PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 11 August 2010

(Extract from book 11)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Privileges Committee — Mr Carli, Mr Clark, Mr Delahunty, Mr Lupton, Mrs Maddigan, Dr Napthine, Mr Nardella, Mr Stensholt and Mr Thompson.

Standing Orders Committee — The Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell.

Joint committees

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

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

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

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

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

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

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

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

Law Reform Committee — (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan, Mr Foley and Mrs Victoria. (*Council*): Mrs Kronberg and Mr Scheffer.

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

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

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

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

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

Heads of parliamentary departments

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Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Mr P. Lochert

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Deputy Speaker: Ms A. P. BARKER

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Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. R. J. HULLS

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr E. N. BAILLIEU

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

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Cameron, Mr Robert Graham	Bendigo West	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Nardella, Mr Donato Antonio	Melton	ALP
Carli, Mr Carlo Domenico	Brunswick	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Clark, Mr Robert William	Box Hill	LP	Noonan, Wade Mathew [7]	Williamstown	ALP
Crisp, Mr Peter Laurence	Mildura	Nats	Northe, Mr Russell John	Morwell	Nats
Crutchfield, Mr Michael Paul	South Barwon	ALP	O'Brien, Mr Michael Anthony	Malvern	LP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Overington, Ms Karen Marie	Ballarat West	ALP
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Eren, Mr John Hamdi	Lara	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Foley, Martin Peter [2]	Albert Park	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Fyffe, Mrs Christine Ann	Evelyn	LP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Graley, Ms Judith Ann	Narre Warren South	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
Green, Ms Danielle Louise	Yan Yean	ALP	Scott, Mr Robin David	Preston	ALP
Haermeyer, Mr André [3]	Kororoit	ALP	Seitz, Mr George	Keilor	ALP
Hardman, Mr Benedict Paul	Seymour	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Harkness, Dr Alistair Ross	Frankston	ALP	Smith, Mr Kenneth Maurice	Bass	LP
Helper, Mr Jochen	Ripon	ALP	Smith, Mr Ryan	Warrandyte	LP
Hennessy, Ms Jill [4]	Altona	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Herbert, Mr Steven Ralph	Eltham	ALP	Sykes, Dr William Everett	Benalla	Nats
Hodgett, Mr David John	Kilsyth	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Holding, Mr Timothy James	Lyndhurst	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Thwaites, Mr Johnstone William [8]	Albert Park	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Tilley, Mr William John	Benambra	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Trezise, Mr Ian Douglas	Geelong	ALP
Ingram, Mr Craig	Gippsland East	Ind	Victoria, Mrs Heidi	Bayswater	LP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kairouz, Ms Marlene [5]	Kororoit	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice [6]	Altona	ALP	Weller, Mr Paul	Rodney	Nats
Kotsiras, Mr Nicholas	Bulleen	LP	Wells, Mr Kimberley Arthur	Scoresby	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wooldridge, Ms Mary Louise Newling	Doncaster	LP
Languiller, Mr Telmo Ramon	Derrimut	ALP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 6 August 2007
[2] Elected 15 September 2007
[3] Resigned 2 June 2008
[4] Elected 13 February 2010
[5] Elected 28 June 2008
[6] Resigned 18 January 2010
[7] Elected 15 September 2007
[8] Resigned 6 August 2007

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WEDNESDAY, 11 AUGUST 2010

Wednesday, 11 August 2010

The SPEAKER (Hon. Jenny Lindell) took the chair at 9.34 a.m. and read the prayer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 66 to 69, 122, 147 to 151, 196 and 213 to 235 will be removed from the notice paper unless members wishing their notice to remain advise the Clerk in writing before 6.00 p.m. today.

PETITION

Following petition presented to house:

Rail: Mildura line

To the Legislative Assembly of Victoria:

This petition of residents of Victoria draws to the attention of the house for the reinstatement of the Mildura–Melbourne passenger train.

The petitioners register their request that the passenger service be suitable for the long-distance needs of the aged and disabled who need to travel for medical treatment, for whom travelling by coach or car is not a comfort option, and for whom flying is financially and logistically prohibitive.

The petitioners therefore request that the Legislative Assembly of Victoria reinstate the passenger train to service the needs of residents in the state's far north who are disadvantaged by distance.

By Mr CRISP (Mildura) (25 signatures).

Tabled.

Ordered that petition be considered next day on motion of Mr CRISP (Mildura).

DOCUMENTS

Tabled by Clerk:

Auditor-General:

Local Government: Interim Results of the 2009–10 Audits — Ordered to be printed

Water Entities: Interim Results of the 2009–10 Audits — Ordered to be printed

Freedom of Information Act 1982 — Statement of reasons for seeking leave to appeal under s 65AB

Ombudsman, Office of — Report 2009–10 — Part 1 — Ordered to be printed.

The following proclamation fixing an operative date was tabled by the Clerk in accordance with an order of the House dated 19 December 2006:

Therapeutic Goods (Victoria) Act 2010 — Whole Act — 3 August 2010 *(Gazette S306, 3 August 2010).*

MEMBERS STATEMENTS

Wild Oak Restaurant and Wine Bar: award

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — Congratulations to Olinda restaurant Wild Oak Restaurant and Wine Bar, which was named best modern Australian restaurant in the regional category of the Restaurant and Catering Association's awards for excellence. Wild Oak owner and award-winning executive chef Ben Higgs leads a passionate and dedicated team which has long been synonymous with providing a truly gastronomic fine dining experience in the Dandenongs.

Burrinja Cultural Centre: museum award

Mr MERLINO — The Burrinja Cultural Centre in Upwey has been awarded the Archival Survival Award for Small Museums 2010 by Museums Australia. The award is a fantastic acknowledgement of the hard work and effort that goes into the many programs, projects, exhibitions and performances from a very small team led by Dr Ross Farnell, Tilla Burden and the committee of management. Well done!

Graeme Hindley

Mr MERLINO — Congratulations to Montrose resident and Pembroke Secondary College teacher Graeme Hindley, who has been recognised for his 48 years of service to public education. Graeme is a dedicated father, local community member and a highly regarded maths teacher at Pembroke, where he has worked since 1983. Graeme has always been known for his compassion and willingness to help students both in the classroom and in his own time. He has truly dedicated his life to providing opportunities for others.

Denise Wach

Mr MERLINO — Olinda resident and Upwey High School teacher Denise Wach has been recognised for over 40 years of service to public education, 37 of them at Upwey. Denise has combined teaching regular curricula with specialising in both the arts and visual arts. Judith Bromham, a 1993 Rhodes scholar, is one of

her former students. Denise is a recognised artist, and her works have been exhibited in various state, national and international exhibitions. Well done, Denise.

Water: retail prices

Ms ASHER (Brighton) — As members of this house would know, Victorians are experiencing significant price increases for all utilities. In the case of water, there are significant increases in Melbourne and across Victoria. But the alarming thing I wish to bring to the attention of the house is that, whilst consumers are struggling, the government does not know the price of water in Melbourne — two conflicting figures have been provided. In answer to a question on notice to the Minister for Water relating to each of the three tiers of pricing of the three metropolitan retailers, the minister has provided a set of figures while the websites of City West Water, Yarra Valley Water and South East Water provide different figures for the price of water from 1 July 2010.

By way of example, in the case of South East Water the minister has said the price per kilolitre for block 1 is $1.44, block 2 is $1.74 and block 3 is $2.84, yet South East Water's website says the price for block 1 is $1.51, block 2 is $1.83 and block 3 is $2.97. This unfortunate situation with conflicting prices from the government-owned water authorities and the Minister for Water is repeated across the three retailers. Labor does not know what the price of water is in Melbourne. Unfortunately consumers will when they receive their next water bills.

Burke and Wills expedition: 150th anniversary

Mrs MADDIGAN (Essendon) — Next Wednesday, 18 August, is the 150th anniversary of the date that the ill-fated Burke and Wills expedition left Melbourne. I congratulate the Royal Society of Victoria and the special committee it has set up to celebrate the Burke and Wills expedition for the great work they have done in organising a series of events not only in Melbourne but throughout regional Victoria as well.

The expedition left from what is now Royal Park, and a ceremony will be held there next Wednesday morning with a partial re-enactment of the event. In addition, a number of other events will be on at the time, including a gala film night with Jack Thompson and an evening with Jack Thompson at the Essendon Courthouse Museum. I think a lot of people will be very pleased to be involved in these events and will remember Jack Thompson from the film. As well as events to be held around the city, a lot of events will be held in the country, including a Horsham library display, a Burke and Wills — Castlemaine Connections exhibition, a Bendigo pottery reading and literary luncheon, and some further events at Castlemaine.

I think this is an event that all Victorians can get involved with. I am sure there are members here who would like to recreate the walk of Burke and Wills — for instance, the member for Rodney — and we would be more than happy to fund some of them. It is a great opportunity for people to be involved in celebrating what was an important historic event in Victoria.

School buses: Echuca

Mr WELLER (Rodney) — A government-ordered school bus review in and around Echuca is turning into a fiasco. The complete lack of consultation, the unwillingness to engage with affected parties and the lack of any clear direction is causing a myriad of problems for bus operators, schools, parents and students. There also appears to be a lack of cooperative spirit between two government departments involved in the issue — namely, transport and education. The time has come for the appropriate ministers to intervene and to lay out some clear guidelines, including the absolute necessity for those carrying out the review to actively involve and include all stakeholders. My office has received numerous complaints from bus drivers and operators about the effects the proposed changes are likely to have.

Pushing students off country buses and onto town buses will mean a sharp increase in safety risks, as more students will be forced to stand to travel over significant distances. The schools and the parents have virtually been kept in the dark, meaning that valuable input is being ignored. It is not a question of ignoring the need for ongoing reviews to ensure the best possible service; it is about the manner in which this particular review is being carried out. It is time for some ministerial intervention and, hopefully, some common sense. The government, through its ministers, must direct departmental people to listen, consult and include people whose lives will ultimately be affected by such decisions. It is time to consult with the parents and the whole school community, not leave them in the dark.

Monash Medical Centre: Moorabbin ladies auxiliary

Mr HUDSON (Bentleigh) — Recently I presented the Premier's community volunteering award to the Moorabbin hospital ladies auxiliary for its outstanding service to the Moorabbin campus of the Monash Medical Centre. The auxiliary was established to support the work of the Moorabbin community hospital

in 1975 and celebrates its 35th birthday this year. People in the Moorabbin and Bentleigh area fought hard to establish the hospital and raise funds for it. The backbone of this community fundraising has been the auxiliary. From a group of 20 founding members it grew to 140 members at its peak and today has 45 members, largely drawn from the local community. Five members remain from the founding group: Bev Fitzharris, Marj Lochhead, Jacqui Davison, Nancy Duckmanton and Gwen Downing. Pat Huggins has been involved with the auxiliary for 30 years and has been president for the last 22 years. She has provided tremendous leadership to this group.

In the past 35 years the auxiliary has raised an amazing $1.2 million for the hospital. This has allowed the purchase of much needed medical equipment. It has raised its funds through stalls, raffles, social events and for many years has run a kiosk at Moorabbin. It has continued to support the hospital through many changes, such as when the hospital joined with the Queen Victoria Medical Centre and Prince Henry's Hospital to form the Monash Medical Centre in 1987. Throughout these changes the auxiliary members have remained steadfast in their support for their local health service. These women are true champions of their local community, and their fundraising efforts are legendary. The Moorabbin ladies auxiliary is a fabulous group that has given a human face to the hospital.

Victorian Interpreting and Translating Service: funding

Mr KOTSIRAS (Bulleen) — The Brumby Labor government will lie, misinterpret the truth and circulate misinformation to hide its incompetence, lack of ability and mismanagement. It has been so for 11 years, and in these 11 dark years this Labor government has gagged, threatened and betrayed Victorians who have dared to stand up to its incompetence, intimidation and failures.

On 23 February 2010 I asked the Premier a very simple question on notice about VITS (Victorian Interpreting and Translation Service), asking what bonuses were paid between 1999 and 2009 and what its current operational reserves are. Five months later I have not received a response from the Premier, who pretends to be the Minister for Multicultural Affairs. What is the Premier hiding? Why did the former CEO of VITS depart, and how was the new CEO appointed? Why was a dividend to the Victorian government not paid for the first time in over a decade? Is it true that VITS lost $155 000 for the six months ending 31 December 2009?

I call upon this arrogant Premier to show some courage and come clean on this cover-up. Our language services are vital in assisting those who have difficultly with the English language to fully participate in our society. We cannot play political games and treat Victorians with such arrogance and contempt.

Victorian Multicultural Commission: freedom of information request

Mr KOTSIRAS — I am also still awaiting the outcome of an FOI request that I submitted on 9 February for copies of all agendas and minutes of meetings held by the Victorian Multicultural Commission between 2008 and 2010. This government is corrupting every process that is in place to keep this government honest.

Tourism: Growing Moorabool project

Mr HOWARD (Ballarat East) — On Monday night I was pleased to take part in the launch of the Growing Moorabool — Food, Wine and Tourism project. It is a great project of the Moorabool Shire Council, supported by $25 000 from the state government. It shows that Moorabool is growing as a source of great food and wine products, that it is further developing and promoting tourism opportunities associated with that and that it is sending this message around the world via the Growing Moorabool website.

Creswick: government initiatives

Mr HOWARD — I was recently delighted to join many Creswick residents on the Creswick railway station platform to catch the train to Maryborough — something that has not happened for many years. I was pleased to join the Premier and the Minister for Public Transport, along with many excited Creswick community members, to see passenger rail services returned to Creswick and to be able to travel, as I said, to the impressive Maryborough station, where further celebrations took place. The return of rail services to Creswick adds to the tripling of bus services that has been implemented under our government and clearly improves travel opportunities for the people of Creswick.

The government has also supported Creswick by providing access to natural gas, upgrading recreation reserves at both Park Lake and Doug Lindsay Reserve, constructing a tourist information centre, upgrading the Creswick town hall and Creswick Museum and funding the Magic Pudding children's playground in Creswick. Creswick is certainly gaining much under our government and progressing very well.

Schools: building program

Mr DIXON (Nepean) — Last week was a bad week for the Minister for Education with the release of an interim report from Brad Orgill's task force investigation into the Building the Education Revolution program and also the release of her department's limited figures on BER costs in Victoria. Brad Orgill has recommended exactly what the minister has said she will not do — that is, release the cost breakdown of every school project. Yesterday the Premier overturned her decision.

Mr Orgill has also recommended that any remaining projects be the result of more community consultation, better communication and local input. He found that the best design and educational outcomes were achieved through consultation; this flies in the face of the Brumby government's one-size-fits-all centralised approach. Mr Orgill found issues of inflexibility, insufficient consultation, descoping of projects and valid concerns regarding value for money. The Victorian department's figures were not what the minister promised but were just averaged-out costs of the various templates with two examples of each.

Even though the Brumby government tried to hide the true costs through this smokescreen, they are still damning figures. The figures show three things: firstly, the poor value for money of Victorian government school projects compared with those in non-government schools, where principals and communities were trusted to deliver their projects; secondly, only 21 per cent of projects were expected to be completed by the end of this month, 18 months after the project commenced; and thirdly, the massive allowances for dodgy fees such as project management services, contingencies, special factors, special site allowances, provisional sums and — my favourite — design fees for architects of portable classrooms that already exist and come off an assembly line.

Frankston Reservoir Natural Features Reserve: opening

Dr HARKNESS (Frankston) — The official opening of the Frankston Reservoir Natural Features Reserve took place on 25 July, and it was a great pleasure to welcome the Minister for Environment and Climate Change to the event. This was the first of four park discovery days to be held this year, which will help people have a close look at this previously hidden bushland. We are keen to show off this new park and make sure the master plan is balanced and reflective of the importance of the site. When the reserve is opened fully it will offer the residents of Frankston a unique asset with fantastic environmental values and opportunities for recreation.

This important park needs a new name, and I have been very pleased to arrange for a naming process which will be overseen by the office of geographic place names.

Parks Victoria, as the site manager, still has a lot of work to do, such as carrying out important hydrological work, installing facilities such as signs and walking trails and other visitor amenities, making sure people are safe when they visit and ensuring that nearby residents are not disturbed. State government funding of $2.6 million will allow this to occur.

Parks Victoria and I will continue to consult and keep residents informed of developments as we make sure this jewel in Frankston's crown is protected for many generations to enjoy.

Frankston: aquatic centre

Dr HARKNESS — The Frankston community is keen to see the Frankston aquatic centre finally built. The state government has announced an extraordinary and unprecedented support package to Frankston City Council so that it can get this facility built now.

In 2007 Frankston City Council committed $20 million for the centre. In 2009 it reduced its commitment to $16 million. Now it wants to reduce its commitment even further. One thing it has done is to fritter away $86 000 of ratepayers money on faceless Collins Street political lobbyists and shift its responsibility for decision making to these unelected people. And what was the lobbyists' decision? More talk, no action.

The council needs to realise that the community is resolute that the Frankston pool be built now. It needs to stop playing political games, because if it does not, our children will have grandchildren of their own before our pool is built — —

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

Warrandyte Primary School: building program

Mr R. SMITH (Warrandyte) — I raise an issue today regarding the Building the Education Revolution (BER) project being built at the Warrandyte Primary School, and in doing so I want to question the government's commitment to ensuring the safety of public buildings in bushfire areas.

In March of this year I wrote to the Minister for Education on behalf of Warrandyte Primary School's

council members and voiced concerns about their new BER multipurpose hall and its suitability for construction in a high fire-risk area, given that the school is right in the middle of Warrandyte State Park.

The school council wanted me to raise the relevant and important point that it would be far cheaper to construct a new building which incorporates a number of fire-resistant features than it would be to retrofit these features at a later date. It has been advised that these features would include a concrete slab foundation, toughened glass or shutters for the windows and external walls of an appropriate fire-resistant level. The school council was concerned that these issues would be overlooked, given that they were disregarded when bushfire issues were raised during the recent placement of a new portable classroom.

Although these issues have been raised, the BER development has continued without any thought to the concerns raised. Clearly the government has little regard in its spending of public money. My letter to the minister was sent in March, and given the Brumby government's form, I am not particularly surprised that five months later I have received no reply. It is unacceptable that the minister has chosen to ignore my letter to her and the concerns of the Warrandyte Primary School community.

I recently asked the school council president if she would like me to write a follow-up letter to the minister. Unfortunately I have to concur with her comment, 'What is the point? She obviously doesn't care.'.

City of Casey: volunteer awards

Ms GRALEY (Narre Warren South) — I recently had the pleasure of attending the presentation of the Casey volunteer awards, where local groups and individuals were honoured for their hard work and dedication to the Casey community. Many of the nominees and winners are from my electorate of Narre Warren South, including the wonderful people at the Warren Opportunity Shop, who won the volunteer group award.

The Warren Opportunity Shop was opened in 1981 and has been providing much-needed funds to charities and community organisations — over $30 000 every year. Some of the organisations that benefit from the shop's fundraising efforts include the Narre Warren Country Fire Authority, the After Breast Cancer Hydro Group, the Casey Kidz Club, the Casey North Community Information and Support Service and South East Palliative Care.

I had the pleasure of meeting committee members Jenny Godfrey and Brian Neave at the ceremony. I congratulate them and their colleagues Julie Hughes, Barbara Cassar, Pam Sanders, Peter Chessum, Brenda Chessum and the late Dianna Polimeni. I was saddened to hear of Dianna's recent death. She was a great woman who will be sadly missed. The passionate team at Christians Helping in Primary Schools was a worthy winner of the volunteer organisation award.

Nominees from my electorate of Narre Warren South included Zamera Shariffe, Janice and John Pesic, Graeme Bell, Andrew Poulter, Ann White, Gael White and Elwyn Wride. They are all great people doing exceptional things for others.

The winner in the individual category was Russell Owen for his long service to the Australian Air League. Lots of young people have benefited from his guidance. His wife, Judy, is Casey's citizen of the year; together they make a great team.

Cara Peake won the young volunteer award in recognition of her seven years of services to the local St John's Ambulance brigade. Cara is a delightful young person and a great role model for her peers.

Russell Owen summed it up well when he sincerely said, 'I just give up a small amount of time to make someone else happy'. We thank and congratulate our Casey volunteers.

Latrobe Valley: government services

Mr NORTHE (Morwell) — In recent months I have had the pleasure of meeting with a number of local organisations and community groups to discuss various topics of interest. I have met with groups such as the Morwell Probus Club, the Morwell Caritas club, the Valley Day club, local pensioner groups, service clubs and the Central Gippsland Retired Persons Association, and all have raised similar issues of concern. The common theme of concern relates to the high costs of living for seniors and pensioners and the inequity that seems to exist in our community with respect to government services. These concerns appear justified when you analyse the cost of utilities for Latrobe Valley residents. For example, Gippsland residents are paying on average $440 more per annum for electricity and gas than they were in 2008, a higher increase than anywhere else in the state.

Gippsland Water ratepayers currently pay more for water in comparison with customers of all other water authorities in Victoria. When you consider the inequity that exists across the public transport system, you get a

sense of why the Gippsland community feels let down by this government. Those in Melbourne who are entitled to the Sunday pass can travel for free on Sundays on metropolitan trains, trams and buses. However, if you reside in Gippsland and wish to utilise V/Line services on a Sunday and have a Sunday pass, it actually costs 42 per cent more to travel on this service than it does on a weekday. Then there is the myki debacle. It is time that the Brumby government started to deliver to ensure Latrobe Valley residents are treated fairly and with equity. This is the strong message emanating from our community.

Belvedere Reserve, Seaford: funding

Mr PERERA (Cranbourne) — It was a great pleasure to announce that the Brumby Labor government is making it possible for young footballers to play on a new third oval at Belvedere Reserve, thanks to a $259 000 funding contribution.

This oval will make a great difference to junior sport in the Belvedere area, providing a way for local children to maintain healthy and active lifestyles. The oval will be a welcome community facility and will complement the state-of-the-art sporting facility which will house the St Kilda Football Club.

Skye Recreation Reserve: facilities

Mr PERERA — It was also a great pleasure to represent the Minister for Sport, Recreation and Youth Affairs recently at the official opening of the modernised facilities at the Skye Recreation Reserve. The Brumby Labor government made a $60 000 contribution towards the new and improved community facility. Local council also made a contribution, as did the Skye Cricket Club and the Skye United Soccer Club.

I take my hat off to the executive committee members from both clubs who took the opportunity to put their well-thought-out ambitions for a modernised facility to me. They were full of passion and determination. Because of their hard work, their dream has now become a reality. Grassroots sport is thriving in the electorate of Cranbourne. The new and improved pavilion at Skye Recreation Reserve now includes new change rooms, amenities and better access for people with a disability. These state-of-the-art features also cater for a growing number of spectators.

Health: federal government plan

Mrs SHARDEY (Caulfield) — Victorians woke this morning to deeply concerning and alarming news that the Victorian Labor government remains at loggerheads with federal Labor over its so-called 'national health reform agenda', with state bureaucrats attacking the federal Labor plan's lack of detail. Other concerns about the now apparent shaky deal between Premier Brumby and the Rudd-Gillard government relate to the risk to the future of Victoria's many community health centres being swallowed up by a giant new super-size bureaucracy under the Medicare Locals regions plan. The Australian General Practice Network described these Medicare Locals regions, which apparently form part of federal Labor's health plan, for the provision of supposedly local services, as 'gigantic' with one draft region running from Sunbury in Victoria to Deniliquin in New South Wales.

There is little detail about this plan or any evidence that Labor's super-size health bureaucracy will produce better health outcomes. On the other hand, existing health services provided through community health centres may well be put at risk, proving that Premier Brumby has not only failed to achieve the federal funding he gloated about and said that he would achieve but that he is prepared to sell out the interests of Victorians to help federal Labor get re-elected. It is a shame and a disgrace.

Government Friends of Tourism breakfast

Mr LIM (Clayton) — This morning I attended with the Minister for Tourism and Major Events the Government Friends of Tourism breakfast, hosted by the Tourism Alliance of Victoria and supported by Tourism Victoria. The Government Friends of Tourism group is comprised of members of Parliament who have a particular interest in tourism. They view tourism as important to them and to the people they represent. The Government Friends of Tourism group believes strongly in the value of Victoria's tourism sector. It is clear from the attendance this morning that they all have an interest in the success of this vibrant industry.

We are very conscious of the fact that Victoria, unlike other states, does not have the iconic Kimberleys of Western Australia, the Uluru or Kakadu of the Northern Territory, the Gold Coast or Great Barrier Reef of Queensland or the iconic Sydney Harbour Bridge of New South Wales. However, we do have more than all of those states combined. We have lifestyle. During the past 10 years this government has developed Victoria into iconic status. We attract people. We are the capital of sport, shopping and events — you name it; the list goes on. The tourism industry has grown to such an extent that we now have something like $16 billion worth of employment or related activity.

Bushfires: government accountability

Mrs FYFFE (Evelyn) — Yesterday we saw how the Brumby Labor government has tried to cover up legitimate criticism over its failures on bushfires by cranking up its dirt unit to smear Liberal MPs. It has done this by employing private investigators to dig up dirt on its opponents, and it is running a secret state where critics and opponents are abused, bullied and intimidated. Experienced, long-serving Country Fire Authority members are banned from speaking out. They have been gagged by this government. Bushfire consultation meetings were so controlled, with government staff, members of Parliament and people from various agencies seated at tables making sure that the comments written down reflected what this government wants.

Greater Metropolitan Cemetery Trust: management

Mrs FYFFE — The new cemetery trust senior management is bullying and intimidating employees. Any constructive suggestion is met with, 'If you don't like it, leave'. Funeral directors who have worked in the industry for many years and who make a constructive comment are being told that they will not get bookings if they do not comply with the new rules. Fees are going up; hours have changed. The consideration of the community of people who are bereaved is disappearing. Money seems to have been the god of all of this. Staff are being cut back and the cemeteries are not being maintained.

