PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Friday, 13 August 2010

(Extract from book 12)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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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 Train Services — Mr Atkinson, Mr Barber, Mr Drum, Ms Huppert, Mr Leane, Mr O'Donohue and Mr Viney.

Standing Committee on Finance and Public Administration — Mr Barber, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips, Mr Tee and Mr Viney.

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

Joint committees

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

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

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

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

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

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

Family and Community Development Committee — (*Council*): Mr Finn and Mr Scheffer. (*Assembly*): Ms Kairouz, Mr Noonan, Mr Perera, Mrs Powell and Mrs Shardey.

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 and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan, Mr Foley and Mrs Victoria.

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

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

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

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

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

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: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

Acting Presidents: Mr Eideh, Mr Elasmar, Mr Finn, Ms Huppert, Mr Leane, Ms Pennicuik, Mrs Peulich, Ms Pulford, Mr Somyurek and Mr Vogels

Leader of the Government:
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Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Ms WENDY LOVELL

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	Murphy, Mr Nathan[2]	Northern Metropolitan	ALP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Mr David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Huppert, Ms Jennifer Sue[1]	Southern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles[3]	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William[4]	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

[1] Appointed 3 February 2009
[2] Appointed 9 March 2010
[3] Resigned 1 March 2010
[4] Resigned 9 January 2009

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FRIDAY, 13 AUGUST 2010

Friday, 13 August 2010

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

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 —

Minister's Order of 3 August 2010 giving approval to the granting of a licence at Darling Gardens Reserve.

Minister's Order of 3 August 2010 giving approval to the granting of a lease at Esplanade Public Park Reserve.

Minister's Order of 3 August 2010 giving approval to the granting of a lease at Sandringham Beach Park Reserve.

Subordinate Legislation Act 1994 — Minister's exemption certificates under section 9(6) in respect of Statutory Rule Nos. 71 and 72.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Tuesday, 31 August.

Motion agreed to.

PUBLIC FINANCE AND ACCOUNTABILITY BILL

Referral to committee

Order read for committal.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

That the contents of this bill be again referred to the Public Accounts and Estimates Committee for consideration and report by 31 August 2010 and that the committee be required to invite the Auditor-General to give evidence to the committee on the contents of the bill.

In moving this unusual motion to refer this bill back to the Public Accounts and Estimates Committee I draw to the attention of the house the debate we had on Wednesday, when the first report from the Public Accounts and Estimates Committee into the Public Finance and Accountability Bill was tabled. During the course of that debate it became apparent to the house that the approach that PAEC took to the initial inquiry into this bill was an absolute disgrace. The house made it very clear when it gave the original reference to the committee on 27 July that it wished the committee to consider a number of matters that had been raised as concerns in the debate in both houses and also expressed by the Auditor-General in one of his reports to Parliament, and to report back to this house. The Council provided a five-week period for the committee to undertake that work. Instead, what we had from PAEC was a report that was, frankly, nothing more than a whitewash. It failed to seek evidence from the Auditor-General, and in fact the government members of the committee blocked every effort to seek evidence from the Auditor-General or indeed any other evidence independent of the government and the department that are the proponents of this bill. The report was brought to Parliament with such haste — notwithstanding the five weeks that were made available to the committee to undertake this work — that it was in this Parliament before the committee had even received responses to matters taken on notice from the Department of Treasury and Finance. As such, the report we have seen to date is deficient in that it does not record or report those responses from DTF which, had they been available to the whole house rather than just to members of the committee, may have gone some way to resolving some of the issues that exist with the consideration of this bill.

In moving this further resolution this morning what I am seeking is for the house to give an explicit direction to the committee that it seek evidence from the Auditor-General. I note that in the committee's first report it sought to suggest that there was not a capacity to take evidence from the Auditor-General. It is certainly the view of this side of the house that the government's interpretation of the Audit Act is an inappropriate and incorrect reading of that section. That section that the PAEC government members and chairman relied upon to suggest that the committee could not take evidence from the Auditor-General related only to the Auditor-General's capacity to report to this Parliament in his reports and not to his expressing a view or responding to questions from the committee in a more general sense.

The time frame that is laid down for this referral is again 31 August. In moving this motion I am not seeking to have the house delay the bill any further than was already the case with the reference that was made on 27 July. It will simply mean that if this resolution is carried, PAEC will be required to undertake this work in the remaining three weeks rather than the original five weeks that it was assigned. Given that the matters

of concern in both houses were very clearly set out in the second-reading debates in the respective chambers, it is a matter of considerable regret that those concerns were not addressed by PAEC in its consideration of this bill and it is a matter of regret that the house is now in a situation where it needs to make a further referral to PAEC with an explicit direction that it seek advice from the Auditor-General.

In moving this motion I believe that if the PAEC does seek advice from the Auditor-General, there is the capacity to advance this bill beyond the concerns that currently exist across the house. As I stated earlier, supporting this resolution will not delay the passage of this bill any further than was already the case with the resolution of 27 July. Therefore I urge the house to support this further referral to PAEC.

Ms PENNICUIK (Southern Metropolitan) — I only became aware of the motion this morning. I had not seen it till then, but the Greens are prepared to support the motion. As I mentioned in my contribution when the report from PAEC was tabled on Wednesday, I was unable to support the report, basically for two reasons. The report was incomplete: we had put questions to the Department of Treasury and Finance during our briefing, and it undertook to get back to us. The department did not get back to us until after the report had been written and was being printed, so that information was not — —

Mr Rich-Phillips — Not their fault.

Ms PENNICUIK — As Mr Rich-Phillips says, it was not the department's fault. It got back to us in good time — in enough time for the government to rush through the report, so the report was incomplete.

I also made the point that I was very disappointed about the behaviour of government members on the Public Accounts and Estimates Committee with regard to examining this important bill. It is a bill about the public finances of Victoria and how they are structured in terms of reporting by departments — what they report, how they report, how often they report and what is in their reports — for the benefit of the people of Victoria.

There are some ongoing issues with the bill, and the government needs to sit down with the other parties to work through those issues. The minister has not had many discussions; I know there were some discussions a while ago, but they all fizzled out. The Treasurer is in the chamber; he does not seem to want to discuss the bill in any depth with the opposition parties or listen to what their concerns are. Because it is such an important bill — but it is so for any bill — there should be discussions about ongoing concerns. The behaviour of government members on the committee was very regrettable. The committee went through the process of having briefings and trying to get something sorted out, but basically the process was hijacked because of the numbers on the committee. It was really an unseemly process and not worthy of the committee. I hope it does not happen again. It would be good to have the Auditor-General come to brief the committee on his views on the bill; there is nothing wrong with that.

I am sorry it is not in the motion, but I make the point that the committee should also be able to call the minister to ask him questions about the specific parts of the bill on which there are concerns or queries. As I said in my earlier contribution, not only should the Treasurer or the minister come if they are requested but they should offer to come to clarify those issues. As it is a joint committee the minister could very well come and do that.

I think we have another chance. As Mr Rich-Phillips says, the same date, 31 August, will still apply, which is the date in the original motion. It gives us another 19 days to look at the bill. I hope the government members on the committee will take a different approach this time and in good faith try to work out the issues with the bill so we can come back to the house and deal with it in the appropriate way.

Mr LENDERS (Treasurer) — I rise to oppose Mr Rich-Phillips's motion.

Mr Dalla-Riva — You don't want the scrutiny.

Mr LENDERS — We have just been lectured about the government not consulting and not listening, and I am actually trying to explain why. I am sure Mr Dalla-Riva will have time to explain.

Let us just put this in the context of why the government opposes the motion. Fundamentally, this process has gone on since the start of 2008 when a scoping project was going on for this piece of legislation. Let us look at what the legislation is. It is legislation that holds the executive government more accountable. If opposition parties think this bill not being passed will in some way or other protect the Parliament, let me assure them that as Treasurer I will be a lot more accountable if it is passed than I am under the current regime.

Ms Pennicuik interjected.

Mr LENDERS — Ms Pennicuik might interject, but let me assure her categorically that if what she is

seeking to do is to make the executive more accountable by not passing the bill, she is totally wrong. As we saw during the committee stage of the budget bill I made some jests, but also with much seriousness I was counting the numbers and getting the bill through with 24 votes, when member after member was complaining that the budget papers were not open and transparent enough. They said, 'This, this and this can happen'. I answered again and again, and I invite those in the house to go through the debate at the committee stage of the budget papers to look at the number of instances when members raised things with me that they said were not transparent and the number of times I answered and said, 'This bill we are now debating would clarify them'. I want to put that on the record first.

From the government's perspective we came in here in good faith. We set up a project board and put Roger Hallam, a former Minister for Finance, on it; the Auditor-General was engaged with the Department of Treasury and Finance on this; the department was engaged; there was scoping work done; it was reported to the Public Accounts and Estimates Committee in 2008; there was a dialogue; there was a report in 2009; and finally the bill came into the Legislative Assembly late last year. We had this discussion before, and Mr Rich-Phillips is correct in saying that during these discussions PAEC signed off on this in principle, but it did not see the detail. I completely accept that, and often the devil is in the detail, so I am not trying to verbal Mr Rich-Phillips on this — —

Ms Pennicuik interjected.

Mr LENDERS — Ms Pennicuik, I gave you the courtesy of not interjecting. I am trying to explain where the government is coming from. On the face of it, Mr Rich-Phillips is putting a reasonable proposition; I am not arguing with what he is saying. He is saying, 'The Parliament wants information; it wants PAEC to get that information from a number of officials. We believe there is not enough information; we want more time'. On the face of it, what Mr Rich-Phillips is arguing is reasonable. I am not saying Mr Rich-Phillips is trying to massacre or damage something. The proposition he is putting forward — that we should have more time — is a reasonable one.

To explain why I am opposing his motion I will put it in the context of what has happened with this bill over the last three years and where we are in the parliamentary session. It is a legitimate concern of the government that there are not a lot of bona fides from other members of the opposition — I am not saying this of Mr Rich-Phillips. This proposal was on the floor of the Assembly for several months. The minister for finance entered into good faith negotiations with the opposition to try to establish the issues that could or could not be resolved by amendment. In the end a series of concerns were raised that more information was required. Not a single amendment was put up at any juncture in either house by any other party to suggest how this bill could be approved.

Why I brought this on for debate today is fair enough. Ms Pennicuik said the PAEC process was appalling and awful and that questions were not asked; Mr Rich-Phillips said the same thing, as did Mr Dalla-Riva. They said, 'The PAEC process was awful; we need these discussions'. I do not dispute that that may have been the reality or their view of it, but I say to Ms Pennicuik, through you, President: we are a Parliament and what I have been proposing is that we have a debate in the committee stage here today. If Mr Rich-Phillips thinks the clause is not adequate, let him put forward an amendment. If Ms Pennicuik thinks the clause is not adequate, let her put forward an amendment. We should let the house decide. If the house decides that is what it wants, then the bill will go back to the Assembly, with three weeks of this Parliament left, and the minister for finance will respond to it. Then if the Assembly does not agree, we will come back here, but at least we will have a form of resolution.

Ms Pennicuik interjected.

Mr LENDERS — Ms Pennicuik is strident in her interjections, but those opposed to the bill should have the courtesy to put up amendments to say how the bill can be approved. What the government has done since 2008 is engage in a process of trying to get this bill right. We are not without blame; everybody in the process could have done better. With hindsight, it might have been done in a different order. However, the reality is that we have an opportunity today to go through the bill clause by clause, consider any amendments that Mr Rich-Phillips or Ms Pennicuik might have and test them before the house. If the house says yes to these amendments, the minister for finance will respond. As far as dialogue goes, he has been in discussions with the opposition on this.

From our perspective, this is good legislation. I find the opposition's actions ironic, rather than amusing, because — and I repeat what I said at the start — if the opposition parties' concerns are that somehow or other this bill will give the executive government a free run, let me assure them: if they want an executive government that is not subject to scrutiny, they should not pass the bill. Under the bill my role as Treasurer

would be a lot more complex. I would do a lot more reporting, and I would be a lot more accountable than I am under the current act. That is why the government brought this in. We have heard the argument, 'The Auditor-General should be looking at it; we need reports; the Department of Treasury and Finance information came in late', but DTF and the Auditor-General went all through the scoping work at the start.

I say by all means refer it to PAEC — but you will kill it. No matter what Mr Rich-Phillips and Ms Pennicuik say, that is the reality. It would go to PAEC and come back in the next sitting week, which is the third-last week of the session, with the report. If anybody seriously believes in this particular legislative session where we have this volume of legislation from government that this bill is going to somehow or other get through a two-house negotiating process with this week cut out, they are dreaming. If in the end members want this to work but do not like the way it is, they should put forward their amendments today; then they will be in the system, they will be debated and we will deal with them. If they want to refer it to PAEC, they may do it; but realistically I do not think they are serious about reform in this area.

For six months, I think it was — maybe not quite six months but several months — this bill was on the table in the Legislative Assembly; it was second-read, and the Minister for Finance, WorkCover and the TAC was in dialogue with Robert Clark, the shadow Treasurer, and others to try to find a way through. If members want to refer it off to PAEC, they should understand that what they are doing is probably killing a singular piece of legislation to try to hold — —

Ms Pennicuik — Oh, no!

Mr LENDERS — Ms Pennicuik may shake her head and say 'No' but, believe me, she is dreaming. We should think of where we are in this parliamentary session. This matter has gone on since the start of 2008. I say particularly to Ms Pennicuik, who declared her hand before we even heard the debate, if there is a change of government at the end of the year, an opportunity that has never before existed in the state of Victoria to hold an executive government accountable will be lost. It is in the hands of members. Those opposite talk about this being a house of accountability and scrutiny, and they squirm and say, 'Oh, my gosh, all these terrible things happened at a PAEC meeting a week ago'. By all means they may do so, but that does not remove the fact that they will kill probably the only opportunity this Parliament has had in years — and if there is a change of government, one it will not have again in decades — to make this accounting system more accountable. It is on their heads. They can find all their reasons for not wanting to debate it, but if they are serious about doing something, they should move the amendments today and let us get this process moving.

Mr KAVANAGH (Western Victoria) — It seems to me obvious that PAEC (Public Accounts and Estimates Committee) properly should consider in its deliberations on the Public Finance and Accountability Bill 2009 the views of the Auditor-General. It has been rather disappointing today to hear about the actions and attitudes of government members in preventing the views of the Auditor-General being given to the committee. It is perhaps even more than disappointing, because perhaps the single biggest controversy in the Kennett government was what the then opposition, now government, claims was an attempt to gag and prevent the opinions and views of the Attorney-General from being heard. It was only a couple of weeks ago that the Treasurer himself referred to that controversy and expressed a good degree of distaste about the legacy of the Kennett government in that respect. It is regrettable that we are at the point of explicitly having to ask PAEC to consider the views of the Auditor-General. That should be a matter of course, it seems to me.

Either Mr Lenders or I seem to have missed the point about the present motion. Mr Lenders talked about the merits of the bill itself; however the motion is not really about the contents of the bill but about the process that PAEC is going to undertake in its consideration of the bill, and they are rather different matters. I understand Mr Lenders saying that the Parliament will not have time to pass the bill if this motion is passed, but it seems to me that the government is capable of moving very quickly when it wants to, as it did yesterday, with lightning speed to pass a bill and have amendments considered and approved in the upper house and sent back to us in a very short time indeed. In short, I feel it would be appropriate to support Mr Gordon Rich-Phillips's motion.

Ms HUPPERT (Southern Metropolitan) — I just want to make a few brief comments to respond to some of the matters that have been raised by Mr Rich-Phillips, Ms Pennicuik and Mr Kavanagh.

Firstly, we have had a lengthy process of discussion, hearings and debate regarding this piece of legislation. Ms Pennicuik may roll her eyes, but I do not think that reflects reality. The reality is that both the Public Accounts and Estimates Committee and the Department of Treasury and Finance project team, which developed this legislation, have examined the issues that surround public finance and accountability

in this state at great length. As the members of PAEC who are sitting in this chamber know, the representatives from DTF who attended our private hearings last week were open in saying that they also had ongoing discussions with the Auditor-General during the process of developing this piece of legislation and that there were no outstanding issues arising from those discussions with the Auditor-General during that period.

We have had a long process leading to the development of this legislation — a concurrent process from both DTF and PAEC. The bill has been debated extensively during the second-reading debate in both the Assembly and the Council. During that time a number of people raised various concerns. There were no suggestions for making any amendments to the bill, but a number of concerns were raised. These concerns were dealt with thoroughly by the department in a private hearing last week, which is outlined in the report that was tabled in this place on Wednesday morning. We have had reference to some written advice that has come from the department subsequent to the preparation of the report, but there is nothing in that advice which contradicts what was told to us by the representatives of the department last week and there is nothing in that written advice which contradicts anything that has been set out in the PAEC report. That is no ground for delaying consideration of the bill.

As the Treasurer has so succinctly put it, there is opportunity for everybody in this place, not merely the few of us who sit on the Public Accounts and Estimates Committee, to quiz the Treasurer at length during the committee process and also to suggest any amendments to the bill those opposite, as well as Ms Pennicuik and her colleagues, believe may improve the operation of this important bill.

I want to touch briefly on the role of the Auditor-General. I have listened to Mr Kavanagh's comments, including his comments about the actions of the previous Kennett government. I think there is a slight misunderstanding here — not intentional, obviously — about the role of the Auditor-General. The role of the Auditor-General is to comment on the implementation of government policy and to ensure that government policy is implemented in an effective, accountable and transparent manner. The role of the Auditor-General does not include commenting on that policy itself — that indeed would affect the basis of the independent role of the Auditor-General. To have the Auditor-General come before a PAEC hearing and comment on a bill before Parliament would require the Auditor-General to comment on government policy itself, and that clearly is not an appropriate role and would put the Auditor-General in a difficult position. On the basis of those points I urge all members to vote against this motion.

House divided on motion:

Ayes, 21

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

Noes, 19

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

Motion agreed to.

ENERGY AND RESOURCES LEGISLATION AMENDMENT BILL

Committee

Resumed from 12 August; further discussion of Mr PAKULA's new clause:

5. Insert the following new clause to follow clause 18 —

'AA New Division 2A of Part 8 inserted

After Division 2 of Part 8 of the Electricity Safety Act 1998 insert —

"Division 2A — Electric lines and municipal fire prevention plans

86B Municipal fire prevention plans must specify procedures for the identification of trees that are hazardous to electric lines

Without limiting section 55A of the **Country Fire Authority Act 1958**, a municipal council must, in a municipal fire prevention plan required to be prepared and maintained under that section, specify —

(a) procedures and criteria for the identification of trees that are likely to

fall onto, or come into contact with, an electric line (***hazard trees***); and

(b) procedures for the notification of responsible persons of trees that are hazard trees in relation to electric lines for which they are responsible.".'.

The DEPUTY PRESIDENT — Order! The committee is continuing its consideration of the Energy and Resources Legislation Amendment Bill 2010. When the bill was last in committee the debate was interrupted pursuant to standing orders while we were dealing with Mr Pakula's amendment 5, which seeks to insert a new clause to follow clause 18. At the time I interrupted proceedings last night Mr Barber had asked a question.

Mr BARBER (Northern Metropolitan) — Chair, you invited me to go home and think about the amendment overnight, and I have been doing that. As I stand here I am still uncertain about whether to support or oppose this amendment. I am weighing up whether voting for it could do any particular harm to the cause that we are engaged in here.

To recap, the part that I am particularly concerned about is the proposal in new clause 86B that:

Municipal fire prevention plans must specify …

…

(a) procedures and criteria for the identification of trees that are likely to fall onto, or come into contact with, an electric line …

At the moment these plans are prepared under section 55A of the Country Fire Authority Act 1958. That section of the Country Fire Authority Act is general. It states that:

A municipal fire prevention plan must contain provisions in accordance with the regulations —

(a) identifying areas, buildings and land use in the municipal district which are at particular risk in case of fire; and

(b) specifying how each identified risk is to be treated; and

(c) specifying who is to be responsible for treating those risks.

In new clauses we have added neighbourhood safer places and community fire refuges.

In my hand I have a document titled *Yarra Ranges Council Municipal Fire Prevention Plan 2009–2012*. I have examined its predecessor because this matter was being discussed during the 2009 Victorian Bushfires Royal Commission. The plan seems to fit exactly with what is required by that section of the Country Fire Authority Act.

