clauses 5 and 10 of the bill remove reservations over land associated with the project. 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:

there are no leases or other proprietary interests in the land affected by clause 5 (being land currently forming part of Royal Park and set aside for the new hospital site); and

although there will be some leases (or similar interests) over the land affected by clause 10, the bill makes it clear that the status of those leases (and similar interests) is not affected by clause 10. The leases referred to

include those already in place over the old hospital site, and any short-term construction leases created over the new hospital site during the construction phase.

For these reasons, it is not expected that this bill will deprive any person of property. 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)

To the extent that the right to freedom of movement will be limited, I consider that the limitation will be reasonable, in accordance with section 7(2) of the charter. I provide the following reasons for this view.

(*a*) *the nature of the right being limited*

The right to freedom of movement is a fundamental human right which protects against restrictions on people's ability to move freely within the state. The right is not an absolute right at international law, and under the charter may be subject to such reasonable limitations as are demonstrably justified in a free and democratic society.

(b) the importance of the purpose of the limitation

The aspect of the bill which will limit freedom of movement is the excision of the new hospital's construction site from Royal Park. The purpose of this aspect of the bill is to enable construction of the new hospital to proceed and for the land to be dealt with in a manner which reflects its status as the site for a hospital. The new hospital will provide world-class medical facilities to the children of Victoria in a central, easily accessible and peaceful location. This objective will serve all Victorians by providing them with access to outstanding paediatric medical services for many years to come. It is of high importance.

Further, the excision of the new hospital's construction site from Royal Park will protect the safety of the public by effectively revoking the Crown's implied permission for the public to enter the construction site. The purpose of doing so is to allow construction to occur, and to occur safely, without endangering members of the public who enjoy Royal Park. This purpose is also of high importance.

(c) the nature and extent of the limitation

The limitation resulting from this bill will only affect people insofar as they will no longer be able to move freely through the construction site for the new hospital. They will still be able to move freely elsewhere, including around the perimeters of the construction site and throughout the balance of Royal Park. All other aspects of the right to freedom of movement — including Victorians' rights to freely enter and leave the state, to choose where to live, and to move around the state — will remain unaffected. Having regard to the overall breadth and nature of the right to freedom of movement, the extent of the limitation is considered to be relatively negligible.

(d) the relationship between the limitation and its purpose

The excision from Royal Park is necessary because it would be dangerous, if not impossible, to construct the new hospital on the proposed site while simultaneously preserving the site's existing status as public park. Excision of the construction site from Royal Park is a proportionate legislative response to the objective of constructing a new hospital because it would, put simply, be impossible to construct the hospital without doing so. Accordingly, the resulting limitation on the right to freedom of movement is also a proportionate outcome given the purpose of the excision, namely, to allow for the safe construction of the hospital.

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

There are no less restrictive means available to achieve the purpose of facilitating the development of the new hospital.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it will not limit the property rights protected by section 20, and, although it will limit the right to freedom of movement, the limitation is reasonable.

GAVIN JENNINGS, MLC
Minister for Environment and Climate Change

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 purpose of this bill is to enable the development of the new Royal Children's Hospital on Crown land in Parkville.

The Royal Children's Hospital is a world-class paediatric hospital. However, the current design of the hospital is no longer consistent with this status. To preserve the hospital's outstanding reputation into the future and to better support modern approaches to the provision of high-quality medical care and leading research, the government believes it is now time for the Royal Children's Hospital to be rebuilt.

To realise this vision, in May 2005 the Victorian Premier and the Minister for Health announced that a new Royal Children's Hospital will be built for the children of Victoria. The new hospital will be more spacious, with more single rooms, neonatal cots and operating theatres. It will be able to treat 35 000 more patients every year and will have:

improved accommodation and other facilities for parents and siblings;

more play areas, better park access and expanded child care;

new facilities for mental health, rehabilitation and research; and

more shops, cafes and other amenities for staff, patients and other campus users.

The $850 million facility will be delivered under the government's Partnerships Victoria policy, using the skills and abilities of the private sector to design, build, finance and maintain the hospital. Management of the hospital and provision of all clinical services will continue to be the responsibility of the state.

This bill will allow the new hospital to be developed on Crown land immediately to the west of the existing hospital. A majority of the new site presently forms part of Royal Park. The bill will facilitate the development by removing part of the Royal Park permanent reservation, as it relates to the new site.

The site was chosen after a rigorous examination of alternative site options. A range of factors were considered, including the size, cost, access, construction impacts and community feedback. This process took almost a year and involved extensive consultation with hospital staff, families and the community. Ultimately, the chosen site was selected as the one that best meets the needs of sick children and their families.

The new hospital will continue to be surrounded by parkland, which provides one of the most powerful forces in lifting a child's morale and helping them feel better. It will also remain within the Parkville medical precinct, which means the new hospital will be surrounded by Victoria's latest medical research and technology, giving our kids the best possible treatment. The Parkville location also ensures that the new hospital will continue to enjoy good accessibility by public transport and road for all users of the hospital.

The removal of the permanent reservation will affect only the land required for the development of the new hospital. The land will include an area to accommodate the final hospital site as well as areas to accommodate construction site activities, equipment and offices, as well as a safety buffer to protect the public from those activities.

The government is committed to minimising the impact of this development on Royal Park. For this reason, the bill includes a framework to ensure that the final size of the development is contained, to protect against any net reduction in the size of Royal Park. When the old hospital is demolished and the final boundaries of the new hospital site are settled, a range of deeming provisions in the bill will be triggered. The provisions will:

limit the size of the new hospital to less than 4.1 hectares, which is less than the size of the old hospital;

return project land not forming part of the final hospital site (such as the land used for construction site purposes) to Royal Park, by permanently reserving it for public park purposes;

add all of the land cleared by demolition of the old hospital buildings to Royal Park, by permanently reserving it for public park purposes; and

temporarily reserve the new hospital site for hospital purposes under the Crown Land (Reserves) Act 1978 and appoint the Royal Children's Hospital as committee of management.

All of the bidders for the delivery of the new hospital project have been made aware of the size limitation in this bill and have designed their proposals. The government believes that this framework will not only ensure that the new hospital is designed efficiently, but that it will also result in a net increase in the size of Royal Park, after the construction and demolition phase of the development is completed.

In line with the government's Partnerships Victoria policy, the bill will enable the committee of management of the new hospital site to enter into an operating lease or licence over the new site for a period up to 30 years. This long-term leasing and licensing power will allow the state, through the committee of management, to enter into an arrangement with its private sector partner for the maintenance of the new hospital facility, as part of the Partnerships Victoria arrangements.

The government is committed to ensuring that the Royal Children's Hospital remains a world-class facility for child and adolescent health care and an international leader in research and education. This bill will facilitate the construction of a state-of-the-art facility that will assist in ensuring we can deliver the best care to our sick children for years to come.

I commend the bill to the house.

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

Debate adjourned until Thursday, 30 August.

LAND (REVOCATION OF RESERVATIONS) BILL

Statement of compatibility

For Mr JENNINGS (Minister for Environment and Climate Change), Mr Lenders tabled following statement in accordance with the 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 Land (Revocation of Reservations) Bill 2007.

In my opinion, the Land (Revocation of Reservations) Bill 2007, as introduced in 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 provide for the revocation of:

the public purposes reservation relating to the bed and banks of Lake Condah, in order to transfer that land to the Gunditjmara people;

the reservations relating to certain lands at South Melbourne, Daylesford and Beechworth; and

the revocation of a Crown grant of the Roman Catholic Orphan Asylum at South Melbourne and the revocation

of a Crown grant for benevolent asylum purposes at Beechworth.

Human rights issues

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

Section 12 of the charter which protects the right to freedom of movement is relevant to the bill. Section 12 stipulates that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The right's broad focus is to protect against arbitrary restrictions on people's ability to move freely. A particular aspect of the right is protection of people's ability to choose their own route when exercising their right to move freely within the state. Whether the right applies depends upon how land that has been reserved for public purposes has been used. The bill will touch upon this aspect of the right.

Presently, subject to some constraints on access, the open areas of the land and beds of Lake Condah are available to people to choose as part of their route when moving freely within Victoria.

When the bill removes the public purposes reservations for Lake Condah the public's ability to enter and pass through these areas will be limited. This consequence can be perceived as a limitation on the right to freedom of movement protected by section 12 of the charter.

Section 20 of the charter, which protects against deprivation of property other than according to law, also requires consideration in the context of this bill. This is because clause 7(a) of the bill provides that on the removal of reservations lands are deemed to be unalienated lands of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. In doing so, this clause could 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, because there are no leases or other proprietary interests in the lands affected by clause 7(a).

For these reasons, it is not expected that this bill will deprive any person of property rights protected by section 20 of the charter, and, accordingly, there will not be a limitation of the rights protected under section 20.

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

To the extent that the right to freedom of movement will be limited, I consider that the limitation will be reasonable, in accordance with section 7(2) of the charter. I provide the following reasons for this view.

(a) the nature of the right being limited

The right to freedom of movement is a fundamental human right which protects against restrictions on people's ability to move freely within the state. The right is not an absolute right at international law, and under the charter may be subject to such reasonable limitations as are demonstrably justified in a free and democratic society.

(b) the importance of the purpose of the limitation

The aspect of the bill which will limit freedom of movement is the revocation of the public purposes reservations for Lake Condah. On 30 March 2007 the Federal Court made a consent determination for Gunditjmara native title. The purpose of this aspect of the bill is to enable the completion of a native title settlement package under which the state government has agreed to transfer freehold title of the Lake Condah Reserve to the Gunditji Mirring Traditional Owners Aboriginal Corporation.

The proposed native title settlement furthers section 19(2) of the charter which provides that Aboriginal persons and their community must not be denied their right to enjoy their identity and culture, maintain their distinctive spiritual and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

It is of high importance that the negotiated settlement proceeds to further reconciliation between the indigenous and non-indigenous community.

(c) the nature and extent of the limitation

The limitation resulting from this bill will only affect people insofar as their current restricted ability to move freely through the bed and banks of Lake Condah may be limited as a result of the native title settlement. From investigations for the mediation in the native title claim, historically limited public access occurred, due to restricted access points and seasonal inundation. People will still be able to move freely elsewhere, including around the perimeters of this area. All other aspects of the right to freedom of movement — including Victorians' rights to freely enter and leave the state, to choose where to live, and to move around the state — will remain unaffected. Having regard to the overall breadth and nature of the right to freedom of movement, the extent of the limitation is considered to be relatively negligible.

(d) the relationship between the limitation and its purpose

The revocation of the public purposes reservations for Lake Condah is necessary for the native title settlement. This is a proportionate legislative response to the objective of completing that settlement. Accordingly, the resulting limitation on the right to freedom of movement is also a proportionate outcome.

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

There are no less restrictive means available to achieve the purpose of facilitating the native title settlement.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it will not limit the property rights protected by section 20, and, although it will limit the right to freedom of movement, the limitation is reasonable.

GAVIN JENNINGS, MLC
Minister for Environment and Climate Change

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 purpose of this bill is to change the status of four Crown land reserves located at Lake Condah in south-west Victoria, South Melbourne, Daylesford and Beechworth. These changes are required to meet government commitments to the Gunditjmara native title settlement, facilitate refurbishment of the former St Vincent's Boys Home at South Melbourne and dispose of surplus facilities at the other locations.

Public purposes reserve Lake Condah

On 30 March 2007 the Gunditjmara native title claim was settled by agreement between the Gunditjmara people, the state and all the other 170 respondent parties to the claim. Part of the approved settlement package included agreement to transfer the Lake Condah Reserve and two additional parcels of Crown land adjoining Lake Condah to the Gunditjmara people.

The bed and banks of Lake Condah were permanently reserved for public purposes by order in council dated 23 May 1881, this bill will revoke part of that reservation which is necessary to allow the granting of the land to the Gunditjmara people.

The state is legally committed by the settlement to deliver up the land to the Gunditjmara people.

237 Cecil Street, South Melbourne

This land is permanently reserved and subject to a restricted Crown grant for Roman Catholic orphan asylum purposes. The bill revokes the reservation and related Crown grant, it also removes the Roman Catholic Trusts Corporation as trustee of the land.

On 31 October 2006 the Premier entered into a memorandum of understanding with the Roman Catholic Trusts Corporation and MacKillop Family Services Ltd committing all parties to remove reservations and trusts to which 237 Cecil Street, South Melbourne, is subject. The rationalisation of the legal status of the site provides the Roman Catholic Trusts Corporation and MacKillop Family Services with the certainty they require to invest in the refurbishment of existing buildings. It also allows the Minister for Finance to sell or transfer the remainder of the site for the development of a key piece of social infrastructure, such as aged care and/or child care.

Permanent reserve for asylum purposes at Daylesford

The Daylesford Ladies Benevolent Society approached the Minister for Finance concerning the purchase of the site it manages as committee of management at 26 East Street, Daylesford. A historic building at the site straddles the boundary of the permanent reserve for asylum purposes and freehold owned by the society.

The building is no longer used by the society. Once the reservation is removed the society hopes to purchase the Crown land and consolidate it with their freehold land. They will then sell the consolidated parcel as part of the rationalisation of its activities in Daylesford.

The bill will revoke the permanent reservation over the land and will facilitate the sale of the land to the Daylesford Ladies Benevolent Society allowing it to proceed with the rationalisation of its activities.

Permanent reserve for benevolent asylum purposes at Beechworth

The bill also revokes the permanent reserve and related Crown grant for benevolent asylum purposes at Beechworth.

This land is part of the former Beechworth Hospital site which occupies several parcels of land including freehold that is now surplus to the requirements of the Department of Human Services since the establishment of new facilities.

Following revocation it is intended to sell the land at valuation based on the highest and best use.

I commend the bill to the house.

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

Debate adjourned until Thursday, 30 August.

GAMBLING REGULATION AMENDMENT BILL

Second reading

Debate resumed from 8 August; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr GUY (Northern Metropolitan) — Here we are talking about gambling and gaming issues yet again.

Mr Viney interjected.

Mr GUY — As Mr Viney says, we do love it, although we will not use this opportunity to talk about our favourite aspect of the gaming issue at the moment. I think we will just stick to the bill at hand today. As all members would know, the gaming industry is a significant industry in Victoria. In fact gambling revenues are a very big contributor to the Treasurer's coffers in this state.

Mr Lenders interjected.

Mr GUY — Mr Lenders raises a very good point about placing bets. As all members would know, bets are very easy to place in the state of Victoria nowadays — in fact, all across Australia and all across the world, thanks to things like the internet. You can go

online to Centrebet and place your own bets. You can place bets as to what faction Mr Theophanous will be aligned with in 2010. You can place bets on whether Mr Viney will wake up happy on the next day of sitting. It is possible to place bets on all those things. Some are not necessarily better bets than others; it all comes down to odds, I guess.

The Liberal Party will propose an amendment to the bill but will not oppose the substantive measure as it is, because there are a number of points in this bill that we agree with — one or two in particular, because they are Liberal Party policy. A number of speakers opposite have come into this chamber to talk about Liberal Party policy over the last couple of months. They must like the Liberal Party policy; in fact some of them must be trawling through it to get their policy and their legislative program for the next three years, because they have copied quite a bit of it.

But back to my point before I was interrupted: I was talking about gaming taxes. Gambling revenue in Victoria is around $1.5 billion, so it is a significant contributor to consolidated revenue in the state and an industry that certainly needs to be taken with quite a degree of seriousness. As I said before, it is very easy for Victorians to place bets throughout the gaming industry in Victoria today, whether it is online, whether it is at a TAB or whether it is at the races. The bill focuses on the electronic aspect of that.

The bill has five purposes, and as I said my amendments will deal with one of those. I request that my amendments be circulated during my speech.

Opposition amendments circulated by Mr GUY (Northern Metropolitan) pursuant to standing orders.

Mr GUY — Firstly, the bill sets caps on electronic gaming machine (EGM) numbers throughout municipal districts where those districts are not subject to more onerous regional caps, and I will come to an explanation of that a bit later on. Secondly, it amends the provisions for the setting of those regional caps. It prohibits the payment by electronic gaming machine operators of accumulated credits of $1000 or more other than by cheque. It alters the arrangements for the community benefit statements, which are called CBSs, and it extends by four years the period during which $45 million annually is diverted from the Community Support Fund to go into funding drug and alcohol programs across the state of Victoria.

I want to look at clauses 4 to 10 of the bill, which include the introduction of a municipal limit on EGM numbers. As it stands the act provides that the minister can order regional caps on gaming machine numbers to apply. The 19 regions that have been formed and which the caps are based on are more or less local government areas, either combined or in a single region. In uncapped areas there are no limits at all. The introduction of municipal limits is intended to provide limits which will apply to local government areas throughout Victoria rather than to the central business district, Docklands and Southbank in Melbourne, which are not covered by the regional limits. Based on Labor Party policy the municipal limit is likely to be set at 10 EGMs per 1000 adults.

Where there is a conflict between a regional cap and a municipal cap, the bill states that the regional cap will apply. The bill proposes that either the minister or, if instructed by the minister, the Victorian Commission for Gambling Regulation — which is the VCGR — can determine the maximum number of EGMs for regions or municipal districts and empowers the VCGR to determine the manner in which excess EGMs are to be removed. EGM limits in regions and municipal districts are to be reviewed by the VCGR no later than five years after their establishment, so there are some fairly broad powers there and some definitive statements on EGM numbers in local government areas.

Clause 11 limits cash payouts from EGM credits to amounts under $1000. This is where we come to what was Liberal Party policy at the 2006 election. It is a consumer protection measure that makes it an offence to pay out accumulated credits on an EGM win of $1000 or more other than by cheque, which cannot be a cash cheque. One would have to ask how many times you are actually going to win more than $1000 on the pokies, but I guess that is another issue.

The bill makes it clear that the requirement applies whether the $1000 of credits were accumulated through initial crediting or through winnings, so if a player puts $1000 cash into an EGM and finishes with $1000 in credit, they still have to pay out the entire amount in a cheque, and we certainly support that move. As I said, it is a consumer protection measure that will go towards encouraging people to think about what they are going to do with that money now that they have won $1000. There are obvious instances where people win a large amount of money on an electronic gaming machine and will withdraw the lot and then put it straight back into the pokies. As the money is delivered to them in a cheque, this measure will have people thinking a little more sensibly before they go and pop the money they have won straight back into a machine.

As I said before, it is interesting to note in clause 11 that that was certainly Liberal Party policy at the last election, and I guess it goes along the government's lines of flogging our policies on kinders, a desalination plant and a dedicated planning minister. I am advised that about 34 policies of ours have gone with the government since the last election, so full credit to Mr Davis and others who were responsible for them. No doubt the government will come back with a policy on dams later on in this term too, but again that is another issue.

Clause 12 also talks about — —

Mr Lenders — Can you stray on to the bill at some time?

Mr GUY — I am straying on to the bill, Mr Lenders. I am going to talk about the fact that hotels are no longer required to furnish the community benefit statements. Currently hotels with electronic gaming machines are required to pay around 8.33 per cent of net gaming revenue to the Community Support Fund, which was set up by the Kennett government. Clubs with electronic gaming machines do not have to pay that amount to the Community Support Fund but are certainly required to demonstrate that they spend an equivalent amount for community purposes. It is worth noting on that point that community purposes are defined by ministerial determination, not by the act. We are putting a fair amount of trust in the minister to come up with a proper determination of the term 'community purpose'.

The act has required both clubs, which do not pay the 8.33 per cent to the Community Support Fund (CSF), and hotels, which do, to furnish a community benefit statement. The bill proposes to relieve hotels of the requirement to provide a community benefit statement on the basis that their required contributions to the community are essentially met by paying that 8.33 per cent to the Community Support Fund. It is fairly complex, but it is a pretty standard measure.

Under clause 12 clubs that do not meet the required community benefit contribution are subject to a penalty. Audited community benefit statements are provided by clubs and assessed by the Victorian Commission for Gambling Regulation to determine if the community benefits stated by the clubs are equivalent to 8.33 per cent of their net gaming revenue to assess whether a fine will apply. For clubs that do not demonstrate that they have provided the required level of community benefit, the bill provides that they must pay the shortfall into the Community Support Fund — and that is via consolidated revenue at the direction of the VCGR. Payment has to be made within 60 days of the VCGR's declaration of a shortfall after its audit has been completed; however, the VCGR may extend the time in cases of significant financial hardship.

Clause 13 of the bill relates to a four-year extension of the $45 million per annum funding for drug and alcohol programs. In the year 2000 the gaming machine levy was introduced. It raised $10 million towards drug and alcohol programs, which is certainly a lot of money. In 2004 the act was amended to provide that each year $45 million of that 8.33 per cent tax paid by hotels with electronic gaming machines to the Community Support Fund would be retained in consolidated revenue rather than going to the Community Support Fund. Under the act this provision operates until 20 June 2009, and the bill before us extends the provision for a further four years.

The Liberal Party has some concerns with the bill, and I will touch on them now. In our view local electronic gaming machine (EGM) caps have not been demonstrated to be an effective method to deal with problem gambling. The likely setting of the municipal caps at 10 EGMs per 1000 adults will inform VCGR and Victorian Civil and Administrative Tribunal decision making on pokie venue applications, meaning that areas with fewer than 10 EGMs per 1000 adults will have greater difficulty in resisting the placement of EGMs.

This brings to mind an example I have raised in the house a couple of times in relation to the site of the Melbourne showgrounds. When I asked the Minister for Planning whether he would rule out the possibility of this government land being sold off and a pokies venue being placed on the site or a pokies venue with electronic gaming machines being approved, he could not and would not do that. The problem is that this proposal is on one side of what I think is Epsom Road. The municipality of Melbourne is on one side and the municipality of Moonee Valley is on the other. The problem, which caps do not address, is that a venue operator in this situation could conceivably place a venue with 200 machines on the other side of the road. The operator could simply place the venue on the other side of the road outside the local government area rather than removing the machines from a local area which the government has supposedly determined is a risk area from which gaming machines need to be removed. The jury is out on whether caps in local government areas will be any use.

It is worth noting that what the government is effectively saying with its caps promise is that certain areas of the state, particularly in Melbourne's eastern

suburbs, deserve to be flooded by pokies. If the government moves a whole lot of poker machines out of certain areas, but they have to go somewhere because we have a certain number in the state, it will look at the numbers in other local government areas. If applications are made in areas that are deficient, they are obviously more likely to be approved. That is common sense, which seems to be lost on some in this chamber.

I also raise the concern that giving both the Minister for Gaming and the VCGR the power to determine these caps for regions and municipal districts suggests that the minister wants to reserve the right to intervene and — but I would hope not — possibly interfere with the decision of the commission. If the decision is political, then we say very strongly that the minister should not hide behind the VCGR. If it is an apolitical decision, then he should not have the capacity to interfere. I would have thought that that would be standard practice. If the decision is not political, give it to the VCGR to deal with; if the decision is political, then why is the minister reserving his right to intervene?

In relation to community benefit statements, while the amendments the bill makes to them are themselves objectionable, the debate will take place at the same time that the government has proposed changes to what type of club activities constitute a community benefit. It is important for us to note that the government's proposal to change what is defined as a community benefit will take effect by means of a ministerial determination. As I said before, it is up to the minister to determine what is a community benefit. I think placing that responsibility in the hands of the minister is somewhat concerning, but that is what the bill before us does.

The extension of the $45 million funding for drug and alcohol programs perpetuates the myth that raiding the CSF for matters that should be basic government responsibilities is a good idea. The government does not have to raid the CSF for these programs. We would have thought these programs would be funded from consolidated revenue and dealt with by the government of the day through the normal, everyday process the government uses to conduct its business, but the government is now saying it needs to raid Community Support Fund moneys, which were not intended for these purposes, to do the job it should have been doing in the first place. However, while there is no direct link between alcohol and drug abuse and electronic gaming machines — there has been no proof of such a link to date — it is certainly an area of concern, and we should never shirk from spending money and placing emphasis upon this important issue.

As I said at the start of my contribution to the debate, the Liberal Party will not oppose this bill, but we do propose amendments. An amendment standing in my name relates to the maximum permissible number of gaming machines available for gaming in the state of Victoria. The opposition's position is that the total number should be reduced by 5500 — from 27 500 to 22 000 — from the time of the licence expiration in 2012. This was a policy we took to the last election. It would certainly help this bill along and give it a bit more credence and credibility.

The established 80:20 distribution of machines between city and country Victoria should have been maintained, and the distribution between hotels and clubs should have been maintained at the present 50:50 split.

The Liberal Party at the last election took on board and recognised that clubs and hotels which have fewer than 25 electronic gaming machines are certainly going to be made unviable. These hotels and clubs will retain their present number of machines under this policy. As I said, it is an amendment that is standing in my name and is one that I will move.

The Liberal Party does not oppose this bill but will propose amendments to it. I would therefore urge all members to have a look at the Liberal Party amendments and to seriously take them on board. The government has already recognised the Liberal Party policy from the last election in relation to the $1000 payout limit. The cheque provision for that is good policy, which is why the government picked it up. We encourage it to have a look at our amendments and indeed vote for them.

Mr DRUM (Northern Victoria) — The Nationals will not be opposing this legislation, but I can also flag at this stage that we will not be supporting the Liberal Party's amendments. The Nationals have looked very closely at the whole philosophy surrounding the reduction of electronic gaming machines (EGMs) in an effort to alleviate the problem gambling issue. We believe it will not work. Whilst we treat problem gambling very seriously, we believe it should be treated as a health issue. It needs to be treated in the same way as the problem is treated in New Zealand where they are getting some positive results, which we have not been able to get anywhere here in Australia. John Stansfield is a leading light in the problem gambling area over there. He has some credible data and research that backs up the work he is doing. Primarily he believes much of the success they are having in New

Zealand is based on the fact they are treating it as a health issue.

The Nationals have had a long-held stance on problem gambling, which would see the universities playing a very important role in introducing credible research. That would create a truly independent point of reference, with collated data and statistics needed to understand and truly move forward in relation to the problem. The problem gambler is a very difficult person to identify. The problem gambler is someone whom it is difficult to put programs around. There have been myriad programs designed to improve the lot of problem gamblers, but in my opinion none of them within Australia, with the exception of some of the work they are doing at Crown Casino, are having a significant impact.

It is my understanding that some of the issues around problem gambling do not get spoken about very much. People from Asian countries in particular, including Vietnam, make up 1 per cent of the female population in this state, and yet I am led to believe they make up 5 per cent of the population within our female prisons. I am also led to believe that overrepresentation in our female prisons results largely from crimes associated with gambling addiction. We do have what I would call hidden social problems over and above what we call the standard problem gambler. We see a lot of Asians around the casinos and gaming halls. We tend to accept that; it is a very strong part of their culture. But we also must understand that losing is a very strong part of the gambling culture. In effect there is a whole raft of hidden problems.