Victorian Employers Chamber of Commerce and Industry: Dandenong information session

Mr PANDAZOPOULOS (Dandenong) — It is a pleasure to recognise the work of the Victorian Employers Chamber of Commerce and Industry in the Dandenong region. I was very pleased last week, with Inga Peulich, a member for South Eastern Metropolitan Region in the Council, to have been part of an information session that VECCI organised in Dandenong with councils, mayors, CEOs and economic development unit staff of the region to explain the role of VECCI. I am pleased VECCI has seen the great opportunities that are happening in Dandenong. We as MPs are very much aware of the regional offices VECCI has and how it works at a collaborative arrangement with MPs, with government and local councils for core strategic objectives. It is really pleasing to see it has chosen Dandenong when looking at expanding its regional model to recognise that there are separate regions in Melbourne. Dandenong has seen a massive regeneration under this government. It is a region that has such a large share of manufacturing of the state. It is an area that is growing very fast. It is an area that is highly competitive in its own right. A VECCI office in Dandenong with a considerable amount of staff — and VECCI is advertising for a regional manager at the moment — will mean it is tapping into the great skills and great economic opportunities the Dandenong region. I welcome VECCI into Dandenong. I thank the CEO, Wayne Kayler-Thomson, and VECCI for their efforts.

Hospitals: performance

Mr HODGETT (Kilsyth) — There are awfully serious concerns about what is happening with our hospitals. Wendy and Max Cameron contacted me, very concerned about the treatment Wendy's parents recently received in the health system. Wendy's mother, who lives in a home, is in her 90s and was admitted to Maroondah Hospital with swelling of the hands on Sunday, 4 July. Her condition was diagnosed as cellulitis, an inflammation of the skin caused by a bacteria. Two days later she was discharged some time after 5.00 p.m. and taken home by a patient transport ambulance without any medication or letter for the home about her condition. Without any paperwork or medication, Wendy was concerned and took her mother to Knox Private Hospital on Friday, 9 July, but with no beds available she was sent to Ringwood Private Hospital, where she was admitted and blood tests and X-rays were taken. It was discovered she had pneumonia and blood poisoning. She is currently in high care.

A number of days later, on 19 July, her husband, Jack — Wendy's father — who is 94 years old and lives in another home, had a fall. He was bruised and on the following Thursday fell again. An ambulance was called. Jack was examined and given the all clear. It was thought that if he was taken to hospital, he would not be admitted. Wendy visited the day after and noticed that her father was indeed not himself and, concerned about the bruising, took her father to Knox Private Hospital where he was diagnosed with a fractured collarbone, cracked ribs and compacted vertebrae.

Wendy and Max have raised these serious concerns and are quite distressed about the state of the health system. Wendy does not want this happening to anyone else. It is not good enough; people deserve better. I ask the Minister for Health to examine closely these circumstances and address these concerns as a matter of urgency.

East Geelong Senior Citizens Club

Mr TREZISE (Geelong) — I take this opportunity to recognise and commend the work done and the role played by the East Geelong Senior Citizens Club. Like all senior citizens clubs in my electorate and no doubt across Victoria, the East Geelong Senior Citizens Club is an important and integral part of the Geelong community, especially in the Thomson area. In recent months, together with a number of local organisations and residents, I have been working closely with the club in developing a community development plan for the area.

Of course outside of this important work, the club, led by a very able committee with the likes of Joan Bud and Bev Rushton to name but a few, provides a valuable social role in bringing senior citizens together on a nearly daily basis with meetings, indoor bowls, line dancing and regular outings, and the list goes on. Only recently the club lost one of its real stalwarts in Dot Long, who was a stalwart not only of the club but of the wider East Geelong community. She will be sadly missed by many, and I pass on my condolences to her husband, Ron, and family. I can assure the house that the East Geelong Senior Citizens Club is a great club. It plays an important role within the community of Geelong. I take this opportunity to commend the club for its work.

Member for Ivanhoe: appreciation awards

Mr LANGDON (Ivanhoe) — On Sunday, 25 July I had a great privilege of presenting my third biennial certificate of appreciation awards. I am pleased to advise the house that over 160 adults were in attendance, and 22 students from the Ivanhoe Primary School choir sang the national anthem for those assembled. Thirty-six individuals and three community groups were awarded. I am particularly pleased to advise the house that several awards were named after prominent people from the area: Jean Baker, Vin Heffernan, Geoff Ballard, Harold Carter, Fred Cullen and Fred Lasslet.

Recipients of the Vin Heffernan award were Ian and Rona McLaughlan and Robyn Dewar-Oldis. Sue Course and Reginald Johnston were awarded the Laurence Course-Vic Marks award. Gerry Fogarty, Glenn White and Dulcie Griffiths were awarded the Harold Carter award. Louis Szmolnik, Tony Comley and Alan Jennings were awarded the Fred Cullen and Fred Lasslet award.

The Jean Baker award was awarded to Pam Erwin and Angelo Pannozzo, and the Miriam Smiley award was awarded to Helen Voidis and Rosalie Gray, both from local schools. The awards were exceedingly well received by those individuals, and I appreciated presenting them.

STATEMENTS ON REPORTS

Public Accounts and Estimates Committee: Public Finance and Accountability Bill

Mr WELLS (Scoresby) — I would like to comment on the Public Accounts and Estimates Committee (PAEC) report on the Public Finance and Accountability Bill 2009. This report is an absolutely disgraceful whitewash. It is a disgrace, and the chair and Labor members on the committee have brought the PAEC into disrepute. While I have respect for the individual Labor members on the committee, as a gaggle they have acted inappropriately.

Recently the Legislative Council requested the PAEC to investigate the Public Finance and Accountability Bill. The Council gave it until the end of August to report, yet the chair and the Labor members jackbooted this through in just one week. I will refer to the minority report. On reading this report it is clear what happened.

The committee met on 3 August. The non-government members requested a number of items to be included in the investigation. The first request was that the Auditor-General be invited to the committee to comment, something you would think would be pretty straightforward. The reason we wanted the Auditor-General to come before the committee is that on page ix of *Portfolio Departments — Interim Results of the 2009–10 Audits*, which was tabled in July 2010, he specifically referred to the bill. This is what he said:

> A key feature of the Public Finance and Accountability Bill … is the proposed classification of public sector entities into four categories with different reporting and auditing requirements. The Australian Accounting Standards Board has also mandated a differential reporting framework, however, this has only two categories. It is important that these two differential reporting frameworks reconcile so that the accountability for, and transparency of, the use of taxpayer funds is maintained.

The Auditor-General of this state has raised a concern, has put it in writing and has tabled it as part of a report to Parliament. But the Labor members and the chair gagged the Auditor-General from attending, and he was not invited. That is what occurred.

The second request was that the Minister for Finance, WorkCover and the Transport Accident Commission

attend the hearings. The reason for that is that the public servants of the Department of Treasury and Finance (DTF) could not or would not want to speak on government policy. That is why we wanted the minister for finance to attend to explain the bill. Once again, even he was gagged by the Labor members and the chair from appearing before the committee.

The third request was for the investigation to conduct a reconciliation — that is, a reconciliation between the PAEC final report and the bill that entered Parliament. We wanted a reconciliation to find out what had been accepted and what had been rejected. Once again, the chair and the Labor members of the committee shut down that part of the investigation. How can you possibly have an investigation into a bill if you are not going to allow a reconciliation to take place? We particularly wanted Russell Walker to take that job on, because he was the main author of the PAEC report.

On the day of the hearing we only had two groups of witnesses — the shadow minister for finance, the member for Box Hill, who was absolutely outstanding in his knowledge of the bill, and the public service and DTF, but we could not verify their information. To make matters worse, the DTF officials referred to discussions with the Auditor-General. They referred to private discussions with the Auditor-General, so we had one part of the discussion but were unable to verify what the Auditor-General had said because he was gagged and prevented from coming to the hearing.

There is no doubt that the reputation of the PAEC is now in tatters; there is no question about that. When you look at the report you see that the chairman of the committee had to use his casting vote over and over again in order to get this bill through. It was supposed to be a full and thorough investigation, but it ended up being a whitewash.

I ask the chairman of the PAEC, the member for Burwood, to reconsider his position as chairman of that committee. If he does not reconsider his position, the PAEC will become a rubber stamp of the Labor government. It is a disgrace!

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

Electoral Matters Committee: functions and administration of voting centres

Mr SCOTT (Preston) — I rise to report on the inquiry into the functions and administrations of voting centres conducted by the Electoral Matters Committee. This is an important report insofar as electoral processes are obviously at the heart of everything we do, because without legitimate electoral processes that engage fully with the community the Parliament cannot reflect the will of the electors and the will of people in electing representatives to deliberate here.

There are a number of relevant recommendations which I think go to the heart of our electoral processes. In particular I want to draw attention to recommendations 10 and 11. Recommendation 10 relates to the committee request that the Victorian Parliament review electronic voting processes after the 2010 election. Recommendation 11 similarly asks the Parliament to review electronic counting processes after the 2010 state election.

These are important because there is a push within our community, and for good reason, to expand electronic voting and electronic counting for ease of use, to speed up processes and to allow greater participation, particularly for persons who are visually impaired, to use the typical example. However, it is important within any electoral system that the processes not just take place; they must be able to take place verifiably. When we talk about paper voting systems there are very detailed and prescriptive requirements of electoral officials, and representatives of candidates and political parties have the ability to scrutinise those processes. This ensures not only that those processes are conducted fairly by the Victorian Electoral Commission but also that others can verify that those processes are conducted fairly. Unfortunately I believe we have not yet dealt with those issues of electronic voting and counting as a Parliament in terms of either legislation or regulation. I think that is an important consideration to deal with, particularly if we want to consider further expansions of electronic voting.

I would also like to deal with voting at mobile voting centres such as nursing homes and the like where people vote. There has been a complaint made, from memory by the member for Brighton, about the availability of how-to-vote cards. How-to-vote cards are not necessarily distributed, and there have been issues where electors have wanted to have how-to-vote cards. Although there are statutory requirements for them to be made available the essence of the complaint is that there are not necessarily enough how-to-vote cards. There has been a recommendation made that a larger number of how-to-vote cards be made available to ensure that any one person who wishes to have a how-to-vote card that has been provided by a political party or candidate can access it.

Voting in such circumstances is always going to be a sensitive matter because people who are in nursing

homes are often very vulnerable. There are in fact often inferences that sometimes those votes are interfered with depending on the staff or other persons at nursing homes. It is important that electoral material and how-to-vote cards be made available. The issue that perhaps excited the most interest was the issue of joint polling booths. Joint polling booths are a matter of particular concern for political candidates and parties because they present logistical problems. While the electoral commission perhaps does not share all those concerns, it is important to understand that the ability to effectively distribute how-to-vote cards has been shown, by research in much of the material that has been presented in preparation of this report and earlier reports of the Electoral Matters Committee, to have an important impact on informality. When the how-to-vote cards can be and are distributed effectively, the rate of informal voting is lower.

Obviously joint polling booths, particularly those for up to three electorates in one place, by their nature present problems — not just for political parties but also for electors. I note that the member for Narre Warren South is here and I understand those issues arise in her electorate. Material being distributed at those polling booths can often be confusing. Committee members heard of a number of examples of particularly high levels of informal voting, especially in areas where there are large numbers of persons with a non-English-speaking background.

It is the view of the committee, and it seems to be the overwhelming view of most of the members of Parliament and political parties who made submissions, that perhaps joint voting centres are necessary but that because of the inherent problems that are presented in distributing material, they should be made available to the public only where they are absolutely necessary to allow electors to make an informed choice and to maximise the participation of all Victorians in electoral processes.

Public Accounts and Estimates Committee: Public Finance and Accountability Bill

Dr SYKES (Benalla) — I wish to comment on the Public Accounts and Estimates Committee report on the Public Finance and Accountability Bill. I wish to express my deep disappointment at the approach of the Brumby government to the conduct of this referral from the Legislative Council. I endorse strongly the comments by the member for Scoresby, who has outlined forthrightly the concerns of the non-government members of the committee.

It appears to me that the chair and other government members of the Public Accounts and Estimates Committee were given very clear riding instructions by the Brumby government to prevent thorough consideration of the bill. How else can you explain that the chair and government members refused to support a recommendation that there be an independent reconciliation of the contents of the bill against the recommendations in the inquiry into the public finance and practice legislation report which was put out by the committee earlier?

In particular, how can you explain it when the member for Box Hill, having undertaken a reconciliation of those recommendations and the contents of the bill, found that 23 of the 44 recommendations from the Public Accounts and Estimates Committee report were substantially rejected in the formulation of that bill? How else can you explain the refusal by government members to allow the Auditor-General to be interviewed? How else can you explain the refusal by government members to call the Minister for Finance, WorkCover and the Transport Accident Commission to discuss aspects of the bill? The only explanation for non-government members of the committee is that government members have been given clear riding instructions to shut down debate on this bill.

Looking at the time frame for the inquiry into the bill, we see that the committee was to report by 31 August. Our report was tabled yesterday, 10 August. That makes a mockery of some of the arguments used by government members of the committee that we had inadequate time to undertake the logical and thorough investigation that the members of the Legislative Council, the Parliament of Victoria and the public of Victoria would have expected from the Public Accounts and Estimates Committee, a committee which until now has enjoyed a reputation for independence, thoroughness and professionalism.

Regrettably, this phenomenon is not new. This sham consultation process is to be added to a long list of other sham consultation processes during the Bracks and Brumby governments. I am very much aware of the sham consultation processes about Lake Mokoan, the Victorian Environmental Assessment Council river red gum forest inquiry and the northern Victoria water strategy. We are now seeing what appears to be sham consultation with fire-affected people in relation to the bushfires royal commission.

Ms Graley — I beg your pardon!

Dr SYKES — If there is doubt about what I say — and I hear noises from the other side — I invite

members of this house and the public to read the report and form their own opinion. I invite them to look particularly at the minority report, which details the concerns raised by the member for Scoresby and me. I invite them to look thoroughly at the assessment of the member for Box Hill and work out for themselves whether this bill before the house, which we are being asked to look at, accurately reflects the previous report and recommendations from the Public Accounts and Estimates Committee.

I also invite the public and members of this Parliament to look at the minutes of the meeting, because they reveal the voting patterns on key motions put up by non-government members in an attempt to have a thorough, transparent and complete assessment of the bill. People can see that government members and the chair voted in a bloc, with the chair using his vote to squash thorough consideration of this bill.

This sham inquiry is yet a further example of the lack of openness and transparency on the part of the Brumby government, and further confirmation that the time is up for this deceitful, tired, out of touch, arrogant government. The people of Victoria will have their say on 27 November.

Drugs and Crime Prevention Committee: people trafficking for sex work

Ms BEATTIE (Yuroke) — And we look forward to 27 November too! I would like to make a few brief comments on the Drugs and Crime Prevention Committee's report entitled *Inquiry into People Trafficking for Sex Work*, which was tabled in June 2010.

Mr Morris interjected.

Ms BEATTIE — I hear the deputy chair of the committee say, 'It is an excellent committee', and I echo his remarks. It is an excellent hardworking committee and has excellent staff as well. It was not an easy inquiry to participate in because there is a denial that trafficking in people for sex work actually exists. The committee made some 27 recommendations, plus another 3 recommendations regarding commonwealth responsibility, and they are good recommendations. Recommendation 7, which I particularly liked, called for:

> … sanctions against brothel owners who have intentionally, knowingly or recklessly allowed trafficked women to work in their premises … in Victoria.

One of the difficulties in getting convictions in this area is that the women who are trafficked for sexual purposes are frightened and absolutely controlled. We heard from some of the evidence that they were kept completely separate from the community. On their arrival in Australia they are picked up by a minder or a controller who often takes their passports from them, takes them to their place of work and controls their whole lives. They are only taken outside if they have personal needs; and if they think the authorities have sprung their operation they will often move the women interstate. When the women come here they often owe a debt or so-called bond for their transportation costs. Then there are various costs which their minders claim to have incurred that go on top of that debt. The trafficked women have to service a large number of clients each day; they work very long hours, often six or seven days a week.

As with many illegal industries, the minders often stay one step ahead of the police. Some of the evidence given to the committee was that if some of these women went out for a night at various clubs with their minders, they might be photographed laughing — and who would not laugh if they could have a night out after working under those appalling conditions? Those photographs are then used as evidence to say, 'Look, here are these women. They are enjoying themselves. Obviously they are not slaves. They are participating willingly'.

There are people who willingly engage in sex work, and the committee did not make any adverse findings against them. The controllers and the minders stay one step ahead, so it is up to everybody to report to the authorities their suspicion that a male or female is being used for sex trafficking work. This stark and very dark side of society and criminals, where human beings are treated as less than animals, working many hours a day and being taken advantage of, must be exposed. I urge anybody who knows if women or men are being used illegally for sex trafficking to report it to the relevant authorities.

Outer Suburban/Interface Services and Development Committee: sustainable development of agribusiness in outer suburban Melbourne

Mr MORRIS (Mornington) — In May the house received a report entitled *Inquiry into Sustainable Development of Agribusiness in Outer Suburban Melbourne*. Unfortunately last week the government delivered its response through the decision to expand the urban growth boundary, which will see a reduction of roughly 7 per cent in the area available for the development of agribusiness in outer suburban Melbourne.

I make the point that it is not always inappropriate to consider expanding the urban growth boundary, but any decision must be assessed against a robust policy framework, and this report identifies very clearly the complete and utter absence of any framework, let alone a robust framework. I recognise the contribution of the members for Bass and Kilsyth and my honourable friend Mr Guy, a member for Northern Metropolitan Region in the other place, for the work they have done on this inquiry. I also acknowledge the work of the committee as a whole. It is a report of admirable depth and it assesses the issues effectively.

In 2002 we saw the introduction of the green wedge policy — that is, a huge expansion of land area being 'protected' by planning controls. Unfortunately it was done without the necessary detailed planning which needed to be done as part of the process. One of the outcomes of that — and I have railed about this frequently in the house — is that the absence of protection for landscape that unfortunately followed from that decision was an effective weakening of the controls. Eight years on from the announcements and seven years on from the incorporation of clause 57 into the Victorian planning provisions there is no comprehensive strategy for the green wedge and no comprehensive implementation plan. In the words of the committee, the government has adopted a 'set and forget' attitude.

The report makes it very plain that green wedge zones are too often seen as a negative in a state policy sense. There is no overarching vision; there is no attempt to establish activities that could take place in a worthwhile manner. It is about what you cannot do, except that the other side of this issue is the government's willingness to keep moving the goalposts. What has flowed from that is an expectation amongst landowners, land bankers and developers that much, if not all, the green wedge is simply land that is reserved for further urban expansion. This constant shifting of the goalposts and creation of an expectation of urban development that is very strong in some quarters have occurred because there is no comprehensive plan. The lack of a comprehensive plan means that landowners, particularly farmers who have a commitment to the land, are not able to plan for the long term.

There is a reference in the report to a landowner who cared very deeply about where he lived. He had a generational commitment to the land and wanted to plant trees and develop his property, but in the end he could not bring himself to do that because planting trees may impact on the value of the land for urban development in 20 years time.

There is a situation in the green wedge where caravan parks are a permitted use. Caravan parks have become de facto residential areas and are permitted, yet at the same time the Victorian Civil and Administrative Tribunal is telling people they cannot build a house on their own land, even if they have a title, despite the fact they often want to engage in legitimate agricultural pursuits.

The Melbourne 2030 reference group reported that the urban growth boundary should not be moved where key values, including agriculture, require protection. Yet last sitting week the urban growth boundary was moved, wiping out a large slab of highly valuable agricultural land in the south-east. The report identifies a number of challenges including the shortage of planners, the challenge of rural urban classification and the government's failure to respond in a meaningful fashion to the committee's previous reports on that issue. It also identifies opportunities, particularly opportunities from the availability of water from the south-eastern treatment plant that I have spoken of before.

The green wedge stakeholders in the wider community face many challenges. The report makes it plain that despite eight years and unprecedented funds, the government has failed to act. Unless there is a strong and appropriate plan for green wedges, they may well be lost for future generations.

Public Accounts and Estimates Committee: Public Finance and Accountability Bill

Ms GRALEY (Narre Warren South) — Today I rise to speak on the report on the Public Finance and Accountability Bill 2009 by PAEC (Public Accounts and Estimates Committee). I follow on from what I consider to be the disgraceful exhibition by the shadow Treasurer, who obviously has had his riding instructions from the Leader of the Opposition to kick heads, make noise and waste time but as usual there was not much substance in what he said.

PAEC has reported comprehensively to the Parliament on Victoria's public finance legislation, and in June 2009 the government's response showed that it had accepted outright or in principle an overwhelming number of the committee's recommendations.

The Legislative Council, in a most unusual occurrence and a departure from the usual sequence of events when investigating legislative change associated with issues of public administration, finance and accountability, referred the bill for consideration to PAEC for report by 31 August 2010. It is a credit to the chair, committee

members and the PAEC secretariat that yesterday the PAEC report was presented to the Victorian Parliament. Since the last sitting week PAEC has met twice and conducted a high-level examination of the Legislative Council's reference. As is the usual practice, the committee and its support staff have worked hard to present to the Parliament a comprehensive report within a restricted time frame.

It was of paramount importance that the matters raised predominantly by the member for Box Hill, who I think is still the shadow minister for finance — or is the shadow minister for finance the member for South Eastern Metropolitan Region in the Council, who I admit always seems to have done his homework and tries to make sensible contributions, unlike some of his fellow PAEC opposition members? — be dealt with, and they have been dealt with by the committee in a thorough, competent fashion and, importantly, in a timely manner to allow debate to resume in the upper house, as it should.

The report includes a clear analysis of the nine points raised by the shadow minister for finance. The member for Box Hill, who appeared before the committee so he could put his concerns and viewpoints, was given all the time he needed to make a presentation. As the report says, representatives of the Department of Treasury and Finance and a former Minister for Finance, the Honourable Roger Hallam, also attended committee hearings to respond to particular concerns raised in the parliamentary debates and mentioned in the presentation of the member for Box Hill. Mr Hallam was the chair of the project board established by the government to expertly guide the development of the government's policy for the bill. He appeared to be a most enthusiastic supporter of the bill.

Clause 12 of the bill has been analysed in depth, quite correctly, and the committee is in doubt, as the report clearly indicates, on page 15 in its response to issue no. 1:

> The committee was informed that the overarching principle underpinning the bill was that its coverage was as wide as possible, focusing directly on the responsibility of departments in managing outputs in an efficient, economical and timely manner to support the achievement of government outcomes, as well as supporting public bodies established under statute in the achievement of outcomes consistent with their enabling legislation.

Most members acknowledged that responses to concerns with this aspect of the bill were helpful in moving the bill along.

It is important to acknowledge how important this legislation is for Victoria to maintain best practice in public administration and financial accountability, especially given the new emphasis on including outcomes-based reporting, which entailed a lot of hard work and research by PAEC members and which has rightfully been incorporated in the bill and acknowledged in the second-reading speech of the Minister for Finance, WorkCover and the Transport Accident Commission.

Victoria has a strong history of leading Australia, indeed the world, regarding transparency and accountability in financial reporting and with this bill continues this strong and admirable tradition. It is with regret then that I find there is a silly and short minority report signed by the shadow Treasurer; by his complicit lieutenant Richard Dalla-Riva, a member for Eastern Metropolitan Region in the Council; by Gordon Rich-Phillips, a member for South Eastern Metropolitan Region in the Council, who is usually a heavy lifter; and disappointingly even by the member for Benalla, who I think should welcome those birds to Lake Mokoan.

It is sad that such important matters for this state can be turned into a purely political exercise by the use of inflammatory language, by the launching of snide attacks on the integrity of the public servants and by the seeking to undermine the chair of the committee. It is most unparliamentary, unnecessary and unproductive. The behaviour of the deputy chair was in stark contrast to the behaviour of the chair, the member for Burwood. The chair exercised patience and, as always, again in stark contrast to the behaviour of the deputy chair, his expertise on matters financial. Those opposite may not like the government's views, the advice of senior public servants and even the opinions of a former Nationals finance minister, but to suggest they did not get adequate information or that there was a lack of scrutiny is fanciful and certainly untrue. Following this open and proper examination, it is time for the bill to be returned to the — —

The DEPUTY SPEAKER — Order! The member's time has expired. The time for members to make statement on parliamentary committee reports has now concluded.

NOTICE OF MOTION

Withdrawal

Mr HELPER (Minister for Agriculture) — The government does not wish to proceed with government business, notice of motion 1 and requests that it be withdrawn.

TRADITIONAL OWNER SETTLEMENT BILL

Second reading

Debate resumed from 28 July; motion of Mr BRUMBY (Premier).

Mr CLARK (Box Hill) — The Traditional Owner Settlement Bill is a bill to establish a framework under which the state can recognise groups as traditional landowners, can enter into agreements with such groups relating to funding and to land ownership, management, access and use, and can have such agreements form the basis for the settlement of native title claims. The bill seeks in part to pursue the worthy objectives of achieving fair and timely settlement of native title claims and to provide traditional owners with greater opportunities to be involved in the management of traditional lands, with all the cultural, economic and social benefits that that has the potential to bring.

However, this is a complex and far-reaching bill which also has the potential to affect the community as a whole as well as indigenous groups and other interested stakeholders in many different ways. Despite this complexity and its far-reaching implications, the government is seeking to rush this bill through Parliament after only the minimum period of two weeks for consultation with the community. As is typical of the current government, as the coalition parties have gone about our consultation on the bill we have come across many groups and organisations affected by the bill who had no knowledge of it until they were contacted by us, including various indigenous groups and various rural and regional councils, to name just two sectors.

Many of those we have consulted with have made it clear to us that they need time to examine the bill in more detail and to carry out their own consultations and deliberations on it. To allow just two weeks for community and interested stakeholders to form a view on such a complex and far-reaching bill is completely inadequate and shows the arrogance and disdain of the community that has become a hallmark of the Brumby government. Accordingly, I move:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until there has been adequate time for proper consultation on the contents of the bill with the community and with affected stakeholders'.

Even on our examination to date of the bill there appear to be big gaps in the bill between its worthy objectives and the reality of what it does.

We have three major areas of concern. The first is that 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 for other public purposes, without any of the usual requirements for parliamentary sanction.

Our second concern is that the bill gives the Attorney-General sweeping powers to decide in many contexts which is the group that will be recognised as the traditional owners of particular land and, by implication, which groups will not be recognised, and that these decisions can be made without any right of appeal.

Our third area of concern is 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 deemed group to nominate in a way that is unspecified an entity that is supposed to represent them 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.