I note also that the government can create regulations under the Country Fire Authority Act to specify more intensely if it needs to what these plans should contain. I simply want to point out to the house that if we vote for this amendment those plans will now have to contain something very specific, and that is these procedures and criteria for the identification of trees. In order to discharge my duties as a councillor in this area I will need to hold a copy of the Local Government Act in one hand, a copy of the Country Fire Authority Act in another hand and in my third hand a copy of section 86B of the Electricity Safety Act 1998, because that act contains a section that now refers to what I must do in my plan.

As I said at some length last night, I think the government may have got a bit confused as to exactly what the royal commission was proposing here. It seems that because the government was simply amending the Electricity Safety Act government members said, 'Let's stick this provision in there', whereas I think it would have been more appropriate to put it in the Country Fire Authority Act.

However, at the end of the day the dominant concern is that if I as a councillor read proposed section 86B(a), I would see 'procedures and criteria for the identification of trees'. That could be very small or it could be extraordinarily large; it could be at the scale of what we are now trying to get the electricity businesses to do. Since it is in the Electricity Safety Act there is not even the option for the government to use the regulations of the Country Fire Authority Act to be more specific for councils.

I am concerned about whether this could set back the cause for what we are trying to achieve. I do not think I can go as far as blocking the amendment — of course I want to see local councils and all other bodies be as vigilant as they can in this area — but the last thing I want to do is split responsibilities or create confusingly overlapping responsibilities, and it concerns me that that is what is being done.

My other residual concern is that this amendment was presented to us on Wednesday; I had not seen it earlier. The minister assured me last night that the Municipal Association of Victoria had been, to use his words, 'spoken to', which is not the same thing as consultation. I have not had the opportunity over a two-day period during which three Greens have been dealing with 15 bills to have a conversation with the MAV about it, so I cannot say I have done my job in consulting with

local government about the implications of this amendment.

The Liberals are saying, 'Let's get on and introduce every single amendment, sight unseen'. I was supporting the government in its process of going out and consulting in order to get it right and to build community support. It is disappointing that the government is forcing upon me a choice where I could never have had the option to consult on the implications of this proposal. That is all I propose to say on this matter.

Mr HALL (Eastern Victoria) — It seems to me there is a way forward. There is validity in the arguments that Mr Barber has put forward, because I expect there would be further opportunity in the near future to come back and deal with the Electricity Safety Act in other ways once we fully digest the recommendations of the royal commission. I am sure there will be opportunities to come back and revisit amendments to these acts so that we can put into them the intentions contained in other recommendations of the royal commission.

I think this could work if government members were prepared to take into account the arguments that have been put forward on this clause and perhaps respond in due course, and indeed if necessary provide further legislative change in the future. Perhaps the government could clarify some of the issues that have been raised here, including who has the responsibility, whether it is appropriate to include that in this act and whether it is appropriate that local councils have that full responsibility or whether it should be the Country Fire Authority or the owners of transmission and distribution assets in this state.

In summary, Mr Barber has posed some genuine questions. I think it would be worthwhile for the government to respond in a way that takes on board those considerations. Perhaps government members could give further thought to those matters and provide a written response and clarification of those matters and, if necessary, give a commitment to look at this matter again when we are next amending the Electricity Safety Act.

Hon. M. P. PAKULA (Minister for Public Transport) — In response to Mr Hall's comments I have no doubt that the office of the Minister for Energy and Resources, Minister Batchelor, and the department would be prepared to provide Mr Barber with any clarification he might seek in the future. I am not normally in the habit of making undertakings on behalf of other ministers, but I am sure if Mr Barber sought clarification from the minister that the minister and his office would do everything in his power to provide that clarification.

In regard to legislative amendments, I think it follows that if at some point in the future the government believes this act or indeed any other act requires amendment for purposes of clarification, that would be a matter that would be given due consideration.

New clause agreed to.

The DEPUTY PRESIDENT — Order! Minister Pakula is required to attend the funeral of the late Honourable Jim Kennan. Minister Madden will now become the minister at the table. I invite Minister Madden to move amendment 6, which also proposes to insert a new clause into the bill. That new clause is to follow clause 30.

New clause

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

6. Insert the following new clause to follow clause 30 —

'BB Director may give directions

(1) In section 141(2)(d) of the **Electricity Safety Act 1998**, for "safe." **substitute** "safe; or".

(2) After section 141(2)(d) of the **Electricity Safety Act 1998 insert** —

"(e) to do any other thing necessary to prevent an unsafe electrical situation from arising.".'.

New clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

SUPPORTED RESIDENTIAL SERVICES (PRIVATE PROPRIETORS) BILL

Second reading

Debate resumed from 24 June; motion of Mr LENDERS (Treasurer).

Mr D. DAVIS (Southern Metropolitan) — I am pleased to make a contribution to debate on the Supported Residential Services (Private Proprietors) Bill. This is an important bill and one that the opposition supports strongly. We believe there are a number of useful steps in this bill, importantly, bringing the matter of supported residential services into a more structured and regulated framework.

This has been a long process, and I pay tribute in particular to the work of the member for Doncaster in the Assembly, Mary Wooldridge, who is the shadow Minister for Community Services for the particular focus she has taken in her time as shadow minister on supported residential services. The Family and Community Development Committee has made an important contribution here. I note the bipartisan work of that committee, the excellent reviews, the steps it has taken and the impact of its report.

What this bill does in essence is to provide a framework for the regulation of supported residential services. It prescribes minimum standards for accommodation and personal support for residents of private supported residential services. As I say, it brings it all under a single act. It strengthens occupancy rights by having statutory notice periods for notices to leave or vacate. It establishes a right of appeal through VCAT (Victorian Civil and Administrative Tribunal), which is available to both proprietors and residents. The bill strengthens financial protections with statutory limits on charges and repayments and how these can be managed. It establishes trust accounts to hold certain fees and establishes a right to go to VCAT to resolve disputes. The bill provides for greater regulation and background checks of staff, including police checks for all new staff; that is a welcome and important step. There are additional enforcement measures, including the issuance of compliance notices and the capacity to consider recurrent non-compliance. Further, the bill provides for mandatory reporting of serious incidents. Administrative changes that strengthen accommodations and support standards and abolish annual registration and renewal fees are also contemplated.

While the bill clearly strengthens protections for residents, in theory it has the capacity to reduce the administration and controls that need to be complied with by the supported residential services, because having a single framework makes this a lot easier. There is the potential for that to go astray as the regulations are brought forward under this legislation and, as with many of these things, the detail is important and the actual regulations that are in place have the capacity to frustrate that intent. I am not suggesting that is the government's intention. I am just saying that is a legitimate concern that, as regulations are introduced under this framework, there needs to be a mindset and a focus on ensuring best regulation with least impact, and best outcomes without unnecessary or duplicative regulatory overlay. In a sense I am asking the government as it does that to do it with the best outcomes for the sector in mind and with a measure of goodwill. I think there is goodwill in the sector. I have spoken to a number of supported residential service (SRS) operators, and it is clear that there is general support for this provision, although, as I say, some private operators are aware that there is a measure of uncertainty about how the regulations will ultimately be structured.

Public reporting requirements around elements such as the register of SRSs, while currently published online, are not mandated by this legislation. We presume that will follow. The legislation does not specifically follow the recommendations of the Family and Community Development Committee report, which recommended a broader set of reforms rather than just the legislative amendments that are covered in this bill.

I note also that the Supporting Accommodation for Vulnerable Victorians Initiative funding of private facilities is $29.41 million over four years and is due to expire this year. The government may make some announcements about that. I would regard that funding as significant, because without it life would be very difficult for many of the vulnerable Victorians it seeks to support.

I do not want to dwell on this bill because it is generally supported; I think there is support for it across the Parliament. But I want to commend the remarkable work of the parliamentary Family and Community Development Committee and specifically the contribution of Mary Wooldridge. As the shadow Minister for Community Services she has driven a significant public focus on the supported residential service sector. She has done that by working collaboratively with the various organisations in the sector, and I pay tribute to her for that work. Without detaining the house any further, I reiterate the support of the opposition for the bill.

Ms HARTLAND (Western Metropolitan) — I would like to begin by saying that the Greens believe this bill is a good first step to regulate an industry that has many well-known problems. However, the Greens still have a number of concerns which we do not believe have been addressed by this bill, and we hope they will be addressed in the drawing up of the regulations. I have never quite understood why we

cannot at least see the draft regulations when we deal with these bills so we have an understanding of what the government intends to do.

One of our main concerns is around monitoring. Yes, this legislation puts in place a number of quite good structures, but how will it be monitored? How will we know that this industry is actually doing the right thing? The minister's office has told us that departmental authorised officers (AOs):

> … visit every SRS at least once a year. In addition, AOs visit SRSs on receipt of a complaint from a resident, community visitor or other member of the public. These visits are supplemented by a regular cycle of audits — … for example, care audits and facility audits which proprietors must complete every three years.

But I would argue that an audit every three years and one visit from a departmental authorised officer per year is simply not enough.

The department informs me that officers will also visit upon receipt of a complaint from a resident. I have a number of issues with this. Firstly, people who live in a supported residential service (SRS) unit are often among the most vulnerable people in our society. As far back as 2006 the Department of Human Services (DHS) identified residents in the sector as being 'amongst Victoria's most vulnerable and disadvantaged citizens'. It recognises the increasing number of residents with mental illness and the growth in the number of residents with complex support needs.

Government reliance on SRSs to meet the need for supported accommodation is not new. This is a sector I know well, and I know how difficult it is for workers in the field when they have nowhere else to place someone but in a substandard SRS. If all the SRSs closed tomorrow, the government would be in serious trouble, because nearly all the people who live in the pension-only facilities are clients or would-be clients of various departments. The Office of the Public Advocate points out in its *Status Report on Supported Residential Services (SRSs) — September 2009* that poor resourcing of the deinstitutionalisation process throughout the 1990s has resulted in the accommodation in SRSs of many people who would otherwise be in institutions.

We get an idea of the kinds of people who are living in SRSs. They may have a disability, and they may be elderly. Often they do not have anyone who will advocate on their behalf. More frequently they are unable to advocate for themselves or seek out information for themselves. They are extremely underresourced, they face many challenges and often they have limited literacy, early onset dementia or speech difficulties.

The DHS supported residential services census identified that almost three in four residents had either a psychiatric or intellectual disability or an acquired brain injury. We are talking about people with multiple barriers to seeking help, to community involvement and to community service contacts.

The minister's office told me that:

> The option of developing other non-regulatory approaches to better support SRS residents in the new scheme (such as a complaints support-type service) will also be explored.

However, how will someone like those I have just described feel able to make a complaint about the way they are treated by the proprietor, the very person who holds their housing in their hands? We need more than exploration — we need a guarantee.

For many people this is also the last stop for housing before homelessness; therefore, the fear for these people of not having a roof is real. This has impacts on a person's likelihood to complain. The minister's office also went on to reassure me that:

> Proprietors, community visitors, the public advocate and other individuals and organisations who interact with and/or support SRS residents will also receive training and/or information about the reforms and what they mean in practice.

The minister's office said that this will ensure that people's rights are known and claimed that:

> The introduction of outcomes-based standards should also make it easier for residents and their families to understand their entitlements, and what proprietors are required to do under the new legislation.

All this sounds fantastic and worthwhile, but as it is a stand-alone measure I return to my question: how can we ensure that residents are informed directly, in person and in a supportive way of their rights?

Also, we cannot always rely on government initiatives like these. Community visitors can monitor but they cannot enforce regulation. I have had a number of discussions with non-government organisations and people who work in this field, and I have talked with workers such as Pauline Williams, an old and trusted friend who works for Action for More Independence and Dignity in Accommodation. She pointed me to the 2008–09 Ombudsman Victoria annual report. This report took serious issue with DHS's failure to prosecute breaches at SRSs and pointed out an investigation undertaken that year. Page 26 outlines this particular case. The Ombudsman wrote:

> My investigation identified that the department had consistently received complaints about the supported

> residential service and its owner's actions since 2001. As DHS was aware of the nature, scope and seriousness of allegations, I consider that it had the opportunity to investigate and impose appropriate sanctions sooner but failed to do so.

This is a long time to have been receiving complaints with no action being taken. The Ombudsman goes on to request a further review of:

> … DHS's methods for conducting investigations of complaints into supported residential services; and developing processes for tracking complaints about proprietors of supported residential services across their tenures at multiple facilities.

In the department's reply to us regarding the monitoring set out in this bill there does not seem to be an improvement on the state of affairs the Ombudsman had taken issue with.

The Office of the Public Advocate also points out that DHS is a conflicted regulator. I quote from page 6 of its *Status Report on Supported Residential Services (SRSs) — September 2009*:

> The Department of Human Services … is responsible for supporting, regulating and monitoring SRSs, and prosecuting proprietors for breaches of the regulations. It is also responsible, alongside the federal government, for providing or funding the majority of the (already stretched) alternative supported accommodation options, and so would be directly impacted upon by an SRS closure —

which is what I talked about before. I have experienced this as a former housing worker, having to place people in substandard accommodation because there was simply nothing else.

The department has prosecuted only a small number of SRSs in relation to breaches of regulations: 36 prosecutions in 20 years. In addition, at the stage prior to prosecution, DHS authorised officers are responsible for auditing standards at these facilities. The Office of the Public Advocate highlights community concern that only 15 out of 56 of its reports to the department's authorised officers had been substantiated by May 2009 in the financial year 2008–09.

I move on now to the issue of police checks. The bill provides that new employees will be required to have police checks but current employees will not. I had intended to move an amendment to this provision, but after receiving advice I have decided not to do this. I still find it very difficult to understand, given that reports of poor practices at some supported residential services have been made repeatedly, why under this bill police checks are necessary only for new staff. Should not existing staff be required to have police checks? The government has told me it is unconstitutional because such a requirement may alter the terms of a person's employment contract. While I have to accept this, I argue still that under federal legislation child-care workers, foster-care workers and even wharfies are required to undergo security checks and police checks, so why is it that workers who are dealing with the most vulnerable people in our community do not come under similar scrutiny?

The government has given me a guarantee that it will begin audits to check that people who currently work in SRSs are suitable people for that purpose. I accept that but I still have grave concerns, considering that the staff who currently work in SRSs have worked there in the years when these establishments were extremely poorly run and were not being monitored, and also given that very few prosecutions have occurred.

The government has also pointed me to the SRS Supporting Accommodation for Vulnerable Victorians Initiative (SAVVI) as a response to those living on the pension in SRSs. This program requires that to be eligible, proprietors must charge no more than the pension and commonwealth rent assistance for 80 per cent of their beds. Given that increasingly residents in SRSs are those who would otherwise be in institutional care, the viability of the SRS sector has suffered.

This has been accompanied by increased rental and regulatory compliance costs. With a blow-out on running costs and no rise in the budget, residents are more likely to live in poor quality accommodation and be deprived of necessary supports as maintenance and staffing budgets are squeezed. This in turn results in less capacity for facilities to fulfil residents' rights to safety, privacy and security of tenure. For the Greens, questions about enforcement of the provisions of this new bill remain.

I appreciate the amount of work that the department has done in supplying me with a great deal of material. In reading the reports on SAVVI, what struck me was that a lot of work seems to be done in SRSs, but I would have thought it was work that should have been done anyway, such as the provision of new mattresses and new beds and the painting of rooms. The reports make it sound as if these facilities were in particularly bad shape. If that is the case, why were we placing people in them? As I said, my main concern is that while the bill is a good first step, how do we monitor its operation? The proper enforcement regulation will result in pension-level services being in better shape. If the government is truly serious about enforcing the regulations, which have yet to be written and which will support this bill, it will ensure the prompt

prosecution of negligent service providers, including those that have been funded under the SAVVI.

The Greens will support this bill, but we are concerned that the government has missed an opportunity to improve the housing status of the most vulnerable members in our community.

Although this bill provides some heavy penalties for breaches by service providers, we are concerned that the most vulnerable will not be offered justice with appropriate enforcement. With these types of bills the proof is always evident when we look over the next two to three years at how many prosecutions occur, how much better the accommodation gets and whether the rights of these people are upheld.

Ms HUPPERT (Southern Metropolitan) — I rise to make a few brief comments in support of the Supported Residential Services (Private Proprietors) Bill 2010. The bill has as its purpose the regulation of the supported residential services industry, which covers a wide range of properties in terms of size, number of residents and location. As noted in the title of the bill, these properties are owned by private proprietors. Some properties house people who are living on pensions. A large number of long-term residents in supported residential services are either elderly or have disabilities or both. Increasingly these residences are used for crisis accommodation and respite care.

What many residents of supported residential services have in common is that they are among the most vulnerable in our community. This piece of legislation is important as it increases protection for those vulnerable members of the community while reducing red tape affecting private proprietors. Residents of supported residential services are not covered by residential tenancy provisions, and for approximately 30 years the industry has been regulated by provisions within the Health Services Act. Placing the regulatory framework for the industry in a stand-alone bill will make it easier for proprietors to understand their obligations and rights, and also for residents to identify their rights.

Importantly for proprietors, as well as clarifying their obligations this bill seeks to cut red tape by simplifying the registration process. It also provides additional protection for residents in a number of areas.

The bill provides a number of financial protections. The bill will place statutory limits on the amounts that can be charged by proprietors for security deposits, fees in advance and reservation and establishment fees. It requires proprietors to place security deposits in a trust account and also requires proprietors to return deposits 14 days after a resident has left a residence. This provides protections which are already afforded to most residential tenants.

The bill also affords residents security of tenure by instituting a minimum notice period for both residents and proprietors. These notices can be reviewed by the Victorian Civil and Administrative Tribunal to ensure that they comply with the necessary regulations. The periods vary depending on circumstances and the reason for terminating the resident's tenure, but this provides certainty as both parties will be able to understand their obligations and rights.

As previous speakers have noted, the bill imposes additional requirements in respect of staff. Police checks will be introduced for all new employees at supported residential services. Ms Hartland pointed out that the bill does not extend this to existing staff, but a range of other actions are being taken to ensure that all existing staff are suitable to provide personal support to supported residential service residents. A departmental audit will be undertaken to ensure that proprietors are meeting their current legislative obligations to make sure that their staff members are fit and proper to undertake their duties. The current guidelines regarding assessing suitability of staff will be reviewed to provide clearer guidance on what must be considered when determining suitability of employees.

Information and training will be provided to proprietors regarding their obligations as part of a broader training and communications strategy for the review of the regulation of supported residential services. This work has already commenced and will provide additional assurances that staff are suitable without placing further legislative obligations on proprietors that may be beyond their control to meet. Day-to-day managers of properties who are not proprietors must still be assessed for appropriateness as part of the registration process or on appointment, which will continue to increase the protections available for residents.

Another issue that is dealt with by this bill is resident safety. The bill requires proprietors to notify the Department of Health of all serious incidents. It requires proprietors to keep a register of all incidents and makes sexual activities between staff and residents with cognitive impairment a crime, except in the instance of those who are spouses or partners.

The bill also has the benefit of establishing new standards for supported residential services. These are outcome rather than output based, and we have heard a lot about that type of distinction in the Parliament

today — that is, the standards specify that the resident's wellbeing, rather than prescribing certain actions, allows care to be specifically tailored to a resident's need. The Department of Health will ensure that training is available to assist staff in applying these new standards.

Members have also heard this morning a fair bit about enforcement. The bill provides a new enforcement regime. Where there is a failure to comply with the act or regulations, which will set out how the lack of compliance is to be rectified, proprietors and the Department of Health will be able to enter into undertakings. The Department of Health will have power to issue compliance notices where there has been a serious breach. This is in addition to the existing remedy of prosecution. These measures provide greater flexibility in enforcement and will also achieve compliance more quickly.

Ms Hartland raised the issue of complaints and the reluctance of some residents to make complaints to the Department of Health about treatment they are receiving or any perceived breach of legislation or regulation. I point out that not only residents will have the power to make complaints. Any person, be they a visitor or an advocate, may also make complaints about the treatment of residents, so enabling them to be properly dealt with by the department.

The Brumby Labor government is proud of its record of protecting the most vulnerable members of our community. This legislation continues that work, building on previous initiatives such as the Supporting Accommodation for Vulnerable Victorians Initiative, which was introduced in 2006. This legislation strikes a balance between protecting the rights of residents in supported residential services and ensuring the ongoing viability of private proprietors of such services who, while operating a business, also fulfil a very important role in the community. I commend the bill to the house.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

GAMBLING REGULATION AMENDMENT (LICENSING) BILL

Second reading

Debate resumed from 24 June; motion of Mr LENDERS (Treasurer).

