PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 14 September 2010

(Extract from book 14)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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Legislative Council committees

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

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

Select Committee on 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 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 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

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Leader of The Nationals:
Mr PETER HALL

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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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TUESDAY, 14 SEPTEMBER 2010

Tuesday, 14 September 2010

The PRESIDENT (Hon. R. F. Smith) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Messages read advising royal assent to:

7 September

Firearms and Other Acts Amendment Act
Personal Safety Intervention Orders Act

14 September

Climate Change Act
Energy and Resources Legislation Amendment Act
Gambling Regulation Amendment (Licensing) Act
Liquor Control Reform Amendment Act
Local Government and Planning Legislation Amendment Act
Mineral Resources Amendment (Sustainable Development) Act
Plant Biosecurity Act
Private Security Amendment Act.

QUESTIONS WITHOUT NOTICE

Public transport: myki ticketing system

Mr D. DAVIS (Southern Metropolitan) — My question is to the Minister for Public Transport. Given today's revelations that myki card holders will not receive infringement notices for failing to validate their tickets and that Metcard holders will receive infringement notices for failing to have a valid ticket, does the minister accept that in practice there will be a rush for myki cards given that they are in effect free passes?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Davis for his question. Unusually for Mr Davis, he has misinterpreted and misquoted the reports in the paper. Let me say when I say 'unusually' I am being uncommonly facetious.

There always needs to be a trade-off between revenue maximisation and fairness. I have no doubt, and I am sure that members on this side of the chamber have no doubt, that had we been fining people with myki cards from day one the opposition would have been screaming blue murder. It would have been saying that the government was not being fair to people, that the government was not providing people with an opportunity to understand the system, that the government was not providing people with education, and the opposition would have been screaming for leniency in the early days of it going live on trams and buses.

In those circumstances let me say the government is unapologetic for the fact that we are providing people in the first instance with education and an opportunity to understand the system and to understand it properly before authorised officers start more rigid enforcement in regard to myki. The fact is that all authorised officers have been issued with hand-held readers. Those hand-held readers are being used by authorised officers. If the myki card as checked has not been validated for travel, customers are being issued with a how-to-use-myki-correctly card. It is part of the education process.

I have said all along that during the transition to myki, authorised officers will be taking a common-sense approach to checking tickets, but neither today's reports nor anything I have said should be taken as an indication that that approach will last indefinitely — in fact it will not — but what we will not be doing is springing on customers a change in that approach. When the intention is to move to a more strenuous enforcement model we will be saying so in advance, and we will be ensuring that passengers who have had a chance to get it right, to use the system properly, are then made very aware of the fact that a more rigid enforcement model is about to commence.

Even now public transport passengers who are found to be actively fare evading are being provided with ticket infringement notices, and that situation will continue. As I have indicated all along, we will step this up and we will step it up gradually, but we will be providing passengers — as we are — with an opportunity to understand the system properly. We are not going to be punishing genuine error by passengers.

Let me say in terms of the use of myki that I have indicated in this chamber and elsewhere that the number of discrete cards held by people using myki every day has increased from 25 000 to 30 000 before we went live on tram and bus to more than 70 000 at the moment. How do we know that? Because that is the number of cards that are being validated — that is, people touching on and paying for their journey.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — I note that the minister has in effect confirmed the different treatment for the two classes. Therefore I ask: do any issues of fairness between the two distinct classes of ticket arise under the Charter of Human Rights and Responsibilities?

Hon. M. P. PAKULA (Minister for Public Transport) — As was indicated in today's paper, the records held by the Department of Transport indicate that compliance amongst myki users is higher than compliance amongst Metcard users. For Mr Davis to be suggesting that somehow people with myki cards are not validating their tickets and that people with Metcards are — in other words, that people with mykis are not paying — is fundamentally wrong. As I have indicated, every week we are seeing an increase in the number of validations by discrete users of myki cards. These people who are validating, who are touching on, are paying for their journeys.

If Mr Davis is suggesting the government should have adopted a model whereby we started rigidly enforcing revenue protection rather than educating people and providing people with an opportunity to use myki correctly from day one, then I repeat the comment I made in my answer to the substantive question: the opposition would have been screaming blue murder had we done that.

Floods: impact

Ms PULFORD (Western Victoria) — My question is to the Treasurer, John Lenders. Can the Treasurer update the house as to the impact of the flooding in regional Victoria last week?

Mr LENDERS (Treasurer) — I thank Ms Pulford for her interest in the effects on regional Victoria of the record rain we have had across a lot of the state, particularly about 10 days ago. In parts of the state, the epicentre having been Mount Buffalo, we had more than 200 millimetres of rain in 24 hours, or more than 8 inches by the old measure. We had abundant rain across the entire state of Victoria from east to west over that weekend and in the days since.

Ms Pulford asked about the impact of that. There has been a very negative impact on a number of Victorians, and the Premier has asked me to chair a flood task force to work with those communities. Ms Pulford's more general question was about the impact on Victoria. I think it is fair to say that for most of regional Victoria there is unbelievable excitement at the rain that has fallen on our state. In some areas we are seeing water flowing into reservoirs and other catchments at a magnitude not seen for a long time. Whether it be Dartmouth, whether it be Eildon, whether it be Hume, whether it be the Waranga Basin, those larger water bodies that regional communities rely on for reliable irrigation flows are in most cases more than half full and rising.

In terms of town water supplies, we have seen the catchments filled to levels they have not been at in many cases for up to 15 years. What we are seeing in Victoria now is a split, in a sense. A small number of Victorians have been very adversely affected by this, but the regional economy of Victoria has seen opportunities it has not seen for a long time.

As part of the flood task force's activities we have been to a number of those communities to try to work with them on how to deal with the adverse effects. But in response to Ms Pulford, we are seeing opportunities in terms of agriculture that we have not seen. Certainly during my 11 years in this Parliament we have not seen this winter crop potential and storage potential, and some of this has come at a time when the temperatures have been reasonably warm as well.

The net effect for Victoria is mixed. Some communities have been adversely affected, but for much of the state the dams are filling, the reservoirs are filling, the farm dams are filling, the tanks are filling, the aquifers are filling and there is moisture in the soil, which is providing extraordinary opportunities, including recreational opportunities, to Victorians that they have not had for a long time.

Anyone who wants to get a visual image of what all this does just needs to go to Lake Eildon and go over the bridge at Bonnie Doon — a mystical place to many — and they will see the water of Lake Eildon rising. This creates opportunities for agriculture, opportunities for recreation and opportunities for environmental flows that have not been there for a long, long time.

Public transport: myki ticketing system

Mr KOCH (Western Victoria) — My question without notice is for the Minister for Public Transport, and I ask: how many individual warnings will be given to myki card holders who have cards that have not been validated before they are issued with an infringement notice?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Koch for the question. It is interesting that the question is about warnings to

individuals. Let me say there are certain individuals who do the wrong thing consistently, some of whom receive no warnings — for instance, as I have indicated, there are certain individuals who travel on the public transport system without having any kind of ticket at all. Those people can expect no leniency. There are other individuals who are in possession of, for instance, a concession myki card who, when asked to show concession proof of identity, have none. Again, those people are provided with no leniency at all.

There will be a point in time at which warnings are issued and are appropriate to be issued, but there will be a point in time subsequent to that when full enforcement will apply. In that period it will not be appropriate for people to be issued with warnings prior to being fined. But as I have indicated in the answer to Mr Davis's question, when we move through those stages we will provide the public with information about that so that people are not caught by surprise.

Supplementary question

Mr KOCH (Western Victoria) — I thank the minister for his response. Has he or his office given directions — either formally or informally — that myki card holders are not to be fined or penalised until after the upcoming November state election?

Hon. M. P. PAKULA (Minister for Public Transport) — No.

Floods: response

Ms BROAD (Northern Victoria) — My question is to the Treasurer, John Lenders. Can the Treasurer inform the house of what actions the Brumby Labor government is taking to deal with the negative consequences of the floods, including in my region of northern Victoria?

Mr LENDERS (Treasurer) — I thank Ms Broad for her question, which is a great segue from the question from Ms Pulford. We have talked of the great economic opportunities that have come from more water, but Ms Broad's question goes right to those communities on the edges, where some families and businesses have been truly affected by this.

The Premier, as I said earlier, asked me to lead a task force of eight ministers. That task force has been going around communities in Victoria and engaging them, firstly on what has happened in their communities and then on ways to go forward. I have had the privilege — and it is a privilege — of going to Kialla and a number of other communities around Shepparton in Ms Broad's electorate to look at the flood damage. I have been to Euroa, I have been to Charlton and I have been to Sale. I have been to a range of areas, and a number of my ministerial colleagues have been far more comprehensive, so we have covered most of the communities where the floods have been.

What we have seen around Shepparton is that while not a lot of houses were inundated, a lot of farming land was. At Kialla, for example, you will see pear groves where the trunks of the trees are half under water. You will see canola crops which do not deal all that well with having wet feet for a long period of time. You will see a range of legumes. You will see different crops responding differently. When you go to a place like Charlton, where the Avoca River has broken its banks, you see there are 30 or 40 houses where people have had to evacuate and go to relief centres because their homes have water in them.

You might go to other places like Sale in Gippsland where, while rivers have generally not broken their banks, the perception about all those communities now is that they are not good places to visit for tourism purposes. These communities are all coming to terms with the extraordinary coverage there has been of the floods. Some of it dealt with real, personal issues for businesses and families. But in a broader sense it has frightened a lot of Melbourne and interstate people away from going into those communities to support them through tourism, which is the best thing you can do to keep businesses going, particularly as we start the school holiday period. Bookings are being cancelled along the Murray River, in the Western District and throughout Gippsland because people feel it is not safe to be there, so there are some challenges going forward there.

In response to Ms Broad, in the immediate sense the State Emergency Service has been fantastic. VICSES has had volunteers out there by the hundreds who have given up their time, as Victorians do so well in times of adversity, to assist their neighbours and others in their communities. We have had more than 5000 requests for assistance from the SES, we have had about 125 units activated and out and about, and over 1300 volunteers in these units have responded and are going out and assisting communities.

When I was in Charlton with my colleague the Minister for Rural and Regional Development, Jacinta Allan, we saw extraordinary work from some of the SES volunteers who had been at their posts for hour upon hour — which the Occupational Health and Safety Act would not permit — and the thing that drove them was what they could do to assist their communities in working through things. I certainly thank those SES

volunteers. I am sure that a sentiment that everybody in this chamber accepts is that they, like our Country Fire Authority volunteers during times of bushfires, do us all proud as Victorians.

More broadly in response to Ms Broad's question, we are activating with municipalities the normal national disaster relief assistance, so when critical infrastructure in municipalities is destroyed — roads and bridges being the obvious ones — we are working with those municipalities. I have now met with a lot of councils on this particular issue, and I pay tribute to my colleague Philip Davis in this house, who worked with the Wellington shire and my colleague Mr Viney last year in seeking to find a quicker way of — —

Mr P. Davis interjected.

Mr LENDERS — Yes, Mr Davis, I am praising you in the house, unusual as it may sound. There was collaboration across the chamber with Wellington shire where we found a way to cut three weeks out of the response time between when a council put in an application for financial assistance after a disaster and when the assistance was received.

All these things are happening. We are working on them, and we are also sitting down and working very closely to ensure that the normal Department of Human Services support for individuals is being activated. We have alerted the commonwealth, and the commonwealth Attorney-General has been responsive to the status of this. But for us the significant thing is that we need to be engaging these communities that have been left behind, that are not the beneficiaries of the water, and ensuring that we are there with them to process their issues.

We have a good department, good volunteers and good municipalities. Victoria has absolutely risen to the challenge, and it is great to be part of a state where people look out for their neighbours and act promptly.

Speed cameras: revenue

Mr DALLA-RIVA (Eastern Metropolitan) — My question without notice is to the Treasurer. How much revenue in total did the government collect in the 2009–10 financial year from fixed speed camera fines on the EastLink tollway?

Mr LENDERS (Treasurer) — I thank Mr Dalla-Riva for his interest in budget matters. I will take on notice what the actual revenue line was that the Department of Justice would have collected from speed cameras on EastLink. I do not have that figure at my fingertips, but I would be happy to take that on notice, and I look forward to a supplementary question from Mr Dalla-Riva, which I am sure will be very supportive of the state of Victoria and our road safety message.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — Given that he does not know the figures, will the Treasurer guarantee that any fines collected from faulty speed cameras will be fully repaid?

Hon. M. P. Pakula — You're having a go at me for not collecting enough revenue!

Mr LENDERS (Treasurer) — Yes, it is ironic that my colleague Mr Pakula is being attacked for not collecting enough revenue — it should be my colleague Mr Madden, actually, who represents the Minister for Police and Emergency Services in this place — when I am being criticised for collecting too much revenue!

The reality of revenue from speed cameras — which Mr Dalla-Riva seems to be obsessed with — is that, under the Arrive Alive and road safety proposals that this government and governments before us have implemented in a bipartisan fashion, the objective is to bring down the road toll and deal with speeding and other behaviour by a series of measures.

It is worth never forgetting that that bipartisan policy has seen, if you measure it by cars on the road, a seven-eighths cut in the death toll on Victorian roads since 1970 when the then *Sun* newspaper ran its campaign about bringing down the carnage on the roads. Both sides of this house embraced that, and we have seen a comprehensive policy since, whether it be seatbelt legislation, airbags in cars legislation, helmets on cyclists, helmets on motorcyclists, drink driving or drug driving. All those measures that this state has put in place have been part of bringing down that carnage on the roads to a point now where we are still seeing far too many lives lost on the roads but by historical average they represent one-eighth per head of population from what they were when that campaign started in 1970, 40 years ago.

I will certainly take on board Mr Dalla-Riva's question. I reiterate that the position of the state government is that these cameras are part of a campaign to save lives and, if there has been an administrative error, we will fix it, as any government does.

Bushfires: preparedness

Mr SCHEFFER (Eastern Victoria) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. Can the minister inform the house how

the Brumby Labor government is taking action by funding the trial of new technology which will boost our firefighting effort in the lead-up to the next fire season?

Mr JENNINGS (Minister for Environment and Climate Change) — It is extraordinary, given that we have been talking about floods, that Mr Scheffer has asked me a question about our fire preparation, but fire preparation and our readiness for the fire season is important at this time of the year. Regardless of the current waterlogged nature of parts of the Victorian landscape, there is still a fire risk as we move into summer, and the Victorian government is determined to make sure that as agencies and communities we are as fire ready as we have ever been. That in part is about the amount of the resource allocation that we have provided.

In the last sitting week we talked about the additional $382 million that has been put into my agency, the Department of Sustainability and Environment, to support our firefighting effort in terms of our fuel reduction burning program and our emergency response. We will try to reduce the risk across the landscape in conjunction with other fire agencies and the community so that we will have the appropriate emergency response.

Since the last sitting week I have taken the opportunity to announce further funding by our government to support our firefighting capability in terms of adding to the aircraft that are available to us over summer. Members would be aware that last summer the Victorian government supported the trial of a very large air tanker to support our firefighting effort. That very large air tanker was evaluated by the Bushfire Cooperative Research Centre. Whilst it had a number of strengths in terms of its firefighting capability, it had some limitations, which meant the recommendation from the fire agencies was not to proceed with the very large air tanker.

Instead the agencies have recommended additional equipment from Canada to be added to our firefighting armoury. This includes two Convair 580 fixed-wing aircraft, each capable of carrying and unloading 8000 litres of fuel retardant or water that may be available to supplement our firefighting efforts, and an additional Erickson Aircrane, which is a well-known thing in the Victorian community. People inevitably look forward to the arrival of Elsie and Elvis, the most famous of those Erickson Aircranes. We are going to have another on a leasing arrangement over the summer, and an additional four fixed-wing aircraft.

Mrs Coote — It's going to be called 'Gavin'!

Mr JENNINGS — We are not going to have a competition about how it will be named. I assume it will come with a name already on the fuselage and I will not be entering into a competition to name it this year; we are actually just focusing on the business.

In total 48 aircraft will be available to us under a leasing arrangement over summer. Beyond that we have the additional capability of calling upon somewhere of the order of 170 other aircraft to support our firefighting effort. Members of the community should appreciate that this is a flexible and responsive range of aircraft and that it will be available to support our significant resources in terms of tankers, slip-ons and bulldozers and, most importantly, people to support our firefighting effort over summer. The resources we will have on call this year will be by far the biggest number of resources that Victoria has ever had available to it in the lead-up to a summer.

Planning: media plans

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Given that the Premier and ministers tick off the government's master media plan for each week, I ask: what planning matters have featured in these master media plans and from where was the background material for their inclusion sought?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in these matters. I know they are prominent in his mind because currently there is discussion at the Victorian Civil and Administrative Tribunal around many of these matters. At this time I would prefer not to speak in any great detail about the matters before VCAT or on any other matters in relation to media plans, because I am sure Mr Guy will have ample opportunity to ask me many questions about those matters at a later date. I will be happy to explore those issues to the extent that I am able in the relevant forum.

In relation to any specific matters about a schedule or plan that might be provided to the cabinet, I am unable to speak about those matters because they are discussions for cabinet.

Supplementary question

Mr GUY (Northern Metropolitan) — In the interests of planning probity for the hundreds of millions of dollars worth of planning decisions being made around Victoria today, will the minister make publicly available any media plans that contain material in relation to live planning applications?

Hon. J. M. MADDEN (Minister for Planning) — I can assist Mr Guy by letting him know that deliberations about any planning matters of that nature are not discussed in cabinet.

Planning: helipads

Mr VINEY (Eastern Victoria) — My question is also to the Minister for Planning, Justin Madden. Can the minister advise the house of recent changes to the Victorian planning provisions in relation to the use of helicopters?

Hon. J. M. MADDEN (Minister for Planning) — Recently I have amended the Victorian planning provisions to give greater clarity for the use of helicopters, predominantly around agricultural use. The use of helicopters to spray for locusts and the greater use of helicopters in terms of agricultural equipment and agricultural activities has highlighted the desire for people to have more clarity in the way planning authorities interpret the controls in the Victorian planning scheme around the operation and use of helicopter landings and helipads.

I have amended the Victorian planning provisions to exempt from the permit requirements heliports and helipads which are used for agricultural activities and emergency operations. This will allow those operators and those farmers who need to use helicopter equipment or helicopter services to deliver the appropriate response not only for emergencies but particularly in relation to the issues around the locust plague.

While I have allowed for this through those changes to the Victorian planning provisions — and much of this has come about because of our close work with the Victorian Farmers Federation and the Municipal Association of Victoria to give that greater clarity and definition — I want to make it clear that these new provisions apply only to farming activities and emergency rescue operations. People wanting to run passenger-based services or undertake tourism activities still require permits for appropriate use when it comes to heliports or helipads.

This complements the work my colleague Joe Helper has done in his agriculture portfolio in relation to providing a rebate for the cost of chemicals used to spray locusts. The decision I have made to remove the need for permits for helicopters to spray pesticides will assist Victorian farmers to do their part in the war on this imminent locust plague.

Buses: disabled access

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Public Transport, Mr Pakula. Recently the minister, the shadow minister and I were at a very interesting and enlightening public transport forum where the minister made some comments in relation to buses. I do not want to try to paraphrase his comments. It would have been good if there had been more time for him to elucidate what he was saying, but my question in relation to buses is: given that the minister mentioned that old people tend to use buses — —

An honourable member — I'm not old!

Mr BARBER — There is something about old people and buses; that is my point. Can the minister tell me, particularly in relation to those operators that his government funds to provide bus services in regional towns, what proportion of those buses comply with Disability Discrimination Act rules?

Mr Viney — On a point of order, President, I note that when Mr Barber asks questions in the house he asks the minister he asks the question of to inform him. I would have thought it was appropriate for him to ask the minister to inform the house.

The PRESIDENT — Order! Clearly that is not a point of order. It is on the borderline of frivolous.

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Barber for the question. I particularly thank him for not repeating the comment he made at the forum he referred to that three steps up to a tram is worse than apartheid, because that was an extraordinary comment.

Having said that, the point Mr Barber tried to make at the forum last week and again in the house today is nevertheless an important one — that is, that disability access is important for users of public transport. In that regard the government has been making enormous strides in improving the disability accessibility of our public transport fleet, whether that is in the way trains, particularly new trains, meet stations at platforms, the construction of platform and other level access stops for trams and the tender that is currently on foot for disability-accessible trams or indeed in regard to buses.

I do not have with me in the house the figures in regard to every single bus that is used by every individual operator that makes up the fleet. What I can indicate to the house is that the government is committed to improving disability access on buses. That is why all the new buses used for SmartBus services are disability

accessible. That is why all the new buses that will be used for the Doncaster area rapid transit system are disability accessible. But the government is not in the business of simply tossing out every bus in the fleet, particularly given that the majority of those buses are owned by others.

Supplementary question

Mr BARBER (Northern Metropolitan) — In relation to that last part of his answer about the buses being owned by others, is the minister indicating that the responsibility for that compliance and any claims that might be made under the Disability Discrimination Act are the responsibility of those bus operators, or would such claims generally be directed to the government, which funds those services?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Barber for his supplementary question. The fact is that the director of public transport has overall responsibility for the operation of the public transport system, in conjunction, of course, with me and the secretary of the department. All operators, whether they be the franchisees of the train system, the franchisees of the tram system or the individual bus lines that run many of the routes across the state, have responsibilities as well. Whom individuals might choose to bring an It is a decision for individuals to make about who they bring action against. It might be that individuals bring an action against both the operator and the director of public transport, or they might bring an action against the operator or the director.

Let me reiterate that the government is absolutely committed to improving the disability accessibility of our public transport fleet. In recent times we have revitalised the committee that advises me about accessibility issues, with the appointment of a new chair, Francesca Davenport. There are ongoing discussions at a high level between the Public Transport Access Committee and the operators, and between the department and me about these issues. This government's record in terms of improving disability access is a proud one. We are working overtime with the operators of trains and trams and also the bus fleet to make those services more accessible for people with disabilities. To compare public transport accessibility in this state to the apartheid regime in South Africa, as the Greens seek to do, is nothing short of disgraceful.

Public transport: UCI Road Cycling World Championships

Ms TIERNEY (Western Victoria) — My question is for the Minister for Public Transport, Martin Pakula. Can the minister inform the house of what the Brumby Labor government is doing to prepare for the thousands of spectators who will be travelling to Geelong and the Bellarine Peninsula to watch the UCI Road Cycling World Championships event?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Ms Tierney for her question. I know she asks her question in her capacity as a member for Western Victoria Region, with a particular focus on Geelong, but perhaps she asks it as a keen cyclist or cycling enthusiast as well.

I know I might get Mrs Coote going about the lycra-clad warriors — —

Mrs Coote — What colour are yours?

Hon. M. P. PAKULA — I have never been seen in lycra, and I can assure the house I never will be. The UCI Road Cycling World Championships is a world-class cycling event. It is rated by many cycling enthusiasts as second only to the Tour de France. We are supporting it with a huge increase in peak public transport services. There will be something like 22 000 extra V/Line seats offered to passengers over the two biggest days of the competition, 2 and 3 October. V/Line is going to be adding more than 50 extra train services over that weekend and increase service frequency on the Geelong line so that trains depart from Southern Cross station every 10 minutes during peak event times on Sunday, 3 October. Spectators are going to be able to catch 13 special express trains on the Saturday and 42 special express trains on the Sunday of the competition.

Mr Lenders — How many?

Hon. M. P. PAKULA — There will be 42 special express trains on the Sunday. In addition to that there are going to be more than 2700 — —

Mr Finn — But you cannot get them to work on time!

Hon. M. P. PAKULA — Mr Finn could probably do with a bit of a ride on a bike. More than 2700 extra bus services will run across Geelong and the Bellarine Peninsula during the five-day event. The local bus companies, McHarry's and Benders, will boost services by 66 per cent to almost 7000 trips from Wednesday, 29 September, to Sunday, 3 October. Those bus

companies will add an extra 1500 services from the Tuesday to the Friday and more than 1200 services on the weekend to cater for the tens of thousands of visitors that Geelong is expecting and to help minimise disruptions for local residents. There will also be a fleet of stand-by buses throughout Bellarine and Geelong to manage any unexpected surge in demand.

With a significant number of road closures, buses will operate on revised routes for the duration of the event. An extended special timetable and revised route maps are now available on the Viclink website. Event organisers are anticipating that the course will be lined with something like 300 000 spectators across the five days of competition and something like 150 000 on the Sunday alone.

This is a world-class event. It is fantastic for Geelong and it is fantastic for our reputation as a great sporting state more generally and so we need to back it up with world-class transport options during that week — and that is exactly what we will be doing.

PETITION

High–Anslow streets, Woodend: safety

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the concerns of the community regarding the safety of the intersection of High Street and Anslow Street, Woodend. Your petitioners therefore request that the state government provide support and funding for VicRoads to undertake a safety study of the intersection.

By Mrs PETROVICH (Northern Victoria) (730 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 13

Mr EIDEH (Western Metropolitan) presented *Alert Digest* No. 13 of 2010, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Agricultural Industry Development Act 1990 — Victorian Strawberry Industry Development Order 2010, pursuant to section 8(3) of the Act.

Agriculture Victoria Services Pty Ltd — Report, 2009–10.

Audit Act 1994 — Report on the Performance Audit of the Auditor-General and the Auditor-General's Office, August 2010.

Crown Land (Reserves) Act 1978 —

Minister's determination of intention to grant a lease at Albert Park Reserve, 6 September 2010.

Minister's Order of 31 August 2010 giving approval to the granting of a lease at Albert Park Reserve.

Dairy Food Safety Victoria — Minister's report of receipt of 2009–10 report.

Fisheries Act 1995 — Report on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2009–10.

Geoffrey Gardiner Dairy Foundation Limited — Report, 2009–10 (two papers).

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3) in relation to Statutory Rule No. 86.

Major Sporting Events Act 2009 — Major sporting event order of 7 September 2010 in relation to the 2010 UCI Road World Cycling Championships.

Municipal Association of Victoria Insurance — Report, 2008–09.

Murray Valley Wine Grape Industry Development Committee — Minister's report of receipt of 2009–10 report.

Northern Victorian Fresh Tomato Industry Development Committee — Minister's report of receipt of 2009–10 report.

Phytogene Pty Ltd — Minister's report of receipt of 2009–10 report.

Planning and Environment Act 1987 —

Cardinia Planning Scheme — Amendment C141.

Notices of Approval of the following amendments to planning schemes:

Cardinia Planning Scheme — Amendment C148.