As with many things that our current Attorney-General is involved in, this bill has a protracted history. There is a brief summary of it set out on the Department of Justice website. The summary recounts that in 2006 the Victorian Traditional Owners Land Justice Group approached the Victorian government to seek a new way to resolve native title and land justice issues; and that in March 2008 the government established a steering committee chaired by Professor Mick Dodson and including representatives from the Victorian Traditional Owners Land Justice Group, Native Title Services Victoria, the Department of Justice, the Department of Sustainability and Environment, the Department of Primary Industries and the Department of Planning and Community Development, including Aboriginal Affairs Victoria.

The DOJ website recounts that the committee sought to develop a new process for resolving native title issues that was fairer, less costly and more timely and that also aimed to increase access that Aboriginal people have to their traditional lands, to increase economic and social opportunities and to contribute to reconciliation by developing stronger partnerships, resolving differences and assisting to strengthen Aboriginal communities and cultural identity. The steering committee delivered its final report at the end of 2008, setting out 49 principles for a new approach to resolving native title and land

justice issues. The report was endorsed by the Victorian Traditional Owners Land Justice Group in February 2009, and in June 2009 the Attorney-General announced that the government had adopted the report as its preferred approach to resolving native title issues.

The DOJ website sets out that since June 2009 the government has been working to implement the recommendations of the steering committee report in partnership with the Victorian Traditional Owners Land Justice Group, and that the major part of this is reflected in the bill that is now before the house. It is worth making the point that there is nothing in the bill that could not have been negotiated and provided for by the government many years ago. The government claims that it was constrained in what it could do by the commonwealth native title legislation, but the government was always free to negotiate outcomes of the sort contemplated by this bill and then bring in any necessary legislation. In effect what the government agreed to last year was that it would reach agreements of the sort that it was able to reach for many years. The claims about deficiencies in the native title legislation that were made by the Premier as being the reasons for 10 years of little progress are simply a smokescreen to try to provide an excuse for the notorious tardiness of the Attorney-General in progressing anything to do with his portfolio, be it bail laws or family violence or jury directions or native title.

As I said at the outset, this bill is complex as well as far reaching, and it is desirable to examine its key provisions in some detail so that the exact structure and operations of the bill are addressed. The bill sets out by defining a traditional owner group in relation to an area of land as being the group claiming native title in relation to that area or the native titleholders in relation to that area or in any other case a group recognised by the Attorney-General as the traditional owners of the land. The bill then defines a traditional owner group entity as being a body corporate that a traditional owner group has appointed to represent it. The bill then allows the minister, whom we understand is intended to be the Attorney-General, to enter into what is referred to as a recognition and settlement agreement with a traditional owner group entity. This may include a land agreement, a land-use activity agreement, a funding agreement and/or a natural resource agreement.

The bill provides that the recognition and settlement agreement can recognise rights of traditional owners that are of no greater effect than consistent with the law of Victoria. The bill provides that the agreement may be constituted wholly or partly by an indigenous land use agreement which settles a native title claim under the commonwealth Native Title Act. The bill also allows the minister to enter into a land agreement under which freehold title in unreserved public land is granted to the traditional owner group entity. As well, it allows the minister to enter into a land agreement under which what the bill defines as Aboriginal title is granted in reserved or unreserved public land.

Aboriginal title as defined under the bill is fee simple title granted with limitations that the land cannot be sold or encumbered, and granted after the traditional owner group entity has entered into a contract to transfer to the state the right to occupy, use, control and manage the land, but not deal in any interest in the land and not grant any lease or licence over it except as provided in the act under which the land was held prior to the grant of fee simple. The bill also provides that any existing leases, agreements, et cetera over the land are continued.

Next the bill provides that the minister may enter into a land use activities agreement with a traditional owner group entity as part of a recognition and settlement agreement if the minister is satisfied either that the agreement is part of an indigenous land use agreement which settles a native title claim or that the Federal Court has determined that native title does not exist in relation to the land. Such an agreement may give to the traditional owner group entity rights in relation to various possible activities by the state or third parties on the land that may require the entity to be informed, to negotiate the terms of the activities, or to be entitled to agree or not agree to those activities.

In relation to negotiation activities, the bill specifies two classes: class A, under which, if the parties do not agree, the Victorian Civil and Administrative Tribunal can decide the outcome; and negotiation activities class B, where VCAT is not in a position to veto the activity but can set its terms. The bill also provides that for either negotiation or agreement activities the minister can override VCAT or the entity. The bill also provides that the minister may enter into a funding agreement for the purpose of giving effect to a recognition and settlement agreement. The minister may also enter into a natural resource agreement regarding ways in which members of the traditional owner group entity may participate in the management of natural resources on the land that is the subject of the recognition and settlement agreement. It could also specify the types of uses of land for traditional purposes that the entity would like its members to have, and provide for facilitation of the exercise of traditional owner rights.

The bill goes on to provide that after entry into a natural resources agreement, members of the traditional owner group entity may be granted, in relation to the land that

is the subject of the agreement, authorisations for traditional purposes, for taking or keeping protected fauna or flora, hunting, forestry harvesting, water taking and/or camping in permitted areas. The bill further provides, under the Conservation, Forests and Lands Act 1987, for the establishment of traditional owner land management boards and the revocation of committees of management, limits the power of the minister to abolish such a board or dismiss its members and provides for joint management plans.

The bill provides that, under the Crown Land (Reserves) Act 1978, if a land agreement provides that land is to be reserved for a specified purpose, the existing reservation may be revoked and the land reserved for the specified purpose, subject to disallowance by either house. The bill also provides for regard to be had to any joint management plan in managing the land. Similar provisions are made in the bill in relation to the Forests Act 1958, the Land Act 1958, the National Parks Act 1975 and the Wildlife Act 1975.

The bill also provides, in relation to various acts, that the doing by members of a traditional owner group entity of actions permitted under an authorisation pursuant to a natural resources agreement is permitted under the act and does not constitute an offence. The bill also notes under various acts that various consents, licences and authorities under those acts may be land use activities for the purposes of the bill, and it requires that in hearing claims under the bill, VCAT must be constituted by at least one member who has sound knowledge of or experience in Aboriginal culture and land use.

As I indicated at the outset, there are a range of issues raised by the bill. It allows an agreement to be entered into over reserved or unreserved public land in Victoria, without limitation. In particular, such agreements can be entered into even in areas where no native title claim has been made or where there is no prospect of a successful native title claim being made. As I indicated, there are two types of title that can be conferred under the bill: freehold title in relation to unreserved public land or Aboriginal title in relation to reserved or unreserved public land. Those titles would of course apply in perpetuity and would restrict the future use of the land. I should make the point that by virtue of the way public land is defined, the bill does not extend to land over which the government holds a freehold title, but it does extend to all reserved public land in the state, which would include land set aside for national parks and other public uses.

I think there is a very important issue raised by this bill, which is whether or not the granting of reserved public land in the way contemplated by the bill should be authorised to the government without requiring parliamentary approval of the sort that is generally required in relation to reservations of public land. As I also indicated earlier, another major concern with the bill is that where there are multiple native title claimants in the one area they are treated as the one group. That seems to us to open up the potential for significant difficulties because the bill provides no mechanism by which persons of different backgrounds can be brought together in one group.

In the very helpful and thorough briefing we were provided with, the opposition was told by departmental officers that the government's approach is to say it expects multiple claimants to resolve amongst themselves who are to be the members of the group and on what basis and that the government does not intend to deal with a group until that has occurred. However, it seems to the opposition that in many instances what that is doing is avoiding what has been the crux of many of the difficulties in resolving native title claims in the past.

Similarly, where there are no native title claimants or native title holders in an area, the bill authorises the Attorney-General to decide upon a group that the government intends to recognise as the traditional owners, and there is no right of appeal by others who have legitimate claims to be traditional owners against that decision of the Attorney-General. Many of the groups with which the coalition parties have had contact have strong complaints about how the government has excluded them from land which they have strong claims to be their traditional land, and they are fearful that they will also be excluded under the bill. I refer in particular to a letter addressed to the honourable member for Shepparton in her capacity as shadow Minister for Aboriginal Affairs from the Bangerang Cultural Centre Cooperative Ltd, which says in part:

> 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 …
>
> 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 Bangerang people would like to see a return to the previous policies where all groups worked together in the preservation of forests and lands.

The concerns of the Bangerang people were further expressed in the country news section of the *Shepparton News* of 19 July under the heading 'Park jobs bias claim'. I quote from part of the article:

> Some indigenous people have been deliberately shut out of management and employment in the newly created Barmah National Park.
>
> Bangerang elder, John (Sandy) Atkinson has complained that people who identify themselves as Bangerang and not Yorta Yorta are not eligible for employment under job descriptions for park rangers.
>
> Parks Victoria has confirmed they only recruited members of the Yorta Yorta Nation Aboriginal Corporation to the six ranger positions. And only Yorta Yorta people will be eligible for —

future —

> indigenous seats on the park management board.

Already, ahead of this bill, the government has identified some groups it will deal with and some it will not deal with.

Similar concerns were raised with the coalition parties by Mr Trevor W. Edwards, chief executive officer of Wathaurong Aboriginal Cooperative. He wrote in an email, again to the member for Shepparton:

> I was instrumental in developing a MOU with the Geelong council to manage cultural heritage on all cultural sensitive areas of development this was a very progressive and proactive program that created employment for our mob and cultural heritage education for developers, contractor, which was eagerly embraced it was the only MOU in the state, then came the new Heritage Act, and traditional owners in Wathaurong country had an opportunity to submit an application to become a registered Aboriginal party endorse by the government Heritage Council.
>
> Our group Wadda Wurrung submitted an application and was declined, even though we as the traditional owners had managed this region for 20 years or so were denied that respect, another group who don't live in the region was endorsed by the Heritage Council. You —

have to —

> ask why we have not at this stage been given an answer by the council.

Thus, concerns have been expressed by many Aboriginal groups about decisions that have already been made by the government in relation to recognising one group in preference to another. On the examination we have been able to make of the bill to date, the bill does not resolve those concerns and indeed may well add to them.

There is a further, related concern that the bill allows agreements to be reached with an entity that is appointed by a group but there is no specification for determining how such an appointment should occur or whether it has occurred. Again, the government has claimed that it will not enter into an agreement until these issues have been sorted out, but the bill does not require this. As a result, there may well be disputes about whether an entity has in fact been appointed by a traditional owner group and therefore whether it is an entity that is validly capable of entering into an agreement. In particular, one could imagine that if there is a heated dispute and a decision is made through some sort of contested process, afterwards there will be many arguments about whether the body corporate concerned is in fact authorised and properly appointed to be the entity under the act.

As I said earlier, land agreements to grant freehold title or Aboriginal title need not be in settlement of native title claims, which means they can apply to any reserved or unreserved public land across Victoria. It is only the land use activity agreements, which are the agreements that give an entity a say over activities on land, that are required to be either in settlement of a native title claim or in an area where a court has determined native title does not exist. The land agreements are not subject to such a limitation.

The bill also creates some more technical issues as to how in law the mechanism the bill provides for the granting of freehold to a group and then the receiving of a transfer back to the state of rights of use and management will work. This provision purports to create a form of land ownership that does not exist under common law. There are doubts as to whether the bill does what is necessary as a matter of law to create property interests rather than agreement interests with the mechanisms it adopts.

Another issue that the coalition parties have noted on the examination of the bill that we have been able to undertake to date is the extent of the rights that are proposed to be given in relation to flora and fauna under the legislation. Obviously it is directed at allowing traditional owners to exercise rights that they have traditionally been able to exercise and enjoy in relation to their traditional lands, but it is not clear exactly how those provisions are intended to operate in practice.

There is a further critical issue that is in the background of this legislation and not squarely addressed by the government, and it is vital for this house and the community to know what the position is, and that is in relation to commonwealth funding. The government has made it clear in the past — particularly, the Attorney-General made it clear in his announcement of

4 June last year — that the Victorian government regarded commonwealth funding for the mechanisms now embodied as essential for those mechanisms to operate. Yet we have had only a brief and passing reference to commonwealth funding by the Premier in his second-reading speech. This house and the community are entitled to ask the government to set out the current position in relation to commonwealth funding. Has funding been committed so that if the bill is passed, agreements under it can be entered into and given effect? Or is this simply a grand framework that is going to be completely inoperative unless and until commonwealth funding is provided? Or perhaps the government has now decided that commonwealth funding is not essential for at least some aspects of the bill to be acted upon without commonwealth funding. This is a crucial practical issue on which the Parliament and the community are entitled to be further informed.

Some issues about the bill have also been raised by the Scrutiny of Acts and Regulations Committee (SARC), and they deserve attention. The committee has in its usual diligent way been through the bill and raised two issues in particular that are in some ways parallel to the concerns that the opposition has raised. The first relates to a section of the Charter of Human Rights and Responsibilities Act: section 19(2)(d), which provides that an Aboriginal person must not be denied the right of other members of their community:

> (d) to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

SARC raises the question of whether the operation of the bill could be such that some people who have those connections under traditional laws and customs will be denied them by virtue of the way the act operates. SARC focuses in particular on the fact that — as SARC puts it — native title claimants or holders have priority over others. But, as I have expressed on behalf of the coalition parties, the concerns can equally be applied to the ability of the Attorney-General to choose who will or will not be recognised in certain circumstances.

SARC also raises an issue about the power given to the minister to substitute for the Victorian Civil and Administrative Tribunal's determination about a land use activity if it is in the interests of the state to do so. SARC questions whether it is compatible with the charter of rights for traditional owners to be deprived of property other than in accordance with law and to have civil proceedings determined by an independent court or tribunal. These are important issues that SARC has raised, and they need to be addressed and responded to.

In conclusion, as I indicated at the outset, this bill has far-reaching implications for ownership, management, access to and use of all reserved and unreserved public land in Victoria, not just land that is subject to a native title claim. The bill empowers the government to recognise and confer rights on one individual group in an area to the exclusion of others, and there are also doubts as to the effectiveness of the various legal mechanisms followed by the bill, particularly for the identification of traditional owner groups and traditional owner group entities.

These are crucial issues that need to be got right if this bill is to work in the way that the government intends it to work and if it is to be successful in achieving the worthy objectives that it has. The community and affected stakeholders need far greater opportunity to consider the issues raised by this bill than the government has been prepared to provide. It is for that reason that the coalition parties believe this house should insist that more time be provided for proper consultation on the contents of the bill with the community and affected stakeholders so that the problems with the bill can be resolved. Then a bill that will have general community support and the support of stakeholder groups can be passed to achieve the fair and timely settlement of native title claims and provide traditional owners with fair and reasonable opportunities to have greater involvement in and a say in relation to their traditional lands.

The ACTING SPEAKER (**Mr K. Smith**) — Order! I call on the member for Footscray. I remind all members that they are now speaking on not only the bill but also the reasoned amendment moved by the member for Box Hill.

Ms THOMSON (Footscray) — I rise to support the Traditional Owner Settlement Bill 2010, and I am delighted to do so. This bill shows a coming of age of our community in Victoria in recognising that we have displaced our indigenous people and that the only way we are going to rectify this is if we can do it by agreement without recourse to expensive legal action. I want to congratulate all of those who have worked to bring the bill to fruition and all of those who spent many hours consulting and working with the community to ensure that we got to where we are now. It was a pleasure to see so many people from the Aboriginal communities here in the house for the second-reading speech.

The bill will reform the way we recognise native title in this state. We have an obligation under commonwealth law. However, on average claims take up to 10 years to resolve, and at the current rate of resolution it would

take at least 55 years to resolve native title issues in Victoria. And it is expensive — $40 million has been spent by this state in relation to native title over 15 per cent of Crown land, and 80 per cent of those costs have been on legal, technical and administrative costs, with only 20 per cent actually going to the traditional owners. Clearly there is something wrong with that equation. This is a better mechanism for reaching consensus and finding resolution between communities. It is a great outcome.

The bill will provide for quicker resolution of claims and reduce transaction costs and compensation liability for the state. Agreements will be in perpetuity rather than for five years and will include full and final settlements of compensation. The bill provides finality and certainty for the state and for business and industry in relation to native title matters.

Importantly, these settlements will focus on employment and economic development opportunities for traditional owners and provide sustainable funding for traditional owners and organisations, which will contribute to closing the gap between indigenous and non-indigenous Victorians and their becoming self-sufficient.

This bill follows an extensive process of policy development and consultation. In 2008 the government established a steering committee for the development of a native title settlement framework, which was chaired by Professor Mick Dodson. It brought together key government agencies and traditional owners to develop a new process for settling native title. In June last year that report was taken out for public consultation. It recommended alternative processes for the settlement of land justice. That alternative approach was welcomed by the community and, importantly, supported by the federal government, and this bill gives effect to that new policy. Indigenous stakeholders, developers and industry have been broadly supportive of the reforms.

The bill will deliver efficiency and cost benefits to the state. But at its heart this is about recognising the special relationship Aboriginal people have with their land and in doing so recognising their rights in concrete and meaningful ways.

I want to go to some of the things the member for Box Hill said in his address. As usual the member for Box Hill has given us a real grounding and understanding of what is contained within the legislation. I want to talk about some important aspects of the legislation that we need to further understand.

This legislation underpins native title. It is about reaching consensus and agreement. It is about recognising traditional and cultural association with the land. In reaching these agreements anyone who can identify and justify that they meet that criteria will be party to those agreements. People need to be clear in their minds and understand that. It is inherently important that communities can come together and make an agreement as to the process forward; we accept that. Where there is still overwhelming dispute about that, this mechanism is not going to be available to those parties. It is about indigenous communities coming together and reaching consensus, but the agreements cover everyone who can support their traditional and cultural association to the land.

I would also like to make clear that the commonwealth has committed to contributing to the settlements that are reached. We have moved it further than the member for Box Hill might have led us to believe.

I will now talk about who was consulted in relation to the preparation of this bill. Briefings and consultations were held with the Victorian division of the Minerals Council of Australia, the Victorian Farmers Federation, Tourism Victoria, the Victorian Association of Forest Industries and Seafood Industry Victoria. Other stakeholders consulted include the Victorian Equal Opportunity and Human Rights Commission and the Victorian National Parks Association. All of these groups expressed strong support for the steering committee's recommendations and for an alternative, quicker and fairer way to resolve native title.

Peak industry groups have also been consulted in the subsequent development of key policies that underpin the Traditional Owner Settlement Bill, notably the land use activity regime. Let me just stress again the process by which this legislation will be put in place, as I note the member for Box Hill expressed concern about the role the minister may play in this legislation. The legislation is very clear about what has to be taken into account in the minister's decision making. Those processes must be undertaken in the same way that the Victorian Civil and Administrative Tribunal would — by going through and ensuring there is inherent fairness in that decision making. The legislation spells out the powers of the minister in quite precise ways.

When you look at the legislation and underpin it with the absolute need to identify cultural and traditional linkages to the land, when you look at the need to come to a consensus and work out together the claims by communities, when you look at the processes that people have to go through, you realise it will certainly truncate the time and it will certainly cut down the costs

associated with land claims. That is truly important. But would it not be better for the government to spend its money on actually improving the life of indigenous committees and on reaching consensus and settlement than on expensive lawyers and administrative costs? I think that is a much better use of taxpayers money. It then brings about opportunities for people in our indigenous communities to make better lives for themselves from the settlement of these land titles.

I would also like to say something in relation to national parks, as I am conscious of time. In relation to national parks, any agreements entered into have to be done in the context of the supremacy of the national parks legislation. Therefore, any of the activities undertaken within national parks have to be consistent with the legislation that is currently in place. That is important to note.

In relation to rights and entitlements, this means that in essence we are recognising that the land on which our national parks are situated was and is indigenous land; that is what we are doing. That indigenous communities will be involved in the management of these parks and the decision making is a good outcome. This is not the only place in Australia where we see indigenous communities playing very active roles in the management of national parks. There has been a perfect example of that today with the request in relation to the banning of uranium mining in national parks in the Northern Territory.

This is legislation that finally sees us reaching the maturity that we have needed to reach for a long time. It recognises the rights of our indigenous people, puts in place a mechanism that streamlines the process, cuts down the costs, gives certainty to our indigenous community, the business community and the community at large, and brings better outcomes to the state of Victoria. I commend the bill to the house.

Mrs POWELL (Shepparton) — I am pleased to speak on the Traditional Owner Settlement Bill 2010. The purpose of this new act, we are told, is:

> … to advance reconciliation and promote good relations between the state and traditional owners and to recognise traditional owner groups based on their traditional and cultural associations to certain land in Victoria …

The bill states that this will be done 'by the making of agreements between the state and traditional owner groups', by recognising 'traditional owner rights and to confer rights on traditional owner groups as to access to or ownership or management of certain public land' in Victoria and 'natural resources on the land'. If you listen to those objectives, they are worthy. But sadly this bill has the capacity to further divide Aboriginal communities in Victoria.

On the subject of agreements that may form the basis for settlement of native title claims, there is no right of appeal when the state enters into an agreement with the Aboriginal community about a traditional owner entity. We are told that that will only be done by consensus. In the briefing we were told that there would be consensus about who speaks for the community and who becomes the traditional owner entity. That is not in the bill so we are not sure whether that can be rejected or not. However, we have concerns that there are no rights of appeal for groups who fail to make settlements with the state government.

An agreement can be entered into over reserved or unreserved public land in Victoria, even in areas where there is no native title claim or the possibility of a successful native title claim. The bill provides for the conferring of freehold or Aboriginal title, which will apply in perpetuity and will restrict future use of the land.

The statement of compatibility for this bill states:

> The granting of land in fee simple under the bill may result in public land becoming private land held by the traditional owner group. In limited cases, people who had previously accessed the land whilst in public ownership, either formally or informally, may be prevented from doing so by the provisions under this bill.

The definitions of 'public land' in the act are very wide and very wide reaching, and the member for Box Hill has set out those areas of public land as described in the bill.

While we understand that the bill will be welcomed by many Aboriginal groups and also by many non-Aboriginal groups, it also has the capacity to impact negatively on other Aboriginal groups who also speak for their country. Of great concern to the Liberal-National coalition is the lack of knowledge of this bill among both indigenous and non-indigenous Victorians and the broader community. This bill will have far-reaching outcomes. It is an important bill, yet the community has had only two weeks to decide on its impact and contents.

It is being rushed through the Parliament before the next state election. If the government wanted genuine consultation it would support the member for Box Hill's reasoned amendment, which asks that:

> This house refuses to read this bill a second time until there has been adequate time for proper consultation on the contents of the bill with the community and with affected stakeholders.

I believe the government should accept the member for Box Hill's reasoned amendment.

I congratulate the steering committee on the development of the Victorian national native title settlement framework, and the chair, Professor Mick Dodson, for their work on this very complex issue.

We have had two weeks for consultation. As shadow Minister for Local Government, I wrote to the 79 councils, the MAV (Municipal Association of Victoria) and the VLGA (Victorian Local Governance Association). I also wrote to all of the Aboriginal cooperatives in Victoria. I received no response from councils, the MAV or the VLGA, although I spoke to a number of councils and they did not know about this legislation. I received a number of responses from Aboriginal cooperatives: from the Bangerang Cultural Centre Co-operative Ltd in Shepparton, the Wathaurong Aboriginal Co-operative in Geelong and the Victorian Traditional Owner Land Justice Group. I would like to read parts of those letters. Mr Romany Tauber writes:

> I am writing to advise that the Victorian Traditional Owner Land Justice Group fully supports the Traditional Owner Settlement Bill 2010. As you would be aware, the land justice group are the peak body for traditional owners in Victoria.

The letter I received from John Atkinson and Marlene Atkinson of the Bangerang Cultural Centre Co-operative Ltd says:

> 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 legislations 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 go on to say:

> 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. As Justice Onley stated in the High Court:
>
> > '… of the 18 named people in the case from whom the current Yorta Yorta are descendants only 2 could be confidently traced to the indigenous group of the area in the 1840 …'
>
> 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 where all groups worked together in the preservation of forests and lands.

Mr John Atkinson is known as Uncle Sandy. He has been awarded a Medal of the Order of Australia for his contribution to the arts and culture of his people; he is a very well-respected person.

In a letter I received from Mr Trevor Edwards he says:

> … I am a registered Wadda Wurrung traditional owner with Native Title Services (NTSV). I am also a director of NTSV have been for the past five years I am also one of the founding members of the Wathaurong Aboriginal Co-operative here in Geelong, been a long-time chairperson and now the current CEO (10 yrs) under the previous Cultural Heritage Act ('84) this organisation had legislation responsibility in managing cultural heritage in the Geelong council and four other council areas surrounding Geelong.
>
> I was instrumental in developing a MOU with the Geelong council …
>
> Our group Wadda Wurrung submitted an application — —

for an RAP (registered Aboriginal Party) —

> and was declined, even though we as the traditional owners had managed this region for 20 years or so were denied that respect …

He asked to have a meeting with me and wanted to let me know that there were a number of groups across the country that are disenchanted with this new act, the Aboriginal Heritage Act, let alone the new bill before Parliament.

I met with Mr Trevor Edwards and his son Craig and Mr Glenn Shea. They support parts of this bill, but they do not support the process. They said there has not been enough consultation and they have not had enough time to look at the legislation to understand the impacts. They also raised the issue of the Aboriginal Heritage Act. Section 3(c) of the act states:

> to accord appropriate status to Aboriginal people with traditional or familial links with Aboriginal cultural heritage in protecting that heritage;

Section 7 of the Aboriginal Heritage Act refers to 'traditional or familial links' and states:

> (1) For the purposes of this Act, a person has traditional or familial links to an area if —
>
> > (a) the person is an Aboriginal person with particular knowledge about traditions, observances, customs or beliefs associated with the area;

It goes on with other areas as well.

One of the issues that we have concerns about is the determining of which Aboriginal group actually speaks

for country. The member Box Hill read this article out, but in the *Shepparton News* Bangerang elder Uncle Sandy Atkinson was speaking out because some of the Bangerang people had applied for jobs and were declined. An article by Geoff Adams in the *Shepparton News* of 19 July titled 'Park jobs bias claim' states:

> Some indigenous people have been deliberately shut out of management and employment in the newly created Barmah National Park.
>
> Bangerang elder, John (Sandy) Atkinson has complained that people who identify themselves as Bangerang and not Yorta Yorta are not eligible for employment under job descriptions for park rangers.
>
> Parks Victoria has confirmed they only recruited members of the Yorta Yorta Nation Aboriginal Corporation to the six ranger positions. And only Yorta Yorta people will be eligible for indigenous seats on the park management board.