This government should be totally ashamed of some of the work it has done recently in trying to con the Victorian public in relation to the problem gambling figures. As I have mentioned before in this chamber, Dr Doughney did some research, but he warned the government not to use his report because it was flawed in the sense that the statistics were based on gamblers being asked to self-assess. Obviously when you ask people with an addiction to self-assess and acknowledge they have a problem, you are going to come up with a significantly lower percentage than you would if you had an independent auditor. Therefore, when that problem gambling report was released and it said that 1.5 per cent to 2 per cent of the population had a gambling problem, the government — even though it was warned not to use that data — came out and trumpeted the fact that its problem gambling measures were having a great effect within the state and that all of the programs it had been running had slashed the problem gambling numbers by more than half. If we have a government that is kidding itself into thinking the problem is dissipating, what hope have we got of that same government ever putting in more funds to try to alleviate the problem that currently exists?

Even the gaming industry would acknowledge that the problem gambling percentages in this state are more like 5 per cent. Even those who would possibly have something to gain by understating the numbers of problem gamblers in this state have come out with a number closer to 5 per cent. This government is trying to con the people of Victoria by saying this new report shows that problem gambling is no longer the issue it used to be and that its programs are working well.

I refer back to the amendments proposed by the Liberal Party. Reducing the number of machines within this state from 27 500 to 20 000 is a significant measure, but the evidence compiled from the experiment in South Australia shows that despite a 20 per cent reduction in the number of EGMs, the overall take of EGMs actually increased. Therefore we believe there is no reason to differentiate between the potential outcomes here in Victoria and what happened in South Australia. We do not believe that course of action will have any great impact, especially on the problem gamblers, although it is likely that it will impact on the occasional player of EGMs. I use this analogy: if you were alcoholic and a decision was made to shut 20 per cent of the hotels around Melbourne, you would still be able to find an outlet to sell you alcohol. I do not think it would impact on anybody who had a drinking problem if one day 20 per cent of the hotels and other liquor outlets were shut. That is why we will not support the amendments to be moved by the Liberal Party.

Another part to the argument is: are we ever going to see the true benefits in this state that can and should be derived from gaming? Those of us who have followed the gaming industry closely know that the gaming industry causes a fair amount of pain. We know a whole range of ills are caused as a result of a legal gaming industry. That is fine, we understand that, but we should also be able to understand that there are significant benefits to the state, and they should be visible for everybody to see. There are significant benefits that should be put up front and centre within each of our smaller and our larger communities. We should be able to see the benefits that are derived from gaming at a regional or local level. That is certainly an area where we have been falling down through successive governments in this state.

This bill has four main parts. It will enable ministerial orders to be made to limit the number of gaming machines in municipal districts. It will amend the way regional limits are set. They are quite often simply

referred to as regional caps. It is yet to be seen whether regional caps are having the desired effect. The Nationals agree with the concept that local municipalities should have a greater say in the number of machines in their regions and that communities should have a greater say in whether machines are put into their facilities. However, it is yet to be determined in any way, shape or form whether the caps that are currently in place are having any curbing influence on problem gamblers.

The only reason the caps have been put in place is so that we do not get to the situation where certain low socioeconomic areas are bombarded with an overrepresentation of machines. Originally five areas of Victoria were covered by regional caps. I think it was back in October 2006 that that number was increased to 19, and we currently have 19 regions throughout Victoria with fixed regional caps. As I say, it is an aspect of the bill that we are quite ambivalent about, because it is yet to be seen whether regional caps have any significant benefit and whether they are providing any assistance with the work a local government can do to stop an overrepresentation in its area.

The second aspect of the bill I would like to talk about prohibits a venue operator or a gaming operator paying out over $1000 in accumulated credit except by cheque. I think the government has probably got this right. We tend to think that $1000 is about the right amount, but it could have been a fraction less. I have been in a number of groups where somebody has been lucky on the pokies and occasionally that money is spent on dinner or shouting drinks that evening. If you made it too restrictive, payment by cheque may be an issue because it would mean that people who might have a bit of luck one night would not be able to share their winnings with their friends. People often go away together for a weekend playing the pokies and find their winnings on the pokies help them spread the cost of the weekend. If that money has to be banked because it is paid in the form of a cheque, it may be a little too restrictive. It is an issue we see as being neither here nor there, but we think the government has probably picked the right number in limiting cash payments to $1000 with anything over $1000 to be paid by cheque.

There is one area I would like the Minister for Planning, who represents the Minister for Gaming in this house, to clarify in his summing up — that is, what happens to a win of, say, $1300? Is a win of $1300 paid as $1000 in cash and a cheque for $300 or are the winnings paid in a cheque for $1300? It would seem a little bit funny that if you won $990 you could get it in cash but if you happened to win $1010 you might get the whole lot in a cheque. I hope that can be clarified by the minister or one of the government speakers. It is only a small aspect, but it is a bit of an unknown at the moment.

The third aspect of the bill I would like to talk about is the provision that amends the requirement for venue operators, including clubs and pubs, to lodge community benefit statements. This is an important aspect of the bill. We need to look at this and truly understand how the community benefit statements actually work. All clubs will now have to fill out a community benefit statement. We know the hotels contribute to the Community Support Fund. The Community Support Fund operates on 8 per cent of total net profit. That money is paid by hotels throughout Victoria to the government and into the fund on the understanding that that money will be invested back into the communities from which the money has been derived. It is common knowledge that that has not happened, especially under this government.

This government has made an art form of taking that money and using it to fund items which historically would have been funded as normal line items in the general budget. It is hard to get a handle on exactly how much money is put into Community Support Fund annually. I am led to believe it is somewhere in the range of $120 million to $140 million. That is an awful amount of money.

The community benefit statements are also for the hotels. They need to list the range of benefits they are providing for the community, and that is quite an impost on the hotel industry. I would like one of the government speakers or the minister in his summing up to clarify that hotels will no longer have to fill our community benefit statements once this bill receives royal assent. That is what this bill will do. That will be the case from the date of royal assent, which will possibly be in two or three weeks time. The hotel industry is looking for a guarantee that this bill will give hotels the right to not compile and lodge community benefit statements for the year that ended on 30 June 2007, which would have needed to be lodged by 30 September this year. They are a huge impost, and this will be a significant saving. Many hotels throughout Victoria are looking forward to that saving.

I think the government's intention with this legislation is that for the year just gone hotels will be exempt from lodging those statements. If that could be reiterated by government speakers today, it would certainly give a lot of comfort to the many hotels in this state which are on the verge of having to do it or not do it. A $7500 expense will be avoided by each of the venues if the government can verify that those statements will not be

needed this year. These venues have to collate all their records for the year, put together a draft statement, send it off to the auditors, have it returned by the auditors with all the adjustments that have to be made and then they have to lodge those documents as part of the community benefit statement. It is a lot of work, it takes a lot effort and it is quite costly. If that work can be eradicated in the future, starting with this year, that will be of great benefit to the industry.

This leads on to the community benefit statements for clubs. Until now we have just assumed that clubs throughout Victoria, which as we know do not contribute to the Community Support Fund, have been able to use the proceeds derived from their venues for the benefit of the community. In the future those clubs will be forced to put together community benefit statements to ensure that they are putting proceeds back into the community in the manner set out by the legislation in the first place.

In June this year the Minister for Gaming gave the industry 15 days to respond to moves towards reform by making submissions to the *Community Benefit Statements — A New Direction* discussion paper. It was hardly the amount of time that the industry needed to get this work done. It was extremely heavy handed of the minister, and the clubs made their opinions well known to him with some pretty serious lobbying. I am proud to say The Nationals played a significant role in getting the minister to have a think about his decision to reform community benefit statements for clubs in Victoria by 30 June this year. To his credit, the minister has effectively delayed reforms for another 12 months. That will give the clubs in Victoria enough time to put together a structure and framework so they will be able to meet the criteria which will be set out. It will be of true benefit to community clubs.

We are glad that we were able to help them by making representations to the minister, because they were facing an impossible situation. They would not have been able to get their submissions in or have their representations heard by the minister in time, and the new system of community benefit statement reporting was going to be foisted upon them before they had had a chance to be properly consulted and have any impact on the direction the reform was taking. Now hotels will not have to put in community benefit statements but will contribute to the Community Support Fund at a rate of about 8 per cent, and I will talk a little about that in a second. Clubs will also have to be able to prove that they are true community clubs.

I wish to raise a matter with the Parliament through the President. I have a very strong personal concern that there is a group in Victoria that is buying up many community clubs and using the proceeds to prop up Australian Football League clubs. AFL clubs are not what I would call a community benefit. We would probably find that a whole range of Victorian-based AFL clubs operate at a very elite level. Our so-called most professional football club, Collingwood, is in Victoria. It is able to send its players to training camps in Arizona in the middle of the year, and in the middle of the Victorian winter it sends its players on a week's holiday to the Gold Coast. It is seen to be the most professional club in Victoria and possibly in Australia. If it is going out into the community, buying community gaming clubs and using the proceeds from those clubs to run a highly professional, elite sporting organisation, in my opinion that goes against the spirit and intent of the legislation.

Where are the local netball courts that are being resealed through that community benefit provision? Where are the new change rooms for the junior football clubs? Where are the new hockey fields? Where are the new lighting structures? Where is the beautification of the cities? I have a genuine and very real problem with AFL clubs buying community clubs and taking the proceeds derived from those clubs for use in a highly professional industry such as the AFL — and I am happy to have that on the record.

The last point I would like to mention is the extension of the time frame by a further four years for payments into the Community Support Fund. An amount of $45 million of the total annual amount paid into the fund is to be spent on drug and alcohol programs in the state. That is in place at the moment. The current time frame or period during which $45 million is to be paid every year has run out and the government is extending it. So, $45 million will again be taken out of the Community Support Fund each year over the next four years, which means a total of $180 million will be spent on drug and alcohol programs over that period.

As anybody who has been in this chamber recently would know, I have been vocal about the fact that we are simply not spending enough on drug and alcohol rehabilitation, detox and on beds in psychiatric wards that are needed because of drug and alcohol problems in this state. You would think that if you took away the electronic gaming machines (EGMs) and did not derive income from gaming, we would still have to have programs for people affected by drugs and alcohol. We could make a comparison with Western Australia, which does not have electronic gaming machines. That government still spends considerable amounts of money on its drug and alcohol programs. In fact it

spends about the same amount of money as Victoria does, if not a little bit more, on a per capita basis.

In Victoria we have a huge injection of funds going to the government from EGMs, but we are not spending any more money on drug and alcohol problems than is spent in a state that does not benefit from EGM money. Effectively what the government is doing is simply cocooning in general revenue the money it previously spent on drug and alcohol programs and using its new windfall of money coming out of EGMs and out of the Community Support Fund to pay for something that it would normally have to pay for anyway. That is the underhanded way this government goes about using the Community Support Fund. It uses it to fund items that are already being funded and which it already has a responsibility to fund out of the general budget instead of sending that money straight back to the community where the losses were incurred in the first place.

We have a very great shortage of drug and alcohol rehabilitation programs in regional Victoria, and we have huge waiting lists. There is a facility at Molyullah on the outskirts of Benalla which is run by Odyssey House and which has 12 beds for drug and alcohol rehabilitation. That program does not receive state government funding. We have made representation after representation, but this state government does not want to fund it. The only reason it is open is because it has been receiving federal government funding for two years, but it has had to close down in accordance with a set of criteria put in place by the federal government. The funding was for two years, and over that period of two years the facility has not been able to attract any funding at all from the state government in relation to drug and alcohol rehabilitation programs.

Not only are the 12 beds at Molyullah full all the time, we have 36 people on the waiting list who have put their hands up, have gone through the detox program and are trying to get into a bed. They are there waiting in the community for a bed within the programs at Molyullah, hoping that Odyssey House can fit them in. Every day that goes by is another opportunity for them to succumb to their addiction and start using again, and the potential opportunity to save their lives is effectively wasted.

It goes on and on, and this scenario is repeated every day in regional Victoria. There is a drug and alcohol rehabilitation facility on the outskirts of Kilmore that is run by the Salvation Army and is funded by the Department of Human Services. There is another facility in Wodonga which is wholly funded by one of the church groups, I think by the Adventist group in Wodonga. It does not receive any state or federal government funding. The situation is that the government is quarantining $45 million a year for the next four years, yet even with that it is not investing any more money in this program than is invested by other states that do not have electronic gaming machines and do not receive the windfalls created by people's losses on gaming machines.

The government has been caught out through its lack of investment in this area. We need to be very cognisant of that issue, but we also need to pause for a moment and take a deep breath about the issue of gaming as a whole. Something like 10 000 jobs in the state are derived from gaming. That is 10 000 people who are able to go about their daily lives and make a genuine and honest living out of this industry. The industry needs to be recognised for the good it is doing.

There are many facilities that are only in place due to the proceeds derived from electronic gaming machines. In the city of Bendigo, where I live, we have one of the premier basketball stadiums in Victoria. The Bendigo Schweppes Centre is in effect funded by gaming machines. It is a council-owned facility that is situated on Department of Sustainability and Environment land and run by a board of management. The people of Bendigo have one of the most outstanding basketball facilities you could ever hope to have, which offers families cheap access to the great sport of basketball. Funding from gaming machines also allows Bendigo to have two teams in the South East Australian Basketball League, the Bendigo Braves and the Bendigo Lady Braves, both of which won the state championship this year.

All of this is derived from gaming revenue. If we did not have the machines, we would not have the facility — or we would have a further impost on local government, which would have to provide those facilities. We forget how many benefits there are from having gaming machines. We also forget how many benefits there could be if this government stopped abusing the Community Support Fund year after year and started putting those funds back into facilities, as was the general intent when gaming machines were introduced in this state.

If that were to happen the place we call Victoria would look totally different. We would have the facilities that would involve our youth in sport. We know what playing team sports does for our youth — it keeps them out of jail. We know how many areas of the arts and the theatre need additional funding so that they can put together the facilities they need. Again, that is what the Community Support Fund should be used for. It should not be funding items that have historically been funded

by line items in the budget. It is very hard for a politician to say, 'We should not be building libraries from the Community Support Fund', but the truth is that we should not. We have always built, maintained and expanded libraries

We should not be relying on this new money that has come into the budget in the last 20 years to fund items that were funded historically through the line items in the general budget. We should be using this new money to give communities all those facilities that they would not otherwise have. That is the very clear difference that I do not think is made often enough in relation to the benefits that are derived from gaming. In little places like St Arnaud, the only genuine meeting room is at St Arnaud's Sports Club. It has cheap meals, clean meeting rooms and a function centre, all of which has come from gaming revenue. We need to be aware of how some communities really can benefit from the proceeds of gambling.

We know all about the evils of gambling. We are smart enough to understand that there is a lot of damage caused by these things, but that has to be offset by the benefits that we should be able to see for respective communities. We do not see those benefits because this government keeps hiding the proceeds. An amount of $1 billion in tax every year goes straight to the government. So 33 per cent of all the proceeds goes straight to the government in general tax and $120 million to $140 million goes to the Community Support Fund. Then there is the health-care levy that the government has put in place, which started off at $45 million and went up to $90 million a year. That is paid by Tabcorp and Tattersall's and is a little sling off to the side that goes straight to hospitals.

Now part of the amount that goes to the Community Support Fund is not going back to the communities but is actually going back to drug and alcohol rehabilitation, an area that is totally underfunded in the state. Put all that together with the noise that this government made when it was in opposition — without talking about the money — when it spoke only about how the then government was addicted to gambling income. It made song and dance after song and dance about how it was going to change things when it got into government, about how it was going to stop the fact that the then government seemed to be addicted to gaming revenue. The changes it has made in the more than eight years since it came to government have been absolutely negligible. The government is simply taking all the money that it can get out of the gaming sector and spending it on items that have historically been funded anyway.

It is always great to have the opportunity to talk on gaming and to put both sides of the argument to the Parliament. The Nationals will not oppose this legislation. We will not be supporting the reduction in the number of machines in Victoria that the Liberals have put forward. We look forward to this government getting serious about problem gambling rather than just making the right noises but not actually doing anything. We hope that in the future some of the initiatives that have been put forward in places like New Zealand and some of the intervention programs that have been put forward at Crown Casino can be picked up on a wider basis to see whether we can make a dent in the problem and truly get to work with an identified person who has so far been known mythically only as a problem gambler.

Mr BARBER (Northern Metropolitan) — Before we start talking about the purported solution the government is offering in this bill, maybe we should spend a bit of time trying to define the problem. The way the government tells it, there is a small group of people, a couple of per cent — it quibbles about the number — who are called problem gamblers. The government says they are the ones who have the problem. It says you need to isolate them and treat them for whatever their problem is, and the rest of the gambling industry can just go on happily.

The Greens and of course the leading experts in this area, those who assist problem gamblers and many local governments that have dealt with the issue, understand that the reality is very different. They understand that the machine is the problem, that it is the way the industry is structured that is the problem, that it is the widespread availability and accessibility of machines that is the problem, and that it is the excessive number of machines that is the problem. The features of the product itself and how it is designed are the things that need to be addressed.

I refer members to the work of Mark Dickerson, a professor of psychology at the University of Western Sydney. He has written a paper called *Exploring the Limits of 'Responsible Gambling' — Harm Minimisation or Consumer Protection?*. In the abstract to that paper he noted:

> Current psychological research does not support the responsible gambling objective of excluding the problem gambler from gambling venues but does have significant implications for consumer protection. The argument presented —

that is, in his paper —

> is that loss of control over expenditure of time and money during a session of play/betting is a common and 'natural'

> experience for regular players. This sense of loss of control is likely to be an integral part of the pleasurable experience of gambling. It was concluded that the manner in which continuous gambling products are provided to regular gamblers is in direct conflict with responsible gaming strategies, may fail to satisfy the principle of duty of care and may be an issue best resolved in terms of consumer protection.

To decode that a little bit for members, what he is saying is that by regulating this gambling product the government effectively puts on the market a product that will cause the majority of people who use it regularly and to a high level to lose control over their spending and their understanding of the time they intended to devote to gambling, and that as a result the onus is very much on the government and the provider of the product, not on those individuals to sort out whatever their own individual problem is, because the product is designed to suck you in.

Just to make it a little clearer for members, I will read from an interview with Mark Dickerson conducted on a *Four Corners* program:

> Are they addictive for some people?
>
> They are in the sense that any group of regular players who play weekly or twice weekly, over half of them … will lose control of their session length and how many sessions they will have in a week. So it seems to me that loss of control is an entirely natural response to something that is very fast and entertaining.
>
> So the distinction between heavy gamblers on the one hand and problem gamblers on the other — is that realistic?
>
> No, I don't think it is and I think the focus on the problem gambler, although essential to try and help him or her with their problems, has, I think, taken us away from the real issue and that is that these regular players, who account for a large proportion of the expenditure, are the ones who are highly at risk of loss of control, and here they are simply using a product in the way in which it was advertised for use regularly.

Does that sound familiar? There is a great analogy with the tobacco industry: the product, when used as intended by its producer, is very likely to cause you mild to severe damage. In this case we are not talking about tobacco companies manipulating levels of nicotine in cigarettes, we are talking about poker machine companies changing the features of their product, every one of which is ticked off by this state government through this bill.

Having just quoted what one well-recognised expert has said, I will read a report of the what was said by someone who has had problems with gambling. I refer to the *Herald Sun* of Tuesday, 14 August, which reports an interview with Conny McLaughlin. It states:

> Pokies addict Conny McLaughlin lost $350 000 in a gambling binge she kept secret for 10 years.
>
> …
>
> 'Some days I'd go in there and lose my entire pay packet', Ms McLaughlin told the *Herald Sun*.
>
> 'The worst part is when you walk out the (pokies venue) door and it hits you what you've done.
>
> You're back in the real world and you've got to think about how you're going to buy the food and not get depressed about what you've been doing'.
>
> …
>
> She believes the state government is a willing participant in a money-grabbing conspiracy with powerful pokies operators Tattersall's and Tabcorp.
>
> 'The atmosphere inside those venues is completely different to the real world. It's a place to zone out and escape reality …
>
> It's just you and the machine. It's an unreal world — it's not reality.
>
> They (the state government) know exactly what's going on'.

The two accounts of exactly where the problem lies, one from an expert in the psychology of gambling and the other from a victim of gambling, are very similar. The problem is with the product and not, as the government likes to portray it, with an individual who has some sort of internal glitch. For that reason, I request that the Greens amendments be circulated.

Greens amendments circulated by Mr BARBER (Northern Metropolitan) pursuant to standing orders.

Mr BARBER — One amendment proposes limiting the number of EGMs (electronic gaming machines) in Victoria to 10 000 by having the number drop down from the 30 000 level. That represents a deep cut to the number of machines in Victoria. We believe that it is the only way we can start to have a real impact on the problem as I have just described it.

The legislation also creates a mechanism by which the minister can decide regional caps. This comes as a result of a long set of public debates and discussions, culminating in the regional electronic gaming machine cap review panel of 2005. The panel was made up of three ALP parliamentarians from the other place: the members for Bentleigh, Narre Warren North and Ballarat West. In their report they promoted higher overall density levels than the existing state cap, which was then about seven machines per 1000 adults, as an average spread across Victoria. The panel recommended that the universal cap be set at a density of eight gaming machines per 1000 adults.

As a result of its own consultations the review panel recommended against what it described as considerable support from local governments and community stakeholders for a cap set at the state density level of seven. The community recommended seven machines per 1000 adults across the state and the members of the panel recommended eight. The panel's reasoning was — and this is where your heart starts to bleed — that a cap of seven would impose unreasonable hardship on a significant proportion of gaming venues without achieving additional demonstrable benefits in accessibility. They reported that as a result there would be a loss of approximately 3426 machines from 28 local government areas. That would be no bad thing and would go a long way towards creating the situation that the Greens would like to see.

At the same time the members of the panel acknowledged that a cap of seven would probably have a significant impact on the accessibility of gambling opportunities and may result in a lower incidence of problem gambling. They said that the evidence to support that view was not conclusive and that it did not justify the severe adverse impact on the industry that would result from a cap at that level. It was pretty clear that in their minds protection of the industry came before the need to lower the incidence of problem gambling, despite the results of the consultations.

However, subsequent to that report the government tabled its response entitled *Taking Action on Problem Gambling*. In that document the government overruled the panel's recommendation and imposed regional caps of 10 EGMs per 1000 adults. The government has ensured that the number of gaming machines that existed under the Kennett government has been maintained, despite all the consultations and reports. If the government had brought the density down to seven per 1000, approximately 3500 machines would have of removed. If the panel's recommendation of eight per 1000 had been accepted by the government, 1872 machines would have had to have been removed. At the level of 10 gaming machines per 1000 adults only 543 machines have to be removed.

The gambling industry has an absolutely rapacious hunger. In 2005–06 the state government collected $911 million in revenue. That was about 8.4 per cent of the state's total taxation revenue, but with its $35 billion budget, it is a small and diminishing proportion of the state's revenue. On Monday, 13 August, the *Herald Sun* reported that the latest statistics on losses exposed the failure of the government's controversial regional cap policies. Pokie losses have risen in 18 out of 19 regions where the government ordered the removal of a small number of machines to try to curb problem gambling. That caused the Reverend Tim Costello, long-term campaigner for reducing the harm of gambling, to say:

> It's been state-sponsored robbery …
>
> The state has known that all along and has been complicit in the destruction of marriages, savings and even lives.
>
> The truth is, a Labor government must hang its head in deep shame and never argue to be a party of social justice
>
> They have been a party of social injustice.

I agree with him. A report by Mr James Doughney, quoting information from the national coroners information system, states that of 70 gambling-related suicides between June 2001 and June 2005 the vast majority — 68 — were as a result of poker machine losses. There were 68 suicides over four years. Mr Drum, who comes in here and on behalf of The Nationals claims concern about gambling problems, needs to have another look. The Nationals, whose current legislative priority is to protect 17-year-olds from nose rings, is quite happy to accept a rapacious industry that has led to suicides and family breakdown, with an estimated 6000 divorces, an estimated 8000 criminal convictions and $20 billion being spent by problem gamblers — by my estimate — which could have been put into household expenditure, could have been put into education and could have been spent on better health. That is the context in which we should consider the effectiveness of the government's changes to regional caps as facilitated by this bill.

A report by the South Australian Centre for Economic Studies to the regional electronic gaming machine caps review panel — that is, the Hudson report — assessed the impact of the introduction of caps limiting the number of EGMs in five Victorian regions. It found with these small cuts to machine numbers on balance there was no evidence that regional caps had had any positive influence on problem gamblers so far and that in venues and regions that lost machines utilisation rates on remaining machines just went up. Most importantly, according to the researcher, the experience of venue owners and local managers is that the removal of machines left problem gamblers largely unaffected because previously idle machines were taken up. The report also found that the decline in gambling participation and expenditure occurred as a result of a smoking ban at venues and the removal of 24-hour gambling.

That is the only effective measure that this government has introduced. Why? Because it breaks up play. If you go outside for a smoke, you get away from that focus — as described by both the psychological experts

and the individual, Ms McLaughlin — and you break your play. You go out the front door, you start looking around, you remember you are back in the real world and that you have got real issues — you have people who love you and you have responsibilities — and you think, 'I'm going to pack this in'; likewise with 24-hour gambling, which was an absolute scandal. The machines actually get switched off for 1 hour, causing some people to reconsider their opportunities and head home.

The Greens policies, as I will detail in a moment, are all about that. They are all about breaking up play and minimising the ability of a poker machine to basically hypnotise you, which, as we have seen from the latest research, occurs not with just a small segment of the Victorian community but with most people who gamble heavily and regularly. Regardless of whether it is 1.5 per cent or 2 per cent of the population, that is still a significant number. If any other product out there on the market were causing such severe harm — if there were a product which caused 1 per cent of its users to be incapacitated or need to be admitted to hospital — we would not allow that product to stay on the market. Yet the impacts for problem gamblers are equally, if not more, severe.

Let us look at what some local councils had to say about the caps policy as it existed at the time when they were participating in the review of caps. Maribyrnong City Council said:

> … the introduction and extension of regional caps that address individual and community impacts of problem gambling is not 'the main game'. Under the current contractual regime set up by the state government there is no incentive for the Tatts/Tabcorp duopoly to modify their sole purpose — the unfettered maximisation of profit; this is the economic reality.

The submission of the City of Greater Dandenong referred to the reductions under the caps initiative leaving 1000 machines — about 10.6 per 1000 adults — and states:

> This substantial number of EGMs contributes to the ready accessibility of gambling and to the resulting losses which compound social disadvantage in this community. Not only are 'problem gamblers' affected, but also a larger number of people who persistently lose more money than they can afford and whose families bear the burden of the resulting hardship.

If it is about making Victoria a better place to live, work and raise a family, getting rid of every poker machine in the state would be a bloody good start.