Frankston Planning Scheme — Amendment C48.

Golden Plains Planning Scheme — Amendments C48, C49 and C56.

Greater Dandenong Planning Scheme — Amendment C106.

Knox Planning Scheme — Amendment C79.

Melton Planning Scheme — Amendment C97.

Mornington Peninsula Planning Scheme — Amendment C129.

Stonnington Planning Scheme — Amendment C75.

Victoria Planning Provisions — Amendment VC73.

Primary Industries Department — Report, 2009–10.

PrimeSafe — Minister's report of receipt of 2009–10 report.

Road Management Act 2004 — Code of Practice for Worksite Safety — Traffic Management.

Statutory Rules under the following Acts of Parliament:

Court Security Act 1980 — No. 85.

Electricity Safety Act 1998 — No. 86.

Supreme Court Act 1986 — Corporations (Ancillary Provisions) Act 2001 — No. 83.

Victims of Crime Assistance Act 1996 — No. 84.

Subordinate Legislation Act 1994 —

Minister's exception certificates under section 8(4) in respect of Statutory Rules 67, 83 and 84.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rules 85 and 86.

Surveyors Registration Board of Victoria — Minister's report of receipt of 2009–10 report.

Veterinary Practitioners Registration Board of Victoria — Minister's report of receipt of 2009–10 report.

VicForests — Report, 2009–10.

A proclamation of the Governor in Council fixing an operative date in respect of the following act:

Domestic Animals Amendment (Dangerous Dogs) Act 2010 — except section 17 — 1 September 2010; Section 17 — 1 January 2011 *(Gazette No. S354, 31 August 2010).*

BUSINESS OF THE HOUSE

General business

Mr D. DAVIS (Southern Metropolitan) — I desire to move, by leave:

That precedence be given to the following general business on Wednesday, 15 September 2010:

(1) Order of the day 10, resumption of debate on the motion moved by Ms Pennicuik relating to the Peninsula Link project;

(2) Order of the day 4, resumption of debate on the second reading of the Government (Political) Advertising Bill 2010;

(3) Notice of motion 102, standing in the name of Mr Kavanagh, relating to the equal rights of all Victorian school students;

(4) Order of the day 11, resumption of debate on the motion moved by Mr Dalla-Riva relating to violence on public transport;

(5) Notice of motion 110, standing in the name of Mr Rich-Phillips, relating to cost of living pressures on Victorians;

(6) Notice of motion given this day by Mr D. Davis requesting the Assembly to grant leave for Mr Stensholt to appear before the bar of the Council;

(7) Order of the day 12, resumption of debate on the motion moved by Mr D. Davis demanding the government comply with various orders for the production documents.

Mr VINEY (Eastern Victoria) — Because no notice was given in relation to the motion regarding Mr Stensholt, the member for Burwood in the Assembly, leave is denied.

Leave refused.

NATIONAL HEALTH-CARE AGREEMENT DATA AND HEALTH SERVICES: PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter dated 14 September from the Attorney-General headed 'Orders for the production of documents'.

Letter and appendix at pages 4718–4720

MEMBERS STATEMENTS

Floods: northern Victoria

Ms LOVELL (Northern Victoria) — Over the past 11 days my electorate has been hit with the worst floods to affect northern Victoria since 1993. For many communities this has meant days of uncertainty as we waited for rivers to peak and held our breath as levee banks threatened to breach, and for some communities on the Murray River that anxious wait continues.

Unfortunately some mixed messages have been sent throughout the floods, and an impression has been given that the water is a reason to celebrate or the breaking of the drought. As a state we need to be aware that many Victorians have suffered significant losses

with homes and sheds inundated with water, gardens destroyed and entire crops washed away or drowned. Our infrastructure has also suffered significant damage with bridges destroyed or heavily damaged, and many roads have been washed away or seriously undermined by water.

I would like to place on record my thanks to the councillors and staff of the shires of Alpine, Indigo, Strathbogie and Campaspe, the rural cities of Wangaratta and Benalla and the City of Greater Shepparton for their leadership and assistance to residents during the floods. I would also like to place on record my thanks to and admiration for both the volunteers and staff of Victoria's emergency services, including the State Emergency Service, the Shepparton and Echuca-Moama search and rescue squads, Victoria Police, the Country Fire Authority, the Metropolitan Fire Brigade, the Volunteer Coast Guard, the Victorian water police and the armed services, who worked tirelessly to assist communities, to protect lives and to minimise damage to property.

Once again country Victorians have shown the enormous strength of character needed to survive natural disasters. Now the government must provide the financial assistance necessary to assist local government to rebuild infrastructure, for farmers and businesses to overcome loss of crops or business activities and for individual families whose homes were inundated to help them overcome damage and loss.

Western Metropolitan Region: multicultural events

Ms HARTLAND (Western Metropolitan) — On Saturday I had a great multicultural day. I attended the ceremony for the Eid-ul-Fitr festival at Broadmeadows to celebrate the end of Ramadan. I had been invited by Mohamed Elmasri from Care with Me. This is a group that is working with the Muslim community to highlight the need for more families to become foster carers. It was an impressive afternoon.

From Broadmeadows I went to Wyndham to celebrate the Ethiopian New Year. Interestingly the Ethiopians work from a Coptic calendar that is about seven years behind the Gregorian calendar, which means I was only 43 years old on Saturday, which I was quite pleased about. It was a great night of food, dancing, music and comedy. Several of us tried to participate in the dancing but did not manage it quite as well as the Ethiopians did. The Ethiopian community is an amazing community, and its members make everybody feel extremely welcome. The other thing that was really lovely on the night was the number of Australian families invited by the Ethiopians. These Australian families have adopted children from Ethiopia. Both of these occasions were full of joy, and I am so pleased that we live in such a vibrant multicultural community.

City of Melbourne: retail strategy

Ms PULFORD (Western Victoria) — Last week I had the honour of jointly launching the year 4 report card of the Melbourne retail strategy 2006–12 with the Honourable Robert Doyle, Lord Mayor of the City of Melbourne.

Mrs Coote interjected.

Ms PULFORD — The Brumby Labor government is proud to be continuing its partnership with the City of Melbourne on the strategy, which is playing a guiding role in developing Melbourne's retail sector. As she is a great advocate for retail in Melbourne and elsewhere, I know Mrs Coote will be interested in this. Melbourne is the only Australian city where local and state governments are working together to implement a long-term vision for retail. It is wonderful to see that CBD retail is stronger than ever, with the lowest vacancy rates of any Australian capital. The latest Australian Bureau of Statistics economic figures show that in July Victoria experienced retail growth for the fifth consecutive month.

Melbourne has a unique blend of boutique retail and chain store offerings, with overseas and interstate visitors flocking here specifically to shop. Across the state the retail sector remains a key employer and economic contributor, providing jobs for 310 000 people and turning over $57.6 billion in the 2008–09 financial year. The challenge for Melbourne is to retain and enhance the diverse offerings that make it such a successful and unique retail centre. This year's report card maps a clear direction to do just that, and I look forward to it strengthening Melbourne's position as Australia's retail shopping capital.

Harry Dolenc

Mr KOCH (Western Victoria) — My congratulations go to the Victorian under-16 boys hockey team for being awarded the silver medal at the School Sports Australian National Championships held in Bunbury, Western Australia, during August. The team included Geelong year 10 student Harry Dolenc, who attends Kardinia International College at Bell Post Hill. He is an exemplary young man with great ambitions and a bright future. Harry has represented country Victoria at the junior state championships in Geelong and the South West Games. His goal is to

improve his skills while continuing to represent his school, club, town and state.

In the lead-up to the national championships Harry travelled to Melbourne at least twice per week for a 10-week period — a round trip of almost 200 kilometres. During that time he raised funds to pay for items that ensured his participation, such as travel, compulsory uniforms, competition levies and accommodation. This was a great effort from a committed young sportsman.

Since returning to Geelong Harry has shared his experiences with his team mates and the local teams he coaches. I was also pleased to learn that Harry has been selected as a reserve player for the Australian schoolboys team, which will tour South Africa in July 2011. Again, congratulations to Harry, his parents, coach and the selectors of the Victorian under-16 boys hockey team on his recent achievements.

Crime: statistics

Mr TEE (Eastern Metropolitan) — Like everyone in this house I welcome the Victoria Police 2009–10 crime statistics, which were released on 6 September. They show that Victoria is very much moving in the right direction in terms of crime. They show that the government's efforts in working with the community and working with police are delivering results, and this is a tribute to the great efforts of local police and local communities.

For example, in my electorate the city of Whitehorse has seen an 11 per cent decline in crime over the last 12 months, which has included a 27.6 per cent decrease in residential burglary and a 43 per cent decrease in robbery. In Manningham there has been a 7.6 per cent decline in crime overall, including a 24.4 per cent decrease in weapons offences, which is a tribute to the knife crackdown introduced by the government. Maroondah similarly has seen a 41.9 per cent decrease in crime related to harassment over the last 12 months, and Knox has seen a 3 per cent reduction in crime, including a 22 per cent reduction in robbery over the last 12 months.

These figures are a tribute to all involved, and I want to congratulate all involved. The figures mean that our streets, our communities and our children are safer, and they are a testament to what happens when government, police and the community work together.

Federal member for Melbourne Ports: comments

Mrs COOTE (Southern Metropolitan) — I have a document with me which is a piece of pure self-indulgence. It happens to be objection no. 99 to the 2010 federal redistribution of Victorian electoral boundaries from none other than Michael Danby, the federal member for Melbourne Ports. The document is six pages long, and it is a self-justification for the redistribution of his electorate's boundaries. I might remind the chamber that Mr Danby is going to lose a considerable part of his electorate under the new redistribution boundaries, including a huge area in and around Caulfield. Mr Danby has campaigned for a significant time, even when he was in opposition, seeming as if he was actually in government. However, this is a very enlightening document, and I am certain that members of the Labor Party would be very interested to know Mr Danby's views on the state government. He says in his document that he is speaking about the city of Port Phillip and the city of Glen Eira and Caulfield area. His document says:

> … I know from my experience as the local member that both areas —

that is, Port Phillip and Glen Eira —

> suffer similar problems of population growth, strained infrastructure, shortages of affordable housing, shortages of child care and aged care and traffic congestion.

My suggestion would be for the government to discuss with Mr Danby some of these issues, because it sounds as though they are from totally different parties.

Ethiopian community: new year celebrations

Mr ELASMAR (Northern Metropolitan) — On Saturday 11 September I was proud to represent the Premier at the Ethiopian New Year celebration held at the Wyndham Leisure and Events Centre in Hoppers Crossing. The Ethiopian community event was a first for me, and I want to say I had a brilliant evening with these wonderful, warm and welcoming people. In particular I was very impressed with their hospitality. They danced and sang songs, and I felt I was being welcomed into their culture and their family. The food and entertainment was extremely enjoyable. I thank them for their sincerity and genuine happiness to be a part of the Australian way of life.

Victorian Civil and Administrative Tribunal: strategic plan

Mr ELASMAR — On another matter, I was pleased to attend the launch of the three-year strategic

plan *Transforming VCAT* held at the neighbourhood justice centre in Wellington Street, Collingwood. The launch was hosted by the Attorney-General. The plan outlines time lines and processes to simplify the administration of justice for key stakeholders and to improve the resolution of disputes. It also proposes to expand Victorian Civil and Administrative Tribunal dispute resolution services to the area of Berwick, a growth region of Casey.

Melbourne to Warrnambool Cycling Classic

Mr VOGELS (Western Victoria) — The Melbourne to Warrnambool Cycling Classic will be held on 16 October, celebrating the race's 115th year. This famous cycling classic attracts 200 riders from around Australia and overseas. The Melbourne to Warrnambool is the second-oldest bicycle race in the world, a rich history that money cannot buy. It is a Victorian icon and a sleeping giant that should be supported by our state government.

Similar rides across Europe enjoy strong support from government, because they showcase and promote the regions they traverse. The Melbourne to Warrnambool ride is a fantastic opportunity for a government to piggyback on this famous bike ride to promote south-western Victoria. The race has wonderful support from local communities but obtains no state government support, which is a great shame.

Winding its way from Melbourne through beautiful country towns and magnificent countryside, it offers a fantastic opportunity to promote south-west Victoria with government sponsorship — in other words, there is the perfect opportunity to promote tourism in the region by ensuring this iconic bicycle race thrives into the future. I am sure that the other four members for Western Victoria Region, Jaala Pulford, Gayle Tierney, Peter Kavanagh and David Koch, would all totally support the Brumby government sitting down with the Melbourne to Warrnambool committee to develop a strategic plan, which would include finding sponsorship to guarantee the future of this iconic event well into the future. I hope the Minister for Sport, Recreation and Youth Affairs, James Merlino, gets his office to contact the committee and that it offers the government's support for this iconic event.

Iraq: United States withdrawal

Mr MURPHY (Northern Metropolitan) — I rise to recognise the significant withdrawal of troops from Iraq by the Obama administration, which is winding down US involvement in Iraq. The withdrawal honours a commitment that President Obama gave to the US people during his election campaign. The near decade-long war — or invasion, as I would put it — in Iraq has seen a level of destruction of the Iraqi community and economy that is unlikely ever to be rectified. We will never know the countless numbers of Iraqi lives lost in this action initiated by the Bush administration, but we do know one thing: that no weapons of mass destruction were ever found.

In Australia when debate was raging in our community in relation to whether Australia should participate in this action or not, the then federal Labor leader, Simon Crean, made a brave and impassioned speech to soldiers who were about to depart for action in Iraq. Mr Crean took the right step in opposing the action in Iraq, and today I recognise the stance he took on the issue when the invasion had commenced. I wish other leaders in our society and community had adopted his stance on this issue.

Floods: response

Mr SCHEFFER (Eastern Victoria) — The floods that inundated parts of regional Victoria and Gippsland over the last week or two have now receded, but they were the most extensive floods in over a decade. I commend all emergency service workers and volunteers, local authorities and community leaders who provided the support and services so critical to those communities that have sustained significant damage to public and private assets. The impacts in Gippsland were not as severe as in other parts of the state, and neither the Mitchell nor the Thomson rivers broke their banks.

I also commend the government on the establishment of the flood recovery ministerial task force to oversee the multimillion-dollar clean-up, recovery and rebuilding effort. The task force will make sure that the government is responding effectively to what communities are saying they need and that that assistance comes quickly.

Australian Labor Party: federal election

Mr SCHEFFER — On another matter, I congratulate the Prime Minister and the Labor Party on having gained sufficient support to form a federal government. I congratulate the new ministry and the new member for McEwen, Rob Mitchell, a former member of this chamber, as well as Laura Smyth, the new member for La Trobe. Both new members will make a great contribution to the work of the Gillard government. While the ALP candidates Christine Maxfield, for McMillan; Darren McCubbin, for Gippsland; Helen Constas, for Dunkley; Francis

Gagliano-Ventura, for Flinders; and Sami Hisheh for Casey were unsuccessful, I commend them on their campaigns.

The good news is that the Gillard government will be able to push ahead with the national broadband rollout, rebuild the national consensus on climate change and reform the country's health-care services in partnership with the states, including Victoria.

Toyota Australia: Altona plant

Ms TIERNEY (Western Victoria) — Last Friday Premier John Brumby, along with the federal Minister for Innovation, Industry, Science and Research, Kim Carr, announced that Toyota would undertake a $300 million upgrade of the Altona plant, securing over 3000 Victorian jobs. Old technology is being closed down all over the world. Nearly all new global investment is going into the developing world. For Australia to receive an expansion in capacity is a massive vote of confidence in the Australian automotive industry and the government policy of both federal and state Labor governments.

Last Friday's news was great for Toyota workers and their families and for the 12 000 other workers who depend on the Toyota plant for employment. However, the opposition has attacked this announcement — and not for the first time. In July this year the Brumby government wrote to Toyota to assure the company that Victoria supported this investment in the hybrid Camry after Mr Baillieu's attack on the plant and the hybrid Camry project. If this project had not gone ahead — and it certainly would not have if Victoria had been led by a Baillieu government — Toyota Australia would have had to import hybrid engines from Japan, leaving 3000 people jobless and certain flow-on effects for the other 12 000 workers who depend on the Toyota plant.

Jobs are extremely important — important for job-holders, important for putting food on the table and important for keeping families together. You do not play politics with jobs. I say to Mr Baillieu that ordinary Victorians depend on their jobs and they do not want them jeopardised by someone with no industry policy, no plan and no idea about their industry.

Craigieburn Child and Family Centre

Mr EIDEH (Western Metropolitan) — It was with great pleasure that I attended the official opening of the Craigieburn Child and Family Centre by the Minister for Children and Early Childhood Development, Maxine Morand. Families in Craigieburn will now have more convenient access to a range of early childhood services thanks to the new $6.3 million children's centre. The growing number of young working families will welcome this exciting development in Craigieburn and will benefit from the various child health and family support services that the new centre will offer.

This new centre offers a 60-place kinder, playgroups, maternal and child health services, early childhood intervention services, as well as 30 occasional care places and a 60-place child-care service. This integrated centre will become a great learning space for local children and will help pass on the importance of environmental sustainability, given it has a stormwater catchment area and recycled water for irrigation and landscaping.

Early childhood education is vital to the development and growth of young children, and it is important for parents and working families to have access to the best possible education and care for their children in one convenient location close to home. It is through the partnership of the City of Hume, the Brumby Labor government and the commonwealth government that this integrated centre has opened, and I am proud to say that of the $6.3 million in contributions the Brumby Labor government invested $1.4 million to provide access to the best possible early education and care services for families.

Corpus Christi Primary School, Glenroy: community arts festival

Ms MIKAKOS (Northern Metropolitan) — On 7 September I was very pleased to represent Premier John Brumby at the opening ceremony of the Corpus Christi Primary School community arts festival 2010. The three-day festival celebrated the diversity of cultures amongst the school's 300 students who represent of up to 20 different nationalities. This diversity was represented in a parade of nations showcasing different national costumes and featuring a Chinese dragon made by the students. The ceremony also involved singing and dancing performances. I was very impressed with the opening ceremony and with the art exhibition that displayed different types of artwork representing the history and culture of many nationalities.

The students were also involved in the organisational aspect of the festival as producers and public relations personnel. It is wonderful to see young people taking a leadership role in this way. I would like to commend Corpus Christi Primary School, Glenroy, for organising this event and to congratulate the principal, Mr Stephen

Lucardie, the staff and all the students involved in putting together this marvellous festival.

Disability services: Alphington facility

Ms MIKAKOS — On another matter, I wish to welcome the official launch of the new purpose-built home in Alphington, which is part of a joint Brumby and Gillard Labor government initiative to keep younger people with disabilities out of residential aged care. The Alphington facility is the fourth home to open in Victoria under the My Future My Choice program, giving 10 young people the opportunity to move into a home with other people of similar ages and interests. In total the Brumby Labor government will deliver 22 new developments that will benefit up to 104 young Victorians.

New United Villages of Florina

Ms MIKAKOS — On another matter, on 5 September I attended a dinner dance organised by the New United Villages of Florina. This event aims to celebrate the tasty traditional food, Florinian pita, and I was pleased to see many young Greek Australians attending.

TRADITIONAL OWNER SETTLEMENT BILL

Second reading

Debate resumed from 3 September; motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to resume my contribution to the debate on the Traditional Owner Settlement Bill 2010. When the Parliament last met we commenced the second-reading debate on this legislation somewhat unexpectedly. The government had indicated the bill had no priority attached to it that sitting week, then suddenly decided it was a priority bill and it wished to have the Parliament pass the bill in the space of the Friday afternoon sitting.

During the course of the debate on whether the second-reading debate should proceed at that point in time or be carried forward to this week it became apparent that the reason the government sought to have the bill passed by the Parliament in the previous sitting week was because it had already negotiated an agreement pursuant to this legislation and needed the bill to be passed to give effect to the agreement that it had negotiated prior to the legislation reaching this house. The fact that this was revealed by the Minister for Environment and Climate Change during the course of the procedural debate served to highlight the concerns which the coalition parties and others in the community have about the way this legislation could potentially work.

It appears that until the Minister for Environment and Climate Change made that disclosure in the procedural debate, no-one — certainly no-one outside the government — was aware that an agreement under this bill had been negotiated and that the government was awaiting passage of this legislation to ratify such an agreement. It is the case that prior to the second-reading debate commencing in the previous sitting week and in the subsequent time before debate on the bill resumed in the house today we have been approached by numerous people representing various sections of the Aboriginal community. They have expressed concern at the way in which this bill has been brought to Parliament, the way in which the government has undertaken consultation on the bill and the fact that some Aboriginal groups have been excluded from consultation on the bill and information on how it is going to operate.

The fact that the Minister for Environment and Climate Change revealed that an agreement has been negotiated, subject to the passage of this legislation, further reinforces that consultation and negotiation by the government has been with select parties and has not been as fulsome as a piece of legislation of this complexity and significance deserves. That is one of the fundamental concerns that the coalition parties have with this legislation.

In terms of the mechanics of the bill, when Parliament last sat I went through the mechanical provisions of the bill at some length, talking about how it will work in terms of the definition of traditional owner groups, the capacity it gives to the Attorney-General to grant Aboriginal title or freehold title to Crown land in certain circumstances et cetera and other provisions the bill creates with respect to land agreements and land use activity agreements. I do not propose to go back through the mechanics of the bill again, but I would like to pick up my contribution to the debate with one of the issues that the coalition parties have with how this legislation is going to proceed and the amendments that we propose to bring forward when the bill reaches the committee stage.

I say ‘when it reaches the committee stage’ because it remains our view that further consultation on this bill is required with a whole range of Aboriginal and non-Aboriginal parties to ensure that community views

are properly considered by this Parliament. When the second-reading debate on this bill is concluded it is my intention to seek to have the bill adjourned prior to it entering the committee stage. It is our view that the government should undertake further consultation on the bill prior to it being considered by the committee of the whole. If that is not supported by the house and the bill proceeds to a committee of the whole, there are a number of amendments that I will be proposing on behalf of the coalition that address some specific concerns which I will detail now.

One of the key areas that the coalition has concerns about is the capacity under the bill to allow an agreement to be entered into over reserved or unreserved public land, even in areas where there is no prospect of a native title claim, without any reference to Parliament. The reason for our concern is that if there is an intent to change the reservation with respect to Crown land, under the current legislation the matter needs to come before Parliament. This bill, if passed in its current form, will allow the Attorney-General to make a determination under the legislation or enter into an agreement with respect to Crown land without any reference to Parliament. Therefore it makes a fundamental change to the way Crown land is handled in Victoria.

There are significant implications going forward. Concerns have been raised with respect to land where leases are in place. Certain assurances have been given that these provisions will not impact upon the operation of leases. However, no assurances have been given as to what occurs when a lease expires and a renewal of that lease is sought and the way in which the making of an agreement under this legislation could impact upon the capacity for the renewal of leases and the like. That is something that to date would have required parliamentary input. Changing a reservation on Crown land would have required legislation to be passed. For that reason we have concerns that this will be put in the hands of the Attorney-General who will be able to make substantial and long-term changes without any reference beyond the immediate government.

The coalition is also concerned at the mechanism in the bill, which allows the Attorney-General to grant title and make land-use agreements. One concern relates to the scenario where there could be multiple native title claimants with respect to a particular area of land. Under the bill it is proposed to make a grant of title and enter into a use agreement, because where multiple native title claimants exist with respect to one particular area the bill provides for them to be dealt with as a group. We are concerned that the bill does not provide any mechanism for determining the leadership or the representative parties of that group.

The government has indicated that it will not proceed to enter into an agreement under the bill unless the parties to a group have determined among themselves which entity they are appointing and how they are to be represented in negotiations with the government, but there is no mechanism provided to ensure that takes place. Basically we are being asked to accept that where there are multiple claimants, pursuant to native title claimants, the government will simply see to it that an agreement among the parties is reached before an agreement pursuant to this legislation is reached.

Again, we believe there is insufficient mechanism in the legislation for something as significant as this provision. If there are to be legitimate, multiple parties with claims over a particular piece of land, the legislation should provide for those multiple parties to be dealt with through a defined mechanism and not simply through the hope on the part of the government that they can reach agreement among themselves and the government can then deal with the resulting party from that mutual agreement. It is simply too important for these matters to be left undefined.

It is similar to the concern about the way entities are appointed by a group pursuant to the legislation. The simple fact that the bill does not provide a mechanism by which that is to be done and that it allows the Attorney-General to decide which group to recognise with respect to a traditional owner group, without any right of appeal, is a matter that we believe is not appropriate for this legislation. The Attorney-General should not have the right to make that determination without there being any grounds or mechanisms by which an appeal can be brought by competing groups.

This is an area on which we have received a number of representations from various Aboriginal traditional owner groups. They are concerned that they may be excluded from this process by virtue of the Attorney-General making a determination as to which group will be accepted for the purposes of the mechanisms of this legislation. The fact that no appeal mechanism is provided is an unacceptable way for this particular provision to work.

It is for that reason that when the bill is considered in committee we are proposing to insert provisions with respect to land agreements and land-use activity agreements that would require those agreements to be subject to ratification by Parliament. We are seeking to insert that provision because where a party believes they are a legitimate party for the purpose of an

agreement, and the Attorney-General has determined that another party should be the party for the purpose of the agreement, the aggrieved party would have the opportunity to bring their case to members of Parliament prior to an agreement — either a land agreement or a land-use agreement — being ratified by Parliament.

Putting in place a requirement for ratification in effect would address the fundamental concern about the capacity to change Crown land reservations being taken away from Parliament. It would provide that aggrieved parties — on whatever basis they are aggrieved — would be able to make representations to Parliament about a decision made by the Attorney-General prior to that decision being ratified by Parliament. Therefore, the introduction of this mechanism will create a catch-all appeal right or a de facto basis for appeal beyond that which is provided in the legislation.

We believe this is an appropriate mechanism, given the gravity of the type of arrangements that are to be put in place by the legislation. A ratification mechanism would allow parties to put their position to Parliament in a way that they simply would not be able to under the existing provisions proposed by the bill. The bill, as proposed, puts too much power in the hands of the Attorney-General to make determinations without any capacity for aggrieved third parties to present their alternative view.

A ratification mechanism will provide scope for Parliament to consider the way in which the Attorney-General has reached a decision under the bill and the basis of a claim for third parties. That is an appropriate mechanism to deal with and address many of the concerns raised by parties who believe they have not been appropriately consulted with respect to the preparation of the legislation. They also believe they will not be appropriately consulted in terms of agreements being made pursuant to the legislation, as appears to have been the case with the yet to be detailed agreement that the Minister for Environment and Climate Change foreshadowed in the debate on the procedural motion when Parliament last sat.