The article goes on to say:

> The department said the jobs were open to applicants who are eligible for membership of the Yorta Yorta Nations 'i.e., a descendant of the original ancestors of the Yorta Yorta Nations'.
>
> Mr Atkinson rejected statements that Bangerang is a subclan of the Yorta Yorta and pointed to historical records of early pioneers to support his case.

This sort of issue has been happening not just in Shepparton or the Goulburn Valley area but right around the state. The Yorta Yorta and Bangerang are well-respected groups in the Shepparton area. I know members of both organisations, and I have a good working relationship with them. This is not about who should become the registered Aboriginal party or who should get the settlement, the Yorta Yorta or the Bangerang or any of the other clans; it is about the recognition that each of these people has traditional links to this area. I urge the government to support the member for Box Hill's reasoned amendment and allow more time.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member's time has expired.

Mr INGRAM (Gippsland East) — I rise to speak on the Traditional Owner Settlement Bill 2010. From the outset I will say there are some enormous challenges in recognising native title in Victoria, not just because of the fact that in Victoria, particularly in places like Gippsland, the traditional owners or custodians were largely dispossessed of their land and the effects of European settlement were fairly hard on the indigenous people in those areas. The recognition of native title was much easier in other parts of the nation. In places like Victoria, where there was extensive movement of Aboriginal people around the state with their being put into settlements, there was also the loss of a large part of their population with early settlement. Creating a continual connection with the land for them is therefore very difficult, and it is even harder to prove that many generations down the track. In Gippsland with the Gunai Kurnai we have seen a large number of disputes between different traditional owner groups. Even the existing native title claim for the Gunai Kurnai has really been locked by a dispute, not with the broader community but between different Aboriginal groups. That is the nature of what we have in Victoria.

The government has taken a different path and is trying to settle native title out of that legal process. In the main I support that concept. However, the problem in Victoria is that our public lands are valued by the entire community, and it is important that we have a full and frank discussion with the community to ensure that people understand the potential impact of this legislation, or even what legislation like this does. I support the comments made by members of both the Liberal Party and The Nationals in Parliament that it is important for us to have a full and frank discussion with the broader community, not just with some of the key stakeholders, to ensure that members of the broader community understand what is contained in the legislation.

Throughout the years I have been supportive of providing a stronger connection between our local indigenous people and the land. One of the challenges we have in East Gippsland in particular is the sense of hopelessness that exists among many Aboriginal people because they have lost that connection with the land. There is a sense of hopelessness in that there is large unemployment, a high incidence of health-related issues and some real challenges in the community. We see all the negative indicators of people who are depressed in society much more highly exhibited in the indigenous population.

My view is that providing a stronger connection with the land — and 80 per cent of my electorate is made up of national parks or state forests — and providing work opportunities in public land management is a good start and a way forward to recognise the important connection the Aboriginal population has with our land in Australia. On that point you would have to support the commitment undertaken in this legislation. The explanatory memorandum to the bill states that it is intended:

> to provide a framework for the state to advance reconciliation and promote good relations between the state and traditional owners, and to recognise traditional owners of land based on their traditional and cultural associations to certain Crown land in Victoria. The framework in the bill facilitates this by

> authorising the making of a series of agreements between the state …

That is what I have said; this is how the legislation goes about it instead of going through a legal process:

> The principal agreement under the bill is a recognition and settlement agreement between the state and a traditional owner group … for an area of public land.

The bill goes through a number of issues about protecting the traditional licensees and recognising the current users of land and licences over areas. It is important to make sure that security and certainty exist, whether it be for the timber industry, recreational fishing or public land users — people who enjoy the natural assets in our region. While I understand that issue, dealing with reconciliation is also about recognising some of the wrongs of the past. We have seen that in some areas. In my view in our area the dispossession and original settlement were fairly hard on the Aboriginal population. From a discussion I have had with Aboriginal elders I know it is made even harder by the failure to recognise the massacres and terrible atrocities that were committed in some areas on the Aboriginal population, and that is one of the real challenges we have in East Gippsland.

Unfortunately in East Gippsland we have places with names like Boney Point. Boney Point is the site of a massacre near the Avon River. It was named Boney Point because people kept turning up bones in that area. That is a traditional challenge we have. The alleged perpetrator of that massacre was Angus McMillan. You do not have to go too far around East Gippsland to see the monuments put up to recognise Angus McMillan as the first explorer and settler of our region. There is even a federal electorate named after him. But if you go through the history — and history is often made by those who write history — and even go to the parliamentary library here, you will find very little evidence of the terrible things that Angus McMillan did — and he did do terrible things in our region.

From the discussion I have had with Aboriginal elders I know that one of the most important things — and let us not make excuses or go back and try to rewrite history — is just to recognise that with the first settlement there were things that were done which in today's context would not be accepted and which were not acceptable. One way of healing the wounds of the past is to recognise one of these sites formally and mend the fences, if you like, by building a bridge between the past and the present and recognising the important contribution Aboriginal people made before European settlement, made after European settlement and make even today, and by working on ways to provide the opportunity for our indigenous brothers to go forward in a more positive way.

I will be supporting the reasoned amendment put forward by the coalition. Whilst I understand what the government is aiming for here, as a matter of principle you would have to say that removing native title from a legal framework and a very adversarial approach is not necessarily a good outcome. But there are still many issues to be resolved to make sure that the community is aware of the potential implications of legislation like this, to make sure that those disputes within the Aboriginal population are resolved internally and to make sure that we recognise the traditional custodians well. I think through agreements you can do that.

I support the principle of the legislation. I think engaging in further discussion can only help in the matter of passing this legislation. With those words, I will be supporting the reasoned amendment but I also support the concept the government is putting forward in the legislation.

Mr MORRIS (Mornington) — The Traditional Owners Settlement Bill is in large part an initiative that is worthy of support. It is certainly worthy of support in a conceptual sense, and to a large degree many of the mechanisms proposed in the bill are also worthy of support. I think it is a great pity that despite the excellent work that was done by Professor Mick Dodson and his committee in the preparation of a report on the development of a Victorian native title settlement framework, a report handed to the government in December 2008, this bill is only now being debated. It is being debated in the shadow of the state election, it is being debated days from the federal election and it is being debated despite the complete and utter lack of any attempt by the government to engage with the wider community.

If we are going to make the most of the opportunity that is presented by the native title debate, and I do believe there are very real opportunities there to be grasped, then whatever the outcomes they must have the ownership of all of the Victorian community. This is a classic case of the government setting out to pervert and distort what should be — what must be — an inclusive debate. It needs to be a debate that leads to lasting reconciliation and lasting settlement, but in a typical blatant, short-term and cynical fashion the Premier has chosen to play politics with the issue. He has chosen to play politics in the Aboriginal community, and he has chosen to play politics in the wider community.

The coalition is determined that the genuine opportunity for meaningful reform of our relationship

with the first Victorians not be lost, and that is why we have proposed the reasoned amendment. The reasoned amendment was proposed for precisely the reasons I have outlined. Yes, there are some concerns about some of the mechanisms, and I will refer to those later on, but the bill is basically reasonable, subject to some finetuning — perhaps extensive finetuning. It may take many amendments. It will certainly take proper deliberations. Proper deliberations are not something it is possible to have in the current political context and in the context of the parliamentary program for this week.

There is also an issue of wider concern. It is something that of course arises frequently, and that is the use of this Parliament as a rubber stamp. Bring it in and guillotine it through! That might perhaps be the right way to go with some matters of small detail — minor amendments to principal acts and so on. However, this is a substantial new legislative framework — and as I said, it is a framework that needs to have ownership by all Victorians — and it is simply a completely inappropriate way to go about it.

It is also ironic: the 56th Parliament is a Parliament that has proved itself to be capable of dealing with complex issues with sensitivity, dignity and respect, but to take that approach you need time, you need debate and you also need serious community input. It would have been possible to take that approach to this bill, but instead there has been no consultation and no discussion with the wider community, and we have had no attempt on the part of the government to get a considered result. If anyone was in doubt about the government's motives, they only had to look to the Premier's cheesy grin when he stood to begin the second-reading debate.

Victorian parliaments have a proud history of their members working together. You only have to look back to passage of the Planning and Environment Bill in the 1980s — I think it was 1987 — when the Cain government was forced to engage in genuine debate to get its legislation through. Unlike the present government, it lacked the ability to bludgeon the Parliament into submission and to stifle genuine debate. It lacked the ability to engage in the jackboot legislative approach that has become a hallmark of the Brumby government.

It took over 300 amendments but in the end the bill that came out of that process, the bill that received royal assent, served the community well for a decade and a half. It served the community well until this government started tampering with it in the early 2000s. The opportunity exists with this legislation — the bill before the house today — to get it right, but the government has unfortunately chosen to play politics with the process.

I do not intend to deal with the mechanics of the bill in detail; time does not permit me, apart from any other considerations. I do want to acknowledge the comprehensive briefing the coalition received from both the Attorney-General's office and the Department of Sustainability and Environment. They walked us through the provisions pretty clearly, including the detail of the recognition of settlement agreements, the relationship with indigenous land use agreements under the commonwealth legislation, the mechanics of the land agreements, the land grants and the grant of original title, the provisions relating to land use activities and agreements, the natural resource agreements and of course the consequential amendments.

As I said at the outset, I think this bill is in large part reasonable, as is the framework that is proposed, but I do have some significant concerns about the impact the bill will have on the power of the executive in the matters covered by this legislation. If the bill proceeds in its current form, there will be a huge transfer of power from the Parliament to the executive as a consequence. Members will be aware that this morning in the Legislative Council a report was tabled that underlines the dangers of unfettered executive power. This bill will cement that unfettered power in these matters.

There are concerns about the concentration in the hands of the Attorney-General of the power to determine, without it being subject to appeal, that a particular group of people are the traditional owners. That decision will be completely unappealable. I am aware — and I think the member for Shepparton also mentioned this — of contested claims in the north and west of the state, and there has also been some discussion in my shire of Mornington Peninsula. I am not doubting the validity of the claims on either side — I am not qualified to comment on them — but I know they are contentious matters, and I am concerned that under this bill the Attorney-General will be given unfettered power to make a decision, right or wrong, without appeal. These decisions should be subject to judicial review.

There are concerns about the ability of the minister or ministers to grant, without reference to the Parliament, Aboriginal title or freehold title. In this place we deal frequently with land legislation, whether it is related to national parks or the revocation or reservation of Crown land. Those prerogatives are reserved for the Parliament. This bill strips the Parliament of those

prerogatives and transfers them to the executive. That is completely unacceptable to me.

A further point on this matter is that these very important decisions deserve not only the scrutiny but also the support of the Parliament. Each case deserves to be considered by the house, not necessarily as legislation but perhaps as a motion, to underline that the proposal has the support of the Parliament and the people of Victoria. Some may say that would be symbolism. I do not agree. The community must have ownership of the decisions, and the best way that the community can have ownership of the decisions is the imprimatur of the Parliament of Victoria.

As I said, there are some good things about this bill. It needs extensive further consultation and community input. I certainly support the reasoned amendment of the member for Box Hill.

Debate adjourned on motion of Mr HERBERT (Eltham).

Debate adjourned until later this day.

MINERAL RESOURCES AMENDMENT (SUSTAINABLE DEVELOPMENT) BILL

Second reading

Debate resumed from 28 July; motion of Mr BATCHELOR (Minister for Energy and Resources).

Mr O'BRIEN (Malvern) — On behalf of the opposition I flag that while we have a number of concerns with aspects of the Mineral Resources Amendment (Sustainable Development) Bill 2010, which I will describe, we do not intend to oppose its passage. The purpose of the bill is to amend the Mineral Resources Sustainable Development Act 1990 to do a number of things. One of the main things is to create two new classes of licences, being prospective licences and retention licences. The bill's purpose is to also require certain licence applications to describe the mineral resources to which they relate, to provide a new procedure for the endorsement of work plans and to amend the Victorian Energy Efficiency Target Act 2007 to further provide for regulation of the assignment of energy efficiency certificates.

I am advised that February 2012 is the default commencement date of this bill, should it pass the Parliament. My understanding is that it is the intention that many of the key elements of the bill will take effect from that time. If that is the case, it will certainly give the industry some time to adjust to some of the new requirements. That will be very useful, given some of the problems I will outline.

Turning to the substantive provisions of the bill I note that clause 7 substitutes for section 14(5) that:

> A mining licence does not entitle the holder of the licence to only explore for a mineral resource during the currency of the licence.

This clarifies that under the proposed new regime there will be a big difference between a licence to explore, a licence to mine and a new licence to retain land.

Clause 8 provides for prospecting licences. Those licences will apply to tenements of 5 hectares or less. They can be best described as an all-in-one type of licence. They will provide for prospecting or exploration for minerals, carrying out mining on the land covered by the licence and doing anything else that is incidental to that mining.

For many of the smaller miners and prospectors in Victoria this is a very useful innovation, because it will enable the holder of such a licence to undertake all their exploration and mining work under the one licensing authority. As I indicated, clause 8(4) sets 5 hectares as the limit for the land size. That is also appropriate, because historically that has been the size limit for small tenements. Once you start getting beyond 5 hectares you are perhaps starting to get into a more substantial set of arrangements, and it is probably appropriate to have different licensing provisions for those.

I have consulted with the Prospectors and Miners Association of Victoria on this bill. I take this opportunity to pay tribute to the members of the PMAV. Members of the association are very industrious and are an effective voice for that sector of the mining and prospecting industry in Victoria. They are very passionate about what they do, and they consider that sometimes they do not get a fair go from the government. Any moves by this Parliament to try to help that sector of the industry would be welcome. To that extent I understand they welcome the introduction of the category of prospecting licences.

The bill also introduces in proposed new section 14C a new licence called a retention licence. It is probably worthwhile reading the definition of a retention licence:

> (1) The holder of a retention licence is entitled —
>
> (a) to retain rights to a mineral resource in the land covered by the licence —

(i) that is not economically viable to mine but may become economically viable to mine in the future; or

(ii) for the purpose of sustaining the operations of an existing mine; and

(b) to explore and carry out other work to establish the economic viability of mining a mineral resource in the land covered by the licence.

Previously miners had exploration licences, which let them explore for various valuable minerals, but then they had to have a mining licence to move to mining and extracting those minerals. Life is not always so simple as saying, 'We've found a valuable resource; now we're going to mine it'. Sometimes and for various reasons a valuable mineral resource may be discovered but it may not be economically viable to move to mining it at that particular time. This new retention licence category recognises the fact that a company which has potentially spent a lot of time, effort and money in identifying a valuable resource may not, for various quite sound reasons, be able to move straight to mining that resource. The retention licence is being set up to provide an almost half-way house between exploration and mining. Once a retention licence is issued it entitles the holder to apply for a mining licence in respect of that land. If circumstances change and it suddenly becomes economically viable for the owner of the retention licence to move to mining, they can seek to do so.

The definition of retention licences that I read into the record previously poses the question as to whether the test to mine is an economically viable objective or a subjective one. That is important because if the intention of the act is to try to encourage and promote the development of mining valuable resources in Victoria, then there is a question of whether doing so is economically viable at a particular time. Does that depend on whether it is objectively viable to do it, or do the particular circumstances of that licence-holder determine whether the test is met?

A good example would be that there may be some very valuable mineral resources that are identified in a particular licence-holding. It may be that any number of companies would be keen and in a position to move to exploit that resource immediately. But it may also be that the particular holder of that retention licence has some cash-flow problems; maybe they have other mining operations in other parts of Victoria, Australia or the world or maybe they do not have the capital ability to develop that Victorian mine now even though on an objective basis it would be economically viable to do so.

I spent some time during the course of the bill briefing with the department and the minister's office trying to get an answer to this question of whether this test for the issuing of retention licences is going to be subjective or objective. There was a lot of backwards and forwards communication with the minister's office, and it appears that the intention of the government is that the test be an objective one. A company saying, 'Look, if we had the money, sure we could move to mine that resource straightaway, but we cannot do it at the moment because we are particularly hamstrung' would not necessarily be sufficient to see the awarding of a retention licence to that company.

As a Parliament we have an interest in trying to ensure that land is not just banked for future mining purposes. We have valuable resources in Victoria, and we want to see them developed. An objective test is an appropriate one, but I was a little bit concerned that the department and the minister's office did not seem to have thought all that much about that issue. Given that this is a new category of licence, people are entitled to know exactly how it is going to operate, and I hope the department will be very clear about what that test entails.

The bill provides that a retention licence can operate for 10 years and may be renewed only twice, each time for a period not exceeding 10 years. You could potentially have a retention licence that would operate for 30 years, although in the bill briefing the department flagged that, barring exceptional circumstances, it would be unlikely that a retention licence would be permitted to extend beyond 20 years.

We have a new regime where for larger tenements that do not qualify for a prospecting licence there is, as it were, a league ladder: the exploration licence first, a retention licence if they cannot immediately move to mine and then a mining licence. We have consulted quite widely with industry on these matters and the move is generally well-regarded and is something the opposition supports.

I also note that the government has undertaken some consultation on issues raised in this bill. For example, the government put out a paper headed *Review of the Mineral Resources (Sustainable Development) Act 1990*, which covered some of these issues. One thing I criticise the government for, though, is that there was no real consultation on the content of this bill. The bill was introduced into Parliament two weeks ago. That time frame provides about one week in which to consult with industry, and when I spoke with various peak bodies in the mining and resources sector in Victoria I learnt that none of them had seen the bill before it was introduced into Parliament.

Mr Delahunty — That is not unusual.

Mr O'BRIEN — As the member for Lowan points out, it is not unusual, but given that we are talking about very serious matters that affect the livelihoods of many people in Victoria and that affect companies that invest millions of dollars in this state, by not properly consulting with industry the government missed an obvious opportunity to ensure that bugs in the legislation were ironed out before it reached the Parliament. As the member for Lowan suggests, it seems to be a bit of a hallmark of a government that is pretty old, tired, lazy and just about at the end of its tether.

I turn now to other aspects of the bill. Clause 10 provides for some new provisions regarding a fit and proper person test for an applicant for a licence. We think these are useful provisions. One of the most important aspects of these changes is they provide that the minister can consider associates of an applicant in determining whether that applicant is a fit and proper person. The minister does not have to look just at the person who is applying for the licence; he can also look at who the person's associates are. In terms of associates, the bill refers to directors, partners, trustees, executive officers, secretaries or any other officer or person associated or connected with the ownership, administration or management of the applicant's business. In other words, we do not want to see a situation where there is a cleanskin on the licence application but there are some fairly dodgy characters behind the scenes pulling the strings. We want to keep those people out of Victoria's mining industries.

In the bill briefing I asked where the impetus for that came from. I was told it was a recommendation of the mining warden, because the mining warden often undertakes assessments of fit and proper persons on behalf of the Department of Primary Industries (DPI). I went back and had a look at this because I thought this idea that the mining warden came up with was very good. I wondered who that was, so I went to the DPI website and found a letter dated 26 June 2009 from the mining warden. It makes recommendations in relation to the fit and proper person test:

> I recommend that the 'fit and proper' person provisions be extended to specifically allow the VMW —

the Victorian mining warden —

> to inquire into persons who are associated with or have an interest in mining or exploration licences or applications.

The letter goes on in some detail. When you turn over the page of the letter, you read 'With compliments, Warden Swindells, BA, LLB, LLM, barrister-at-law, Victoria and Queensland, Victorian mining warden'. Members might ask themselves, 'What is the status of the Victorian mining warden, who came up with such an intelligent submission which the government has embraced in this bill that is before us?'. The government sacked him without notice, without warning and without reason on 10 March this year. He was an independent officer. Who says he was supposed to be an independent officer? It is the Minister for Energy and Resources. When the Governor in Council appointed Andrew Swindells as the mining warden for a three-year term on 6 March 2009, the Minister for Energy and Resources announced the appointment and said the position of mining warden was independent. He said this appointment would mean disputes between mining licensees and other parties could continue to be dealt with swiftly and effectively.

The person appointed by the government to fill this independent position, who was supposed to help mining licensees deal with disputes swiftly and effectively, who acted in some ways as a watchdog and an ombudsman for the mining industry and kept a bit of a check and balance regarding the DPI was sacked by this government. He is not good enough to continue as the mining warden, but he is good enough to have his submissions on this bill embraced and reflected in legislation. What an absolute pack of hypocrites we have in government today! That was a disgraceful attempt by this government to remove independent scrutiny of its actions.

We know the government has no problems with the former mining warden's intellectual capacity, understanding of the industry or contribution to public policy because the government embraced his ideas and submissions on the bill before the house today. We note the government hates scrutiny. The government hates somebody telling it that it has got it wrong; it hates somebody who is prepared to stand up for the little person — the little prospector and the little miner — who is prepared to call it out when it gets it wrong. That is why this government sacked the mining warden. That is why the position of mining warden will still be under threat as long as we have a Labor government in Victoria — it hates independent scrutiny.

Acting Speaker, you have heard it today; this government is gagging the Auditor-General and not letting him appear before the Public Accounts and Estimates Committee. The government hates him, it hates the mining warden and it hates independent scrutiny of any sort, because it exposes the government's incompetence, and it hates having its incompetence exposed. That is what drives this

government. Nothing could have been clearer when the government sacked Swindells without reason, without excuse and without cause other than the fact that the government has embraced his ideas in this bill. That shows members that the government knew he was doing the job. The government wanted to take the best of what he had to offer, but when he became inconvenient he could be sacked. That is how the government treats people.

Mr Crutchfield interjected.

Mr O'BRIEN — I will only acknowledge the contribution of the member for South Barwon because it may be one of the last ones he gets to make before the election. We may not hear from him again afterwards. I will do him the courtesy of acknowledging his interjections. I think he will get another mention in *Hansard*.

The bill also re-enacts a number of issues relating to the granting or refusal of licences. This is intended to try to account for the fact we now have exploration licences, retention licences and mining licences operating together. There are a number of what I would call transitional measures contained in this bill which, on the face of these bills, appears to be sensible in terms of policy intent. Whether the government has got them right or not we will only know once they start operation. But if the government had been a bit more open, and if it had perhaps put out an exposure draft of the bill, there would have been an opportunity not only for the opposition but also for the industry, stakeholders, community groups and others who are affected by the measures contained this bill to go through it. We might have had a better bill before us in the house.

I acknowledge that I do not understand why the government, having consulted on some of the policy issues contained in this bill some months ago, refused to consult on the content of the bill and only gave a limited time between introducing the bill and debating it in Parliament today. It is quite a long bill. Given I am down to the last 10 minutes of my contribution, there are a few issues I would particularly like to turn my attention to.

The bill amends the purpose of the act to encourage mineral exploration. As I flagged before, I think that is an important thing. We want to see a very active and vibrant minerals and resources industry here in Victoria. We do not perhaps have quite the same level of national public consciousness as is the case with some of the huge mines of Queensland and Western Australia, but we have a very active and vibrant mining industry here in Victoria and we need to bear that in mind. We need to give it support and encouragement.

The bill also make some changes to the way in which exploration licences operate, particularly the relinquishment provisions, which have caused considerable concern. At the moment, where an exploration operation licence has been granted over a particular area, 25 per cent of that area of the licence must be relinquished after two years and a further 35 per cent must be relinquished after four years. By the time a licence-holder is four years into their initial exploration licence, 60 per cent of the area has been relinquished. This provision is designed to try to encourage companies — it is usually companies rather than individuals or others — to undertake proper exploration and to narrow down the areas over which they want to maintain an interest, thereby releasing other lands which might be used by prospectors or others for exploration.

This has been understood and accepted broadly by the industry. What the government is proposing in this bill, though, particularly in clause 21, is to change the regime for relinquishment where an exploration licence is renewed. By the end of, say, a first five-year exploration licence, 60 per cent of the initial licence area has been relinquished. What the government provides in clause 21 of this bill is that after seven years — so two years into a renewal, assuming the first licence was for five years — a further 20 per cent of the licence area must be relinquished. On the 10th anniversary of the registration of the exploration licence a further 10 per cent is relinquished. If I can put it into shorthand, they will lose 60 per cent in the first five years, but under this bill they would then lose a further 30 per cent over the course of the second term of the licence. This is a significant change, and it has led to concerns that this will have essentially a retrospective impact.

I refer to a media release issued by the Minerals Council of Australia (MCA), Victorian Division, on 28 July 2010, which says:

> Mr Chris Fraser, executive director, Victorian division said: 'The minerals industry in Victoria does not see the need to amend the exploration licensing requirements but does support the other amendments proposed …'.
>
> The proposed changes to the exploration licence arrangements are claimed to be necessary to make Victoria more attractive to investors by increasing the turnover of licences. For its part, the industry cannot reconcile this government objective with the current reality and is extremely concerned that the amendments create a sovereign risk issue for companies that have invested significant resources in assembling their exploration licence portfolios from a piecemeal of historic mining and exploration tenements.

The MCA has raised some sovereign risk issues here. The government is saying to companies that might be about to get to the end of their first exploration licence and are about to renew it that rather than keeping that 40 per cent of their original holding, which they had the expectation of, it is going to cut that down to 10 per cent over the course of the next five years. It would have been better for the government to have said, 'We are going to make this apply prospectively, so for new exploration licences that are issued the regime is: you lose 60 per cent over the first term. If it is renewed, you lose 30 per cent over the second term'. Everyone would then have known where they stood. At it is, there are companies which will have invested potentially millions of dollars in exploring tenements in Victoria only to find that the government is suddenly about to change the regime and they go from having 40 per cent to 10 per cent over the course of a renewed exploration licence.

The strong reaction of the MCA, raising the prospect of sovereign risk, flags the fact that the government has not consulted on this issue. I think it has not got this aspect right and that this raises the same sorts of retrospectivity arguments that were raised in relation to the resource super-profits tax that the federal Rudd and Gillard governments attempted to impose on the mining industry.

Mining is a big, long-term, expensive operation. Companies cannot be expected to suddenly change halfway through a licence because the government changes the laws halfway through. There needs to be certainty for investors. There needs to be certainty for industry. What the government has done is throw that certainty out the window by changing the regime for what will effectively be for many mining companies currently with exploration licences the halfway point of their licences. We do not support that part of the bill. We think the government has got it wrong, but we are hopeful that the government will work closely with the MCA and other industry stakeholders to try to ensure that the worst aspects of this change can be ameliorated.