The community stakeholder submission by the Council of Gamblers Help Services, the peak community body for all those out there helping gamblers — it should know; members of this place should pay some attention to it — says:

> … it is the council's position that the current caps have experienced no significant impact. Since EGMs can still be accessed in all capped areas and most, if not all, venues are still in operation … access by problem gamblers is still sufficient to enable them to gamble excessively. Only if machine numbers were reduced to the level that demanded queuing would they then have any impact, and even then it is foreseeable that problem gamblers would be more likely to queue than recreational gamblers.

Despite these findings submitted to the caps review in 2005, the panel recommended the extension of capping to more regions and municipalities — but at a very low level. Basically it is a PR approach.

Clearly the latest announcements from the government did not create much of an impression down at the Brimbank City Council either, because an article in the *Star* newspaper of 7 August says:

> Brimbank City Council is disappointed the state government legislation will allow for up to 10 electronic gaming machines … per 1000 adults, which would see an increase of 144 machines in the municipality.

Not surprisingly the Brimbank mayor, Margaret Giudice, was disappointed. She is reported as saying"

> Council is disappointed with the state government's decision to legislate for up to 10 EGMs per 1000 adults.

If she were here, I would presume she would support the Greens amendment to cut the number of machines.

A submission from the local government working group on gambling for the Victorian Local Governance Association, with which members are probably familiar, to the Review of Victorian Gambling Licences last year states that the minimum measures needed to address this are venue design; machine design and operation features, including spin rates, bet limits and note acceptors; player information; and even expenditure pre-commitment mechanisms.

The latter measure is now being trialled and even implemented in some Canadian provinces, so Victoria is by no means up with the best practice on this. These other measures, none of which appears in any reforms introduced by this bill, are equally important. What we need here is what members may understand to be a public health approach. We understand it with respect to the road toll, with respect to smoking, and with respect to HIV infections. You get a group of experts together who work out the drivers of the problem. You then let them address those drivers one after the other and watch the damage go down, as has been very

successfully the case with the road toll and with smoking. But that has never been allowed to happen in respect to gambling here in Victoria. We have a secretive government ministerial advisory committee. Effectively the Department of Justice and the tax office run the policy in a compliance and revenue framework. The government has not put health professionals in charge of the problem.

Limits on cash payouts are another measure introduced by the bill. It is probably the only measure in the bill that could minimise some harm in gambling. It proposes that winnings or accumulated credits of $1000 on a gaming machine are to be paid out by cheque. The current limit under the act is $2000. If you win $2000, they will not give you cash; they will give you a cheque. The government proposes to reduce that to $1000. That is not just winnings. If you were to feed money into a machine and then cash it out, you would get paid by cheque. The government claims this measure will improve consumer protection by reducing the risk of cash being immediately — in its word — 'reinvested' into gaming machines. 'Reinvested' is a great choice of word. It is an investment that pays on average negative 13 per cent, but it can be a lot worse than that in the short term. We support the thrust of that measure, but we would like to see the $1000 limit reduced further, and our amendment addresses that. In fact it just takes it down to the level in Queensland, which is $250. If it is good enough for Queensland, it is good enough for Victoria.

In an extensive interview on the Jon Faine program the former gaming minister in the other place who introduced this bill, Mr Andrews, was asked a series of questions about where the amount of $1000 came from. Was it based on research that showed it was an effective cut-off point that would prevent problem gamblers from sticking the cash straight back into a machine? Was it plucked out of the air? What is the evidence that it will increase consumer protection? Did the government even ask the Victorian Commission for Gambling Regulation to produce some numbers on how often this would occur? Interestingly, Dr Charles Livingstone from Monash University, in his submission to our currently running select committee on gaming, gives examples of the research capacity of the industry in crunching these sorts of numbers by quoting from Tabcorp and Tattersall's submissions to the gaming licences review. He said:

> The gaming operators use their expertise, including by monitoring gaming data, to predict player preferences, resulting on optimal game utilisation.
>
> Gaming operators invest in management information systems, which provide better decision making in respect of machine and game purchases.

In other words, every single machine is linked into a database that these companies can access to study the behaviour of those playing the machines. He went on to say:

> The data warehouse enables Tattersall's to fully benefit from the data it collects through its monitoring and control function …
>
> > Tattersall's data warehouse extracts and consolidates data from all of Tattersall's operating systems, including its jackpot system. The data warehouse includes statistics on: game performance; venue performance; jackpot performance; and game configurations

He stated that:

> This consolidated dynamic data provides the platform for the development of predictive models, which assist in developing and implementing venue-specific product strategies.

So when you are playing the pokies they are monitoring how you play, how often you hit that button and how you respond to certain product features. They can do it machine by machine or venue by venue so they can work out who is playing in that venue and how best to exploit their particular psychology.

Why is it that the government can just walk in here and say that $1000 is the magic number without making any effort to keep up with what Tattersall's and Tabcorp are doing in their never-ending and extremely well-funded quest to work out ways to strip more money out of people? That is the consumer protection approach described by gambler's help services and professionals in this area. The government is not interested. Dr Livingstone concluded by saying:

> In simple terms, the duopoly arrangements result in EGM consumers being relieved of their funds far more efficiently in Victoria than in any other Australian jurisdiction. Data quoted by the duopoly operators supports the view, such that on a per EGM basis Victoria is unrivalled.

The average net player loss per EGM in Victoria was around $84 000, whereas in New South Wales it was $47 000. In South Australia it was $48 000 and in Queensland it was $39 000. Our machines are the most voracious in Australia and probably the world.

In that context simply talking about moving a few machines around here and there or comparing it to another state is completely irrelevant. Our machines are voracious because they are run by a duopoly of Tattersall's and Tabcorp with this incredible data warehouse. In fact the gaming machine maker has one of the highest research and development budgets of any

listed company in Australia. Gamblers do not have a hope against that, and the state government is not even trying.

Until recent changes were made it was possible to load up an EGM with $9000. You can lose $1200 an hour playing EGMs at a local hotel. You can bet $10 or even $5. I do not know why you would even allow a bet of $5 on every spin of an EGM at intervals of less than 3 seconds or why that is essential to provide some basic enjoyment for an individual having a little tipple here and there. In yesterday's *Herald Sun* we read about a former footy star who claims — and gambler's stories get a bit exaggerated sometimes — to have lost $20 000 in 20 minutes. Mathematically you can come pretty close to doing that with a spin every 3 seconds and a maximum bet. What I am asking is: why is it necessary to have that product on the market just so that people can have, as others have described it — I do not find it particularly enjoyable — the enjoyment of playing a few pokies. The government is simply not interested in regulating the product.

In his submission Dr Livingstone claimed that in excess of 40 per cent of net player losses from EGMs are derived from problem or near-problem gamblers and that that is verified by reports of the Productivity Commission in 1999 and other researchers. It is not simply a case of finding the 1 per cent or 2 per cent who have a gambling problem, but realising that in fact nearly half the revenue is coming from people who are heavy gamblers. Whether or not you call them heavy gamblers, they are a group that is completely vulnerable to the sorts of product tactics I have described.

What this means is that there is $1 billion in EGM player losses, of which the government gets one-third, drawn from problem or at-risk EGM gamblers each year. That must be addressed. The EGM industries out there are trying to make profits like every other company, but that is not matched by the regulator's capacity to utilise the same data for public health purposes — it does not even try. It is also clear that most, if not all, EGM gamblers have only the sketchiest knowledge of the way EGMs work, and few if any gamblers understand that, although EGMs are programmed to return a defined legal minimum, which is called the return to player, in Victoria this is calculated by reference to the net outcome of all the games played on all the EGMs in a particular venue for the year. The 13 per cent that you are guaranteed to lose is calculated across a bunch of machines in one venue over an entire year. The fact that there are about 80 million possible outcomes on an average poker machine says that it is not surprising that the volatility, in statistical terms, can be very wide.

With respect to that part of the bill that gives the minister some responsibility for the community benefit statements, how they are filled in and what they consist of, a widely reported Monash university study published this year — which was referred to in the parliamentary library brief on this bill — showed that $376 million in community benefit contributions was claimed by venues, but only 3 per cent of that went to outside community organisations and charities. When venues say, 'This is the proportion of money we spend on community benefit' what they really mean is, 'We put that back into our club or venue'.

No-one should think for a second that that money is given out in cheques to needy families or other groups in the local community — only 3 per cent of that $376 million actually went to such causes. Not only that, we have seen venues putting on their community benefit statements stuff such as spirit dispensers — apparently there is a community benefit associated with supplying those — and a disabled toilet, which venues are required to provide under the building code, so I do not know why that is considered to be a benefit. Even the provision of an automatic teller machine (ATM) in a venue was said to be a community benefit, whereas if we, the Greens, had our way, we would ban ATMs from venues. The draft ministerial order is a reasonable approach to rectifying the issue, leaving it in the hands of the minister as to how that is to be achieved. I reserve any further comments for the committee stage of the bill.

Mr ELASMAR (Northern Metropolitan) — I rise to support the Gambling Regulation Amendment Bill 2007. We are all aware of the difficulties within our local communities regarding problem gamblers. Some of us have read shocking stories in the media about problem gamblers. I agree with Mr Drum's comments about the stories about gamblers. Some people have even been jailed for theft carried out to feed their hunger for gambling.

Most people understand that the gambling industry is a leisure industry, and like any other leisure activity you expect to pay for it. But there are some — mainly those who cannot afford to gamble in the first place — who believe they can invest their Centrelink payments into poker machines and hit the jackpot. Many lonely people, particularly aged pensioners, go to pokie venues just for the company of other people. That is understandable.

The amendments in the bill before the house seek to put in place several protective measures to ensure that those who win in excess of $1000 be paid by cheque. Mr Drum raised a query: if someone wins more than

$1000 — and he gave the example of $1300 — what happens to the additional money? The answer is that in his example the cheque would be for the entire amount of $1300; no part would be paid in cash. Mr Barber raised the issue of a $250 cheque. I cannot see gamblers leaving after winning $250. If they win, it will not make any difference how they get the $250 — whether it be cheque or cash. But when it hits $1000, that is when you decide to grab the cheque and go. You will not be able to come back and gamble your winnings; you will have to wait a few days to cash the cheque.

I applaud the proposed extension of taxation revenue by four years to allow for the establishment of programs that deal with drug and alcohol abuse — a scourge for all civilised cultures around the world.

Because we are a caring nation, we do not want to see the proliferation of more poker machine venues. In trying to protect our citizens, we are introducing this amendment to ensure that our community benefits in the long term, not by introducing more machines but by establishing community consultation and programs that will genuinely assist the vulnerable and the lowly paid within our society to have a chance of a better quality of life instead of living in the mistaken belief that one lucky day they will hit the big time.

Other aspects of the amendments in respect of community benefit statements are essential to the long-term viability of real or actual community benefit. Some of the profits should quite rightly go back into the community, and that is why the government is advocating an 8.33 per cent additional revenue contribution from those operators who fail to provide a proper community benefit statement. Our government is trying to achieve an equitable outcome that is in the best interests of all Victorians.

I have before me amendments proposed by Mr Guy and Mr Barber. If you look at both sets of amendments closely, you will not see many differences between them. I wonder why they were not proposed by Mr Guy and Mr Barber together. I commend the amendment bill to the house.

Mr KAVANAGH (Western Victoria) — Gaming in Victoria was greatly expanded in response to Victoria's dire financial crisis of more than a decade ago. It was a desperate response to that crisis. That crisis is over, but the encouragement that the state gives to gaming continues.

As I have noted in this house before, in my opinion Victoria's current gaming policies amount to exploitation of the poor, the ignorant and the lonely. Other members in the house today have raised statistics about problem gambling in Victoria. They have correctly pointed out the numbers on suicide and financial ruin. Each one of those statistics describes a real family, a real crisis and real lives lost. They are not just numbers.

As I argued some time ago, in my opinion if Victoria considered the cost of problem gambling to the state and not just to the state government, if we looked at the real cost to families and individuals of gaming policies of this government and preceding governments, we would find that the gaming industry is bankrupt and has been bankrupt for a long time.

There are obvious measures we could take against problem gambling, including even stricter restrictions on advertising and signage than we have now. We could and should prevent people from drinking alcohol while they gamble. We do not allow people to operate machinery, including cars, while they are drinking alcohol, and in my opinion people should not be allowed to operate electronic gaming machines (EGMs) while they consume alcohol either.

Every EGM could carry a warning telling people what their real chances of winning and losing are, making it very clear that for each dollar you put into a machine you are likely to get 87 cents back. Some people do not understand that; they should be told. We could allow local governments to restrict the number of EGMs allowed within their municipalities. We could also put much stronger limits on the amount of money that can be fed into any particular EGM. In my opinion the government's policy should be to only profit from sober gamblers who are aware of their real chances of winning and losing and gambling only money they can afford to lose.

This bill does almost nothing to address problem gambling. However, almost nothing is better than nothing, and on that basis I intend to support the bill.

Mrs KRONBERG (Eastern Metropolitan) — In speaking to the Gambling Regulation Amendment Bill I would like to highlight the fact that we as Liberals see this as a welcome initiative from the government. We see elements in it that adopt Liberal Party policy. Those elements give me great comfort and joy. It is terrific to see that Liberal Party policy will be enshrined in statute. Good Liberal Party policy making will be there for all to see.

There is no question that problem gambling does much harm to individuals and families, and it ripples through the community. Let us face it, problem gambling is a

scourge. It induces criminal behaviour. It can lead to both drug and alcohol addiction, cycles of violence that tear families apart and an increase in the divorce rate. Further measures of suffering include the degree of financial hardship and the number of bankruptcies that are attributed to problem gambling. Tragically between 35 and 60 suicides per year are attributed directly to problem gambling.

Poker machines are seductive, so the move to alter the nature of large payouts from poker machines at gaming venues is laudable. This is Liberal Party policy. The bill sets a limit of $1000 on cash payments, down from the $2000 limit in the Gambling Regulation Act 2003, and such winnings will now be paid by cheque. At last we see a sensible mechanism, some bumps in the road, or perhaps a circuit breaker that should give problem gamblers some time to reflect prior to plunging their winnings back into the maw of the poker machines. By accessing their large windfalls in this way problem gamblers will have a cooling-off period. This is common practice in many forms of commercial transactions where large amounts of money are involved, and it is certainly welcome. Gamblers will now have the chance to walk away from the machine and think about how to best use their winnings. But this in no way impacts on the excitement of gambling for recreational gamblers, who are better able to resist the temptation of pouring everything back into the machines.

In the past, $45 million of annual hotel tax revenue funds have been diverted into the consolidated fund, which we all know is the black hole into which all revenue raised by the state is sunk. Apparently these funds have been earmarked for the government's drug and alcohol programs over five financial years from 2004, and they will be extended for a further four years to provide extra funding for drug and alcohol programs.

Measures to address problem gambling have been both underresourced and, frankly, ineffective thus far under this government. By his own admission the then Minister for Gaming at the Public Accounts and Estimates Committee 2006–07 budget estimates hearing revealed that the government had spent $76 million in the four previous years and $116 million since it came to government. This can be broken down to less than $20 million a year. Line this up against the revenue reaped from electronic gaming machines alone and you see this government has its own form of addiction. It has become addicted to the $911 million it collected in revenue from electronic gaming machines in 2005–06. According to the Victorian Department of Treasury and Finance financial report for 2005–06, this amounts to a staggering $911.1 million, or 8.4 per cent of the state's total taxation revenue. Admittedly further research into the relationship between drug and alcohol problem gambling is warranted, but, as we all know only too well, there are causal links between these destructive forms of addiction in our society.

A principal area of concern, however, is the government's intention to amend provisions that cover the requirement for clubs and hotels with poker machine licences to submit community benefit statements. There will be penal provisions for clubs with pokies which cannot prove that they have provided the community with items equivalent to their required 8.33 per cent of net revenue gain. Uncharacteristically this government has come up with good policy regarding these provisions. However, it lurched around searching for a solution, hoping it would go away, and then finally — bingo! — it landed on a way out. But, as per usual, it is a poor solution that was dreamt up at 1 minute to midnight, and it has given the clubs concerned no time to adjust.

Whilst clubs are now expected to contribute to make up any shortfall in the defined 8.3 per cent community benefit, they are all flying blind as to exactly what the ministerial direction regarding the definition of 'community benefit' is likely to be. It is now time to focus on the vexed question of electronic gaming machines and the concept of setting regional caps. This bill amends the way regional caps will be set. This legislation proposes that from now on gaming machine limits will be set on the basis of a regional or municipal district, or part thereof.

The minister will have the authority to determine the number of gaming machines, having assumed these powers from the Victorian Commission for Gambling Regulation. I would like to say to the minister that while he is focusing on numbers and their distribution in this state, why not seize the day? At this point I would like to quote a couple of lines from the Latin poem *Odes* by Horace. I will quote the English version:

> Even as we speak, envious time is running away from us.
> Seize the day, there is nothing else beyond that.

A way to ameliorate this problem is to adopt another plank of Liberal Party policy. This is reflected in the amendments to be put forward by my colleague Mr Guy. We seek to have the total number of electronic gaming machines licences in hotels reduced by 20 per cent, thus bringing the present number of 27 500 down to 22 000 when the current licences expire in 2012. I was disappointed to hear that The Nationals will not be supporting that amendment. I am greatly concerned as to how that can be justified.

I will summarise by saying that the Liberal Party intends not to oppose this legislation. We recommend the foreshadowed amendments to everybody for serious consideration, because frankly any other approach is just like shuffling the deckchairs on the *Titanic*.

Mr DALLA-RIVA (Eastern Metropolitan) — I also rise to speak in support of the Gambling Regulation Amendment Bill and to request support for the amendments the opposition proposes to move in the committee stage. The previous government speaker indicated that the amendments proposed to be moved in committee by both Mr Guy and Mr Barber are similar, save and except a number of areas in which we disagree.

I say to Mr Barber that his amendments are close, but no cigar. It is unreasonable to suggest reducing the numbers of electronic gaming machines (EGMs) to 10 000, not including those at the Melbourne casino. I think 10 000 is an unrealistic figure. The new clause to be proposed by Mr Guy contains a reduction of 5500 poker machines from 15 April 2012, which is a reasonable figure in all the circumstances. This was a clear policy objective of the Liberal Party at the last state election.

Mr Barber's proposed amendment 6 to clause 11 would omit $1000 and insert $250. This again is a bit semantic and playing with the words. Whether it is $1000 or $250 or $500 or $750, the issue is more about limiting the amount of money that can be taken in cash. I think $250 is a bit unreasonable given my understanding that payouts can often exceed that figure but are not often over $1000. The $1000 which is proposed in the bill before the chamber is a reasonable figure.

I wish to broadly touch on a couple of issues in respect of the legislation. I say right from the outset that the opposition is concerned about the minister's capacity to order regional caps. Clause 6 on page 4 of the bill talks about regional and municipal limits on gaming machines. New section 3.2.4(1) states:

> The Minister may from time to time, by order published in the Government Gazette —
>
> …
>
> (i) determine the maximum permissible number of gaming machines …

My understanding is that the minister could, without review or otherwise, determine this as he or she sees fit. I do not particularly see that as being appropriate given that we know the likely setting of municipal caps at 10 electronic gaming machines per 1000 adults will potentially inform the decision-making processes of the Victorian Commission for Gambling Regulation and the Victorian Civil and Administrative Tribunal. Those areas in which there are fewer than 10 EGMs per 1000 adults will in future have greater difficulty in resisting increases that may occur. We know there are areas where there are significantly less machines than the 10 per 1000 rule. However, this may set a benchmark as to the areas which will move into that category. The way we see it is that it is not about removing the problem. It is fair to say that regardless of whether the Greens and the Liberal Party disagree on the numbers in our amendments, we are about removing the problem, and that is about slashing the numbers. Labor's policy, and what we see in this clause, is about moving the problem, not removing it. There is a clear differentiation in policy between what we propose and what the Labor Party has proposed in the legislation before the chamber.

They are my main concerns in respect of the issues before us, but I would also like to bring up the change in the determination of community benefit. My understanding is it is set by means of ministerial determination and not by this bill. That leaves it open to criticism. It leaves it open to levels of potential corruption if there are not appropriate ways for those community benefits to be received and paid. Having said that, I look forward to supporting Mr Guy's amendments. As I said, Mr Barber's amendments are close, but no cigar. Overall the legislation before the chamber will have the support of the opposition in some form.

Mr ATKINSON (Eastern Metropolitan) — This has been a very good debate. Members have covered a great many issues and they have covered them very sensibly. They have quoted a range of statistics which it is salient for us all to pay some heed to. The prevalence of gambling in our community is significant. While I note that in the second-reading speech the government claimed a significant reduction in problem gambling, I would be sceptical about the figures it has suggested. If the second-reading speech is to be taken as the benchmark, the number of problem gamblers has in effect been halved through government initiatives. I do not believe that could possibly be an accurate statistic. I would need to see a lot more information to justify the claim made there.

I note that the government established a working party of its own members of Parliament to deal with regional caps. That committee came back with a report that indicated regional caps had virtually no impact at all in reducing problem gambling. In effect people who were addicted simply found venues that were available. Imposing caps and reducing the number of machines in

an area had no real effect on problem gambling numbers. That was a report from the government's own backbench committee, a committee that I think the government was rather embarrassed by in terms of the results of that report, because it has been buried and not referred to by the government ever since.

Mr Somyurek — Who was on the committee?

Mr ATKINSON — Mr Hudson, for one, whom we understand is fairly significant in terms of his position within the parliamentary Labor Party and his credibility. From that point of view I would have thought the government might well have paid more credence to that report, but it has not happened. I note that the adviser provided some information to Mr Somyurek. I am intrigued that the advice comes at a time when I make a point about a government committee of MPs. I would be interested to know whether the advice provided to Mr Somyurek refers to government policy matters and the activities of MPs as distinct from matters related to the administration of the legislation and the work of the agency responsible for gambling regulation controls.

Mr Somyurek — I will table it.

Mr ATKINSON — I trust that Mr Somyurek will table it, as he has suggested by way of banter that he will.

I come back to the fact that the claims that have been made about the reduction of problem gambling are still a matter of some conjecture. As I said, the regional caps proposal has clearly been shown in a review by the government's own MPs to be an ineffective mechanism for curbing problem gambling. Some other initiatives have been effective, such as access to daylight, the placement of machines that allow people to take out money for gambling, clocks in venues and so forth. Some of those things have been beneficial in encouraging people to perhaps have forced breaks. There have been some changes to the opening hours of venues that have also forced people to take breaks. So there have been some initiatives that have been effective.

Can I indicate, certainly in terms of community benefit issues that relate to clubs, that I think it is appropriate that we ensure that genuine community benefits are derived from the money that is available to clubs from their gaming revenues. I am aware that in the past some clubs claimed things like noticeboards and curtains in their own venues as matters of community benefit, and I think it is fairly clear, on anybody's judgement, that they were not aspects that were envisaged within the legislation as items that would deliver significant community benefits. We are talking about delivering benefits more broadly in the community as a result of what is a franchise from the government to operate gaming machines.

I have said in this place previously, and I maintain the position, it is a great pity that gaming machines were introduced in Victoria. The history of gaming machines is that they were introduced principally to get the ANZ Bank out of difficulty, because the ANZ Bank was Victoria's biggest hotelier in so much as it had been debt financing hotels, and many of those hotels went under as a result of significant and very fast-implemented changes to the liquor laws that the hotel businesses were not able to adjust to. They all went into receivership. The ANZ Bank had control of many of those hotels and was then racing around looking for some way of clearing its debt. What happened was that the Kirner government then decided it would allow gaming machines and established a regime under which gaming machines were to be introduced into Victoria. Of course a key element of that was to allow hotels to have gaming machines.

I am on the record as saying that I do not believe hotels should have ever got gaming machines. If we were to have them in Victoria, they ought to have been limited to clubs, where at least there is an opportunity to return community benefits back to the community. Obviously that is a position that cannot be changed without significant dislocation, and I am not in favour of retrospective action as a rule. But let me say this: I think there is a very real case in Victoria for this government, in conjunction with other agencies in other states and at the federal level, to look at forcing Woolworths to divest its gaming interests.

Woolworths is an interesting case in the context of gaming in this nation, because essentially Woolworths got into gaming machines only because of a bizarre law for controlling liquor licensing in Queensland. In Queensland you cannot have a retail bottle shop unless you have a hotel licence, so that law was brought in, under the lobbying of the Australian Hotels Association, to protect the hoteliers. The only problem was that the AHA did not count on the very deep pockets of the Coles and Woolworths retail chains, which promptly noticed that there was nothing to debar them from buying hotels. Even though it was outside their conventional business, they went and bought hotels so that they would get retail liquor bottle shop opportunities.

What came with that, however, was gaming machines, and all of a sudden Woolworths in particular found

itself in the gaming business. It is now the biggest player in the gaming business in Australia. I think there are some very real issues associated with this retailer being involved in gaming, and I think it warrants further review by governments. As I said, if it were my call, I would be looking at forcing Woolworths to divest its gaming interests. I certainly think that where caps are to be visited government needs to ensure that clubs are given a fair run at retaining the opportunities they have to run gaming machines. I know there are ratios involved, and I hope by and large those ratios would be maintained or, from my point of view, be improved in favour of the clubs, because the reality is that the clubs do offer some great opportunities for community benefit on these machines, if we are to retain them in Victoria going forward.

In closing I note that this legislation has, if you like, a form of hypothecation, in that some of the revenues derived from the hotels will go towards programs to deal with other addictions, which include alcohol, amphetamines, marijuana and other drugs. I notice that ice is not mentioned, and I think we should be mentioning it at every occasion, because it is a very significant issue in the community and has enormous ramifications. But I also think it is not enough to simply rely on a virtual hypothecation of funds from gambling revenues to address these issues; rather we should be looking at starting to hypothecate some of the taxation from alcohol towards programs that are designed to reduce the very adverse impact of many drugs on the community, including alcohol, the amphetamines that are mentioned, marijuana, ice and other things.

I will support the amendments proposed by the Liberal Party. I think the amendments proposed by the Greens would cause a little too much dislocation of the industry at this time, but I certainly share some of the sentiments of the Greens.

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

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Business: taxation

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Treasurer. I refer to a media release of 24 March 2002 from the former Treasurer, which bragged 'Victoria moves from being the state with the highest number of business taxes (21) to the equal lowest (17)' under a Labor government. I ask the Treasurer, how many business taxes are being imposed at the present time in Victoria?

Mr LENDERS (Treasurer) — I guess the most significant business tax in this state is company tax, which has gone up under the stewardship of the federal Treasurer, Peter Costello, by 109 per cent in the last five years. In response to Philip Davis, the biggest impost on businesses is company tax, which has gone up by 109 per cent in the last five years. To help Philip Davis I guess we should put everything into perspective, but above and beyond that it is worth noting that payroll tax in Victoria has been cut and cut and cut until it is now the second lowest in Australia.

Mr D. Davis interjected.