In essence the coalition parties are not opposing the mechanism and intent the government is putting in place with this legislation, but we have strong concerns about how this legislation could operate in practice. Our position therefore is to not oppose the bill at the second-reading stage, subject to the matters that we are seeking to address by way of amendment in terms of providing for scrutiny of decisions made by the Attorney-General under this legislation.

As I stated earlier, we believe that the government needs to undertake greater consultation with Aboriginal and non-Aboriginal groups on how this legislation will operate. Accordingly, at the conclusion of the second-reading debate we will move for the debate to be adjourned so that consultation can be undertaken, but at this stage we will not be opposing this bill.

Mr BARBER (Northern Metropolitan) — I do not mind saying that I have been on the horns of a bit of a dilemma with this bill ever since we first started to look at it in a serious way, but I do not resile from that because that is what all members of Parliament should expect when they run for Parliament. In fact I always take comfort from an old geezer named Edmund Burke who said that when we elect people to Parliament we put them there not simply to obey us and do the things that we want them to do; we put them there to use their judgement and their wisdom, even if occasionally they exercise that against what we see to be our self-interest at the time.

There are a couple of reasons why I am on the horns of a dilemma, but the big picture one is what I propose to talk about first. We in this country do not have, and have never had, a treaty with the first inhabitants.

Applause from gallery.

Mr BARBER — It is perhaps because I was born on a piece of country where there was such a treaty, the Treaty of Waitangi, that I notice the importance of this issue.

The PRESIDENT — Order! Whilst I was in my office I heard the applause from the gallery. I want to remind people in the gallery that it is not appropriate for them to inject themselves in any way into the proceedings of the house, whether verbally or by any other physical action. Of course they are more than welcome here, as members of the public are entitled to be here, but they must maintain the standards we require in the house. Thank you.

Mr BARBER — By no means do I intend in any way today to put myself forward as a spokesperson for Aboriginal people. In fact I am speaking very personally about not only what I would like to see achieved but also what I feel about these matters, and I will be saying much more.

I passionately believe that until we achieve such a reconciliation and until we go back to the beginning of our colonisation of this country, we will be here again and again talking about a bill such as this, a highly imperfect process and outcome. We need to get it right. If there is anybody who doubts my passionate belief in

this, they should read my very first speech to Parliament.

The idea of a treaty is not something that the Greens thought up and it is not a fringe policy. There are treaties in place in New Zealand and Canada and possibly in other countries, but I am not immediately aware of which ones. At one time or other I think some Prime Minister or someone else may have actually put the idea forward in Australia. My memory is a bit hazy, but I think it would have been around 1988 that the idea of a treaty was first brought into the mainstream, if you like, and a bit further into the mainstream with a very catchy pop song back in the days of what I used to call, as a young person, techno music — it has all these other names now that I cannot even begin to keep up with.

I am going to talk about why such an act as a treaty that allows for the self-determination of first nations or indigenous peoples is essential. The importance of governments in facilitating self-determination is not just some abstract political philosophy; it actually has measurable positive effects. In 2008 the esteemed World Health Organisation (WHO) released a report identifying the social determinants that contribute to beneficial or detrimental health outcomes for such people. One of its major conclusions was that:

> Any serious effort to reduce health inequities will involve political empowerment …

That is because:

> People who are already disenfranchised are further disadvantaged with respect to their health.

In this country the Council of Australian Governments has committed itself to closing the 17-year gap in life expectancy, and health is its targeted priority. The following passage of the WHO's report is salient to what policies should be pursued to achieve this goal. It states:

> Political empowerment for health and health equity requires strengthening the fairness by which all groups in a society are included or represented in decision making about how society operates, particularly in relation to its effect on health and health equity. Such fairness in voice and inclusion depends on social structures, supported by the government, that mandate and ensure the rights of groups to be heard and to represent themselves — through, for example, legislation and institutional capacity — and on specific programs supported by those structures, through which active participation can be realised.

There are a lot of big words there from the World Health Organisation. A similar study on youth suicide rates in First Nations communities in Canada cited by the report found that a reduction correlated with six factors — self-government, land rights, cultural facilities, police and fire services, education services and health services.

As I said, I come from New Zealand, and I have been back there many times. The Treaty of Waitangi is a continuously contentious instrument because it is a negotiation going on between two groups of nations. One of these days when I get a breather from this place I will get myself to Canada because I am keenly interested to learn more about this matter at first hand. The detailed data showed that for each of these factors that is present in a First Nations community there is a commensurate drop in suicide rates to zero when all six factors are present.

Under economic development, which comes back to the provisions of the bill — that is, the land agreement section — I will refer to the similar relationship between economic development and political empowerment. It is based on data collected over 23 years by the Harvard Project on American Indian Economic Development. The research shows three essential characteristics that build on each other, and where these are absent comparative American Indian nations have remained entrenched in a cycle of poverty.

Firstly, successful native nations must be able to control their own affairs by asserting the power to make core decisions about resources, policy and institutions. When native communities take control of their assets, programs and governments they obtain higher prices for their commodities, more efficient and sustainable use of their resources — and sustainable use of resources is very important to the Greens — better programs for their health care, greater profitability from their enterprises, and greater return migration: in other words people coming home.

Secondly, successful native nations establish long-lived institutions that limit political opportunism and administer the practical business of the community effectively, just as we would expect in any suburb or community in Melbourne — in fact, we take it for granted. Without effective institutions, asserting the powers of self-government means little.

Thirdly, the research found that successful native nations root their institutions and activities in indigenous culture. The formal institutions of government align with contemporary local norms and customs about what is and is not an appropriate use of authority. Otherwise, conflicts over legitimacy and authenticity regularly corrode the effectiveness of native self-government.

On crime, which is something we talk about a lot in this place, one of the limited areas where indigenous ownership over institutions has occurred in Victoria — and Mr Tee will be keen to address this — is in circle sentencing or Koori courts. Community elders who have the respect of the offender take part in the sentencing procedures. There is a strong emphasis on culture, and the underlying premise of the courts is that the community holds the key to changing attitudes and finding solutions. We know that not everybody in this place or out there in the community agrees about how those Koori courts operate. I simply point to them as another example of the direction in which I am leading here.

The evidence so far has shown a significant drop in breach rates of community corrections orders and recidivism. The latest information I could gather, and I am sure the government could provide more, is that from a 29.4 per cent statewide average of recidivism, the clients at Shepparton's Koori Court clients dropped to 12.5 per cent, and in Broadmeadows the drop was to 15.5 per cent. I am not here specifically to address a Koori Court bill, so I do not have time to do justice to the issue. I am saying simply that those are some statistics we had to hand.

Let us talk about legislated self-determination which, although it is not the subject of this bill or of other bills that do not achieve that today, is part of the aspiration we are setting out here and which I hope the government shares. We did not hear from coalition members during their contributions what aspirations they have, but from the government's point of view, which will be under the spotlight as much as anybody's view today, its members have the opportunity to talk about how the bill achieves the aims I am trying to achieve.

Many commentators refer to the period of ATSIC (Aboriginal and Torres Strait Islander Commission) as the failed era of self-determination. What actually failed was a top-down government model that weakly promoted indigenous participation and fell far short of achieving indigenous aspirations for self-determination. We can only imagine the situation that puts people in. Like God who made man in his own image, bureaucrats and legislators structured ATSIC to make sure of its decisions in a top-down approach where power was centralised in a national body and that, by and large, its constituents were unable to influence those decisions.

The minister sat at the apex and ultimately retained all decision-making power through the approval of all financial estimates and the power to issue general directions that the commission was obliged to follow. I am sure there is plenty of contention about that exercise as well: I am simply making the point that, when compared with other colonial countries, Australian jurisdictions have not ventured anywhere near an era of self-determination.

I refer to a few examples. Nisga'a in Canada negotiated a self-government agreement that recognises its inherent right of self-government, which allows it to legislate under certain heads of power, and those laws will be paramount over inconsistent federal or provincial laws. That is absolutely amazing. Furthermore, its right to legislate is constitutionally protected under section 35(1) of Canada's constitution, which recognises and affirms all existing Aboriginal, legal and treaty rights.

A week or so ago the Greens, as part of a negotiation with the federal government, looked to have inserted into the constitution prior recognition of Aboriginal existence, as we shall call it. I have no doubt that what we end up getting out of that particular exercise will be far short of some of the aspirations I am pointing to today. I simply want to make the point that the issue is not going away. In fact, ever since we arrived here there have been traditional owners asserting their rights. For those of us with short memories it was not something that came up in the 1970s. It was not something that came out of the High Court under the Mabo decision. This is something people have been pushing for ever since it was taken away.

Native Americans in the United States of America govern under the doctrine of retained sovereignty, whereby native nations have jurisdictions to create and administer their own laws unless that jurisdiction has been specifically abrogated by an act of federal congress. In Aotearoa the Maori have been able to influence their future by not only having designated seats in Parliament since 1867 but also by having ministers of government in Maori affairs and other portfolios. The Waitangi Tribunal, established in 1975, has been able to retrospectively adjudicate on any grievances arising in breach of the Waitangi Treaty dating back to 1840. I do not pretend to speak for the Maori; I am sure there is plenty about that regime they are not happy with. I am simply going through a comparative exercise.

What do we have? A rigid and inflexible right to claim native title, which is the weakest form of title and has become so logjammed, adversarial and unfavourable to claimants that we need this bill to help it along. It is all there in data. A devolution of power from this Parliament and the government to empower first nations to take control of their own affairs is the only

lasting solution to indigenous disadvantage, even if that is the only thing we care about. In the absence of that, we are back where we started. As a young adviser to me very wisely and succinctly put it: 'A bunch of whitefellas doing what they think is best for a bunch of blackfellas'. That is what we are going to be doing here today, and I hope everybody who hears my speech understands that I am not under any illusions about that.

Of the representations made to me — and there have been numerous representations since this bill first arrived in the Parliament — the vast majority have been from people I have not known or have only known briefly and often intermittently over the years. I just hope — not for my own benefit but for the benefit of what we might need to do in the future — that the people I have discussed this bill with believe I am an honest broker and do not have any particular allegiance to any person or group.

The Greens are fully aware that there are many views from many first nation or indigenous communities — even those words have different meanings and different connotations to different people — who are concerned about this bill and the consultation process that surrounded it. These intra-community dynamics are all part of the process of self-determination, and the role for government should be to facilitate when requested and to ensure that representative bodies are as representative as they can be, at least as far as they can be in what we understand to be a democratic society. I was not putting Edmund Burke and his liberal democracy necessarily higher than any other type of society; I was simply making the point that that is the chamber I stand in.

The Greens cannot speak for indigenous Victorians, but we can speak to them and we can do our best to represent all of their aspirations in Parliament — and there are many aspirations. My office received calls from representatives of the Latji Latji, in the west of the state; the Kirrae Wurrung in the south-west; Wathaurong Aboriginal Cooperative in Geelong; Ella Maar Indigenous Corporation; various members of the Gunai Kurnai in Gippsland; the Wadi Wadi; and of course the Yorta Yorta, on the great Murray River, for whom I stood up in this chamber on other legislation aiming to achieve some of their aspirations.

One particular gathering occurred at Parliament House on Friday, where various people talked together about their concerns. I met with some of those same delegates this morning. Over the past couple of weeks my office has also had extensive discussions with Native Title Services Victoria and with the Victorian Traditional Owner Land Justice Group co-chairs, who I met with personally.

I just wish to acknowledge and pay respect to a variety of first nations' opinions on this bill — from the enthusiasm of what could be achieved under it to the absolute unadulterated frustration on the part of some people at not being informed about what the bill will actually do. To say the least, Victoria's Koori community — there is another word, Koori, that means different things to different people at different times — has a flourishing array of opinions, and it is crucial that these energies continue to be channelled through this inevitable pathway of self-determination. As an important point of caution here I would recall an observation by indigenous academic Jackie Huggins:

> …when blacks publicly analyse and criticise each other it is perceived as infighting. However, when non-Aboriginals do the same it is considered a healthy exercise in intellectual stimulation.

This debate has been a typical part of the democratic process, no different from what goes on around here on a typical day with all sorts of other legislation. I am convinced of the legitimate grievances and concerns that people have raised with me and my office, particularly about the lack of consultation. One particular figure that was put to me was that there would be 30 000 people directly interested in this legislation, through traditional owner groups. No-one, though, has raised with us that they oppose the bill itself outright; just that they have not had the access to the process that they would hope for and do not know what it contains. I am not going to characterise any more deeply what I think has happened because it is not my job to reflect on any indigenous person who has been part of this exercise with the shared aim of improving indigenous access to, in this case, native title rights.

Of course I received some letters listing concerns about the bill. The theme of that concern, if I can characterise it, is that all the Dodson report has not been implemented, that there are not enough protections for traditional owner groups in the negotiation stages, that the future act replacement regime and natural resource rights are deficient and, finally, that the right to pursue a claim through the courts under the existing regime could be taken away.

We have not been in a position to advise those people specifically about their rights under the bill. I am drawing a distinction here. Of course the Greens are responsible for informing themselves about the bill. However, we can only provide that information back to individuals. Put quite simply, why should they trust us? If I can offer some comfort, it is our view that to the

best of our understanding this bill does not take anything away from the native title process as it has existed in the past; it just adds something.

Since the government was pushing quite strongly last sitting week its claim that this bill is important to the live and imminent Gunai Kurnai claim, I will be asking the government in the committee stage to provide some further information to us about exactly why it is that this bill in its view is important and how it enhances the Gunai Kurnai claim. However, we are confident as we can be that a claimant group — Mr Rich-Phillips is not confident about this — can still use the courts if it does not want to negotiate with government, which is the current situation. Concerns around future acts and natural resource rights all come down to how the government approaches the negotiations, which again has been the situation. Further, the Greens will happily advocate with any group of traditional owners to ensure that the government approaches those negotiations with generosity.

As to concerns about some parts of the Dodson report, even those championing the bill admit there are weaknesses, and those weaknesses will need to be addressed in the next few years. The Greens will always be ready to deal with good legislation that facilitates those further changes.

Finally, the concern about the lack of procedural rights in the negotiation stage with the government has been a real worry. There is nothing stopping a government being hard-nosed and ruthless when determining what will or will not be contained in a recognition and settlement agreement, and that is any government of the day, whatever government we might have after 27 November.

Having worked through those concerns, at least to my satisfaction if not to everybody else's, I am also convinced that there are opportunities for some of this division that we are addressing here today, from people who may feel sidelined through this process, to be resolved through both this framework and through a project we have just heard about called Right People for Country currently being developed by the same land justice group. If the government has any more to say on that, it might feel free to bolster its argument.

I have some correspondence from the 2009 Australian of the Year, Professor Mick Dodson, which neatly summarises the issues in relation to this bill. I have four rather long paragraphs here of correspondence between my office and Mr Dodson's office. I think it is worthwhile for all those interested for me to put on record some of the material that I looked at and considered when I ultimately decided what to do. Mr Dodson says:

> I am, of course, supportive of the bill. The bill is part of the Victorian government's implementation of the report of the steering committee for the development of a Victorian native title settlement framework. I chaired that committee and it reported to the government in December 2008.
>
> The history of the framework goes back well before the steering committee. In August 2006, the Victorian Traditional Owner Land Justice Group put a discussion paper about a settlement framework to the Victorian government. This was put together over many months of hard work by that group with the assistance of Native Title Services Victoria. I acted as facilitator of land justice group discussions during most of that process.
>
> The government eventually responded to the land justice group's paper by announcing the formation of the steering committee which I chaired. The committee undertook an exhaustive process of consultations and negotiations over almost 12 months with the traditional owner land justice group represented at the table and the full land justice group receiving regular briefings and updates on developments. All key stakeholders were 'in the loop' and consulted on issues affecting them. It was one of the toughest and yet most rewarding processes I have been involved in my time as an activist in indigenous affairs.
>
> Of course, there had to be give and take in the process and I firmly believe the outcome is worthy of support. I am sure there are some Aboriginal and non-Aboriginal people who, for different reasons, are not entirely happy with the bill, but in the circumstances this is a great step forward not just for delivering land justice to Aboriginal Victorians but also, I believe, the right thing to do for all Victorians.

That is where I come in. I am simply trying to do things that I think will not only provide justice to Aboriginal people but will actually enrich all Victorians. It strikes me every time I return to New Zealand how enriched that country has been by going through the right process. Mr Dodson goes on to say:

> Traditional owners cannot take advantage of the alternative process to resolving native title unless all conflicting claims are resolved first, so any suggestion that the bill would somehow allow the wrong people to receive recognition would seem to be misplaced.

I wanted to read that particularly in relation to Mr Rich-Phillips's assertion. Mr Dodson goes on to say:

> It is desirable that disputes about country should be resolved by mediation and collaboration between first nation groups and not by government fiat.

Yes, desirable. There will of course be a range of residual issues in relation to cultural heritage legislation. If members go back and read my speech on that bill, they will know we are under no illusions about the possible pitfalls of that legislation.

Turning back to what the bill itself does, this is clearly going to be a long debate because it is important. Since the Liberal Party has already flagged some amendments, we will clearly be moving to a committee stage of the bill where we will go clause by clause through the bill, and we will hear in as much detail as the government wants to provide what its view is on these issues.

The most important part of this bill is that it bypasses section 223 of the Native Title Act, which is a section no doubt burnt into the collective memory of the Yorta Yorta people. It requires a continuous connection of the laws, customs and traditions of the first nation to the claimed area of land.

Some time ago, possibly years ago when I was running for Parliament, I sat down and read the High Court's judgement in the Yorta Yorta nations case, and certainly it has burnt into my mind the tragedy of the relentless efforts by the Yorta Yorta to reclaim their land and the determination by the High Court that they just did not have enough connection to meet the federal legislative or High Court test. In many ways for them — and no doubt for other native title claimants in Victoria — that was a moment when they realised there was going to be a long struggle ahead of them.

The test requires continuous connection of the laws, customs and traditions of the first nation to the claimed area of land, yet of course we know that many of the policies and programs that European society put in place were designed to break exactly that connection in that form. Decisions of both the Federal Court and High Court in the Yorta Yorta versus Victoria case demonstrate the gap between indigenous people's aspirations and the capacity of native title to fulfil those aspirations. There are no illusions about that.

The forced resettlement of the Yorta Yorta, the smothering of their language, their cultural traditions and their entrance into whitefellas' production and employment markets, which were probably just simply survival strategies at the time, were then used to exemplify why they had lost their traditional connections, and accordingly they were ineligible for recognition of native title. The bill will enable the government, if it wants — and that is all — to set right this past wrong.

Section 223 of the Native Title Act will be circumvented by part 2 of the bill, which allows the Attorney-General to enter into recognition and settlement agreements with the traditional owner mob, or as it is referred to in gentlemen's English, 'an entity'. They can either be a native title group under the federal act or the Attorney-General can simply enter them in the *Government Gazette*.

According to the briefing from the land justice group many Victorian groups could not pass the criteria to even register a claim, because the tests have become so strict as a result of a series of Federal Court judgements. The Attorney-General's broad powers of group recognition will help the pursuit of land justice, provided they are exercised with generosity and good faith.

There is still a requirement for traditional owners to prove descent and their relationship to country. This is because the whole bill locks into the federal act, as it is the case that state legislation must not contradict federal legislation. That is through one part of the Native Title Act — the indigenous land-use agreement section. Every agreement must be registered, and in order for this to occur the National Native Title Tribunal will test the community's support to see that the entity is comprised of valid representatives. On my fascinating trip to Cape York I was able to meet with some communities who had signed on to these ILUAs (interim land-use agreements).

The regime requires first nations to self-identify who comprises their membership, and then they must be incorporated. If there are any disputes as to membership or rival claimants over the same land, obviously the Attorney-General will not be in a position to enter into an agreement with them until these disputes are internally resolved. As Professor Dodson stated in his letter, it is more preferable that disputes about country and membership are resolved amongst Aboriginal people rather than by government fiat.

Justice Merkel, in his role as a Federal Court judge, lamented in his judgement in *Shaw v. Wolf* that it is unfortunate that the determination of Aboriginal identity has been left to a Parliament that is not representative of Aboriginal people to be determined by a Court which is also not representative of Aboriginal people. He went on to hope that one day such a legal definition would be determined by independently constituted bodies or tribunals which are representative of Aboriginal people. I hope the government can tell me it is going to assist with this.

Under agreement making in the bill, the legislative heads of agreement that can form part of any recognition and settlement agreement are: land agreements, which involve transferring title from Crown land; land-use activity agreements, which will substitute for what we understand to be indigenous land-use agreements under the federal act; funding

agreements for the purpose of recognition and settlement; natural resource agreements, which provide for both commercial and non-commercial access rights to natural resources; and recognition of traditional owner rights, which allow cultural and spiritual activities.

Once an agreement is entered into, the traditional owner group is unable to make any further claim of native title rights. In a legal sense that is obvious because of the High Court case of *Fejo v. Northern Territory*, which comprehensively ruled that a grant of freehold title extinguishes native title. It is freehold title, albeit with new variances of freehold title, that is being transferred from the state through these agreements. I do not know if that was understandable, but at its best what we are trying to achieve is freehold title.

Regarding land agreements, if the Crown land is unreserved, what is called an estate in fee simple can be created. This will obviously be the most sought after title. All the post-Wik legal successes, like the Blue Mud Bay case in Yolngu country, have been based in Aboriginal freehold title derived from the Aboriginal Land Rights (Northern Territory) Act 1976, and when a parallel argument has been run with native title it has usually failed.

You would never know it from the fear it generates in some sections of the community and how hard indigenous communities fight for it, but native title is the weakest of all land titles. It cannot be assigned or sold, subdivided or alienated, and very rarely is it declared an exclusive title.

This is an important issue, because I believe it relates to one of the Liberal Party's amendments. If the land has been reserved by the state for whatever reason, then it resembles this lower pecking order status. This bill calls it Aboriginal title, and its qualities roughly resemble native title. I am going to ask the minister when he is at the table to explain that further for the benefit of the Liberal Party and to address some of the claims that have been made about Parliament House and the MCG.

The traditional owner group cannot sell, transfer or encumber its legal or equitable interest in the land, nor can it lease or issue licences in relation to the land, so the economic opportunities from leasing, licensing or using the land as security for a loan are not strong under Aboriginal title. Provision is made for grants of estates in land to include similar restrictions.

As I said at the beginning of my contribution, the overriding purpose of land justice should be to facilitate economic as well as cultural self-determination that arises from a legal title. After all, we would all find it pretty hard to get along without being able to own the property we live on or run our businesses on.

Earlier I mentioned a Harvard project on American-Indian economic development. It has been systematically collecting, collating and comparing data on native American reservations since 1987. It concluded that the best predictors of economic success for native nations are, interestingly, not large resource endowments, high-level educational achievement, favourable market access or other classical economic factors. While these elements determine the extent of wealth, or they certainly put a limit on the wealth that those nationals are capable of generating, its comparative research found that successful economic development is most likely to occur when tribes effectively assert their sovereignty and back up such assertions with capable and culturally appropriate institutions of self-government. Tragically we also know that was just a historical legacy. Unencumbered freedom to deal with land is a building block for allowing these things to follow.

It is important that I state this in debate: I advocate to government that the best way to encourage land-based economic opportunities is to enter into land agreements as often as possible without restrictions on the title, even if this means — and it comes back to my future role in this Parliament — asking Parliament to withdraw some lower-level reserves — that is, types of reservation — prior to the agreement and then granting freehold in areas where the reserve is not for a high-level public purpose, such as a national park. We have dealt in the past with the aspirations of the Yorta Yorta who are following a different but parallel track through other legislation.

If a lower-level reserve is withdrawn prior to the agreement, then it would comply with division 2 or part 3 of the bill so that freehold transfer could occur. This is my answer to the Liberal Party's amendment in which it seeks to have Parliament as the arbiter of these agreements after the government has already been through the process of negotiating them and all the other steps and all the other hoops that I have talked about. If there is concern in that area about the future use that will occur on a particular piece of Crown land, the government always has the option to have that issue determined by the Parliament first and then put that offer on the table as part of its negotiations.

Returning to Aboriginal title, it is a major benefit that native title does not offer what is commonly known as a hand-back lease-back arrangement, the most famous of which was between the commonwealth and the Anangu

Pitjantjatjara for Uluru-Kata Tjuta. That was another place I had the great privilege to visit and meet with some traditional people. An absolute scare campaign was whipped up where it was said if we gave them Ayers Rock, they would shut it down or possibly cut it off. But in fact that scare campaign died pretty fast. There is an ongoing debate about the use of the area, but that is because what we go for is not just a big red rock. We go for the living culture that goes along with that amazing sight.

At the time that I visited, which was a long time ago so my memory on this is not perfect, the spectre of the Aboriginals closing down access to Uluru-Kata Tjuta came back, albeit very briefly. A traditional ceremony was under way that involved a group of elders moving across the country, carrying out ceremonies as they moved. In order to do that they had to close the main road into Uluru for a couple of hours. Tourists arriving at the roadblock realised they had a couple of hours to wait, but an explanation was given to them on why they could not use that road for a couple of hours. I remember talking to some German tourists to whom what was going on had been explained. Even though there was no way for them to participate and they could not see what was going on, they thought just to be there when it was happening was the best thing they had experienced in Australia. I am sure that they will never forget about it, as I will never forget about it.

That model in that area, as in Kakadu and hopefully one day here in Victoria, provides job opportunities, a revenue stream, cultural rights and the underlying title. Joint management of national parks and reserves will be facilitated through traditional owner land management boards that were part of the red gum legislation debated last year. It is somewhat heartening to note that this bill changes the weak parts of the previous arrangements, which members will recall we scrutinised in detail, at least for those entering settlement agreements. Now the minister will be unable to unilaterally remove a traditional owner board, which was the question we asked about the Yorta Yorta arrangement, unless it is proved dysfunctional and consent of the community it represents has occurred.

Under land-use activity agreements a future act in the meaning of this body of law is a proposed action by government, either through proposed legislation or in its executive capacity to grant or renew licences or permits that are inconsistent with native title rights. Where there is a future act, procedural rights are afforded to the indigenous claimant group, the government and the proponent who would benefit from the granting or renewing of the permit, as the case may be.

Inserted into the land-use agreements will be specific land-use activity agreements which will cover various activities such as mining, forestry, public works and so forth. These varying activities will be placed into four distinct types — that is, routine, negotiation, advisory and agreement activities — and replace the 10 categories that we have in the future act regime of the federal native title act. Once finalised they will be registered as ILUAs under the Native Title Act, and a register will be created that lists the land use activities that apply to an area of land.