Certainly if the government does not do so, should there be a change of government after the election, an incoming coalition government will have to have a very good look at the situation. On the face of it, anything which raises sovereign risk issues, as has been flagged by the MCA, cannot be seen to be a positive for encouraging investment in the industry in Victoria.

Clause 36 of the bill provides for consent arrangements for low impact exploration work to be amended to permit informed verbal consent of landowners and occupiers and not just written consent. Landowners and miners will also have more freedom to enter into private compensation arrangements provided for in clause 47, and the grounds for compensation are distinguished between on-site grounds and offsite grounds, which are contained in clauses 46 and 48. All those measures appear to be sensible. A provision to encourage the striking of compensation arrangements between miners, explorers and effective land-holders is to be encouraged.

The maximum term for a miner's right and tourist fossicking authority (TFA) is to be extended from 2 to 10 years, but importantly I note that two-year rights and two-year TFAs will continue to be available.

The bill also provides a more streamlined procedure for the statutory endorsement of work plans. Anything which reduces red tape and double handling, particularly double handling, in getting work plans endorsed is something to be welcomed.

Finally, another aspect of the bill which is not related to mining at all is the provision to amend the Victorian Energy Efficiency Target Act 2007. That provision covers how the assignment of the right to create energy efficiency certificates may be made. In particular, it provides that they can be assigned essentially without being in writing. We have raised concerns in the bill briefing that this could potentially open things up for miscounting, to put it nicely, or fraud, if I were to not put it nicely. The minister's office has advised as follows:

> The ESC will contact consumers directly to verify that the activity —

for which the credit is being claimed —

> has been undertaken.

Assuming the government will ensure that is complied with, that may alleviate some of our concerns. This is largely a good bill. There are some aspects that we are critical of, which I have outlined. But on the whole it is not one which we oppose.

Mr CRUTCHFIELD (South Barwon) — I take great pleasure in rising to speak on the Mineral Resources Amendment (Sustainable Development) Bill 2010. I note that the opposition is in furious agreement with us. The member for Malvern spent 25 minutes suggesting that he is in agreement and 5 minutes in rather animated opposition. If you had heard him for only that 5 minutes, you would have thought that there would have been an amendment, at the very least. But there is not. I note and thank the opposition for its support in respect of the bill.

The bill will improve the efficiency and effectiveness in governing the minerals and extractive industry by addressing some administrative reform, which includes amendments to the purpose of the Mineral Resources (Sustainable Development) Act 1990, licensing and ground turnover provisions, compensation and consent provisions, and royalty provisions.

Why have we done this? In terms of a comprehensive review, the act has not been reviewed for some 20 years. There have been some smaller, annual reviews of parts of the act but there has not been a comprehensive review of the entire act for approximately 20 years. Such a review needs to be undertaken. In a modern world where administrative and regulatory issues have changed we need to streamline those things to give assistance and certainty to the industry. As the member for Malvern articulated, it is a very important industry.

As the member for Lowan would well know — and my father-in-law comes from down Balmoral way where Iluka has operations — Iluka is one of those smaller, medium size miners that needs that certainty. Yes, the larger ones make a heck of a lot of noise — I do not want to refer to the federal election — perhaps too much noise; they are very powerful. But as a state government we certainly need to focus on the extractive industries in Victoria aside from the coal industry, and Iluka down near Balmoral is a success story, as I can attest. I note that the member for Lowan is nodding his head. It is a wonderful project down there that has benefited that community and the state more broadly.

We did go through a great deal of consultation. We flagged the review back in April 2009 with the release of an issues paper which outlined the existing regulatory framework and set out some prompting points, if you like, some discussion points. Some 24 submissions were received from industry and other stakeholders at that early stage. The department went through a number of stakeholder sessions in Melbourne and regional Victoria. They were held at Benalla — —

Dr Sykes — A lovely place.

Mr CRUTCHFIELD — It is a lovely place. They were held at Benalla, Bendigo, Traralgon and Ballarat, and some 187 people attended these sessions. As part of that first stage DPI (Department of Primary Industries) released some targeted discussion papers and that led to another four community, industry and DPI workshops. We had members from the community, from the extractive industries as you would expect, mineral industry representatives, Victorian farmers, DPI staff — around 30 people were involved.

There has been quite extensive consultation in respect of this, and I can certainly assuage the member for Malvern's concerns about the mining warden. The mining warden position is still there, and there is a new warden. For the member's information, his name is Warren Butler. He was appointed immediately after the previous mining warden left. The industry is happy with that appointment. If the member wants to concoct a conspiracy theory, perhaps he needs to speak to the industry, because my understanding is that it is happy with the appointment and with the mining warden position, and it is the government's view that that important oversight position should continue.

Some contention has arisen through the consultative process. As a former fossicker myself — up at Bendigo and Ballarat with my father — I note there have been some rather scurrilous suggestions that prospectors and fossickers will be forced away from private land. In a press release put out in May the Minister for Energy and Resources announced that:

> … a miner's right was an authorisation certificate needed by prospectors or fossickers searching for gold and minerals on unreserved Crown land or private land …
>
> 'Prospectors have told us they want to keep the miner's right and we have listened …
>
> 'We will not only retain the miner's right but we will give prospectors and fossickers the option to apply for a 2-year licence or a new 10-year licence …

That is an important issue. I only received a couple of emails. I think the member for Ballarat East received considerably more than that, but his is an area that has considerably more gold-prospecting opportunities than around the beaches of Torquay.

I know there are a couple of other speakers who are very keen to make contributions to the debate on this bill, so I will briefly go through the new retention licence. Victoria is currently the only state without a retention licence or an equivalent. This new retention licence will better align our processes and structures with those of the industry. It will apply where a mineral resource has been identified but the commercial viability is still in question or under assessment. It will permit intensive exploration and research and development activities and will provide the right to apply for a mining licence. Importantly, the retention licence will provide greater security of tenure over mineral resources for those who have a genuine — the emphasis is on genuine — intention to sustainably develop those resources for the benefit of Victoria. That was the recurring theme of the consultation from industry players — they do want that security but they were concerned about people who had rights over land

and had no intention of developing it, who were effectively sitting on land with no intention of exploring or exploiting the mineral resources underneath. They were the two messages, and this certainly goes some way to addressing the tenure issue and the genuine-intention issue that was of concern to some industries. Relinquishment requirements will not apply to retention licences, and the licences will under some circumstances be able to be held for up to three 10-year periods.

The new prospecting licence will provide greater clarity about the rights of small-scale prospectors and miners but ensure a healthy turnover of the ground. Prospecting licences will be granted for a relatively short period — up to about five years — but will not be renewable and will not require identification of a mineral resource. However, holders of prospecting licences will be able to apply for mining licences provided they have an identified resource.

There are a number of other changes to the principal act that apply to mining licences, that change the exploration licence, and there are other amendments. I have not got the time to continue, and I know there are some people who are very keen to speak on this bill. I congratulate the department and the Minister for Energy and Resources. I thought the consultation process was thorough and exhaustive, and I note that the industry is predominantly happy with the structure of this bill.

Dr SYKES (Benalla) — I rise to contribute to the debate on the Mineral Resources Amendment (Sustainable Development) Bill and indicate that we see merit in many aspects of the bill, as the member for Malvern said, although he raised some concerns about some other aspects of it.

I wish to concentrate on one particular aspect of the bill — that is, the desire of the bill to provide a new procedure for the endorsement of work plans and variations to improve work plans before they are approved, which is mentioned in the minister's second-reading speech. I wish to come at it from the angle of the importance of certainty. Clearly the intention of the bill is to provide certainty for mineral exploration companies, and we have heard an expansion on why that is important — that is, it enables them to make investments with an understanding of what the future holds.

It is equally important that we have certainty for the holders of the land on which the exploration is taking place. It is a delicate balancing act between looking after the interests of mining or exploration companies that are seeking to generate wealth from our soils and underneath our seas and, equally importantly, recognising the rights of the land-holders, whether they be people in Victoria or indigenous communities in northern Australia, as we have seen.

I will use a couple of current examples from my electorate to highlight some of these concerns and why it is important that things such as work plans are clearly spelt out to provide certainty for both exploration companies and land-holders. First I will refer to a recent application for coal seam gas exploration in the Ovens Valley; then I will touch on an application for the mining of mineral water, again in the Ovens Valley.

On the coal seam gas exploration issue a number of people in my electorate have raised concerns about an application for exploration by Greenpower Natural Gas. Two people who have raised concerns are Rod and Sue Leavold. They wrote to me on 1 August to express their concerns about the application. I will quote the key paragraph of their letter:

> Whilst we can see the appeal to governments, developers, companies and their shareholders at the potential of large profits to be made by exploitation of coal resources in times of increasing energy demand, it needs to be recognised these profits are derived from externalisation of costs to the land-holders on whose properties the coal seam gas and underground gasification plants are sited and the environmental costs borne solely by the local and wider community — a community who bear the risk of short and long-term degradation of their environment, economy, social structure and financial assets long after the gas and its profits have gone.

They are the concerns expressed by Rod and Sue Leavold, but other constituents in my area who have also expressed these concerns include Bob Falconer, David and Jill Minifie, and Kenneth and Hilda Moore.

The Rural City of Wangaratta took the almost unusual step of speaking out to register its concerns about the exploration proposal because of the potential impact upon groundwater reserves.

You, Acting Speaker, are well aware of the importance of water and what we have seen in the Murray-Darling Basin with the ongoing pressure, particularly on surface water supplies. As that pressure builds we also need to look at groundwater supplies.

A management plan has just been developed for the management of surface and groundwater in the Ovens Valley. We now have a proposal whereby in future restrictions will be imposed on the use of groundwater because of the connectivity between it and surface water. I refer to what we call alluvial groundwater; there are fewer restrictions on the deeper groundwater

in what is known as the Ovens-Murmungee aquifer, because it is considered a more secure source of water.

Regarding the hopes of the local community in terms of water security and future prosperity for our area the Rural City of Wangaratta has been seeking to promote the security of groundwater as a basis for developing a new food bowl in northern Victoria.

The concern that arises in relation to coal seam gas mining is the potential for the quality of this water to be severely damaged by contamination as a result of the exploration and mining processes. These concerns are well founded. As we have noticed recently in Queensland, where there has been coal seam gas mining, there has been a lot of publicity about the damage to groundwater as a result of the mining process. The federal government picked up on these concerns. I quote from an ABC news item of 14 July:

> The federal government has ordered two mining companies to submit revised environmental impact statements (EIS) for multibillion-dollar coal seam gas projects in Queensland.

There we have it: recognition that this activity can have negative environmental impacts and that they need to be fully assessed before mining or even exploration permits can be issued.

This bill, in providing certainty for miners, needs to be mindful of the balancing act of also providing certainty for land-holders. That is why the bill's provision requiring endorsement of work plans is so critical. Those work plans must include a thorough appreciation of the environment and the impact on local land-holders and communities.

To look at another example of mining in my area, we have a situation where effectively water is being proposed to be mined. A permit has been applied for for exploration and access to water, again in the Ovens Valley area. In this case the proposal is to extract about 100 megalitres of water each year, bottle it and sell it to the consumer market. Again this is creating concern locally because of the potential impact on local communities. Firstly, there is the question of whether this additional demand for water will impact on the security of groundwater supplies. We would hope Goulburn-Murray Water would thoroughly assess that in its assessment of the permit application. But there are also other environmental issues which apply equally to mining for water or coal seam gas or any other exploration activity — that is the issue of the impact on our communities of the many trucks that would be going up and down our roads, which struggle to be maintained because of the state and federal governments' failure to provide adequate funding for small councils such as the Alpine shire, which would be impacted on if this particular mining process proceeds.

I should say that we have going on in our electorate other mining activities which are strongly supported by our community. There is the Morning Star mine at Woods Point. These mines have reactivated in recent times as a result of the increased value of gold. The history of goldmining in the Upper Goulburn area is about to be revitalised, and that will give a great shot in the arm to communities such as Woods Point, Gaffneys Creek and Jamieson. The mining companies involved there are doing their darnedest to be environmentally friendly and work with the local communities in Jamieson and nearby to ensure that the impact of additional traffic associated with the mining activities is minimised and that there is an overall net benefit to the community.

What we have is an example of it working out well. The companies are working with the communities for the overall net benefit of the area. I have highlighted the importance of having work plans clearly understood and documented. There are potential negative impacts, such as the coal seam gas mining proposal.

The other issue dealt with in the bill is the provision of certainty for our small-scale prospectors. An interesting component of that is providing approvals for both small-scale prospecting — that is, prospecting involving the use of hand tools only — and any form of compensation. Under this bill that can be done without it necessarily having to be put in writing. That is pleasing in the sense that it recognises that in rural Victoria a person's handshake and a person's word still remain their bond. That is not necessarily the case throughout the state of Victoria, but certainly for country Victorians their word and their handshake remain their bond. I welcome the many aspects of this bill, and I look forward to continuing to hold this government to account.

Mr HOWARD (Ballarat East) — This government continues to recognise the value of realising the mineral resources that we have across this state. We want to ensure a sustainable and responsible mining industry. We want to ensure that the process of making applications for exploration and mining is sound, and meets community expectation but is not overly onerous. Essentially that is what this bill is about.

The city of Ballarat and many other parts of my electorate of Ballarat East have been built on the gold that has been found there in the past, and we look forward to more gold being found and mined across the

electorate, but it is clearly an issue that is of interest to our broader community too.

What does this legislation before us do? It is refreshing because it looks at the overall licensing procedure and provides for two new types of licence. Firstly, it provides that small-scale prospectors can get a prospecting licence. A prospecting licence is a new form of licence that is particularly aimed at the small-scale miners who want to do some exploration without having to undergo the onerous process of gaining a full exploration licence, which a larger scale mining company requires.

The bill also provides for the issuing of retention licences. A retention licence gives a miner the opportunity to retain the land after the exploration has been completed. That licence can be for a period of 5 or 10 years and can be extended on the basis that miners have a plan in place and a reasonable explanation as to why they want to retain that land. We do not want people to retain licensed areas indefinitely while not having any plans for future work on them and holding out on others who might be in a position to take advantage of that particular site and get on with doing some further works that might see the minerals there realised for the benefit of the community overall. We have overcome the problem with exploration licences that has existed by enabling retention licences to be issued.

As a government we looked at the opportunities for streamlining the work planning relationship. After a company has developed, in consultation with the Department of Primary Industries, a work plan which has involved a number of referral authorities in providing information in the process and the matter has gone before council for a planning permit, the company will not be required by the council to go back to all of those referral bodies. Instead it will be able to rely on the information that has already been gained from those referral bodies. We have streamlined that process, but that will not mean councils will be locked out of the process; it simply means that we have streamlined it and councils will still play a significant role in endorsing and overseeing planning permits, work plans and so on.

There are a number of prospectors and fossickers who operate within my electorate. Some time ago they were concerned that the process of miners rights might be changed, but this bill makes it clear that we do not plan to change the framework for people seeking miners rights. What we have done is enable them to get a two-year mining right, which is something they are pleased about. So, if they choose, instead of being required to renew their mining right every two years, they will be able get a 10-year mining right. Certainly those people who are enthusiastic fossickers and concerned about this are pleased about that outcome.

The government has not done away with the role of the mining warden, as was claimed earlier by the member for Malvern; we continue to support the role of the mining warden. There was a change of person in that role a little while ago, but we have continued with a new appointee. As the member for South Barwon said, the new mining warden is working well with the industry and is well respected and doing a good job.

I do not wish to say more on this bill. It is sound legislation. I noticed that within the legislation we clarified the meaning of a 'fit and proper person' to obtain a licence. It is appropriate that anybody who gains a mining licence should be a fit and proper person, and we needed to make sure that the assessment is clear and transparent so there are no doubts about how that assessment is made. We want to see the mining industry continue to develop in the years to come without a great deal of red tape. We want the industry to be sound and sustainable, and this legislation provides a good balance in reviewing past legislation.

Mr NORTHE (Morwell) — It gives me great pleasure to speak on the Mineral Resources Amendment (Sustainable Development) Bill 2010. This bill amends the Mineral Resources (Sustainable Development) Act 1990 and essentially creates two new classes of licence, which I will talk about in a minute. The bill requires certain licence applications to describe the mineral resources to which they relate. It also provides a new procedure for the endorsement of work plans and amends the Victorian Energy Efficiency Target Act 2007.

As I said, the bill essentially provides for two new forms of licence in the mining sector: the prospecting licence and retention licence. What do those terms mean? A prospecting licence is said to be an all-in-one licence, allowing for prospecting, exploration and mining, usually in areas of less than 5 hectares. They can be issued for a maximum of five years and cannot be renewed, but a holder can then apply for a retention or mining licence. Of course this is subject to the mineral resources test. On the other hand, a retention licence is an intermediate licence between an exploration or prospecting licence and a mining licence.

This applies where a mineral resource has been identified but is not currently commercially viable to mine. A retention licence can be issued for up to

10 years and may be renewed only twice for a maximum of 10 years on each renewal. It also sets out some alterations to an exploration licence which increase the relinquishment of licensed areas. At present 25 per cent of the area must be relinquished after two years and a further 35 per cent after four years. Under this proposal a further 20 per cent must be relinquished at year 7 and a further 10 per cent at year 10. The Latrobe Valley in the Morwell electorate is very conducive to mining, so the legislation before us is quite important. One of the challenges we have in addressing some of the aspects of this bill is that certain conflicts can occur between landowners and those in possession of an exploration or mining licence. This can now be seen to be the case between holders of prospecting licences and holders of retention licences as well.

There are particular clauses in the bill I wish to speak to. Clauses 46 to 48 refer to consent and compensation arrangements between landowners and licence-holders. Whilst the amendments proposed may improve the legislation before us, I still have concerns from the perspective of landowners about what this bill might do to improve their circumstances. Unfortunately there is an air of uncertainty for many landowners who have either an exploration or a mining licence covering their land. I raise as an example today the Flynn Creek Coal and Power Consultative Committee, which I will refer to as FCC and PCC. The committee was established in 2004 and is essentially a local consortium of farmers who are very concerned about their futures. These farmers have significant reserves of brown coal on their land and have expressed some concern on the state government granting an exploration licence to Australian Power and Energy Ltd over vast farming land within their communities. Eventually APEL was purchased by Anglo American and was renamed Monash Energy Holdings.

Monash Energy had the idea of establishing a facility in the Flynn region to convert brown coal into ultraclean synthetic diesel fuel. That proposal was fine and initial discussions occurred between FCC and PCC and Monash Energy with a view to having a look at land acquisition and compensation arrangements. Unfortunately, due in part to the global financial crisis, the project essentially fell over and left those landowners in limbo. Many of the farmers were either nearing retirement age or were retired, and they were placed in the invidious position of not being able to sell their property because the market values were quite low due to their being an exploration licence or mining licence covering their land. These people had invested a lifetime in their properties and their farms and they really had nowhere to go. There was really no obligation on the licence-holders to negotiate with the landowners because they had not produced a work plan at that point in time.

Subsequently I received many letters from individuals and from the committee itself in relation to this issue. In July 2009 I wrote to the Minister for Energy and Resources, the mining warden and the director of Clean Coal Victoria on behalf of FCC and PCC. The minister provided a response; it was actually provided by his chief of staff. I want to articulate part of that response. In terms of the plight being experienced by FCC and PCC, the minister said:

> Companies intending to carry out work on private land are required to obtain the written consent of owners and occupiers, enter into compensation agreements with them or purchase the land prior to carrying out work. In the case of Monash Energy, although the company has been granted a mining licence, the final plan for the development of the mine and prerequisite environmental approvals are yet to be completed. The final form and location of the mine and the timing of the project is yet to be determined. As a result, the company is unlikely to be able to enter into compensation agreements with the relevant land-holders or acquire land at this time.

The point I make in response to that is that it unfortunately still left these landowners in this awful predicament, where the licence-holder was not obligated to come to speak with them and negotiate a return because a work plan was not produced. I understand and can see that this legislation goes in some part to addressing those particular concerns, but I still fear that from the perspective of people such as those from FCC and PCC that it does not go far enough.

We also wrote to the mining warden. The member for Malvern articulated very well our concerns about the government's treatment of the previous mining warden, who was sacked. I would like to make the point that 30 farmers from my region had written to Warden Swindells on their plight. Unfortunately, due to his being removed from his position, they are now back to square one with the new mining warden. That is not an indictment of the new mining warden; however, there is now a time delay for these farmers and their case for compensation and acquisition is back to square one.

The member for Malvern outlined a number of concerns with the bill. Some of those are retrospective elements of the bill which might impact on some licence-holders. I think the legislation itself is a step in the right direction. Mining is such a significant part of this state — it is vital to the Latrobe Valley community — it is imperative that as a Parliament we make sure that we get the balance right between mining

and the rights of landowners who are sometimes compromised by legislation that comes before us.

Mr LANGUILLER (Derrimut) — I rise in support of the Mineral Resources Amendment (Sustainable Development) Bill 2010. Victoria's mineral resources sustain communities across the state and make an important contribution to our economy. To continue using these resources sustainably and responsibly for the benefit of us all, the Victorian government is working to make sure they are managed in the best possible way. The bill aims to improve the alignment of government legislation with industry practice. The bill also aims to strike a balance between providing security of tenure for licensees while promoting healthy turnover of land. Healthy turnover of land does not necessarily result in more ground turnover, but the emphasis is that the land is to be put to the most efficient use.

In summary and very succinctly, the bill aims to ensure that exploration licences and mining licences are held by licensees who genuinely intend to explore or mine. A number of reforms will be introduced: new licence types, being retention licences and prospecting licences; the introduction of mineral identification requirements for retention and mining licences; changes to fit and proper person provisions to clarify the circumstances of the person; and the introduction of work plans, which I think are fundamental because they take into account the circumstances of the community, the interests of the community and set out what the licensee will carry out.

With these very few remarks, I commend the bill. It is good and important for Victoria. It is good reform, and I think it strikes the right balance. I commend it to the house.

Debate adjourned on motion of Mr DELAHUNTY (Lowan).

Debate adjourned until later this day.

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

Business interrupted pursuant to standing orders.

DISTINGUISHED VISITOR

The SPEAKER — Order! Before calling questions without notice, I would like to acknowledge in the gallery today Dr Anne-Marie Schleich, the Consul General for the Federal Republic of Germany. Welcome.

QUESTIONS WITHOUT NOTICE

Ombudsman: annual report

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer to the Ombudsman's annual report, which states that the government has been involved in efforts to 'intimidate' and 'undermine' investigations by the Ombudsman rather than acknowledge and deal with the issues identified, and I ask: is it not a fact that the Premier and his government have bullied and intimidated the Ombudsman for exposing the chronic incompetence, corruption and failures of this government, or is this just standard practice for this government?

Honourable members interjecting.

The SPEAKER — Order!

Mr BRUMBY (Premier) — The answer to the question is no. But the — —

Honourable members interjecting.

The SPEAKER — Order! Members of the opposition will come to order.

Mr BRUMBY — The house would do well to check the question asked by the Leader of the Opposition, which, like so many questions asked by him and asserted in this house as fact, is wrong. That is not what the Ombudsman said. The answer is no.

Employment: government initiatives

Mr FOLEY (Albert Park) — My question is for the Premier. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, to work and to raise a family. Can I ask the Premier to outline to the house how — —

Honourable members interjecting.

The SPEAKER — Order! I ask the member for Albert Park to stop for a moment. I ask all members for some cooperation so that I have some ability to hear the question as asked.

Mr FOLEY — Thank you, Speaker, for your protection from those bullies. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, to work — —

Honourable members interjecting.

The SPEAKER — Order! I ask members of the opposition for some cooperation. I ask the member for

Albert Park to ask his question without any commentary.

Mr FOLEY — Thank you, Speaker. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, to work and to raise a family, and I ask: can the Premier outline to the house how the government is attracting jobs and investment to Victoria, and is he aware of any threats?

Mr BRUMBY (Premier) — I would like to thank the member for Albert Park for his question. As the member is aware, and I am sure all honourable members in this place are aware, over the last year Victoria has been the jobs engine room of Australia. In our state we have seen more than 115 000 new jobs generated over the last year — more jobs in Victoria than in any other state in Australia. We are proud of the fact that we have a strong budget position in our state, a AAA-rated budget, a large capital works program and a very positive environment for business investment.

I was delighted to be with CSL and the federal Minister for Innovation, Industry, Science and Research, Senator Kim Carr, just a couple of weeks ago for what was another great announcement for our state: a $235 million investment by CSL. This will lead to 335 new jobs being generated and billions of dollars of additional export income over the years ahead. This is just another example of Victoria as the engine room, as the centre, for attracting investment across Australia. I should say that the CSL representatives indicated at that function that the supply chain impacts of this investment, the indirect jobs that would be created, would be up to 1500 additional indirect jobs.

Just over a month ago I was with Senator Stephen Conroy to announce that the network and services operations centre, service activation centre and national test facility of the national broadband network will be located here in Melbourne. As everybody knows, this is the operations centre, the nerve centre, of the biggest rollout in broadband in the nation's history.

The *Herald Sun* of 2 July 2010 ran a big front-page story headed 'Our 700 jobs coup — Melbourne the nerve centre for $43 billion project'. I think it is worth saying the rollout of the national broadband network will generate something like 25 000 jobs across Australia. These are the jobs that are involved in setting up the infrastructure: digging the trenches, putting up the wiring and rolling out the system. However, as I said at the announcement of those 700 new jobs, the second-wave effect will be huge for our state and for our nation: all the new businesses that will be created, the people who will work from home, the microbusinesses that will be created and the big implications and benefits that will come in health and medical research from the use of this broadband facility.

For us this is a fundamental issue about leading this drive towards broadband and more jobs and more opportunities for the people of our state. I was therefore shocked — we were all shocked in fact — that those 700 jobs based in Melbourne would vanish under the election of a Liberal-National coalition government in Canberra. The shadow Minister for Education laughs as though this is some sort of joke about losing 700 jobs. It is not a joke.

Honourable members interjecting.

The SPEAKER — Order! The members for Scoresby and Malvern will come to order.