Mr GUY (Northern Metropolitan) — I rise to speak on the Gambling Regulation Amendment (Licensing) Bill 2010. In doing so I will make some brief comments on this bill, noting that it has been here and in the other house a couple of times. It has been debated or discussed since February 2009. It seems that the Minister for Gaming, Minister Robinson, cannot get any legislation in this Parliament right. The bill has come back three or four times to be discussed or amended. Over that time it has probably been talked to death and the points have been put on the record. Having said that, as I said at the outset, I will make some remarks, noting that the coalition will not oppose the bill.

The bill ushers in the government's new gambling regime, which was designed originally to match with the government's auction of poker machine licences, which turned into a complete farce, with the minister being caught short by about $1 billion. The government rejected the opportunity to get financial security for Victorians through gaming licences. The government went to an eBay-style auction and, as I said, proceeded to cost the taxpayer $1 billion which could have been spent on improvements to the metropolitan rail network or our health system, which have vast needs. It could have been spent on the Victorian law and order system or our emergency services, which need upgrading and support.

The scuttling of that $1 billion as a result of Minister Robinson's incompetence has seen that money wasted. With the government's record on myki it adds up to around $2 billion lost in one term alone. It is quite astounding and catastrophic, and it leaves us with a sense of no confidence in this government's ability to deliver any project involving money. Having said that, the bill amends the gaming legislation with respect to machine entitlements, monitoring, wagering, betting, Keno licences and associates of gambling industry participants and talks about disciplinary action against the casino operator for offences involving minors. Those points have been noted over some time both in the Assembly — I think twice — and in this chamber as well when the bill was first put forward.

I am aware that there will be government amendments in relation to the timing of the reports outside the

parliamentary sitting period. I will make some comments on those. I understand there will also be some other amendments — it would not be a gambling bill without some amendments from Mr Barber, but that is good because he is obviously quite passionate about this issue.

The bill provides for the monitoring licensee to manage funds for multiple-venue linked jackpots, and I understand that will be one of the issues to be debated later on when the amendments are dealt with. It also provides that in applying to the Victorian Commission for Gambling Regulation for approval of premises for gambling or increased machine numbers the applicants must provide a copy of the proposed application to relevant responsible authorities such as councils. Again I understand that will be debated as we consider this further. Providing the VCGR with an application within three days of providing the proposal to the responsible authority is another provision that we will look at.

There are claims that linked jackpots contribute as part of problem gambling, and we accept that. There is a Productivity Commission report, and while it did not make specific mention of that aspect it is one that we have concerns about. However, we will continue to monitor it and will not hold up the bill in the process of doing so. There is an argument that venues purchasing machine entitlements to operate from 2012 do so with the legitimate expectation, encouraged by the government, that linked jackpots will be permitted.

That comes back to the issue of how this government has managed gaming legislation in this Parliament and how this minister has managed this legislation to date. As has been well articulated by my colleague, the member for Malvern in the other chamber, the government has been found wanting, particularly over the last three years. We have found that there is a situation where the government has mismanaged the process and lost an enormous amount of money in the time that it has taken. That is money that could have gone towards better services for Victorians at a time when we need it most. After 11 years of this government failing to invest, it has decided to scuttle an extra $1 billion in revenue that could have gone to the provision of those services.

At the outset I said that I would not talk for a long time, given that we have done so on this bill on previous occasions, and as a consequence I will wrap up by saying that the coalition will not oppose the substantive part of this bill.

Mr BARBER (Northern Metropolitan) — In 2007, following a review of the gambling industry, a review which was being run pretty much on the quiet, the monopoly for the pokies licence was split into a duopoly, held by Tattersall's and Tabcorp, and in accordance with the second part of the review, various pieces of legislation have been introduced to end the duopoly and restructure the industry.

The new licensing arrangements are due to commence in 2012. As members, we have spent quite a bit of time dealing with the legislation which enables venue operators to be eligible for a 10-year gaming machine entitlement and to give venue operators direct control of their gaming operations through both ownership and operation of their machines. The bill introduces a number of provisions to finetune the regulation of the industry in light of a number of new arrangements, including increasing the range of measures that can be taken as disciplinary action and expanding the role of the monitoring licensee in relation to the facilitation of linked jackpots, and that is the main issue I will address.

The coalition, in the lower house, stated that it reserved its position on the bill because of concern about those linked jackpots and because it was awaiting the release of the federal Productivity Commission report. The report has been released, but it is somewhat equivocal, I admit, about whether linked jackpots exacerbate or contribute to problem gambling. In relation to the approval of premises and the number of electronic gaming machines (EGMs), the consultations conducted with a number of local councils by the Victorian Local Governance Association's local government working group on gambling have revealed to us that local governments are concerned about the short period provided to them to decide whether to raise an objection or make a submission regarding a venue owner's gaming-related application.

There are two types of applications relevant here: firstly, approval of the premises as one suitable for gaming, and that is the kind of approval required before a venue operator can get EGMs onto their site; and, secondly, requests to amend licence conditions to increase the number of EGMs at an existing approved venue.

Currently the bill gives local governments only 37 days to notify the regulator, the Victorian Commission for Gambling Regulation (VCGR), whether they intend to make submissions about these applications. In light of the infrequency of local government meetings, our view is that it is not sufficient time to enable decisions about important community matters to be made in a considered and informed way — here I am talking about the local council meeting cycle. We note that

under the bill the VCGR has 60 days from the date of a local government submission or from the date of a local government notice that it does not intend to make a submission to determine a venue operator's application. As the provision does not increase the time the VCGR can consider an application, it appears that the bill as it currently stands is designed to allow applications to be processed more quickly by concertinaing the local government part of the process.

Later in the committee stage we will move amendments to remove this provision so that local governments will not have to give notice of their intention to make a submission. Under our amendments local government will be able to make a submission within 60 days of receiving a notice from the VCGR about an application or about a request to increase the number of EGMs. These matters concerning the introduction of poker machines into new sites in the community are enormously complicated; they can be incredibly technical, both in the sense of measuring the possible impacts and in complying with various bits of law. Local governments with large numbers of machines are experts in the field, but nobody should expect local government to treat the matter in that way in such a short time frame.

In relation to the suitability of associates of gambling businesses, the bill amends the previous law so that only bodies corporate will be able to hold venue operators licences and with that have the opportunity to hold gaming machine entitlements. To reduce the risk of persons with criminal connections and intentions gaining a business stake in the industry, the bill introduces provisions to prevent unsuitable people from becoming associates of these corporations. Suitability is determined by criteria such as whether the person is of good repute, whether the person is of sound mind and stable financial background and whether the person has business associations with persons, bodies or others who are not of good repute — criteria to do with character, honesty and so forth.

A person is an associate for these purposes if they hold a relevant financial interest in the corporation or if they are entitled to exercise relevant power over the corporation, such as by owning shares with voting rights that allow them in any way to exercise a significant influence over or with respect to the management or operation of that gambling business, or obviously if they are an executive officer.

The commission has to give approval to a person before they can become an associate. The bill requires that a corporation notify the commission of any person becoming or likely to become an associate; and there are penalties for failure to comply. Corporations in the gambling business are required to notify the commission if an associate is unsuitable. This way the commission has the opportunity to ascertain the suitability of the people behind various operations. The commission can also investigate associates, or potential associates, following which it must make a report to the minister if it finds the associate to be unsuitable. It can issue warnings about the consequences of unacceptable conduct. Obviously as we move away from a two-party or two-firm dominated industry these are important measures, and it is going to become a bigger part of the regulator's role because it will be dealing with more entities and more persons.

Of greatest concern to the Greens, though, is that the bill continues the facilitation of linked jackpots post-2012. This involves the linking of numerous gaming machines, either within a single venue or across multiple venues, to create a prize pool of greater value, or at least greater size. We are yet to be convinced whether it is of any value to anybody other than the operator.

Player funds from the various machines are pooled to create a jackpot prize held in a central account. There are a number of provisions in the proposed legislation designed to overcome problems that may arise when a linked jackpot is running in multiple venues, such as where machines in each venue might be operated by different licence-holders. Relevant provisions in the bill expand the monitoring licensee's responsibilities to establish, regulate and monitor trust accounts into which all jackpot moneys are deposited and from which prizes are paid out. Licensees are also responsible for keeping accounts and reporting them to the commission for auditing.

The question here is the link between this type of product and gambling-related harm. Given that we are going through an exercise that administratively becomes quite burdensome, the government should be able to show that linked jackpots are worth it to the state of Victoria, much less that they are some kind of net positive out there in the community, and certainly that they do not risk exacerbating problem gambling.

Numerous reports on problem gambling have been released in recent years. The Productivity Commission released its gambling inquiry report on 23 June 2010, and it is well accepted that electronic gaming machines exacerbate problem gambling far more than many other types of gambling. The Department of Justice conducted a study of gambling in Victoria, the full title of which is *A Study of Gambling in Victoria — Problem Gambling from a Public Health Perspective.*

It found that poker machines and EGMs formed the highest spend activity for almost 65 per cent of problem gamblers. This is because of that high-intensity play, the ability to lose a lot of money in a short time and the continuous feedback loop. The Productivity Commission found in its report that problem gamblers generally play more intensively — that is, they gamble larger sums of money and for longer — and it is on EGMs that the majority of that problem is experienced.

As I have said many times before in this place, poker machines are designed to make people lose track of time and lose track of money. It is ironic that the government is out there running an advertising campaign saying 'Know your odds'. That is the government's key message to the problems of poker machines, as if somehow knowing that fact intellectually, in your mind, is going to inoculate you against being a problem gambler or just experiencing some degree of gambling-related harm. Yet when you talk to people who have been through this experience they say the value of gambling is not even an expectation of winning; it is simply that ability to get in front of a machine and zone out, to hypnotise yourself and forget your problems, while simultaneously making all of your problems worse.

The Productivity Commission observed that the number of EGMs with linked jackpots has greatly increased in the last 10 years. In her submission to the commission former gambling regulator Jan McMillen explained that during her time as a regulator, which was the period from 1990 to 2003, she observed a clear increase in expenditure in venues with jackpot machines but she was unaware of any research that established a positive relationship between the size of EGM prizes and problem gambling. The companies are doing it and they are expanding it. They are doing that for a reason but we do not yet have empirical evidence that links that specific move to gambling-related harm.

Frankly, that is pretty common across the sector. I would have thought the onus on someone introducing a new product or a new type of product is that they demonstrate that it will not cause harm. Being a problem gambler or even having experienced mild gambling-related harm is at least as bad as breaking your leg. Getting stuck on the pokies, even if it is only for a few months, is at least as bad as breaking your leg, yet if there were a product out there on the market used by a persistent portion of people who ended up breaking their legs from using it — if it were a dodgy ladder or something — we would just take it off the market. We would not allow them to sell it.

On the other hand, the Productivity Commission received submissions based on a 1997 survey, incorporated into its 1999 report, which found that over 30 per cent of problem gamblers specifically went to venues in order to play linked jackpot machines compared to only 3 per cent of non-problem gamblers. Furthermore, the Victorian InterChurch Gambling Task Force noted in its submission that the potential to win a large linked jackpot was one of the reasons EGM gamblers break their precommitment decisions — such as they are. 'Precommitment' is that fancy term for the intention or perhaps the technology that might allow you to preset the amount of money you are prepared to lose or the amount of time you are prepared to spend before you sit in front of the machine. Once you are in front of the machine you are in the zone, as one gambler said to me.

The Productivity Commission concluded that:

> Some features of jackpots are problematic and may impact disproportionately on problem gamblers:
>
> this should be the subject of further research.

In other words, it was unable to reach a definitive conclusion on the impact of jackpots. Even if I accept that simply at face value, that is an argument as to why we should not introduce, continue to allow or continue to allow the expansion of linked jackpots.

Hence I move:

> That all words after 'That' be omitted with the view of inserting in their place 'this bill be withdrawn and redrafted to include provisions prohibiting venue operators from conducting gaming via linked jackpot arrangements.'

I am happy to circulate that amendment.

Because so often in social matters and social research we talk about evidence-based policy, it seems amazing that in the realm of gambling research, those who want to protect problem gamblers have to deliver the evidence while those who introduce new products or new strategies to the market in relation to poker machines do not have to produce any kind of evidence that their product will not increase harm. The evidence base in this particular sphere runs completely in the opposite direction. I am sticking a peg in the ground on this one and saying I am not prepared to do that any more. From now on in, when the government introduces or allows the expansion of new types of gambling-related products the research should be done first and demonstrated to our satisfaction that it will not increase gambling-related harm.

It is kind of like that discussion we were having about a regulatory impact statement (RIS). I love them! Let us have one for each type of poker machine and each new type of game that is to be introduced to the market in Victoria. Generally those RISs Mr Tee alluded to when we were debating another bill were to be introduced wherever it was thought there would be a significant impact. They are not for little stuff but for stuff of a significant amount. The number was around half a million dollars of possible costs. That seems like a fairly low threshold to me. But with $1 billion worth of pokie losses out there — or at least that is the amount that has been going into the government's pockets — we are obviously well above that benchmark.

The Productivity Commission did accept that without evidence to the contrary it was conceivable that linked jackpots 'may accentuate harm for some consumers' but recommended that governments fund initiatives to research this further. I do not know if that is happening. I may ask the minister during the committee stage.

Given that problem gambling has such devastating effects on people's lives and on their families — in some circumstances it actually takes their lives, leads to the ending of their lives, and in some cases even to their killing others in order to feed their habit — as this government has well realised a precautionary approach to any potential exacerbating factor should be taken. That was shown by the government commissioning a study into gambling, resulting in the report entitled *Study of Gambling in Victoria — Problem Gambling from a Public Health Perspective*. That is an established principle in environmental law. In fact I was in here making that exact same plea on behalf of the trees yesterday, and now I am saying it on behalf of humans, particularly those humans who find themselves at a vulnerable point in their lives and who therefore most need our protection.

Who benefits from the continuation of linked jackpots? The study I mentioned above has shown that the enjoyment and frequency of EGM use by recreational — that is, non-risk — gamblers would only slightly decrease if linked jackpots were to be limited. I do not know how many people really claim to love the pokies, but they might become marginally less enjoyable. If you want to talk about evidence, there is plenty of evidence that recreational gamblers really would not be harmed by taking away linked jackpots.

Furthermore, while the restructuring of the industry aimed to end the duopoly, the auction of gaming machine entitlements two months ago saw Woolworths, in a venture with Bruce Mathieson, acquiring over one-third of gaming machine entitlements — at least according to the *Age* report at the time. If they control such a large proportion of the industry, presumably they can also run linked jackpots between the venues that have gaming entitlements. This suggests that the real beneficiaries will be those with the largest number of venues and machines under their control.

I will now discuss some other provisions. The bill removes the 10 per cent shareholder restrictions that are in place for the current gaming operators — that is, Tabcorp and Tattersall's — because they are gone. This was put in place at the time of the TAB's public float and again when Tattersall's was listed. The government argues that that provision has served its purpose. According to the coalition in the other house, small-scale operators of retail betting agencies are concerned about the impact of the wagering licence changes on their livelihoods. Dr Napthine, the member for South-West Coast in the Assembly, was quite voluble on this subject. The bill also clarifies the applicability of the disciplinary provisions to bingo operators.

As I said, there will be a few more matters to be dealt with in the committee stage of the bill, so I will leave it there for now.

The ACTING PRESIDENT (**Mr Eideh**) — Order! Debate will now be on the reasoned amendment and the second reading.

Ms PULFORD (Western Victoria) — I am pleased to speak in support of the Gambling Regulation Amendment (Licensing) Bill 2010, and in doing so flag that I will be moving an amendment standing in my name, which I will speak to briefly in a moment.

In July 2004 the government announced a timetable for a major restructure of the gaming industry in Victoria. It was in April 2008 that we announced the very significant decision to end the gaming machine duopoly with Tattersall's and Tabcorp, ending a 54-year arrangement. What we have now is a structure that will, after 2012, provide for a venue operator arrangement. This will ensure that profits from electronic gaming machines go back to local communities — our clubs, in particular, which provide a great many services and additional facilities to the community, will be assisted with this income.

The restructure reflects the government's aim of developing a more accountable industry. While we have been restructuring these licensing arrangements, the government has continued to implement measures that minimise harm for the small number of people who

participate in gaming for whom it becomes a very significant problem in their life.

The venue operator model also necessitates the delivery of a monitoring function for all venues. This bill is a further step in the process of restructuring the industry. Mr Guy in his contribution said words to the effect of, 'Here we are again, having the same debate about the same issues'. In fact a great deal of change is occurring in this industry and at every step of the way the government has indicated that further legislation would be required as this evolves through many complex processes.

The bill will authorise the holder of the monitoring licence to undertake the financial administration of linked jackpots. Every time we have a gaming bill in this house I learn a little more about the variety of ways in which you can blow a few bucks in the gaming industry. Multiple linked jackpots across multiple venues is another new thing to learn about the different ways to have a flutter. The bill will also ensure that club gaming machine entitlements can only be operated by clubs. This delivers on the government's commitment to further strengthening legislation that ensures a 50-50 distribution of entitlements between clubs and pubs.

The legislation will provide that only bodies corporate can apply for licences and not incorporated bodies or partnerships. The legislation provides for electronic gaming machines (EGMs) to establish a standard price list, which will work like a recommended retail price, ensuring that large holders of licences and small holders of licences are on a level playing field as far as the cost of the EGMs is concerned.

The bill will consolidate the power of the Victorian Commission for Gambling Regulation to conduct investigations into the associates of gaming licence-holders. This is to ensure that the industry is free from criminal influence, which is very important. The minister will be empowered by this legislation to force those deemed unsuitable to sell their interest in a gambling licence.

The bill also provides for greater maximum penalties that can be imposed on venue operators, which we believe is a reflection of the greater responsibility that venue operators will hold after 2012. The bill provides arrangements around disciplinary action against keno, wagering and betting and monitoring licensees, and bingo operators. As Mr Guy indicated, there are also measures to protect minors, particularly in relation to the casino.

The bill endeavours to streamline premises approval processes and seeks to ensure the ongoing role of local councils in premises approval. They have an important role to play in making sure that their communities have these machines in appropriate numbers. Some regions have caps and some do not, but it is essential for the safety of our community that in high-risk areas there are greater controls over the number of gaming machines.

I indicated at the commencement of my contribution that the government is seeking to introduce a house amendment. This amendment will provide an alternative means for the tabling of reports. It will enable out-of-session tabling of reports, similar to what we saw less than two weeks ago with the tabling of the report of the Victorian Bushfires Royal Commission. This will mean a report will be available more quickly if it is completed during a period when we are not here. It will then be formally tabled by the Clerk in the usual way on the first sitting day after it is made available.

Finally, the auction process has now occurred. This has happened since the last time we talked about the gaming industry in this house. Of course the Leader of the Opposition in the Assembly, Mr Baillieu, has once again had his cake and eaten it too. He said in the month leading up to the auction that it would generate around $1 billion. The auction generated around $1 billion and Mr Baillieu then said that that was a disaster and that the auction should have raised a whole lot more than $1 billion.

I urge members to support the government's proposed amendment. I believe Mr Tee will make a few comments shortly about the Greens' reasoned amendment, which the government will be opposing.

Mr TEE (Eastern Metropolitan) — I just have a couple of matters that I would like to address as part of my contribution to this debate. The first one is, as has been foreshadowed, that a number of amendments will be proposed by the government. Over a long period now there has been considerable engagement with all parties in relation to not only this bill but also gambling regulation more broadly in Victoria.

I want to put on record the undertakings the Minister for Gaming has made to the shadow Minister for Gaming in relation to the presentation of the IRP (independent review panel) report. It is the intention of the Minister for Gaming to provide the shadow Minister for Gaming with at least 24 hours notice from the time the minister receives the IRP's report of his plan to table the report. The Minister for Gaming has also undertaken to ensure that the tabling will not be

done late in the afternoon, which may impede other members' access to the report. It is the government's intention to ensure that as many of the IRP's reports as possible are tabled during the remainder of the 56th Parliament.

Just briefly in relation to the Greens' reasoned amendment, we will not be supporting it. The reasoned amendment relates to prohibiting venue operators from conducting gaming via linked jackpot arrangements. We will not be supporting this reasoned amendment for two reasons: firstly, we think the reasoned amendment is premature; and secondly, we think there are a number of important parts to this bill that should proceed forthwith and not be delayed.

In relation to the linked jackpot arrangements, it should be noted that this issue was considered in a Productivity Commission report which was released on 23 June. In that report the commission recommended that there be further research on linked jackpots and, if the need arose from that, there should be further regulation. In response to that recommendation, the commonwealth will establish the Council of Australian Governments select council of ministers on gambling reform, which will take a national approach on these issues.