Mr LENDERS — I take up David Davis's inane interjection. During the life of the Kennett government payroll tax was notionally cut, but of course what we had were things like superannuation added to the amount of payroll to do it, so it was a cruel and deceptive increase. Land tax has been cut under the Labor government. In fact under the Kennett government the top rate of land tax was increased from 3 to 5 per cent. The Bracks government cut it back and the Brumby government has cut it back to 2.5 per cent.

Mr D. Davis interjected.

Mr LENDERS — I take up David Davis's interjection. David Davis is obviously better at his mathematics and at counting in relation to his preselection than he is at counting taxes, because under the Kennett government the top marginal rate of land tax went up from 3 per cent to 5 per cent. Under the Labor government it has gone from 5 per cent to 2 5 per cent.

Mrs Coote interjected.

Mr LENDERS — Mrs Coote knows very well that David Davis can count better than that. Also, stamp duty on property has been cut, motor vehicle duty has been cut, duty on non-residential leases has been abolished, financial institutions duty has been abolished, duty on quoted marketable securities has been abolished, duty on unquoted marketable securities has been abolished, duty on mortgages has been — wait for it, President! — abolished, bank account debits tax has been abolished and business rental duty has been abolished. Those are just the taxes I am talking about.

If we talk about imposts on businesses, under the Labor government in Victoria, from the time when WorkCover premiums were 2.22 per cent they have

gone down 10 per cent not once, not twice, not three times but four times. The average WorkCover premium has gone down now to 1.46 per cent. I know Mrs Peulich is fascinated by WorkCover premiums. She is circulating letters about them. In response to Philip Davis, what we know is that the largest impost on businesses in this state is company tax, which has had a 109 per cent increase under the Costello stewardship of the last five years. This government is bringing down taxes to assist businesses, to create jobs and to make Victoria an even better place to live, work, employ and raise a family.

Questions interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! It is a pleasure for me to draw the attention of the house to the fact that we have as a visitor in the gallery a former member for Central Highlands Province, Mr Graeme Stoney.

Questions resumed

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for his response. Given the tone set by the new Premier the government has to do better, because the recent Business Council of Australia analysis of state taxation records that there are now conservatively 23 taxes imposed on businesses in Victoria, which is indeed a new high. I ask: will the Treasurer commit to reducing the number of taxes levied on businesses in Victoria in this term of government?

Mr LENDERS (Treasurer) — I enjoy Philip Davis's questions immensely. I can assure Mr Davis that, for example, a number of the taxes that we have already set in place in this state, like payroll tax, are coming down another .05 per cent on 1 July. I guess the proof of the pudding is in the eating. Speaking of puddings, we do not have magic puddings in this state.

Honourable members interjecting.

Mr LENDERS — Philip Davis, with his shadow shadow, Gordon Rich-Phillips, are a little bit like the laughing clowns I was talking about earlier this week. On the one hand they call for us to cut taxes — which is an important thing to do to encourage business confidence in this state — and on the other hand they call for us to increase spending. One day, with your indulgence, President, I would be delighted to share with the house some of the inconsistencies, but I know that that would probably try you today. What I can say to Philip Davis is that this government will continue to run budgets in the black. Budgets in the black require revenue and targeted expenditure in service delivery targeted to expenditure in infrastructure. Unlike the federal government, which has seen company tax, the largest single impost on business, go up by 109 per cent in the past five years, this government has cut a series of taxes. I mention that seven taxes have been abolished and four have been cut, let alone what we have done for WorkCover. That has not only seen the premium and the impost on business go down, but importantly it has seen the number of injured workers go down, workplaces become safer, productivity go up and the burden on business and families go down. Which is what it is all about in making Victoria a better place to live, work and raise a family.

Innovation: government initiatives

Mr THORNLEY (Southern Metropolitan) — My question is for the Minister for Innovation. Could the minister please inform the house about any recently released ABS (Australian Bureau of Statistics) data regarding business-related expenditure on research and development? How does Victoria's effort compare with other Australian jurisdictions, and what does this data mean for the Victorian economy?

Mr JENNINGS (Minister for Innovation) — I thank Mr Thornley for his question and his concern about the economic viability of the state of Victoria, in particular the drive for innovation, which was demonstrated through the latest Australian Bureau of Statistics figures on research and development that were published earlier this week — on Tuesday. They demonstrate that for the eighth year in a row there has been growth in the research and development effort in the Victorian economy, covering many areas of my responsibility. Now, as the Minister for Innovation, I have the good fortune to drive that research and development agenda further, to permeate all sections of the Victorian economy.

The good news in the 2005–06 data that was published earlier this week is that it shows that more than $2.954 billion of investment was made by Victorian firms in research and development. It is a significant increase in investment of 22.5 per cent over the previous year. Comparing that with the rest of the nation, the average increase across the nation during that time was 16.6 per cent, so the increase in investment in Victoria was a significant 6 percentage points over the national average. Indeed the investment in Victoria in research and development contributed

almost 33 per cent of the total investment across the nation.

The good news for the many people who think research and development is deserting manufacturing is that in Victoria, the traditional heartland of manufacturing in Australia, more than 50 per cent of that research and development effort during the course of 2005–06 occurred in manufacturing. That was significant investment by Victorian firms, demonstrating that we are at the leading edge of innovation and trying to apply our minds and inventive spirit to make sure that our businesses are economically viable and globally competitive. That is something that we in the state of Victoria can be extremely proud of, because we have established that momentum and we intend to continue that momentum.

Indeed if you look at the percentage of research and development investment in Victoria compared to gross state product, you see that our level of investment at 1.27 per cent of gross state product is the highest in the country. Anybody who actually understands how the economy works understands that there is a multiplier effect and that the more you invest in research and development the greater the growth of state and national gross domestic product. It is something that will be the hallmark of the Brumby government's commitment to driving innovation and research and development. It is consistent with the significant investment we have undertaken through the innovation agenda, which has seen benefits coming right through to the high-tech end of our intellectual capital in Victoria.

New levels of investment have been achieved through strategic investments such as that in the synchrotron, which will lead to the clustering of industries in the South Eastern Metropolitan Region. It is something the Victorian government is very proud of and something the commonwealth government was extremely begrudging of and reluctant to be a participant in. Indeed in his churlish behaviour, the federal Treasurer on ABC radio this morning indicated that we went to the commonwealth government to ask them for money. That was an absolute lie in the face of the clear undertaking by eight universities across this nation and leading scientists, who actually leapfrogged the science minister and the Treasurer and went directly to the Prime Minister to seek funding to support the ongoing operations of the synchrotron. The Victorian government stepped up and will continue to support major investments such as that in the synchrotron. The commonwealth government was churlish, reluctant and belligerent. It has finally got on board, and we are grateful that it has come on board, because this is important for the wellbeing of this nation.

We have to look beyond parochial party politics and actually look at the investments that are required in this nation. The Victorian government is showing the lead, businesses in Victoria are showing the lead and we are leading the nation in research and development.

Water: desalination plant

Mr HALL (Eastern Victoria) — My question this afternoon is directed to the Minister for Planning, the Honourable Justin Madden. I ask the minister if he would outline to the house the planning process the government will use in respect of the proposed desalination plant at Wonthaggi.

Hon. J. M. MADDEN (Minister for Planning) — I thank Mr Hall for his question. As I have mentioned on a number of occasions in relation to projects of this nature and scale, I would expect that I will be the planning authority in relation to this project. Major projects of state significance are predominantly the domain of the Minister for Planning, so I become the relevant planning authority. As yet I am waiting, and I anticipate that it will fall on my desk once the project has been defined absolutely. As members may be aware, projects come to me as the authority — often those projects come from the portfolios of other ministers — and then I have to make a determination on what is an appropriate mechanism for dealing with a project of this nature.

One case which is probably not dissimilar in some ways is the channel deepening project. That project has included a full and thorough environmental assessment. It has been prolonged though because it has been comprehensive. It has also then been referred to a panel so that recommendations can be made to me as the authority. That is not necessarily the model we will use, but I am not ruling it in or out. What I will say is that whenever we have a project of significant magnitude and of state significance that would fall on my desk as the relevant planning authority, I would expect that a thorough environmental assessment would be made. Until that project actually comes to me with relevant information — or lack of relevant information — I will not be able to determine the absolute extent of what the process might be.

What I am looking for, which I think should give Mr Hall and those in the local community and more broadly across the state a degree of satisfaction, is that I would expect that this project should undergo an assessment in relation to what will take place in the

surrounding environment and the implications of that in relation to the surrounding community. That would be the expectation of not only locals but I should think of the broader community.

Whilst the model or the form is yet to be determined, I will wait until that project is on my desk and I have received the relevant advice not only from the proponent — and it might be another minister making that proposition — but also advice to be provided to me by the department so I can make the determination as the relevant authority in relation to that project.

Supplementary question

Mr HALL (Eastern Victoria) — I thank the minister for his answer. Given that the minister has confirmed that he expects to be the planning authority, I therefore ask him: what role will the Bass Coast Shire Council and local communities have in the planning process? Further to that, I ask: what criteria will the minister use to determine whether an environment effects statement is required for this project?

Hon. J. M. MADDEN (Minister for Planning) — As I said, it is a project of some magnitude. It is a project that has implications not only for the local amenity of the surrounding region but also more broadly across the state. All those factors of course will form the proposition. I would expect that because it is a project of some significance in the local region and more broadly across Victoria there will be many people who will have an interest in it, whether they be advocating on behalf of it or advocating to not have the project.

Mr Hall — How will they get a say?

Hon. J. M. MADDEN — I look forward to the project coming to me, as well as the work that has or has not been done in relation to that project coming to me. I will make a determination based on the appropriate mechanisms, given those circumstances.

It is worth appreciating that there have been many major projects across the state. As Minister for Commonwealth Games I was involved with some major projects, and we chose not to have an array of models but to have one gateway model. That is not to say we have a preference for either model one way or the other at this stage. I advise Mr Hall that that is not to say there will or will not be legislation. But what I can say is that whatever planning model or authority model is determined by this government in relation to the project, we will make sure there is a full and thorough process in relation to the impacts on not only the local community but more broadly right across the state. I look forward to this government delivering that project. But I also look forward, in my role as the planning minister, to making sure there is significant community involvement and engagement at a local and a broader level so that those communities have some input into the way, shape and form this project might take.

Nuclear energy: federal policy

Mr ELASMAR (Northern Metropolitan) — My question is to the Minister for Environment and Climate Change. Can the minister update the house on the continuing debate about nuclear power in Victoria?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Elasmar for the opportunity to talk about the Victorian government's position on nuclear power, which is, as it has always been, to oppose nuclear power within Victoria. I am very pleased to say that Mr Elasmar will actually be standing up for his constituents to make sure they do not get a nuclear power station within his electorate.

Honourable members interjecting.

Mr JENNINGS — Interestingly enough, I think the opposition wants me to sit down and does not want me to continue to discuss this matter because, as the President would be aware, there was a debate and an opportunity for members of this chamber to stand up in the name of protecting the interests of their constituents earlier this year. The Victorian government proposed a bill to allow for plebiscites to be undertaken within the Victorian community so that the citizens of Victoria could have a say about whether they wanted or did not want a nuclear power station in the state of Victoria.

Mr P. Davis — On a point of order, President, I am always hesitant to cause the minister to pause in his flow, but I need to raise this point of order. I believe the minister is not in accord with the guidelines for question time in his response to the question in that he has chosen to debate the question. I ask you to draw him back to responding directly to the question that was asked of him.

The PRESIDENT — Order! The Leader of the Opposition is correct in his statement that the minister is not entitled to debate his answer and should stick as close as practical to the subject matter being asked of him. I do not believe he is at that stage yet. I suggest that he take into account my comments and the concerns of the opposition.

Mr JENNINGS — Thank you, President. It is important for members of the Victorian community to

know that the Victorian government stands at their side in terms of restating its position on its opposition to the nuclear power industry and also on seeking an opportunity for people to have their say about this matter so that they can step up and take a determined and concerted view.

When I woke up this morning I was not aware of how many jurisdictions or how many political operatives across the nation saw that as an important value. But I am pleased to report to you, President, and to the chamber, that there is a bushfire out there. Across the political spectrum there is a rising tide of support for people to have an opportunity to express their views about whether or not they should have a nuclear power station in their backyard. When we got up this morning we had the zeal of The Nationals. There is a bit of a cross-border alliance between The Nationals — —

Honourable members interjecting.

Hon. T. C. Theophanous interjected.

Mr JENNINGS — The Nationals in Victoria and The Nationals federally were leading the charge to say that local people should put up their hands and have a say. But there are some people who have caught the fire today. The fire has been caught! There is an incoming bulletin, a late announcement, that the Prime Minister of Australia has caught the fire! He is actually with the program. He recognises that there is some value in the community standing up and expressing its view about whether it wants nuclear power. The federal coalition has followed the leadership of the Victorian government and stood up and said that people should have their say.

The reason the Leader of the Opposition presumably did not want me to continue is that he knows that when I look beyond him, I am looking at the last people in the known universe who are opposing people having their say. The only people who are on the public record as opposing people having their say about whether they should have a nuclear power station are those on the Liberal benches and the members of the Greens in Victoria. It is quite extraordinary that there is no concerted view within this chamber about this matter. I think that is enough said.

Melbourne Markets: relocation

Mr D. DAVIS (Southern Metropolitan) — My question is to the Minister for Planning. Will the minister explain to the house why he decided to call in the Melbourne wholesale market relocation project and will not require an environment effects statement or public exhibition of planning scheme amendments?

Hon. J. M. MADDEN (Minister for Planning) — I welcome a question from Mr Davis in relation to any project that is of state significance. I recommend that Mr Davis go to the guidelines on matters to be called in and refer to those. One of the key principles under which a planning minister will call in a project at any time is that the project is of state significance. I am happy to hear David Davis suggest that the market development is not a project of state significance. If he is happy to make that declaration, I am happy to hear him say that. But let us make it absolutely clear that when the planning minister makes a call in relation to a call-in project, what we do is what the Liberal Party never did.

First of all, we make it quite public that we have called in a project. Then we make it quite public as to the reasons, and we report those to Parliament. We consistently report those to Parliament. While I do not have the absolute figures in front of me, I think there have been somewhere in the vicinity of 130 call-ins over the time of this government, but I could stand corrected on that. What I can say is that in the last years of the Kennett government, a former planning minister, Mr Maclellan — —

Mr Vogels — Last century!

Hon. J. M. MADDEN — Your policies are rooted in the last century, Mr Vogels, as you may well be too.

Mr D. Davis — On a point of order, President, the minister is straying from the question that was asked. He is now debating the question and referring to previous governments rather than simply answering the question, so his response is not as relevant as it should be.

The PRESIDENT — Order! When members interject they might like to think about the repercussions. If a member wants to incite a response through their interjection, they are likely to get it, and on some occasions that can encourage a minister to digress from the answer. I ask the minister to come back to the question.

Hon. J. M. MADDEN — Thank you very much, President. I appreciate that because I know that if I am provoked I am likely to respond accordingly. If the opposition is happy to listen to my answer, then I will not be provoked.

Under the Kennett government — —

Mr D. Davis interjected.

Hon. J. M. MADDEN — It is relevant to this matter of call-ins. Minister Maclellan called in something like 200 matters in the last years of the Kennett government — it may well have been in the last year of the Kennett government. What makes it worse is that not only were those call-ins ad hoc, there was no public explanation for them, and they were not reported to Parliament. I find it quite intriguing that what we have here is a proposition whereby the opposition is interested in the call-in powers of the minister in direct contrast to the call-in powers that the Liberal Party used when it was in government. It expects an explanation over and above the ones we already give to Parliament, which was never the case under the Kennett Liberal government.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — That was pathetic. It was hopeless, and I am disappointed the minister did not fully explain why the environment effects statement — —

The PRESIDENT — Order! Does Mr Davis have a supplementary question?

Mr D. DAVIS — I therefore ask: why has only 10 weeks been allowed for the priority development panel to complete its work, which will result in a massive change in the Whittlesea planning scheme, without exhibition or full stakeholder involvement?

Hon. J. M. MADDEN (Minister for Planning) — I am not going to get into the technical details of the matter here, and I will be quite frank: it is because I do not have the technical details in front of me. What I can say — —

Mr D. Davis interjected.

Hon. J. M. MADDEN — This is worth Mr Davis noting as well. The priority development panel was established — —

Mr Finn interjected.

Hon. J. M. MADDEN — It was established, Mr Finn, as a collaborative model to get the stakeholders in so they could discuss their issues. It included local government and community stakeholders — the proponents — so they could sit around the panel and discuss their priorities to make sure that everybody's concerns were considered and that a collaborative outcome could be achieved. As I mentioned before, that stands in stark contrast to the unilateral call-ins of Minister Maclellan, who would not explain why he had made a call-in. He would make a decision, but he would not explain it. At least the model we have is a collaborative one. It is one that gives everybody a chance to have input, and it makes sure that the stakeholders can make their contribution.

I suggest the opposition consider all matters planning: not only policy, which it has substantially neglected and failed on, but also matters of process, because planning is as much delivered by good process as it is by good policy, and on both fronts we know the opposition fails to provide good policy or good process. We have filled the vacuum left by the Kennett government, which had insufficient policy and insufficient process. We will continue to make the strategic decisions and call-ins where necessary under government policy on projects of state significance and where they deliver benefit to the entire community to make sure that through good governance, good policy and good process, which the opposition does not know about, Victoria is a better to place to live, work and raise a family.

Devilbend Reservoir: conservation reserve

Mr SCHEFFER (Eastern Victoria) — My question is also to the Minister for Planning. In January 2006 the government announced it would retain in public ownership more than 1000 hectares of the Devilbend Reservoir site to form a new park managed by Parks Victoria. Can the minister update the house on how the government intends to protect it as a conservation reserve?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Scheffer's question. I know he has a specific interest in this matter — so much so that he joined me recently to make an announcement in relation to Devilbend Reservoir. This was a very good announcement not only for the local community down in Mornington but it was a great announcement for conservationists and those — —

Honourable members interjecting.

The PRESIDENT — Order! I draw the house's attention to the fact that it is getting a tad rowdy, and more importantly I am very interested in this answer, and in particular how it reflects on the future prospects of the Devilbend golf course.

Hon. J. M. MADDEN — I do not think I have any comments to make in relation to the golf course, President, but what I can say is that the Brumby government recognises the importance of and is committed to conservation right across the broad

community. The protection of the natural environment is a critical concern for us as representatives of the community, but we also appreciate that it is one of the attributes that makes Victoria a great place to live, work and raise a family.

One of my responsibilities is to manage the natural assets through the planning process, and that is why I recently had the great joy, with Mr Scheffer, of announcing that more than 1000 hectares of the Devilbend Reservoir in Mornington is now protected as a conservation reserve. Following my approval of an amendment, a public conservation and resource zone will be applied to the site officially recognising the land as a natural features reserve. I understand Devilbend Reservoir contains some of the most important public land on the Mornington Peninsula. It is so vital that we have decided to safeguard it for future generations to enjoy.

By making this land a conservation reserve the state government is able to integrate the protection and preservation of the significant environmental and ecological values of the area with the opportunity for the community to enjoy the park for generations of Victorians into the future.

Mr D. Davis interjected.

Hon. J. M. MADDEN — Let me give Mr Davis some details. I understand there are over 150 native plant species in the region, up to 84 fauna species of regional or higher significance, and 11 regionally rare, vulnerable or endangered ecological vegetation classes. I know Mr Jennings is very interested in these matters. I also understand most of the Mornington Peninsula's non-marine birds are housed there. By approving these controls to protect this reserve the government is opening up an opportunity to reverse the decline in the numbers of some species of flora and fauna.

It was pointed out to me that two species will be protected and given the chance to proliferate. One of those is the blue-billed duck, which I understand is rarely seen. The other, which is also seldom seen — although they are probably seen more often in this chamber than in Devilbend Reservoir — is a bird called the grey-crowned babbler. When I was told that this was the resting place of the grey-crowned babbler I could not help but think of the upper house for some reason.

The remaining 42-hectare lot — and I know there have been some comments from the opposition — fronting the northern side of Graydens Road, Moorooduc, is separated from the rest of the Devilbend site by a bitumen sealed road. The site includes a house, grazing land and a pine plantation. That part of the site is of lower conservation value and has been rezoned as a green wedge zone. The proceeds from the sale of the 42-hectare parcel of land will go towards establishing the new natural features reserve, as I mentioned, which will be managed by Parks Victoria. This is a great outcome for the community. This will be a better use of local assets and will also enable communities, councils and developers to share the costs of new services, facilities and infrastructure.

We all appreciate that the Mornington Peninsula is a popular tourist destination, which is due in large part to its natural beauty. This initiative by the Brumby government will make sure that we preserve one of the Mornington Peninsula's greatest and most attractive natural assets for the greater enjoyment of all Victorians. This will not only ensure that Devilbend Reservoir is appreciated by generations into the future but will also make Victoria an even better place to live, work and raise a family.

Dingoes: protection

Mrs COOTE (Southern Metropolitan) — My question is to the Minister for Environment and Climate Change. A recent report by the Brumby government's Scientific Advisory Committee recommended that the dingo be listed as a threatened species under the Flora and Fauna Guarantee Act. The Dingo CARE Network has advocated the reintroduction of pure-bred dingoes into national parks, claiming that they can be an important environmental asset. Given the harm wild dogs cause to agriculture, will the minister rule out adding to the wild dog problem and reject the call to reintroduce pure-bred dingoes into national parks?

An honourable member interjected.

Mr JENNINGS (Minister for Environment and Climate Change) — That is not a bad question, because I know that this is actually — —

Mrs Coote — There is no need to be patronising.

Mr JENNINGS — No, I was responding to an injection, again from your backbench. Sometimes those on your backbench do not give you the credit you are due for asking good questions, so when I acknowledge it we are in it together.

My proposition for today is that this chamber should be a reasonable representation of the constituency outside. My contention is that there is a bit of a disconnect today — there has been a bit of a disconnect between the Liberal Party and the Greens and their

constituency — but that there are opportunities for us to reflect community concern. The question that the member asked reflects community concern.

The Scientific Advisory Committee is charged with the responsibility of protecting threatened flora and fauna species under the Flora and Fauna Guarantee Act. It is charged with identifying which species are threatened with extinction and recommending whether a species should be listed in the act and be subject to action plans to try to protect the ongoing nature of species that are at risk. The council also identifies threatening processes that may contribute to the demise of those species. That is what the Scientific Advisory Committee does. It provides recommendations to the appropriate minister — in this context that is me — about whether something should be listed and subsequently whether an action plan should be put in place to try to preserve the ongoing nature of the species.

Embedded in the question asked by the member was consideration of pure-bred dingoes. Any member of the Victorian community would quite rightly be very sceptical about claims of the proliferation of pure-bred dingoes in the state of Victoria. My estimate is that there would be very few of them, but there are a lot of wild dogs, a reference to which was also embedded in the member's question. These wild dogs do great damage to natural values, to competing species and to domestic livestock. There needs to be a concerted and ongoing management regime to reduce the wild dog population in the state of Victoria. We are absolutely determined to ensure that there is an ongoing, responsive program to eradicate wild dogs to prevent the ongoing damage that they perpetrate on the Victorian community. That is very important.

When I get the recommendation from the Scientific Advisory Committee on whether pure-bred dingoes should be subject to the protection of the Flora and Fauna Guarantee Act and a subsequent action plan, I will be particularly mindful of the standing of that recommendation and I will be particularly mindful not to jeopardise the integrity of the wild dog programs that are designed to protect livestock and the wellbeing of Victorian citizens.

Supplementary question

Mrs COOTE (Southern Metropolitan) — I hope Hansard got that, because I am sure the rest of the chamber is quite confused. Given the minister's answer, how are landowners and the agricultural industry going to differentiate between a pure-bred dingo and a wild dog when they do the same amount of damage?

Mr JENNINGS (Minister for Environment and Climate Change) — The member, who asked a legitimate question — I identified that it was a legitimate question — fell short of her own standards in her supplementary question. The supplementary question was not mindful of my substantive answer. The member did not listen to my substantive answer. I stand by my substantive answer. It addresses the issue that she raised in the supplementary question.

Energy: renewable sources

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Industry and Trade. Can the minister advise the house of the outlook for jobs and investment in Victoria's renewable energy industries.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for his question. The renewable energy industry in Victoria is an industry which has a substantial future, notwithstanding the events of the other day with the closure of the blade factory. I think it is important to put on the record just how — —

Mr D. Davis interjected.

Hon. T. C. THEOPHANOUS — I continue to indicate to the house that notwithstanding the fact that David Davis, Philip Davis and every other shadow of a shadow of a shadow on the other side have continuously bagged and tried to talk down the renewable energy industry — they have voted against the Victorian renewable energy target (VRET) legislation; they have done everything they possibly could to make sure that there was no renewable energy industry — the industry is an important industry, and it has resulted in a significant increase in renewable energy in this state.

Let me give the house some examples. We already have a number of wind farms operating: the Challicum Hills, Codrington, Portland, Toora and Wonthaggi wind farms. On top of that, under construction is the massive 192-megawatt Waubra wind farm near Ballarat, with an investment of somewhere around $400 million. There are a number of big wind farm projects, but that is not all the renewable energy industry driven by the Victorian renewable energy scheme has been able to facilitate. The new Bogong hydro scheme was only possible because of the VRET scheme. It is a $230 million investment, so there is new hydro power as well.

The proposed solar power facility in Mildura, which is an investment of in excess of $400 million, can only work with the assistance of the Victorian renewable energy scheme. Many other wind farms are in the planning stages or have received planning approval, including the Macarthur wind farm, the Gellibrand wind farm, the Mount Mercer wind farm, the Yaloak wind farm and various others. The Macarthur wind farm is an AGL wind farm. A lot was said about the Dollar wind farm, and it is not going ahead, but AGL is going ahead with the Macarthur wind farm, which is a 300-megawatt wind farm investment in this state.

The renewable energy industry in this state is going ahead, but it is not going ahead as far as we would like, and there is one fundamental reason for that. The one fundamental reason for that is that, whilst the Victorian government has put up the VRET scheme to drive renewable energy forward, to drive investment and to live up to our obligations, the federal government has been in the process of nobbling the mandatory renewable energy target scheme at the federal level. The Howard federal government is happy to intervene in a whole range of things involving states rights, but it is not prepared to invest in the one thing it should invest in — that is, renewable energy.

This failure to invest by having a renewable energy scheme at the federal level is costing the industry. It directly resulted in what happened at Portland. Vestas management and others have come to the same conclusion.

Mr D. Davis interjected.

Hon. T. C. THEOPHANOUS — David Davis has never supported wind development. He voted against VRET. At the moment I am not sure whether he is the shadow for this area or not. I think it is probably Philip Davis. I think he is trying to get over the planning thing as well. David Davis can stand up, if he likes, and take a point of order; I do not really mind. The truth of the matter is that no-one can understand or work out which of the eight people over there stand for anything, who they shadow, who the shadow of the shadow is, and who the shadow of the shadow of the shadow is.