Mr BRUMBY — These are not just jobs in Melbourne. They are the thousands of jobs that would be involved, as I have said, in the rollout, but more than that, there is the second-wave effect that comes from having super-fast broadband available right to more than 93 per cent of homes across Victoria. The policy that was announced yesterday will create a second class of Victorians, who are country Victorians. This was put succinctly — —

Dr Napthine interjected.

The SPEAKER — Order! I warn the member for South-West Coast.

Mr BRUMBY — This was put succinctly in an editorial in the *Shepparton News* — —

An honourable member interjected.

Mr BRUMBY — What, they're no good either? To quote the editorial:

> ... it would condemn regional Australia to having the slowest access in a two-tiered system.
>
> The divide — —

Honourable members interjecting.

The SPEAKER — Order! The Minister for Energy and Resources!

Mr Eren interjected.

The SPEAKER — Order! The member for Lara will cease interjecting in that manner.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. He is trying to use question time as a platform to attack a federal election-related issue in circumstances where question time should properly relate to Victorian government business. I accept that in passing he can make reference to what he purports to be the prospective loss of jobs, but beyond that he cannot, in my respectful submission, carry on in the matter that he is. He should answer the question in the context of Victorian government business.

Mr BRUMBY — On the point of order, Speaker, I was asked a very specific question about the rollout of the national broadband network and the jobs to be located here in Melbourne and Victoria and whether there was a threat to that. I am entitled as the Premier of this state to stand up for jobs in our state, and when those jobs are threatened I believe the standing orders provide that I am entitled to be asked about threats to those jobs and I am entitled to answer the question, as I am doing.

Honourable members interjecting.

The SPEAKER — Order! I suggest to the member for Yuroke that if she wishes to stay in question time, she will cease interjecting in that manner. I do not uphold the point of order, although I do suggest to the Premier that he confines his comments to Victorian government business.

Mr BRUMBY — As I was saying, we worked very closely with the NBN company and with the federal government to secure these jobs for our state. By the way, the Treasurer and Minister for Information and Communication Technology, John Lenders, worked particularly hard to secure these jobs. It is great step forward for our state. It is a big issue, not just for people in Melbourne and not just for businesses in Melbourne but for citizens across the state, particularly those in country Victoria.

I was interrupted while reading the quote from the *Shepparton News*. I will just finish that if I can. It said this of that policy announced yesterday:

> ... it would condemn regional Australia to having the slowest access in a two-tiered system.
>
> The divide between city and country would be greater than ever, but with global implications for trade, commerce and communication.

That is from the editorial in the *Shepparton News*.

All around country Victoria our businesses, whether they are in Bendigo or Ballarat or Shepparton or Mildura or Wodonga — we have the five fastest-growing inland cities in Australia — whether it is the businesses in those cities or whether it is our farmers, people need to use the internet more and more to create opportunities, to create jobs and to create markets overseas. The work that we are doing in partnership with our federal government, the Gillard government, to roll this out will create those opportunities in the future. The Parliament should be in no doubt as to the risk to those jobs posed by the policy announced yesterday by the federal Leader of the Opposition, Mr Abbott.

Ombudsman: annual report

Mr BAILLIEU (Leader of the Opposition) — My question is to the Premier. I refer again to the Ombudsman's annual report, which finds that people and associations with vested interests, including elected officials, sought to undermine the Ombudsman's office, particularly during his investigation of Brimbank City Council, and I ask: is it not a fact that the Premier has orchestrated a campaign to destroy the Ombudsman as a result of the Ombudsman's investigation into ALP corruption in the Brimbank City Council, or is this again just standard practice for this government?

Mr BRUMBY (Premier) — Again, the answer to the question is no. I note, on the question of funding for the Ombudsman, that the proposition that we have cut back the Ombudsman is farcical, it is so far divorced from the real world. Ombudsman's funding — —

Honourable members interjecting.

The SPEAKER — Order! The member for Warrandyte.

Mr BRUMBY — Ombudsman's funding in 2000–01, in our first budget when we came to government, was $2.76 million — —

Honourable members interjecting.

The SPEAKER — Order! I warn the member for Warrandyte.

Mr Baillieu — On a point of order, Speaker, the Premier is debating the question.

Honourable members interjecting.

The SPEAKER — Order! I ask government members to come to order.

Mr Baillieu — I asked a specific question, and it might assist the Premier if I quote from the Ombudsman's report.

Honourable members interjecting.

The SPEAKER — Order! The Leader of the Opposition has asked his question. He is now taking a point of order that the Premier is debating the question?

Mr Baillieu — I am, Speaker.

The SPEAKER — Order! I am quite happy to rule on the point of order. I uphold the point of order.

Mr BRUMBY — The Leader of the Opposition has asked about the Ombudsman. The funding of the Ombudsman in the first budget was $2.76 million — —

Honourable members interjecting.

The SPEAKER — Order! I warn the member for Hastings. To assist the Premier, the question from the Leader of the Opposition referred to the Ombudsman's annual report. I ask that in his response the Premier confine himself to the Ombudsman's annual report.

Honourable members interjecting.

The SPEAKER — Order! The members for Kew, South-West Coast and Scoresby will not interject in that manner.

Mr BRUMBY — The allegation that was made by the Leader of the Opposition was that somehow the government is destroying the Ombudsman. You cannot destroy the office if you have tripled the funding from $2.7 million to $7.7 million. As members know, the annual report refers to the numerous reports which the Ombudsman has handed down during the year. As this report highlights on pages 19 and 20, the Ombudsman tabled his first report — —

Honourable members interjecting.

The SPEAKER — Order! I suggest to the member for Bass that the Chair will conduct the business of the house without assistance from him.

Mr Baillieu — On a point of order, Speaker, the Premier is defying your ruling. He is debating the question. The Ombudsman in his report found public officers in this state wanting and he got 'a primary response of denial'.

The SPEAKER — Order! The Leader of the Opposition cannot ask a supplementary question as a point of order. I do not uphold the point of order. I do not believe the Premier was debating the question.

Mr Batchelor — On a further point of order, Speaker, the Leader of the Opposition in his question made an allegation that the government was trying to destroy the office of the Ombudsman. The Premier is entitled to respond to that part of the question, as he is entitled to respond to the other parts of the question. He is doing that and should be allowed to address all parts of the question put to him by the Leader of the Opposition. If the Leader of the Opposition did not want the Premier to address that issue, he should not have asked it or had it included in his question.

The SPEAKER — Order! I have not upheld the point of order taken by the Leader of the Opposition.

Mr BRUMBY — On pages 19 and 20 of his first report in February 2010 on the implementation by government of recommendations arising out of 10 different investigations, the Ombudsman found that:

> … 93.5 per cent of the recommendations made were either accepted or under consideration by the agency concerned. Seventy-four per cent of the recommendations accepted by the relevant agencies had been implemented.

That is what the Ombudsman himself said. Following receipt of that report I asked the secretary of my department to ensure that her counterparts report on their implementation of these recommendations from the Ombudsman.

In relation to Brimbank City Council, which I think the Leader of the Opposition referred to, when that report was released by the Ombudsman we accepted its recommendations in full. We asked Local Government Victoria to undertake the investigations recommended by the Ombudsman; we introduced the Local Government Amendment (Conflicting Duties) Bill 2009 to prevent local councillors working for MPs and ministers; and we appointed Bill Scales, AO, as an inspector of municipal administration with the task of overseeing the governance of the Brimbank City Council and monitoring the implementation of the Ombudsman's recommendations that require action by the council.

Finally, members should look at the output of the Ombudsman, on which he himself comments. When he talks about the breadth of his reports, in recent years, for example since 2005 — these are investigations on non-policing matters — he compares his output with comparable bodies interstate. He says:

> In summary, between 2005 and 2010, my office has produced 32 reports, compared with 27 in New South Wales, 15 in Queensland and 22 in Western Australia.

The fact is that funding has been tripled; the Ombudsman is producing more reports than ever before; 93.5 per cent of his recommendations have been

implemented, as he himself suggests; and in terms of all those other reports he is producing more than any other state. Those statistics alone I think would show how farcical the proposition, the allegation, the claim made by the Leader of the Opposition actually is.

Desalination plant: progress

Mr CRUTCHFIELD (South Barwon) — My question is for the Minister for Water. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house about the progress of the Victorian desalination project and also outline to the house the arrangements for financing the project?

Mr K. Smith interjected.

The SPEAKER — Order! If the member for Bass wishes to ask a question, he should stand in his place at the appropriate time and he will be given the call.

Mr HOLDING (Minister for Water) — I thank the member for South Barwon for his question. Like all members on this side of the chamber, he is aware that the Victorian desalination project is one of the largest projects ever undertaken in this state. In fact it is the largest desalination plant anywhere in Australia. When the public-private partnership financing element of the project was put to bed in 2009, it was for 2009 the world's largest public-private partnership.

At present there are something like 2700 people working either down at the Wonthaggi site on the plant itself; in the transfer corridor, where the transfer pipeline is under construction and currently being laid; or on the underground power supply that will be an important part of connecting the desalination project to Victoria's electricity grid.

There are thousands of other Victorians who are employed by companies supplying product to the project or providing services that are absolutely critical to making sure that this project is completed on time and is able to provide vitally needed water by turning sea water into drinking water as a very important part of Victoria's water plan.

This project could not have been delivered if it were not for a Premier who was willing to drive the process of change and reform in this state.

Honourable members interjecting.

The SPEAKER — Order! I will not ask the members for South-West Coast and Scoresby again for their cooperation.

Mr HOLDING — It could not have been delivered without a Premier who was available to chair the 26 meetings of the water cabinet that have occurred since the government announced the desalination project, every one of which has considered in some way an aspect of, or made an important decision around, the desalination project. It could not have been delivered if, for example, six days after the water plan had been announced the Premier had purchased or acquired 14 000 shares in Westpac or 2500 shares in the National Australia Bank, for of course both of those banking entities were later participants in the AquaSure bid, which was ultimately successful in winning this project.

It could not have been delivered if, for example, the Premier also owned shares in the Commonwealth Bank or the ANZ Bank, both of which were involved as participants in the Bass Water bid, which was ultimately unsuccessful. It could not have been delivered if, when I stood next to the Premier at Page Steel Fabrications in Derrimut and we celebrated some of the structural steel contracts which are absolutely vital to delivering this project — —

Mr Ryan — On a point of order, Speaker, the minister is clearly debating the point. Whatever may or may not have been the Premier's interests is a matter of complete irrelevance to answering this question, and the way the question was put hypothetically — —

Honourable members interjecting.

The SPEAKER — Order! I ask government members to come to order.

Mr Ryan — The minister should confine his answer to factual issues. He is debating the question, and I ask you to have him answer the specific question he has been asked.

Mr Hulls — On the point of order, Speaker, the minister was asked about the financing arrangements for the project. The Premier's share interests and financial arrangements are absolutely relevant to conflict-of-interest issues and the finance arrangements for this project.

The SPEAKER — Order! I uphold the point of order. I ask the minister to continue with his answer but without hypothetical information and not on the basis of hypothesis.

Mr McIntosh interjected.

The SPEAKER — Order! Without assistance from the member for Kew.

Mr HOLDING — For example, it was very important that I was able to appear with the Premier at Page Steel Fabrications in Derrimut when we made important announcements about contracts that had been secured for this project, including contracts that had been awarded, for example, to BlueScope Steel. The Premier was able to stand next to me during those very important announcements and was able to be part of the very important decisions that were part of this project, because he was able to participate in all of the vital decisions that were part of the desalination project.

Everybody knows where the Premier stands on these issues. He has been a federal member of Parliament. Since then he has been a Leader of the Opposition, a senior minister, and he is now Premier of Victoria. He has been involved in literally thousands of decisions that have progressed and advanced the interests of the Victorian people. Many of those decisions have been vitally important to the desalination project, and the Victorian people have been confident and aware that every one of those decisions was made with the best interests of the Victorian people as the key consideration.

Honourable members interjecting.

The SPEAKER — Order! The members for Malvern and Warrandyte will not be warned again.

Mr HOLDING — The people of Victorian are entitled to know that the people making decisions on their behalf are motivated purely and simply and only for the consideration — —

Honourable members interjecting.

The SPEAKER — Order! I believe the minister is now debating the question. I remind him that he should conclude his answer.

Mr HOLDING — Every one of those meetings, all 26, of the water cabinet considering vital questions around the desalination project and all the other water projects which have been vitally important for the Victorian people have had the full and active participation of the Premier. The people of Victoria have a right to know these things; they have a right to know — —

Honourable members interjecting.

The SPEAKER — Order! The member for Rodney! The minister should conclude his answer.

Mr HOLDING — And the Leader of the Opposition has to decide whether he wants to be a Premier or a stockbroker!

Opposition members: government dossiers

Mr RYAN (Leader of The Nationals) — My question is to the Premier. Is it not a fact that the Minister for Finance, WorkCover and the Transport Accident Commission is involved in the operation of a secret dirt unit inside the government and is peddling dossiers containing false and fabricated information regarding members of the opposition? Is that not the fact, Premier?

Mr BRUMBY (Premier) — The answer is no.

Mr Burgess interjected.

The SPEAKER — Order! I warn the member for Hastings!

Swine flu: control

Ms MUNT (Mordialloc) — My question is to the Minister for Health. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister provide the house with an update on the status of the H1N1 human swine flu global pandemic?

Mr ANDREWS (Minister for Health) — I thank the honourable member for Mordialloc for her question and her interest in these matters. I am very pleased to be able to inform the house that overnight the World Health Organisation issued a media statement informing people all around the globe of its decision and determination that the H1N1 human swine flu pandemic alert status could move to the post-pandemic period; it basically declared the pandemic over. That is great news for us in Victoria and for communities right across the world, particularly those who are most vulnerable to H1N1: those with comorbid chronic illness and those who have underlying health concerns. I am sure all honourable members are pleased to hear of that decision from the World Health Organisation.

It is worth reminding members what a public health challenge swine flu was during 2009. We had 513 hospital cases; 118 intensive care unit admissions; sadly, 26 deaths; 46 000 doses of Tamiflu distributed by the Department of Health and community pharmacists right across Victoria; something like 17 000 tests performed by the Victorian Infectious

Diseases Reference Laboratory; and 112 schools fully or partially closed. We had the entire community affected by this very substantial threat to public health — this pandemic that touched us last year.

It is worth acknowledging the universal support for the efforts the government put in place and the broad support of many Victorians who work very hard to protect public health and to look after the vulnerable. It is important to acknowledge the work they did. They include hundreds, perhaps even thousands, of teachers and staff at schools across Victoria; many hundreds of local council staff members who ran community immunisation projects, or fever clinics as they were known; and hospital staff, including nurses, doctors, ambulance paramedics and general practitioners across Victoria. It was a broad community effort to protect public health right across our state.

The community played an important part, and the media played an important part in this as well. Victorians in record numbers visited the website; there were some 27 000 visits a day at its peak. There was widespread community involvement and a true and broadbased community effort to deal with this fundamental challenge. That is to say, I think every Victorian was interested in these important matters or at least so it would seem. Speaker, you would be interested to know that whilst 26 000 Victorians rang the H1N1 human swine flu hotline, there was one Victorian who decided to ring his stockbroker during this pandemic.

Honourable members interjecting.

The SPEAKER — Order! The Minister for Health!

Mr ANDREWS — There was one Victorian more interested in private wealth than public health.

The SPEAKER — Order! I ask the Minister for Health to stop debating the question and come back to answering it as it was asked.

Mr ANDREWS — There can be absolutely no doubt that this government and the Victorian community, with very few exceptions, were motivated purely and only to do everything we could to protect public health and do everything we could to work together to understand that this pandemic was something that was a serious challenge for every single Victorian. There can be absolutely no doubt that the Premier and everyone on this side of this house was motivated by public health and the protection of public health, not personal wealth. Those motivations say a lot about one member of this house.

Opposition members: government dossiers

Mr RYAN (Leader of The Nationals) — My question is to the Premier. Is it not a fact that taxpayers money is being used to fund the operation of the Premier's secret dirt unit, which has hired private investigators to spy on opposition MPs and other opponents of the Premier and his government — conduct which is just standard practice for this government?

Mr BRUMBY (Premier) — This is just another make-up question.

Mr Wells interjected.

The SPEAKER — Order! The member for Scoresby!

Mr BRUMBY — This is like the question of last week about — —

An honourable member interjected.

Mr BRUMBY — Yes, it was exactly the same thing. It was about Costas Socratous. In asking a question — —

Mr Ryan — On a point of order, Speaker, the Premier is clearly debating the question. Whatever might have been the question last week, it was last week. I am asking this question now. The Premier should answer it and answer it truthfully.

The SPEAKER — Order! I find it difficult to uphold the point of order when the Premier has just commenced his answer to the question.

Mr BRUMBY — As I said, this is just a fabricated question, consistent with many questions, including one last sitting week when the opposition claimed a person had been declared innocent and there was a press release to prove it. The fact is that is not the case, as the honourable member knows and as police reports confirm.

Honourable members interjecting.

The SPEAKER — Order! The Premier should not go back to answering last week's question. I ask him to come back to answering this question.

Mr BRUMBY — The Leader of The Nationals has form in this regard. The question for the Leader of The Nationals and the — —

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. This is question time

where the opposition has the opportunity to ask questions. I have asked the question, and the Premier should answer it. If he wants to take a question from a member of his own party, he can. In the meantime, he should answer the question I have asked him.

The SPEAKER — Order! I uphold the point of order.

Mr BRUMBY — The Leader of The Nationals and the Leader of the Opposition need to comply with the law. The law is pretty clear. If members read the Members of Parliament (Register of Interests) Act, they will see it makes it very clear that members shall accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests.

Mr Ryan — On a point of order, Speaker, the Premier is deliberately debating the question. I have asked him a specific question and he should answer the question that I have asked him.

The SPEAKER — Order! I accept the point of order. I ask the Premier to come back to answering the question as asked or I will refuse to hear him.

Mr BRUMBY — The question went to the maintenance of appropriate standards in this place. It is entirely appropriate — —

Honourable members interjecting.

The SPEAKER — Order! If members are not prepared to come to order, question time will end. I ask the Premier to address the question without further debate.

Mr BRUMBY — The question was about the use of government resources to ensure that the — —

Honourable members interjecting.

The SPEAKER — Order! The member for Eltham!

Mr Ryan — On a point of order, Speaker, the Premier continues to debate the question. What he is now doing, with respect, is reflecting upon the Chair and the ruling you have made. I ask you — —

The SPEAKER — Order! I do not uphold the point of order. The question concerned taxpayers money and the Premier was addressing that part of the question.

Mr BRUMBY — I will go back to where I began the answer. The whole basis of the question is a fabrication; it is just plain, made up nonsense.

Honourable members interjecting.

The SPEAKER — Order! The members for Kilsyth and Narre Warren North can choose to stay until the end of question time.

Exports: government initiatives

Ms DUNCAN (Macedon) — My question is for the Minister for Industry and Trade. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on what the Brumby government is doing to support exporters to sell their goods and services to the world, and are there any challenges that exporters should be concerned about?

Mr Mulder interjected.

The SPEAKER — Order! I ask the member for Polwarth not to interject in that manner.

Ms ALLAN (Minister for Industry and Trade) — As we heard earlier today from the Premier, the Brumby Labor government has worked very hard with industry and has strongly supported the over 300 000 jobs here in Victoria that rely on our state's $31 billion in export earnings. That has been valuable to the state's economy but particularly valuable to the 300 000 families who rely on those jobs. Whether it is through programs such as our Opening Doors to Exports program, the direct support that we give to the manufacturing industry, which is vital, programs in regional Victoria such as the Regional Infrastructure Development Fund or our new $28 million Industries for Today and Tomorrow program, we are standing up for industry, we are standing up for export earnings and, most importantly, we are standing up for Victorian jobs.

A good example of this occurred just this week. I joined with the Minister for Environment and Climate Change to announce Australia's first carbon market export initiative to be based here in Victoria, here in Melbourne. The establishment of the Melbourne carbon market export cluster is being backed by an $800 000 grant from the Brumby government. Companies such as AGL and the National Australia Bank — I understand some may know the value of the latter company better than others, but I digress — will benefit from this in winning contracts on renewable energy projects in Asia and the Middle East, all with a focus that we on this side of house have on boosting exports and boosting jobs.

This sort of approach has received support. Some of it has come from an unusual place; it has come from the

member for South-West Coast, who proclaimed in media releases in both March and May of this year that there has been a significant increase in exports in recent years. I must say it is not often we say this, but the member for South-West Coast has absolutely got it right. We have seen exports in this state increase because of the work we have done. This is a strong result considering that Victorian companies have battled the global financial crisis, have experienced some of the challenges that come with having a higher Australian dollar and those in regional areas have experienced the ongoing impacts of the drought. This is a very strong result.

However, it is a shame to see that not all commentators are as enlightened as the member for South-West Coast. Indeed some have argued that the Brumby government has no appetite for export-boosting infrastructure projects. Who has said that? Some may say that it was second-best adviser to the former federal Treasurer, Peter Costello. But I found this claim to be quite curious, given that we on this side of the house have very strongly supported major export-boosting infrastructure projects over a number of years now. We will go through the projects.

The $2.5 billion EastLink project, which now has been completed and is helping our exporters — —

Honourable members interjecting.

The SPEAKER — Order! The member for Scoresby! I warn the member for Malvern, and I think he is already on a warning.

An honourable member interjected.

Ms ALLAN — I am waiting for the Speaker's call. She is too busy telling your side off.

The SPEAKER — Order! While the Chair does not need the assistance of the opposition, it does not need the assistance of the minister either.

Ms ALLAN — Certainly, Speaker. I was reminding all members of the house of the $2.5 billion EastLink project, a strong infrastructure project which is helping our exporters — —

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

Member for Scoresby

The SPEAKER — Order! Under standing order 124, I ask the honourable member for Scoresby to vacate the chamber for 30 minutes.

Honourable member for Scoresby withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Exports: government initiatives

Questions resumed.

Ms ALLAN (Minister for Industry and Trade) — This is such an important project, because it has helped our exporters to more efficiently transport their cargo across Melbourne to the airport. It is a project we know was opposed by some groups.

Let me turn to $2 billion food bowl modernisation project. This is about supporting an irrigation upgrade, but it is also about supporting a thriving export-oriented food bowl. It is especially important to our dairy industry, which makes up 13 per cent of the world's dairy exports. Unfortunately this fantastic project was recently labelled as ill conceived by one commentator.

Finally, I turn to the port of Melbourne channel deepening project, the most important export-boosting infrastructure project in which we have invested in recent times. The Minister for Roads and Ports identified recently that this is already getting runs on the board. The port of Melbourne experienced a 15.8 per cent increase in container volumes between January and June — the strongest ever performance of the port in its history — as a result of the channel deepening project, a project which has been labelled as flawed and which sadly, as we know, was opposed by some groups.

When you go through these projects you see that they have a number of things in common. They all boost exports, they all create jobs and they were all vehemently opposed by those opposite, the Liberal-Nationals coalition. We have rejected this approach, and we have seen a strong boost to our export earnings, as has been recognised by the member for South-West Coast; we have seen job-creating infrastructure; and we have seen more jobs for the state of Victoria. This is in stark contrast to the approach of those opposite, who invent fairytales to cover up their policy nightmares.

Public Accounts and Estimates Committee: Auditor-General

Mr CLARK (Box Hill) — My question is to the Premier. I refer to the refusal of the Labor majority members of the Public Accounts and Estimates Committee to allow the Auditor-General to give evidence to PAEC about his views on the threats to his independence contained in the Public Finance and Accountability Bill. I also refer to the claim by the Labor members of the committee that the Auditor-General is not entitled to tell Parliament about his views because that would amount to 'questioning the merits of the policy objectives of government'. I ask: will the government now reverse its disgraceful attempt to gag an independent officer of this Parliament?

Mr BRUMBY (Premier) — What a surprise to get a question like that from a person who was the cheerleader for closing down and privatising the Auditor-General. The member for Box Hill, a then parliamentary secretary, was out there with then Premier and then Treasurer campaigning against Ches Baragwanath to close down and privatise the Auditor-General.

Mr Ryan — On a point of order, Speaker, the Premier is again debating the question. I ask you to have him answer the question he has been asked.

The SPEAKER — Order! I uphold the point of order

Mr BRUMBY — The Auditor-General has had significant increases in capacity, significant increases in resources and significant opportunities to expand the inquiries in front of him. I am not on the Public Accounts and Estimates Committee. I would not know — —

Honourable members interjecting.

Mr BRUMBY — It may have been the practice in the 1990s to direct members of parliamentary committees; it has not, and never has been, in this decade. I am not on the committee. The honourable member should think through what he has just said. He wants the Premier of the day, the executive government, to direct a parliamentary committee what to do. What a truly bizarre proposition.

Honourable members interjecting.

Mr BRUMBY — It will not help you, saying that. Lots of people will remember the name Ches Baragwanath; lots of people will remember how it was the state opposition at the time and this Parliament that saved the Auditor-General — and when we were elected to government, we enshrined that independence.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. His answer should relate to the question he was asked. I ask you to have him respond to that question as asked.

Mr Hulls — On the point of order, Speaker, surely in answering the question the Premier is entitled to point out how grossly hypocritical this question is.

The SPEAKER — Order! I suggest to the Deputy Premier that that is not an appropriate contribution to a point of order. I uphold the point of order.

Mr BRUMBY — I have tried to point out, apart from the embarrassing nature of the question, the hypocrisy of it. I would invite the member for Box Hill and all of those cheering loudly behind him to think through what it is he has just suggested, which is that the Premier, the executive government, should direct parliamentary committees as to what they do and how they vote.

That may well have been the practice in the 1990s. It has never been, and it never will be, the practice under our government. It is a preposterous suggestion coming from a person who was a cheerleader for the closing down and privatising of the Auditor-General. We enshrined the Auditor-General as an independent officer of this Parliament, and we are proud of it.

Sport: government initiatives

Mr EREN (Lara) — My question is to the Minister for Sport, Recreation and Youth Affairs. I refer to the Brumby Labor government's commitment to make Victoria the best place to live, work and raise a family, and I ask: can the minister update the house on the Brumby government's strategy to attract major sporting events, and is the minister aware of any alternative plans?

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — I thank the member for Lara for his question. He is a great advocate for major events, particularly in the Geelong region.