It is also worth noting that the Productivity Commission did say that any potential harm from linked jackpots may be alleviated by other harm-minimisation matters. In particular, the report identified precommitment technology as a key measure to minimise potential harm caused by gambling. As has been previously stated in this house, the government has announced that it will introduce precommitment technology and that it will be rolled out across all gaming machines in all Victorian gaming venues. Victoria will be one of the only jurisdictions in the world to allow players to preselect time and loss limits as a way of preventing them from exceeding these limits; once players have selected those time-and-loss limits there are measures that will prevent them exceeding those limits.

In terms of the first part of our objection to the reasoned amendment, there is work in progress and we think it is appropriate that we wait until that work is concluded before we consider any further amendments. The outcome that Mr Barber will achieve if his amendment is successful would be the delay of some very important initiatives which are set out in this bill — for example, that would include the establishment of the independent monitor whose job it is to make sure that there is integrity in Victoria's gaming industry.

The bill goes in part to concluding the establishment of the independent monitor. That monitor makes sure that our gaming operators play according to the rules and that poker machines comply with the rules in terms of payment of prizes and of ensuring the machines do not operate offline.

If Mr Barber were successful, we simply would not have the police on the beat ensuring that the rules were complied with. We will be opposing the reasoned amendment on the basis that we need to make sure that we do have a cop on the beat.

House divided on amendment:

Ayes, 3

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

Noes, 31

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

Amendment negatived.

Motion agreed to.

Read second time.

Committee

The DEPUTY PRESIDENT — Order! It is my understanding that the amendments the committee will be considering come into play in clause 62. Do any members require any clauses ahead of clause 62?

Mr BARBER (Northern Metropolitan) — The issue of linked jackpots comes in clause 5, but with a bit of indulgence, I can certainly ask my questions at clause 1, the purposes clause.

The DEPUTY PRESIDENT — Order! If they all relate to clause 5, I would prefer to do it in clause 5.

Mr BARBER (Northern Metropolitan) — Yes, not to the operation of clause 5, but simply to the philosophy behind this linked jackpot approach. That is

why I am suggesting clause 1. I ask the minister, through you, Chair: the government is currently running an advertising campaign — —

The DEPUTY PRESIDENT — Order! The definitions are in clause 5. We will do the questions on clause 5.

Clauses 1 to 4 agreed to.

Clause 5

Mr BARBER (Northern Metropolitan) — The government is running an advertising campaign at the moment suggesting that gamblers should know their odds. The advertisement suggests that your chances of finding buried treasure are in fact better than your odds of winning on the pokies. Can the minister tell me what the odds are of winning a linked jackpot?

Hon. J. M. MADDEN (Minister for Planning) — I could not tell Mr Barber the odds. I looked to my advisers in the advisers box, but they were unable to answer the question. But if he would like some more technical detail around that, I am happy to request the responsible minister in the other place to provide any details that might be of assistance to him.

Mr BARBER (Northern Metropolitan) — Then I have a slightly different question. I understand the odds of winning on poker machines because there is an overall proportion of return to player to player loss, but if I am playing a poker machine and I see a message flash up that says I could win a jackpot of $200 000, the odds of winning that jackpot may or may not be the same as the overall odds, as determined by player return. Can the minister tell me if there are any administrative or legal requirements by which those odds are set and determined or is it completely up to the venue operator to determine the odds of the jackpot that is offered at any particular time?

Hon. J. M. MADDEN (Minister for Planning) — I seek a point of clarification. In terms of the jackpot, is the member referring not to a specific machine but to the jackpots running around the hall of machines?

Mr BARBER (Northern Metropolitan) — That is what jackpots are.

Hon. J. M. MADDEN (Minister for Planning) — My advice is that the minimum return to the player is 80 per cent. I am also advised that jackpots can be set in line with that. Whether it is over and above that or part of that would be part of the way in which the return to player is set by the various venue operators.

Mr BARBER (Northern Metropolitan) — That is helpful. Can I take it from that that when a jackpot is offered as a discrete entity — that is, when a number of people are gambling and a message flashes up saying there will be a jackpot soon — that discrete operation then has to have the same return to player as the overall system?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that it could form part of the return or over and above the return — the percentage that I said. I suppose in a competitive world a venue operator might wish to set that over and above the levels of return in order to attract more punters.

Clause agreed to; clauses 6 to 54 agreed to.

Clause 55 postponed; clauses 56 to 61 agreed to.

Clause 62

Mr BARBER (Northern Metropolitan) — I move:

1. Clause 62, page 46, line 2, omit "elapse." and insert "elapse.".'.".

I spoke on this issue during the second-reading debate, but to inform any members who have arrived in the chamber more recently, the aim of this commitment is to reverse the government's proposal to cut the time available to local councils to have their say on new and expanded operations. These can be extraordinarily important decisions for local councils; nevertheless they are not routine or at the time of the councils' choosing. The government is not proposing to short-circuit any of its own steps; it is simply putting it on local government to make a decision in a much shorter time line that is, I would argue, well within the typical monthly council decision-making cycle, and I do not support that.

Mr TEE (Eastern Metropolitan) — This side of the house will not be supporting Mr Barber's amendment. The situation is that the amendment addresses an issue that was considered by this house some 12 months ago in the Gambling Regulation Further Amendment Bill 2009. About 12 months ago this house passed legislation that required councils to indicate within 37 days whether or not they intended to respond or make a submission to the VCGR (Victorian Commission for Gambling Regulation). When the VCGR receives an application to change gaming machine numbers or the introduction of new numbers, councils receive the same notification. They then have 37 days within which to indicate whether they will make a submission to the VCGR in relation to that issue. That matter was considered 12 months ago, and the house passed legislation placing that requirement on

council. A period of 37 days gives councils a sufficient amount of time to go through the decision-making process to decide whether they will make a submission. They have 60 days from receipt of the application to make a submission.

We wanted to try to truncate the time it was taking. That amendment does not disadvantage anyone. You still have your 60 days, but if you are not going to make a submission it allows the process to move through more quickly and a decision to be made more quickly. For that reason we will not be supporting Mr Barber's amendment.

The other important point is that even if Mr Barber's amendment, which seeks to remove that requirement for council to give an indication, succeeds, it will not achieve the outcome he is hoping for because he cannot seek to amend legislation that was passed last year. Mr Barber would need to introduce into this place a bill to amend that act in order to achieve that outcome.

We do not support the amendment in principle, and we also do not support it because all it will do is create a layer of confusion rather than achieve any of the outcomes that Mr Barber seeks to achieve.

Committee divided on amendment:

Ayes, 3

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

Noes, 31

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! I regard Mr Barber's amendment 1 to be a test for amendment 2, so that amendment will not proceed.

Clause agreed to.

Postponed clause 55

The DEPUTY PRESIDENT — Order! I am now in a position to return to clause 55, which was the postponed clause, and deal with that. We were checking whether or not there needed to be an absolute majority in the vote on that clause, which would have had some procedural ramifications. We have ascertained that that will not be necessary.

Clause agreed to; clause 63 agreed to.

Clause 64

The DEPUTY PRESIDENT — Order! Mr Barber had an amendment to this clause but it was tested by his first amendment, so there will be no further discussion.

Clause agreed to; clause 65 agreed to.

Clause 66

The DEPUTY PRESIDENT — Order! Mr Barber's amendments 4 and 5 lapse.

Clause agreed to; clause 67 agreed to.

Clause 68

The DEPUTY PRESIDENT — Order! Mr Barber's amendment 6 is contingent on amendments 4 and 5 being passed, therefore it lapses.

Clause agreed to; clauses 69 to 73 agreed to.

New clause

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

Insert the following new clause to follow clause 48 —

'AA New section 10.2A.11 substituted

For section 10.2A.11 of the **Gambling Regulation Act 2003 substitute** —

"10.2A.11 Publication of Review Panel reports

(1) The Minister must give a copy of each report of the Review Panel to the Secretary as soon as practicable after receiving it.

(2) The Minister must cause a copy of each report to be presented to each House of the Parliament —

(a) in the case of a report with respect to the regulatory review, within 7 sitting days of the House after the Minister publicly announces the government's decision on the regulatory review;

(b) in the case of a report with respect to the authorisation and licensing process, within 7 sitting days of the House after the Minister

publicly announces the grant or issue of an authorisation or licence that is the subject of a report;

(c) in any other case, at the time determined by the Minister.

(3) If the Minister receives a report when Parliament is in recess, the Minister may give a copy of the report to the clerk of each House of the Parliament.

(4) If the clerk of each House of the Parliament receives a copy of a report under subsection (3), the clerk of each House of the Parliament must —

(a) as soon as practicable after the report is received, notify each member of the House of the receipt of the report and advise that the report is available upon request; and

(b) give a copy of the report to any member of the House upon request to the clerk; and

(c) cause the report to be laid before the House on the next sitting day of the House.

(5) The Secretary must cause a copy of each report received under subsection (1) to be published on an appropriate Internet site as soon as practicable after —

(a) the copy of the report has been presented to each House of the Parliament by the Minister under subsection (2); or

(b) the copy of the report has been given to the clerk of each House of the Parliament by the Minister under subsection (3).

(6) Before complying with subsection (1) or (2), or doing a thing under subsection (3), the Minister may exclude information from the report if the Minister has received advice from the Victorian Government Solicitor that the information is —

(a) protected information; or

(b) information that is or could be the subject of legal professional privilege or client legal privilege.

(7) A report that is given to the clerks under subsection (3) is taken to have been published by order, or under the authority, of the Houses of the Parliament.

(8) The publication of a report by the Secretary under this section is absolutely privileged and the provisions of sections 73 and 74 of the **Constitution Act 1975** and of any other enactment or rule of law relating to the publication of the proceedings of the Parliament apply to and in relation to the publication of the report as if it were a report to which those sections applied and had been published by the Government Printer under the authority of the Parliament.

(9) For the purposes of this section, the Parliament is in recess when each House stands adjourned to a date to be fixed by the presiding officer of that House.".'.

Basically these are technical amendments to allow for the tabling of reports of the independent panel outside the normal sitting days of Parliament. All of the provisions relate to that and to members of Parliament being notified of reports being tabled so they can acquaint themselves with those reports prior to the sitting of Parliament.

New clause agreed to.

Reported to house with amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

WATER AMENDMENT (VICTORIAN ENVIRONMENTAL WATER HOLDER) BILL

Second reading

Debate resumed from 24 June; motion of Mr LENDERS (Treasurer).

Mr HALL (Eastern Victoria) — I welcome the opportunity to speak on the Water Amendment (Victorian Environmental Water Holder) Bill 2010. I am going to indicate at the start that the coalition will be supporting this piece of legislation.

The water industry is very complex. I must say that over the years in my efforts to understand the water industry it has taken a great deal of concentration, time and commitment to try to get my head around many of the complex issues surrounding water, water distribution and water use in this state of Victoria. Nevertheless, since I was first elected to this Parliament I have always claimed that water in its various forms has been the most frequently raised issue to come through my electorate office, and it continues to be — perhaps even more so — today. Such is the reliance on the water industry that legislation of this nature is very important and it deserves thorough consideration by the house.

This piece of legislation introduces a new concept — that of the Victorian environmental water holder. It is

an interesting term, one that I am not familiar with — indeed I would not be familiar with it, because it is new. This amendment bill inserts into the Water Act 1989 a significant new part 3AA headed 'Victorian Environmental Water Holder'. Clause 4 of the bill sets out what the environmental water holder is, its functions, objectives, how it will operate, what its relationship to government will be and many other related matters.

Before I go into some of those details, it is worth pointing out that the environmental water holder is, or will be, a statutory body responsible for the management of water that has been allocated for environmental purposes around the state of Victoria. All members, because this applies to rivers that flow through major metropolitan areas as well, would be familiar with the term 'environmental flows' and that the majority of the rivers in this state — certainly the regulated ones — have set minimum environmental flows. It is the task of the various bodies who are in charge of these matters to ensure that environmental flows are met.

The Victorian Environmental Water Holder is now going to be the body responsible for all such matters. Where there is a bulk water entitlement allocation for environmental flows it will become the responsibility of the environmental water holder to ensure that those bulk water entitlements are preserved and allocated in the way it is intended they should be.

The environmental water holder will have a number of other functions, including the ability to purchase water for the purposes of obtaining environmental flows. It is going to be an interesting concept and hopefully one that will give better clarification of exactly how environmental waters are held, how they are released and how we can better ensure that they end up where they should be in achieving minimum environmental flows down some rivers and streams.

As I was saying, clause 4 of the bill seeks to insert into the Water Act 1989 a substantial new part 3AA. That clause gives various definitions relating to the environmental water holder. New section 33DB says what the environmental water holder is. The clause establishes the Victorian Environmental Water Holder as a body corporate with perpetual succession and an official seal, that may sue or be sued et cetera, and new division 2, which is headed 'Objectives, functions and powers of the water holder', sets out the objectives of the water holder. Very importantly the objectives and the functions are what we need to understand clearly when painting a picture of the work that the environmental water holder will do.

New section 33DC provides that the objectives of the water holder are:

> (a) maintaining the environmental water reserve in accordance with the environmental water reserve objective; and
>
> (b) improving the environmental values and health of water ecosystems, including their biodiversity, ecological functioning and water quality, and other uses that depend on environmental condition.

New section 33DD sets out the functions of the water holder. I will not go through all of those.

There are other important provisions in that new part of the bill. They set out arrangements for commissioners. The environmental water holder will consist of a minimum of three commissioners, who may be employed on either a full-time or part-time basis. It also sets out arrangements for the governance of the water holder, including arrangements for the commissioners' meetings and its employment capabilities. There is also a requirement that there be established a water holder trust account.

Importantly new section 33DS of division 4 spells out ministerial directions. It provides that the environment minister may give a written direction to the water holder in relation to the performance of its functions, powers or duty. The rest of the clause spells out exactly what form those ministerial directions may take. Although it will be an independent authority, the environmental water holder will still operate under the direction of the environment minister. The bill sets out reporting requirements for this new statutory body, including an annual reporting function as well as the preparation of a corporate plan for the year ahead.

The rest of the legislation sets out similar matters. Importantly new division 6 sets out the ministerial rules relating to the water holder. Again it is the environment minister who sets the rules in relation to a whole range of procedural matters that the office of the water holder will be undertaking and provides that those rules are published in the *Government Gazette*.

There are a couple of other important elements of this legislation, including the transfer and sale of bulk entitlements. These are matters of particular concern to the water industry all around this state. The ability of the environmental water holder to move water through the various channels and waterways we have in this state from one region to another are important issues, and we will take pretty close notice off them over the years ahead. One concern we always have about water is its movement from regions, a classic example being the movement of water from the north of the state to the

metropolitan area of Melbourne via the north–south pipeline. Our concerns about the level of water movement for that purpose have been well expressed in this house.

I do not intend to raise that in any major way today apart from using it as an example to illustrate the fact that we are nervous when bulk volumes of water are moved from one part of the state to the other, because water is certainly wealth, particularly in country areas where that water is used for growing food and for food production. Therefore, we need to make sure that this precious resource we have in water is used in its most appropriate, efficient and important way for the people of Victoria.

Getting the balance right is always difficult — that is, the balance between water uses. There is probably no better example than some of the issues that I am dealing with in East Gippsland at the moment, where we are looking at security of water supply for both domestic and irrigation purposes. There are some pretty significant debates locally around that right now. It is important that we get right the balance between the environment and domestic use and industry and agricultural use, and that is not always easy.

I noted one of the comments in the second-reading speech, which said the environmental water holder will make it easier to take advantage of the opportunity, when there are sudden downfalls and excesses of water about, to actually capture the water and hold it and use it in good time for environmental purposes. That is great. I have always been one who has suggested that we should be doing more to capture water when the opportunity presents itself. During this current winter we have been experiencing good rainfalls in much of Victoria. It is welcome that we are experiencing better than average rainfall compared to the last few years. That is certainly adding to our storage capacity right across the state. It is in times like these that we should be making more opportunities to capture that water. That does not necessarily involve building new dams; it probably involves building infrastructure to capture stormwater, whether that be in metropolitan areas or in major cities and towns across the state of Victoria.

The coalition acknowledges the importance of water for environmental purposes. We have always been strong on that issue, but we have also said we need a transparent system to ensure that people understand very clearly how water is used, and if it is designated for environmental purposes, to make sure that it is used for those purposes.

I might add in passing, too, in respect of environmental water flows that in my electorate the Thomson River is one example of where the government has recently returned part of some previous environmental flows that it 'borrowed' for the purpose of supplementing Melbourne's water supply. I welcome the return in part of that water, but I again say that we regard those environmental flows down our rivers as being important and we hope that the full quantity of the borrowed environmental flow is soon returned.

As I said, members of the Liberal-Nationals coalition are happy to support the bill because we consider environmental flows to be important, but we need to have transparency and accountability and clarity in how water is allocated and how it is used. When you have a number of organisations involved in the management and distribution of water, that clarity is not always as it should be. If we have a single statutory body having oversight of the allocation of environmental water across the state, then hopefully that will lead to a more transparent system and we will more clearly be able to see how environmental waters are allocated.

We have made a decision to support this legislation, and in so doing we encourage the government to ensure that the Victorian Environmental Water Holder is given the resources and the funding that it requires to do its job well. With those few remarks, I indicate that we will be supporting this legislation.

Mr BARBER (Northern Metropolitan) — I should start by saying that this is a measure that the Greens support and welcome. We are glad to hear that other parties in the Parliament do too. I will spend a fair bit of my time talking about some improvements that I think deliver on the real promise of this measure. It has been talked about ever since the government first promised it and of course since those concerned with environmental water first advocated for it.

As the bill stands the environmental water holder (EWH) will be established as a quasi-independent statutory body responsible for delivering and managing environmental water in regulated water systems under entitlements currently held by the Crown. While the government and the opposition contend that it is independent, the reality is that it is only quasi-independent, because the government appoints the commissioners and the minister can set binding rules or issue directions to the EWH but cannot issue directions to allocate or purchase specific water entitlements.

The environmental water holder will be comprised of a minimum of three commissioners and support staff. It

essentially will act as a board that makes decisions on the basis of a majority of votes. It can enter into agreements; hire consultants; delegate tasks; buy, sell and trade; be given gifts; and do all the things that a conventional body corporate can do. A trust fund has also been established by this legislation for achieving the purposes set out by the bill.

On the question of planning and reporting, the EWH will have to keep and maintain records to account for its performance. It will have to include within its annual report information on its activities and anything specified by ministerial rules. Since it is not in legislation it is hoped that one such rule will be the reporting of water delivery performance against predetermined outcomes. That would be a major improvement. Occasionally I have seen such reports before on the small amount of environmental water that has been available, but I have not seen one for the most recent season.

A corporate plan has to be developed — that is fairly standard — for each financial year relating to governance, funding and key performance indicators. Seasonal watering plans must be prepared for the entire state for each season covering the priorities of the EWH, the seasonal proposals of catchment management authorities (CMAs) and water authorities, and climatic conditions. Let us hope it does better than the Northern Victoria Irrigation Renewal Project and pays some attention to the CSIRO's forecasts for climate change and reduced water availability and to any rules that might be issued by the minister.

Finally, there are seasonal watering statements, which are the authorisations the EWH gives to authorities that specify the delivery requirements and rights and responsibilities involved in the particular delivery of water. In this regard the CMAs and water authorities contribute to the seasonal watering plans and will be responsible for delivering the decisions of the EWH under the seasonal watering statements.

The environmental water holder will also have the power to require an authority to hand over information relating to water in the water holdings in their management districts, but we are seeking to expand that power to cover the entire water reserve. There are currently operational problems that arise out of having to own the land through which the water flows. These are provided for in the consequential amendments to the acts in relation to water-use registration. Because the EWH is neither a landowner nor the Crown the bill allows it to be an occupier of the land and thereby enables it to obtain water-use registration.

The bill also tidies up some of the bulk entitlement environmental provisions in the Water Act so they more closely conform with each other and provide an easier reading of the act.

There is no reform of the minister's powers in these changes. That is something that I have had a bit to say about recently, and I will have a lot more to say about that in the future. The minister's unfettered power and discretion continues, but that is a battle for another day. In fact it even goes the other way. Under clause 9 the minister will no longer have to give public notice of an authority's application for a transfer of a bulk entitlement or invite submissions on the application. The minister will simply have to gazette the transferral once it has been approved. Right now the Murray-Darling Basin Authority's draft basin plan is out there somewhere in the never-never. I am not quite sure what is happening in that space.