Planning: Palais Theatre

Ms PENNICUIK (Southern Metropolitan) — My question without notice is for the Minister for Planning. As I have mentioned in this chamber before, the community of St Kilda has before it a massive commercial overdevelopment on the triangle site on the foreshore in St Kilda. This is set to include 37 national chains and 90 franchises operating the 182 retail and food outlets to be plonked on the site along with a cinema complex, five nightclubs, a gym, a supermarket and even more. The community is being told that it must endure this monstrosity on its beachfront in order to pay for repairs and refurbishments to the heritage-listed Palais Theatre. My question to the minister is: why will the government not prevent this abuse of public land by providing some heritage funds for the refurbishment of the Palais Theatre for all Victorians?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Pennicuik's question. It has taken a long time for her to ask a question about the St Kilda triangle. I just wonder why the member has suddenly been inspired to ask a question about the St Kilda triangle given that the announcement about the St Kilda triangle was made three, four, maybe even five months; it was quite some time ago. It was generally well received, because the design team that produced the project for the developer found a very innovative solution. I know the Minister for Innovation, who is here, is impressed by the degree of innovation in the solution.

The St Kilda triangle site has never been an easy proposition to resolve, but it is one that has been explored in a number of ways by a number of governments over a period of time. This is a resolution that will stand the state in good stead. It will be a great attraction for the local St Kilda economy, it will add value to the existing retail businesses in the St Kilda precincts and it will also enhance the amenity in that local region along the beachfront.

One of the interesting components — Ms Pennicuik would be interested in this — is that the working group which developed it was a bit anxious about the degree of retailing in the equation. I ask Ms Pennicuik to go back and check the figures in the press release or the announcement by the Port Phillip council, because in relation to the ratio it was very keen to make sure that independent retailers made up the majority of the retailers. I think it is the majority — I may stand corrected — but they make up a fairly sizeable percentage of the retailers in the area. I expect there will be one or two large national retailers, but the opportunity is there in the design for independent retailers to take up the small shopfronts. It will mean greater diversity in terms of retailing and the ability to attract independent retailers into the precinct, and it will also add value. It is a fairly successful resolution with respect to the many difficult elements on that site.

One of the difficult elements raised by Ms Pennicuik is the Palais Theatre. We have a great outcome that will

deliver great amenity, attract more visitors into the region, enhance the reputation of St Kilda and build on the values of the Palais Theatre and the precinct. No matter how Ms Pennicuik wants to present it, all up it is a great outcome for the region and a great outcome for the state. I suggest Ms Pennicuik look closely at the site, evaluate what is there now and what has been there and appreciate that this will add greater value to the Port Phillip precinct.

I will welcome more questions from Ms Pennicuik in relation to the Port Phillip region, because they have been lacking for the past seven or eight months since this Parliament was formed. This is probably the first question in relation to the Port Phillip region. I look forward to questions from the Greens in relation to the Port Phillip region, and probably the Williamstown region, for the first time in the seven months since this Parliament was formed.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — I did not hear an answer to my question. However, given that I have to presume the government is not going to put any money into the refurbishment of the Palais Theatre, as it should given it is a heritage site, how can the government justify a mainstream shopping mall with over 100 national and local chains as the primary activity on public land — and not just any public land but a unique site on St Kilda beach?

Hon. J. M. MADDEN (Minister for Planning) — I again welcome Ms Pennicuik's question. This is the second question in relation to the St Kilda region in the seven months we have been in Parliament. I put this to you, President: I suggest members of the Greens political party go down and visit the site. If they go to the archives and look at the site the as it used to be, they will see that it was a car park. Is the member saying she would prefer a car park — a desolate, clay-based car park — to the amenity that will be delivered through this? Is that the Greens proposition? There are a lot of acronyms in the planning portfolio. One of my favourite acronyms stands for build absolutely nothing near anybody near anything. Do you know what that comes to? It is BANNANA. What we have on the other side of the chamber in the Greens political party is a bunch of BANNANAs.

I suggest that this is the best outcome for the site. It has been designed by some of the world's best architects. It is a great solution for a difficult site. I suggest Mr Davis and the Greens political party get on board with this, because when the facility finally opens they will wish it was their project. They will wish that they had suggested it and been involved. To stand here today for the first time in seven months and ask a question about the St Kilda triangle three or four months after the announcement of the project is political tokenism at its best.

Commonwealth-state relations: funding

Ms DARVENIZA (Northern Victoria) — My question is to the Treasurer, John Lenders. Yesterday the Treasurer told the house that the federal government is not coming to the party in terms of infrastructure here in Victoria. Given that the federal government is swimming in money, can the Treasurer inform the house whether Victoria is getting its fair share of this money for the delivery of services to the people of Victoria?

Mr LENDERS (Treasurer) — I thank Ms Darveniza for her question. It is a question dealing with government administration in Victoria, because we are part of a federation and a fair share of taxation for this 24.8 per cent of the federation is a key issue for government administration in Victoria. Ms Darveniza made the comment that the federal government was swimming in cash; I think that is the term she used. We need to understand that at the moment by not delivering on targeted services, not delivering on targeted infrastructure and taxing at record high levels the federal government is swimming in cash and has a surplus equal to half the entire budget of the state of Victoria. In a bipartisan fashion, governments in this state have since Federation called for a rearrangement of the financial relationships between the states.

Mr D. Davis — Actually, since the 1930s especially.

Mr LENDERS — I take up David Davis's interjection and alert him to the fact that the grants commission was already talking about these things when the customs duty was being reapportioned. I take up his point, which shows the bipartisanship that accelerated after income tax moved to the commonwealth in the 1930s, and there has been an ongoing imbalance in how these funds go. That is an area in which in a sense there is a bipartisan approach. We from this side of the house welcome support from the other side of the house in trying to address that. In fairness it is something that all sides have worked for. I will give credit to all parties in this state for having tried to address that over a period of time.

However, historically we need to note that there is an imbalance. One of the historical inequities of that is that at the moment under the GST revenue regime

Victorians receive only 88 cents for every $1 of GST raised in this state. We call on the federal Treasurer, who is a Victorian, to start removing some of these inequities. He has been there for 11 years. By that being done, by there being an equalising, we would have $1.2 billion extra in our budget, which comes to $232 for every Victorian man, woman and child. With an extra $1.2 billion we could deliver a lot of the services that Victorians call for.

Those opposite talk of rivers of gold coming from GST revenue — people like Mr Rich-Phillips when he is not shadowing the shadow Treasurer or doing press releases with him — and it is worth noting for the record that since the GST was introduced revenue for the states has grown by 48 per cent, which actually means that exactly the same portion of the economy comes to the states from the GST as came from previous state taxation. That is just for the record when those opposite talk about these particular areas.

However, as I alluded to in an earlier question from Philip Davis, company tax raised by the federal government has grown by 109 per cent in five years. The federal government is awash with cash. There are also special purpose payments, where the commonwealth makes grants to the states. Victoria gets 22 per cent of the grants and special purpose payments, yet we make up 24.8 per cent of the nation's population. You could say that in itself is an historical anomaly. We could say that the federal Treasurer, a Victorian with 11 years in the job, has been just a little bit slow in looking after his home state.

However, where Ms Darveniza's point becomes so much more powerful is when you consider what the commonwealth has done with the $1.5 billion of ad hoc announcements made by the Prime Minister and his Treasurer since the federal budget. Out of that $1.5 billion, other than a botched, last-minute, stealthy visit to Ballarat by the federal Minister for the Environment and Water Resources before he went to Sydney to fight his friend, not a brass razoo has come into the state of Victoria.

The commonwealth is awash with funds, but members should not just take that from me. On *AM* yesterday Rory Robertson from that great Labor institution Macquarie Bank made the comment that:

> Canberra's tax to GDP —

gross domestic product —

> ratio on any credible or consistent measure is hovering around all-time highs, while Canberra's net payment to the states are hovering around three-decade lows.

Macquarie Bank says Canberra's tax to GDP ratio is at all-time highs while Canberra's net payments to the states are hovering around three-decade lows. Tim Colebatch, the economics editor at the *Age*, made a comment in an article on 21 August — —

Mr Jennings — That left-wing rag.

Mr LENDERS — Mr Jennings said it is a left-wing rag. Incidentally it is a paper that has an editor who appears to be a green and a chairman who is a Liberal, so it is hardly a Labor-supporting organisation. Mr Colebatch made the point, and I quote:

> The commonwealth is swimming in money while the states run much leaner governments.

In response to Ms Darveniza, I say that the commonwealth is awash with money. Good on the commonwealth being awash with money; it is a result of a strong economy. However, what I take offence at and object to is that any prudent government would be investing that money in a strategic manner to take this country further into the 21st century. It would be investing in infrastructure, it would have a plan for the nation, it would have a plan for jobs growth — it would have a plan for dealing with all that — but the commonwealth plan revolves solely around pumping money into 20 marginal Liberal and Nationals seats in New South Wales, South Australia, Queensland and northern Tasmania.

What we see is a parochial federal government putting pork-barrelling ahead of the national interest under the guise of aspirational nationalism put forward by the Prime Minister, which is nothing but pre-election pork-barrelling. I call on the federal Treasurer to come to his home state and invest some money in Victoria so he can add to the efforts of the Brumby government to make it an even better place to live, work and raise a family.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 305, 345, 390–2, 394, 440, 448–50, 452, 453, 458–67, 492, 499, 500, 502, 764.

GAMBLING REGULATION AMENDMENT BILL

Second reading

Debate resumed.

Mrs PETROVICH (Northern Victoria) — I want to talk about changes to the poker machine legislation that will directly affect the welfare of regional Victorians. In particular I want to highlight the real impact of the changes in two areas in the Northern Victoria Region, Macedon and Seymour. It is sad that the Labor members for Macedon and Seymour in another place have chosen to ignore the interests and pleas of their local communities in support of the government's proposal to put more poker machines into communities that can ill afford them.

There is no question that with the changes to the legislation Macedon, which currently has 81 poker machines, will be a target for more under the government's policy of redistribution of machines from areas with high numbers of machines to regions where the numbers are now low. Under the new law, which allows 10 machines for every 1000 head of population, the number of machines in Macedon could rise to a staggering 302 — a massive jump of 221 machines into a community that cannot afford them and does not want them. This was made clear in 2005 when 80 per cent of the residents of the township of Romsey voiced their opposition to the Romsey Hotel's request for 30 or more machines. They did this through a plebiscite which was conducted by the Shire of Macedon Ranges and supported very strongly by the councillors. I join with Macedon Ranges councillor Geoff Neil in condemning the government's policy of moving machines into lower use areas as a way of maximising profits. In his words, 'They want to bleed the community dry'. Why are poker machines always put into areas that can least afford them?

Likewise the impact of the 10 per 1000 rule will serve as a serious blow to the Seymour community, which stands to see a poker machine explosion from 197 to 274 machines. Seymour is a community that is struggling to lift itself out of disadvantage. It has some difficulties in the social area, a shortage of public housing and high rates of unemployment. The community there, through local businesses and community groups, is putting in a tremendous amount of effort. It has an enormous amount of potential and does not need this setback. I think these changes will only cause the community hardship — again, a community that can ill afford the problems associated with poker machines.

It is not good enough for the local member to fob off the responsibility to local councils. Every case of a poker machine being rejected will go to straight to the Victorian Civil and Administrative Tribunal (VCAT), a drain on the already stretched financial source of councils, as we saw with the application by the Romsey Hotel. It was rejected by Macedon Ranges council. It then went to the gaming authority and was rejected there. It then went to VCAT and got the rubber stamp, against an 80 per cent response from the community on that plebiscite, the wishes of the council and the decision of the Victorian Commission for Gambling Regulation.

Shame on the Brumby government, which can now clearly be seen for what it is: hungry for the gaming dollar at the expense of rural and regional communities that are still suffering from the economic impact of 10 years of drought. I do not know why the two local members in the other house did not vote against this bill and support their struggling economies in Seymour and Macedon, but obviously they did not care enough. The statistics on problem gambling are quite alarming, and we certainly need to consider mechanisms to handle that as a community. Placement of machines, access to automatic teller machines and real time are all issues we need to consider. The Productivity Commission's 1999 inquiry into the Australian gambling industry stated that 2.1 per cent of the Australian adult population, or around 293 000 people, have significant gambling problems. On average around seven other people are affected by a severe problem gambler's behaviour — that is, around 2 million Australians.

I am not a wowser. I really do not think we need to eliminate poker machines completely, but I think we, the Liberal Party, had a very clear policy at the last election. We went into the campaign with, and we still stand by, a policy of reducing poker machine numbers by 10 per cent. What we see with this legislation is that it simply shifts the problem to areas that can least afford it, which seem to be strip shopping areas in main streets of country towns. I will finish on that note.

Mrs PEULICH (South Eastern Metropolitan) — I also rise to support the Gambling Regulation Amendment Bill as well as the amendments proposed by Mr Guy on behalf of the Liberal Party. That is not to say that I am not sympathetic to many of the issues that have been raised by other contributors to the debate, in particular those raised by Mr Barber and Mr Kavanagh. I have a very keen interest in the problems facing those who are compulsive gamblers, and I use the word 'compulsive' decidedly, as opposed to 'problem' gamblers. I think part of the problem which has prevented our community from coming to terms with

the issue of those who have addictive behaviours manifested through gambling is that we have lumped the two together. The very scarce funds, or perhaps the government may argue growing funds, that have been set aside for this purpose, as mentioned by my upper house colleague Mr Somyurek this morning in his members statement, are often, in my view, not extremely well targeted, although those who work in the industry would certainly argue to the contrary.

I have personal experience in that I have known people — people who have been fairly close to me — who have been compulsive gamblers and for whom that has been a life sentence. At those points in their lives when everything is falling down around them — their lives, their relationships with their children have broken down, they have lost their homes and so forth — and at that moment of vulnerability they make the decision to reach out for help and contact a local provider of gambling counselling, perhaps through the local community health centre, they are advised that there is a six-to-eight-week waiting time. Anyone who understands the problems facing compulsive gamblers would know that this service is not targeting them.

Therefore I would urge this government, as I urged my government previous to this, to make a conscious distinction between services for compulsive gamblers and those for a broader pool of problem gamblers, because in fact there is a clear distinction. Mr Barber was right, there is no clear empirical evidence in terms of the magnitude of one versus the other. I believe about 2 per cent or 3 per cent in our community are compulsive gamblers. Their addictive behaviours are manifested in many ways. Some of them are manifested through the pokie industry and playing poker machines. The people I have known in my life who have suffered from this compulsion, this addictive behaviour, have been addicted to horseracing. I came here as an immigrant, and it never ceased to amaze me as I walked down the street on Saturday afternoons to see rooms in the heat of summer — for example, the TABs — chockers with afternoon punters when there were many more pleasurable activities in which to engage, like taking the family on a picnic or a bike ride, or perhaps taking a walk through our city.

Whilst I acknowledge that Mr Barber, the Greens and others would like to see a reduction in poker machines, or perhaps the elimination of that entire industry, that is not going to get rid of the suffering caused by the very deep and complex problem of compulsive gamblers or those who have addictive behaviour problems which can manifest themselves not just in connection with gaming but in many other ways. I will set that issue aside, but it is one that is very close to my heart.

The bill proposes a number of changes to the regulation of gaming machine numbers throughout Victoria, including the addition of municipal districts as an alternative basis for limiting the number of poker machines in hotels and clubs. It proposes that gaming machine limits would in future be set by region, or municipal district, or part of a municipal district. The minister will be able to determine regions for the purposes of the regional cap. The bill provides that an area cannot be subject to more than one limit at a time. That is going to be a problematic formula. An area within a municipal district can be covered by regional limits and part of it can in fact be covered by a municipal district limit. In the second-reading speech the then Minister for Gaming stated that the bill would prevent a high concentration of gaming machines in local government areas in the future.

The Liberal Party does not support the idea of having a cap of 10 machines for every 1000 adults. As an example of the bill in practice, currently half the city of Casey is covered by a regional cap, but it allows only 5.6 machines per 1000 adults. Under this bill various venues can be built outside that regional cap zone, but within the city of Casey, to reach that the cap of 10 machines for every 1000 adults. In the city of Casey this formula will increase the number of machines allowed. As the majority of regional caps are located in suburban locations, what we will see is more gaming machines being distributed to venues in the soon-to-be established housing estates which are on the fringe of the regional cap, but within the municipal district. While I generally support the reduction and Mr Guy's proposed amendment on behalf of the Liberal Party, I think the formula is going to be problematic and needs to be monitored very closely.

In terms of the effectiveness of the regional caps and in particular the initiatives to solve problem gambling — such as the provision of more natural lighting in gaming venues, clocks on gaming machines, financial transaction receipts for gaming machine play and gaming machine statistics on every machine — these measures have been shown not to work in many of the municipal districts that I represent. Members in this house may be aware of, but probably not surprised by, the 2006–07 Victorian Commission for Gambling Regulation statistics which show that 18 of the 19 Labor government regional zones — including local regions targeted by this government to reduce gaming expenditure — have actually had an increase.

Despite all the rhetoric, including that from the local Labor MPs in my region who say that control of the gaming industry in the region is on track, the fact remains that the cities of Casey, Greater Dandenong

and Monash once again appear in the top five local government areas for gaming turnover. In fact local government areas within the South Eastern Metropolitan Region contributed 20 per cent of Victoria's overall gaming expenditure. These initiatives have certainly not stopped problem gambling; they have not stopped the rise of gaming expenditure and they show that the government is unable to manage its gaming portfolio.

Gaming has been mismanaged. The fact that that expenditure continues to rise dramatically in areas the Labor government has targeted for control, proves the point. In 2006 and 2007 in the city of Casey, for example, there has been a very significant increase, in part perhaps due to the fact that it is the growth corridor, but the same has occurred in Dandenong and Monash. Clearly the government needs to rethink and monitor many of its initiatives.

I refer to the limits on cash payouts proposed by the bill. Accumulated credits of $1000 or more on gaming machines may be paid by cheque. Currently in the act the amount stands at $2000. I understand the limit on cash payouts under clause 11 of the bill must become operational by 1 December. The antigambling campaigner Gabriela Byrne has indicated that $1000 is too high. I know Mr Barber thinks it is too high and he intends to move an amendment to have it reduced to $250 in line with the Queensland legislation. With all due respect to Mr Barber's very cogent argument, Victoria, however, has a slightly different gaming industry to that in Queensland. I would imagine — and this has been reinforced by discussions I have had with some of the venue operators in my region as well as those who work in them — venues would be signing cheques all day. A venue which has 70 machines could expect more than 100 payments of $250 each day. The number of people that would need to be employed just merely to undertake this administrative task would be substantial.

In terms of the community benefit contribution, I could not agree more with the comments Mr Drum made earlier about the purpose of the Community Support Fund (CSF) and the missed opportunity to invest in the community as a way of inoculating it against destructive behaviours — in particular things like gambling, the scourge of drugs and so forth. Much of that fund has been used for recurrent funding for line items that have previously been paid for out of consolidated revenue. That is not acceptable. The Community Support Fund should be returned to local communities so that they can see the benefit of it. That fund should be used to insulate our communities against the scourge of addictive behaviours, including gaming and drugs.

Three changes are proposed to be made to the principal act. One is to require that clubs that do not meet their community benefit contribution of 8.33 per cent of their net gaming revenue have to pay the difference in an additional tax. I understand that that is fairly rare. The second is a clarification of the activities and purposes that would constitute a community benefit. I agree with Mr Atkinson that this is indeed required. The third change is the removal of the requirement that hotels complete an annual community benefit statement, in recognition of the fact that currently hotels have to make a community contribution of 8.33 per cent of their net gaming revenue.

One could argue that hotels are not necessarily seeing the benefit of their contributions to the Community Support Fund, but could I say that the same is true for the community. I urge the government to better focus on and make the expenditure of the Community Support Fund better known and ensure that those funds — or at least 30 per cent of them, as was the Liberal Party policy stated before the 2006 state election — are returned to the local communities where that revenue is mostly generated.

As has been mentioned on funding for drug and alcohol programs, the act provides that $45 million of annual hotel gaming tax revenue is to be retained in the Consolidated Fund for each of the five years from 1 July 2004. These funds are to be allocated to the government's drug and alcohol programs. Those programs are much needed and there are not enough of them, but the costs should be met out of consolidated revenue and, as I said, CSF money should be used to support communities to inoculate people from the scourge of compulsive gambling and other such behaviours.

The member for Bass in another place, Mr Ken Smith, said in a speech:

> Since this government came to power there has been a real lack of true support for problem gamblers in this state.

I would say compulsive gamblers.

> There has been what I consider to be theft or stealing, with the government having taken $45 million out of the Community Support Fund and setting it aside for four years to look after drug and alcohol problems. They are things that should be addressed with funds out of the government's own coffers, not stolen from the hoteliers contribution to the Community Support Fund.

I do not necessarily see it as just the hoteliers contribution; I think it is a community contribution.

Members of the community deserve to have a substantial amount returned to them to, as I said, strengthen them and inoculate them against these behaviours, which wreck many families and many individual lives. With those few words, I have pleasure in supporting the legislation, with the amendments that will be moved by Mr Guy on behalf of the Liberal Party.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! I indicate to the committee that the convention is that the committee first consider opposition amendments. However, I have discussed with representatives of the various parties the possibility of on this occasion first taking Mr Barber's amendments, on the basis that they propose the lowest proportion of machines, as prescribed in a key amendment to the legislation. I am of the view that it is best to test that proposition first and then, if that is not supported by the committee, for the committee to proceed to consider the amendments proposed by Mr Guy.

I call Mr Barber to move his amendment 1, which I regard as a test for his consequential amendments 3, 4, 5, 7, 8, 9, 10 and 11, and ask him, as part of his contribution to consideration of this amendment, to foreshadow his related amendments.

Mr BARBER (Northern Metropolitan) — I move:

1. Clause 1, after line 3 insert—

"( ) limit the maximum permissible number of gaming machines available for gaming in the State to 10 000 from 15 April 2012;".

This amendment relates to limitations on the maximum permissible number of gaming machines in Victoria. Currently that is set at 30 000, through ministerial fiat. This amendment requires that by 15 April 2012, when the current duopoly licensing arrangement runs out, the number for any future licensing is set at 10 000. That would be a dramatic reduction in the number of poker machines in Victoria. As I mentioned in my contribution to the second-reading debate, that is one of the key measures that would have an impact on the problem of gambling in Victoria. The bill is all about cutting the number of machines. The government has brought it forward on the basis that it will cut machine numbers to address problem gambling. This amendment proposes a further cut in the number of machines.

If any further justification is needed, I will just read the following facts for 2005–06 into the record: in the city of Darebin, a municipality that currently has nine machines for every 1000 adults, there was more than $89 million in gambling losses; the city of Greater Bendigo, $42.6 million; the city of Greater Dandenong, with nearly 11 machines per 1000 adults, $106 million; the city of Greater Geelong, $109 million in losses; the city of Maribyrnong, $58 million; the city of Monash, $126 million; the city of Warrnambool, with more than 10 machines per 1000 adults, $17.7 million; Horsham rural city, with 10 machines per 1000 adults, $8.3 million lost; Central Goldfields shire, with 11 machines per 1000 adults, $10 million; East Gippsland shire, $21 million; and Wellington shire, with more than 10 machines per 1000 adults, $20.6 million.

Hon. J. M. MADDEN (Minister for Planning) — The response will probably be the same to both parties proposing amendments and trying to claim their respective figures for the permissible number of gaming machines in the state by a particular date. Whether the figure is 22 000 or 10 000, my understanding is that research has shown that it is not the number of machines that determines compulsive behaviour in relation to gaming problems but the compulsive behaviour itself. It is my understanding also that where the numbers have been reduced or attempted to be reduced in other states, the turnover from gaming machines has not changed significantly.

Those with compulsive behaviour seek out the locations for gaming and will do so even if the machines are in another state. I suppose it takes us back to the days when we did not have gaming machines in this state. People would cross the Murray River to New South Wales and spend inordinate amounts of money interstate, because of the determination to travel even significant distances to engage in compulsive or obsessive gaming practices.

Again, we could debate the merits of the figure, but I think at the end of the day the point of difference on the clause is that we do not believe a significant reduction in the number of gaming machines will have a significant impact on those who are compulsive when it comes to using gaming machines.

Mr GUY (Northern Metropolitan) — I will make some brief comments on the amendment moved by

Mr Barber. To use the words Mr Dalla-Riva used in this debate: close, but no cigar. We think the amendment we are considering at the moment represents too dramatic a reduction in the numbers, from 27 500 down to 10 000. We think small clubs and hotels with fewer than 25 gaming machines are likely to be made unviable if they lose those machines. They are the people who are likely to be affected by such a dramatic drop and be unviable. We view these amendments as proposing too dramatic a reduction, and I place on the record that we will be voting against them.

Mr BARBER (Northern Metropolitan) — What the minister has just told us is that reducing machine numbers has no impact on problem gambling 'according to his research'. I think those were the words he used. The whole purpose of this bill is to set up a scheme whereby the minister can set regional caps and reduce machine numbers. I think what the minister has just told us is that this bill will be ineffective. On that point I agree with him, and I have no further comments.

Hon. J. M. MADDEN (Minister for Planning) — In relation to the comments by Mr Barber, I think he may have misinterpreted my comments. I think I spoke in terms of a significant reduction of overall numbers as opposed to a reduction in regional locations. There is no doubt that there are concerns in locations about the number in any particular region. It is a critical issue, as Mr Guy has raised the matter, of what is a fair number, what is an extreme number and what is a fair number in any particular region. Given that the industry is an employer, it provides a degree of community benefit and in some instances is an economic driver for either venues or towns or the building of business activity in and around some of those locations.

I just want to take issue with Mr Barber's interpretation of my comments. The figure is debatable. Compulsive behaviour will still exist, but what is important is that we provide for those with compulsive behaviours and try to reduce problem gambling. It is also important that we try to manage the numbers in a way that is sufficient to not make it easy for those with problems while also acknowledging that a concentration of numbers with any one provider or any one club will have a significant economic impact on the smaller stakeholders and potentially give an advantage to the bigger stakeholders by making some venues unviable. This bill proposes to manage that in a way that takes into account all those matters, rather than being as hardline as some would seek and having a significant impact to the detriment of many of those who rely on the industry for the community benefit that it delivers.

Committee divided on amendment:

Ayes, 4

Barber, Mr	Kavanagh, Mr (*Teller*)
Hartland, Ms	Pennicuik, Ms (*Teller*)

Noes, 36

Atkinson, Mr	Lovell, Ms
Broad, Ms (*Teller*)	Madden, Mr
Coote, Mrs	Mikakos, Ms
Dalla-Riva, Mr	O'Donohue, Mr
Darveniza, Ms (*Teller*)	Pakula, Mr
Davis, Mr D.	Petrovich, Mrs
Davis, Mr P.	Peulich, Mrs
Drum, Mr	Pulford, Ms
Eideh, Mr	Rich-Phillips, Mr
Elasmar, Mr	Scheffer, Mr
Finn, Mr	Smith, Mr
Guy, Mr	Somyurek, Mr
Hall, Mr	Tee, Mr
Jennings, Mr	Theophanous, Mr
Koch, Mr	Thornley, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr	Viney, Mr
Lenders, Mr	Vogels, Mr

Amendment negatived.