Victoria is the world's ultimate sporting destination. We attract the best athletes, we win and host the best events and we continually develop the best stadiums. These events — like the Bledisloe Cup, the upcoming Rugby League Four Nations series, the Ashes and the Australian Open — are vital for our state. Last year a total of 7.5 million people attended major sporting

events in Victoria. It is a $1 billion industry, delivering an incredible boost to jobs, business and our economy. We are always looking for new blockbuster sporting events, but they must stand up and deliver clear social and economic outcomes.

I was asked about alternative plans. One plan was put forward in November last year for a new event to complement our most vibrant of industries. It was a proposal to secure the Red Bull Air Race for Geelong. In June I made it clear to the house that this event had previously been analysed and rejected; it simply failed the value-for-money test. One would think that the proponents of this alternative policy would have then reflected on their position and perhaps taken another look at it, but a week later the proponents remained 'committed to bringing the air race to Geelong'. They had 'been in talks with Red Bull Air Race organisers about securing the events to be run over Corio Bay', and one said, 'We think it will be a very exciting opportunity'.

What happened to this very exciting opportunity? I refer to media reports from the very next month, and they include 'Red Bull Air Race axed' and 'The Red Bull Air Race has been cancelled worldwide' This event was cancelled just weeks after the proponents claimed they were continuing discussions. Exactly who were they discussing the event with? I suspect they spoke to nobody.

The Brumby government's vision for Geelong is World Cup football, the world road cycling championships and bringing to Geelong's Skilled Stadium Twenty 20 cricket, A-league soccer and Super Rugby along with, of course, Aussie Rules.

This alternative plan would be throwing away $4 million, sending it to the bottom of Corio Bay. It seems that the proponents do not care about $4 million. It is no wonder. One of them is unwilling or unable to account for his own millions, so do you think he would be bothered accounting for Victorian taxpayers' money? Not the Leader of the Opposition!

The SPEAKER — Order! The minister will not go down that track.

Mr MERLINO — Under the Brumby government Melbourne has secured the title of the world's ultimate sports city. We would not keep this title if our major events policy involved opposing the best athletes in the world, like Tiger Woods; bidding for sporting events but not insisting on the best talent being available, a ridiculous proposition; or announcing that we would secure sporting events before discussing with the organisers if they would even go ahead. The Leader of the Opposition can drink as much Red Bull as he likes, but it will not give any wings at all to such an ill-conceived, lazy policy.

LOCAL GOVERNMENT AND PLANNING LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 28 July; motion of Mr WYNNE (Minister for Local Government).

Mrs POWELL (Shepparton) — I am pleased to speak on the Local Government and Planning Legislation Amendment Bill 2010. The Liberal-Nationals coalition will not be opposing this legislation.

The purpose of the bill is to amend the Local Government Act 1989 to improve conflict-of-interest provisions. It is also to amend the City of Melbourne Act 2001 to enable Melbourne City Council to enter into environmental upgrade agreements. It will also amend the Planning and Environment Act 1987 in respect of the establishment of development assessment committees, or DACs, and to make recommended legal changes to the DAC-enabling provisions in the act to enable their proper operation, which is necessary due to the bill's rushed passage. It also amends the Crown Land (Reserves) Act 1978 and the Environment Protection Act 1970 to make consequential amendments to those acts. It will repeal the Local Government (Consequential Provisions) Act 1989. The amendment provisions in that act have all taken effect and are now spent, so that act can be repealed.

The main provisions of the bill are to make changes to the conflict-of-interest provisions after concerns were raised by councils around Victoria — and the coalition also raised concerns with the minister — when the Local Government Amendment (Councillor Conduct and Other Matters) Bill 2008 was introduced into this Parliament. The bill was rushed through Parliament only three weeks before Victorian council elections. It was also in response to problems at Brimbank City Council. There were some issues at the council that the government did not deal with, and these amendments were put in place in 2008 in an effort to address some of the issues of breaches of the Local Government Act, corruption and other matters at Brimbank City Council. The coalition wrote to the Ombudsman asking him to investigate those breaches of the Local Government Act. The Ombudsman investigated the breaches, and a number of measures were put in place, such as

appointing the monitor, Bill Scales, and administrators, because the council had been sacked.

The bill that was introduced in 2008 provided for a stricter code of conduct, increased remuneration for councillors and new and more complex conflict-of-interest provisions. Because it was introduced just weeks before the council elections the coalition decided not to oppose that legislation, even though there were some issues with the conflict-of-interest provisions, because the councillors needed to have increases in their remuneration and, given what happened at Brimbank City Council, there needed to be a stricter code of conduct for councils. The coalition together with the community was not able to give the legislation the scrutiny it deserved, although we alerted the Minister for Local Government that there needed to be a review in 12 months because the councils were telling us that the conflict-of-interest provisions were complex, unwieldy and not simple at all.

The coalition also asked for some guidance to be provided to councils because of concerns that they were not able to meet the requirements. As I travelled around the state with the shadow parliamentary secretary for local government, the member for Mornington, one of the issues that was raised with us time and again was the complexity of the conflict-of-interest provisions, particularly those dealing with indirect conflicts of interest. We asked for guidance for councils, and a 79-page set of guidelines was sent to councils. However, representatives from many councils have told me that the examples outlined in the guidelines appear to make things more complex. A number of councils put out their own guidelines as to how councillors could comply with the conflict-of-interest provisions, some putting out two-page documents which made it clearer than the 79-page guidelines the government provided.

In 2009 the Local Government Amendment (Offences and Other Matters) Bill made further amendments to the conflict-of-interest provisions. For example, the provisions dealing with gift disclosure were amended to exclude hospitality from a not-for-profit organisation. This issue was raised by the coalition after learning from councils that many of them were not able to comply with this requirement, mainly because a number of councillors had been invited to football dinners the cost of which amounted to more than $200 over the last five years. There was complexity and unfairness around that, and the 2009 Local Government Amendment (Offences and Other Matters) Bill amended those provisions.

We have had a number of changes over the years. There have been substantial increases to the penalties in the act. One of the issues we raised with the government was the lack of a penalty in section 55D. It was interesting that there were amendments to increase the penalties in sections 55A, 55B and 55C and section 56 but a penalty was omitted from section 55D. That was about the time that Latrobe City Council was found guilty by the Municipal Electoral Tribunal of breaching section 55D by distributing an inappropriate newsletter during an election period, but no penalty could be applied because there was no penalty in the Local Government Act.

I advised the Minister for Local Government of this issue at the time, and he tried to stop the circulation of that newsletter. Sadly it continued to be circulated even though the council was told to stop circulation. The minister was aware of it and did try to stop it. The issue was raised with me by a number of coalition members who had heard from members of the community that they were receiving this newsletter even though it was illegal. I was pleased to see that there is now a penalty for that offence in the act, but it should have been brought about last year when all of this was happening and in 2008 when the community raised the issue. It is really important that we now have a penalty in section 55D so that if any council does the wrong thing and circulates newsletters during an inappropriate period, not only will it be an offence under the Local Government Act but there will also be a penalty. I hope that penalty will be applied to those councils.

The main provisions of the bill make a number of amendments to the conflict-of-interest provisions. As I said, they are in response to the government undertaking a review of what councils thought about the current conflict-of-interest provisions. I had a briefing with the department and was given copies of the responses from the councils and, in fairness, advised that most of the councils are comfortable with the amendments to the provisions in this legislation.

This bill increases the gift disclosure thresholds for conflicts of interest to $500, exempting gifts other than election campaign donations which were received less than 12 months before the recipient became a councillor, a member of council staff or a member of a special committee. This is obviously a welcome amendment, because a number of councils were saying that the original threshold of $200 over the past five years was not fair. If a new councillor had been elected at the 2008 election, they would have had to comply with this conflict-of-interest provision even though they would not have been a councillor during those years. At least this amendment will mean that the provision

applies only to the past 12 months during which the person was a councillor.

The bill also exempts gifts in the form of reasonable hospitality received by a councillor, staff member or member of a special committee when he or she attends a function or event in an official capacity. The existing exemption is limited to hospitality from not-for-profit organisations. The proposed change will make the provisions similar to the exemption that applies to members of Parliament. It is also a welcome amendment because during the conflict-of-interest provision debate we raised with the government that a number of councillors could be invited to a dinner at, perhaps, the Geelong Football Club in their official capacity as the mayor of the council or the chief executive officer of the council, and often their spouses are invited as well, which would mean they could receive more than the threshold for declaring a conflict of interest.

The government has now realised that it was a silly amendment and has changed it. It recognises that councillors are usually invited as a courtesy rather than a bribe or inducement. Many organisations invite the local member or councillor and their spouse as a courtesy rather than as some sort of inducement or bribe.

The bill also clarifies that membership of a club is not of itself a conflict of interest. A person will still have a conflict of interest in a matter that affects the club if he or she is an employee or office-bearer of the club or if he or she has some other direct or indirect interest, such as having received an election campaign donation from the club. This is another amendment that the coalition and councils have called for because as we travelled around the state a number of councillors said to us that they had let their memberships of community clubs lapse and had removed themselves from community boards because they were concerned it would mean they had a conflict and about the way it would be perceived if it got into the papers that they had been to a function and were seen as a member of a club.

The bill also provides that a person who has a controlling interest in a company that has a direct interest in a matter will also be deemed to have a direct interest. For example, if a councillor's relative has a controlling interest in a company that has a direct interest in a matter, the relative will be considered to have a direct interest and the councillor will have a conflict of interest.

The bill also provides that an interest arising as a result of an impact on a person's residential amenity will be reclassified as an indirect interest. This will mean that the person will no longer have a conflict of interest just because a relative's residential amenity is likely to be affected. However, it will not alter the situation where the relative's property value is likely to be affected. For example, if a councillor's relative owns property that is likely to change in value as a result of a decision, the councillor will still be considered to have a conflict of interest because of the relative's direct financial interest. That includes both a situation where that property owner gains a benefit because of a council decision and a situation where they are disadvantaged. Regardless of whether the property increases in value or is devalued, either is classed as a value being affected.

The bill also exempts a person from a conflict of interest that may arise from a conflicting duty if the person was appointed to the relevant position as a representative of the council and does not receive any remuneration for that position. This will replace a similar exemption that was limited to not-for-profit organisations and did not rely on the person being a council representative. This was previously quite confusing for councillors who were council representatives on a referral body such as a catchment management authority or a planning authority.

In such cases, when the council dealt with an issue related to a particular body in council, the councillor who was a representative on that body had to disclose that they had a conflict of interest, had to not take part in the discussion or vote and was required to leave the room.

It was a silly measure because it meant that the person in the room with the most knowledge of that referral authority or the issue had to leave the room. It did not mean that that person had more of a conflict of interest than anybody else. This amendment clarifies that if a councillor is on a special committee as a representative of council, they do not have a conflict of interest.

The bill also amends the definition of an assembly of councillors where conflicts of interest must be disclosed. A meeting will be an assembly of councillors if it considers matters that are likely to be the subject of a council decision or the exercise of a council delegation and the meeting is a planned or scheduled meeting that includes at least half the councillors and a member of council staff or is an advisory committee of the council where one or more councillors are present. In addition, the record of any assembly of councillors will have to be reported to the next practicable council meeting and recorded in the minutes.

This is an issue that clarifies the original bill, which stated that if there were three councillors and a council officer it became an assembly of councillors. That made things fairly unworkable when you might have three councillors and the CEO or a council officer in a car travelling around the electorate or going to a conference, and if they discussed anything that was on the bill agenda.

Mr Wynne — That is a long bow.

Mrs POWELL — The minister says it is a long bow. But if you actually read the legislation in its entirety it says that those councillors cannot discuss any issue that may be on the council agenda. Many of those councillors and senior officers have interpreted that to the absolute nth degree. This is now a clarification of that, but again it is a backflip by the government. It was silly legislation in the first place because it meant that three councillors and a senior officer could mean an assembly of councillors. This amendment means that at least half the councillors must be there. There are some councils that have five councillors, so it will still be half of those councillors.

The conflict-of-interest rules applying to council staff will now be extended to situations where the person is exercising a statutory power or duty of the CEO. This change will apply conflict-of-interest rules to staffing decisions and certain planning matters. A number of councils already apply these conflict-of-interest rules to their decisions. The existing defence to a conflict-of-interest prosecution, where the person proves that they did not know about the conflict of interest, will be removed and replaced with an exemption. The existing provision implies a reverse onus of proof that is arguably inconsistent with the Charter of Human Rights and Responsibilities. This new general exemption will apply where the relevant person does not know the circumstances that give rise to the conflict of interest and would not be reasonably expected to know those circumstances. So if a person's spouse or family member had interests on a board or a committee and the councillor, when making a decision on council, did not know that that their spouse, child or family member had that interest, then they do not have a conflict of interest. If more time had been allowed to scrutinise the bill when it came through in 2008 this complex issue would have been picked up then and would not need to be clarified now.

On the DAC (development assessment committee) situation, I would like to thank Matthew Guy, the shadow Minister for Planning in the other place, for coming to the briefing with the council and for providing the report which says that the current legislation was rushed through the Dispute Resolution Committee. As such the legislation was drafted in a manner that means a road intersecting a defined DAC activities area cuts the DAC in two. This has made it very complex, because under the legislation there can only be one DAC per suburb, which means that DACs in areas like Sydney Road are unable to commence operation. It allows an operational DAC to cover a number of suburbs if the same activities area extends beyond one current suburb. It updates the names of the suburbs contained within the original DAC legislation. Some of the suburb names inserted in the original legislation are wrong and require correction — for example, Chadstone should be Chadstone East. The legislation also replaces the term 'activity centre' in relation to areas with an operational DAC with the term 'DAC activity centre'.

The City of Melbourne Act will also be amended to allow the council to use its rating powers to help secure private lending to building owners that will fund environmental upgrades to commercial buildings in the city. This will assist the expansion of the Melbourne City Council's 1200 Buildings program. The amendments will specifically allow the council to enter into environmental upgrade agreements with lending institutions and building owners that will result in lending institutions advancing funds to building owners to pay for environmental improvements to buildings that have been assessed and approved by the council through the Sustainable Melbourne Fund. It is hoped that those buildings will be upgraded by 2020. I know that the Lord Mayor of the City of Melbourne, Robert Doyle, wrote to the government and asked for this amendment. This amendment is in response to that request. Council can seek tenders for the owners, but the owners and occupiers must agree.

One of the issues that I raised with the department was the funding arrangement. It is a bit of a convoluted scheme, where the bank gives a loan to the building owner and the repayments go back to the council and then go back to the bank. Apparently this allows for cheaper lending, and there will be a charge over the property for security.

While on this subject, I note that the coalition raised the issue of an electoral review of the City of Melbourne with the City of Melbourne. I am talking about the Electoral Amendment (Electoral Participation) Bill, which allows for the timing for electoral representation reviews to be changed to every third election cycle. This will mean that the longest period between full reviews will increase from 8 years to 10 years except if voter numbers in wards are outside the 10 per cent margin for a second successive term, in which case an

electoral representative review will be required. The Victorian Electoral Commission will conduct electoral representation reviews, and the VEC will be required to notify a council at least 60 days before commencing a review.

Currently all Victorian councils are reviewed before every second council election, except for the City of Melbourne, which is excluded under the City of Melbourne Act 2001. This bill obviously makes that electoral review every third election cycle. However, since the time the City of Melbourne Act was put in place there have been some major changes in the city. Nine thousand people have come into the municipality as a result of the inclusion of Docklands and parts of Kensington. The coalition has called for a review a number of times in this place following consultation with city councillors and ratepayer and business groups. In June 2008 a coalition motion in the upper house calling for a review of the City of Melbourne was passed with the support of the Greens and the Democratic Labor Party member. In April 2009 the Melbourne City Council unanimously passed a motion requesting that the Lord Mayor write to the Minister for Local Government and request a review of the City of Melbourne.

We believe the refusal thus far of the Victorian government to allow the City of Melbourne to have an electoral review precludes people in the city of Melbourne from having the same democratic rights as residents and ratepayers in the other 78 municipalities. We think a review would allow the residents and ratepayers of the city of Melbourne to have a look at the current structure in the municipal City of Melbourne and to see whether that structure actually meets the needs of the community for the future governance of the city, given that we are very proud of the city of Melbourne — it is Victoria's capital city. The council itself has asked for a review, the community is asking for a review and members of this Parliament and the coalition have asked for a review. We urge the government to take note of what all of those people are saying and allow the City of Melbourne to have an electoral review just the same as the other 78 councils in Victoria do.

As I said, along with David Morris, the shadow parliamentary secretary for local government, I have met with about 52 councils. We have travelled right around Victoria and discussed many issues. Some of those issues have related to conflicts of interest, and many other issues were raised with us as well.

I am sure most of the councils we have spoken to are happy to see further conflict-of-interest provisions being brought in; however, what they are also asking for is to maybe have a look at how these conflict-of-interest provisions are being applied to councils and see if there is any need to review them after they have been working for a while to make sure there are not any further unintended consequences.

A report from the Victorian Auditor-General's Office was tabled in this house today. It is titled *Local Government — Interim Results of the 2009–10 Audits*. The report contains interim recommendations. Because there will be a state election before the next council elections the Auditor-General has brought in some interim recommendations about having a look at how councils are faring in terms of performance measures and the effectiveness of the internal controls of the 79 councils. The Auditor-General's office looked at the 79 councils, their internal financial audits and the way they put out information to the community. It looked at the 79 councils, the 13 entities that they control and the 12 regional library corporations. The overall conclusion was that councils need to further strengthen their internal controls, particularly those over information technology, change management policies and declarations of interests.

The report states:

> The utility and consistency of financial reporting across the local government sector is reduced by a lack of timely coordination and guidance in the adoption of consistent approaches for presenting income and expenditure in the comprehensive income statement and valuing land under roads reported in the balance sheet.

This is something that the Auditor-General has found before — that the compliance by local councils is in fact impeded because they are not monitored correctly; that maybe the right templates are not given to local government, that they are not consistent and that they are not uniform in the way they report. On page 11 of the report, under the heading 'Controls over declarations of interest', which is the sort of thing that the bill before the house today is dealing with, the Auditor-General states:

> We used a cyclical approach to review internal controls relating to significant annual financial report balances and disclosures, consistent with Australian accounting standards. This year we reviewed controls over declarations of interests and gifts.

The findings of the report were that councillors at three councils did not complete the required returns as specified by the Local Government Act 1989. In the act itself there is a penalty for that offence. I would like to ask the Minister for Local Government this question: of those councillors who breached the Local Government Act, what penalty have those councillors incurred, if

any, and is Local Government Victoria or the inspectorate going to have a look at that and make sure those councillors are penalised for not complying so as to send a strong message to other councillors who do not comply that where there is an offence there actually is a penalty?

The report also found that 57 councils did not have council-approved policies covering the completion of declaration-of-interest returns by councillors. It found that 11 councils did not have approved gifts policies that build on the act. It found:

> Fifty-four of the 68 councils … with an approved gifts policy specified a dollar threshold for declaring gifts, up to $220. Specifying a dollar threshold in this way can result in councillors and staff not complying with the act's requirement to declare all gifts with a cumulative value of more than $200 over five years.

That is the requirement under the act as it stands currently, but this bill obviously will change that recommendation or that dollar threshold from $200 over the past five years to $500 over the last 12 months. Again, that shows the complexity and confusion that surrounds these sorts of issues about gift donations and conflicts of interest.

The Auditor-General recommended:

> Local government entities should have a comprehensive declaration-of-interest policy that builds on the requirements of the Local Government Act 1989, including disclosure of conflicts of interest and the maintenance of the register of interests.

> Local government entities should have a comprehensive gifts policy that builds on the requirements of the Local Government Act 1989.

It is important that Local Government Victoria or the Department of Planning and Community Development should monitor compliance and provide a template to ensure that all councils comply. When many of the smaller councils were asked why there was non-compliance, some of those councils said they were just late in compliance and some said they were unaware of some of the regulations that were put onto councils. Again, it is important that strong direction and guidance is given to local councils. The report also says:

> Twenty-two councils … have a council-approved policy covering the completion of declaration-of-interest returns by councillors and staff. Three of these 22 policies do not include key elements, such as the time frames required for the completion of ordinary and primary returns.

It also says:

> Councils should implement an internal policy to inform councillors, employees and other appropriate council persons of the requirements of the act regarding the declaration of interest. This is important due to the significant complexity of the act, which contains detailed specifications of the varying circumstances that can result in a conflict of interest and the related responsibilities of councillors, employees and other persons.

Again we have another bill that will amend those regulations — and councils need to have a direction as to which way this government is going — to make sure that councillors can comply with the Local Government Act, that if there are breaches of the Local Government Act there will be penalties for those who do breach it and that this government will make sure those penalties are imposed. That is a really important issue.

As I said, opposition members are not opposing this legislation because, in effect, we called for the changes to the conflict-of-interest provisions, and we are pleased to see that. Councils are saying to me that they will reserve judgement about whether it makes it easier. Again, I call on the minister and Local Government Victoria to support councils to make sure they do comply and to give them any assistance they need. Local government has a very arduous duty in many areas. They have a lot of areas of responsibility, including bushfire control and the protection of people, as well as complying with the Local Government Act. I call on the government to support councils in whichever way it can.

Mr HARDMAN (Seymour) — I rise to support the Local Government and Planning Legislation Amendment Bill 2010. I am pleased that the opposition is not opposing the legislation. I am also pleased that the coalition has decided that it now also supports local government. It is great to hear about that change in policy.

The main purposes of the bill are to improve council governance and enhance the operation of the Local Government Act. We are aiming to improve council governance and enhance the operation of the Local Government Act through our actions on conflict of interest, for example, and to enable the Melbourne City Council to enter into environmental upgrade agreements. That is fantastic; we will go into that a bit later. It is in regard to its green building program, which will make Melbourne a leading city and an example to other places; it will be great to see it will be implemented. The purposes are also to make miscellaneous amendments to part of the Planning and Environment Act 1987, which relate to development assessment committees and to make consequential

amendments to the Crown Land (Reserves) Act 1978 and the Environment Protection Act 1970. The bill also repeals the Local Government (Consequential Provisions) Act 1989.

Today I would like to spend most of my contribution on the changes to the conflict-of-interest provisions for councillors. The changes come as a result of the minister's commitment to local government to review the amendments to the local government legislation that were made in 2008. As we said, these changes are aimed at enhancing and supporting good local governance. The changes were necessary as local councillors make very local decisions on behalf of their communities and as a result are likely to have conflicts of interest at times, more regularly than other political representatives.

The minister asked Local Government Victoria to consult with local councils. Local Government Victoria produced a discussion paper and received 60 submissions from local councils, which is fantastic. I saw some of those; people put a lot of time and effort into those submissions, and we thank them for that. Obviously the more information we have, the better decisions we can make as a Parliament here in Victoria. As well, almost 100 representatives from 60 councils attended a series of round tables with mayors and CEOs. I had the privilege of chairing three of those round tables.

Mr Wynne — You did a great job.

Mr HARDMAN — Productive discussion ensued and good suggestions and information were proposed at those meetings. The feedback has enabled the minister along with his department to develop this improved legislation we are debating today.

I also place on the record my thanks to Jim Gifford of Local Government Victoria and Nick Quinn, a ministerial adviser, who attended all the round tables and ensured that discussion was conducted intelligently and that we were able to get some good information from the mayors and CEOs. To the mayors and CEOs or their representatives who participated so constructively, again on behalf of the minister I say thank you. They have done a good job. We hope this legislation helps them make better decisions into the future and with a little less angst than perhaps was there with the legislation in its original form. As many of us would know, the minister understands consultation, and it has been good to work with him on this project. I am pleased to see how it has turned out.

In regard to conflict of interest, one of the key issues came down to applicable gifts. The bill includes proposals to better define gifts for the purposes of identifying conflicts of interest and increases the gift disclosure threshold for conflict of interest to $500, which matches the threshold for Victorian members of Parliament. It will also apply to disclosures in election campaign donation returns and ordinary returns of interest.

At every consultation I attended and even in my own deliberations with local councillors this issue was raised by many as a key concern. People thought that exempting gifts, other than election campaign donations, that were received more than 12 months before a person became a councillor, a member of a special committee or a member of council staff was important, as obviously in many cases members of the public do not know what they will be doing in the future. It is difficult to ensure that or to say that someone has a conflict of interest because of that purpose.

Exempting gifts in the form of reasonable hospitality received by a mayor, a councillor, a member of council staff or a member of a special committee when he or she attends a function or event in an official capacity was probably the point that was most raised by people at the consultations. They felt very much hamstrung about what they could do and the impact on their professional development and on their ability to engage with important members of the community who could help with their knowledge and help them make better decisions. I know as a member of Parliament — and I am sure all members of Parliament would say this — that one of our biggest privileges is that we get to meet a lot of people from a variety of backgrounds who impart to us a great deal of information on a number of topics. We get to learn all the time, which is fantastic.

In regard to club membership, an amendment to the act will provide that membership of a club is not by itself grounds for a conflict of interest. This clarifies the existing intent of the act rather than adding a new rule. But a person will still have a conflict of interest in a matter affecting a club if he or she is an employee or office-bearer of the club or if he or she has some other direct or indirect interest, such as having received an election campaign donation from that club. That clarifies the act. This also came up a lot in the discussions.

Local councillors are active in their local communities. They are people who do not mind sitting on committees and going to meetings; as a rule they are people who are happy to take up the cudgels for their communities

and improve things for them, and obviously sometimes their interest in local government comes from their own participation in community matters. I think recognising this in the legislation will assist many councils in having a reasonable number of councillors who can participate and vote on decisions the council has to make.

Another change applies to council appointees. I wish to clarify one of the statements made by the member for Shepparton in her contribution. An amendment to the act will exempt a person from a conflict of interest that arises from a conflicting duty if the person was appointed to the relevant position as a representative of the council and the person does not receive any remuneration for that position. That amendment replaces a similar exemption for not-for-profit organisations. At this stage things like section 86 committees and buildings and grounds committees that councillors often sit on will be exempt, but things like catchment management authorities and regional waste management committees are not specified in the act, and regulations defining this will be developed following the implementation of this bill. That information will then be more clear. I thought it was important to say that.