There is a federal election campaign going on and I have not had time to scrutinise and follow up the various reports about what the federal government might be doing in this area. We would like to see the transfer of a greater proportion of environmental water against consumptive use in that process. Therefore, it is inevitable that environmental holdings will be of a greater volume or at least percentage of these systems than they are now. I imagine the public's yearning for wiser water planning and allocation of priorities through the basin plan will mean that the environmental water holder's role will change over the coming years. I certainly hope it will change and evolve quickly.

The environmental water holder then becomes a very important institution that the Greens support. Through the proposed amendments that I will talk about in a minute we have tried to anticipate the growing importance of its role in the public eye and the growing scrutiny that will come to bear on environmental water and how it is used. These measures that enhance information dissemination to the public, as well as independent reporting, will provide the EWH with the tools it needs to most efficiently deliver environmental water across the state.

In summary, the purpose of this suite of amendments is to ensure transparent governance surrounding the fluctuating state of the environmental water reserve. These amendments serve three main purposes: to increase the environmental water holder's powers so that it can report on the entire environmental water reserve and not just on the environmental entitlements it will hold, which equates to roughly — and the number fluctuates — around 4 per cent of the entire environmental water reserve; to allow for greater public

access to information on the environmental water reserve; and to create a stronger relationship between the Minister for Water and the EWH. On the basis of the EWH's reports it will be positioned to advise the minister on measures to improve the environmental water reserve. It is a package of three measures, but in many ways they are interrelated.

We want to change the objective of the EWH. The role of the EWH, which is more or less simply to maintain the environmental water reserve, is not the highest aspiration that we would have shot for. In our proposed amendments is the added objective that the EWH actively seek improvement of the operation and quality of the environmental water reserve. Another objective will be inserted by these amendments — namely, that the EWH assist the minister in the maintenance and improvement of the entire environmental water reserve, in accordance with the already existing statutory objective for that environmental water reserve. We are also seeking to remove from the EWH's objectives the requirement to improve uses that 'depend on environmental condition'.

The reasons for removing this requirement from the objectives are quite simple. The explanatory memorandum of the bill, but importantly not the bill itself, describes this concept as uses that are 'not inconsistent' with environmental purposes. Theoretically this could be any use of environmental flows. Having this power would allow the EWH, by its own motion or under direction from the minister, to deprioritise purely environmental objectives for other purposes — for example, filling up wetlands so that ducks will fly in and land on them and hunters can shoot them. Even for consumptive purposes, simply because an increase in flows as the water is delivered could be passed off as a benefit for the environment.

While the by-products of directing flows for such purposes is obviously an improved environmental condition, it might be at the expense of a stressed water system that does not support the same other recreational, economic or consumptive uses. These 'not inconsistent' uses are of concern to us. It is not the way we set up a police force or a hospital. We do not set them up to do things that are inconsistent with policing and hospitals; we set them up with a defined purpose, and we criticise them pretty harshly when they do not achieve it.

Removing the line serves a double purpose, though. The EWH cannot act inconsistently with its own purposes when it enters into agreements and distributes its water holdings, so indirectly we are tightening up the priorities of the EWH. Having waited so long to create one, I want it to be on mission.

On this question of assessing the entire environmental water reserve, as the government's bill stands, the EWH's responsibilities are restricted to managing that small proportion which we estimate equates to about 4 per cent of the environmental water reserve. The other 96 per cent would still be controlled by the ministers and water authorities, but the EWH would have a role in reporting on the existence, delivery and outcomes of the environmental water reserve, which would be a first. As far as I am aware, it has been in the Water Act since the beginning, but it has always been this completely undefined concept, and now I am asking for some reporting on it. By the way, those words were taken from recommendation 4.6 of the National Water Commission's 2009 biannual report, which called for 'annual public reporting of the existence, delivery and outcomes of environmental water'.

Under section 22(2)(ac) of the Water Act the minister already has the responsibility to collect, collate, analyse and publish information on the environmental water reserve. The Greens and other environment groups feel this is not done in a reliable, coherent or concise manner. The Greens agree with the requirement of the national water initiative that all water in the environmental water reserve be accounted for. The 2004 white paper declared that monitoring and compliance with environmental conditions on bulk entitlements would be improved by requiring authorities to appoint an independent auditor. Here is our chance; let us make the EWH an independent auditor. Since this accounting still has not happened we want to put the EWH into that quasi-auditing role — or at least into a reporting role until those independent auditors are established. Therefore the EWH therefore would, under our amendment, have the power to request information or documents held by any party with responsibility for the reserve, be that a water authority, CMA or department.

Understanding the details of how the entire reserve is operating will help the EWH in its allocation role. It will also ensure that the right hand will not stealthily take away from the environmental water reserve — for example, through qualifications — what the left hand has given. That has already been happening; it is just that you would have to read an enormously complicated bulk entitlement document and any qualifications to it, which are often not publicly available, and even go out and have a look at what some of the stream monitoring stations are telling you

in order to know it has happened and how much of an impact it has had.

This brings us to the next point of our amendments — the question of a cooperative relationship with the minister. Compiling annual reports on the environmental reserve would also provide the EWH with a detailed knowledge of the shortfalls, successes and untapped potentials in the operation of the environmental water reserve. This knowledge could be used to assist the minister, keep the minister in check, and also to create a paper trail that Parliament and the public can follow in relation to their own river, if they want.

The Greens amendments would create three elements of relationship between the minister and the EWH. Firstly, the minister would be required to seek recommendations from the EWH when drafting any condition, regulation, management plan or other instrument in a bulk entitlement that involves the environmental water reserve. This information would presumably be available through freedom of information laws if the government were to retain its default position, which is not to be proactive on any of these things. Secondly, and related to the first item, the EWH would have the power to review any conditions on any existing bulk entitlement that affects the environmental water reserve. The EWH would then be able to put forward recommendations that would help it meet its objectives under the act.

The third of these amendments is to the effect that prior to implementing any temporary or permanent qualification that affects the environmental water reserve or environmental water holdings the minister must consult with the Victorian environmental water holder and inform it of the proposed qualification measures. This will help the EWH to properly plan the most effective distribution of its scarce resources.

On improving access to information, the minister's inclination to qualify environmental water to meet consumptive demand or to ease water restrictions is especially frustrating to me because of the lack of any clear information and disclosure surrounding the qualifications, and I have attempted to achieve progress in this area in the chamber previously. Under my amendments, any temporary or permanent qualification of the environmental water reserve will have to be provided to EWH for it to publish on its website. Similarly the corporate and seasonal watering plans that the EWH is obliged to create will also have to be put up on the website.

I am happy to circulate my amendments at this point.

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

Mr BARBER — As the member for Swan Hill in the other place noted, the EWH only has to have those plans available at its office or on the website. To prevent discrimination on the basis of geography the EWH should be obliged to do both; I will not necessarily want to drive to Swan Hill to get a copy, and the member for Swan Hill can get a copy if his Internet connection is down that day.

Finally, any review the EWH conducts into conditions contained in bulk entitlements will also have to be published on its website, including all recommendations that have been made. The purpose of this is to allow an informed public discussion on how the government of the day will be able to best manage Victoria's increasingly precious water resources for the environment.

On enhancing governance, the Greens amendments also try to counter the sort of culture we seem to have in certain similar bodies. There is a need for commissions to be as independent as possible from political influence; however, there is only so far that legislation can go to secure this. If I had the chance I would probably bring in a broader piece of legislation that gave the public more certainty about how appointments to the various boards are made. In the UK they now have a Commissioner for Public Appointments who scrutinises such appointments to ensure that they are based on merit and that the process was followed in the correct way.

Currently the three commissioners of the EWH can be appointed provided they have experience in economics or public administration alone. These qualities are certainly desirable, but the Greens see it as essential that they have knowledge of sustainable water management and environmental management, because that is not a simple area. That is a complex area — not only the basic ecological concepts, but also the concepts around the objectives of environmental management, not to mention the precautionary principle, which I have talked about many times this sitting week. They are all important and specialist areas. That knowledge would be a mandatory prerequisite to employment if the amendments are successful. Certainly experience in economics and public administration will be preferred, but that will not be sufficient on its own to qualify to become a commissioner.

The concluding amendment from the Greens says that a two-year review of the EWH's operations will occur.

This review will cover the operations of the EWH, any legislative provisions relating to the EWH and any ministerial rules or directions, as well as whether these are supporting the EWH to meet its objectives.

This is going to be a very important institution that the Greens certainly support, and through these amendments we have tried to anticipate the growing importance of this role in the public eye. I took quite a bit of time on that, but it should mean that when we move to the committee stage of the bill I will not need to provide any superfluous illustration on each group of amendments.

Ms BROAD (Northern Victoria) — I rise to speak in support of the Water Amendment (Victorian Environmental Water Holder) Bill. This bill will establish a new independent body to make decisions on the best use of the state's environmental water. Environmental watering is critical to ensuring that our rivers and wetlands can continue to provide the benefits most valued by the community. Certainly my constituents in Northern Victoria Region are very well aware of the importance of environmental watering and this initiative by the Brumby Labor government.

The establishment of the environmental water holder will fulfil the government's commitment to establish this position by 2011. That commitment was made in our Northern Region Sustainable Water Strategy and further outlined in the Premier's 2010 statement of government intentions at the start of this year.

The Victorian environmental water holder will begin operation in July 2011, as provided for in the bill. To provide some context for this initiative by the Brumby Labor government, the environmental water reserve, which includes water entitlements, was established by the government's Our Water Our Future policy in 2004. Environmental water entitlements form part of the environmental water reserve and are currently held by the Minister for Environment and Climate Change.

Since the release of Our Water Our Future there have been significant changes in the context for environmental water management within Victoria. Those changes, of which many Victorians would be aware, have included an extended drought and water recovery from infrastructure improvements made by the Victorian Labor government which have provided increased volumes of environmental water. Other changes include access to the water grid and market mechanisms.

The water grid, another very substantial initiative by the Brumby Labor government, has enabled environmental water to be moved around or traded to meet highest priority watering needs and potentially fund small structural works to improve efficiency of watering.

I should also acknowledge that the federal Labor government now has the potential to hold large volumes of environmental water, resulting in a need for coordination to maximise benefits when you take into account both the Victorian and federal government's environmental water holdings. These changes present new challenges as well as opportunities in environmental management which require a revised approach to environmental water management in Victoria. This is a very important context for the bill which is now before the house.

The functions of the water holder, which are provided for in the bill, include that the water holder will be able to act swiftly and decisively to ensure environmental water is delivered where and when it provides the most benefit. The water holder will manage the risks of climate change through active, adaptive and responsive environmental water management, and I think most Victorians understand that we can only expect the risks associated with ongoing climate change to increase over time.

When there is limited water available the water holder will identify the highest statewide priorities and ensure critical drought refuges are protected. The water holder will use water trading for the greatest benefit to the environment from the available water. This includes shifting water between catchments, varying the product or generating funds to cover small infrastructure works to improve efficiency. The water holder will coordinate state environmental watering with commonwealth watering to ensure the best possible benefits are obtained.

On the important issue of accountability, water recovery projects completed by the Brumby Labor government since 2004 have resulted in new low-reliability and high-reliability environmental water entitlements that provide a long-term average of around 350 gigalitres a year across Victoria. I am pleased to say that there is more to come from infrastructure works.

The bill will ensure that management of this significant asset by the water holder is fully accountable and transparent. As well as that, the water holder will have the expertise to ensure that environmental water management continues to become more efficient, getting greater environmental benefits from fewer water resources. The water holder will also act with clear statutory objectives of maintaining the environmental

water reserve and improving the environmental values and health of Victoria's water ecosystems.

I acknowledge also the provisions in the bill which cement the role of catchment management authorities (CMAs) in local planning for and delivery of environmental water, integrating it with broader catchment activities. Catchment management authorities do a great deal of work to protect Victoria's catchments. I acknowledge the work of CMAs, particularly those in northern Victoria in the area that I represent in the Parliament.

The water holder will draw on the priorities identified by catchment management authorities in consultation with their local communities and from those will identify the highest statewide priorities.

I refer to one example in my electorate of the benefits of environmental watering. Through the Brumby government's environmental watering program some 30 billion litres is being delivered to 11 priority sites in northern Victoria. Of that, 18 billion litres is being provided from the commonwealth environmental water holdings. This environmental watering program focuses on creating and maintaining a set of drought refuges, preventing the extinction of threatened species and avoiding irreversible loss, including that of our iconic river red gums.

Just one part of that program includes some 11 billion litres of water which is being delivered into the Hattah Lakes to inject new life into these world-renowned freshwater lakes, as well as providing drought refuge for protected species. The water is being delivered to this priority site under the Brumby government's environmental watering program for a huge variety of native plants and animals, including some 47 species of waterbirds. We expect that in spring it will be possible to build on the environmental water that has already been delivered to further extend the benefits of these very important environmental water programs. With those remarks, I commend the bill to the house.

Ms LOVELL (Northern Victoria) — Today we are here to debate the Water Amendment (Victorian Environmental Water Holder) Bill which will establish the Victorian Environmental Water Holder as a body corporate that is the legal entity that holds and manages Victoria's environmental water entitlements.

We are here debating this water bill today, but the Minister for Water is a discredited individual who has made a serious and outrageous fabrication and misrepresentation. Yesterday the Minister for Water, Tim Holding, alleged during a press conference that I hold shares in Westpac Bank. In fact the minister said, 'Wendy Lovell — Westpac Bank shares — she's not disclosed those'. The minister then alleged that I was not complying with the Members of Parliament (Register of Interests) Act and as a result I was in breach of the law. The claims the minister made to the media yesterday were false and fabricated.

Since I have been a member of Parliament I have held no shares in Westpac. I have here a statement from Westpac which reveals that the shares in question are in fact owned by my mother. Tim Holding's claims are part of a campaign by the minister, the Premier and their dirt unit to discredit members of the opposition with false and fabricated allegations. I do not believe public office — —

The ACTING PRESIDENT (**Mrs Peulich**) — Order! Ms Lovell should relate her comments to the main purposes of the bill.

Ms LOVELL — Acting President, we are talking about establishing the Victorian Environmental Water Holder, and part of the bill deals with the ability to trade water on both the temporary and permanent water markets. This is done through the trading of shares, and the Minister for Water has actually called into question my trading of shares and said that I own shares I do not own. I do not believe public office should be used to smear and defame people. This has been a desperate dirt operation, approved by the Premier. I have never witnessed anything so disgraceful in my entire career.

Mr Lenders — On a point of order, Acting President, Ms Lovell has accused the Premier of actions and she has also accused the Minister for Water of actions, and these matters can be dealt with only by substantive motion. I take offence at Ms Lovell's comments, both those about the Premier and those about the Minister for Water, and I ask her to withdraw.

Mr D. Davis — On the point of order, Acting President, the purposes of the Water Amendment (Victorian Environmental Water Holder) Bill 2010 include the establishment of an environmental water holder and to provide for waterway managers, and the bill relates to the trading of water entitlements. Mr Barber, in his earlier contribution, talked about having a cooperative relationship with the minister to assist and to keep him in check. The misbehaviour of the Minister for Water in recent days is a classic example of why what Ms Lovell said is relevant to this debate.

The ACTING PRESIDENT (**Mrs Peulich**) — Order! That is not a point of order from Mr Davis. The

Chair is under the impression that Ms Lovell quoted from statements made and published in the media and that she was merely using words in the public domain. The Chair does not understand how that could give offence.

I uphold the point of order insofar as third parties cannot be used to make allegations against a member of Parliament, but it was my understanding that Ms Lovell was merely quoting information in the public domain. Perhaps making a personal reflection on another member may have been the better point of order.

Mr Lenders — On a point of order, Acting President, previously when a member has made references to another member of Parliament and sourced a document to use as a defence that they were quoting from an outside document, the President has ruled that regardless of whether or not it is a quote from a document it is still the case that if a member takes offence at another member being verballed or besmirched, a request for withdrawal can be made.

Mr D. Davis — On the point of order, Acting President, the requirement is that it should be objectively offensive, and that is a fair description of the Minister for Water.

The ACTING PRESIDENT (**Mrs Peulich**) — Order! As I indicated earlier, I think the more appropriate point of order from the minister would have been reflecting on a member rather than using unparliamentary words. I do not uphold the point of order. However, I advise Ms Lovell that she should ensure that she is not reflecting on a member of Parliament, and if the minister wishes to take a further point of order the Chair will consider it.

Mr Lenders — On a further point of order, Acting President, Ms Lovell has been using language about two parliamentarians which I find offensive. She has also reflected upon those two parliamentarians, which I find offensive. I ask her to withdraw.

The ACTING PRESIDENT (**Mrs Peulich**) — Order! I uphold the point of order pertaining to reflection. I am happy for either myself or the President to check the words when they are printed in *Hansard* to see whether any of them are unparliamentary. I uphold the point of order in relation to the reflection on a member of Parliament; that is considered to be against standing orders. Ms Lovell should desist from reflecting on members of Parliament even if using a third-party source, although I did not hear in the words she was quoting words considered to be unparliamentary.

Ms LOVELL — I withdraw. The environmental water holder will now have control of environmental water as a person independent from Parliament, and it is appropriate that responsibility for this environmental water be transferred to someone outside the Brumby government. Perhaps they will manage the water better than the Brumby government has.

Also, I have taken offence to the allegations made against me by the Minister for Water and the accusation that I have not complied with the Members of Parliament (Register of Interests) Act. I call on the Minister for Water to immediately resign for having misused his office to fabricate and peddle these false claims to the media. I call on the Premier to immediately sack the minister for having engaged in disgraceful conduct by misusing his office and taxpayers money to falsely smear and discredit his opponents.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

The DEPUTY PRESIDENT — Order! In regard to clause 4, Mr Barber is to move his amendment 1. It is a minor amendment in itself but it is linked to a significant number of other amendments, those being amendments 2 to 4, 13, 14, 16, 17, 19, 21 and 22.

The key amendment amongst these is amendment 13, which involves the insertion of an additional section in the principal act. I would invite Mr Barber, if he wishes to, to speak in relation to all these proposed amendments, because they are linked.

Mr BARBER (Northern Metropolitan) — I move:

1. Clause 4, page 4, line 5, omit "33DV" and insert "33DW".

This group of amendments relates mainly to my amendment 13, requiring a biennial review by the environment minister. I spoke to that issue in my second-reading contribution, so I will not need to say anything further on that amendment.

Hon. J. M. MADDEN (Minister for Planning) — It is not our intention to support the amendments proposed by the Greens. I make that clear from the

outset. I am happy to attempt to answer any areas of interest that Mr Barber might have, but I am not sure if my statement will assist him.

I make it clear that whilst we are happy to attempt to answer any questions he might ask, it is not our position to support the amendments proposed by Mr Barber.

Committee divided on amendment:

Ayes, 3

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

Noes, 29

Atkinson, Mr	Lovell, Ms
Coote, Mrs	Madden, Mr
Dalla-Riva, Mr	Mikakos, Ms
Darveniza, Ms	Murphy, Mr
Davis, Mr D.	O'Donohue, Mr
Drum, Mr	Peulich, Mrs
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Rich-Phillips, Mr
Finn, Mr	Scheffer, Mr
Guy, Mr	Smith, Mr
Hall, Mr	Somyurek, Mr
Huppert, Ms	Tee, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr (*Teller*)	Vogels, Mr (*Teller*)
Lenders, Mr	

Amendment negatived.

Sitting suspended 1.01 p.m. until 2.08 p.m.

Business interrupted pursuant to order of Council of 12 August.

QUESTIONS WITHOUT NOTICE

Minister for Finance, WorkCover and the Transport Accident Commission: comments

Ms LOVELL (Northern Victoria) — My question without notice is to the Treasurer, who is the minister representing the Minister for Finance, WorkCover and the Transport Accident Commission. Will the minister representing the minister for finance on behalf of the minister for finance apologise without reservation for the false and discredited claims made against me regarding Westpac share ownership?

The PRESIDENT — Order! Ms Lovell asked an interesting question, but she might like to explain to me what it has to do with the minister's actual responsibilities.

Ms LOVELL — The Minister for Finance, WorkCover and the Transport Accident Commission made statements in his capacity as the minister for finance. The Treasurer represents the minister for finance in this chamber.

The PRESIDENT — Order! I am sorry, but in my view that does not comply with the standing orders insofar as Ms Lovell's question must be directed to the relevant minister and their area of responsibility. The fact is that he may or may have not made that statement public, and I think he did — —

Mr Drum interjected.

The PRESIDENT — Order! Mr Drum! Standing order 8.01(1)(a) says that questions may be put to:

> … ministers of the Crown relating to public affairs with which the minister is connected or to any matter of administration for which the minister is responsible …

Mr D. Davis — On a point of order, President — —

The PRESIDENT — Order! I have just made my ruling.