The first type are routine activities, which will simply be a pro forma agreement related to relatively uncontroversial activities such as exploration. No formal interactive procedures will be required. The second are advisory activities which will require consultation in a form determined by the Attorney-General before the proponent can proceed. The third are negotiation activities which require the group's consent. The parties must negotiate in good faith, and if that fails, the matter can go to VCAT (Victorian Civil and Administrative Tribunal), which will substitute for what would be the familiar native title tribunal arbitration role. In negotiations the proponent is required to have regard to how the proposed activity will impact on traditional owner rights, and if it goes to arbitration, VCAT has to do the same thing. The crucial word 'may' in the Native Title Act has been replaced with 'must', and as a result the indigenous people of this country will, I hope, have more negotiating leverage than they would through the National Native Title Tribunal and its governing Native Title Act.

There are two types of negotiation activities for VCAT's jurisdiction. Class A activities will be of a lower level, and VCAT will be able to determine if the activity can or cannot occur and what conditions and benefits will apply. Class B activities cannot be stopped by VCAT; however, VCAT can determine the conditions and benefits that are to apply. These are things like public works, significant land use activities and — sadly from my point of view — timber release plans, but that is a whole other fight.

The fourth and final activity type relates to agreement activities. That is the highest order of rights. If consent is not given by the traditional owner group, the activity cannot proceed. Where an emergency occurs and a need to protect property, life or environment arises, no requirements in the agreement need to be followed, but having tested that particular section we are reasonably confident that an emergency is a fair dinkum emergency, to put it non-legalistically.

This overriding of VCAT is a concern. One concern with this negotiation structure — and it is the biggest flaw in the bill — is the Attorney-General's ability to overrule a VCAT determination within seven days under clauses 65 and 66. Interestingly, if you want to build a pergola on the back of your house and you go to VCAT and you win, that is the end of it and the minister cannot intervene at that point. He can intervene earlier; he just cannot intervene afterwards. Because so often it is going to be one of that minister's fellow ministers who would want to do or grant something inconsistent with native title rights, it is hard to conceive how something like that is ever going to be to the benefit of indigenous peoples.

Through these provisions the Attorney-General is deferring once again to former Prime Minister John Howard, who inserted this override as part of his 1998 massacre of the act. First the Attorney-General relies on Mr Howard's precedent of the children overboard inquiry by which advisers were unaccountable to Parliament, and now here today he mimics Mr Howard so that the executive can override a tribunal decision he does not like. Leaving to one side the benefits of this bill for indigenous people's self-determination, we are not really getting any closer to a true, flourishing democracy for the Victorian Legislative Council with these sorts of measures.

On natural resource agreements, the steering committee report did a comparative analysis and discovered that Victoria has the lowest levels of accommodation of indigenous rights to access and use natural resources in both legislative and policy frameworks. That is across the board.

On Cape York, where I have spent some time, there are enormous resources of biodiversity. We do not even know what is up there; we have not checked out what the species are. There is some amazing traditional knowledge around those species. International drug companies are coming onto the cape, taking specimens, going home and finding all sorts of worthy products. The Queensland government quickly slapped in a bit of legislation to make sure its intellectual property, if you like, in terms of the state's biodiversity was retained, but at least at the time I was up there people were not even beginning to discuss how that particular form of wealth — the wealth coming to humankind from biodiversity, which in my view could be virtually limitless — is going to be shared. Bauxite is one thing, but I am talking about something completely different.

The bill will enable the government to hopefully correct this by developing plans built into the agreements for employment and management opportunities, but again it comes totally down to what the government wants to put into the agreements. That is why we have an opportunity here. Since the government has argued that this legislation can facilitate aspects of the Gunai Kurnai claim, we will have a chance when the minister comes to the table to ask him exactly what the government's goodwill is on that.

The steering committee advocated these non-commercial rights be freestanding and not dependent upon a resource agreement. The government decided against this recommendation. This part of the bill potentially winds back one of the few post-Wik case law gains that occurred in *Yanner v. Eaton*. The High Court of Australia held that Queensland's former Conservation Act did not extinguish traditional rights to hunt, so Murrandoo Yanner famously — I am sure many of us have heard the story — committed no offence under the act for not holding a permit when catching juvenile estuarine crocodiles.

Part 6 of the bill clearly makes it an offence to exercise traditional rights outside the scope of the government's order. This legislative scheme appears inconsistent with native title rights, and as a consequence could be extinguishing the native title rights currently enjoyed by the Gunditjmara and Wotjobaluk people. I urge the minister to say in summing up that this is indeed not the intention of this legislation so that should a future court be in doubt that court can examine in *Hansard* how we passed this bill.

On the topic of hunting, it is worth noting the special place reserved for shooters in this legislation; even the Premier mentioned this in his second-reading speech in the other place. We have protected their game reserves from the rights conferred under this bill. I will leave a little pause there.

The Greens are not supportive of the coalition's amendment for several reasons. Firstly, this parliamentary oversight — and government members will no doubt argue what a champion I am on most cases of parliamentary oversight — will remove certainty on any agreement being negotiated between the first nation and the state, because any right being conferred ultimately hangs off the title. As a result the negotiating power of that traditional owner group will inevitably be reduced, and years of negotiating work could possibly be undone for reasons that in my view will not favour claimants.

Secondly, I would say this level of concern about the lack of legislative and judicial oversight did not get the same attention from the coalition when we negotiated that thing called the Major Transport Projects

Facilitation Act. It did get the attention — there was a lot of gnashing of teeth on the backbench — but it did not get coalition members over the line; that is my point. The capacity for strips of bitumen to be rolled out has not in any way been limited, but here coalition members are proposing that things be a little more closely guarded.

Thirdly, ratifying an agreement in the way the opposition is talking about it is a blunt instrument for what we are talking about here, which is a major exercise of negotiation to form an agreement. The executive enters many agreements on our behalf every day for billions of dollars for essential services and so forth that do not come to this place for parliamentary ratification.

Furthermore, the gazetted agreement will not necessarily state what proposed actions are going to happen; it will only list the future potential for Aboriginal people. We may therefore be here having a debate saying we will not ratify this agreement because it refers to something that might happen when in many ways the whole purpose of this agreement is to allow for all sorts of things to happen, not every one of which can be nailed down at the time. Alternatively if an act was proposed that was offensive to the coalition and was not contemplated when the gazetted agreement was read, it would be too late.

In conclusion, I acknowledge the hard work of all those involved in the Victorian Traditional Owner Land Justice Group in whatever capacity and the members of the committee. In this case I respect the government for adopting many of the recommendations. I know there is not unanimity on this bill and, as I have said to many people since we first started dealing with the bill, unanimity should not be the test the government should pass before it can introduce a bill that assists us in making some progress. I do not think the government is pretending, either, that it got unanimity or that the process was perfect. However, when you look at the bill in the way that I just have you can see the possibility at least of the beginning of a new approach that is desperately needed. It has always been desperately needed, and it is still desperately needed.

I hope this approach is incredibly successful. I hope every good provision in the bill can be used to its fullest — that should be clear. This particular approach could even become a benchmark. Obviously for this scheme to work there will need to be adequate resourcing. That is not something we can legislate for today, but through the trust fund active skills development can be provided by the state in partnership with traditional owner communities so that their governance capacities will excel, truly enabling them to self-determine their future. I look forward to such a future, and I commend the bill to the house.

Mr MURPHY (Northern Metropolitan) — I recognise the contribution by the speaker before me. Obviously this is an issue of significant concern to Mr Barber, and he put a lot of thought into his contribution. I welcome his support for the bill.

I, too, had a bit of a battle internally not so much about supporting this bill — because when it came before me I immediately thought I would support it — as about speaking on the bill, considering what has happened here in the past in this institution of Parliament and the way that white people have implemented legislation for first Australians, which has hardly ever been in a beneficial way. I did not want to be seen as a whitefella trying to tell first Australians what is best for them. Nevertheless, following those thoughts, I thought it was important that I spoke. I thought this more so today after I met some community representatives from indigenous nations around Victoria; indeed I thought I must get up and speak. Reflecting on that I also thought doing so would demonstrate that the bill means something to me — and it does. I have not felt as nervous while speaking on anything in this place, leaving aside the first speech I gave earlier this year.

As I mentioned, I considered legislation that had gone through this place previously, particularly one of the first bits of legislation, the so-called half-caste act of 1869. The Victorian Parliament legislated to remove Victorian indigenous communities from their traditional place and in effect to move them from one end of the state to the other just for the sake of it — to separate them from their land and their family. This policy has been described by Wayne Atkinson as one with genocidal intentions, the assumption being that older members who were still living on a reserve would eventually die out, the indigenous race as a result becoming absorbed into the mainstream population.

The particular reserve discussed by Wayne Atkinson was known as — and I hope I pronounce it correctly — Coranderrk, a piece of land that was in effect all that was left over to give to indigenous Australians in Victoria, as far as I can tell. However, they did not have the freedom to live on and work that land in their own right. They had to have an overseer, so to speak, to ensure that the land was appropriately managed. That is shocking, considering all this land that Victoria and Australia have. Despite it, following colonisation we could not find a bit of land in this state that indigenous people could manage in their own right or live on in their own right.

The Traditional Owner Settlement Bill 2010 recognises the long history of indigenous people in our state and their land-based culture. The bill before the Parliament gives us a real opportunity to address some of our shortcomings in the interaction between black and white Australia, particularly where land rights are concerned. I hope that the bill will do something to restore the land, wealth and freedom that was stolen from indigenous people following European colonisation. I note that nothing we ever do can really give back what was owned by indigenous Australians, but I hope that we can reconcile somewhat and move forward.

In debating the bill I ask the chamber to consider this significant statistic: just 0.05 per cent of land in Victoria is indigenous held. It is the lowest of any state in Australia, even lower than Tasmania, where the percentage is five times higher, at 0.25 per cent. The bill addresses this inadequate level of land being indigenous held by providing for the making of agreements between the state and traditional owner groups. It recognises traditional owner rights and confers rights on traditional owner groups for access to, ownership of or management of certain public land.

The preamble to the bill acknowledges the impact of European settlement. As I have mentioned, the statistics are alarming. It is estimated that there were between 30 000 and 70 000 indigenous people prior to colonisation. Following colonisation, war and various introduced diseases, the population was reduced so much that in 1863 there were only 250 remaining members of the Kulin nations, which is a damning and alarming statistic. The fact that the indigenous community in Victoria is so strong and is still able to fight courageously for its land is remarkable and a demonstration of the very strong spirit of indigenous Australians. It is something that all Australians must treasure and acknowledge.

The impact of European settlement on our indigenous communities is known. I would not say it is well known, but more and more evidence is slowly coming out and highlighting how significant the impact of European settlement on indigenous Australians was. It started from the time when Europeans arrived and declared Australia terra nullius, or a land without people. That legal doctrine facilitated indigenous dispossession, which is one of the greatest crimes ever perpetrated in the land we now call Australia. Terra nullius was a lie that allowed Europeans to colonise, discriminate against and oppress indigenous Australians.

I have looked at some of the written history, which is mainly from white Australians, of how indigenous Victorians dealt with this matter. I have read an interesting piece from Murrumwiller, whose adopted English name was Charles Never. Trying to get some land justice for himself, his family and his community, he wrote to the Queen. Regarding this letter, he said:

> I mean to write to the Queen and ask her to give me a piece of land … to build a house on; and I mean to ask her for 400 pounds … to build my house. You say one time the Queen a good woman. And yet she send white man out here, take blackfellas' land, and drive them away, and shoot them, and build planty house and garden on my land; and when I say, I ask her to give me back a piece of my land and money to build a house, you say she think I not know better. I know better. This land, my land first of all. Four hundred pounds not much to the Queen, and she take plenty land from me.

Members can see that the fight for land justice goes back a long way. Hopefully the bill before this place will do something towards bringing justice and helping us reach reconciliation.

Whilst at a national level we have the Native Title Act, which helps Australia deal with issues of indigenous land rights, there are shortcomings in how the act operates in this state, as the legislation was never intended to address land justice in more settled regions of Australia. The requirement for indigenous people to prove that they have maintained a continuous connection with their country since European colonisation is simply impractical, given that it was the dense European settlement of the state that dispossessed indigenous people of their land.

Significant issues of lengthy time frames are also involved. It is estimated that it will take up to 50 years to deal with native title claims in Victoria if we maintain business as usual. From what I have been able to garner, this has been recognised by the Victorian Traditional Owners Land Justice Group which resolved that native title, as it was applied in Victoria, was cumbersome, complex, costly and litigious and was delivering only ad hoc and limited outcomes.

It is hoped that the passage of this bill will allow Victoria to fast-track the resolution of claims lingering in the courts, end public expenditure on limited outcomes and foster positive relationships between the government and Victoria's traditional owners. The evolution of this bill is a demonstration of practical reconciliation.

In March 2008 the Brumby Labor government established a steering committee for the development of the Victorian native title settlement framework. The committee was chaired by Professor Michael Dodson

and included representatives of the Victorian Traditional Owners Land Justice Group, representatives from Native Title Services Victoria and departmental officers. A draft settlement framework was established.

From that steering committee we have a progressive bill before the house which will assist indigenous and non-indigenous Victorians to evolve reconciliation in this state. It will definitely not put a dot point after reconciliation; it will help evolve the situation. The next bill that comes before this place dealing with indigenous or first Victorians will hopefully evolve and be more progressive again.

I note the words of Professor Mick Dodson, who chaired the steering committee:

> The bill seeks to address the shortcomings of the current native title system in a comprehensive way through a single state-based framework that will expedite the settlement of claims with equity.
>
> This is a highly innovative piece of public policy championed by Attorney-General Rob Hulls. If adopted, it has the potential to make a significant and lasting contribution to reconciliation in Victoria and deliver real and practical outcomes for Victorian traditional owners.
>
> In these matters, where Victoria has historically lagged behind the other states and territories, it is now time to lead.

That is a significant statement and it heavily influenced me in my decision to stand up and address the bill today because, as I have mentioned before, Victoria introduced legislation that was far from beneficial. It was non-beneficial to indigenous Victorians when it came to dealing with land rights, health and other issues that the white community takes for granted.

Therefore I am proud to be standing here today, speaking on behalf of the bill. It is a testament to a social justice program promoted by the government, and it is a further demonstration that Labor prioritises the issue of land justice and reconciliation with indigenous Australians. I do so recognising there is some community angst about there not being significant consultation. I hope the bill is a starting point only and that we are able to reach greater consultation with all communities in the future. I hope it helps continue the process of reconciliation between Aboriginal and non-Aboriginal Victorians.

Ms LOVELL (Northern Victoria) — I wish to make a very short contribution on the bill before the house. Unfortunately this is another divisive bill introduced by the government. It divides communities — not Aboriginal and non-Aboriginal communities — but within the Aboriginal community. Just like the government's bill introducing the registered Aboriginal parties, this bill picks winners and losers because it only recognises one local group as the Aboriginal group which can hold native title. In my own home town of Shepparton we have two Aboriginal groupings — the Bangerang and the Yorta Yorta. The Bangerang have been locally known as the traditional owners for many years and the Yorta Yorta in more recent times.

If you go back through the history of settlement in northern Victoria and look at a book called *Recollections of Squatting in Victoria — Then Called the Port Phillip District (from 1841–1851)* by E. M. Curr, you read about the tribes of the area being part of the Bangerang. Pastor Sir Doug Nicholls, who always recognised himself as a Yorta Yorta man, also acknowledges that northern Victorian lands were the lands of the Bangerang nation.

However, what we have under this government is registered Aboriginal parties where the government picks winners and losers, and it chose, for the area where the Bangerang live, the Yorta Yorta as the registered Aboriginal party. There could have been two Aboriginal groups acknowledged as registered Aboriginal parties, but the government chose not to choose the two and referred the Bangerang people back to the Yorta Yorta people. The Bangerang are not part of the Yorta Yorta, and it is time the government recognised their elders and what they say — that they are not part of the Yorta Yorta; that they are part of an Aboriginal nation of their own and they deserve to have registered Aboriginal party status.

When the bill was introduced John Atkinson, an elder of the Bangerang, wrote to me. He is a respected elder in the Aboriginal community. Many people know him as Uncle Sandy. He was an inspector under the commonwealth act for many years, and has a strong history in Aboriginal culture. Uncle Sandy wrote:

> We are the traditional owners and descendants of Kitty Atkinson, the matriarch of the Bangerang people of the north-east, and we strongly oppose this bill. Historical factors have impacted our decision to do so. Prior to the current cultural heritage legislation being enacted we unsuccessfully met with the former Minister for Aboriginal Affairs, Gavin Jennings, to discuss issues relating to cultural heritage and were told to talk to the Yorta Yorta group … they have unfortunately declined our offer to discuss ways we could move forward as one …
>
> Our experience with native title has shown that it does not work and to put legislation in place that allows Aboriginal people to make claims without proving their genealogy is a very dangerous precedent to set …
>
> The issues raised in the proposed bill will create more problems than alleviate them. Firstly, most Aboriginal people

> live in suburban, regional or rural settings. Currently none live in a 'traditional' setting. To give management to one group of people would be costly in added resources, due to the lack of knowledge and expertise currently in the area.

The Bangerang people would like to see a return to the previous policies under which all groups worked together in the preservation of forests and lands. That is the only way we can move forward. We need to recognise that there were indigenous Australians here when we came — and we do acknowledge that. We acknowledge their heritage and we acknowledge their connection to the land. We also acknowledge that there is more than one group in many areas, and those groups should all be given equal status. It should not be the role of government to pick winners and losers in Aboriginal heritage. Unfortunately this bill is one of those that prevents us moving forward together in our shared future in this land because it picks winners and losers and it divides Aboriginal communities.

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to make a contribution on this significant legislation. It occurs in an unfortunate context in that the history of indigenous Victorians, since the arrival of Europeans, has been characterised by invasion, injustice, dispossession of land and dispossession of culture. It is a history which has left a terrible legacy and which is characterised by disadvantage, entrenched poverty, unemployment, poor health outcomes and poor education outcomes. Sadly, progress to overcome that disadvantage has been frustratingly slow. However, the hope of those on this side of the chamber is that this bill is a step in the right direction, a step on that road to recovery.

We think the bill is the right approach because at its heart it is about recognising the special relationship of traditional owners with their land. It is an important and symbolic relationship. However, the bill also recognises rights in concrete and meaningful ways, and we would all agree that that progress is not before time.

Reform of the way we do native title in this state is long overdue. I think the current model, which has taken many years to achieve not much at all really — in fact very little — is unfortunate and unsuccessful in some ways. This is an important bill because it sets out to build an alternative approach, which is geared towards quicker resolution of claims, reduced costs, taking matters out of the court system, out of the hands of lawyers, and trying to bring them to the parties. It really is about mediation rather than a legalistic approach, and in that sense it is very welcome.

Gordon Rich-Phillips in his contribution made the comment that he is concerned about what he described as a lack of consultation, and he referred to an agreement the government had reached between the parties. Again there is no conspiracy theory here. The government has been clear that it is seeking through this bill to find a framework through which to have discussions with traditional owners. This is a step on the way forward in terms of opening up that dialogue, and there has been significant community consultation. There have been years and years of hard work between traditional owners and the government, and there has been extensive consultation with over 100 stakeholders.

The starting point for the discussions that led to this bill was in 2005 when the government, through the Victorian Traditional Owners Land Justice Group, sought an out-of-court settlement. In 2008 that led to the establishment of a steering committee, which was chaired by Professor Mick Dodson. This steering committee very successfully brought together key government agencies and traditional owners, and they set about developing a new process for settling native title, a process outside of that which had taken so long. There has been considerable work done over the last two years by that steering committee, and I thank its members for their contribution, commitment and hard work.

In addition to that consultation, there have been discussions with a broad range of other stakeholders, including the Victorian division of the Minerals Council of Australia, the Victorian Farmers Federation, Tourism Victoria, the Victorian Equal Opportunity and Human Rights Commission, the Victorian National Parks Association and the Victorian Association of Forest Industries, to name but a few. I suppose the common thread throughout these consultations has been a desire to get an alternative, quicker and fairer way to resolve what had become protracted native title disputes which had been bogged down and surrounded by uncertainty.

In many ways the bill before us is a culmination of that consultation and desire to find a better and more efficient way which really focused on the communities that were affected. The bill provides a number of flexible alternatives and options that would not otherwise be available. It provides opportunities for land agreements, resource agreements and land-use activity agreements. These are all fundamentally new tools which can be used in the settlement of native title claims, new tools that would simply not be available without this legislation. Obviously the highlight of the bill is the concept of Aboriginal title, which allows title to public lands in the state, including national parks and reserves.

While the bill provides a framework, it does not prejudge the outcome of discussions. What it does is provide opportunities and flexibility. The onus now is on individual indigenous communities and the government to sit down and work through some of the more difficult areas and try to reach an agreement that I hope will meet the aspirations of traditional owners. It is an important and significant step forward in the sense that it provides an opportunity for genuine dialogue and for the expectations of communities of traditional owners to be met.

Much of the debate has been around some of the divisions within the indigenous community. As people observe in this house there are divisions in any community, but disputes around group membership and association with country can be difficult and complex. This bill is not about a heavy-handed approach to overcome those divisions. It is not about advantaging or disadvantaging one group over another. It is about a way forward which provides an incentive for groups to come together, to work together and to gain the benefits of a settlement now rather than waiting more than a decade, as has been the case, for matters to be sorted out through the court.

These settlements are about getting on with practical outcomes. The bill is about joint management of national parks, it is about job opportunities and about due recognition of traditional owners. It is certainly the government's view that traditional owners are the only ones who can resolve disputes and issues amongst themselves whenever possible, and under the bill the government will not negotiate a settlement where there are disputes about the composition of a group or the extent of country to which it claims an association. That is not what the bill is about; it is about inclusivity.

For that reason we will be opposing the amendments put forward by the Liberal Party. There is no need for these amendments, which Mr Rich-Phillips says are necessary so Parliament can ensure that any agreement reached is inclusive of all interests. We will not support the amendments; we will not support the uncertainty that is inherent in them. We will not support the uncertainty which will arise where traditional owners have in good faith reached agreement only to have those agreements effectively overturned. We will not be supporting the amendments because they are a recipe for confusion and uncertainty and for further delay.

I welcome the bill. I welcome the opportunity it provides. In that sense I know it is a starting point for what I hope will be an effective dialogue and an effective partnership between the government and the traditional owners. I wish the discussion and the partnership all the very best because I think this is an important step on the way to addressing what has been a very unfortunate history.

Mrs PETROVICH (Northern Victoria) — The Traditional Owner Settlement Bill is a bill under which the state government has attempted to establish a framework that will enable the recognition of groups as traditional land owners. The benefit is that the agreements that can be entered into with these groups can be the basis for the settlement of native title claims. The bill seeks to establish a fair and timely settlement of native title claims and provide traditional owners with opportunities to be involved in the management of their traditional lands, with the economic, social and actual advantages that it has the potential to achieve.

The bill has far-reaching implications for all members of the Victorian community, including some unintended consequences I am sure for some of the indigenous people it is designed to assist. The simple fact is that in its current form the bill has not been consulted on properly with all of those Victorians it will have an impact on. The time frame for the introduction of this important bill has been short, and despite its complexity the government seeks to ram it through. That was demonstrated in the last sitting week when an extension was made to the sitting a short time before the house was due to rise. Without those people who had had an involvement in the bill, including those in the gallery, and without other members of the house being prepared, the government sought to push the bill through as a matter of expediency. That is typical of the Brumby and Hulls government. It uses bully-boy tactics and a lack of consultation as its modus operandi. I think there are glaring holes in what this bill seeks to deliver and what it actually delivers, and to ram it through at any stage would be an injustice for everybody involved.

The coalition has three major issues with the bill. Firstly, the bill allows the government of the day to grant title over large parts of the state, including areas set aside for national parks and other public purposes, without the usual requirements for parliamentary sanction.

Secondly, we are concerned that the bill gives the Attorney-General sweeping powers to decide in many contexts which groups will be recognised as the traditional owners of particular land, and by implication which groups will not be recognised. These decisions can be made without any right of appeal.

Thirdly, we are concerned that where there are multiple native title claimants over particular land the bill tries to ignore the fact that there are these multiple claims by

deeming all those claimants to be a single group and requiring that group to nominate, in a way that is unspecified, an entity that is supposed to represent it while providing no mechanism as to how that nomination is to be determined. The bill therefore risks, rather than resolves, native claims in many contexts; in fact it perpetuates them, adding to their complexity and to the differences of view that exist in relation to them.

That serves as a reasonable example of why we have difficulty and concerns with the bill. As Ms Lovell said earlier, the fact that not all indigenous groups are included or recognised picks winners and losers in this process. There are some significant equity issues around that. I can see great divides being created as a result of that as well as the oversimplification of multiple native title claims. These are complex issues. Saying they are not does not make them any less complex. Ultimately what should be supportive of indigenous groups may, because some groups have been excluded, in fact prove to divide those communities both from the traditional owner groups and also from the broader community, and that is not helpful to anyone.

Having looked at some of the work that has been done by our shadow minister in the other house, the member for Shepparton, who has worked with both the Bangerang and the Yorta Yorta groups in the Shepparton area, there are some complexities around those relationships and what is a recognised group. That does not make the issue any more or less real for those individuals who do not belong to the group that has been approved.

I understand the bill will be welcomed by many Aboriginal groups and also by many non-Aboriginal groups, but my concern is that it has the capacity to impact significantly on those groups who are not included and which also seek to speak for their country.

A big concern I have is that there is a lack of knowledge amongst indigenous and non-indigenous groups about the implications for communities as a whole; there has been a lack of consultation. A number of groups have been cited as having been consulted, but in the week between parliamentary sitting weeks I spoke to a number of people who are involved at a range of levels in communities which would be affected by this who have no knowledge of either the bill or its implications. By setting up something as a simplification we may be making things a little bit more difficult and a little bit more complex.

The third point is the concentration in the hands of the Attorney-General of the power to determine which particular group of people are the traditional owners. This concerns me greatly. That decision will be absolutely unappealable. I am concerned that under this bill the Attorney-General will be given unfettered power to make decisions on behalf of a range of people without there being a right of appeal and without consultation. In my view that sort of power should be able to be reviewed by the judiciary. As with any other bills that come before us, I think there are concerns about a minister or ministers granting, without reference to the Parliament, Aboriginal title or freehold title. We deal with land legislation in this house frequently, but whether it relates to national parks or revocation of reserves or Crown land it needs to be clear that those prerogatives are the prerogatives of the Parliament. I think this bill, like so many other bills and so many initiatives of the Attorney-General, seeks to erode the prerogatives and the work of this Parliament. I think that is a great shame.