The DEPUTY PRESIDENT — Order! I advise members who are thinking of leaving the chamber that we are likely to proceed to another vote fairly shortly. I take this opportunity to advise the committee that, while I took Mr Barber's amendment 1 first in terms of the proposition of a cap, I now return to Mr Guy's amendments. I invite him to put his amendment 1, which is on the same subject and which will be a test for his consequential amendments 2 to 9. I ask Mr Guy to move his amendment formally and to make any remarks he wishes to make.

Mr GUY (Northern Metropolitan) — I move:

1. Clause 1, after line 3 insert—

> "() limit the maximum permissible number of gaming machines available for gaming in the State to 22 000 from 15 April 2012;".

Just briefly, as foreshadowed in the second-reading debate, my amendment puts forward the Liberal Party's policy position from the last election, which we stand by, which is a reduction in electronic gaming machine numbers from 27 500 across the state minus the 2500 at the casino down to 22 000. We believe when the current licence expires in 2012 a 20 per cent cut in gaming machines in hotels and clubs would be a correct step. Unfortunately it appears the government is content to move the problem through regional caps, whereas our policy is of course to try to remove the problem by slashing numbers. We believe 20 per cent is the correct

figure. We believe it is workable, and therefore I have moved the amendment standing in my name.

Committee divided on amendment:

Ayes, 19

Atkinson, Mr	Koch, Mr
Barber, Mr	Kronberg, Mrs
Coote, Mrs	Lovell, Ms
Dalla-Riva, Mr	O'Donohue, Mr (*Teller*)
Davis, Mr D.	Pennicuik, Ms
Davis, Mr P.	Petrovich, Mrs
Finn, Mr (*Teller*)	Peulich, Mrs
Guy, Mr	Rich-Phillips, Mr
Hartland, Ms	Vogels, Mr
Kavanagh, Mr	

Noes, 21

Broad, Ms	Pakula, Mr
Darveniza, Ms	Pulford, Ms
Drum, Mr (*Teller*)	Scheffer, Mr
Eideh, Mr	Smith, Mr
Elasmar, Mr	Somyurek, Mr
Hall, Mr	Tee, Mr
Jennings, Mr	Theophanous, Mr
Leane, Mr	Thornley, Mr
Lenders, Mr	Tierney, Ms (*Teller*)
Madden, Mr	Viney, Mr
Mikakos, Ms	

Amendment negatived.

The DEPUTY PRESIDENT — Order! While I am unable to anticipate the level of debate, I indicate that there will be another division on Mr Barber's amendment 2, which we will be proceeding to. I call on Mr Barber to formally move his amendment 2, which I would advise the committee is also a test for his amendment 6. I invite Mr Barber to make any remarks that he might have in support of that amendment.

Mr BARBER (Northern Metropolitan) — I move:

2. Clause 1, page 2, line 2, omit "$1000" and insert "$250".

The government has the right idea here. If someone is lucky enough to win a significant sum of money on the pokies, then my view is that they should cut their losses right there. You will never get ahead, and it is as good as it is going to get. In Queensland the legal situation is that the cash-out amount which must be paid by cheque is $250. The government here has reduced it from $2000 to $1000, and the purpose of my amendment is to get that to go further to $250.

Mr GUY (Northern Metropolitan) — I just wish to place on the record that the bill before the house includes a payout figure of $1000 and is a Liberal Party policy from the last election. We are very pleased to see that the government has taken on board the Liberal policy from the last election in this portfolio, as it has in a number of other areas. We believe the $1000 payout figure is good. It is a good introduction. We will be supporting it and opposing the amendment.

Mr BARBER (Northern Metropolitan) — I have a question for the minister that I think needs to be asked at this point, given that we are effectively testing this issue right now. It is a question about the bill. Can the minister tell us if in the drafting of the bill or subsequently the government did any research as to how often in an average year someone gambling on pokies in Victoria receives a payout of $1000? I am aware that the whole system is linked with computers and databases. I would be interested to know how often the amount specified under the current rules — $2000 — is paid out and how often $1000 is likely to be paid out.

Hon. J. M. MADDEN (Minister for Planning) — I am not in a position to know whether the government has that advice or not. I am happy to seek a response from the Minister for Gaming in the other place in relation to that request.

Mr BARBER (Northern Metropolitan) — When this bill was first introduced some time ago the then Minister for Gaming, Daniel Andrews, the member for Mulgrave in the other place, was on the Jon Faine program. He was grilled pretty extensively — for over 8 minutes, I recall — and he was asked this question about eight different ways: 'Where did you get the sum of $1000 from? Did you just pull it out of the air?'.

Honourable members interjecting.

Mr BARBER — I do not have the transcript of that interview in front of me, but I certainly recall — I have checked it since — that at that time the minister undertook to find out how often that occurred. I want to be very clear with this minister. My question is: did the government do any research in framing this bill or has it subsequently found an answer to my question?

Hon. J. M. MADDEN (Minister for Planning) — As I mentioned before, I do not have statistics in front of me in relation to these matters. I have information relating to the legislation itself and some background notes, and I have access to some advice, but I do not have any statistics or specific research in front of me. However, I can seek an indication on this matter from the Minister for Gaming in the other place, see whether we have that information, find out the extent to which we have research on this issue and see whether it can be provided to Mr Barber.

Mr BARBER (Northern Metropolitan) — I do not know whether this is out of order, Deputy President, but I saw the minister's adviser jump on his mobile phone and run away. Is there any chance that we will get an answer in the next few minutes if we were to wait and perhaps sing a few rounds of *Row, Row, Row Your Boat* until he comes back?

The DEPUTY PRESIDENT — Order! I am not able to interrupt the proceedings to await the return of the adviser. He may have gone for any number of reasons, and I am not about to guess why he left the chamber. The minister has provided the advice he is able to at this time. I ask the minister whether he has anything further to add.

Hon. J. M. Madden — No.

The DEPUTY PRESIDENT — Order! Are there any further contributions to debate on the amendment?

Mr BARBER (Northern Metropolitan) — This bill only does three things. It changes the framework for community benefit statements, it changes the system by which the minister can appoint figures for regional caps and it reduces the amount of winnings able to be cashed out. I am absolutely stunned that the government either has not done or is completely unaware of research on that third matter, when we know that those numbers are available. As an example of how to make public policy, that is stunning.

Hon. J. M. MADDEN (Minister for Planning) — I do not think Mr Barber understood my answer. I do not have the information in front of me, but I am happy to take it up with the respective minister. To me that is a reasonable indicator that I am happy to accommodate the member's request. Whilst he might be cynical about these matters, if I suggest to the member that I am happy to undertake the request, that is as good as I can offer in this position at this time with the information I have in front of me. The member should acknowledge that, as has been the tradition of this chamber on many other occasions.

The DEPUTY PRESIDENT — Order! I think the member appreciates the minister's taking it up with the minister responsible for the legislation, but I think what he was looking for was an opportunity to inform his vote, which is not available.

Committee divided on amendment:

Ayes, 4

Barber, Mr (*Teller*)	Kavanagh, Mr
Hartland, Ms	Pennicuik, Mrs (*Teller*)

Noes, 36

Atkinson, Mr	Lovell, Ms
Broad, Ms	Madden, Mr
Coote, Mrs	Mikakos, Ms
Dalla-Riva, Mr	O'Donohue, Mr
Darveniza, Ms	Pakula, Mr
Davis, Mr D.	Petrovich, Mrs
Davis, Mr P.	Peulich, Mrs
Drum, Mr	Pulford, Ms
Eideh, Mr	Rich-Phillips, Mr
Elasmar, Mr	Scheffer, Mr
Finn, Mr	Smith, Mr
Guy, Mr	Somyurek, Mr
Hall, Mr	Tee, Mr
Jennings, Mr (*Teller*)	Theophanous, Mr (*Teller*)
Koch, Mr	Thornley, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr	Viney, Mr
Lenders, Mr	Vogels, Mr

Amendment negatived.

Clause agreed to; clauses 2 to 15 agreed to.

Reported to house without amendment.

Reported adopted.

Third reading

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

That the bill be now read a third time.

In doing so I wish to make mention of a few queries that came from members of the chamber. I thank members for their respective contributions. I understand Mr Drum wanted a few queries answered. I hope I can respond adequately to his request. It is the intention in the bill that hotels will not be required to submit community benefit statements for 2006–07. In the event of a machine having accumulated credits of $1000 or more, the whole amount must be paid by cheque. Whilst I was not in the chamber when the member raised those matters, I understand that might answer his queries.

Motion agreed to.

Read third time.

JUSTICE AND ROAD LEGISLATION AMENDMENT (LAW ENFORCEMENT) BILL

Introduction and first reading

Received from Assembly.

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

GENE TECHNOLOGY AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Minister for Environment and Climate Change) on motion of Mr Lenders.

CONFISCATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

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

PLANNING AND ENVIRONMENT AMENDMENT BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders tabled the 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 Planning and Environment Amendment Bill 2007.

In my opinion, the Planning and Environment Amendment Bill 2007 as introduced in 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 makes procedural changes to facilitate operation of the Planning and Environment Act 1987, Transfer of Land Act 1958, and the Subdivision Act 1988.

Human rights issues

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

Privacy

The bill changes the Planning and Environment Act 1987 requirement that the planning register be kept in a prescribed form, to a requirement that it include prescribed information. The existing form of the register includes the name and address of the applicant for a permit. The change to the act facilitates a review of the content of the register to take account of current privacy standards. This will be done in developing the new regulations prescribing the content of the register. The bill does not authorise any recording or publication of private information, beyond what is already authorised under the act.

Other human rights

Other human rights are not affected by the provisions of this bill.

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

No provisions of the bill limit or restrict human rights.

Conclusion

The bill does not adversely affect human rights.

Justin Madden, MLC
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:

In 2006, the then Parliamentary Secretary for Environment, Elaine Carbines, conducted wide-ranging consultation to improve the operation of the planning system. Ms Carbines produced an excellent report, *Cutting Red Tape in Planning*, making recommendations for a program to improve the operation of the planning system. Many of these are procedural, while the implementation of others requires legislative change.

Good progress has been made implementing the procedural changes, with 15 major milestones completed. I will outline a few of the highlights so far.

The government has introduced a faster process for planning scheme amendments that removes unnecessary controls and has imposed tough performance targets on the Department of Planning and Community Development for processing planning scheme amendments. These are 15 days for authorisation and 30 days for approval of planning scheme amendments. At the same time the authority of departmental regional directors has been increased to assist them in achieving these targets. The certainty provided by this initiative has been welcomed by all users of the planning system.

Municipal councils have taken up the offer to strengthen and clarify their local planning policies. A council can now ask an expert team to assist it in improving existing local policies so that they are clear, concise and unambiguous. This is a service the government is providing at no cost to councils.

The government previously amended planning schemes to take about 4000 planning permit applications each year out of the system by removing the need for planning approvals for a range of minor matters. The government is looking at further changes this year to take more applications out of the system — 3000 has been suggested, but the precise number will depend on the nature of the changes. The Department of Planning and Community Development will shortly be testing some of the proposed exemptions with local government.

Trials have been completed of a simpler process for assessing straightforward planning applications. This new approach will save time and resources for both applicants and councils. We are working on the detailed processes to implement this new approach in the system.

An expert working group has been appointed to examine ways to improve the effectiveness of local policy. It is pleasing that local government has made a positive contribution to this project, both through the working group and through submissions.

Cutting Red Tape in Planning recommended an update of planning fees. Background research to provide the foundation for a revised system of planning application and amendment fees is under way, and advice on the information requirements to support a new fees system to be implemented through new regulations is expected to be available shortly.

This legislation is another step in the government's ongoing program to improve and streamline the operation of the planning system. This bill implements specific changes which can be made without delay.

That is the big picture. I turn now to the detail of the bill before the house.

Clauses 1 and 2 are the usual bill machinery provisions. Most provisions can commence immediately, but the provision about the form of the planning register needs to be linked to the development of appropriate regulations.

Clause 3 updates provisions of the act to reflect current administrative arrangements.

Clauses 4, 5 and 6 work together to clarify the general responsibilities of a municipal council as a planning authority within its district. It is appropriate that each municipal council has the role of a planning authority in relation to a planning scheme for its own municipal district. Municipal councils and other authorities will continue to require the minister's authorisation before preparing a planning scheme amendment. This bill clarifies and confirms the ongoing, general role of a council as a planning authority within its municipal district.

Clauses 7 and 8 change the planning scheme review cycle from three to four years. This aligns with the four-year review cycle for council plans required by the Local Government Act 1989. The requirement for consistency between the municipal strategic statement in the planning scheme, and the council plan are also updated. This is a common-sense amendment that will assist councils in coordinating these important local government functions.

Clause 9 facilitates the use of current technology to keep the planning register — the prescribed form assumes a register book. The review of the regulations to implement this will be made in consultation with the privacy commissioner, to ensure that any personal information is handled in a way that is consistent with privacy principles.

Clause 10 repeals a redundant power for the liquor licensing commission to apply to the tribunal for review of decisions relating to liquor outlets. The section relates to legislative provisions that have since been repealed, and the principle of the power is no longer required.

Clauses 11, 12, 13 and 14 provide for a straightforward procedure to ensure that those with permits issued at the direction of the Victorian Civil and Administrative Tribunal are able to amend or cancel those permits. Existing act provisions for the tribunal to cancel or amend permits are subject to restrictions and safeguards designed to protect the interests of the owner, occupier or developer of the land affected. These are inappropriate if the person requesting the amendment or cancellation is the permit-holder. These provisions create a new mechanism for people to seek amendments or cancellation of permits authorising their own projects, in a way that is sensible and straightforward.

Clause 15 relates to the costs and expenses of panels appointed under the act. The act now provides to the effect that a planning authority must pay the fees and allowances of panel members unless the minister otherwise directs. The department provides the essential basic administrative system for arranging panels, but also incurs costs specific to particular panels. Clause 15 provides a head of power to enable these amounts to be charged to planning authorities. The result will be a cost-recovery mechanism similar to that applying to advisory committees established under part 7 of the act, and to inquiries under the Environmental Effects Act 1978.

Clause 16 updates and clarifies regulation-making powers under the Planning and Environment Act 1987.

Clause 17 inserts a transitional provision to clarify that an authorisation to a municipal council to prepare an amendment to a planning scheme, given under the existing act provisions, will apply under the new provisions as inserted by clause 4.

Clauses 18 and 19 facilitate operation of another part of the land administration system. It amends the Transfer of Land Act 1958 to authorise electronic provision of the forms for registering land transactions. Forms will now be available electronically via the internet.

Clauses 20, 21 and 22 provide for minor changes to the Subdivision Act 1988 — to clarify that rights of review of plans include review of an engineering plan associated with land development, and to update appeal and review terminology in the act.

Clause 23 provides that the amending act is repealed on 1 September 2009. As suggested by the Scrutiny of Acts and Regulations Committee, all amending acts now contain an automatic repeal provision, which will save the time and expense of having to repeal amending acts in statute law revision bills. This repeal will not affect in any way the operation of the amendments made by this bill.

The changes proposed in this bill are technical in nature. However these changes form part of an ongoing improvement program, and as such are important to the efficient operation of the planning system.

I commend the bill to the house.

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

Debate adjourned until Thursday, 30 August.

CONFISCATION AMENDMENT BILL

Statement of compatibility

For Mr MADDEN (Minister for Planning), Mr Lenders tabled the 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 2006, I make this statement of compatibility with respect to the Confiscation Amendment Bill 2007.

In my opinion, the Confiscation Amendment Bill 2007, as introduced to the Legislative Council, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The object of the Confiscation Act 1997 ('the act') is to ensure that 'crime does not pay'. It seeks to achieve that object by depriving criminals of their ill-gotten gains, disrupting criminal enterprises and deterring criminal activity.

The act establishes a regime for the restraint of property that may have been used in, or derived from, criminal activity (to prevent its dissipation) and the forfeiture of such property.

The act also allows a person with an interest in property to apply to have that interest excluded from a restraining order (so that the applicant may dispose of or otherwise deal with their interest) or forfeiture (so that it is not transferred to the state). Such applications may relate to property restrained for the purposes of forfeiture or property subject to forfeiture.

The bill amends the act to clarify the scope and operation of its provisions relating to applications for, and the making of, exclusion orders. More specifically, the bill amends the act to:

make clear that exclusion orders can only be made in relation to an applicant's interest in the property, rather than the entire property;

insert a definition of 'derived property' and include that term in provisions relating to the exclusion of property from automatic or civil forfeiture. This set of amendments makes clear the original policy intent that criminally acquired property cannot be excluded from restraint or forfeiture merely because it is not tainted by the specific schedule 2 offence with which the defendant has been charged or is reasonably suspected of having committed;

provide that the 'effective control' test (which is one of the grounds on which a non-defendant applicant must satisfy a court in order to obtain an exclusion order) is to be applied at the time the defendant[1] is charged or his or her property restrained, whichever occurs earlier. This amendment is designed to address arguments that where, for example, a defendant is in custody, he or she no longer has effective control of the property;

make clear that transfer of an interest in property for less than market value is not a sufficient basis on which to have a property interest excluded from restraint or forfeiture; and

ensure the appeal provision of the act covers all decisions concerning exclusion orders to address the Court of Appeal's identification of some 'gaps' in the *Director of Public Prosecutions v. Phan Thi Le*.[2]

The bill also amends the act:

to clarify that the procedure applying to appeals against sentence are intended to apply to appeals under the act, rather than the principles laid down in *House v. The King*[3] on the appellate courts' approach to appeals against the exercise of discretion by trial judges; and

to assist in the interpretation and application of provisions concerning 'property', which is defined in s. 3 of the act to include 'any interest in any … real or personal property'.

Human rights issues

As indicated in the overview above, the principal focus of the bill is on amending provisions relating to applications for, and the making of, exclusion orders from either restraint or forfeiture under the act. Broadly, the ability of any person with an interest in restrained or forfeited property to apply for an exclusion order provides an avenue for such people to assert their right to property.

The bill makes four (sets of) amendments to the exclusion order provisions. Two of these (sets of) amendments may engage human rights under the charter. The following analysis examines each of these amendments and considers whether they engage with any human rights and, if so, whether any limitation to those rights is reasonable.

1. Scope of excluded property: validation

The first series of amendments makes clear that an application for an exclusion order and any exclusion order made under the act relates to the applicant's interest in the property, rather than the whole property. These amendments do not adversely affect an applicant's right to property.

New section 176 of the act inserted by the bill validates those amendments in relation to exclusion orders previously made. New section 177 of the act inserted by the bill requires pending applications for exclusion orders to be determined in accordance with the amended provisions. That is, new

[1] Here, and for ease of reference throughout this statement, the term 'defendant' is used to include, in the case of civil forfeiture, a person reasonably suspected of having committed a schedule 2 offence (e.g.: a serious drug or fraud offence).

[2] [2007] VSCA 18 at paras. 10–11.

[3] (1936) 55 CLR 499.

sections 176 and 177 provide that the amendments apply to the amended provisions as though they had always been so amended (other than in the case of the parties in *DPP v. Phan Thi Le*). These provisions reflect the manner in which the courts had construed and applied the amended provisions prior to the Court of Appeal's decision in Phan Thi Le and are intended to clarify the original policy intent underlying these provisions.

As the amendments do not create a criminal offence, they do not engage the right against retrospective criminal laws in s. 27 of the charter.

2. Derived property

The second set of amendments involves the insertion of a definition of 'derived property' in section 3 of the act. 'Derived property' is defined in the bill as property:

(a) used in, or in connection with, any unlawful activity by —

(i) the defendant; or

(ii) the person who is suspected of having committed a schedule 2 offence; or

(iii) the applicant for an exclusion order; or

(b) derived or realised, or substantially derived or realised, directly or indirectly, from any unlawful activity by —

(i) the defendant; or

(ii) the person who is suspected of having committed a schedule 2 offence; or

(iii) the applicant for an exclusion order; or

(c) derived or realised, or substantially derived or realised, directly or indirectly, from property of a kind referred to in paragraph (a) or (b).

The 'derived property' amendments relate to the automatic and civil forfeiture regimes. Those regimes in turn relate to schedule 2 offences, that is, to offences at the very serious end of the scale, often involving organised or systemic criminal activity.

These amendments will ensure that the policy objective of targeting the long-term accumulation of wealth through criminal enterprise underlying the automatic and civil forfeiture regimes is not undermined.

The derived property amendments do not expand the type of property that can be included in an application for a restraining order. Rather, once a restraining order is in place, the amendments limit the circumstances in which exclusion orders may be made, by requiring an applicant to satisfy the court that the property is not derived property or the applicant had no knowledge or reason to suspect that the property was derived property.

Given there is a narrowing of the exclusion order provisions, there is a possible impact on charter rights.

2.1 Right to property (s. 20)

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law.[4]

Section 20 only prohibits a deprivation of property that is carried out unlawfully. As the act is, and the bill if passed will be, a law made by the Victorian Parliament, any deprivation of property that occurs as a result of the 'derived property' amendments would take place under powers conferred by legislation, in accordance with the law. There is an implied limitation on the power to make laws depriving persons of property that the laws must not do so in an arbitrary manner. 'Arbitrary' in this context may mean 'capriciously', 'unpredictably' or 'inconsistently': in other words, lacking in reason or proper policy justification. In this case, the 'derived property' amendments form part of a systematic process of improving the operation of the existing provisions to enable law enforcement authorities to more readily identify and confiscate proceeds of crime, particularly where large amounts of profit are generated. The definition of 'derived property' and the powers to deprive a person of such property are confined and structured, formulated in a precise manner and accessible to the public. In this sense, the amendments cannot be said to be arbitrary.

Arguably, the right to property protected by article 1 of the first protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms casts a more onerous requirement than that laws depriving persons of property not be 'arbitrary'. In Europe, the courts have held that article 1 comprises three distinct rules:

(1) the principle of peaceful enjoyment of property;

(2) the principle that the deprivation of possession of property must be in the public interest and subject to the conditions provided for by law and by general principles of international law;

(3) the principle that states are entitled to control the use of property in accordance with the general interest and to secure the payment of taxes or other contributions or penalties.

Principles (2) and (3) have been interpreted to require a 'fair balance' to be struck between the interests of the state and those of the individual. While this may impose a more onerous requirement than that any deprivation must not be arbitrary, the European Court of Human Rights has repeatedly held that confiscation and forfeiture do not breach art. 1 of the European convention.

Based on this approach by the European court, the 'derived property' amendments cannot be said to be incompatible with the right to property under s. 20 of the charter.

3. Effective control

The third series of amendments clarifies the operation of the 'effective control' test in applications for exclusion of an interest in property from a restraining order or forfeiture by non-defendant applicants. The amendment will require the

[4] This right is derived from article 17 of the Universal Declaration of Human Rights.

applicant to satisfy the court that his or her interest in the restrained or forfeited property was not subject to the effective control of the defendant at the time the defendant was charged or his or her property restrained, whichever occurred earlier. These amendments are designed to address arguments that where, for example, a defendant is in custody, he or she no longer has effective control of the property.

The concept of 'effective control' of property is important to the efficacy of the confiscation regime. Section 9(1) of the act provides:

> for the purposes of this act, property may be subject to the effective control of a person whether or not the person has an interest in it.

Experience with the legislation that the act replaced[5] showed that persons could circumvent that regime by divesting themselves of their illegally acquired assets as gifts to family and friends or by making it appear that other people (natural or legal) have control over those assets. Section 9 in the current act is intended to enable the courts to look behind company and trust arrangements to determine who really is in control of the property.

The proposed amendments clarify the application of the 'effective control' test, but make no substantive policy change. They do not engage any of the human rights under the charter.

4. Transfer of property for sufficient consideration

Currently, the act requires that a non-defendant applicant for an exclusion order must prove, among other things, that his or her interest in the property was acquired from the defendant for sufficient consideration. In Phan Thi Le, the Court of Appeal held that 'natural love and affection … constitute(s) 'sufficient consideration' for the purposes of s. 52(1)(a)(v) of the (confiscation) act', i.e.: the relevant provision for the exclusion order in that case. That interpretation also extends to applications for exclusion of the applicant's interest in property from restraint or other forms of forfeiture under the act where sufficient consideration is also required.

The fourth amendment inserts the following definition of 'sufficient consideration' in section 3 of the act:

> … in relation to property, means consideration that reflects the market value of the property and does not include —
>
> (a) consideration arising from the fact of a family relationship between the transferor and transferee;
>
> (b) if the transferor is the spouse or domestic partner of the transferee, the making of a deed in favour of the transferee;
>
> (c) a promise by the transferee to become the spouse or domestic partner of the transferor;
>
> (d) consideration arising from the transferor's love and affection for the transferee;
>
> (e) transfer by way of gift.

This new definition makes clear that transfer of an interest in property for less than market value is not a sufficient basis on which to have a property interest excluded from a restraining order or forfeiture. It is consistent with the original policy intent indicated in the second-reading speech for the Confiscation Bill that '(t)he bill enables a court to restrain and confiscate tainted property that has been transferred for less than full value'[6] (emphasis added). That requirement is designed to prevent criminals shielding criminally acquired property (including the proceeds of the sale of property for market value) from forfeiture by transferring it to other (often related) parties for less than market value.

The insertion of this new definition and its operation in the act's exclusion order provisions may engage three rights under the charter: the right to privacy (s. 13); protection of families and children (s. 17); and the right to property (s. 20).

4.1 Right to privacy (s. 13)

Section 13(a) requires that a public authority must not unlawfully or arbitrarily interfere with a person's family or home. The insertion of a definition of 'sufficient consideration' engages this right to the extent that where property is the subject of a restraining order or forfeiture, that may at a later stage[7] lead to the confiscation of a person's home or the eviction of a family from a property where they reside. However, the operation of the forfeiture scheme will ensure that the interference with privacy as a result of the forfeiture of property will occur on a case-by-case basis in discrete and defined circumstances under powers conferred by statute. Accordingly, the interference with privacy is lawful and not arbitrary, and there is no limitation on the right to privacy in section 13(a) of the act.

4.2 Protection of families and children (s. 17)

Section 17 of the charter provides:

> (1) Families are the fundamental group unit of society and are entitled to be protected by society and the state.
>
> (2) 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.

Section 17(1) protects the integrity of the family unit. Section 17(2) accords special protection to children as is needed by reason of being a child. Children are, by reason of being a child, reliant upon their parents to provide the essentials of life.[8] The loss of property has the potential to impact upon the ability to provide those essentials.

The amendments will prevent a family member, who has acquired an interest in property directly or indirectly from a

[5] Crimes (Confiscation of Profits) Act 1986.