Mr D. Davis interjected.

The PRESIDENT — Order! It is not wrong, Mr Davis.

Mr D. Davis — On a point of elucidation, President — —

The PRESIDENT — Order! There is no capacity under the standing orders for Mr Davis to ask for a point of elucidation. Mr Davis should know that.

Honourable members interjecting.

The PRESIDENT — Order! It is Thursday. No, it is not; it is Friday. I nearly said Friday in the zoo, but that would have been a mistake. I ask the house to come to order.

Planning: Lakes Entrance development

Mr HALL (Eastern Victoria) — My question without notice this afternoon is directed to the Minister for Planning. The minister would be aware that a recent Victorian Civil and Administrative Tribunal decision to overturn a planning permit for a multi-dwelling development in Lakes Entrance has created a planning crisis in that town. I assume that that situation was the catalyst for the minister's announcement yesterday of a grant of $550 000 to bring forward some long-term planning controls in Lakes Entrance, and I welcome that grant. But I am particularly interested in the interim planning measures announced in the press release that will be in place for the next six months but will first be

the subject of considerable consultation. My question to the minister is: how long will it take before interim planning controls are in place, and will those controls allow sensible and practical development to take place in Lakes Entrance?

Honourable members interjecting.

The PRESIDENT — Order! I will start using standing orders if necessary.

Hon. J. M. MADDEN (Minister for Planning) — I thank Mr Hall for his question. I welcome his interest in these matters, and I welcome the interest of the Nationals — —

Honourable members interjecting.

The PRESIDENT — Order! The next interjection of that nature will result in the member — I was going to say they will have an early lunch, but it is Friday — having a break.

Hon. J. M. MADDEN — Thank you very much, President. I welcome your direction about the unruly interjections from the opposition. I thank Mr Hall for his interest in these matters. I welcome his interest, because I know the Nationals have been climate sceptics for some time, but suddenly they are now sharing an interest in the potential for — —

Mrs Peulich interjected.

Hon. J. M. MADDEN — I take it that members of the Liberal Party are also climate sceptics as well. I am quite happy to have on the record the interjections of the opposition claiming their scepticism about climate change. I make the point, if the opposition will allow me to make it, that what we know about climate change is the sea level rise that we will see over the next 100 years or so. We have identified on the basis of scientific advice that we can expect a sea level rise of the order of 0.8 metres over the next 100 years.

That might not seem hugely significant to some people in the chamber, and it might not change their minds about climate change, but can I say that 800 millimetres of sea level rise combined with the potential for flooding and extreme weather as well as extreme tidal surges certainly threatens a lot of low-lying land across parts of Victoria. Probably one of the most important areas where this will cause concern is Lakes Entrance, and I welcome Mr Hall's interest in this matter.

What we know from the decision of the Victorian Civil and Administrative Tribunal — the independent umpire — is that it was not prepared to endorse a project on some low-lying land which is a floodway. Combined with that, elements of VCAT's consideration were around the potential for sea level rise and climate change. My understanding is that VCAT did not support that project, but of course that provides some uncertainty for the Lakes Entrance community.

In order to give the Lakes Entrance community a bit more support and some certainty around the planning controls, yesterday I announced that more than $500 000 is to be invested in the sorts of mapping and controls we need in that area to ensure that we identify the pieces of land or the land titles at greatest risk. On top of that, we will work to put in interim controls. We will consult with the community very briefly to make sure that those controls are understood and that the community understands the risks of overdeveloping some of these areas, and we will then look towards implementing long-term controls beyond that.

I expect we could do that work in approximately the next six months. I believe I announced that yesterday — that we will be looking to have those interim controls implemented within about the next six months. We have brought in scientific research to look at the long-term controls which no doubt will be in place for a lot longer than the interim controls.

I welcome Mr Hall's interest. I welcome the fact that we are seeing what is probably a bit of a turning of the tide when it comes to climate change from The Nationals. No doubt he will have a supplementary question for me, and I will be happy to answer that as well.

Supplementary question

Mr HALL (Eastern Victoria) — The press release clearly says that the interim planning measures will apply for a period of six months. The minister's answer suggested that it is going to take six months to work out these interim planning measures. I seek a clarification of the minister's answer. Is it a fact that it is going to take six months to work out these interim planning measures, or will they be completed in a shorter period of time and then apply for a period of six months until the longer term studies are undertaken?

Hon. J. M. MADDEN (Minister for Planning) — I am happy to clarify those issues for Mr Hall, too. I might have confused him, but it is probably not unusual for me to confuse Mr Hall or for the opposition to be confused in relation to planning matters. I welcome his interest in relation to these matters.

I would expect that we could get these things done pretty quickly. I would like to think we could get them

implemented within six months. We would probably need to apply them for six months while further work is done on the long-term controls. I cannot necessarily give a guarantee of how long the long-term controls will take, but I would expect that we could do those pretty rapidly.

What we do know at this current time is that there is a nervousness in Lakes Entrance about the impact of VCAT's decision on any development around Lakes Entrance. I would like to give some certainty in the immediate future, through those interim controls, about what can and cannot happen. Certainly we will try to do that as rapidly as possible.

In terms of the actual time frames, I think we will have them set for about six months while we do the longer term controls. I would like to think we could get them done pretty rapidly. I cannot guarantee how long they will take, because we might discover that some of the issues are more extensive than we hoped, but we will work with the relevant local council to try to get in some interim controls pretty quickly and then work around those sorts of time frames.

Questions interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I bring to the attention of the house that we have a visitor in the gallery: Mr Keith Locke, an MP from the New Zealand Parliament and a representative of the Green Party of Aotearoa. Welcome!

QUESTIONS WITHOUT NOTICE

Questions resumed.

The PRESIDENT — Order! I will take the opportunity to elucidate my earlier ruling. If the minister of whom Ms Lovell's question was asked had administrative responsibility for the registrar, then it would have been okay.

Employment: government initiatives

Ms TIERNEY (Western Victoria) — My question is to the Treasurer, John Lenders. Can the Treasurer report on how we can measure infrastructure and skills investment over the last several budgets?

Mr LENDERS (Treasurer) — There are several ways, but the most succinct way is to say '98 000 jobs'.

Information and communications technology: national broadband network

Ms DARVENIZA (Northern Victoria) — My question is for the Minister for Information and Communication Technology, John Lenders. Can the minister outline to the house the most immediate way that we can ensure broadband access to every home?

Mr Leane — Vote Labor!

Mr LENDERS (Treasurer) — Mr Leane's interjection of 'Vote Labor!' is a good answer, but another one is: support the national broadband network in full.

Treasurer: pecuniary interests

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Treasurer as the Minister for Financial Services. I refer to the Leader of the Government's portfolio responsibility to foster the financial services sector in Victoria, and I also note the potential conflicts of interest that may arise given that in the register of members' pecuniary interests he is reported as saying 'Other substantial interest — Nil, except funds in a number of superannuation funds', and I ask: why has the minister deliberately kept secret his superannuation fund holdings, and will he now declare each and every super fund holding he has, given his facilitation role as Minister for Financial Services?

The PRESIDENT — Order! The same ruling as I made on Ms Lovell's question applies here, in my view.

Mr D. Davis — On a point of order, President, I ask you to reflect on that ruling. Let me explain — —

The PRESIDENT — Order! I have already explained that had the Minister for Finance, WorkCover and the Transport Accident Commission, Mr Holding, had responsibility for that register, it would have been an appropriate question to ask. The same applies to the question just asked by Mr Dalla-Riva.

Mr D. Davis interjected.

The PRESIDENT — Order! That is it, Mr Davis. It is finished. There is no point of order.

Climate change: government initiatives

Mr EIDEH (Western Metropolitan) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. The Brumby Labor government has

demonstrated national leadership to prepare Victoria to manage the challenge of climate change by releasing the Victorian climate change white paper. Can the minister confirm that the government will work with communities and industry to ensure the implementation of these initiatives?

Mr JENNINGS (Minister for Environment and Climate Change) — I am very grateful that Mr Eideh's question was long enough for me to hear the end of it, because I had a bit of difficulty hearing the beginning of it. Given that he was encouraging the Victorian government to continue in its leadership in moving the agenda on climate change forward and given the way he encourages us to work in partnership with the community, industry sectors and all parts of the Victorian economy, I wholeheartedly give him confirmation that that is our intention.

Treasurer: pecuniary interests

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Minister for Financial Services. Given the minister's responsibility for the superannuation funds within Victoria and given the clear conflict of interest he has as a proponent of the superannuation industry, will he now release the names of the superannuation funds in which he has investments as declared in the register of members' interests tabled in Parliament?

The PRESIDENT — Order! I am convinced that my earlier rulings on Mr Dalla-Riva's question and Ms Lovell's question apply, and I do not believe this has anything to do with the minister's administration of that particular portfolio.

Public transport: myki ticketing system

Mr MURPHY (Northern Metropolitan) — My question is to the Minister for Public Transport, Martin Pakula. Can the minister provide the house with information about how myki use has grown since myki went live on metropolitan trams and buses?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Murphy for the question. This one is just for you, Mr O'Donohue.

Mr Atkinson interjected.

Hon. M. P. PAKULA — For your benefit, Mr Atkinson, Mr Murphy asked me to provide an update to the house on the growth and use of myki since myki went live on metropolitan trams and buses. The number of regular commuters using myki on a weekday has roughly doubled since myki went live on trams and buses. Prior to that the average individual unique card usage was somewhere between 25 000 and 30 000 commuters. Since we have gone live on trams and buses that has increased to around 50 000, with 53 085 unique cards being used last Friday. One of the unique cards used today was mine.

Environment: television recycling

Ms PENNICUIK (Southern Metropolitan) — My question is for the Minister for Environment and Climate Change. It concerns an endangered species which paradoxically is becoming more abundant on suburban nature strips. As I have walked around the suburbs in my area I have noticed an abundance of abandoned television sets appearing on nature strips. I am not a tech-head, but I assume it is because digital television is coming in and there will be no further use for these televisions so they are appearing on nature strips all over Melbourne. I wonder what the government is doing about this and whether it has anticipated this problem. I looked at a remedy for unwanted televisions in my area. Bayside City Council runs a recycling scheme for computers and TVs, but it costs up to $50 to take them and leave them there. This is why more and more televisions are out on the nature strips around Melbourne every day. What has the government done in anticipation of that, and how is it going to address this problem as we get closer and closer to digital TV?

Honourable members interjecting.

Mr JENNINGS (Minister for Environment and Climate Change) — It is extraordinary that in a question time which we are getting through relatively quickly the largest amount of time is being spent in interjection or raucous noise rather than ministerial answers.

In relation to what Ms Pennicuik has described as an endangered species — she is talking about cathode-ray tube (CRT) televisions; she is talking about the old box-type televisions that have served us well for many decades and indeed continue to serve me well at home — CRT TVs are not dead yet.

Mr Murphy — A set-top box.

Mr JENNINGS — As my colleague has indicated, a set-top box will remedy many of the shortcomings of a CRT TV and serve people well for quite some time.

In terms of the anticipation element of the member's question and knowing that digital TV was coming, a number of years ago the Victorian government introduced, through Sustainability Victoria and

associated partnering relationships, a program called Byteback. It was primarily designed to drive the collection of computers, but we wanted to use that model as a mechanism by which there would be a collection and redistribution of TVs. In some parts of Victoria that scheme has operated quite successfully. It has been pretty successful in the Barwon region and in Mildura.

We also have had longstanding conversations with the TV industry itself about a whole-of-life resource recovery of televisions. Whilst I explored some years ago with the industry the desirability of having a state-based scheme, clearly a nationally based scheme is something the industry believes is more appropriate. It wants to find a distribution and recovery system that operates on a national scale through national processes of plotting televisions through the distribution network to know where they are and who is responsible for picking them up, returning, recycling or reusing them on a national scale. To that end the industry and I have been supportive of a national approach. About 12 months ago at the national meeting of environment ministers the federal government accepted responsibility for introducing a national scheme, and it is in the process of establishing one.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — I understand the scheme the minister is describing under the Council of Australian Governments (COAG) environment ministers agreement will not come into operation until next year. It will allow consumers to leave e-waste at designated centres at no charge, but regardless of whether or not a set-top box will solve the problem we have had up until now, consumers are obviously voting with their feet and carrying their TV sets out to their nature strips and leaving them there. I want to know: has the government planned for this, and does it have any idea, as we move into the time when the analog system is turned off, how many TV sets will appear on nature strips because there is no incentive for people to pay to dispose of them, and can the COAG agreement be brought forward to this year?

Mr JENNINGS (Minister for Environment and Climate Change) — I think it is very interesting that today Ms Pennicuik is an advocate of people voting with their feet. It is a very interesting concept, given that I have heard a regaling of the turning of the tide of consumer behaviour from her party for many years, and presumably will continue to do so.

In combination with wise choices about getting the maximum value out of your CRT TV — let us do that and keep using them — we need to introduce schemes, and beyond that we need to support one another in resource recovery initiatives, which we have already introduced.

Planning: heritage grants

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Planning, Justin Madden. Following on from the success of the Brumby Labor government's four-year heritage strategy, Victoria's Heritage — Strengthening our Communities, can the minister confirm that Victoria's heritage grants program will continue and provide $1.82 million in 2010–11 to help communities repair, document and interpret heritage places and objects and assist local councils across Victoria to identify and manage heritage at a local level through the funding of heritage studies and advisory services?

Hon. J. M. MADDEN (Minister for Planning) — Yes.

Mr Lenders — I wish to make a personal statement.

The PRESIDENT — Order! In response to the question, I am advised that the normal procedure would be for Minister Lenders to see me in advance with a written explanation of what he wanted to say. I would then make a decision as to whether or not he could proceed.

WATER AMENDMENT (VICTORIAN ENVIRONMENTAL WATER HOLDER) BILL

Committee

Resumed.

The DEPUTY PRESIDENT — Order! I call on Mr Barber to move his amendment 5. I indicate to the committee that I consider it to be a test of his amendments 6 to 8 and 12. Mr Barber may therefore wish to speak on all those proposed amendments in moving his amendment 5.

Mr BARBER (Northern Metropolitan) — I move:

5. Clause 4, page 5, lines 12 to 24, omit all words and expressions on these lines and insert —

"The objectives of the Water Holder are to —

(a) manage the Water Holdings for the purposes of —

(i) maintaining and improving the environmental water reserve in accordance with the environmental water reserve objective; and

(ii) improving the environmental values and health of water ecosystems, including their biodiversity, ecological functioning and water quality; and

(b) assist the Minister in the maintenance and improvement of the environmental water reserve in accordance with the environmental water reserve objective.".

Hon. J. M. Madden interjected.

The DEPUTY PRESIDENT — Order! Mr Madden is making it rather difficult for Mr Barber, who has the Chair's attention at this point.

Mr BARBER — This amendment aims to do a number of things. As you said, Chair, it is a test for a group of amendments. It relates to the objectives of the Victorian Environmental Water Holder and proposes that it manage water holdings for the purposes of maintaining and improving the environmental water reserve in accordance with the environmental water reserve objective; improving the environmental values and health of water ecosystems, including their biodiversity, ecological functioning and water quality; and that it assist the minister in the maintenance and improvement of the environmental water reserve in accordance with the environmental water reserve objective.

As I said in my earlier remarks, this is important because I now seek — and I believe there is general support for this — to deal with not only the environmental water that may be in the hands of the environmental water holder but also the broader environmental water reserve, as delineated in the act. An environmental water reserve always existed in the act, but there has never been any clear scheme for how it is to be treated. I ask the minister whether he can confirm that the environmental water likely to be held by the environmental water holder will equate in a normal year to only about 4 per cent of what the legislation calls the 'environmental water reserve'.

Mr JENNINGS (Minister for Environment and Climate Change) — In the construction of the preamble to his question, Mr Barber put a bit of a twist at the end in terms of his primary concern. I apologise to the committee for not being here when it commenced prior to the lunch break, as I was attending a state funeral; I would not have been out of the chamber if it had not been for a significant event such as that. If I had had the opportunity earlier, I would have outlined to the committee the difficulty that the government has in supporting the amendments that Mr Barber has brought to the committee in the name of, from his perspective, improving and enhancing the applicability, appropriateness and scope of responsibilities of the environmental water holder that is being introduced by the bill. Mr Barber is seeking to expand the responsibility and roles of the environmental water holder in the name of not diminishing it but enhancing it. I understand that; the government understands that.

The government believes the scope of the amendments is not appropriate at this time, given that if they had been envisaged by the government — this is in terms of fitting into the existing structures of the Water Act, the various roles and responsibilities of water holders, water users and allocations of environmental water into the future — and if it were going to scope the act in the way that Mr Barber is intending through the cumulative effect of his amendments, the government might have arrived at a very different construction. By design we might have ended up at a very different place, rather than having, as is now proposed, incremental change to a model that the government has worked its way through. That is the reason we will be calling for a division on these amendments.

With that preamble and that framing, that is how I will respond conceptually to the content of any amendments that get moved in the committee stage. The government believes that the roles and responsibilities have been delineated in the model and the mindset we have adopted, which includes a mindset and a range of responsibilities that include those of the Minister for Water, who is the minister primarily responsible for this act. For me as environment minister there are some opportunities for collaboration and guidance to be provided in terms of interlocking mechanisms that will guarantee environmental outcomes. Whilst the Minister for Water and I and other stakeholders see the value of having an independent water holder, we do not necessarily want the accountability frameworks as they currently exist to fundamentally change in terms of the broader application of this allocation and perhaps confuse the field even more about decision making on the water allocations. That is again the principal approach we will be taking to this amendment.

The answer to the last curly bit of Mr Barber's question, which is something that I understand he mentioned in the second-reading debate, about the volumes of water involved is not as clear as he seeks to make out, because there would be some variation in the availability of water depending on different climate change scenarios and ultimately what might be a divide between us, which is the difference between the total stream flows within the system and additional

entitlement allocations. I do not necessarily want to get hung up on the mechanics of those issues at this time, because the framework that has been developed through the sustainable water strategies deals with those at some length with a degree of prescription as we move from the existing licence and water allocation regime to a new regime. That could become a very complicated set of discussions for us here in the committee.

Mr BARBER (Northern Metropolitan) — The minister was almost inviting me to start having a complicated discussion, even more so than usual, but on this occasion it is me who will be exercising restraint rather than him. The minister did not answer my question; he said it is very complicated. The minister also referred to the existing arrangements for governance and transparency in relation to the environmental water reserve, and I would argue that it does not exist. We do not actually have a mechanism for that. It is extraordinarily difficult to find out how water that fits in the category of the environmental water reserve is being moved around the landscape, let alone find out about the decisions that the Minister for Water might make about that water and how that really changes environmental outcomes.

However, there is probably one simpler thing that the minister could help me with. In years gone by the minister has published a report on environmental watering in Victoria — and I think I questioned the minister on this in an earlier time frame — but I have not been able to find a subsequent report. Can the minister tell me if there was a published report of those environmental waterings in the last financial year?

Mr JENNINGS (Minister for Environment and Climate Change) — I do not know whether in fact Mr Barber is wanting me to comment on the graphic decision as to whether it is a tortoise, a pelican or whatever creature is on the front, but the good news is — and I have just had a conversation with the people from the advisers box — that we are currently concluding putting together the information for the last financial year, which we believe will be available shortly, certainly before the end of the year. The time frame is yet to be confirmed, but we will be reporting as to last financial year imminently.

Mr BARBER (Northern Metropolitan) — That is a pretty good accounting framework by anybody's time line! That is about all I had by way of questions for the minister. I just want to reiterate a number of other things we are putting into the balance when we vote on this block of amendments. This amendment would set up a situation where it would be possible to:

> (g) review any conditions of a bulk entitlement of water proposed to be specified under section 43 dealing with water that is set aside for the environment and make recommendations to the Minister;
>
> (h) annually review that environmental water reserve …

which, if it were to take place, I would not even need to ask the minister — and get a complicated answer. Included in this block is amendment 12, which requires the water holder to include in its annual report a review of the environmental water reserve for the purposes of assisting the minister — that is, the Minister for Water — in the maintenance and improvement of the environmental water reserve in accordance with the objective. It must include the following information: volume or quantity of water in the environmental water reserve, including the volume or quantity of each type of right and entitlement of water that is set aside for the environment; the application and use of water — how that water was used; and any other information the water holder considers might assist the minister in the maintenance of and improvement to the environmental water reserve.