I will say that we need to acknowledge our history and our future, and to do that we need to ensure that we do not apply a quick fix to what is a complex issue, which, if it is not worked through appropriately and in a timely, consultative manner, may erode any ground that we have made up along the way. I would be very sad to see any further divisions created because of an untimely, ill-conceived process with a lack of consultation.

Mr SCHEFFER (Eastern Victoria) — I speak in support of the Traditional Owner Settlement Bill. The aim of the bill is to enable Aboriginal people in Victoria to seek out-of-court settlements of Aboriginal title to achieve justice in relation to land. The legislation comes after a long and detailed discussion that worked through many complex issues, and the framework contained in the bill will go some way towards resolving longstanding claims relating to Crown land.

The final settlement of the Mabo case in the High Court of Australia in 1992 was one of the most important events in this country's history, because for the first time it recognised native title in Australian law; it recognised that Aboriginal people continued to hold the rights to their land and waters which derived from their traditional laws and customs. Despite the panic that was whipped up and the subsequent attempts to wind it back, an overwhelming majority of people supported the High Court's decision to overturn the concept of terra nullius. Inexorably Australians are coming to recognise that the Europeans forcibly expropriated the land that belonged to the Aboriginal people.

This fundamental wrong can of course never be undone. The fact is that the colonisation of this country

inflicted immense harm on the Aboriginal people, and the aftershocks continue to affect us to the present day. Everything needs to be done to ensure that non-Aboriginal Australians do not continue to hinder and frustrate the self-determination of Aboriginal Australians.

The provisions in this bill represent a further step on the part of Victorian Aboriginal people and the Victorian government towards ensuring that the law does not stand in the way of Aboriginal communities being recognised as traditional owners of their country and being accorded a range of rights over Crown land in certain circumstances.

The Mabo decision recognised that native title existed where an Aboriginal people were able to establish a substantially uninterrupted connection to their land from the first European settlement to the present day. But it is also the case that native title could be extinguished because of government action that effectively interrupted the cultural continuity between Aboriginal people and the country to which they were connected. In addition, under the Mabo decision native title is not granted by governments but recognised by the Federal Court and will vary from people to people and from area to area because of the uniqueness of the cultural and land relationship circumstances of each Aboriginal community. Native title exists alongside the rights of other people who live in the same area, and where it is granted native title is subject to the rights of those other people who live in the area.

While native title and the processes used to decide whether it applies worked for many communities in central Australia and in the north where Aboriginal people were able to demonstrate unbroken and living connections to their land, its processes did not work so well in areas such as Victoria where Aboriginal people also live.

Chapter 4 of the 1997 *Bringing Them Home* report of the Australian Human Rights and Equal Opportunity Commission powerfully describes the history of the treatment of Aboriginal Victorians at the hands of the Europeans since the real commencement of the occupation in 1835. The policies and actions of the European colonisers and their administrations created the circumstances that would make it so difficult for Aboriginal Victorians to successfully seek land rights under the Native Title Act 170 years later.

Well intentioned or not, the policy and practice of segregating Aboriginal people on reserves without regard to their country or language and separating children from parents and housing them on reserves was a disaster that profoundly unravelled the cultural coherence and identity of untold numbers of people over six generations. The policies sent Aboriginal people into reserves, with broken families, disrupted relationships and fragmented people already weakened in their communities, and that disconnected them from country. The policies of successive governments showed a failure to understand that for Victorian Aboriginal people culture and connection to country are inextricably linked.

Of course within this story of disempowerment there are many accounts of tenacity, survival and achievement in the Victorian Aboriginal peoples' struggle for culture and land. As I was preparing for what I might say this afternoon, I was interested to find an absorbing address given by the co-chair of the Victorian Traditional Owner Land Justice Group, Mr Graham Atkinson, to the national native title conference back in 2004. Graham Atkinson refers in that talk to examples of the strength and resilience of the traditional owners throughout the period of early colonisation and he reminds us that members of Aboriginal nations right across Victoria kept their connection to the land by replacing European farm workers at that time who had left the land to go to the goldfields. To maintain connection to country, Aboriginal people worked on farms for non-indigenous farmers so that they could continue to live on or near their traditional country. Graham Atkinson says:

> The discipline and strength of Victorian traditional owners and their contribution to Victoria's agricultural sector is too often forgotten. Our aspirations have not changed. We want jobs, and business, and the freedom to practise our culture on our land. It's pretty simple — we want our contribution to be valued. Despite the fact that many of our people were again pushed off the land we, the traditional owners of Victoria, draw our inspiration from this legacy. More recently, the fight for Framlingham, Lake Condah, Lake Tyers — all of these stories of struggle are inspiration to us today — through perseverance and working together we can get some of our land back.

The policies of early Victorian governments that corralled different Aboriginal nations into reserves in country remote from the traditional areas of those people meant that on the one hand they were dispossessed, but on the other they came to identify with the land where they found themselves. On the one hand they lost aspects of their culture in losing their traditional land, but on the other they forged solidarity with Aboriginal people everywhere and no doubt developed new and sophisticated ways to negotiate and build new commonalities.

This is the historical legacy that the Traditional Owner Settlement Bill intends to address — after the failure, to

a great extent, of the Native Title Act to fully accommodate the circumstances of Victorian Aborigines who have not been able to prove to the court that they have a continual and unbroken relationship to a given territory. In Victoria the native title process has taken a very long time to work through the legal system and it has, to be frank, had inconsistent outcomes for traditional owners.

Separate from these court processes, the Victorian government has been able to achieve land settlement agreements with three traditional owner groups, as I understand it: the Yorta Yorta people, the Wimmera people and the Gunditjmara people. The Yorta Yorta nation, for example, attempted to pursue its native title rights through the courts but in the end its members were unable to legally prove the matter and they were naturally dismayed when the Federal Court and the High Court subsequently upheld the rejection of the land rights claim.

The Victorian Attorney-General, Rob Hulls, said at the time that this government was committed to negotiating rather than litigating native title matters and to resolving native title claims. Through this commitment to an alternative process, the Yorta Yorta people are now recognised as the traditional owners of their country and Victoria works in partnership with the Yorta Yorta to cooperatively manage the land.

The Traditional Owner Settlement Bill provides for an out-of-court settlement of native title and delivery of land justice. The bill recognises the relationship that Aboriginal people have with their country and that this connection has practical and material manifestations that impact on the management of and care for country, including the use of natural resources. Under the provisions of the bill, traditional owners who enter into a settlement agreement will withdraw any native title claim they may have under way and agree not to make a claim in the future. The reason for this is that the total benefits provided under a settlement agreement are a just and fair alternative to any entitlements that may be awarded under the Native Title Act.

The terms of the specific traditional owner settlement agreement bind all native title holders for an area and the agreements are understood to last forever, in perpetuity. The traditional owner group must be able to demonstrate that they are the right people for country or that area and they also need to show their traditional and cultural association with that area of land.

If traditional owner groups meet the conditions for a settlement agreement, are able to demonstrate that they are the right people for country and can demonstrate negotiation capacity, they can receive formal recognition as the traditional owners of their country. They will have faster resolution of their native title claims; opportunities to jointly manage and care for country; recognition of rights over the land, such as the right to take and use natural resources, as I indicated; and funding to plan for the future, to build an economic base and, most importantly, to be independent of government funding in the long term. This means jobs in land and natural resources management and tourism ventures and investment opportunities that in the end will help to overcome inequality.

The bill addresses the issues of native, or Aboriginal, title in Victoria, a state that has a very different Aboriginal land and cultural history to that of northern Australia, for example, where communities have not experienced the same level of disruption and disconnection. It could be argued that the native title processes that operate under the Native Title Act were never intended to apply to issues of land justice for people in more settled areas of Australia.

Fundamentally, the legislation we have before us today recognises the land rights of traditional owners and that Victorian Aboriginal people have a distinct and unique relationship to country that is indivisible from culture. The provisions contained in the bill represent a further step — it is not the end of the road by any means — towards reconciliation in the wake of the terrible destruction that was wrought by colonisation in Victoria.

As I understand it, the bill has involved collaboration between the Victorian government and the Victorian Traditional Owner Land Justice Group, acknowledging that while there is continuing debate within the various Aboriginal communities — and that has been referred to by previous speakers — nonetheless the legislation has general support from Aboriginal organisations, business interests as well as, most recently, the commonwealth government and non-Aboriginal Victorians.

I believe this is positive and forward-looking legislation, and I commend it to the house.

Mr HALL (Eastern Victoria) — I welcome the opportunity to make a few comments on the Traditional Owner Settlement Bill 2010, and I want to commend those who have spoken before me. They have spoken with sincerity and a lot of knowledge of the background of this issue and the content of the legislation. It would probably be superfluous of me at this stage of the debate to repeat much of that background, which has been well and truly elaborated on by others.

What I want to do is confine my remarks to probably the prime issue in this legislation, and that relates to land ownership and land-use agreements. It is a fact of history that there has been much conflict and even wars fought over the issue of claims to land ownership, and sadly that still continues in parts of the world today. But in recent years, in our country at least, the contest for land ownership has been fought through the courts rather than on the battlefield, and that is to be welcomed. Nevertheless, the contest for land ownership is still keen, and in many fields there is contention in respect of land ownership — whether that be public or private land, whether it be the status given to that public land or the allowable uses of land, which may be privately or publicly owned.

As has been said by others, this bill is largely intended to counteract some of the deficiencies of native title legislation at both the federal and state levels. I would be the first to agree that the whole legal process around native title has been problematic, to say the least, and has created a great deal of uncertainty for all parties that have an interest in native title claims, so I welcome the opportunity to perhaps resolve some of the protracted delays and complexities which native title legislation has delivered to this point in time.

For changes to the status of land to occur it is quite usual that it be brought before the Parliament. The system of classification of public land in the state of Victoria includes national park status right through to various types of Crown land reserves, and changes of status are frequently the business of this Parliament. The National Parks Act has a series of schedules which list and describe various lands and the classifications assigned to them, and additions to or deletions from those schedules are the subject of amendment bills which come before the Parliament.

We also see a lot of revocation of land reservation acts before the Parliament. In some such cases there is a revocation of a reservation which might exist on a parcel of land, sometimes to retain the land in public ownership but use it for different purposes. In other cases the reservation is revoked for the purpose of giving the land freehold title and therefore making it available to be owned by an entity other than the public.

It is a very frequent and common activity that land status change is brought before the Parliament. I believe that is important because land ownership in itself imposes responsibility on the owner. It is a privilege for any of us in this chamber to own land in Australia, and it should be treated as a privilege. In the strictest sense of the word we do not own it forever, because at some time it is going to be passed on to others, and we all have a responsibility to manage and maintain the land we have ownership of for generations beyond our lifetime.

It is therefore important that the issue of public land ownership is, quite rightly, brought before the Parliament. The proposed amendments which my colleague Mr Rich-Phillips has given some indication of to the Parliament today will require changes in land status, as proposed in this piece of legislation, and land activity use to be ratified by the Parliament, and that is a fair and proper process.

We see that under this bill there is an ability to create what are called land agreements, in particular grants of estate in land and grants of Aboriginal title. We also see under another part of the bill an ability to strike land-use activity agreements. In respect of that, there are cases where on fair assessment it may be proper to strike those agreements. There needs to be a process for considering that, and this bill sets out that process. Nevertheless, it is important that Parliament does not relinquish its responsibilities to exercise an oversight of land status. If we are assigning a different owner to land or a different land use for public land, then it is appropriate that Parliament still exercise some oversight in respect of that in the same way it does now — and I want to emphasise that. This is not a special arrangement for this piece of legislation. It is a practice that this Parliament has developed over its 150-odd years of existence, and that is that where there is a change of public land status it is brought before the Parliament by way of amendments to various acts — whether it be the National Parks Act or special acts to revoke certain reservations.

I want to urge members on both sides of this chamber to reflect again on the amendments which will be considered more fully in committee and ask them for their support. To do other than that would be abrogating the responsibility that we have been given by the people of Victoria to maintain oversight of public assets, and those public assets include public land.

Mr P. DAVIS (Eastern Victoria) — I do not intend to be as fulsome in my contribution as some, or particularly one of the previous speakers, so I will restrict myself largely to the matter which is in fact before the house, which is the bill entitled Traditional Owner Settlement Bill 2010.

In my comments I thought it would be appropriate to briefly remark on the process of the debate on this bill and where we have started today, because it is not actually the start of the debate. An attempt was made to debate the bill at the end of the last sitting week. I do

not now want to take issue with that process, which I think was incredibly flawed. If it had proceeded, it would have been a great shame, because stakeholders interested in this matter would not have had the opportunity to observe the debate at that time.

However, I take issue with a comment made by the Minister for Environment and Climate Change at that time that the bill affects the most affected parties. He was referring to indigenous or Aboriginal people as if they were the only people who have an interest or a stake in this legislation. We need to think about that for a moment. There is absolutely no question at all that the Aboriginal people of Victoria are key stakeholders and they rightly should be fully engaged in the passage of this legislation and take a keen interest in the debate that occurs in Parliament.

I have listened carefully to the contributions of previous speakers, and I picked up the tenor from them of the discomfort which many of us in contemporary society feel about the history of the colonisation of Australia. I have wrestled for some time with this issue of the implications of many of us not feeling comfortable about our colonial history.

I picked up a useful book recently called *The Politics of Official Apologies* by Melissa Nobles. I assume it was based on a PhD thesis because of the complexity of detail in the book; it is not exactly light reading. I quote from page 21 which says:

> For certain state actors, an apology is the morally correct action in light of the historical record. Australia's former Labor Prime Minister Paul Keating once remarked, 'I'm more convinced than ever that we've got to make peace with the Aborigines to get the place right.' … By 'make peace,' he did not mean stop war or curb violence; rather, he meant that it was time to reach a just and fair arrangement …
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> These moral judgements are often rooted in feelings of guilt. Recent research postulates that 'collective guilt' is a powerful motivator for apologies and other efforts of rectification. Drawing from social identity theories in social psychology, researchers have found that when persons identify with a group, and accept that their group is responsible for harmful actions against another group, they feel guilty, even if they themselves are not personally responsible … This group-based guilt, research shows, is a powerful predictor of support for apology.

An apology in itself is not the end point. It is part of a process of reconciliation, and what comes from reconciliation is, generally speaking, on the part of the group which is seeking an apology, some other outcome or a progression. That could well be in some manner a form of restitution. It is more than just a set of words; it has also got to be transposed to an action. That, in effect, is the progression we see in this legislation before the house today. There is an attempt on the part of the state of Victoria to move that process forward.

Thinking this through, I thought about how all this sits with me personally. There is a tragic story in relation to Aboriginal people in Gippsland with which I am all too familiar. Many people in rural areas know something of the history of their own district and much of it is oral history. There is some written history, but frankly it is hard to rely on because the historical record is not such that one can be fully reliant on the written word. However, there is an understanding that at the time of European settlement in Gippsland — we are talking about just prior to 1840 — there were probably of the order of about 3500 to 5000 Aboriginal people in the greater Gippsland district; and within 20 years there were less than 200.

I do not suppose that is a result of people emigrating to another country. It is directly as a result of colonisation, displacement of communities and death by various forms, including from European diseases against which there was no resistance. Just the mere fact of displacement would have caused enormous difficulty in sustaining life, and the reality is that it went far beyond that. There are reported massacres of Aboriginal communities — again the history is oral — and probably the most outrageous massacre occurred not very far from where I was farming until a few years ago.

In about 1842, not far from an area north of Yarram at a place called Jack Smith Lake, there was a reprisal for the death of one of the Scots graziers, the nephew of Lachlan McAlister, who was speared going home from the Tarraville pub at night. We do not know why; it may have been an offence. There were allegations about why he was speared, but he was killed. As a result, what was known as the Highland Brigade — and you can imagine its members' original nationality — turned out to deal with this perceived injustice. The result was that somewhere in excess of 150 — probably several hundred; we do not know how many — Aboriginals were massacred at what is known as Warrigal Creek. In Gippsland terms that was probably one of the most outrageous events of that early colonial history, but there were others. A place like Butchers Creek did not get its name because there was a butcher's shop there. These were events of colonisation.

In some contributions to the debate I have sensed a sense of collective guilt about something that people have not articulated. I do not express a sense of guilt but awkwardness about the fact that I am not descended from anybody who was involved in those events, but the reality that my family has been in Gippsland for

150 years, having arrived in Gippsland once the indigenous people had been removed from the landscape. My family took up land and farmed there for 150 years. Therefore I have two conundrums: a sense of shame on the part of our colonial forebears that that sort of action would have occurred, and at the same time an attachment that I think allows me to understand the concept of historical attachment to land.

Indigenous people make a claim for traditional ownership in the case of this bill — or native title or however it is described — because there is in their minds a classic attachment to the land in which they have an interest. I do not debate whether that interest truly exists. The fact is if you think you have that attachment, then you have it, just as I know I am more strongly attached to the farming property where my family farmed for more than 100 years than where I farm. I have less attachment to the farm that I built up myself than I do to my family's heritage and where they farmed for four generations over 100 years. I can relate to the historical attachment to land; therefore I simply do not dispute that this is a real issue.

The question in relation to traditional owner rights is: what are the responsibilities? It seems to me that you cannot have a sense of guilt and wash it away by an action on the part of the state to somehow ameliorate what occurred as a result of the actions of our forebears when they colonised Australia. These actions on the part of colonists occurred everywhere the British went — or the Spanish, the Portuguese or the Dutch. These were the actions of colonial empires that sought to take control of a landmass.

The reality is we have a responsibility to deal with people who are part of our society and who by any measure we understand need support from the state. I am talking about the collective, because clearly there are many people in every group within society who are at different ends of that spectrum. Some people do not regard themselves as needing any help from the state, even though they proudly define themselves as indigenous or Aboriginal people.

How do we react to that? The Victorian government has decided that, despite its flaws, the commonwealth Native Title Act should not be amended and that what should occur is a substitute framework should be developed in law in Victoria which will go beyond what the Native Title Act seeks to achieve and reflect the Mabo and Wik decisions. I am not going to make a judgement about whether this bill is the right measure; I do not know, because I have been wrestling with this question of how to help our Aboriginal communities in Gippsland for all the time I have been in Parliament. Frankly, I do not know. I have talked to many people about how we could change contemporary circumstances, and I do not have an answer. If this bill is a good bill that will be one small incremental step that will help ameliorate some of the contemporary difficulties in Aboriginal communities, fine. However, I have some concerns I want to touch on.

Firstly, my view is that a passive role in ownership by Aboriginal communities will achieve nothing. An active role may achieve a significant improvement in the condition of many Aboriginal communities. I will give an example of an active role. I heard Mr Barber waxing lyrical earlier about a visit to, I think, Uluru. I recently took the opportunity to try to understand some of the land-use issues in the Northern Territory in terms of Aboriginal communities. Of course everyone goes to Kakadu — if you go to the Northern Territory, it is almost a rite of passage — but I was more interested in an area where there is very active indigenous engagement in enterprise.

I saw the Nitmiluk National Park, which is difficult for a white man to pronounce. We still call it the Katherine Gorge national park when in reality that name change occurred some time ago. In the Katherine Gorge are a number of very interesting enterprises which are driven very successfully by the local Aboriginal people. The economic activity has transformed the community to an extent that I would say all of us should be informed about it. Whether it is the tour businesses operating the guide boats in the many gorges of the so-called Katherine Gorge, businesses operating accommodation, or any other aspect of the hospitality or tourism activity and land management and protection of the Katherine Gorge national park, I have to say it is a wonderful example.

The Jawoyn people own the land because they made a successful claim under the Northern Territory Aboriginal land rights act. That land is leased back to the Northern Territory Parks and Wildlife Service, and it is run with a cooperative management arrangement with the Northern Territory government as a very good national park. I had the opportunity to go bushwalking and hiking at Katherine Gorge and in Kakadu, and I have to say it is quite an education. However, what I found most constructive was the spring in the step of the Aboriginal people I met and talked to who were engaged in that activity. They had been given something that many other Aboriginal people in communities around Australia do not have — that is, not just an economic base but a sense of proprietorial interest, which I thought was outstanding.

However, I am concerned that the bill we have before us would facilitate passive traditional owner entitlement, so I am really saying I have questions about the way in which this bill will operate. Will it simply provide an opportunity for traditional owners to veto activity on land or is there a way in which we can ensure that traditional owners are required to facilitate activity? I do not know the answer to that. I am looking for a response from the government, because there will be a committee stage of this bill, and I daresay some of these matters will be teased out then.

I also want to touch briefly on the issue of the nature of the determination of traditional ownership in the context of the contest we regularly see in this place, one on which Mr Barber normally takes a very parliamentary view. On this bill, however, he has decided — I suspect because he is thinking ahead two months or so — to side with the executive. The executive is seeking to usurp the role of Parliament in regulating land management and allocation in this state, and I am confounded at the inconsistency with which Mr Barber has approached this question.

I would have thought there was absolutely no harm in any agreements entered into by the state of Victoria being put before the Parliament for the Parliament's imprimatur in the way of other arrangements in relation to allocating land in this state. As a matter of fact I have heard Mr Barber argue fiercely in this place in favour of the people having an input into the way the state deals with land, yet even before sighting the amendments foreshadowed by Mr Rich-Phillips, Mr Barber has made it clear he is going to vote with the government against those amendments.

I am therefore concerned we are in a position today where before the amendments have been circulated in the house the government and the Greens have indicated they will vote against them, meaning those amendments will be lost. They will be put, they will be well argued by Mr Rich-Phillips and his colleagues — and they are sensible amendments — however, they will be lost because the government and the Greens have an alliance in this matter. What is the alliance? The alliance is to subvert the role of the Parliament in oversighting the executive in relation to dealing with Crown land.

There is nothing in the position I am putting to the house that is contrary to my view that there needs to be action on the part of the state to assist indigenous communities in Victoria. However, you just cannot ignore the fact that there is more than one set of stakeholders. A vast range of stakeholders have long-term interests in dealings in public land. I put it to the house that Mr Rich-Phillips will shortly make a case in detail for amendments to this bill which I think are eminently reasonable and should be supported. My view is consistent with that of Mr Rich-Phillips; I do not oppose the bill, but I want to see it amended. I would like to think that the Greens may change their view in the course of further debate.

Mr KAVANAGH (Western Victoria) — The Traditional Owner Settlement Bill is an important initiative in this Parliament, perhaps one of the most important pieces of legislation we have dealt with here. Many speakers have spoken in favour of it tonight, and I completely respect their motives, which I am sure include compassion and a desire to help people they think have been treated unjustly.

The bill is the result of the decision of the High Court of Australia in the case of Mabo in 1992. Since that case the Australian media has taken to calling Aboriginals 'traditional owners', and of course that terminology is now used in the title of the bill before us. However, in my opinion it is not an accurate description of the relationship between Aboriginals and land in Australia, and I am afraid I cannot support this bill.

First of all, although Mr Scheffer, for example, referred to the case of Mabo at some length, Mr Eddie Mabo was not an Australian Aboriginal but a Torres Strait Islander, and Torres Strait Islanders have long had relationships with the land that are quite different from those of Australian Aboriginals. In the case of Aboriginals I contend that the relationship does not amount to ownership. Indeed the concept of ownership that was acted on in the Torres Strait did not apply on mainland Australia.

Back in 1992, 18 years ago, I wrote to every single member of the federal Parliament — all 222 of them — and pointed out this fundamental fact, which was being ignored, I think, for political reasons. I have a huge collection of letters I received in reply to my correspondence, which could make an interesting book at some stage. Land in the Torres Strait was fenced off. Eddie Mabo's land had a fence around it. His neighbours recognised that that family owned that particular piece of land. That was not the case on mainland Australia.

Of course land ownership is a very strange concept, as you see when you think about it. The land existed for billions of years before we came along, and it will exist for many millions of years after we are long gone and forgotten, yet we say this piece of land belongs to us. It is an extraordinary concept when you think about it.

How did it come about? When you think about it you see it can only have come about through the necessities of agricultural production, because people had to fence off land and keep it exclusively to grow crops or to raise cattle. It is a product of agricultural development.

Australian Aboriginal culture, on the other hand, was nomadic, and one in which the concept of land ownership was unknown. I recall in the mid-1970s time after time on television eight or so Aboriginal spokespeople pointing out emphatically that Aboriginals had no concept of ownership of land. I think this was said to assume some sort of moral high ground, but that point was made over and over again by Aboriginal spokespeople.

It is interesting to note how the use of the terminology 'traditional owner' has it come about and how it has become standard terminology in the Australian media. We do not know the process by which this happened, even though its impact is quite profound. It is rather like the Orwellian use of language, Newspeak or Crimethink, which in the society of the novel *Nineteen Eighty-Four* meant that any kind of opposition to the government was inherently illegitimate and wrong. The term 'traditional owner' has a similar effect on the Australian psyche. It would be most edifying for the public to know how certain terminology becomes embedded in our media whilst other terminology does not.

It is my opinion that today's Aboriginals would not be traditional owners of the land even if their ancestors were, which I have argued they were not. It is probably true of all members that some of our ancestors owned bits of land all around the world, particularly in Europe. I do not think I am a traditional owner of the British Isles, even though my ancestors were. Ownership is not part of our genes. We know all of humanity evolved from eastern Africa. All of our ancestors were East African at one stage. However, I do not feel myself to be a traditional owner of land in eastern Africa.

It is dangerous to discriminate between people on the basis of their race — for example, are those who are descended from the Scots in Northern Ireland to be denied a vote? Obviously they should not be, even though they are the descendants of people who arrived in Northern Ireland later than some other people. In Britain there is no discrimination between those of Norman and those of Saxon origin. Australians do not seem to understand how common it is for Aboriginal people to exist in other parts of the world — for example, in Taiwan there are aboriginal Taiwanese and in Japan the Ainu are aboriginal Japanese. Virtually every country in the world has aboriginals.

Those who support the concept of traditional ownership will often insist that the doctrine of terra nullius was wrong on the basis that terra nullius meant that there were no people living in Australia before 1788. That was not at all the meaning of terra nullius. It simply meant that no-one owned the land, not that there were not people living here — obviously there were.