[6] The Hon Jan Wade MP, Attorney-General, 'Confiscation Bill: Second reading', Victoria Parliamentary Debates Assembly (13 November 1997), 1146, 1149.

[7] i.e. once the period for making an exclusion order has passed or an exclusion order application has been refused.

[8] In relation to the corresponding right in article 24 of the ICCPR, the United Nations Human Rights Committee has commented that the measures required 'although intended primarily to ensure that children fully enjoy the other rights enunciated in the covenant, may also be economic, social and cultural': general comment 17.

defendant for less than market value, from having that interest excluded from restraint or forfeiture. Such an interest may be in the family home. The purpose of the provisions are to prevent criminals from thwarting the confiscation regime by transferring criminally acquired or derived property to another person including family members. Without this amendment, criminals will be able to use such 'less than market value' transfers to shield their criminally acquired assets from forfeiture.

However, whilst the provisions extend to the family home, the amendments should be considered in the context of the courts' broad powers under the act to ameliorate the impact of restraining orders or forfeiture on any person, including family members and children of a defendant. These powers can be applied to ensure that families and children are not placed in financial hardship by reason of the operation of the confiscation of property.

For example, in relation to restraining orders, a court under section 14(4) of the act may make a restraining order that:

> … provide(s) for meeting … the reasonable living expenses (including the reasonable living expenses of any dependants) … of any person to whose property the (restraining) order applies if the court … is satisfied that these expenses cannot be met from unrestrained property or income of the person.

Further, section 26 of the act allows a court to make such further orders in relation to restrained property 'as it considers just', including, but not limited to, the type of order envisaged by section 14(4). Affected family members with an interest in the restrained property may apply for such an order. In addition, family members without a legal interest in the property may, with the leave of the court, apply for such an order.

In relation to forfeiture, section 45 of the act permits a court, where it is satisfied that 'hardship may reasonably likely be caused to any person by' the forfeiture of property to:

(a) … order that the person is entitled to be paid a specified amount out of the forfeited property, being an amount that the court thinks is necessary to prevent hardship to the person; and

(b) … make ancillary orders for the purpose of ensuring the proper application of an amount so paid to a person who is under 18 years of age.

These broad existing powers for the courts to make appropriate orders are consistent with the protection of families and children under section 17 of the charter.

The amendments are therefore consistent with the rights in section 17 of the charter.

4.3 Property rights (s. 20)

In light of the Court of Appeal's interpretation of the 'sufficient consideration' requirement in Phan Thi Le, the new definition arguably restricts the right to property by increasing the scope of the property that may be subject to restraint and/or forfeiture. That is, any interest in property acquired by a person other than the defendant for less than market value cannot be excluded from restraint or forfeiture. In that sense, the amendments could be regarded as increasing the level of restriction on the right to property of persons with an interest in restrained or forfeited property.

However, the definition of 'sufficient consideration' is formulated precisely to guide those who apply the law. Further, the power to deprive a person of property to which this amendment relates will take place under powers conferred by legislation. The definition of 'sufficient consideration' and its operation in determining exclusion orders sought by non-defendant applicants are confined and structured, formulated in a precise manner and accessible to the public. In this sense, the amendments cannot be said to be arbitrary. For these reasons, any resultant deprivation meets the conditions of a deprivation of property which is 'in accordance with law' and therefore the definition of 'sufficient consideration' and its use in the exclusion provisions does not limit the right to property under section 20 of the charter.[9]

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because the amendments in the bill either:

> do not raise human rights issues; or
>
> to the extent that some amendments do raise such issues, these amendments do not limit human rights.

JUSTIN MADDEN, MP
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:

Put simply, the object of the Confiscation Act 1997 ('the act') is to ensure that 'crime does not pay'. It seeks to achieve that object by depriving criminals of their ill-gotten gains, disrupting criminal enterprises and deterring criminal activity.

The act establishes a regime for the restraint of assets that may have been used in or derived from criminal activity (to prevent their dissipation) and for the forfeiture of such assets.

The act also allows a person with an interest in property to apply to have that interest excluded from a restraining order (so that the applicant may dispose of or otherwise deal with their interest) or forfeiture (so that it is not transferred to the state). Such applications may relate to property restrained for the purposes of forfeiture or subject to forfeiture.

The bill amends the act to clarify the scope and operation of its provisions relating to applications for, and the making of, exclusion orders in each of these circumstances.

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[9] See also the more detailed discussion of the right to property in section 2.1 above, which is also applicable here.

The most critical of these amendments arises from a recent Court of Appeal decision in the *Director of Public Prosecutions v. Phan Thi Le* [2007] VSCA 18. The effect of the majority's decision in that case is that, where a court is satisfied an exclusion order should be made, the court must exclude the whole of the property, rather than the applicant's interest in the property, from the restraining order or forfeiture (as the case requires). As was observed in the dissenting judgement in Phan Thi Le, '(t)he exclusion of the whole of the property would undermine the policy goal of the act, which is intended to prevent people convicted of serious offences from profiting from the fruits of their crime'.

To avoid these consequences and ensure the regime remains an effective tool in the fight against organised crime, the bill amends the act to make clear that exclusion orders can only be made in relation to an applicant's interest in the property, rather than the entire property. The bill validates exclusion orders made prior to the Phan Thi Le decision, and the amendments also apply to applications that have been made but are yet to be determined. It is necessary to cover pending exclusion order applications to ensure that criminals cannot defeat the confiscation regime where another person with an interest in restrained property obtains an exclusion order. This is fair and appropriate, noting that the amendments merely confirm the law as it was understood and applied prior to the Phan Thi Le decision, and that applicants continue to have a right to seek to protect their property interests.

The bill also makes four further amendments to the exclusion order provisions.

First, it ensures that restraining orders for automatic or civil forfeiture (relating to serious drug trafficking or fraud offences) cannot be defeated by arguing that the property was not 'tainted' in relation to the specific offence with which the defendant has been charged or is reasonably suspected of having committed. In other words, the defendant will bear the onus of proving that the property itself was not used in or acquired directly or indirectly through illegal activity. This amendment will ensure that the policy objective of targeting the long-term accumulation of wealth through criminal enterprise underlying automatic and civil forfeiture for schedule 2 offences, such as serious drug trafficking or fraud offences, is not undermined.

Second, it clarifies the operation of the 'effective control' test in applications for exclusion of an interest in property from a restraining order or forfeiture by non-defendant applicants. The amendment will require the applicant to satisfy the court that the applicant's interest in the restrained or forfeited property was not subject to the effective control of the defendant at the time the defendant was charged or his or her property restrained, whichever occurred earlier. The same amendment is made in respect of restraining orders for civil forfeiture purposes or a civil forfeiture order, except that it applies to the person reasonably suspected of having committed a schedule 2 offence. This amendment is designed to address arguments that where, for example, a defendant is in custody, he or she no longer has effective control of the property.

Third, it makes clear that transfer of an interest in property for less than market value is not a sufficient basis on which to have a property interest excluded from restraint or forfeiture. This is consistent with the original policy intent indicated in the second-reading speech for the Confiscation Bill that '(t)he bill enables a court to restrain and confiscate tainted property that has been transferred for less than full value'. This amendment is designed to address arguments that transfer of a property interest by way of gift or out of natural love and affection constitutes sufficient consideration for the purpose of obtaining an exclusion order. It will also deny criminals the use of such less-than-market-value transfers to shield their criminally acquired assets from forfeiture.

Fourth, it ensures the appeal provisions in section 142 of the act cover all decisions concerning exclusion orders. This amendment will address the Court of Appeal's identification of some 'gaps' in s. 142 of the act in Phan Thi Le. Those 'gaps' meant the court was compelled to rely on its general appeal powers in civil matters under the County Court Act 1958 in order to determine that case. Similarly, unless the amendments to s. 142 are made, the Court of Appeal would have to rely on its general civil appeal powers under the Supreme Court Act 1986 if one of these 'gap' matters were appealed from that court.

In addition, the Court of Appeal in Phan Thi Le asked the Parliament to clarify its intent in providing that appeals under the act are to be conducted in the same manner as an appeal against sentence. The bill further amends s. 142 to clarify that the procedures applying to appeals against sentence are intended to apply to appeals under the act, rather than the principles laid down in *House v. The King* (1936) 55 CLR 499 on the appellate courts' approach to appeals against the exercise of discretion by trial judges.

The schedule to the bill makes a series of amendments to the act to assist in the interpretation and application of provisions concerning 'property', which is defined in s. 3 of the act to include 'any interest in any … real or personal property'.

Taken together, these amendments will assist in ensuring that Victoria's confiscation regime remains a potent and effective weapon in the fight against organised crime.

I commend the bill to the house.

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

Debate adjourned until Thursday, 30 August.

GENE TECHNOLOGY AMENDMENT BILL

Statement of compatibility

For Mr JENNINGS (Minister for Environment and Climate Change), Mr Lenders tabled the 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 Gene Technology Amendment Bill 2007.

In my opinion, the Gene Technology 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 the bill

The object of the Gene Technology Act 2001 is to protect the health and safety of people and to protect the environment by identifying risks posed by or as a result of gene technology and regulating certain dealings with genetically modified organisms (GMOs). Dealings with GMOs that involve release into the environment (DIRs) are typically agricultural field trials, or commercial release licence applications.

An applicant makes an application to the regulator for a licence to deal with a GMO and the licence, if approved, will have conditions attached to it such that the dealing can be conducted while ensuring that the object of the act is met.

The bill amends the Gene Technology Act 2001 by inserting provisions enabling the responsible Victorian minister to issue an emergency dealing determination in response to a determination made by the responsible commonwealth minister and otherwise incudes provisions to improve the efficient operation of the act, allocate resources to areas of greater risk, reduce the regulatory burden and combine two advisory committees (the Gene Technology Ethics and Gene Technology Community Consultative Committee) into one committee. The bill concludes with a series of technical amendments.

The proposed Gene Technology Amendment Bill will ensure that the Victorian act is brought into line with the commonwealth legislation as amended and that the national regulatory framework for gene technology continues to operate in Victoria in a seamless and coherent manner, giving certainty to industry and stakeholders.

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

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

Clause 22 of the bill potentially engages the right to privacy. This provision relates to administration of emergency dealing determinations (EDDs). An EDD enables the responsible minister, on advice, to allow the use of a genetically modified organism (GMO) in an emergency situation, where that GMO is to be used to remedy the emergency. A GMO EDD, like a GMO licence, may have conditions attached to it so that, in complying with these conditions, the GMO itself can be managed such as to protect the health and safety of people and the environment.

Clause 22 of the bill inserts a new section (152(2)(d)) into the principal act. This provision enables an inspector to enter the premises of a person (for purposes of finding out if the act and regulations have been complied with) where the occupier of the premises is a person dealing with, or who has dealt with, a GMO specified in an EDD and the entry is at a reasonable time. This provision enables inspectors to monitor the EDD, just as they are currently able, under the act, to monitor other dealings with GMOs. There is also a power for the regulator to access records and information, but this is information regarding the GMO and the behaviour of a GMO for purposes of securing the objective of the act and not personal information.

While this provision potentially engages the right to privacy, it does not constitute unlawful or arbitrary interference.

The provision is precise and circumscribed by specific criteria in the act. In relation to the powers of entry it is noted that:

1. the entry relates to potential risks to the health and safety of people and the environment;

2. not any person, but only those dealing with or who have dealt with, a GMO that is subject to an EDD are captured in the provision;

3. dealings with GMOs are typically conducted on premises with appropriately certified facilities by authorised personnel.

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 the Charter of Human Rights and Responsibilities because even though it potentially engages the right to privacy, it does not limit this right.

Gavin Jennings, MLC
Minister for Environment and Climate Change

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 Gene Technology Act 2001 is the mechanism by which Victoria participates in a nationally consistent regulatory scheme for gene technology, established by the intergovernmental gene technology agreement of 2001. The object of the scheme is to protect the health and safety of people and the environment by identifying risks posed by gene technology and then managing those risks by regulating certain dealings with genetically modified organisms (GMOs).

In 2005–06, the commonwealth Gene Technology Act 2000 underwent a statutory review of its operations. The review panel concluded that the gene technology regulatory framework is working well and recommended changes to consolidate the efficient operations of the act. A national whole-of-governments' response to the review recommended giving effect to the review findings.

The response was endorsed by the Gene Technology Ministerial Council in October 2006 and formed the policy basis for legislative amendments to the commonwealth act and thereby, to mirror gene technology legislation in Victoria and other states and territories.

This bill introduces:

1. provisions to enable the responsible minister to make emergency dealing determinations for Victoria that mirror those made by the responsible commonwealth minister;

2. provisions to improve the mechanism for providing advice to the gene technology regulator and Gene Technology Ministerial Council on ethics and community consultation;

3. provisions that streamline the process for initial consideration of licences and reduce the regulatory burden for low-risk dealings;

4. provisions to clarify the circumstances in which licence variations can be made;

5. provisions clarifying the circumstances under which the regulator can direct a person to comply with the act;

6. provisions granting the regulator power to issue a licence to persons who find themselves inadvertently dealing with a genetically modified organism (GMO) for purposes of disposing of that organism; and

7. technical amendments to improve the operation of the act.

Three major changes are proposed in this bill.

The first change relates to emergency dealing determinations. The commonwealth act allows the responsible commonwealth minister to make an emergency dealing determination in response to an emergency. This enables an identified genetically modified organism (GMO) to be used quickly in response to an emergency without the need for the GMO to go through a relatively lengthy licence application process. A GMO to be specified in an emergency dealing determination must still undergo a rigorous scientific risk assessment.

The commonwealth act obliges the responsible commonwealth minister to take scientific advice before making an emergency dealing determination. The advice must be that there is an emergency, that the identified GMO can help address the emergency and that the GMO itself can be appropriately managed. If this advice is not given, the emergency dealing determination cannot be made. The provisions of this bill allow the responsible Victorian minister to make a corresponding emergency dealing determination when one is made by the commonwealth minister.

An emergency dealing determination cannot be extended without reconfirmation of the original scientific advice and the majority agreement of the Gene Technology Ministerial Council, through which all jurisdictions, including Victoria, are consulted. Provisions in this bill will ensure a perfection of coverage in Victoria so that the national regulatory framework will continue to operate in this state in an integrated and seamless manner.

The second change is to divide GMO releases into two categories — field trials and commercial release. Some GMO dealings will be restricted field trials for the purpose of scientific assessment and others will be dealings for commercial release. The bill provides for different time frames and information requirements for these dealings to ensure that the regulatory burden is commensurate with risk. Assessment of field trials of GM crops can continue, with their potential for agricultural and environmental benefit, while ensuring that the health and safety of persons and the environment remains safeguarded. The gene technology regulator will have up to 170 days in which to make a licence decision about the release of GMOs for scientific field trials and 255 days for decisions about the commercial release of GMOs.

The third change is to amalgamate two advisory committees established under the Gene Technology Act, namely, the Gene Technology Ethics Committee and the Gene Technology Community Consultative Committee. There has been considerable overlap in the roles and functions of these two committees. The new committee will be called the Gene Technology Ethics and Community Consultative Committee and will advise the Gene Technology Ministerial Council and the gene technology regulator on ethical issues involving gene technology. This includes providing advice on community consultation and risk communication matters relating to commercial GM licence applications. Committee deliberations recognise that science is located in a broad social and ethical context.

The proposed amendments are not fundamental changes to regulatory policy; they improve the efficient operation of the act. The rigorous scientific assessment and management of risk remains a cornerstone of the act.

The bill ensures that the Victorian act will remain consistent with the commonwealth legislation and ensures that the national regulatory framework for gene technology continues to operate in Victoria in an integrated and seamless manner. The bill provides certainty to industry and stakeholders and also gives them access to the benefits of greater efficiency; any delay in passage of the bill would defer delivery of its benefits.

The bill furthers the objectives of the Victorian Biotechnology Strategic Development Plan 2004. This plan aims to capture the economic and other benefits of biotechnology in a manner that is ethically and socially responsible. An ethically and scientifically robust regulatory framework focused on the protection of human health, safety and the environment contributes materially to this objective.

I commend this bill to the house.

Debate adjourned for Mr D. DAVIS (Southern Metropolitan) on motion of Mrs Coote.

Debate adjourned until Thursday, 30 August.

JUSTICE AND ROAD LEGISLATION AMENDMENT (LAW ENFORCEMENT) BILL

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning), Mr Lenders tabled the 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 Justice and Road Legislation Amendment (Law Enforcement) Bill 2007.

In my opinion, the Justice and Road Legislation Amendment (Law Enforcement) 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 proposed bill contains amendments to the Magistrates' Court Act 1989, the Police Regulation Act 1958, the Road Safety Act 1986 and the Sex Offenders Registration Act 2004.

The amendments to the Magistrates' Court Act 1958 allow certain indictable offences in the Police Regulation Act 1958 and the Sex Offenders Registration Act 2004 to be heard and determined summarily.

The Police Regulation Act 1958 contains two sets of amendments contained in part 3 of the bill. The first set strengthens the offence of unlawfully dealing with information obtained by police personnel, increases the penalty, and introduces a new indictable offence where disclosure may endanger life or safety, assist in the commission of an indictable offence or interferes with the administration of justice. An increased penalty is also included for the comparable confidentiality offence applying to the Office of Police Integrity.

The purpose of the second set of amendments to the Police Regulation Act 1958 is to allow the Chief Commissioner of Police to give authorised media organisations access to the photographs of convicted persons taken at the time of their arrests or during police interviews or investigations. This scheme provides that photographs can only be given to a media organisation within six months of the person being found guilty of an offence, and can be subject to conditions.

Part 4 of the bill amends the Road Safety Act 1986 to make it an offence for a person to continue to drive a motor vehicle if that person knows or ought to know that they have been given a direction to stop by a member of the police force, and makes minor amendments to the provisions concerning the surrender of a motor vehicle.

Part 5 of the bill contains a number of amendments to the Sex Offenders Registration Act 2004, the main features of which are:

a requirement that registrable offenders notify the chief commissioner of their telephone number, email address and internet service provider as applicable;

a requirement that a registrable offender report any changes to them having regular unsupervised contact with a child within three days after that change occurs;

amending the offence of disclosure of personal information held on the register under the act, providing that it is not an offence to disclose that information for purposes of law enforcement or judicial functions or activities, as required by law, or additionally, where the chief commissioner or a person authorised to have access to the register, believes on reasonable grounds that to do so is necessary to enable the proper administration of the act;

a change to the definition of employment which will mean that a registered sex offender will be prohibited from engaging in child-related employment if it constitutes gain or reward other than through a contract of employment or contract of service;

the introduction of a new part to require any application for a change of name by a registrable offender to have the prior written consent of the Chief Commissioner of Police; and

a provision authorising a supervising authority to disclose personal information if they believe it is reasonably necessary for the proper administration of the act, despite the provisions of the Information Privacy Act 2000.

Human rights issues

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

The human rights that the bill will have an impact upon or engage are as follows:

Section 9 — right to life

This right encompasses the positive duty to provide an effective criminal justice and law enforcement system, including taking appropriate steps to safeguard the lives of those within its jurisdiction.

The proposed changes to the Sex Offenders Registration Act 2004 and the Police Regulation Act 1958 will promote confidence in the criminal justice system. The release of certain police photographs will enhance the ability of Victorians to report criminals who they suspect of having committed other offences, and will alert them to the identity of offenders. This will enhance Victoria Police's community policing function and will improve the faith that Victorians have in their law enforcement officials by demonstrating successful prosecutions. The changes will also have a deterrent effect.

The bill enhances the right to life contained in the charter, by improving Victoria's criminal justice and law enforcement system. The changes to the Register of Sex Offenders advance the ability of Victoria Police to monitor sex offenders and this assists in the protection of Victorians, protecting them against crime.

Section 12 — freedom of movement

Part 4 of the bill makes it an offence for a person to continue to drive a motor vehicle if they have been directed to stop by a member of the police force. This provision engages with a person's right to move freely within Victoria as it restricts a person from continuing to drive where he or she has been given a direction to stop by police. Consideration must be given as whether or not the limitation can be reasonably justified in accordance with section 7(2) of the charter.

Section 13(a) — privacy

There are a number of ways that provisions in the bill engage the right to privacy. The right to privacy concerns a person's 'private sphere' which should be free from government intervention or excessive unsolicited intervention by other individuals. This right is not an absolute right at international law and the charter protects against unlawful or arbitrary interference with a person's privacy. An interference with privacy will not be unlawful provided it is permitted by law, is certain and is circumscribed so that there are not broad discretions. Arbitrariness will not arise provided that the restrictions on privacy are in accordance with the objectives of the charter and are reasonable, given the circumstances.

Disclosure of personal information to the media

Clause 7 provides that the Chief Commissioner of Police may give an authorised media organisation a photograph of a person, taken at the time of his or her arrest or during police interviews or investigations, after the person has been found guilty of an offence, and that the section will have effect despite the Information Privacy Act 2000 or the Freedom of Information Act 1982. The bill provides a number of conditions about how this access is given, and includes matters that must be considered by the chief commissioner in making the decision to the extent to which they can be ascertained at that time.

These provisions in the bill do engage with and infringe on a convicted person's right to privacy. The chief commissioner has discretion to give a photograph of a convicted person to a media organisation, but before release of the photograph must regard a number of matters including the public interest, the interests of the victim and any witnesses, and the interests of the person photographed. The matters are detailed to ensure that an appropriate balance is struck between the right to privacy of a convicted person, and the public interest in the release of a photograph. The list includes consideration of whether or not a victim or witness could be identified, hence enhancing the victim or witnesses' right to privacy, and the risk to a convicted person or their family if the photograph is given to a media organisation.

Clause 7 is necessary to allow the chief commissioner to release photographs of convicted persons, without recourse to the Freedom of Information Act 1985 which requires the consent of the convicted person for release. This is an impractical mechanism and would result in very few, if any, photographs being released. There are currently no other less restrictive ways available to Victoria Police to release photographs of convicted persons. These provisions are introduced in response to the 2005 decision of the Victorian Civil and Administrative Tribunal in the case of *Smith v. Victoria Police* [2005] VCAT 654. The scheme proposed in the bill provides a comprehensive system for the release of photographs of convicted persons with a requirement that appropriate matters be taken into account before release is made.

Unlawful

The interference with privacy is not unlawful as the chief commissioner's discretion is restricted by the list of matters to be considered. The bill sets out the precise circumstances when the interference with privacy may be justified. Further the decision to give a photograph is made on a case-by-case basis according to the specific circumstances involved.

Arbitrary

The chief commissioner's power to give a photograph cannot be exercised in an arbitrary manner. The power is not ambiguous or open-ended. The giving of the photograph can be conditional and is only to authorised media organisations. If a media organisation breaches the conditions of its authorisation, this can be revoked by the chief commissioner.

Therefore, while the power of the chief commissioner to give a photograph of a convicted person engages with the right to privacy, it does not infringe it.

The power to collect personal information

Clauses 14 and 15 list a number of additional matters comprising personal information that a registrable offender is required to report to the chief commissioner under the Sex Offenders Registration Act 2004.

These clauses engage with the right to privacy of registrable offenders, but do not infringe that right as the proposed changes are not unlawful or arbitrary.

Unlawful

The additional information that is provided is circumscribed and precise, and the bill does not grant any discretionary powers with respect to this information. As such the proposed changes do not represent an unlawful interference.

Arbitrary

The interference is not arbitrary with respect to requiring registrants' email addresses and internet service provider details. This is reasonable in the context of the act's objectives in that an increasing number of sex offenders are using the internet to commit offences.

Restrictions on the disclosure of personal information

Clause 6 increases the penalty for an existing offence under section 102G of the Police Regulation Act 1958 for a person to disclose information gained through the performance of functions of the Office of Police Integrity if it is the person's duty not to disclose the information.

Clause 8 amends section 127A of the Police Regulation Act 1958 regarding the offences of unauthorised access, use or disclosure of information or documents by a member of police personnel, or a former member of police personnel.

Clause 17 restricts access to the Register of Sex Offenders and clause 18 makes it an offence for a person to disclose personal information from the register unless authorised.

These provisions enhance the right to privacy provided in the charter by protecting Victorians against unauthorised disclosure of their personal information.

The power to share information

Clause 18 amends a provision of the Sex Offenders Registration Act 2004 to broaden the range of circumstances when disclosure of personal information from the Register of Sex Offenders to a government department, public statutory authority or a court will not constitute an offence. The new exception is when the chief commissioner or a person authorised to have access to the register believes on

reasonable grounds that the disclosure is necessary to enable the proper administration of this act.

Clause 20 inserts a new provision in the Sex Offenders Registration Act 2004 allowing the Secretary of the Department of Justice and the Chief Commissioner of Police to share information with the Victorian registrar of births, deaths and marriages.

Clause 21 provides that a supervising authority under the Sex Offenders Registration Act 2004 can disclose personal information to another supervising authority for the purposes of that Act, notwithstanding the Information Privacy Act 2004.

These provisions engage with but do not infringe with the right to privacy, as the power or ability to share the information is for clearly defined purposes and is not unlawful or arbitrary.

Unlawful

The information that is to be shared is circumscribed and precise and relates to the operation of the Sex Offenders Registration Act 2004 or, in the case of clause 18, another law or act. Clauses 18, 20 and 21 provide for a discretionary power with respect to the release of personal information, and this can only be done if the chief commissioner, secretary or relevant supervising authority has reasonable grounds to believe it is necessary for the proper administration of the act. As such the proposed changes do not represent an unlawful interference.

Arbitrary

The interference is not arbitrary as it relates to the more effective operation of the act, and enhances the ability of various bodies to better coordinate and prevent sex offenders from avoiding the operation of the legislation.

Section 15(2) — the right to freedom of expression

The right in section 15(2) of the charter encompasses the right to seek and receive information. The provisions in part 3 allow the chief commissioner to release a photograph of a convicted person after considering the public interest and other criteria. This enhances the right of Victorians to receive information about the working of the criminal justice system.

The right also includes the right to impart information and ideas, including unpopular ideas and to make statements of protest or criticism. This could include the changing of one's name. A person may seek to change their name in order to promote an idea, or to represent changes in their own view of their identity and the way they are perceived, for example in the case of a gender change or a change in family relationships. The ability to present a person's identity to the world by a name change is one means of expression. The provisions in part 5 of the bill restrict the ability of a registrable offender under the Sex Offenders Registration Act 2004 to freely change their name. Consideration must be given as whether or not the limitation can be reasonably justified in accordance with section 7(2) of the charter.

Section 17 — protection of families and children

Section 17(2) provides that a child has a right to protection in their best interests. The provisions in part 5 of the bill are essential for improving the operation of the Sex Offenders Registration Act 2004, by closing a loophole where registrable offenders could volunteer to work with children. These changes will enhance the rights of children in Victoria.