The question I just asked of the minister and the response he gave, to the effect that it is complicated, would become a task for the environmental water holder. It would be its job to put all that information together and explain it to all of us in a way that would be transparent. No doubt there would be a bit of work involved in that. No doubt the minister could argue the department could already do that if it wanted to, but the fact is it does not, and that is what even this conversation has ranged around, because, quite frankly, we do not know what the government is doing with our environmental water.

Mr JENNINGS (Minister for Environment and Climate Change) — I will respond with the spirit of the outcome that Mr Barber wants, as distinct from anything else. The government does not agree with the mechanism as described; it does not agree that it is the appropriate way of scoping the activity. But in terms of being able to provide greater confidence in the availability of information which would enable our community to appreciate these issues, I would be happy to work with my colleague on ways in which we could improve the quality and availability of information for these purposes. I do not believe it is beyond our wit and wherewithal to do that.

Amendment negatived.

The DEPUTY PRESIDENT — Order! I call on Mr Barber to move his amendment 9, which I consider a test for amendments 10 and 11. Mr Barber might like

to bear that in mind when he formally moves amendment 9.

Mr BARBER (Northern Metropolitan) — I move:

9. Clause 4, page 7, line 16, omit "management;" and insert "management.".

This goes to the vexed issue of the qualifications of the environmental water holder itself. The relevant provisions are to be found in proposed section 33DF on page 7 of the bill, which states:

(2) The environment Minister must not recommend a person for appointment under subsection (1) unless that person has knowledge of, or experience in, one or more of the following fields —

(a) environmental management;

(b) sustainable water management;

(c) economics;

(d) public administration.

This would seem to imply that we can fill this environmental water holder body with people who only have experience or knowledge in one field, and that could be either the economics or public administration field. I know what the minister is going to say: 'We're good guys. We're light greens. We're the ones putting this thing forward, so that goes to our credibility'. But there is a multiplicity of other boards out there, and how most people get appointed to most boards is like a mystery of the universe. You can look up those individuals' backgrounds and see that they were former Labor MPs or whatever. That is not uncommon in the water area. I am therefore curious as to why the government has gone halfway with this one. It has actually started to specify the qualifications required for this role. There is a mini job description here for these people, or at least a provision that some degree of experience is required, but then the government mixes and matches in such a way that suggests that environmental experience for the environmental water holder is potentially an optional extra. Can the minister explain why there is this configuration at section 33DF(2)?

Mr JENNINGS (Minister for Environment and Climate Change) — I am not commenting on whether this has anything to do with whether we like the Greens or not, but I can tell Mr Barber that in fact we want to make sure that these are proper skill-based appointments and that appointees have appropriate attributes. We could have actually been extremely prescriptive in this construction, but we have just been generally prescriptive. I do not think that the provisions should necessarily be read down in the way that Mr Barber has indicated they might be read down. I think it is pretty clear that given the nature of the responsibilities, you would expect a successful applicant to be relatively well versed in the range of matters that are appropriate to the appointment.

Mr BARBER (Northern Metropolitan) — As the minister understands, I was not accusing him of any intent. After all, the government is bringing this measure before Parliament, which demonstrates good intent. It is just that we all know about appointments to a whole range of boards, and here we are going halfway towards specifying that these will be merit-based appointments yet seemingly in relation to environmental management not actually doing it.

The debate on that group of amendments we are dealing with here seems to be exhausted just in relation to this one section dealing with appointment to boards. Therefore I have nothing further on that amendment.

Committee divided on amendment:

Ayes, 3

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

Noes, 35

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! As I have indicated to the committee, some of the other amendments circulated by Mr Barber have been tested by earlier votes. I now move to amendment 15 moved by Mr Barber, which I believe can be considered as a test for his amendments 18 and 20. Amendment 15 is the amendment we will now deal with, and I invite Mr Barber to move that amendment and make any remarks in respect of that group of amendments.

Mr BARBER (Northern Metropolitan) — I move:

15. Clause 4, page 15, line 30, omit "or" and insert "and".

As it stands, the bill says that the water holder must make a corporate plan publicly available at the office of the water holder or on its website. The reason I have three amendments in a row — being amendments 15, 18 and 20 — is that this same expression appears in a number of places. I have seen any number of bills since I have been in this place that have required various agencies to publish such and such a document that it formally creates on its website. Obviously making documents also available for inspection at the premises of a body, including a local council and so forth, is nowadays completely standard. What I cannot understand in this case is why there is a series of clauses that say the body must make a corporate plan publicly available at the office of the water holder or on its website. Any number of bills we have dealt with in this place have contained provisions for an agency to do both. I am perturbed about why this has happened and why the government is flagging an intention not to support my amendment on this issue.

Mr JENNINGS (Minister for Environment and Climate Change) — Ultimately the desired outcome is to have the corporate plan publicly available, and this provision provides a guarantee that will occur. Beyond that, the government is not mindful at this point in time to go beyond the scope of the current provision.

Mr BARBER (Northern Metropolitan) — Any number of documents on government websites are of varying degrees of utility. I spend a lot of time burrowing around inside the Department of Sustainability and Environment website trying to find things, and I have made something like 75 FOI requests in the last four years as well, so I know we can always use that option. However, if we are going as far as legislating the availability of a document, why are we saying that the government has two options — that is, either to provide it on paper at a physical premises or to provide it on a website? I thought we had moved into the digital age in relation to websites, and apparently now we can do one or the other, but we are not too sure about this at this point. All I want to do is put the word 'and' in there. I feel embarrassed debating this particular question.

Mr JENNINGS (Minister for Environment and Climate Change) — In the name of resource recovery perhaps Mr Barber should have encouraged me to say 'on the website', but we are not going to do any better today.

Committee divided on amendment:

Ayes, 3

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

Noes, 36

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

Amendment negatived.

Clause agreed to; clauses 5 to 9 agreed to.

Clause 10

Mr BARBER (Northern Metropolitan) — I move:

23. Clause 10, after line 9 insert —

'( ) At the end of section 43 of the **Water Act 1989 insert** —

"(2) Before specifying any conditions of a bulk entitlement under this section, the Minister must consult with the Water Holder in relation to any proposed condition dealing with water that is set aside for the environment.".'.

That picks up the remainder of my amendments, each of which is somewhat different. Therefore if it is in order I will ask the minister about new clauses that I am proposing. I would like to ask the minister about the matter of temporary qualifications to existing water, which would be picked up under my proposed new clause C, requiring that:

(5) If, under this Division, the Minister qualifies any rights to water, being water that is set aside for the environment —

including the environmental water component of any bulk entitlement —

the Water Holder must publish details of that qualification on its website.

My new clause C also requires that:

> (6) Before qualifying any rights to water, being water that is set aside for the environment, the Minister must consult with the Water Holder.

It is entirely possible for the environmental water holder to be preparing a particular set of plans, to be implementing those plans in relation to providing water for a waterway to achieve specific objectives — it could be to achieve a rare form of flood that does not occur very often — and at the same time the Minister for Water could decide for totally separate purposes to do a temporary qualification of water which might, for example, reduce the base flow, in which case it would become much harder for the environmental water holder to deliver the flood because it is doing it off of a smaller base.

In the past the Minister for Climate Change and I, on another Water Act amendment, talked about temporary qualification of rights. A little spurt of information about those temporary qualifications came out at the time. Another one came out on a question on notice that I put to the minister. At the time the minister was expressing some sympathy for making a bit more transparent the process of when and how temporary qualifications occur. There was goodwill at the table during that debate. Could the minister tell me whether anything has arisen out of that discussion between then and now in terms of more transparency around temporary qualifications of water?

Mr JENNINGS (Minister for Environment and Climate Change) — I might need to get confirmation about that. I just wanted to make sure that the material that Mr Barber was hardworking enough and determined enough to obtain was available to other people apart from himself, and I believe that it is. It is on the water registrar's website in the consolidated form in which he actually obtained that information.

Mr BARBER (Northern Metropolitan) — I thank the minister. That is certainly an improvement, because the last time we were here giving the minister more power to temporarily qualify water I opposed that move and I think successfully prevented that from being brought into a bill. The minister has now kept his side of the bargain, which is to be more transparent about how it is being done.

I ask, though, how it is likely to work in practice, where a minister or a person with the delegated powers of the minister decides to make temporary qualifications to water and this new body is busy making up its own plans for what to do with water. Is it intended that the secretariat of the holder is to be based in the Department of Sustainability and Environment, or will they be drawn from staff within DSE? Will it be a separate grouping of staff, or will the government draw upon the same public service planning resources to make both sets of decisions — the environment minister, the water minister and the environmental water holder?

Mr JENNINGS (Minister for Environment and Climate Change) — I think that is a pretty well-informed and fairly insightful question that Mr Barber has asked, because in fact that is a very possible series of permutations for the way in which the office would be constructed and the location, the types of people who might be available to perform this task and the interconnectedness with the decision making and information base in the water portfolio. There has not been a final distillation of those issues in terms of defining them, but in fact some of the methods by which that could be sited and its working relationships could be housed are very similar to the ones that Mr Barber has described. But a final settling has not occurred.

I will anticipate the logic of this questioning, which is whether in a formal sense we accept the recommendations in the amendments. No, we do not, and I foreshadow that. But in relation to the logic that underpins this series of questions about whether the appropriate line of communication and decision making is being taken so that highly developed plans are not developed on a totally inappropriate scenario or a series of assumptions about the availability of water, and whether there are going to be other actions that take place in relation to temporary qualifications, for instance, I believe it is incumbent upon the administration of the portfolio to make sure that there is not a discord in or dislocation of the appropriate information that would lead to the development of those plans out of sync with one another.

Mr BARBER (Northern Metropolitan) — A latter part of this group of amendments, amendment 26, would require that when a water licence is being issued, separate to this issue of qualification or changes to bulk entitlement, before putting conditions on that licence the minister must consult with the water holder in relation to any proposed condition dealing with water that is set aside for the environment — and there would be many ways we could envisage that such a condition may come to exist — and that at the point of issuing the licence, which I think often will be a delegated decision of the minister, if a licence condition to benefit the environment is being put on the licence, there must be consultation with the environmental water holder.

I ask the minister: is it not the case that this would normally be the sort of consultation that would already happen with a catchment management authority, not to mention a larger body such as a water authority, and if so, in relation to the more bureaucratic process of issuing water licences that is going on all the time among a separate group of people, not necessarily people totally focused on the environment but perhaps having a more legalistic approach, how are those people going to be made to think like greenies as well if not through such a mechanism, which I know exists in relation to other bodies?

Mr JENNINGS (Minister for Environment and Climate Change) — This is the second occasion when Mr Barber has tried very hard to rope in those who believe in sustainability and proper environmental management and describe them as greenies, and I resist that that is necessarily the case. Certainly in this Labor administration we are very keen on getting these outcomes right.

It is an interesting thing that the cumulative effect of Mr Barber's amendments has been about the word 'adviser' or consultation and the need to consult, and whether in fact there would be, in a sense, a shift of responsibilities to make the water holder the key government adviser on environmental policy in relation to water. I think that is why the government has been reticent to accept the internal logic of any one of these amendments, including this one, taken in isolation.

To answer Mr Barber's question about whether the Minister for Water should have a form of dialogue with or consideration for those who hold water entitlements and seek to use that water and who may have a condition placed on their licence, the normal effect of that specific issue would be that, yes, there would be an appropriate line of communication and consideration about what the impacts of that licence condition may be. That would be the intention in relation to this without there necessarily being the requirement for this provision.

Mr BARBER (Northern Metropolitan) — I can see I am not going to succeed with this amendment any more than I did with any of the others, but it helps us elucidate the kind of status the government intends, at this point, to give to this body. In rhetorical terms it wants to talk about how important it is and what a great step it is that we have an independent body now, but when you start to probe around what the status of that body is, the answer at least in relation to these other bigger issues, the 96 per cent of the water, if that is what we are talking about, that status is not great. Consulting is a very small administrative step. There are plenty of provisions in the Water Act that say the water minister has to consult with the environment minister, and I have seen that represented in some of the paper trails. It is effectively a one-page brief written by one part of the department, possibly the same part of the department, ferried from one minister to the next, signed off, and that is that step. Even if my amendment was passed, it would not have to be any fancier than that, and yet it is clear that the government, at least at this point, is not envisaging an even more expansive role.

I suppose the nature of being in government is that you like to stick one toe in the water and see that it does not get bitten off, and then move forward from there. I am just one of those young men in a hurry; I will have to stick with it and see how it goes. That is the last aspect of that final amendment that I wish to raise, and I do not need to speak any further on this.

Committee divided on amendment:

Ayes, 3

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

Noes, 36

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

Amendment negatived.

Clause agreed to; clauses 11 to 32 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank members for their contributions to the debate.

Motion agreed to.

Read third time.

FIREARMS AND OTHER ACTS AMENDMENT BILL

Second reading

Debate resumed from 29 July; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased to make a brief contribution to the debate on the Firearms and Other Acts Amendment Bill 2010. The opposition will not be opposing this bill. We see that there are a range of relevant provisions, including those requiring residence in Victoria as a precondition for holding a firearms licence. We understand that a time delay will be allowable by the Chief Commissioner of Police. The bill also provides that health workers are exempt from certain firearms offences when they are in their work environment. For example, an ambulance officer may have to hold a firearm. By definition, that person would be in possession of that firearm, so it makes sense that they be given an exemption in certain circumstances.

The regulation of imitation firearms is being taken out of the Firearms Act and inserted into the Control of Weapons Act. Again, that is not an issue for us. On the provisions relating to firearms without serial numbers, our position is that firearms should have serial numbers. I think more work can be done in the area of interstate target shoots. Some people in different clubs would like to be able to take the number of target shoots across the clubs as well as interstate for the purpose of obtaining a target shooting licence.

On the amendments to the Graffiti Prevention Act, I had a bit of a chuckle when I noted that the graffiti implement must be fully or partially visible to the transport officer immediately before it is seized. I note also that there are not provisions for searching of a person.

We have concerns about a few issues, but given that it is Friday afternoon and given the brevity of time available for the program we want to deal with, we commend the bill to the house.

Ms DARVENIZA (Northern Victoria) — I am very pleased to speak on the Firearms and Other Acts Amendment Bill 2010. The bill amends the Firearms Act 1996 to require an applicant for a firearms licence, whether it is a new or renewed licence, to be a resident of Victoria. It also clarifies that the regulation of that is the responsibility of Victoria Police. The amendments allow a person who resides interstate to apply for and hold a Victorian firearms licence if they need to use a firearm as part of their work duties whilst they are here in Victoria. The Chief Commissioner of Police may grant a licence to a person if they provide evidence that a firearm is required for work purposes in Victoria, the definition of which is being inserted into the Firearms Act by the bill.

The bill removes the regulation of imitation firearms from the Firearms Act and places that under the Control of Weapons Act 1990. The bill amends the Firearms Act in relation to the possession of firearms with defaced or altered serial numbers. Regulation of firearms is a key element of the regulatory system, and Victoria Police maintains a register of firearms that records the serial numbers of firearms along with other information. Section 134C of the Firearms Act currently provides that a person must not possess a firearm on which the serial number has been defaced or altered. Proposed new section 134C, to be inserted by clause 23 of the bill, creates an offence of possessing a firearm that does not have a serial number and builds in safeguards when a person reasonably believes that a firearm has a serial number.

The bill also amends the Firearms Act to confer power on the Chief Commissioner of Police to permit the use and possession of firearms by a person coming from interstate for a period of three months. This is being provided for in light of the experience we had following the horrific Black Saturday bushfires. People will remember that in the aftermath of those fires we had people coming from interstate to work alongside Victorians and assist with wildlife and stock destruction. This power is limited to situations of emergency and natural disaster.

The bill also amends the Firearms Act 1996 and the Control of Weapons Act 1990 to give a limited authorisation to certain health workers who might come across firearms and prohibited weapons during the course of their employment, and my parliamentary colleague talked in detail about that. This provision is intended to facilitate people in the health profession being able to deal with the situation and also being able to hold weapons until they can be appropriately disposed of by the police.

The bill allows for participation in an interstate shooting match to count towards the requirements for

participation that are necessary as part of the requirements for a Victorian handgun licence. This provision was originally sought through the Victorian Firearms Consultative Committee to end a lot of the frustration that exists currently because shooters cannot have interstate participation credited to their participation requirements here in Victoria.

This bill also amends the Graffiti Prevention Act 2007 and the Transport Act 1983 to allow an authorised transport officer to seize graffiti implements from a person when that officer believes the person has used or will use those implements for a graffiti offence. The power of the authorised officer is to use reasonable force when necessary but a number of preconditions must be established before that power may be exercised, including a requirement — and this is very important — that the officer explain the grounds for their belief to the person and request that they hand over their implements. This is designed to give that person the opportunity to voluntarily hand over those articles that they may be using for graffiti. But the provision does not include powers to search a person or their property and the authorised officer can only seize goods that might be used in a graffiti offence when they are visible.

The amendments to the Graffiti Prevention Act also allow local councils to remove graffiti from private property when the owner or occupier of the property gives written consent. Currently they have to give written consent every time a graffiti incident occurs. There are some private premises that lend themselves to graffiti recurring and rather than the proprietor or the occupier having to give authorisation for every reoccurrence, now they will only have to give authorisation once, and they are able to withdraw it whenever they like.

The amendments to schedule 2 of the Liquor Control Reform Act 1998 set out the very specific offences that trigger the powers in relation to the banning notices and the exclusion orders, and a number of offences in the Summary Offences Act 1966 are included in that schedule. The Summary Offences and Control of Weapons Acts Amendment Act 2009 — and we well remember when that bill came to this chamber — introduced new offences including behaving in a disorderly manner. The amendments will add this offence to the existing list in schedule 2 of the Liquor Control Reform Act.

This is a good bill. It fulfils the government's continuing commitment to engage with the firearms community through our Victorian Firearms Consultative Committee and to ensure that Victoria Police, as the regulator, is properly able to discharge its duties and responsibilities. The graffiti amendments represent another aspect of our government's continued drive to confront and reduce the incidence of graffiti and the damage it causes to both public and private property. Adding the offence of disorderly conduct to the offences that can trigger banning notices and exclusion orders is a further way this government is demonstrating its commitment to addressing violence and disorderly conduct in our entertainment precincts.

There has been consultation around this bill, as with all the bills we bring before the Parliament. We consulted on firearms with the Victorian Firearms Consultative Committee and Victoria Police, and in relation to the graffiti amendments we had discussions and consultation again with Victoria Police and also the Department of Transport and the Metro Trains assets protection unit. This is a good bill. It deserves the support of everybody in this chamber, and I wish it a speedy passage.

Ms PENNICUIK (Southern Metropolitan) — The Firearms and Other Acts Amendment Bill 2010 is like a lot of amending bills that come before us in this Parliament in that it does not just deal with firearms. An ordinary person who took the title at face value and expected this bill to just be about firearms would be mistaken. It deals with three main areas: firearms in parts 2 and 3, graffiti in part 4 and the extension of banning notices and exclusion orders under the Summary Offences Act in part 5. However, it is fair and correct to say that the majority of the bill is about firearms.

There are some reasonable measures in the bill regarding firearms. The first is that under clause 1 and clauses 20 and 25 the bill removes imitation firearms from the Firearms Act and puts them in the Control of Weapons Act where they will be treated as prohibited weapons in the same class as flick-knives, daggers and swords. They will be subject to the same regime whereby if somebody wants to carry one, they will need to apply for a permit or need to see whether there is an exemption in the *Government Gazette*. There are also transitional provisionals for people who have licences for imitation weapons under the Firearms Act. That is probably a good move given that an imitation firearm is in fact not a firearm.

Under clause 4 it will be an offence to possess a firearm without a serial number. Clause 23 inserts new section 134C into the Firearms Act. Basically if the police come across a firearm that looks like it does not have a serial number or the serial number has been defaced, which in itself is an offence, they can

assume — as long as they have the evidence to prove it — that the firearm is unregistered. This will be reversed if the defence has any evidence to the contrary. It is a little bit unclear as to how that is going to work in practice and is an issue on which I would like to question the minister when we go to the committee stage of this bill. Therefore I foreshadow that even though I have not prepared any amendments to the bill I have some questions, and when we have completed the second-reading debate I would request the opportunity to question the minister in the committee stage on not only this clause but several clauses in the bill. I wish to seek clarification as to how they will work in practice and the rationale behind some of them.

Most of the other amendments in the bill go towards making it faster and easier for persons to obtain a licence to possess and use a handgun and/or a longarm firearm. It is interesting that the *Herald Sun* carried a report that there are almost 600 000 guns in the hands of Victorians, with more licences issued every year. The article says that in the past four years 25 000 new gun licences have been issued. The most popular of those firearms are shotguns and air rifles, with 406 346 in Victoria, which is an increase of 15 000 since 2004. There are now 587 535 gun licences in Victoria compared with 563 175 issued in 2004, which is a rise of 4.3 per cent.