We owe fairness to all people, certainly to Aboriginals but also to non-Aboriginal Australians. In the allocation of finite resources such as land, discrimination in favour of one is discrimination against the other. In my opinion this bill will entrench a system of racial discrimination in favour of one group and therefore against every other group — that is, against non-Aboriginal Australians. In the future many Victorians may well regret what we are doing here today.

During the federal election campaign I noticed that Ms Gillard used an expression that has not been used for a long time: she referred to the birthright of Australians. If you think about it for just a couple of seconds, you realise that she did not actually mean what she said, because she thereby excluded many people who were not born here but who are still citizens. In fact she was talking about a right of citizenship.

To me a right of citizenship, a right of being an Australian citizen, is a right to share in the public land of Australia. It is a right of all people, Aboriginal and non-Aboriginal, to share in the ownership of this country. The land that is the subject of this bill belongs to all Australians of all races. It does not just belong to this government. This government merely holds that land in trust for all Australians today and for future generations of Australian citizens. It is not up to this government to give away that heritage and that inheritance. It is entirely possible that access to public land for all peoples is already excessively restricted. I am personally offended when I see signs telling people they are not allowed on public land. That land belongs to those people who are being excluded from it. That access should be for all Australians, whether Aboriginal or non-Aboriginal.

In this Parliament surely we should represent all the people of Victoria, of all races and ethnicities. We owe fairness to all. If we are to discriminate, it seems to me that we should only do so on the basis of need. Mr Barber referred to the fact that many Aboriginals are in particular need. That is true, and they should be given particular help, but they should be given particular help on the basis of that particular need, not on the basis of race. To do otherwise is to discriminate against others of different races. This bill effectively discriminates in favour of some because of their race

and therefore against others because of their race. As I said, in the allocation of finite resources discrimination in favour of one is discrimination against another.

I further note the concerns about parliamentary oversight and how this bill represents a departure from the convention in this Parliament of requiring the Parliament's approval before changing the classification of public land. That is a concern that should be addressed, and I know the opposition is attempting to do so through amendments. I am afraid that I cannot support this bill.

Mr DRUM (Northern Victoria) — I, too, wish to comment on the Traditional Owner Settlement Bill. The bill will in effect bestow ownership of Crown land on some indigenous parties across Victoria, and we know the work in relation to ownership of those lands, which is set out in the Aboriginal Heritage Act 2006, will be built upon by this bill.

The bill talks about good relations between the state and the traditional owners, but the main problem I have with the bill is that it has had exactly the opposite effect. Many registered Aboriginal parties which have been nominated as traditional owners with unbroken links to country have witnessed cultural heritage status being given to other groups, and this has caused great divisiveness and resentment within a range of indigenous groups, which has been a major problem.

I said in Parliament when we last sat that I needed time to consult on the bill because Aboriginal leaders and elders had come to me and told me how much they were opposed to the bill going ahead. I took that on notice and started calling many other indigenous leaders with whom I have a relationship. I wanted to hear their views on this bill.

Last week we had an opportunity to talk with indigenous leaders about the outcomes and consequences of the bill. I have spoken to many indigenous groups, and I will continue to take my counsel on indigenous issues from the various elders I know personally and the ones I trust, just as I take advice and counsel from other experts in areas in which I do not have a natural, in-depth knowledge.

My conversations last week with those indigenous leaders led me to believe the government, with this bill, has short-changed many Aboriginal groups. Many registered Aboriginal parties who were involved in legislation previously introduced have been effectively locked out of the debate. Many of them have been in positions of cultural heritage management for 20 years and beyond, but since the passing of the Aboriginal Heritage Act 2006 they have found themselves on the outer when it comes to major decisions about cultural heritage, in areas where they have a proven and unbroken link to country. That is why I have significant problems with the bill.

I have been told by indigenous leaders that there are regions of Victoria, such as Bendigo, Echuca, Shepparton, Geelong and Hamilton, where management rights and ownership have been handed over to the wrong Aboriginal party. Three years ago we were promised by the minister in this chamber that any Aboriginal group that could prove it had an unbroken link to country would have the opportunity of being awarded cultural heritage status of a particular area, but that simply has not happened. It leads me to believe there has been a genuine breakdown in the consultation process of the bill.

Many Aboriginal people feel as though they have been left out of the discussion, which has resulted in the bill becoming a divisive piece of legislation. The whole purpose of the bill is to create stronger relations between the state and Aboriginal leaders and groups, but it has had exactly the opposite effect. Things will become even more divisive if the bill passes, but as the Greens sound eager to get this legislation passed, it looks like it will happen.

Earlier this year I spent five days visiting some of the remote indigenous communities of the Northern Territory — as did Mr Philip Davis, I believe — and it was a shocking experience. Sometimes Parliament affords us the opportunity to visit these small communities, and I went to the Ti Tree area of the Northern Territory and saw people of all ages living in conditions that could not even be described as squalor. It was horrendous. On the coldest day ever recorded in the Alice Springs region we saw people huddled under a piece of iron which they called their house, and people have been living in those conditions for 40 and 50 years. People of all ages were trying to keep warm, with no heating, no running water and a couple of sheets of iron over their heads. When you look at that experience and those conditions it certainly makes you wonder how we could possibly have those sorts of living conditions here in Australia.

I was also able to experience the co-ops that were operating in the Northern Territory as part of the intervention. I observed them to be working positively, such that people who previously spent all their income on the wrong things, such as grog, have now been forced to spend at least half their wages on food for their families. I saw that operating firsthand, and yet at night on television I saw the indigenous leaders of the

Northern Territory demanding that this intervention stop, which was extremely worrying.

I have spoken to many Aboriginal elders about the bill. There is so much opposition to the legislation from within indigenous communities that there is no way I can support it. The government needs to undertake a genuine and serious consultation process to allow Aboriginal groups with a proven and unbroken link to country the opportunity to share in cultural heritage management issues.

The Aboriginal Heritage Act 2006 has divided Aboriginal communities and has not worked in the way the minister promised us it would, because we raised these issues in the previous debate. We asked what would happen if two, three or more groups had a genuine claim through cultural heritage issues and if there would be an opportunity to have multiple representation in any one area so that multiple groups would share in traditional ownership under the bill. The word from the minister at that stage was most definitely yes, but from what has happened in the practical events of day-to-day living in our regions it has been an emphatic no. It has not happened.

The amendments to be moved by Gordon Rich-Phillips will give Parliament the opportunity of having some control over the handling of the ownership of these Crown lands going forward. Again I enforce the view that this matter has divided many indigenous communities — it has divided the entire Aboriginal community. There is no way I can support this bill.

Mr JENNINGS (Minister for Environment and Climate Change) — I am grateful for the opportunity to talk about some unfinished business. People in the Aboriginal community know about sorry business, and they know all too well about the sorry circumstances from the perspective of the communities, from the perspective of the traditional owners, and of the sorry history of settlement that has occurred over the last 200 years or so in Australia.

There have been many achievements and many triumphs, and many great community activities have occurred within the Aboriginal community in its own right and in partnership with the broader Australian community. We certainly celebrate those achievements and successes in Victoria, but we understand that there is a lot of unfinished business. Too many sorry incidents have occurred within the Aboriginal community, and people carry a very heavy emotional burden about that unfinished business.

If we have any doubts about the consequences of that emotional burden and the impact it has on quality of life, we should consider that it is still a fact that in Australia today — a modern, 21st century society — Aboriginal people die on average the best part of 20 years earlier than the rest of the population. If that is not, en masse, a reason for us to take decisive, clear and determined action to remedy that situation, then there is no evidence that would satisfy people in this chamber or in the community, and there is no evidence that would be brought to bear in considerations of United Nations declarations on the rights of people across the globe in relation to quality of life and their standing before the law.

If it is not measured by quality of life, the fulfilment of life and a community reaching its potential both in terms of its aspiration and the quality of what occurs during the course of life, then we are blind to the evidence; we choose to be blind to the history of this nation and the fact that we have issues to be resolved. This bill attempts to resolve some of that story, not the whole story. It cannot be seen as the panacea, but it can be seen as part of a continual commitment by this government and those who support this government to take some decisive, clear action to remedy that sorry circumstance.

This is a government and a Parliament that passed a bill to recognise Aboriginal people in the Victorian constitution. We would applaud any other jurisdiction in this nation joining us in that effort. We would applaud efforts by the federal government to take action in addressing that situation so that there is fundamental recognition of the rights of Aboriginal people, the history of Aboriginal people in this land and the importance that should be placed upon their recognition in the constitution of this nation, but that is an issue for another day.

Today's issue relates to finding a way through to provide for greater land justice in Victoria. From my perspective it is unfinished business. From the day I started as Minister for Aboriginal Affairs in Victoria in 2002 to this very day I personally have considered it to be unfinished business, and I am grateful to be part of a government that has recognised that we have great work to do in partnership with Aboriginal people. That is not to naively underestimate how challenging that may be.

In fact some arguments have been brought forward in this debate today by people who are opposing this bill who recognise that when dealing with traditional owners, cultural heritage and community aspirations in the Aboriginal community sometimes you take

one step forward and one step back and one step to the side before you ultimately take many steps forward. That has been the history of some of our interventions, partnerships and consultation about this bill and other programs that we have introduced in Victoria to try to deliver some degree of cultural heritage recognition and pride and engagement in land justice.

This bill creates a nexus between cultural heritage and land justice in a way that is extremely tangible, and we will have greater opportunities for there to be a coincidence of traditional owners operating within their own country, being responsible for country in terms of land management as well as cultural heritage management and sharing the knowledge of country with people who come onto their land.

In terms of right of reply, there is the premise that has been mounted by the opposition.
Mr Rich-Phillips raised the issue of whether the change that was introduced through this bill establishing Aboriginal title for the first time in Victoria should be subject to parliamentary scrutiny. If that is a stand-alone issue — Mr Rich-Phillips and those who have supported him in his amendment are basically concerned about the reservation of Crown land in Victoria — and if their concern is that the Parliament is not able to scrutinise, make comment on or determine whether the reservation of Victorian land changes, then they do not have a concern, because clause 12 of this bill enables any change to the reservation of the different categories of Crown land to come before the Parliament before taking effect.

The bill before the house already recognises that in terms of reaching an agreement with the traditional owners that leads to the establishment of Aboriginal title being determined over a parcel of Crown land: it does not change the public reservation of that land in terms of public access and opportunity.
Mr Kavanagh's test about whether access changes and whether there is discrimination that applies is not what is happening with this bill. It is actually enabling the citizens of this state and those who come to this state to immerse themselves in the splendour of Victorian public land and to continue to have opportunities to immerse themselves in the values of Crown land.

In terms of who is responsible for that land in a joint management arrangement with the state of Victoria, importantly there is an opportunity for Aboriginal title to be found, to be created, and that becomes the basis by which a true and meaningful partnership is established, which is the test that Mr Philip Davis wanted. He wanted a meaningful relationship. He wanted to see, as he described it, a spring in the step of Aboriginal people in Victoria just as he witnessed a spring in the step of the Jawoyn people in Nitmiluk National Park in the Northern Territory, and that is what we want to see in Victoria. We want to see something that is real; a real, lasting, tangible partnership that is based upon respect and recognition of the connection to country that Aboriginal people bring and a partnership that can occur with the Victorian people.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Mr JENNINGS — Just before the dinner break I was dealing with certain matters that had been raised by members in the second-reading debate, including an important issue that was raised by Mr Rich-Phillips and supported by other members of the opposition foreshadowing an amendment seeking additional requirements for parliamentary scrutiny before the land status of Aboriginal title can be assigned to parcels of Crown land.

In my response I went through the process by referring to the provisions within the bill where an agreement may be struck under clause 12 and then importantly in relation to the saving provisions in the reservation status of Crown land and the uses to which it would be put in terms of either the conservation status or the land-use purpose as ascribed by the reservation of those parcels of Crown land. They would be subject to the provisions of clause 110 should a change in the reservation status be proposed in terms of reaching agreement with the traditional owner group and the state. It is very important to understand that.

Members of the opposition have argued that they are concerned about the change of reservation status of parcels of Crown land and the change in land use and access provisions or other conservation measures that may be applied to those parcels of land, and there is an in-principle concern about whether any such change should be subject to parliamentary scrutiny. It is the contention of the government that that is the case and that the assignment of Aboriginal title over the Crown land in question does not change its reservation classification, as it would be dealt with under the Conservation, Forests and Lands Act, the National Parks Act, the Forests Act or the Wildlife Act, and if such a change in reservation was required, then it would be subject to the scrutiny of Parliament and obviously the ratification of the Parliament. The government will not be supporting the foreshadowed amendment because it believes the bill allows for what

has been argued is a concern of members of the opposition.

A range of concerns have been raised in the debate. There have been concerns raised by people who are opposed to the bill and some concerns raised by people who support the bill in relation to its status vis-a-vis the Native Title Act.

It is very important to understand that the government has prepared the Traditional Owner Settlement Bill to apply by agreement and subject to the satisfaction of the elements of the requirements of the then act to supplement and augment the Native Title Act and by agreement, if agreement can be struck, to replace the effect of a claim that may have been pursued through native title. For members who are concerned about whether it duplicates, does not augment or in fact may sit counter to the Native Title Act, the two acts — the federal act and the state act — will sit in parallel. The auspices of the state act will be used as a replacement by agreement, if agreement is struck with Aboriginal parties, and some elements of the Victorian-based act will have effect under the Native Title Act in terms of having the status of a land-use agreement under the Native Title Act as settlement of a potential claim under that act.

I understand this issue may be a complex one, but the government is confident that it has been able to appropriately assign responsibilities and opportunities to provide this as a proactive form of settlement procedure — far more than the provisions of the Native Title Act — and that is our intention.

I know a number of members of the opposition — Mr Drum, Mrs Petrovich and Ms Lovell — have raised concerns about the outcome, as of today, of certain matters under the Aboriginal Heritage Act. If I do not share in the spirit they have expressed in terms of undertakings I have made for the ultimate way in which the bill will be enacted and implemented to lead to a greater degree of community cohesion, I acknowledge that in fact there are examples that they draw attention to where those matters have not been resolved.

I do not gild the lily in relation to these matters. In fact part of me grieves for the fact that they have not been resolved. Ultimately it is my intention in my involvement in public life to keep on working in a spirit to resolve them, because I think there is potential for them to be resolved. In terms of community organisations in all walks of life where there may be people who are perceived as winners and losers, there may be conflicts and interpersonal dynamics that may prevent that from occurring, but I hope we will be able to find our way through so that these matters can be settled.

Mr Drum interjected.

Mr JENNINGS — We might have to keep going, but in part the question that Mr Barber raised was about the Right People for Country program. At the moment the government is sponsoring that program to try to bring together people from Aboriginal communities who may have rival or conflicting aspirations to find a path of mediation to address some of the concerns. It is very important for us to be able to find our way through. Mr Barber has raised that issue, and that is what that program is designed to do. It involves the Victorian Traditional Owner Land Justice Group and Native Title Services Victoria under the auspices of Aboriginal Affairs Victoria or the Department of Justice working in cooperation on this program. It is designed to try to resolve some of the internal community disputes so that Aboriginal people can speak for themselves and act with a sense of autonomy and cohesion. That is our ultimate ambition, and we are trying to have an ongoing program to address that.

Mr Barber raised a number of other matters. He questioned whether this will assist in the settlement of native title claims or alternatives in land justice claims in Victoria. The government firmly believes that this bill will make a significant difference in assisting it to conclude an agreement with the Gunai Kurnai people.

The bill contains provisions establishing Aboriginal title, which is a new concept. It provides for a new status of Crown land in Victoria, which in its own right will certainly be extremely important in the dynamic of settling this claim and future claims. It will afford traditional owners a higher degree of autonomy in land management than currently exists. The government sees this as an extremely attractive proposition and would encourage traditional owners to settle claims on the basis of a higher degree of autonomy and independence than would otherwise be afforded under the National Parks Act. This act will enable that to occur.

Mr Barber is also concerned about whether there is a potential for the government of Victoria, in this case through the Attorney-General, to intrude into the considerations of the Victorian Civil and Administrative Tribunal, which has various roles and responsibilities outlined in the bill to deal with certain elements of a settlement agreement with traditional owners. The elements subject to VCAT scrutiny deal with the level of agreement and community benefit that may derive from the land in question being used for

either a commercial or public or community benefit, from which the Aboriginal community might quite rightly expect some form of benefit to accrue to them.

The only time that will take place will be if there has already been an agreement between the state of Victoria and the traditional owners to recognise the connection to country, as ratified in an agreement, and then there is subsequently an opportunity for maybe the state or an additional party to use that land for some purpose. So all the preconditions will have been met and the Victorian government will have reached an agreement intending to support the community to derive a benefit.

The in-built assumption about the scrutiny of VCAT by the Attorney-General, given the complexities of the issues that VCAT is considering on what the community benefit should be, is that there should be some scrutiny or looking over the shoulder of VCAT in driving a mediation process or an outcome. It is about the appropriateness of its intervention and trying to bring that intervention to a conclusion.

The Attorney-General will have a reserve power which, as far as the state of Victoria is concerned, will be used in the name of guaranteeing that there is a community benefit derived from something that otherwise would not exist. It is not our intention to use the process to at the very end invert it, because in fact we are one of the parties that have entered into the agreement in the first place. The last element of the saving provision is that this is consistent with the Attorney-General's powers under sections 36A and 42 of the Native Title Act.

I think that covers most of the issues that have been raised by members who have spoken in the debate. Mr Rich-Phillips expressed dismay that he was not aware that the government was hoping to use this to conclude an agreement with the Gunai Kurnai people, and he said this was only foreshadowed by me in the dying hours of the last sitting week. Mr Rich-Phillips had actually not read the second-reading speech, which was tabled in the Assembly on 28 July, because it telegraphed that very matter. For all the suggestions that this was something done at the last minute of the last sitting week, if members read the second-reading speech back on 28 July they will see it there in black and white, so in fact it was hardly a surprise.

One of the reasons the government is very keen to move on this matter is that while the Federal Court has demonstrated some degree of close scrutiny and some degree of goodwill in giving the benefit of the doubt to the Victorian people that we are seeking to reach an agreement, it has scheduled a report back on 30 September to consider progress on the settlement of the Gunai Kurnai claim and indeed it has foreshadowed the option of moving to trial if successful progress has not been achieved. Not only is the government trying to reach an agreement with the Gunai Kurnai people in good faith and with goodwill using various provisions of this bill but the Federal Court intends to apply some degree of scrutiny to our efforts in that regard as soon as 30 September, so the government is very keen to try to conclude these matters.

On balance I would like to thank the majority of people who spoke in this debate — —

Mr P. Davis — Who won't you thank?

Mr JENNINGS — Pardon?

Mr P. Davis — You said you want to thank the majority.

Mr Rich-Phillips — Who is the minority?

Mr JENNINGS — If Mr Philip Davis is seeking me to thank him for his contribution, I will thank anybody who gets on the side of this piece of legislation and on balance those who cannot get on the side of the legislation but do not oppose it. I am looking for the best position that anybody can get to not only within their heart of hearts or within their conscience but in terms of exercising the good judgement of supporting this legislation. I look forward to the committee stage of our deliberations.

Motion agreed to.

Read second time.

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

> That the consideration of the bill in committee of the whole be deferred for one week.

In moving this motion I do not intend to start a protracted debate other than to say that in the second-reading stage we foreshadowed the view that there should be further consultation by the government with respect to not only Aboriginal groups but also the broader community. In his concluding remarks on the second-reading debate the Minister for Environment and Climate Change indicated that it was his view and the government's view that we should get the best possible bill. I submit to the government that achieving the best possible legislation could be facilitated by the government undertaking more widespread, inclusive consultation than has apparently occurred to date.

As the minister and members of the chamber are aware, having received representations from a number of Aboriginal parties as well as non-Aboriginal parties, there is widespread concern in parts of the community about this legislation, possibly through parties not being involved in its development and not understanding what it seeks to achieve, but clearly there is a degree of concern over what the bill will do. I submit to the minister that if he is acting with goodwill, as he suggests and as I would assume he would, it would not be unreasonable for the government to accept a deferral of the committee stage for one week so that the government can more fully consult with the people who believe they have not been adequately consulted on this legislation so it can come back to the house and the committee stage with more fulsome support in the community than it currently enjoys.

House divided on motion:

Ayes, 17

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

Noes, 21

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

Pair

Vogels, Mr	Darveniza, Ms

Motion negatived.

Committed.

Committee

Preamble postponed.

Clause 1

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Briefly on clause 1, I wish to ask the Minister for Environment and Climate Change about his summing up of the second-reading debate when he said that the second-reading speech explicitly indicated an agreement had been reached with an Aboriginal party contingent upon this legislation passing. I wonder if the minister, with your indulgence, Deputy President, can inform the committee where such a statement exists in the second-reading speech?

Mr JENNINGS (Minister for Environment and Climate Change) — Mr Rich-Phillips was not quite correct in the way he outlined the summary of my contribution to the second-reading debate, because in fact I indicated that the second-reading speech did say that one of the reasons the government was seeking to pass this piece of legislation now was to enable the settlement of the Gunai Kurnai claim, and indeed that is referred to in exactly the terms that I referred to it in the third paragraph on page 5 of the 10-page second-reading speech as distributed in the chamber.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for that; I will not prolong this issue. I assume the minister is referring to the sentence, 'It will also allow for existing settlement groups such as the Gunai Kurnai people to take up these new options.'?

Mr JENNINGS (Minister for Environment and Climate Change) — Correct.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Is the minister saying we should have read that as meaning that an agreement had been reached contingent upon this legislation? Merely raising speculation that an agreement settlement could be reached did not in my reading suggest that one had been reached contingent upon the bill passing.

Mr JENNINGS (Minister for Environment and Climate Change) — For all of us to maintain our degree of integrity we might split a straw in relation to this. It is not my intention to say anything beyond what is written in the second-reading speech. I was responding to the proposition that the government had not flagged that we were going to use the provisions of this bill to settle the Gunai Kurnai claim. As others had described in their contributions to the debate in the last sitting week, today it was repeated that the Gunai Kurnai settlement had not been referred to, as if it had been a secret negotiation. That is the issue that I was responding to, and I was drawing the attention of the house to the fact that the negotiations had been referred to specifically in the second-reading speech. I am not rewriting what was said here or how Mr Rich-Phillips might have interpreted it or what he understood it to mean; I am just responding to the issue that the settlement of the Gunai Kurnai claim is clearly

important to the Victorian government. It is one of the reasons we want this bill passed at the earliest opportunity, and it was not a secret.

Clause agreed to; clauses 2 to 11 agreed to.

Clause 12

The DEPUTY PRESIDENT — Order! Mr Rich-Phillips has circulated amendments. His amendment 1 in this regard is also a test for his amendments 2 to 4 which relate to the ratification process of land agreements. Mr Rich-Phillips might like to foreshadow those amendments in his remarks when he formally moves amendment 1.

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

1. Clause 12, page 14, after line 5 insert —

"(10)A land agreement does not take effect in relation to —

(a) public land within the meaning of paragraph (b) or (c) of the definition of ***public land*** in section 11; or

(b) land that is permanently reserved under the **Crown Land (Reserves) Act 1978** and that is public land within the meaning of paragraph (a) or (e) of the definition of ***public land*** in section 11 —

unless ratified by Parliament in accordance with section 91.".

With respect to these amendments being consequential it is my view that amendment 2, which relates to land-use activity agreements as distinct from land agreements, is a separate, stand-alone amendment, and with your agreement I would like it dealt with separately.

The DEPUTY PRESIDENT — Order! I accept that.

Mr BARBER (Northern Metropolitan) — On these amendments it was stated during the second-reading debate, or perhaps suggested, that the Greens were opposing these amendments sight unseen. The member who said that was not to know that the opposition very kindly gave us copies of the amendments last week, and we have scrutinised them and spent considerable time thinking through the issues around them. I think I almost addressed them in my second-reading debate contribution.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I will speak briefly to this amendment. The purpose of amendment 1, which would give effect to amendment 4, as would amendment 2 as well, is to insert in part 3, which is the part dealing with land agreements in division 2 of part 3, a requirement that a land agreement would be subject to ratification by Parliament, and the mechanism for that is set out in amendment 4.

Basically the reason we are seeking this amendment is because the land agreement under division 2 provides at clauses 2 and 3 that either freehold title or Aboriginal title may be granted on unreserved public land or Crown land as each clause provides. It is the view of the coalition parties, given the significance of this provision and the fact that there are no appeal rights against a decision of the Attorney-General under this provision, that inserting a ratification mechanism addresses both concerns about the Parliament not having a right of refusal, if you like, with respect to changes in Crown land provisions.

I take the minister's point in his second-reading debate summing up that where an agreement would change the reservation of Crown land, that is subject to disallowance by the Parliament. I accept that is in the bill; however, our concern is broader than simply a change of reservation, and it relates to the granting of Aboriginal title or freehold title under this bill where there may be competing claims.

As I said in the second-reading debate it is our view that notwithstanding the Crown land question there is the broader question of competing claims where currently there is not a mechanism, once the Attorney-General has made a decision, for those competing claims to be presented, and a ratification mechanism would allow a party that believed the responsible minister had made an incorrect decision to have that concern heard by the Parliament before an agreement reached by the Attorney-General was ratified.

We see it as a broad mechanism that provides for those third-party entitlements to be considered as well as concerns about Crown land changes being in the hands of the Attorney-General exclusively to be addressed through this one mechanism. It is on that basis that I move this amendment.

The DEPUTY PRESIDENT — Order! Could Mr Rich-Phillips clarify if he is happy that his amendment 1 will test his amendments 3 and 4 but not his amendment 2; is that correct?

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The way the amendments work is that both amendments 1 and 2, if they are supported, then

require amendments 3 and 4 to be operative, so in effect amendment 1 is a stand-alone until amendment 2 is dealt with.

The DEPUTY PRESIDENT — Order! I will deal with the amendment in that form.

Mr JENNINGS (Minister for Environment and Climate Change) — I am happy to understand and accept the logic of the argument by Mr Rich-Phillips about the standing of the amendments and the interpretation of it, so that will not be a contested issue.

The issue that will be contested between Mr Rich-Phillips and me is on a couple of fronts. I understand this may be simplified to be read that the Attorney-General makes the determination. In effect he is only one party in this chain of determination, and the minister who is responsible for various lands acts in this case, which is me in the contemporary setting, would also have to reach agreement. It is right to say that the effect of the agreement being struck with the traditional owner groups is that the Attorney-General would be the signatory to such an agreement, but the provisions of the clause in question also say that the agreement cannot be concluded on the terms that satisfy the status of Aboriginal title or the exchange of freehold parcels of land unless there is also the agreement of the minister who is responsible for the various lands acts. Indeed the minister responsible for the lands acts would be responsible for administratively delivering the terms of the land transfer or the nature of the joint management arrangements which would be subject to this provision.