The release of police photographs under the proposed changes to the Police Regulation Act 1958 will also inform Victorians about the identity of convicted criminals, including possibly registrable offenders, and will also enhance this right.

There is a possibility that family members of a convicted person could be affected by the giving of a photograph. It is for this reason that the interests of these family members are included as a matter that may be considered by the chief commissioner in making a decision to give a photograph. Further, from 1 January 2008 the chief commissioner will be required to consider this right generally since section 38 of the charter will make it unlawful for a public authority (including the chief commissioner) to act in a manner that is incompatible with a right or fail to give proper consideration to a right. While the rights of family members of a convicted person may be affected by the bill, the chief commissioner can take their interests into account and the right will not be infringed.

Section 20 — property rights

This section in the charter provides that a person must not be deprived of their property otherwise than in accordance with law. The proposed changes to the Road Safety Act 1986 dealing with surrender of motor vehicles are lawful because the proposed deprivation of property can only occur under powers conferred by legislation that are confined, structured and reasonable in the circumstances. As such the right is not infringed.

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

Section 12 — freedom of movement

It is necessary to consider whether the limitation on right to freedom of movement is reasonable in accordance with section 7(2) of the charter.

(a) the nature of the right being limited

The right in section 12 to move freely within Victoria is not an absolute right in international human law and can be subject to reasonable limitations are as reasonably justified.

(b) the importance of the purpose of the limitation

The restriction in part 4 of the bill is necessary to enable police officers to properly control traffic and carry out their functions. The restriction is required to deter drivers from ignoring the lawful orders of law enforcement personnel.

(c) the nature and extent of the limitation

The restriction on the freedom of movement is not a restriction on all movement, rather a restriction on continuing to drive a motor vehicle when directed to stop. The bill provides that a person will not commit an offence if they stop a vehicle as soon as practicable after being directed to stop.

(d) the relationship between the limitation and its purpose

The restriction is proportionate to the harm that could be prevented, which could include risks to life of the driver, passengers, police officers and other road users.

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

There is no other less restrictive way to achieve the same objective.

(f) any other relevant factors

There are no other relevant factors.

The infringement on the right of freedom of movement can be reasonably justified in accordance with section 7(2) of the charter.

Section 15(2) — the right to freedom of expression

The provisions in part 5 of the bill restrict a right of a registrable offender under the Sex Offenders Registration Act 2004 to seek a name change and infringe on the right to freedom of expression. It is necessary to consider whether the limitation on right to freedom of expression is reasonable in accordance with section 7(2) of the charter. Further, section 15(3) of the charter provides that freedom of expression can be lawfully restricted for the protection of public order.

(a) the nature of the right being limited

The right of freedom of expression may be limited, as the chief commissioner can prevent a registrable sex offender from changing their name if it is not necessary or reasonable in the circumstances.

(b) the importance of the purpose of the limitation

In this case the restriction on the right is necessary to protect public order in accordance with section 15(3) of the charter. Further, the changes proposed will ensure that registered offenders do not avoid the provisions of the Sex Offenders Registration Act 2004 by changing their name.

(c) the nature and extent of the limitation

The proposed bill does not absolutely prohibit their freedom of expression by a change of name, rather it restricts the ability to do so unless the Chief Commissioner of Police agrees. The chief commissioner must have regard for a number of factors when exercising this authority which are detailed in the bill's provisions.

(d) the relationship between the limitation and its purpose

The discretionary power of the chief commissioner to prevent a registrable sex offender from changing their name is necessary and proportionate to the harm involved and is required in order to ensure that the current legislation is effective.

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

There is no other less restrictive way to achieve the same objective.

(f) any other relevant factors

There are no other relevant factors.

The infringement on the right of freedom of expression can be reasonably justified in accordance with section 7(2) of the charter.

Conclusion

The Justice and Road Legislation Amendment (Law Enforcement) Bill 2007 is compatible with the human rights protected by the charter. The limitations on rights can be reasonably justified given the harm sought to be prevented, and the lack of alternative means to achieve the same outcomes. The bill also enhances a number of rights in the charter, namely the right to life, the right to freedom of expression and the protection of families and children.

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:

This omnibus bill will contribute to fulfilling the government's 2006 election commitments. There are two overall objectives of the bill: to make Victoria safer and to strengthen police accountability.

The amendments will make Victoria safer:

by enhancing road safety initiatives especially relating to speed and driver behaviour;

by enhancing information exchange and management programs that help police and other agencies better manage and reduce the risks posed to the community by sex offenders; and

by providing increased powers and operational capacity for our police.

Further, the amendments will strengthen police accountability, balancing fairness and privacy, individual and community policing interests, in relation to:

police information handling, especially the proper use and disclosure of sensitive information; and

release to the media of mug shots of offenders post conviction.

I now turn to the four components of the bill in more detail.

Part 3 of the bill amends the Police Regulation Act 1958. That act provides a framework for the governance and administration for Victoria Police. This bill contains two sets of amendments to that act.

A. Release of mug shots

The bill will set up a process for release of mug shots of convicted offenders to the media. The government is of the view that Victoria Police needs to have the ability to release mug shots of convicted offenders in order to:

fulfil its community policing functions;

as a deterrence measure; and

as a means of enhancing the feeling of safety in the community and publicising the work of Victoria Police and the criminal justice system.

The amendments are needed following a decision of the Victorian Civil and Administrative Tribunal (VCAT) in *Smith v. Victoria Police* in 2005. The Smith case involved the release of Mr Smith's 'mug shot' by police to the media, to elicit information about suspected other offences from victims not currently known to police. The police released the photo on the basis that it served law enforcement and community policing objectives (as provided for under the Information Privacy Act 2000). Mr Smith subsequently lodged a complaint with the privacy commissioner, who referred the matter to VCAT. The privacy commissioner also intervened in the proceedings and was joined as a party by VCAT.

The case resulted in significant media and community interest and calls for the government to act. In response, the Premier made a specific public commitment to ensure that mug shots remained publicly available. The proposed release policy balances the public interest in permitting photographs to be released in some circumstances with a person's right to privacy. In developing the proposal, the views of both the privacy commissioner and Victoria Police were actively sought and considered.

The new process will only be available for six months after conviction. In determining whether to release a mug shot to the media, police will be required to consider a range of criteria relevant to the public interest and the specific interests and circumstances of the offender, victim(s) and witnesses, to the extent those matters can be ascertained at the time of the decision.

A range of considerations may be taken into account in so doing. For example, the government is aware of the risks to the safety of offenders and their families from vigilantism, so the risk of violence to the offender and his or her family and friends will be a factor that can be taken into account. Other matters such as the risk of harming the potential for rehabilitation of the offender and the possible effect upon or identification of the victim(s) of the offender's crime through release of the mug shot can also be considered, together with matters such as any other legal impediments or any information known to the chief commissioner as to the person being suspected on reasonable grounds of having committed other offences.

The process will balance individual and community policing interests and ensure that the risks of releasing mug shots are adequately addressed.

The existing police power to release mug shots, for law enforcement purposes or community policing purposes, is not affected. That is, aside from responding to a media request, there are circumstances when it is necessary for police to release a mug shot, for example but not limited to conduct of an investigation, or for public safety if a person has absconded from custody. This new process will not apply, and not restrict release, in those circumstances.

B. Police information handling

The Police Regulation Act contains an existing offence applicable where, contrary to their duty, police members disclose information gained by virtue of their office. However, the offence is outdated, with a penalty of 20 penalty units that does not reflect either modern community expectations, or the potential harm that can be caused through misuse in the context of increasing breadth and sophistication of information systems.

The new offence will implement recommendations made by the director, police integrity in his report *One Down, One Missing*. That report investigated the circumstances whereby a serving police member published a book which purported to tell the inside story of the Lorimer task force investigation into the murders of Detective Sergeant Gary Silk and Senior Constable Rodney Miller in 1998. The existing penalty for the offence was insufficient to deter or prevent the publication.

The government has already taken steps to address legitimate community concerns over the handling of confidential information, including funding to replace the existing Victoria Police law enforcement information system and the establishment of the commissioner for law enforcement data security. The commissioner has already circulated standards and protocols for access to, and the release of, law enforcement data.

It is appropriate that the criminal sanctions applying to police handling of information also be updated.

The new provision comprises both an indictable and summary offence for accessing, making use of or disclosing information gained by police personnel in carrying out their functions, or by virtue of their office if unauthorised. It broadens the offence from sworn police members to cover other police personnel and significantly increases penalties.

The indictable offence will be triable summarily and facilitative amendments to the Magistrates' Court Act 1989 are included in the bill. The indictable offence is triggered where the person disclosing the information knows or is reckless as to whether the disclosure may endanger life or safety, assist in the commission of an (other) indictable offence or interfere with the administration of justice. The summary offence will apply in standard situations and includes a defence if the member has taken reasonable steps to avoid such disclosure. In this regard, it is important to remember that police utilise information every day, and in the very great majority of cases, this is lawfully and necessarily done. The inclusion of the defence will ensure that police personnel who act reasonably are protected from unintended criminality and not unreasonably impeded from carrying out their duties and functions.

Lastly, the provisions include some consequential changes for consistency, including standardising language and increasing the penalty for the comparable summary offence of disclosing police information that relates to the director and staff of the Office of Police Integrity. This is important to ensure public confidence in the protection and proper usage of police information regardless of the identity of the persons handling

it, reinforcing the sensitive nature of the information and the seriousness with which misuse is viewed.

C. Road safety matters

This government has demonstrated over an extended period its commitment to improving road safety. The bill proposals support the government's road safety initiative especially relating to speed and driver behaviour, by improving police operations for vehicle impoundments and creating a new offence of driving to evade police.

The number of police pursuits involving collisions has decreased significantly from 2002 following improved police member policies, education and training. In 2006, there were 528 police pursuits, down from a high of 723 in 2005. However, the number of pursuits remains too high. There is a need for a specific offence to act as a deterrent measure against drivers driving to evade police. The new offence is in line with similar policy adopted in South Australia and Queensland.

Part 4 of the bill will create a new offence of driving to evade police. This implements relevant coronial recommendations aimed at preventing and managing pursuit situations and is specifically aimed at deterring potential offenders before their behaviour becomes dangerous. The offence should therefore decrease the number of police pursuits and consequent risk of collisions and injury. The offence will cover conduct which does not amount to dangerous or culpable driving. For this reason, the proposed penalties will sit between the current levels of penalties for careless driving and dangerous driving in the Road Safety Act 1986. The new offence will also be a relevant offence for the purposes of the vehicle impoundment 'hoon' provisions.

In addition to the new offence, proposed amendments to the vehicle impoundment scheme will ensure that the impoundment regime is able to function as intended in cases where an offence is detected by an automatic detection device.

Since commencement of the 'hoon' regime, over 2000 vehicles have been impounded. The proposed amendments in this bill will remedy an unintended problem arising in relation to detection of 'hoon' offences of excess speeding by 45 kilometres an hour or more by an automatic detection device rather than by a police member. An increase in time to serve certain notices is needed to ensure required enforcement processes can be carried out.

The amendments will assist in deterring high-risk, antisocial and irresponsible 'hoon' driving behaviour, improving community safety and amenity.

D. Sex offender registration amendments

As indicated when the sex offender registration scheme was introduced in Victoria in 2004, sex offenders come from every occupation and socioeconomic level, but unlike others who tend to 'settle down', these offenders may continue to offend throughout their lifetime. Premised, therefore, on the serious nature of the offences committed and the recidivist risks posed by sexual offenders, the Sex Offenders Registration Act 2004 recognises that certain offenders should continue to be monitored after their release into the community.

Part 5 of the bill contains a number of amendments to the Sex Offenders Registration Act 2004. These new measures are consistent with the original act's objectives and are intended to reduce the likelihood of registered sex offenders reoffending and to assist in the investigation and prosecution of future offences.

The proposed amendments to the Sex Offenders Registration Act 2004 are technical in nature and broadly include the following matters:

(a) Where a sex offender is convicted of a single class 2 offence, such as indecent assault of a child, and does not receive a custodial sentence or community-based order, he or she will no longer be exempt from being placed on the sex offender register. This recognises concerns that such offenders should be monitored and supervised under the act.

(b) In response to the burgeoning use of the internet by child-sex offenders in particular, new provisions will require registered sex offenders to provide police with details of any internet service providers they subscribe to, and any email addresses that they hold.

(c) The bill reduces the number of days in the definition of regular unsupervised contact with a child and residing in the same household as a child from 14 days to 3 days. Similarly, the bill shortens the time frame within which the registrant must report such contact from 14 days to 3 days. This will assist in meeting evidentiary burdens and increases the probability of securing evidence in the event that an offence against a child has been alleged.

(d) Failure to report changes in personal details is a serious matter and is often an indicator of further offending. To recognise this, the bill makes failing to report changes in a registrant's personal details an indictable offence. This offence will be triable summarily in order to avoid creating a burden for the court system.

(e) Agencies with responsibilities for managing and supervising registrants must exchange information on sex offenders to ensure they do this important function effectively and efficiently. To this end, the bill provides the Chief Commissioner of Police with the authority to provide sex offenders' details to other agencies for the purposes of law enforcement, judicial functions and to ensure that the risks posed by sex offenders are properly addressed and mitigated.

(f) The bill provides for supervising authorities to share information, but only where it is necessary for the proper administration of the act. The bill provides that a person who improperly discloses information on registered sex offenders is liable to 240 penalty units or up to two years imprisonment.

(g) The act contains an anomaly in that it does not appear to prohibit a registered sex offender from engaging in child-related work if they are self-employed. The bill addresses this problem by

amending the act's definition of employment to capture persons who are self-employed.

(h) The bill gives the chief commissioner the authority to prevent a registered sex offender from applying to have their name changed where the chief commissioner believes that the name change is reasonably likely to be regarded as offensive by the community or the registrant's victim; or where it might undermine Victoria Police's ability to supervise and monitor that offender.

These operational improvements are designed to strengthen the ability of Victoria Police, government departments and public statutory authorities to supervise and monitor registered sex offenders and help them better manage and reduce the risks posed to the community by offenders who are subject to reporting obligations under that act.

I commend the bill to the house.

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

Debate adjourned until Thursday, 30 August.

ADJOURNMENT

Mr LENDERS (Treasurer) — I move:

That the house do now adjourn.

Buses: Casey

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the Minister for Public Transport in the other place. It relates to bus services in the city of Casey. On previous occasions I have spoken at length about the lack of transport in the area. In particular I have spoken of the poor service provided by our rail transport and the failure of the government to build the Cranbourne rail extension and the Lyndhurst railway station. Today I would like to draw to the minister's attention the lack of bus services in significant parts of the city of Casey.

First and foremost we need a NightRider service for the city of Casey. Young people often do not have the funds to pay for a taxi, may not have a driver licence and may not have people to pick them up. The NightRider service was an initiative of the Kennett government and has been continued under this government. Cr Lorraine Wreford of the City of Casey and a former councillor, Ben Clissold, have been advocating for this for some time. I would like to see what the minister can do to expedite the provision of the service. There is an inadequate service for young people wanting to get to their nearest entertainment hub, which is the city of Dandenong.

The other area of public transport need affects Cranbourne and in particular the Brookland Greens estate. I am advised there is a local collector road network within the Brookland Greens estate which with minor roadworks in Cherryhills Drive and Brookland Greens Boulevard could possibly accommodate a bus route. In addition there are the Carlisle Park and Park Avenue estates in Cranbourne North. Both are in need of access to bus services. I understand that the Department of Infrastructure has advised that requests for bus routes to cover these areas will be considered within two years as part of the state government's bus prioritisation program. I would like the minister to see if this can be brought forward because people in those growth corridors are suffering significantly from the increased transportation costs, particularly petrol, and a lack of rail infrastructure. There is a significant need for at least bus services. Those people cannot wait any longer. This needs to be brought forward. The government has significant funds in its coffers, and I call on the Minister for Public Transport to see what can be done to improve bus services in the city of Casey.

Housing: affordability

Mr THORNLEY (Southern Metropolitan) — My matter is for the Minister for Housing in the other place. I seek that he pursue a cooperative arrangement with the other states and the commonwealth government on the critical issue of public housing. Strong economic growth has underpinned a level of property price inflation in Australia that needs a strong and decisive public policy to ensure that as many people as possible have the capacity to enter the property market. In particular, because of this property price growth, there is a concerning level of pressure being borne by public housing, something that provides a very important safety net in combating homelessness and poverty in our society. However, the Howard government has shown its true colours when it comes to what it stands for. Last month the federal Minister for Families, Community Services and Indigenous Affairs, Mal Brough, promised to, in effect, tear up the commonwealth-state housing agreement — —

The DEPUTY PRESIDENT — Order! I think Mr Thornley is aware that the adjournment is not the time to enter into political debate but to put a question to a minister with regard to state jurisdiction. I would bring the member back to concentrating on a question that is relevant to a minister's jurisdiction and not to debating politics.

Mr THORNLEY — I am endeavouring to give the context for the request I outlined at the beginning,

Deputy President. I will try to continue to give context to and flesh out the request.

Victoria, by contrast, has put substantial resources into public housing as recently as May with a record $510 million commitment, and in the city of Port Phillip, in my own electorate, we have built or purchased 689 new dwellings since 1999, cutting the waiting lists by 42 per cent. My request is that the Minister for Housing in the other place work in a cooperative approach with other state and territory ministers to come to an agreed position in relation to the federal government's announcement and make a joint submission from all states and territories to the federal government.

In accordance with the six-point plan presented by the state and territory housing ministers conference, such a submission should demand that the commonwealth join with the states to develop comprehensive reform to assist with housing affordability, including: firstly, securing the viability of the social housing sector, and not withdrawing from it; secondly, increasing the supply of social housing; thirdly, improving housing affordability for private renters; fourthly, improving access to affordable home ownership; fifthly, increasing the supply and distribution of affordable housing through new developments and redevelopment projects; and finally, improving housing opportunities for indigenous people.

Rail: Werribee and Watergardens lines

Mr FINN (Western Metropolitan) — I wish to raise a matter for the Minister for Public Transport in the other place, and I hope it is with renewed interest in her portfolio that she takes this matter to heart, because it is an issue that affects many thousands of people in my region of Western Metropolitan on a daily basis. The matter is the chronic overcrowding on trains, particularly on the Werribee and Watergardens lines. These trains are full to capacity every day during peak hours. On the Werribee line, for example, by the time the train gets to Hoppers Crossing on its journey to the city there is barely enough room to fit anybody else on, so it makes it extremely difficult for those even further up the line to make their way to work or wherever they might be going.

It is the same on the Watergardens line. Once a train has left Watergardens it rapidly fills to the point where by the time it gets to Sunshine it is pretty much completely full. It certainly reaches capacity on most occasions. In fact I would suggest that the overcrowding on these trains is akin to what we used to see in the old days of herding cattle into the back of trucks and taking them to market. If we were to try to pack animals in the way people are packed onto these trains in 2007 in Melbourne, I am sure the Royal Society for the Prevention of Cruelty to Animals would have a very strong case for prosecution.

This is something that has to be addressed as a matter of urgency. As I said, it affects thousands and thousands of people every day. Particularly for people on the Werribee line it is not an option for many to travel by car, because as we know the West Gate Freeway has reached capacity. They have a choice of crawling through the traffic on the West Gate Freeway or trying to cram onto a train to get to the city. I ask the minister to provide the necessary rolling stock. I know her stock standard answer is to blame Connex, but on this occasion I do not believe it is Connex's problem. I think it is the responsibility of government to provide the necessary rolling stock, and I hope we are not going to be told that 10 trains are on the way, because 10 trains would be nowhere near enough to solve the sorts of problems that I am talking about. I ask the minister to provide the necessary rolling stock to give commuters on the Werribee and Watergardens lines the service they need and deserve on a daily basis.

Melbourne: electoral system review

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the attention of the Minister for Local Government in another place. Melbourne City Council has not undergone an electoral system review despite the commitment from the Victorian Electoral Commission to review every other municipality within two electoral cycles. I ask the minister to give some consideration to reviewing the MCC. In the 2004 elections 47 000 of the 74 000 people on the roll — that is, 63 per cent — were non-residents of the city, and 9000 of those, or about 12 per cent, lived outside the state of Victoria. That is largely because of the enrolment without application of up to two non-resident persons, not already enrolled as owners and/or occupiers, as occupiers of a rateable property. This entitlement of course exists in other municipalities, but there people have to actively seek to enrol, as is normal. Here they simply get put on the roll after some inquiries by the City of Melbourne.

The voting system also ensures that candidates for the leadership team or councillor election are excluded as candidates in the alternate election. What this does is deter many candidates from running for Lord Mayor, because that is the winner-take-all election, or being elected to council because they ran for Lord Mayor, despite receiving a high proportion of the vote. It also leads to non-genuine candidates in both the leadership

and councillor elections who are simply there to prop up somebody else's vote in what they see as the real race. Those people then go on to be councillors.

The current review of Kensington and the boundaries of Melbourne City Council is half baked and does not extend to the former boundary, the postcode boundary or the state electoral boundary. Then there is the financial performance of the council itself, which is as good a reason as any for an electoral review. The council has put $43 million into the convention centre and $32 million into the Commonwealth Games and related projects. It has taken on an operating deficit from the state government of $1 million in the first year for Docklands and an estimated $8 million over the coming years. This is from a council that has had a policy of rate capping. As a result the council has had negative cash flow for the last two years, which is forecast to continue, and the cumulative draw on its capital over the next 10 years is estimated to be $109 million. For those reasons I request that the Minister for Local Government review the MCC's voting system.

Cemeteries: trust review

Mr VOGELS (Western Victoria) — I raise an issue for the Treasurer, who is also the Leader of the Government in this house, John Lenders. It concerns a review by the state government of how Victoria's cemeteries are run. The review apparently recommends that the 500-odd cemetery trust boards be disbanded and their funds pooled under a single board answerable to a government minister. Another suggestion seems to be that regional boards be established to oversee cemeteries in each region. As a member of a small rural cemetery trust, the Scotts Creek Cemetery Trust, I witnessed firsthand how volunteers maintain and look after their local cemeteries. This ensures that burial costs are kept to a minimum, and with local knowledge family members are buried close to each other, if so desired. As Marilyn Stephens from Bright Cemetery Trust said, the local cemeteries are an important part of a small community because of the heritage, history and family ties to a region.

There is a real fear that all moneys held in Victoria's cemetery trust accounts will be centralised, meaning local autonomy will be lost. The action I seek from the Treasurer is to ensure that Victoria's 500-plus cemetery trusts stay autonomous and that the funds they manage are not confiscated by some government department.

The DEPUTY PRESIDENT — Order! I think the member's matter should be directed to the Minister for Health in the other place, who is the minister responsible for cemeteries.

Mr VOGELS — The Minister for Health, yes, Deputy President.

Skills training: Workforce Participation Partnerships program

Mr LEANE (Eastern Metropolitan) — I raise a matter for the Minister for Skills and Workforce Participation in the other place. The matter I wish to raise relates to the Victorian government's Workforce Participation Partnerships program. I would like to call on the Minister for Skills and Workforce Participation to support the Indigenous Apprenticeship program application by the Electrical Trades Union of Australia, Southern branch (ETU) and the Communications, Electrical and Plumbing Union (CEPU).

But first can I start by commending the Victorian Brumby Labor government for its work to boost workforce participation and assist every person in the state to realise their capacity to participate in society socially and economically. Workforce Participation Partnerships have been a key part of this. They have successfully provided sustainable jobs for Victorians who face difficulties entering the workforce and assisted employers to meet their special needs. I understand to date that Workforce Participation Partnerships have assisted over 2400 job seekers across Victoria to secure ongoing employment.

Just to touch on the ETU and CEPU program, I know it has placed a lot of indigenous workers into not just electrical work but also carpentry, plumbing and a number of other workplaces. Even after this government has doubled the investment for improving the quality of services for indigenous people in this area — such as health, education, children's services, justice, economic development and family violence — these people are still experiencing significant barriers in getting significant employment.

One of the people who work full time on this program is Dean Rioli, the ex-Essendon footballer, who is a great representative of indigenous people and has a great social conscience. Dean has done fantastic work integrating people from outside Melbourne into workplaces that might seem very foreign to them at first.

I call on the Minister for Skills and Workforce Participation in the other place to support this scheme targeting some of our community's most disadvantaged

members and assist them to access sustainable employment in key skill shortage areas.

Government: printing contracts

Mr D. DAVIS (Southern Metropolitan) — My adjournment matter is for the attention of the Treasurer, with assistance from the Minister for Finance, WorkCover and the Transport Accident Commission in the other place, because I understand this matter is a joint responsibility of both ministers. It concerns the Victorian print tender which has been under way for some time now. I quote from the latest news section of PRINT 21 Online which is headed 'Victorian print tender raises a ruckus' as background for the minister in asking for some specific action. In the journal article it says:

> Discontent at the commercial terms offered to printers is fuelling a steady stream of complaints about the Victorian government's behaviour under the new print purchasing scheme.
>
> A series of meetings is supposed to be under way between Stream Solutions and Printing Industries over the terms of payment being offered printers doing government work. According to sources close to the matter, the sticking point is the doubling of the time for payments from 30 days to 60 days —

which, as anyone in business or small business in particular will understand, is a significant burden on its cash flow —

> … which are Stream Solutions normal trading terms. Government policy under the old regime was to pay accounts by 30 days at the latest.
>
> The change has come about because of the awarding of the print contract for the whole of the Victorian government to Stream. Printers are asked to submit their details and agree to the new terms of trading in order to become registered with the print management company.

I know the minister is aware of this. I have been informed that he met with a number of printing industry people in August 2006 in his previous capacity as Minister for Finance, but this relates to a whole-of-government arrangement. I understand that the Department of Premier and Cabinet has also had an involvement here, going back to, first of all, the arrangements that were put in place by Andrew Hockley, as director of communications, and now this is a further iteration of the centralisation of communication, printing, distribution and communications in general by this particular government.

There is nothing wrong with obtaining efficiencies, but all the signs here are that this may not in fact obtain efficiencies. It may actually push small businesses to the wall in some cases, and in other cases there is every reason to be concerned that this centralisation may give senior government officials far too much power and far too much influence over the way these printing contracts are awarded, and I am concerned.

The action I seek is for the Treasurer, in conjunction with the Minister for Finance, WorkCover and the Transport Accident Commission, to meet again with the printing industry executives and to find a way to protect these small businesses and ensure that mechanisms and protections are in place to make sure fairness and justice is accorded in these printing industry issues.

Responses

Mr LENDERS (Treasurer) — David Davis has raised an issue for either me or the Minister for Finance, WorkCover and the Transport Accident Commission in the other place regarding a printing tender. I inform Mr Davis that that is the portfolio responsibility of the finance minister and I will pass it on to him for his attention.

Six other members raised issues for ministers in the Assembly, and I will pass their concerns on to those appropriate ministers.

The DEPUTY PRESIDENT — Order! The house stands adjourned.

House adjourned 4.34 p.m. until Tuesday, 18 September.