I think most people in the community — except what Ms Darveniza and the minister refer to as the 'firearms community' — would like to see gun ownership declining, not increasing; and certainly that has been the aim of the gun control laws that were brought in across Australia post-1996. It is therefore disturbing and disappointing to see that gun ownership and the number of gun licences is increasing.

We should be using all measures we can to reduce gun ownership and to make it more difficult to obtain a gun licence. But unfortunately the first part of this bill will make it not only easier but faster than is currently the case for a person to obtain a gun licence, and there are several measures in the bill which I will talk about in a moment that go to that area.

The *Herald Sun* article went on to say that Victoria Police statistics have shown us that 999 out of every 1000 people who sit a safety test get a gun pass, and that is a concern. Instead of the Victorian government trying to reduce the number of guns in the community this bill is about making it easier for persons who want to obtain a gun licence to do so.

Being a resident in Victoria is a prerequisite for gun ownership — except when it is not a precondition for ownership. By that I mean that currently interstate licence-holders can carry guns in Victoria, and if an interstate licence-holder tells the Chief Commissioner of Police that they are intending to move permanently to Victoria, they are allowed to carry the gun for a probationary period of three months or seven days, depending on the type of gun licence they have. For the seven-day version, if they apply within seven days the probation continues until the application is decided under section 187 of the Firearms Act.

Temporary visitors also have rights under section 185 of the Firearms Act. Clause 11 of this bill adds to that by providing that people who are not ordinarily resident in Victoria may now also apply for a Victorian licence if the Chief Commissioner of Police is satisfied that the applicant requires the licence for work purposes in Victoria. 'Work purposes' is defined in clause 3 of the bill to mean:

> … the applicant or the holder of the licence, as the case may be —
>
> (a) is required under a contract of employment or a contract for services to hold a Victorian firearm licence …

That is probably fairly easy for the chief commissioner to ascertain. The alternative is:

> (b) in the normal course of conducting a business is required to hold a Victorian firearm licence …

That is a very broad definition. I believe in many cases it would be difficult for the chief commissioner to ascertain that. The minister acknowledged as much in his second-reading speech, but he said that despite its broad terms, the discretion of the chief commissioner in assessing an application for a licence will ensure that only genuine applications are approved. In regard to this it is our view there is too much reliance on the discretion of the chief commissioner.

Under clause 11 a new section would be inserted into the principal act following section 32(1), which states:

> If a person who is not ordinarily resident in Victoria applies for a longarm or handgun licence on the basis that the licence is required for work purposes in Victoria, the Chief Commissioner may require the person to provide evidence that the work purposes are genuine and that they require the person to hold a Victorian firearm licence …

Under this bill the chief commissioner is not required to obtain proof that the work purposes are genuine. The chief commissioner may simply require that evidence be produced. If we are trying in a genuine way to make sure that people who should not be holding gun licences do not hold them, and if we are trying to reduce the level of gun ownership in the community, this

definitely should be a stronger provision under this bill. I cannot understand why it is not a stronger provision, unless the reason is the desire of the Minister for Police and Emergency Services to satisfy the firearms community, as he calls it. There are issues as to how the chief commissioner can ever be satisfied regarding the licences being genuinely required for work purposes without a requirement that a person provide evidence that such is the case.

Under clause 16 the chief commissioner may only cancel a licence for up to 12 months after which time the person may reapply for a licence. Under clause 16 the person may also have a review of the decision to cancel the licence. If the chief commissioner on the evidence before him or her were of the view that a person should not hold a licence and should have their licence revoked, the chief commissioner can only prevent a person from holding a licence for up to 12 months at which time the person can reapply for a licence. There should be much more discretion for the chief commissioner in this case, or an ability under the bill for them to cancel a licence for a longer period than 12 months.

Clause 5 replaces section 16(8) of the Firearms Act, which relates to conditions that apply to handgun licences. Apparently handgun target shooters want their participation in interstate competitions to count towards their licence requirements. To prove their bona fides as genuine target shooters in order to obtain target shooting licences, they have to participate in a certain number of target shooting competitions. Currently those competitions must be held in the state of Victoria. If shooters participate in such a match interstate, it is not counted towards the participation requirement for their licence application. Under clause 5 of the bill this will be varied to make it easier for target shooters to obtain a licence.

These are not just technical changes, as the minister has described them in the second-reading speech; they are substantive changes. They actually change the requirements and the conditions for obtaining a licence. That is not a technical amendment to the act.

The Greens, together with many in the community, are committed to a reduction in the number of guns in the community. In fact it is our policy to progress gun law reform, including the prohibition of the possession and use of automatic handguns in the community, which are included in the handgun definition in the Firearms Act.

It is interesting that in her contribution Ms Darveniza mentioned the government's Victorian Firearms Consultative Committee several times and the fact that the government had consulted with that committee — as if this committee was going to provide balanced advice. It is worth alerting the community to the composition of that committee — that is the Australian Security Industry Association Ltd, Field and Game Australia, Firearm Traders Association of Victoria, Police Association, Shooting Sports Safety Advancement Foundation, Shooting Sports Council of Victoria, Sporting Shooters Association of Australia, Target Rifle Victoria, Victorian Amateur Pistol Association, Victorian Clay Target Association and the Victorian Farmers Federation. All 12 of those organisations are obviously members of the firearms community. The other members of the committee are the School of Social Sciences at La Trobe University, and the Law Institute of Victoria. I presume those two members of the consultative committee are there to provide some sort of 'balance'.

What should the government do in regard to the regulation of firearms? It currently has a consultative committee that is made up almost entirely of firearms clubs and organisations. If the government wanted to bring some balance to the committee, why not include, for example, Gun Control Australia? That would provide some balance in terms of the views of the organisations I just mentioned, which are all organisations advocating an increase in gun ownership and a relaxation of the requirements for obtaining a gun licence. I am not reassured by Ms Darveniza's several mentions of the consultative committee as a committee that should provide the best advice to government on this particular issue.

Parts 1 and 2 of the bill, which will allow applicants for gun licences to have their participation in interstate competitions count for the purposes of the participation requirements to obtain a licence and for the chief commissioner to revoke licences for only a short period of time are not helping to reduce gun ownership in Victoria.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING PRESIDENT (Mr Elasmar) — Order! The question is:

That the house do now adjourn.

University of Melbourne: faculty of the VCA and music

Mrs COOTE (Southern Metropolitan) — My adjournment matter this afternoon is for the Minister for

the Arts, Peter Batchelor. It is to do with the VCA (Victorian College of the Arts).

Mr Lenders — I thought you meant the arts function you missed this morning.

Mrs COOTE — No. I am sorry about the arts function that I missed this morning, Treasurer, but I would be very pleased to have an invitation another time.

Mr Lenders — I hope to have the opportunity to invite you next year.

Mrs COOTE — I do hope so. On the VCA, what a difference an election makes. We have two elections this year, federal and state, as we all are very mindful. I would suggest that we are now focusing on the VCA like we have never focused on it before. In this past week there have been two articles in the *Age*, both written by Karl Quinn, dealing with the promises that have been made by both state and federal ALP candidates and by the minister himself. This issue has been brought to mind by the fact that the ALP will be fighting for its life in the seat of Melbourne against the Greens. It would seem the ALP is trotting out its candidate with all sorts of great promises to try to win back some of those arts votes that it has previously discarded.

In the first article, on 9 August, Karl Quinn talks about the issues and about the VCA itself. As members know, we debated in this chamber the bill that gave an additional role in relation to the VCA to Melbourne University. I can recall being very concerned at the time about the fact that the excellent programs at the VCA, particularly the technical ones like costume design, lighting, stage set design and a whole range of other excellent courses, could be bypassed for the academic approach that Melbourne University wants to take. Sadly, this turned out to be true, and we saw an extraordinary demonstration outside this place over this issue.

In the article the spokesman for the VCA, Scott Dawkins, greeted the announcements that were made by the federal candidate as very good news, but he was quoted as asking, 'Will the money be quarantined for the VCA's use?'. I would like to reiterate that concern as my request this afternoon. I ask the minister to ensure that all moneys that are going to be directed towards the VCA do in fact go to the programs of excellence that we have seen from the VCA, that they are hypothecated for the VCA and that they are not swallowed up in general revenue for Melbourne University, which has been the case so far.

Country Fire Authority: funding

Mr VOGELS (Western Victoria) — I raise an issue for the Minister for Police and Emergency Services, Bob Cameron. I seek reassurance that there will be no funding cuts that will affect the volunteer training or firefighting operations of the Country Fire Authority. Volunteer Fire Brigades Victoria (VFBV) is concerned that the CFA management, under pressure from the paid members of the CFA, may make financial cuts to existing services so they can pay for the unnecessary replacement of volunteers with paid firefighters.

The VFBV fears that many of these extra paid positions will only be there as part of an industrial agreement with the paid firefighters union. VFBV is concerned that resources for recruiting, training and equipping volunteers will be redirected to employing hundreds of new paid staff to do the work existing volunteers already do.

The Premier recently stated that he intends to build CFA volunteer numbers and capabilities to add to the 60 000 people who already make up more than 90 per cent of Victoria's firefighting capacity. CFA management should be acting in accordance with the Premier's intentions and making proactive efforts to maintain and strengthen the volunteer resource.

The final report of the 2009 Victorian Bushfires Royal Commission made it clear that it is CFA volunteers who provide the state with the surge capacity of thousands of trained firefighters to deal with major incidents, including bushfires. The action I seek from the minister is that he ensure that there are no cuts to CFA funding to pay for the replacement of volunteers with paid firefighters.

Violet Town Tennis Club: facilities funding

Ms BROAD (Northern Victoria) — I wish to raise an adjournment matter for the attention of the Minister for Sport, Recreation and Youth Affairs, James Merlino. The action I seek from the minister is that he consider favourably an application from the Strathbogie Shire Council for funding under the Brumby government's Community Facilities Fund for a building community infrastructure minor facilities grant to assist the Violet Town Tennis Club with the resurfacing of tennis courts at the Violet Town Recreation Reserve.

Last week I was very pleased to visit Violet Town and meet with representatives of the tennis club at the recreation reserve. I wish to thank Robyn and Val Machin for taking the time to show me the club's four

tennis courts, including the two courts that urgently require resurfacing because the current surface is now unsafe after many years of use.

Tennis continues to be an important local focus for sport, recreation and the social life of many Violet Town and local rural families and schoolchildren, and the tennis club seeks to improve the infrastructure and utilisation of the facilities for the benefit of the whole community.

The Violet Town tennis courts are public courts for which the Strathbogie Shire Council is the committee of management, and they are used by the public and the club. The club takes on the role of operating and maintaining the courts and meets the associated costs. The club is committed to a partnership with the shire; however, the club is not in a position to meet major infrastructure costs of court renewal.

The application to resurface two courts with a synthetic grass playing surface that does not require any water is widely supported by the community. A business plan has been thoroughly developed to support the project, which is called 'For the next generation', and it is expected that the replacement synthetic surface will be an investment that will serve the recreational needs of the community for 10 to 12 years.

Should the project be successful in securing funding from the Community Facilities Fund, the club is ready to proceed at the earliest opportunity with in-kind support as well as funding that the club and the shire have committed to the project.

Information and communications technology: privacy regulation

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Treasurer in his capacity as the Minister for Information and Communication Technology. It is in relation to a matter that I think would be disturbing to anyone who is aware of it, and it was certainly touched on in the Victorian Law Reform Commission's report on surveillance in public places. In particular, paragraph 2.89 of that report says:

> One Sydney-based company offers 'mobile phone monitoring software' that can be downloaded onto a mobile phone without notification to the owner and can covertly copy, record and send to another account all communications made to and from that phone.

That is a Sydney-based company, but through using Google I understand that there are similar companies with Melbourne-based offices and that there is software that can be downloaded from the internet.

A number of areas in my electorate have very high levels of domestic violence, and I understand that the software might be used by some in order to track their spouse, former spouse, wife, girlfriend or partner. Equally, though, there is reference to these types of surveillance devices being used increasingly by government, private organisations and individuals who appear to be extensive users of public place surveillance.

I urge the minister to use whatever means he has, whether it is advocacy and collaboration with his federal colleagues or taking any other action to liaise with other ministers who have a role, in order to address this issue to make sure that people are not being subjected to surveillance by illegal means or ways that have not yet been regulated but need to be so.

I have had personal reason to be concerned about my life being subjected to surveillance, including my office, and reference was made in the Assembly by Mr Don Nardella to that being so, if you read the subtext. In addition to that there is documented evidence of some Liberal Party candidates being followed and of my office being subjected to surveillance. I hope that the minister in his official capacity and as a member of the Labor Party can — —

Mr Lenders — On a point of order, Acting President, the adjournment debate is about asking a minister to respond to an issue raised regarding their portfolio. Mrs Peulich has just asked me to do something in my capacity as a member of the Labor Party. I would ask her to refer to the rules for the adjournment. I will respond to this adjournment matter even though it does not relate to my portfolio, because she has made a link to information and communications technology, and I accept that, but asking me to do something as a member of the Labor Party is way above and beyond anything allowed in the adjournment debate.

Mrs PEULICH — On the point of order, Acting President, I did make it quite clear in my opening remarks that I raised this with the minister in his capacity of responsibility for information and communications technology. However, at the same time I think there needs to be a bipartisan commitment to doing whatever is necessary to ensure that people are not subjected to surveillance, whether it is in their private capacity, which is clearly illegal, or in public spaces, where it may be inappropriate. Clearly this is an area referred to in the law reform commission's report that needs to be regulated.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! What is the action that Mrs Peulich seeks?

Mrs PEULICH — The action that I urge the minister to take is to do whatever he can, whether it is through his own department or in collaboration with other responsible ministers or the federal government, to regulate clearly the monitoring of mobile telephones and the ability to hijack communication messages, an area which is not regulated. As a key minister whose portfolio has some relevance to this practice, which has been reported on by the law reform commission, he needs to devote his mind to it.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! In relation to the point of order raised by Mr Lenders, the explanation given by Mrs Peulich was sufficient and her question is within the portfolio of the minister.

Mrs PEULICH — I think I have explained that I am simply urging the minister to have a look at the report and address those concerns which would have a significant bearing on millions in our community.

Public transport: myki ticketing system

Mr P. DAVIS (Eastern Victoria) — I am delighted to direct a matter to the attention of the Minister for Public Transport, and that is that the government should respond with some urgency to clarify confusion over the belated introduction of the myki transport ticketing system in country areas. This is an issue that affects people using V/Line train services as well as the networks of local bus services in areas such as East Gippsland, where the East Gippsland and Wellington councils are running the Let's GET Connected program. With the introduction of myki across the metropolitan network we still have only a vague indication that myki may extend to the full V/Line network around election time. On the Gippsland line it works only as far as Pakenham, but nothing is certain, and this is all part of the $1.35 billion question surrounding the myki debacle.

Early this year the house supported a motion calling for an explanation of the government's plans to fix the flawed myki system and ensure its smooth operation. More recently, evidence from public servants to a parliamentary committee inquiry left it open to doubt as to whether myki would be extended to town and regional bus services in country areas. The doubts remain about how myki will work on the country V/Line services and whether people using buses and trains will need to buy two different types of tickets. I have been receiving inquiries on these issues from people in East Gippsland who want to know how the introduction of myki will affect their access to public transport. They want an explanation as to how it will affect those making advance bookings and reserving seats on trains — a common practice for train travellers from Sale and Bairnsdale.

There is also the matter of whether people who may use the train infrequently will need to buy and maintain a myki card or if there will be a day-pass type of arrangement such as applies with CityLink. The government has made no attempt to address these questions which are rightly giving rise to concern among country users of public transport. I ask that the minister act to clarify the introduction and operation of myki on transport services beyond its current limit at the boundary of the metropolitan zone 2, as well as future plans for ticketing on country town and regional buses.

Dental services: waiting lists

Mr D. DAVIS (Southern Metropolitan) — My matter is for the attention of the Minister for Health, and it concerns dental care in Victoria and the government's failure to deal with the long waits for dental treatment — general acute dental treatment and also dentures — at a number of clinics across the state. Concerningly, the state government has not published data for a long time. For a long period it was provided quarterly, and then it went to annual data from the government. The last data was provided in June 2009; that is a very long time ago. Clearly this government is embarrassed by it; otherwise it would publish it monthly, quarterly or in some other way.

What we know is that the most recently published data showed enormous waiting times. For example, in general dental care the waiting times were: 41 months at Rosebud, 38 months at Southern Health, 35 months at Dianella Community Health Service, 31 months at Sunbury Community Health Centre and 30 months at Knox Community Health Service. Many of these are very long periods. At ISIS Primary Care in Wyndham it was 23 months, and it was 23 months at ISIS Primary Care at Brimbank, 22 months at Ranges Community Health Service, 21 months at Whitehorse Community Health Service and 20 months at North Richmond Community Health. These are very long waits.

There were also long waits for country dental services, with 52 months at Ballarat Health Services, 38 months at Wangaratta, 35 months at Daylesford, 32 months at Western District Health Service, 32 months at Corio, 30 months at Barwon Health, 30 months at Central

Gippsland Health Service, 30 months at West Wimmera Health Service, 26 months at Bass Coast Regional Health, 26 months at Wimmera, 25 months at Maryborough and 25 months at Bellarine. These are very long waits, and indeed the waiting time was 23 months at Barwon Health in Newcomb.

If you look at denture care, the figures for June 2009 also showed long waiting times, with 41 months at Wangaratta, 40 months at Creswick, 36 months at Daylesford, 33 months at Goulburn Valley Health and 32 months at Latrobe Community Health Service. At Central Gippsland Health Service it was 25 months and at Bendigo Health Care Group it was 25 months. It was 24 months at Bass Coast Regional Health, 22 months at Barwon Health at Belmont, 22 months at Colac and 20 months at Ballarat Health Services. These are very long waits.

Again, in the city the wait for dentures is equally concerning in some areas, with 41 months at ISIS Primary Care at Brimbank, 36 months at ISIS Primary Care in Wyndham, 34 months at the Ranges Community Health, 30 months at Doutta Galla in Niddrie, 29 months at Dianella Community Health Service, 29 months at MonashLink Community Health Service, 29 months at Southern Health, 26 months at Whitehorse Community Health Service and 24 months at Knox Community Health Service. These are very long periods of time.

It is time the minister started to deal with this. We have had 11 years of a tired and lazy government that is not dealing with these matters, and the figures should be published. I call on the minister to release the current figures quickly.

Wind farms: health effects

Mr KAVANAGH (Western Victoria) — My adjournment matter is for the Minister for Health, the Honourable Daniel Andrews, and it relates to the effects of wind turbines. Yesterday the government announced a new and extremely large wind turbine development in this state. As a member for Western Victoria Region it seems to me that perhaps the government does not understand the extent of hostility and concern about wind turbines in western Victoria or the noise nuisance and even the degradation of the landscape which comes from dotting the prettiest parts of our state with gigantic pieces of industrial equipment.

The government has already done some perfunctory studies of the health effects of turbines and has concluded that they do not show clear health risks. This is a conclusion inconsistent with some published studies. The action I seek is for the minister to commit to reviewing new, just-published studies of the health effects of wind turbines, some of which suggest that there are good reasons to be concerned.

Responses

Mr LENDERS (Treasurer) — There were seven adjournment items: one addressed to me and six others. I will refer the six to other ministers for their prompt attention. There is also a written response to an adjournment debate matter raised by Ms Darveniza on 23 June.

The seventh item is one that Mrs Peulich raised with me as Minister for Information and Communication Technology. It ranged over a couple of issues which are essentially matters of commonwealth law. They are commonwealth law issues, so they are matters for a federal not a state minister. In addition, Mrs Peulich actually asked for a bipartisan response, which coming from her is a bit rich, because she uses the word as a weapon; she is never bipartisan. I certainly regard these as federal issues and ones I regard as discharged.

Mr D. Davis — On a point of order, Acting President, the adjournment debate is not an opportunity to attack members in that way.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I believe the Treasurer was not attacking the other side; he was explaining — —

Honourable members interjecting.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Mrs Peulich! The Treasurer, to continue.

Mr LENDERS (Treasurer) — I have finished, Acting President.

The ACTING PRESIDENT (**Mr Elasmar**) — The house now stands adjourned.

House adjourned 4.20 p.m. until Tuesday, 31 August.