I draw that to the attention of the committee because that is the scope of what we are talking about. As I referred to in my summing up of the second-reading debate, these decisions do not within themselves change the nature of the reservation of various categories of Crown land, with the exception of unreserved parcels of Crown land which could be transferred into freehold to Aboriginal communities.

If there is anything that relates to a change of reservation that comes within the scope of national parks, the Forests Act or the Wildlife Act, then, as I have indicated already, that reservation could not be changed without the scrutiny of Parliament. It is not the government's intention for that to be changed without the scrutiny of Parliament. In effect what changes for those categories of land is the potential for Aboriginal title to exist over those parcels of land. The effect of that Aboriginal title, beyond giving recognition to Aboriginal people, is to give the opportunity for joint management to take place, and that would be the subject of the agreement.

In terms of scrutiny by the Parliament, the government does not believe that because of the effect of our actions, how they interlock with existing pieces of legislation and how there are effectively saving provisions in any decision that relates to the changing of the reservation, that it would always be subject to further scrutiny of the Parliament. We think this amendment is not warranted. It is not subject to one ministerial decision alone. Obviously one would assume the government of the day would have a united and coherent position on the subject, so you would find the Attorney-General and the ministers responsible for lands reaching an agreement about that matter. To that degree you could say it is a closed decision or a consistent decision.

The notion that Parliament would become the arbiter of disputes between Aboriginal people is not a wise one. It is not something the government of Victoria would be happy to embed as a reason for making an amendment to a piece of legislation so that Parliament could be an arbiter or a mediator or a right of appeal in relation to conflicts in the Aboriginal community. Those matters would be more appropriately dealt with in the courts, if they are not able to be resolved amicably. Even though I accept Mr Rich-Phillips's concern and the goodwill that is implied in it, I do not think the Parliament should be, by statute, seeing itself as an arbiter in resolving potential disputes between rival claimants. For those cumulative reasons the government will not support the amendment.

Mr BARBER (Northern Metropolitan) — If this was simply about Parliament's ratification of the status of a piece of Crown land and therefore what sorts of activities could occur on that land, the Greens would always be very keen to know about what is happening on public land and what is permitted and not permitted on public land. When we scrutinised this amendment we thought it through and came back to the same conclusion which I talked about in my contribution to the second-reading debate, which is that there is a much more fundamental, almost philosophical, question going on here — that is, whose land is it? On that basis alone we would have come down on the side of the line of not supporting this amendment.

However, Mr Rich-Phillips did me a favour in explaining the deeper objectives that he was getting at with this amendment — that is, if the Parliament did not like the way the government had gone about making this particular agreement, including such matters as who are the rightful claimants but potentially

almost any defect in the procedure that the Parliament found, we might use this procedure to say, 'Back to the drawing board!'. The problem with that is that the Parliament in arguing the particular issue that it would be dealing with — the question of the uses that are available on a particular piece of land — would be saying in effect that there were other things it did not like that it had no power to fix. At what might have been a very long and difficult procedure for the government to negotiate — a form of title or an agreement — in effect all the Parliament would say is it did not like it without being able to send any clear instructions back to the various parties as to what it would support. You could see people going around and around the cycle for a long time.

On some days I would love to be able to get parliamentary ratification or otherwise for every contract and arrangement that the government entered into. I have an interest in a whole range of those contracts, but we never see them here. That points out some of the relativities of what I am trying to get at here. Having said that, for the reasons I mentioned earlier we are not supporting the amendment.

Mr HALL (Eastern Victoria) — With respect to what Mr Barber has said, Parliament never makes a decision without reason and justification, and so it is that when we come to make judgement — whether it be on a piece of legislation, a ratification or a disallowance of something — the reasons for that decision are clearly explained by members when they stand and pronounce their decision to the Parliament. Therefore whenever something is considered by this Parliament considerable thought and research is put into it. I do not respect the argument that Mr Barber has put forward, that Parliament makes a decision without due consideration of matters relating to that decision.

However, I want to make one other point which I think is relevant in respect of the amendment that has been moved by Mr Rich-Phillips. I will make reference to some comments in the second-reading speech. Firstly, towards the bottom of the fourth page of the second-reading speech, having given an overview of the bill, the minister speaks about the agreements made under this particular act and describes the agreements as agreements in the areas of:

> … access, ownership, management, use, and development of certain public land.

On the fifth page the second-reading speech says:

> … these agreements continue in perpetuity, and will give all the parties finality and certainty.

I must admit I have had a look through the legislation and I cannot find any processes defined in the legislation whereby such agreements can be extinguished for any reason. If it was that one party or another thought it was in their best interests to no longer continue with such an agreement, I do not see any provision within this legislation to relinquish that agreement or to rescind that agreement. There is provision in some areas to vary the agreement. There are clauses which vary certain agreements — not all — under this bill. There are clauses which enable the variation of certain agreements, but I would like to know from the minister whether there is any provision in this act if one party or the other, or both, to such an agreement for good reason decided that they wanted to extinguish or rescind that agreement, for that to occur. That is relevant to the amendment which Mr Rich-Phillips has put forward. Essentially Mr Rich-Phillips's amendment says that because these matters set things in stone — they set agreements in perpetuity — then it should be that the Parliament has that responsibility to ensure that those agreements are the will of the representatives of the people who have been elected to this Parliament. I think the question is relevant, and I would like to know from the minister where in this act there is an ability, if there is a wish from one party or another to rescind — —

The DEPUTY PRESIDENT — Order! Mr Hall is going over the same point again. We have got the question, and hopefully the minister has got the answer.

Mr JENNINGS (Minister for Environment and Climate Change) — In fact I have one immediate answer, and it may be that on the basis of further advice I might find other examples. Clause 99 includes a power to be inserted in the Conservation, Forests and Lands 1987, which is the revocation of the appointment of the committee of management.

The reason I draw that immediately to Mr Hall's attention is that this is a reserve power that the minister who is responsible for the proposed act — if it were today, it would be me — would have in terms of being responsible on behalf of the Victorian people to oversee the joint management arrangement or the arrangements of the traditional owner management board related to the parcel of public land and to ensure the acquittal of its responsibilities.

Whilst this proposed act would be predicated on maximising the degree of autonomy and independence that traditional owners would have over parcels of public land, the instruments of that management would be subject to the ongoing scrutiny of the minister to ensure that the public benefit and community benefit

which were the intention of the agreement were being maintained. There is a reserve power there to revoke or replace that board if that responsibility is not being acquitted. That is one demonstration of a provision, but on advice I might find others.

In relation to the transfer of land on a freehold basis, as it is freehold land that would be under the control of Aboriginal people. They would exercise autonomy over that land just as any other owner of any other freehold parcel of land in the state of Victoria would, and their management and governance arrangements over that would be subject to them and their ability to maintain that asset.

In seeking further advice just now, I understand that I went to the hardest provision. There are softer provisions. There are provisions under the Interpretation of Legislation Act. Section 41A of that act would mean there would be opportunities to renegotiate and to change the circumstances of an agreement in accordance with the provisions of that act. In this bill clause 102, which inserts proposed section 82GA into the Conservation, Forests and Lands Act, relates to the ability, again by agreement between parties, to change the nature of an agreement, particularly in relation to management of land matters.

Mr HALL (Eastern Victoria) — I accept that the minister has explained this issue in part, particularly the part relating to the proposed amendments to the Conservation, Forests and Lands Act. Where there is provision to enter into land management cooperative agreements, yes, clause 99 of this bill sets out a process for the revocation of the appointment of a committee of management. I accept that, and I accept that there are clauses in the bill which allow for variations to agreements. Again, the minister quoted a further act, was it the Subordinate — —

Mr Jennings — The Interpretation of — —

Mr HALL — The Interpretation of Legislation Act. I think he referred once more to the variation of such agreements under that act. However, again, there seems to be no provision within this bill or within any other source the minister can describe which enables the relinquishment of an agreement where one party or the other wishes to relinquish it. In respect of land title, for example, while there are acts of Parliament which allow for the revocation of certain reservations or the classification or status of public land, there seems to be no provision in this bill to allow for similar provisions when it comes to most of the agreements made under it. For example, in regard to land use agreements, is there an ability on the part of either party to rescind any of those agreements if that is the wish of either party, not just when it is the wish of both? Another example is funding agreements. Is there an ability to relinquish any of those funding agreements if one party or another does not wish to continue with the provisions of the agreement struck? With respect to land title agreements, I am not convinced there are provisions in this bill or in any related act to provide for relinquishment.

The comment in the second-reading speech about these agreements being set in perpetuity reinforces my view that there are no provisions to go back on them. I simply put that forward as a reason why if we are going to make these decisions, we should make sure it is not just the Attorney-General or the Minister for Environment and Climate Change who makes them. Let it be the responsibility of the whole of the Parliament to make those decisions, not just two elected representatives of the Parliament. That is why I support Mr Rich-Phillips's amendment.

Mr JENNINGS (Minister for Environment and Climate Change) — Just backtracking through the logic of Mr Hall's argument, I have indicated that a change in the reservation of public land is dealt with in clause 12 in terms of the nature of the agreement that is struck, and then clause 110 provides that if a change in the reservation is required, the matter would come back to Parliament. No. 1, that issue is addressed within this bill.

Then there is the issue of effectively changing or breaking an agreement — let us just say breaking it! I mean, agreements can be broken by either party to the agreement, and if in the worst-case scenario the agreement is not maintained, then regardless of whether it is under an act or not — whether it is subject to contract law or whatever — if it is broken, it is broken.

The real issue is whether in fact there are any saving provisions in relation to the broader public interest. I will not make any assumptions about whether Mr Hall is worried about whether the government or the traditional owners break the agreement. If the government breaks the agreement, it would in my view demonstrate bad faith. If a government of any persuasion is subject to an agreement that has been struck under Victorian law, it would be to its shame, if not subject to action before the courts, to enter into the circumstances of breaking an agreement, and there would then be its internal political embarrassment. There are a variety of ways in which the government should be held to account.

On the other side of the equation, as I have indicated, there are provisions within the bill that provide for changes or variations to occur by agreement. In the worst-case scenario if the traditional owners do not acquit their responsibilities within the responsibilities of the traditional owners management board for the parcel of land for which they are assigned responsibility in a joint management arrangement or a management arrangement under the terms of the bill, the agreement is subject to revocation under the provisions of the bill.

Mr HALL (Eastern Victoria) — My last word on this is that these agreements would be strengthened if they had the endorsement of the Parliament as a whole, rather than just the minister or ministers responsible for this act. Having the endorsement or the ratification of the Parliament would leave these agreements in a much stronger position than their having the endorsement of just one or two ministers. That is why I support this amendment.

Committee divided on amendment:

Ayes, 17

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

Noes, 21

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

Pair

Vogels, Mr	Darveniza, Ms

Amendment negatived.

Clause agreed to; clauses 13 to 29 agreed to.

Clause 30

The DEPUTY PRESIDENT — Order!
Mr Rich-Phillips and I now agree that his amendment 2 is a test for his amendments 3 and 4.

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

2. Clause 30, page 32, after line 22 insert —

"(5) A land use activity agreement does not take effect in relation to —

(a) public land within the meaning of paragraph (b) or (c) of the definition of ***public land*** in section 3; or

(b) land that is permanently reserved under the **Crown Land (Reserves) Act 1978** and that is public land within the meaning of paragraph (a) or (e) of the definition of ***public land*** in section 3 —

unless ratified by Parliament in accordance with section 91.".

The intent of the amendment is to insert, with respect to land use activity agreements, a similar ratification mechanism that would require those land use activity agreements to be subject to parliamentary ratification on the same basis as was discussed in clause 12, for the same reasons. To reiterate, we believe that given the gravity of the matters that are the subject of the agreements and the significant impact they may have, it is appropriate that the decision of the Attorney-General and the minister be subject to subsequent ratification by the Parliament.

Mr JENNINGS (Minister for Environment and Climate Change) — The government's response is consistent with the logic we offered in relation to the last amendment Mr Rich-Phillips moved, but the additional element is that in the government's view this is micromanaging public land in a way that we do not see other public land in Victoria being micromanaged by the Parliament.

There are some circumstances where Parliament has scrutiny over activities on public land, but as a general rule the way day-to-day decisions are made about land use and land management, the way our protocols for access to public land are established and the way a committee of management works are not scrutinised by the Parliament, so to accept the logic of having this in place in terms of parliamentary scrutiny would be micromanagement of a higher degree than we see over other parcels of Crown land in Victoria.

Committee divided on amendment:

Ayes, 17

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

Noes, 21

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

Pair

Vogels, Mr	Darveniza, Ms

Amendment negatived.

Clause agreed to; clauses 31 to 38 agreed to.

Clause 39

Mr BARBER (Northern Metropolitan) — I have a point of clarification for the minister. The first seven times I read this clause I found it a bit convoluted; that could be because of the lack of commas. To assure myself and others that this is not a provision the government could use incredibly widely, what I need to do is connect the word 'activity' to the section 'for the purpose of protecting property or life or for the purposes of protecting the environment'. Only activities for the purpose of protecting property or life or for the purposes of protecting the environment could be used to get around the conditions of an agreement, not other sorts of activities that are not to do with those things. Am I right?

Mr JENNINGS (Minister for Environment and Climate Change) — This is about action, this is about verbs, this is about doing things in the name of protecting public safety or environmental values in an emergency.

Mr BARBER (Northern Metropolitan) — Not an emergency that is defined, not an emergency that is declared, just a common garden emergency, and the types of actions you need to take are to protect property or life or for the purposes of protecting the environment in an emergency, not to head off an emergency or to anticipate an emergency. I am satisfied with that.

Clause agreed to; clauses 40 to 78 agreed to.

Clause 79

Mr BARBER (Northern Metropolitan) — I raised the issue in my contribution to the second-reading debate about native title rights having been proven in other jurisdictions to override the existing framework of wildlife protection legislation. What part 6 does, as far as I understand it, is to in a way codify the types of agreements the government might enter into and then protect those agreements. Can the minister reassure me as best he is able that by codifying the mechanisms in this way, he does not intend to legally override other rights that might exist from a range of other sources?

Mr JENNINGS (Minister for Environment and Climate Change) — I am sure that if I do not give Mr Barber a satisfactory answer, he will come back and ask me to codify it. It has been our intention through the perhaps exhaustive provisions here to demonstrate that other values cannot be overridden, specifically in relation to the Flora and Fauna Guarantee Act, for instance. That is one example where it would not be overridden.

Going back to first principles and how this bill fits in with the native title regime, it is important to understand that this is an agreed pathway which the Victorian government believes is a quicker and more successful one that does not abrogate or deny opportunities for Aboriginal parties to pursue their interests if they think there is a better jurisdiction and framework in which to pursue it. It does not prevent them doing that. However, if this is satisfactorily concluded, then they will in effect say they will relinquish those rights and have various elements deemed to satisfy the provisions of that federal legislation. As this part is constructed, it is effectively a reminder of what environmental or other public values should be maintained in the name of granting traditional owner authority over land.

Mr BARBER (Northern Metropolitan) — That is the best answer I could have hoped for.

Clause agreed to; clauses 80 to 147 agreed to; postponed preamble 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 today for their constructive contributions to the debate.

The ACTING PRESIDENT (**Ms Huppert**) — The question is:

That the bill be now read a third time and that the bill do pass.

House divided on question:

Ayes, 21

Barber, Mr	Murphy, Mr
Broad, Ms	Pakula, Mr
Eideh, Mr	Pennicuik, Ms (*Teller*)
Elasmar, Mr	Pulford, Ms
Hartland, Ms	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	

Noes, 17

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

Pair

Darveniza, Ms	Peulich, Mrs

Question agreed to.

Read third time.

CONFISCATION AMENDMENT BILL

Second reading

Debate resumed from 2 September; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — This evening I rise to make a few remarks on the Confiscation Amendment Bill, which is a bill to make amendments to the Confiscation Act 1997 to clarify and improve the operation of the existing powers and processes of the act and to reinforce and clarify the preventive and remedial purposes of civil forfeiture powers in the act.

The bill sets out specific objectives for the asset confiscation regime. It redrafts the forfeiture threshold for fisheries offences in terms of quantities of fish rather than the market value of fish; it expands the main laundering forfeiture provisions and aligns the provisions with commonwealth law; it inserts a general anti-avoidance power for the courts to vary or declare void avoidance schemes; and it expands tainted property substitution powers to apply to automatic forfeiture and not just to a regime of court-ordered forfeiture as is currently the case. The court may order substitution of property in which the accused had an interest that is of the same nature or description as tainted property which is not available for forfeiture.

The bill requires a person who is given notice of a restraining order not only to declare whether he or she has an interest in restrained property but to state the nature and extent of such interest and the address, if known, of others who have interests in the property. It allows the amount of a pecuniary penalty order to be varied to take account of a subsequent forfeiture, and it provides that a financial institution may be required to indicate the type of account held with it in addition to details about account name and balance, the intent being to allow the identification of assets that may be the subject of an order.

It enables prescribed persons to request the production of documents to assist with property management and maintenance; it provides that freezing orders last for three business days rather than 72 hours, as is currently the case; it redrafts the civil forfeiture provisions so they are separate from the criminal forfeiture provisions; and it expands the civil forfeiture powers to include property that is likely to be used in a future serious offence — a schedule 2 offence, which is defined as drug trafficking, extortion, theft, robbery, fraud, blackmail, secret commissions or handling stolen goods above specified value thresholds. The bill makes it harder for third parties to have their interests excluded from civil forfeiture if they have knowledge of any use of the property for unlawful activity, and it makes various other procedural and administrative changes.

The coalition parties will not be opposing the bill this evening, but there are a couple of areas where we have concerns. The first relates to the government failing to continue to publish data with respect to the success or otherwise of the confiscation regime. From time to time we see the Attorney-General in particular, as the minister responsible for this legislation, appearing when certain assets have been seized and issuing press

statements claiming that multiple millions of dollars of assets have been seized pursuant to the confiscation regime. Yet previously we have seen data reported on a confiscation regime where the headline figures officially reported are far lower than the figures the Attorney-General and the government have claimed by way of press release and public statement at the time the seizures were made.

Understandably this raises concerns in the community as to the legitimacy of the figures that have been bandied around by the government, and by the Attorney-General in particular, as to the success of the confiscation regime and whether the headline figures that we hear about for seized property bear any resemblance to the sums that are ultimately achieved when confiscated property is disposed of by the state. It raises questions about the regime. When it was originally introduced in the 1980s and subsequently updated by the previous coalition government in the 1990s, the intent clearly was to target large criminal activities and to have a heavy impact particularly on organised crime in terms of removing the proceeds of that crime as a punishment and obviously to prevent assets from being used to further criminal activities.

The regime was very soundly established with the intent of hitting large organised criminal activities rather than small-scale criminal parties. It therefore raises a question as to whether the regime is succeeding in that purpose of confiscating assets from the Mr Bigs of the criminal world or whether we are seeing only small fry caught in the net. The fact that accurate ongoing data is not available to report on this regime raises the question of whether it is operating as intended, particularly given the disparity between the previously available data and the figures that were announced by the Attorney-General when various confiscations took place. This side of the house would like to see the reinstatement of detailed data on the confiscation of assets and the value of revenue raised from those assets when they are subsequently disposed of by the state.

There are two other areas where we have concerns. The first is the potential anomalies for persons losing their property if a spouse or partner uses it for unlawful activity. The bill contains a provision relating to third parties who have an interest in a property where they were aware that the property was being used for unlawful activity. Obviously a regime such as this must operate in a fair manner to ensure that there are not unintended consequences for spouses and indeed families, children et cetera, where property seizures take place. It is a concern that the bill before the house today could give rise to occurrences of unintended impacts upon spouses and partners of people who have been subject to asset confiscation. Obviously a regime as severe as the confiscation of assets regime must ensure that appropriate safeguards are in place so that there are not unintended consequences.

That brings me to the third point that I wish to make this evening. It relates to the Robert Moloney case, which members would be well aware of, having received a number of email representations from the legal firm that has represented Mr Moloney in his confiscation matter. An incorrect affidavit was used as the basis for an ex parte case brought by the Director of Public Prosecutions for an order to seize Mr Moloney's house on the basis that Mr Moloney was a drug trafficker. The affidavit that alleged Mr Moloney was a drug trafficker has now been acknowledged to be incorrect. However, the order was made and the house was confiscated pursuant to the act, and I understand it is now in the name of the Attorney-General. Notwithstanding that the affidavit which was the basis of that forfeiture order was incorrect, there is no provision by which the seized property can be returned — that is, by which the procedure can be reversed. I understand that this is now the subject of an appeal which the Attorney-General is contesting. For that reason, I do not propose to go further into that matter.

The Moloney case has highlighted that we need to be very careful that where such a regime is put in place there are also appropriate mechanisms by which errors can be corrected. I understand that this particular matter remains contested by the government. However, where forfeitures are incorrectly made, there should be provision for the forfeiture to be reversed and the property to be returned. It would appear that the Moloney case, notwithstanding the ongoing appeal, has raised a number of concerns about how the confiscation regime operates and the potential for errors to be made and not be subject to correction. The coalition has ongoing concerns about monitoring that Moloney case and how it is ultimately determined and the ramifications that that situation has for other parties who might find themselves incorrectly the subject of an order under the Confiscation Act. With those few words, I record that the coalition parties will not be opposing the Confiscation Amendment Bill 2010.

Ms PENNICUIK (Southern Metropolitan) — The Confiscation Amendment Bill 2010, which we have before us today, makes amendments to the Confiscation Act that is already in existence. The second-reading speech from the Attorney-General said that the bill delivers on a promise to strengthen asset confiscation laws, even though in the same second-reading speech

the Attorney-General stated that they are working just fine now.

The Attorney-General also stated that current laws are hurting criminals and that revenue is going up, but it is difficult for us to tell if this is true because no data on what is actually being confiscated and the value of it is provided on an annual basis to either the Parliament or the community. Revenue going up may actually mean there is more organised crime in Victoria. Recent concerning events in Melbourne involving the shooting of alleged organised crime figures following on from years of the same would suggest that organised crime is alive and well. This bill certainly does nothing to tackle the causes of organised crime.

Rather than simply clarifying and improving the confiscation regime, as the second-reading speech claims, the bill changes the focus by inserting objectives into the legislation so that it will arguably capture people who are not involved in large profit-motivated organised crime, which was originally intended. That was intended to be the focus of the regime.

The bill makes changes to the objectives of the act so that it becomes more about a general crime deterrent than a focus on the proceeds of crime, mainly organised high-profit crime, which is in the second-reading speeches for the original act and the 2003 amendments. Both attorneys-general stated that was to be the main focus of the regime.

Currently the act has several purposes under section 1, which the Attorney-General has described as technical purposes of the act. They include:

(a) to provide for the forfeiture of the proceeds of certain offences, whatever the form in which they have been converted;

(b) to provide for the automatic forfeiture of restrained property of persons convicted of certain offences in certain circumstances;

(c) to provide for the forfeiture by the Supreme Court or the County Court of property restrained on suspicion that it is tainted property in relation to a Schedule 2 offence;

(d) to provide for the forfeiture of property used in connection with the commission of certain offences;

(e) to provide for the freezing of assets;

(f) to provide for the destruction or disposal of certain illegal goods;

(g) to provide for the effective enforcement of this Act and the management of seized and restrained assets;

(h) to preserve assets for the purpose of restitution or compensation to victims of crime …

Attached to the current act are two schedules. Schedule 1 covers a wide range of offences under which forfeiture on a court order would apply. They include: offences under the Aboriginal Heritage Act, such as buying or selling Aboriginal objects; offences under the Casino Control Act; offences under the Classification (Publications, Films and Computer Games) (Enforcement) Act, such as the exhibition, selling, possession and copying of unclassified and X-rated films; offences under the Dangerous Goods Act; and a large range of offences under the Fisheries Act. This bill amends offences under the Fisheries Act, such that they would go to the volume of fish or seafood collected or poached rather than the monetary value, which has been found to be difficult to establish.

Schedule 1 also covers certain offences under the Flora and Fauna Guarantee Act, such as felling trees in protected areas; a lot of offences under the Gambling Regulation Act; a host of offences under the National Parks Act, such as taking fish or fishing bait for sale in marine national parks et cetera; offences under the Racing Act — there are a large number of those; possession of child pornography; and offences under the Prostitution Control Act and the Crimes (Money Laundering) Act.

There are also schedule 2 offences, which are more serious offences such as: trafficking in a quantity of drugs; cultivation of large quantities of drugs; extortion under the Crimes Act; serious offences such as robbery and armed robbery; obtaining property or financial advantage by deception; blackmail; handling stolen goods; receipt or solicitation of secret commissions; giving or receiving false or misleading receipt or account with intent to defraud or deceive; and fraudulently inducing persons to invest money — there have been some pretty high-profile cases of that type recently in Australia. More serious offences include those under the Prostitution Control Act regarding provision of sexual services by children, which are obviously very serious; and carrying on prostitution services without a licence. There is also bribery of officials. Schedule 2 definitely includes serious offences.

The regime is meant to apply to the offences under those schedules. One of the concerns we have with the current bill is the insertion of new objects into the bill to go ahead of the purposes. Under clause 5, which inserts new section 3A into the act, the three new objects are:

(a) to deprive persons of the proceeds of offences and of tainted property; and

(b) to deter persons from engaging in criminal activity; and

(c) to disrupt criminal activity by preventing the use of tainted property in further criminal activity.

The concern we have is with the first object, which is to deprive persons of the proceeds of offences. It does not mention certain offences. I went to the trouble of outlining the offences that are contained in the schedules under the act because the act is meant to pertain just to those offences. I have prepared a set of amendments. I am happy to have my amendments circulated.

Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan Region) pursuant to standing orders.

Ms PENNICUIK — While the amendments are being circulated I will outline to opposition members in particular and to the government that this is a revised set of amendments. I will explain that in a little while. The amendment to clause 5 has not altered. That is the same as the amendment I provided to members earlier. The amendment to clause 5 would ensure that the objects of the act would refer to the offences in the schedule. The way it reads at the moment it could refer to any offence, and that is broadening the intention of the act too far and could lead to the sorts of problems Mr Rich-Phillips outlined in his contribution to the second-reading debate, which I will talk about briefly as well.

The second amendment will delete the second object, which is to deter persons from engaging in criminal activity. That is not to say that we do not want to do that. We want to deter people from engaging in criminal activity, but again it is a very broad provision. It could almost be described as a statement of the obvious and in fact a redundant, superfluous and unnecessary provision, because the whole purpose of all the laws that we have under the criminal justice system is to deter people from engaging in criminal activity. That is the reason we do not feel that this object is required in the bill.

We believe the third object, which is about disrupting criminal activity by preventing the use of tainted property in further criminal activity, is consistent with the purposes of the regime, so I do not propose an amendment to that part of the bill.

The second set of amendments — these are the ones where there has been a change, and that goes to the issue I raised earlier which Mr Rich-Phillips also raised in his contribution — is about the dearth of data regarding whether this regime is working or not. We have had figures of $13 million and $53 million bandied about as what has been collected by the government under this scheme, but there is no ability for us as parliamentarians or the community to understand what that is made up of. It could be made up of a whole host of small properties, objects or vehicles, or whatever they might be, that have been forfeited or confiscated, or it could be made up of one or two or a handful of rather large forfeitures, but I think it would be of value for the community to know what has been seized and the value of that seizure in each case as well as the total.

The amendment that I have proposed, amendment 4, would insert into section 139A(1) and (2) of the principal act regarding the forfeiture provisions and the restraining order provisions under the act a requirement to report what has actually been forfeited or restrained and the value of it in each case. That would give the community a clearer idea of how well the regime is working from year to year.

My amendments go to tightening up the objects so they fit with the particular purposes of the regime and providing a reporting mechanism so the community can understand how the regime is working. We support the idea that property that is ill-gotten should be forfeited.

The other problem that Mr Rich-Phillips also raised is the issue of the Moloney case that I think every member has received emails about. In fact there were emails a little while ago outlining the problems with the case as it was proceeding in the County Court. The solicitors wrote to all of us suggesting that this was a miscarriage of justice and saying that the Attorney-General was refusing to act even though he was a party to the case.

The long and short of it is that the person in this case, Mr Moloney, was originally charged with a trafficking offence but that was withdrawn, so there was no trafficking offence. He then, as I understand it, pleaded guilty to a cultivating offence, and both of these are schedule 2 offences under the act. But the problem arises — and I think this is a problem with the bill, and I would say here, too, that I have spoken at some length with parliamentary counsel about how to fix this problem — under the regime as it stands. It would appear to me that if this regime is fair, a person who is guilty of one of those schedule 2 offences but who in no way has tainted property, or whose property is not the result of profits made from their offence, should not have their property forfeited. That appears to be the case in the Moloney case.

Originally we were emailed by the solicitors who explained that this was before the courts and it was an injustice, and quite coincidentally there was a judgement handed down in the court just last week. The County Court has pretty well said that there was a miscarriage of justice in this case and that the person's property should never have been forfeited and put into the name of the Attorney-General, where it remains. The court has ordered that the defendant be paid $325 000, I think, in restitution and that the Attorney-General and the DPP (Director of Public Prosecutions) must pay the court costs as well. Mr Tee might say justice has been done but a person has had to go to the County Court when really it should never have come to that. It should have come to what the solicitors are saying. They say in their press release that Robson J. said in *DPP v. Grillo* in 2007:

> It is a fundamental common law right that a person is normally not entitled to be deprived of his or her property without being heard.

That appears to be the crux of the problems with this regime. If a person is being deprived, they do not have a chance to be heard. There does not seem to be a provision in the act whereby if a charge is withdrawn and there is no connection between the person's property and the offence they have been charged with, or not charged with, that forfeiture can be stopped and the matter can be heard in a court without having to take the whole thing to the County Court. That is an issue.

Mr Tee interjected.

Ms PENNICUIK — I say to Mr Tee that it is not a good thing that a person has to rely on going to the County Court.

Hon. J. M. Madden interjected.

Ms PENNICUIK — I am trying to assist here, Mr Madden. I am trying to assist you.

Mr Vogels interjected.

Ms PENNICUIK — That is right — exactly, Mr Vogels. It is always an imposition on anybody to have to go to the County Court to seek restitution for something that should never have happened, particularly when it is the government that is causing the problem. As far as I can make out, Mr Moloney appears to have been guilty of cultivating marijuana, but not on his property. He has admitted he cultivated marijuana for himself, for his own use, but not on his property. He took it to his property for his own use. There is no argument in the court or anywhere that he was involved in any trafficking or derived any profit whatsoever from these activities, so there was no case for him to have had his property forfeited.

The other issue that we need to be careful about, and Mr Rich-Phillips raised it, is that an innocent person may have an interest in property alongside a person who commits an offence under the schedules. I think I have mentioned before in relation to another bill we had before us that it is an issue where such people get caught up and under this regime they do not appear to be able to be properly heard.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Kindergartens: Drouin

Ms LOVELL (Northern Victoria) — The matter I raise is for the attention of the Minister for Children and Early Childhood Development regarding the increasing demand for kindergarten places in Drouin, a small community in West Gippsland. My request is for the minister to work with Baw Baw Shire Council to find a solution to Drouin's kindergarten shortage, including the provision of funding grants to allow existing kindergartens to expand their buildings and take on additional kindergarten groups so that no child in Drouin is denied a kindergarten experience in 2011 or in the future.

I raise this issue on behalf of a concerned Drouin resident who I know has raised this issue with the minister and has also appealed to my colleagues the member for Narracan in the other place, Gary Blackwood, and Edward O'Donohue for assistance in lobbying the minister. According to the resident, Drouin is a growth corridor and the town's population is increasing at a great rate. Unfortunately planning for early childhood infrastructure has not kept pace with population growth, which has led to a shortage of kindergarten places. The resident believes more than 40 families who were hoping their children would attend four-year-old kindergarten programs at local kindergartens in 2011 will be denied places.

Drouin Kindergarten is listed as a category D service in Baw Baw Shire Council's capacity assessment report, which details capacity within the municipality to provide 15 hours of kindergarten for children in the year before school by 2013. The report also lists Oak

Street Kindergarten in Drouin as a category D service. Category D means that these services require significant assistance from external sources to be able to implement universal access to 15 hours of kindergarten by 2013. But if children are already missing out on a place for 10.75 hours in 2011, how will universal access of 15 hours possibly be provided to children in 2013?

The report also acknowledges significant population growth in Longwarry, Drouin and Warragul. According to the Drouin resident, Baw Baw Shire Council intends to support an application from a local kindergarten for a grant to extend its buildings, enabling it to offer an extra class in 2012, but this may be too little, too late. It is believed there is an urgent need for further planning to ensure that early childhood infrastructure is adequate to meet the community's needs into the future. It would be unacceptable for any children to miss out on this crucial year of their educational development.

Every child deserves access to a kindergarten experience during the year before starting primary school. The Brumby government cannot allow this situation to perpetuate. The minister must work with Baw Baw Shire Council to find a solution to this pressing issue, including the provision of funding grants to allow existing Drouin kindergartens to expand their buildings so they can take on extra classes to meet the needs of the town's growing population.

Water: government policy

Mr KOCH (Western Victoria) — My issue is for the Minister for Water. It relates to poor policy, reliance on red tape and the single-mindedness that has been exercised under his watch. This has resulted in one of the Wimmera's many dry lakes remaining without water after recent heavy rains and local flooding. Located approximately 20 kilometres from Horsham towards Stawell, Green Lake remains empty after years of drought. Historically it has been one of western Victoria's most loved and used recreational reserves, but there are teenagers in the Horsham district who have never seen water in this lake.

Ten days ago Grampians Wimmera Mallee Water Corporation (GWMWater) had a rare opportunity to allow excess water flows to fill Green Lake via drainage channels from the Wimmera River. The lake is at the end of the channel system, and allowing the overflow to make its way through open channels would not infringe on other local water entitlements. Following the prediction by the Bureau of Meteorology of heavy rains exceeding 50 millimetres the Green Lake community called on GWMWater to allow water flows into the lake. This was flatly rejected.

On Monday the Wimmera River peaked at 8 metres, with flooding threatening many homes and properties. The decision to keep excess water from flowing into Green Lake was narrow-minded and a tragedy for the region. The water would have allowed Green Lake, as well as other lakes in the region, to be made available for recreational use, which is something that has not occurred during a decade of low rainfall.

These inflows have regrettably been denied for all the wrong reasons. Water in Green Lake would have seen hundreds of boats and yachts dusted off and used, tourism to the region would have flourished and locals would have again enjoyed something they had previously taken for granted. It is unfortunate that these recreational lakes and the community have been the unintended losers in the piping of the channel system. Further consideration should be given to reviewing the savings from this great investment in favour of recreational users. Regional industry and jobs are both important, but recreational pursuits, be they on land or water, should be further considered.

My request to the minister is to direct water agencies under his control to exercise a sense of community when dealing with the distribution of water resulting from unique rainfall patterns. It is disappointing that common sense could not have been applied to refilling these lakes, including Green Lake, and that this water has been squandered on this occasion at a cost to recreational aquatic users.

Planning: Armadale development

Mrs COOTE (Southern Metropolitan) — My matter for the adjournment debate this evening is for the attention of the Minister for Planning, who is in the chamber, and it is to do with a development at 590 Orrong Road, Armadale.

Recently the Liberal candidate for Prahran, Clem Newton-Brown, held a forum on planning. There were a number of people at that forum who were very concerned about planning in and around Stonnington, but in particular there was in attendance a group called the Orrong Group. The members of the group are particularly worried about a new development, part of which 11 towers are proposed to be built at 590 Orrong Road, Armadale. There will be 2 towers of 16 storeys, 2 of 15 storeys, 2 of 13 storeys, 1 of 11 storeys, 2 of 9 storeys and 2 of 7 storeys, plus shops, townhouses and maintenance buildings.

It is going to be developed by Lend Lease and will add 500 apartments and homes to this area, which is adjacent to the Prahran football oval and is not a large space. The problem is there is not going to be significant car parking space available. Already the area is under enormous stress. The Toorak railway station, which is close by, will be absolutely inundated. It is difficult enough at the moment to catch a morning train from Toorak station into the city because the trains are simply jam-packed. This development will add to the problem.

I would like to emphasise that the development is for 500 homes, not 500 people. Imagine two, three or more people in each one of those households, and you can understand the likely congestion. However, the meeting was attended by a good group of people who are prepared and very angry with the development and with Mr Tony Lupton, the member for Prahran in the Assembly, who has not done very much to help.

In a media release dated 26 August Mr Lupton stated:

> … the development proposal for 590 Orrong Road put forward by Lend Lease is a matter for the Stonnington council …
>
> It is unfortunate that local residents have been subjected to a … fear campaign suggesting that the community will lose the right to have a say in the future of 590 Orrong Road …

People are finding they are not having a say in that. In the media release Tony Lupton further stated:

> The minister has no intention of intervening in this matter.

The action I seek from the minister is that as a matter of urgency he assure the residents who live in and around 590 Orrong Road that he has no intention to intervene, as was published by the member for Prahran, Tony Lupton.

Sport governance and inclusion project: member

Mr FINN (Western Metropolitan) — I raise a matter for the attention of the Minister for Sport, Recreation and Youth Affairs. In recent times I have been appalled by the ferocity of the attacks on Aussie swimming champion Stephanie Rice, as I am sure many members of this house have been. Stephanie Rice is a great Australian sports star who has brought great glory to this nation, and I am sure that she will continue to do so if she is given the opportunity.

Stephanie is a 22-year-old who has achieved more in her short life than I believe most would in a century. She recently used a word on Twitter that she probably should not have used — I think that is the best way to describe it. It should be pointed out that that word was not an attack on homosexuals, but she was having a whack at a South African sporting team. I have to say I do not find anything particularly wrong with that — in fact it is probably highly desirable in many ways. Despite that, Stephanie Rice has tearfully apologised, but the campaign of hysteria has continued.

I have asked myself who is responsible for this campaign, and this question was answered with an email I received the other day. The email was addressed to 'Davenport Customer Service', with a courtesy copy sent to ausqueer@yahoogroups.com. The email is from an individual called Rob Mitchell. Having done a Google search on him, I understand he is some sort of self-styled homosexual activist. He starts his email by saying:

> Hi,
>
> Can I suggest you check out
>
> www.davenportsucks.com
>
> It is a website I have set up highlighting the link between the systemic vilification peddled by your 'star' and the inevitable result it has on the mental health of the 10 per cent of young people in this country who are not straight.

The email goes on for quite some time with language that I think is rather intimidating and threatening to the Davenport company as to what will happen to the company if it does not drop its sponsorship of Stephanie Rice, as indeed Jaguar has done, which I think is pretty appalling.

The thing that distresses me most is that Mr Rob Mitchell has signed this email as a member of the governance and inclusion project of the Victorian department of sport. He has used the department of sport and the Victorian government in his campaign to destroy the life of a great Australian sportsperson. I think that is despicable, and I ask the minister to take immediate action to make it clear to the Victorian community that the Victorian government does not condone this activity. I also ask that he sack Rob Mitchell from any position he holds within the Victorian government.

Specialist schools: Casey-Cardinia growth corridor

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Education. The minister would be aware that I have spoken in this place previously about the need for a special school in the Cardinia-Casey growth area. The minister would also be aware that a special school site has been

identified in the Officer structure plan, which is great news for those who are advocating for the construction of such a school. However, what is of concern to some of those advocates is that the size of the proposed school development is reportedly only 2 hectares. Experience from other special schools in the broader south-eastern Melbourne catchment would indicate a school of this size is perhaps not sufficient — indeed the other special schools in the south-east of Melbourne are currently struggling with high enrolments, more than originally forecast, on small pieces of land that struggle to cope with the growing student population. This is a lesson that should be learnt for any new school that is built in the Casey-Cardinia growth corridor.

It is worth noting that the average size for a new primary school development is 3½ hectares. I ask the minister why there is a discrepancy between the size of land needed for a special school and the size of land for a traditional mainstream primary school. I ask the minister to consider this issue, particularly with reference to the population growth that is occurring in the corridor. The city of Casey is forecast to grow from a population next year of 270 000 to 370 000 by 2026, and the population of the shire of Cardinia is forecast to grow from 79 000 in 2011 to 147 000 by 2026. This significant population increase will increase the demand for placements at a new special school, and the government needs to be very careful in choosing the amount of land for such a school and ensure that there is capacity to accommodate future growth. I ask the minister to consider this issue and to respond to me before the Parliament rises.

Roads: Ringwood traffic management

Mrs KRONBERG (Eastern Metropolitan) — I raise a matter for the attention of the Minister for Roads and Ports. The matter is straightforward, but it is causing a lot of concern. It involves traffic sequencing in the Ringwood area. There is a collective community view and a rising level of consternation expressed by a number of individuals and visitors to my office about two intersections in Ringwood that are dangerous because drift lights, or the right-hand turn arrows, are too short in their sequencing.

Two particular intersections are causing concern, the first of which is the intersection of the Ringwood Bypass and Warrandyte Road for eastbound traffic. The other problematic intersection is at Ringwood Street and Maroondah Highway, where there is an acute problem for drivers who position themselves to turn right when the green arrow appears. Far too much of the time allowed for the green arrow is currently taken up by slow-turning vehicles coming from the other side of the intersection, including many buses in the area and often a substantial number of articulated vehicles. This means that as they progress through the intersection drivers are stopped by such vehicles from completing their respective right-hand turns as they erode the scarce time for those needing to complete their turns. Not only is this dangerous for traffic flow and likely to increase crashes but also drivers held up by slow-turning vehicles are often recorded by red-light cameras through no fault of their own.

This is a straightforward matter. I ask the minister to ensure that VicRoads undertakes an urgent review of these intersections, which are causing a lot of havoc, especially at peak times, before any more dangerous situations occur.

Melbourne-Lancefield Road: safety

Mrs PETROVICH (Northern Victoria) — My adjournment matter today is for the Minister for Roads and Ports, Tim Pallas. I express my disappointment that the Brumby government has made the decision to refuse any further safety works on the Melbourne-Lancefield Road. Community concerns about the safety of this road remain high, and letters from local motorists criticising the state of the road continue to appear regularly in local newspapers.

In July Rob Mitchell, then the Labor candidate for the federal seat of McEwen, described the road as notorious during his election campaign and pledged that if elected he would continue the community's push for immediate works to improve safety. Recently letters to the newspaper have also highlighted the added danger of large potholes in the road, with one letter stating that the road was fast becoming a track rather than a road. Recent heavy rain has led to further deterioration.

Every year this road carries more traffic, as Sunbury, Romsey and Lancefield continue to grow. While this government wastes money and resources on unnecessary roadworks such as the lane reduction on Black Forest Drive, Woodend, and hundreds of millions of dollars on myki, it refuses to address the community's concerns about the Melbourne-Lancefield Road. How many more fatalities will it take before this government is forced to act?

Mr Finn interjected.

Mrs PETROVICH — It is a very bad road, Mr Finn. Disappointingly a response to a previous request for action from Minister Pallas refers to the continuation of taking crash statistics on the Melbourne-Lancefield Road and to there being no need

to provide overtaking lanes at this time. The action I seek is for the minister to address the well-documented concerns of local residents and commuters who are forced to use this road, to fix the potholes and to provide an overtaking lane at the very least.

Department of Primary Industries: regional offices

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the Minister for Agriculture concerning the Department of Primary Industries regional offices and the department's failure to provide access to contact with staff in those offices during the middle of the day. As we know the majority of farmers work in their paddocks or at whatever physical activities they are engaged in on their farms then come in for lunch, so typically the time of day when most farmers want to access DPI officers is at lunchtime — other times not being convenient.

It has come to my attention from my own personal experience last week that DPI offices are withdrawing access to contact with staff at lunchtime — for example, the Maffra office is closed between 12.30 p.m. and 1.30 p.m. and there are no reception services provided. The effect of this is that there is no over-the-counter or telephone contact. If you ring the local DPI office, the call is diverted to a telephone call centre. The person at the call centre, generally speaking, is inaccessible until you have gone through a 10-point menu, and until you have exercised that option you cannot speak to an operator. When you speak to the operator and ask to be put through to a relevant officer in the local office — that is, the Maffra office in this example — the operator does not know what number to ring.

After 9 minutes and 58 seconds of my waiting to be put through, I was then told they were unable to do it. After I said, 'I am a member of Parliament, and I expect to speak to somebody in the DPI office', the operator said, 'I'll get back to you'. Twenty minutes later he rang back with a number for Warragul. If anybody knows the geography of Gippsland, they will know that Warragul is a long way from Maffra. I said, 'No, I want to speak to a person in the Maffra office'.

My point is that an analysis shows that more than 50 per cent of all the contact with the DPI Maffra office — and I understand this applies statewide — occurs between 11.00 a.m. and 2.00 p.m. each day. Yet for one-third of that time that office is in effect unable to be accessed by the farming community. I think it is a complete disgrace. I ask that the Minister for Agriculture take action to ensure that the primary stakeholders in the Department of Primary Industries, being farmers, have access to staff in DPI offices in the course of what is the busiest time of access for farmers — in other words, to ensure that the DPI does the job for which it is funded.

Responses

Hon. J. M. MADDEN (Minister for Planning) — I have written responses to adjournment debate matters, from one raised on 24 February 2010 by Mrs Petrovich through to one raised on 13 August 2010 by Ms Broad. There are 16 responses in total.

Mr P. Davis — On a point of order, Acting President, I have raised with the minister previously by correspondence and again last sitting week the fact that I am looking for a response on the matter of police at Bairnsdale. I have written twice and have raised a point of order once. The President last time said that the minister would need to deal with it. I have written subsequently in relation to a matter concerning the growth areas infrastructure contribution — a matter which falls within the minister's portfolio and which was raised on 29 July. I ask the minister to advise me now whether those responses are to hand or when they will be, because after this week we only have one sitting week left, and these responses are over time.

Hon. J. M. MADDEN — I am happy to double-check those to make sure they are on their way. I notice that on tonight's list there are two responses addressed to Mr Davis, one raised on 25 May and one raised on 10 June.

Mr P. Davis — Neither of which the minister has responsibility for.

Hon. J. M. MADDEN — That is right; I am just letting the member know. I seek at every opportunity to remind my colleagues in the other chamber that they need to respond to Mr Davis, but Mr Davis needs to appreciate that members in the other chamber respond when they respond.

Mr P. Davis interjected.

Hon. J. M. MADDEN — I am still talking. No matter how much we may prompt or remind them, as we do — we seek to have them respond as rapidly as possible — they sometimes do not respond as rapidly as members on this side of the chamber in this place would like. However, we continue to remind them.

In relation to the matter that I am responsible for specifically, the one about the growth areas infrastructure charge — —

Mr P. Davis — In relation to the Catholic diocese.

Hon. J. M. MADDEN — In relation to the Catholic diocese, I understand a response is on its way. I believe it has been signed. I will have to double-check, but I understand it is on its way to Mr Davis, so if he has not received it yet, he should receive it very shortly.

Wendy Lovell raised a matter about Drouin kindergarten services, and I will refer that matter to the Minister for Children and Early Childhood Development.

David Koch raised the matter of Green Lake, and I will refer this to the Minister for Water.

Andrea Coote raised the matter of 590 Orrong Road, Armadale. It is not my intention to intervene in this project whatsoever, so that is the response to that matter.

Mr Finn raised a matter in relation to personnel at Sport and Recreation Victoria and issues around Stephanie Rice's recent media coverage. I will refer this to the Minister for Sport, Recreation and Youth Affairs.

Edward O'Donohue raised the matter of special schools in the Casey-Cardinia growth area corridor. I will refer this to the Minister for Education.

Jan Kronberg raised the matter of traffic light sequencing in the Ringwood area, and I will refer this to the Minister for Roads and Ports.

Donna Petrovich raised the matter of safety works on the Melbourne-Lancefield Road, and I will refer this to the Minister for Roads and Ports.

Philip Davis raised the matter of the operating times of the regional offices of the Department of Primary Industries. I will refer this to the Minister for Agriculture.

The ACTING PRESIDENT (**Mr Leane**) — Order! The house now stands adjourned.

House adjourned 10.25 p.m.

Attorney-General

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14 SEP 2010

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14 SEP 2010

F10/1298

Mr Wayne Tunnecliffe
Clerk of the Legislative Council
Parliament House
EAST MELBOURNE VIC 3002

Dear Mr Tunnecliffe

ORDERS FOR THE PRODUCTION OF DOCUMENTS

I refer to the following orders (**Orders**) made by the Legislative Council (**Council**) on 1 September 2010 seeking production, by 14 September 2010, of the documents described therein, being:

(a) data for the years 2007-08. 2008-09 and 2009-10 provided by the State Government to the Federal Government according to the national health-care agreement for the admitted patient care national minimum data set"; and

(b) the monthly and quarterly integrated performance reports for the last three quarters of the financial year 2009-10, both Statewide and for [90 named] individual health services.

The 90 named individual health services have been listed in the appendix to this letter.

The Council's deadline of 14 September 2010 does not allow sufficient time for the Government to identify and assess documents relevant to the Orders. The Government will respond as soon as possible.

Yours sincerely

ROB HULLS MP
Attorney General

cc: The Hon John Lenders, Leader of the Government in the Legislative Council

Victoria
The Place To Be

APPENDIX

(1) "Albury Wodonga Health;
(2) Alexandra District Hospital;
(3) Alfred Health;
(4) Alpine Health;
(5) Austin Health;
(6) Bairnsdale Regional Health Service;
(7) Ballarat Health Services;
(8) Barwon Health;
(9) Bass Coast Regional Health;
(10) Beaufort and Skipton Health Service;
(11) Beechworth Health Service;
(12) Benalla and District Memorial Hospital;
(13) Bendigo Health Care Group;
(14) Boort District Health;
(15) Calvary Health Care Bethlehem Ltd;
(16) Casterton Memorial Hospital;
(17) Central Gippsland Health Service;
(18) Cobram District Health;
(19) Cohuna District Hospital;
(20) Colac Area Health;
(21) Dental Health Services Victoria;
(22) Djerriwarrh Health Services;
(23) Dunmunkle Health Services;
(24) East Grampians Health Service;
(25) East Wimmera Health Service;
(26) Eastern Health;
(27) Echuca Regional Health;
(28) Edenhope and District Hospital;
(29) Gippsland Southern Health Service;
(30) Goulburn Valley Health;
(31) Hepburn Health Service;
(32) Hesse Rural Health Service;
(33) Heywood Rural Health;
(34) Inglewood and District Health Service;
(35) Kerang District Health;
(36) Kilmore and District Hospital;
(37) Kooweerup Regional Health Service;
(38) Kyabram and District Health Service;
(39) Kyneton District Health Service;
(40) Latrobe Regional Hospital;
(41) Lorne Community Hospital;
(42) Maldon Hospital;
(43) Mallee Track Health and Community Service;
(44) Manangatang and District Hospital;
(45) Mansfield District Hospital;
(46) Maryborough District Health Service;
(47) McIvor Health and Community Services;
(48) Melbourne Health;
(49) Melton Health
(50) Mercy Public Hospitals Inc.;
(51) Mildura Base Hospital;
(52) Moyne Health Services;
(53) Mt Alexander Hospital;
(54) Nathalia District Hospital;
(55) Northeast Health Wangaratta;
(56) Northern Health;
(57) Numurkah District Health Service;
(58) Omeo District Health;

(59) Orbost Regional Health;
(60) Otway Health and Community Services;
(61) Peninsula Health;
(62) Peter MacCallum Cancer Institute;
(63) Portland District Health;
(64) Queen Elizabeth Centre;
(65) Robinvale District Health Services;
(66) Rochester and Elmore District Health Service;
(67) Rural Northwest Health;
(68) Seymour District Memorial Hospital;
(69) South Gippsland Hospital;
(70) South West Healthcare;
(71) Southern Health;
(72) St Vincent's Health;
(73) Stawell Regional Health;
(74) Swan Hill District Health;
(75) Tallangatta Health Service;
(76) Terang and Mortlake Health Service;
(77) The Royal Children's Hospital;
(78) The Royal Victorian Eye and Ear Hospital;
(79) The Royal Women's Hospital;
(80) Timboon and District Healthcare Service;
(81) Tweddle Child and Family Health Service;
(82) Upper Murray Health and Community Services;
(83) West Gippsland Healthcare Group;
(84) West Wimmera Health Service;
(85) Western District Health Service;
(86) Western Health;
(87) Wimmera Health Care Group;
(88) Yarram and District Health Service;
(89) Yarrawonga District Health Service; and
(90) Yea and District Memorial Hospital".