It is proposed that the default timing of electoral representation reviews, which is a very important part of this bill, be changed to every third election cycle for each municipality, so the longest period before a change will accordingly be increased from 8 to 12 years. Reviews will still occur eight years apart if a municipality experiences population change resulting in numbers more than 10 per cent above or below the average number of voters, and then a subdivision of the boundaries will be conducted. It is similar, I suppose, to how they decide to review the boundaries of our state electorates when a certain percentage go over those particular figures. The Victorian Electoral Commission will be required to conduct electoral representation reviews; that removes the unnecessary process of separately appointing an electoral commissioner to conduct each review. The VEC will be required to notify councils at least 60 days before commencing any review, which is obviously good for ensuring that councillors know what is happening.

The final area I want to talk is about the proposed amendments to the City of Melbourne Act. Basically the Victorian government is proposing this legislation in order to assist the Melbourne City Council to implement its targets for the environmental upgrade of 1200 commercial buildings as part of its zero net emission strategy. The legislation is only one part of an overall strategy to accelerate the pace of change in the commercial building sector by addressing some of the key impediments to the uptake of most sustainable practices.

The ACTING SPEAKER (**Mr Seitz**) — Order! The honourable member's time has expired.

Mr MORRIS (Mornington) — The Local Government and Planning Legislation Amendment Bill is in large part about fixing up what some might unkindly call stuff-ups — that is probably unparliamentary language — changes to the Local Government Act and the Planning and Environment Act that have not been thought through. It also makes small changes to the Crown Land (Reserves) Act and the Environment Protection Act.

The bill also amends the City of Melbourne Act and implements what I think is an excellent initiative from the City of Melbourne, and I congratulate the Lord Mayor and his councillors for their foresight and commitment to the environment in pursuing the 1200 Buildings project. It will result in retrofitting of a large proportion of the city's commercial stock. I think that is a welcome initiative and one that will be eased along by the legislative changes made by this bill.

As the previous member said, the bulk of this bill is really about conflict-of-interest provisions, but it also picks up changes to the electoral review process, the gifts regime and so on, and of course it picks up the issue that we on this side have been chasing for a long time, and that is the problem of the anomalies under section 55D. I want to acknowledge the usual high standard of briefing we again received, and I thank Mr Gifford and his colleagues for their assistance and of course the minister and his office as well.

As the member for Shepparton indicated, the coalition is not opposing this bill. What is proposed by the minister is a reasonable reflection of the concerns expressed by councils. I would have preferred that these changes occur sooner, but I am certainly pleased the minister has chosen to propose the changes to the house, and I have no problem with what is in the bill.

What is strikingly absent from the bill, though, is any attempt to address the concerns which were presented with such startling clarity by the Ombudsman in his report on Brimbank City Council. I know the Premier said in question time that all issues have been addressed, but we on this side know that they have not been. There was an opportunity with this bill to deal with the problem once and for all. Unfortunately that opportunity has not been taken up. I will come back to that issue if there is time.

During the time the original 2008 changes were in process and eventually being debated by this house, and in the 12-month period immediately following that, the member for Shepparton and I spoke with a large number of councils. Obviously we discussed a lot of matters, some of local concern and some of state concern, but without exception the conflict-of-interest provisions made it onto the table, and they almost always made it onto the table as the first agenda item from the council side. What struck me — and there were some minor divergences — in most of the conversations we had was the unanimity of opinion. Councils knew what the problems were, they knew how to fix them and they knew those things almost from the start.

In my view these problems could have been avoided had the government consulted effectively on the legislation and had it perhaps issued a draft bill and allowed sufficient time instead of the mad scramble — I know there were consultative documents, but they were not the legislation and the two things are not the same — towards the end to get the bill through prior to the local government elections. I could also say that had the minister responded positively early in the piece to the opposition's request for a review that we put on the table because we could see the problem, then a lot of the challenges, to put it politely, that councils have been enduring over the past nearly two years could have been avoided.

The reality is that almost without exception councillors want to do the right thing. Sure, there are sometimes exceptions, as there are in every walk of life. Obviously then you need processes to deal with those people. Most people know what is right, what is wrong and what they should be doing, and they try to do it. I am not convinced that the enormously complex conflict-of-interest provisions and the 70-plus pages of explanatory notes that go with them are the best response and that we have the best operating and most conflict-free form of local government. With the current structure there is a very real risk that councillors can seek to do the right thing but get caught up on a technicality. What appears to be coming through in some of the inspectorate processes would suggest that is the case.

In the report tabled today the Auditor-General identifies the need for local policy support. I think the real issue is that if we have legislation and an explanatory report and the Auditor-General is saying we need local policy support as well, perhaps the legislation and the explanatory information is not the ideal structure. The explanatory information can simply try to explain the legislation, and the fault is almost certainly with the legislation.

People need to do the right thing and be seen to do the right thing. As coalition members are on record as saying, we believe the best way to do that is to have a clear and simple framework and an independent, broadbased anticorruption commission to deal with offenders.

Unfortunately the bill does not greatly simplify the conflict-of-interest provisions, although it certainly improves them to a reasonable degree. It does not increase transparency, and it does not help all that much with reduced complexity, but in many ways the changes codify a lot of the concerns that have been expressed to me by councils. I will not go through the changes, but clause 9 through to clauses 17 or 18 reflect most of the concerns and deal with them.

The other welcome change is to the assembly of councillors provisions. I am on record as saying right from the start that I considered this an excellent initiative. I said during the 2008 debate that perhaps those provisions did not go far enough. It was perhaps a classic example of legislating and not providing sufficient explanation of what was required. While some councils did not go as far as I would have liked, other councils certainly went way beyond.

In talking to officers and councillors around the state, the widest possible and perhaps the narrowest interpretations have been put before us. The widest was a suggestion that three councillors and an officer in a car travelling anywhere could be an assembly of councillors. They went all the way through to the other extreme, where if a meeting was not a scheduled, regular meeting and programmed in advance, then it was not an assembly of councillors.

Clearly there are problems with both those interpretations. The more formal definition is an improvement. I am not so sure about the advisory committee aspect of it, but it probably does not do any harm. Certainly the requirement to report to council and therefore to the public in the minutes of the council the process at any of those meetings is welcome as well.

I welcome also the changes made by clause 26, the extension of the electoral representation review period from two terms to three. If you have a growing area, you need to ensure that the numbers are balanced and reasonable and that that occurs frequently. I am not sure that in other areas, where very little changes from year to year — some might say from generation to generation — you need to put the community to the

expense and through the disruption of going through the process.

I indicated that I would come back to the conflict-of-interest provisions. Unfortunately time is going to beat me. The central point I want to make is that the Labor Party has still not amended its state rules to reflect the intent of changes to the Local Government Act. If you look at the ALP rules of November 2009, you see that not much has changed, and that is a very sad thing.

Mr BROOKS (Bundoora) — I am pleased to be able to contribute to this debate on the Local Government and Planning Legislation Amendment Bill. At the very outset I thank officers from Local Government Victoria for a helpful briefing and those in the minister's officer for helping to organise that.

The bill amends three acts. The first is the Planning and Environment Act 1987, which is amended essentially in relation to the operation of development assessment committees. Those amendments flow from a bill that came through the dispute resolution process that most members would be aware of. The bill also amends the City of Melbourne Act, giving the City of Melbourne the power to facilitate financial arrangements to support environmental sustainability improvements at properties in the city of Melbourne. It also amends the Local Government Act 1989, and I wish to restrict my comments primarily to those amendments.

The amendments made to that act were the subject of much consultation. As has been said, the Minister for Local Government organised a series of round tables for people in local government — mayors, councillors and chief executive officers. I understand that around 100 representatives of about 60 councils attended the different round tables for consultation. In addition, 55 submissions were received in response to a discussion paper on electoral representation reviews and 60 submissions were received in response to discussion papers on conflicts of interest. There has been a very open process of consultation.

Some of the key changes to the Local Government Act include redefining an assembly of councillors. As previous speakers have mentioned and as members who in their role as members of Parliament from time to time meet with local councils will know, it has been an issue that some councillors and council officers have found to be a bit of a nuisance — that some informal meetings are required to be recorded as an assembly of councillors. The changes made by the bill, by which only half the council will have to be present for it to be considered an assembly of councillors that might discuss something that would be a decision of council at a later date, and also an advisory committee, make more sense.

The bill also raises the gift disclosure threshold from $200 to $500. That aligns with the view of the government in relation to members of Parliament. It makes sense that there be the same sorts of expectations of councillors as there are of members of Parliament. The bill exempts gifts other than donations in a campaign period that were received more than 12 months before a person started working with a council, if they are senior officer, or before they were elected as a councillor. That is changed to one year from five years. Again that common-sense change is a bit of finetuning of the existing legislation which might have made things slightly more difficult for the working of some councils.

The bill also exempts reasonable hospitality received when attending a function or event in an official capacity. That again is in line with the government's view for members of Parliament. Essentially that means it would be okay for a councillor to attend a local school — that would be seen as part of their normal duties — but if they received a free night's accommodation from a property developer, that would be an entirely different matter. It is always difficult to define these things in regulation, but this is a pretty good attempt at doing that.

One of the areas I want to focus on is the conflict-of-interest provisions. This bill removes a reverse onus provision which has been in the act for some decades. As a member of the Scrutiny of Acts and Regulations Committee, I know that is an often discussed component of legislation the committee has expressed concern about. In some cases there is probably a justified argument for it, but in this case it is important we remove the reverse onus provision in relation to people who potentially have a conflict of interest.

There is also the requirement that councillors disclose a conflict of interest when they will not be attending a council meeting, something which exists in the current legislation. It is proposed in this bill that that requirement be removed. I want to talk about one example in my local area of difficulties in how this might work. Banyule City Council has just axed a number of school crossing supervisors throughout the Banyule area for a saving of about $30 000 per year from a program it says runs at a cost of about $500 000 per year. It is not a very big saving for an expensive program. This axing occurred despite a community petition which gathered nearly 2000 signatories in June.

One could argue the merits of the decision, but it was a very unpopular decision and there was a lot of community opposition.

The council had been open about the fact that these cuts were coming, but it would not release the hit list of names of the affected school crossings or discuss the criteria for selecting the crossings to be placed on the chopping block. It claimed these cuts were coming because it wanted more funding in the form of a VicRoads subsidy, which requires vehicle and pedestrian counts to be undertaken. It needed to be pointed out to this council that a lot of the counts were over three years old so probably should not have been relied upon. The mayor of Banyule told me two weeks ago that each councillor was going to be asked to nominate one crossing in his or her ward to be cut. I am glad to say that not all the councillors followed that path and a couple of them voted against that approach. This is probably one of the worst examples of local governance I have ever heard of in my electorate. This was a council plotting and scheming the best way to do over a number of local school communities. In my view we saw politics taking over and strangling good policy and the local community interest.

This is where it gets interesting: this week I checked the internet for the minutes of the council meeting to see the names of the 10 school crossings that would be cut. What was quite amazing was that in the same motion that the council dropped the axe on these 10 crossings it also decided to support funding for a new one. It had made lots of noise for many months about cutting supervisors, but it did not mention it was going to include a new one. Incidentally, the new crossing supervisor will be located at a crossing that a Banyule councillor has started to use this year. The community will be quite interested when it finds out about this development.

Let me make it clear that as the local member I support the new crossing and I support the council supporting more crossings in the local area, including some of the ones it has just axed. But to do this at the same time as it was ripping 10 school crossing supervisors from school communities is no better than spitting in their faces. I make the point that a decision to place a crossing supervisor at this new location would not be controversial in any way other than for the animosity and cynicism that the community has for the council on this issue.

I understand the councillor in question was not at the council meeting when this decision was made. Under the Local Government Act as it currently stands I understand he is still required to declare any conflict of interest even if he is not in attendance. The only question in this matter is whether this is technically a conflict of interest. As every fair-minded person would probably conclude, this does represent a serious moral conflict of interest. If the mayor and the councillor that I mentioned, both members of the Liberal Party, which has form when it comes to closing community facilities, had any decency, they would both resign.

The bill before us further improves transparency and probity in local government. Unfortunately there is no way to legislate for decency in councillor decision making. I commend the bill to the house.

Mr HODGETT (Kilsyth) — It is a pleasure to rise to speak on the Local Government and Planning Legislation Amendment Bill 2010, and I state at the outset that the Liberal-Nationals coalition is not opposing this bill. We have all heard honourable members talk about the purpose of the bill, and I wish to restate that in my contribution. The purpose of the bill is to amend the Local Government Act 1989 to improve conflict-of-interest provisions and to amend the City of Melbourne Act 2001 to enable the Melbourne City Council to enter into environmental upgrade agreements — and the member for Mornington spoke on that provision and commended the City of Melbourne on its environmental credentials. The bill amends the Planning and Environment Act 1987 in respect of the establishment of the development assessment committees. It makes recommended legal changes to the development assessment committee-enabling provision in the act due to their rushed passage to enable proper operation — and I will talk a little bit more about that in my contribution. The bill amends the Crown Lands (Reserves) Act 1978 and the Environment Protection Act 1970 to make consequential amendments to those acts, and finally it repeals the Local Government (Consequential Provisions) Act 1989.

Those changes are outlined in the purposes of the bill, but members on this side of the house know the real purpose of the bill — that is, the Brumby government got it wrong and has been forced into yet another embarrassing backflip in relation to local government legislation. During the debate on the Local Government Amendment (Councillor Conduct and Other Matters) Bill 2008, which was rushed through the Parliament, the coalition, under the shadow Minister for Local Government, the member for Shepparton, found a number of anomalies in the bill and asked for a review of the legislation after 12 months to rectify any unintended consequences of the conflict-of-interest provisions. This bill is in direct response to that review.

During the debate on the Local Government Amendment (Offences and Other Matters Bill) 2009 the coalition advised the government that section 55D provided for an offence but no penalty. This amendment bill is to rectify that. The Latrobe City Council was found guilty of breaching section 55D by the Municipal Election Tribunal because it distributed an inappropriate newsletter during the election period but no penalty could be applied. It is common sense. There is no point in having offences if there are no penalties. The bill rectifies that.

The bottom line is the Brumby government has been forced into more backflips regarding its conflict-of-interest provisions, because again it got it wrong, and it continues to get it wrong. It continually rushes local government legislation through this Parliament without proper consultation with local government, which as we know leads to flawed legislation — and this is another example of it. We all have local government areas in our electorates; some members have more than others. We continually hear from our local government councillors of the changes made to the Local Government Act. They are not consulted; the changes are rushed through. The first that local government councillors find out about them is when they read about them or are forced to change their processes and procedures. This is yet another example of legislation being rushed through the Parliament without proper consultation with local government. That continually leads to flawed legislation.

The government rushed through the development assessment committees legislation, and as such it has been difficult to establish a DAC under the legislation. This is yet another example of the Dispute Resolution Committee process being substandard and producing poor legislative outcomes.

The bulk of the bill deals with the changes to conflict-of-interest provisions. I want to discuss as many of these as I can in the time I have available to me to make my contribution to this debate. The bill increases the gift disclosure threshold for conflicts of interest to $500, which is up from $200, exempting gifts other than election campaign donations which were received more than 12 months before the relevant person became a councillor, a member of council staff or a member of a special committee.

The bill exempts gifts in the form of reasonable hospitality received by a councillor, a staff member or a member of a special committee when he or she attends a function or event in an official capacity. The existing exemption is limited to hospitality from not-for-profit organisations. The proposed change will make this provision similar to the exemption proposed for members of Parliament.

The bill clarifies that membership of a club is not by itself grounds for a conflict of interest. A person will still have a conflict of interest in a matter affecting the club if he or she is an employee or office-bearer of the club or if they have some other direct or indirect interest, such as having received an election campaign donation from the club.

Where a person who has a controlling interest in a company has a direct interest in a matter, he or she will be defined as having a direct interest. For example, if a councillor's relative has a controlling interest in a company that has a direct interest in the matter, the relative will be considered to have a direct interest and the councillor will have a conflict of interest.

An interest arising as a result of an impact on a person's residential amenity will be reclassified as an indirect interest. This will mean that a person will no longer have a conflict of interest just because a relative's residential amenity is likely to be affected. However, this will not alter the situation where the relative's property value is likely to be affected. For example, if a councillor's relative owns property that is likely to change in value as a result of a decision, in those circumstances the councillor will still be considered to have a conflict of interest because of the relative's direct financial interest.

The bill exempts a person from a conflict of interest that arises from a conflicting duty if the person was appointed to the relevant position as a representative of the council and does not receive any remuneration for that position. This will replace a similar exemption that was limited to not-for-profit organisations and did not rely on the person being a council representative.

The bill removes the provision that requires a councillor or member of a special committee to make a prior written disclosure to the CEO when he or she has a conflict of interest in a matter to be considered at a council or special committee hearing that he or she will not be attending. This longstanding requirement is unnecessary because the person would not be participating in the decision making. The councillor or committee member may be ill or out of the state at the time and may not know that the matter is being considered.

Mr O'Brien interjected.

Mr HODGETT — I will get to that point shortly. The bill amends the definition of an assembly of councillors where conflicts of interest must be

disclosed. A meeting will be an assembly of councillors if it considers matters that are likely to be the subject of a council decision or the exercise of a council delegation and if the meeting is either a planned or scheduled meeting that includes at least half the councillors and a member of council staff or an advisory committee of the council where one or more councillors are present.

In addition the record of an assembly of councillors will have to be reported to the next practicable council meeting and recorded in the minutes. The member for Mornington also spoke about this issue. We had a ridiculous situation where councillors got together at a community event and were bumping into each other in an unplanned way. It so happened there was a member of staff there, and all of a sudden that was deemed to be an assembly of councillors. That was just a preposterous situation. The coalition's advice to change this has been picked up by the minister and is included in the bill.

The conflict-of-interest rules applying to council staff will be extended to situations where the person is exercising a statutory power or duty of the CEO. This change will apply conflict-of-interest rules to staffing decisions and certain planning matters. A number of councils already apply the conflict-of-interest rules to such decisions. I think that is sensible.

In conclusion the Brumby government got it wrong. It is not often that Labor listens. Labor stopped listening to the community a long time ago. Finally, in this case the minister and the Brumby government have accepted the coalition's advice that this bill reflect sensible and overdue amendments. We are not opposing the bill. It corrects a number of flaws. The government has been forced to do another embarrassing backflip on local government legislation. This will make local government accountability better. It will make the conflict-of-interest bills sensible and easier to apply. We wish the bill speedy passage through the house.

Debate adjourned on motion of Ms KAIROUZ (Kororoit).

Debate adjourned until next day.

LIQUOR CONTROL REFORM AMENDMENT BILL

Second reading

Debate resumed from 28 July; motion of Mr ROBINSON (Minister for Consumer Affairs).

Mr O'BRIEN (Malvern) — It is a pleasure to rise to speak on the Liquor Control Reform Amendment Bill 2010. The opposition will not be opposing this bill. There are some positive aspects to it, but there are also some concerning aspects to it. I plan to use the next 29 minutes or so to go through all those different elements.

The purpose of the bill is to amend the Liquor Control Reform Act in relation to responsible service of alcohol (RSA) training; to require licensees to make free drinking water available; to further regulate licensed premises that provide sexually explicit entertainment — I will call them SEE venues; and to provide for the exemption of certain business types from certain licensing obligations. I will go through those issues thematically.

The bill changes the RSA requirements in the act: it strengthens them in some regards, but it weakens them in other regards. In particular, general, on-premises, packaged and late-night applicants for liquor licences will in future need to demonstrate to the director of liquor licensing that they have completed an approved RSA course in the preceding three years. Staff who are selling or serving liquor in those types of licensed establishments will need to demonstrate that they have also undertaken RSA courses. In addition, there will be a need to complete a refresher course every three years.

This is generally positive. Alcohol is a product that adds a lot to the lives of many Victorians, but it is a product with its downsides. And it is its downsides that unfortunately we see all too often reported in the news on Sunday nights or in Monday morning's papers. We see the results of alcohol-related violence; we see the results of alcohol-influenced motoring; we see the devastation that can wreak. It is a product which has the potential to be dangerous, and for that reason responsible service of it is very important.

I suppose that is why it is interesting that in this bill the government has decided to step up requirements for RSA for some licence types but not for others. I thank the minister's office for a chart which it has provided to me as the shadow minister that sets out current RSA requirements and the proposed requirements under the bill. For example, for a full club licence or a restricted

club licence it says RSA requirements currently apply for a licensee and committee members and that is imposed by way of a condition on the licence. But it is not proposed there be any mandatory RSA requirements. The director will still have an opportunity to impose a requirement that the venue licensee complete an RSA course, but there is no across-the-board requirement.

I understand the government is saying there may be some clubs where that may not be necessary. That may be the case. But, just as for the other types of licences where there is mandatory RSA training, there is an ability to seek exemptions from the director. One would have thought that for the vast majority of clubs with full liquor licences, which means they can trade essentially 24 hours a day and sell alcohol to their members, sell alcohol to guests and sell packaged liquor to members for consumption off premises, in most cases responsible service of alcohol training for their staff would be seen as being appropriate. I would be interested to hear the government explain why it is it feels that pubs should have mandatory RSA training but clubs need not.

There has also been some concern raised about the way in which the administration of RSA is proposed in this bill. Under the bill the licensee is required to maintain a register for all relevant persons, being the licensee and his staff serving or selling alcohol, and that register must contain copies of the RSA certificates proving that the relevant people have undertaken the course in the relevant period. I have consulted with industry on this issue, and I was grateful to receive a letter from Mr Todd Blake, chief executive officer, Victoria Tourism Industry Council, and chief executive officer, Victoria Events Industry Council, as part of the Victorian Employers Chamber of Commerce and Industry (VECCI).

The first thing I note is that Mr Blake says:

> We are disappointed, however, that there was not greater time dedicated to consultation of this bill.

Again I note the government is pretty good at legislating in terms of passing laws, but in terms of making sure that the industry which will be affected by those laws is consulted on them, it tends to drop the ball a little bit. The letter from Mr Blake is a further demonstration of this.

However, in relation to the specific issue of the administration of RSA, the VECCI letter states:

> However, the sole compliance burden for the enforcement of RCA certification/updating MUST not fall on the licensee …
>
> The requirement to keep a copy of each staff member's RSA certificate is unreasonable.
>
> …
>
> The Department of Justice must develop a publicly available licence number system where licensees can hold an RCA licence number only, which is stored on a database accessible to the Department of Justice and Victoria Police for verification.

I understand where VECCI is coming from in relation to this matter. Given there can be quite a high turnover level of staff in the hospitality industry and there might be different sorts of venues that have a lot of different staff who might come on just for a brief period of time, VECCI puts the question whether in those circumstances it would not be better for the staff members to have responsibility for keeping themselves up to date with RSA and to have that recorded on a central database so there is some shared responsibility rather than it all coming down to the licensee of the business.

I think VECCI makes some very reasonable points. I do not think the government has considered that issue; certainly if it has considered it, it has not flagged that in the course of debate, in the second-reading speech or in the bill briefing. It appears that the government has not consulted properly with VECCI on it either. It is a matter that the government should give consideration to. At this stage, while those concerns are legitimate, we are not prepared to prevent the bill from passing on that basis, but we acknowledge the legitimacy of the views put forward by VECCI, and we will keep a close watching brief on these provisions in the bill as they are implemented.

I turn now to the issue of free drinking water. This has been quite a long time coming, and it is a measure that the opposition not only supports but has been calling for for some time. The government first promised a review of guidelines for free water in licensed premises in September 2006, but let me go back a step. In March 2006 the Drugs and Crime Prevention Committee of the Victorian Parliament recommended to the government that it introduce a requirement to provide free drinking water at licensed premises. That appears on page 548 of the report entitled *Inquiry into Strategies to Reduce Harmful Alcohol Consumption — Final Report*. The government's response to this recommendation was that it supported it in principle, and that appears on page 38 of the government response dated September 2006.

Here we are nearly four years later, again on the eve of an election, and the government says, 'We're finally going to move to do something about that free water

issue we talked about four years ago'. One can be a little bit cynical about the government's timing, and one can certainly be a little bit critical about the government's slackness in letting this issue drag on for four long years. In addition to that, the government's policy document *Victoria's Alcohol Action Plan 2008–2013 — Restoring the Balance* of May 2008 says at page 33:

> As the voluntary water guidelines have been in place for four years, the government will assess compliance with the scheme and consider including drinking water requirements as a condition of liquor licences.

We have heard from the government in September 2006 and May 2008, and finally we start to see a little bit of movement at the station on this issue.

We have found that there is a little bit of opposition to these measures from some of the consultation we have undertaken. The Victorian Employers Chamber of Commerce and Industry, in correspondence with me, has posed the question — rather than the criticism:

> We would question whether there is any evidence of the need for regulations in low-risk licence classes.

VECCI's point is a reasonable one — a lot of the lower risk-type venues are the ones that are the first to comply with the voluntary guidelines. The low-risk venues are generally not the ones where there has been any problem with guidelines being complied with. Nonetheless, we think it is an important principle that if a venue is licensed to sell alcohol, then it is appropriate that drinking water be available as well.

The convenor of the Nightclub Owners Forum, Mr Peter Iwaniuk, wrote to me, saying:

> Having readily available free water is likely to further encourage the practice of pre-loading.

I think pre-loading is the phenomenon of drinking a lot at home or elsewhere before you go out for the night — one with which I am not familiar and I am sure that the minister at the table is not familiar with either, but we have heard about it.

I respectfully disagree with the Nightclub Owners Forum on this matter. I do not think the free availability of drinking water at licensed premises is going to have any impact on whether or not people are likely to engage in pre-loading. I understand there may be some economic reasons why nightclub owners may not be keen on this measure, but I think that as a public health measure it is an important one. It is one we support, and we respectfully disagree with the nightclub owners on this issue.

There are a couple of other issues. Drinking water is defined in the bill as 'water that is intended for human consumption'. I asked in the briefing whether a venue could comply with its obligation to provide drinking water by, for example, just sticking a plastic cup dispenser in the bathroom — in the toilets — of a hotel or nightclub. Would the provision of plastic cups that could then be filled up from the sink be sufficient to comply? The advice that came back from the minister's office is that:

> …it will not be acceptable for licensed premises to provide free drinking water by placing plastic cups next to bathroom taps as such water is not intended for human consumption; rather it is provided for hygiene reasons.

I query whether the Victorian Civil and Administrative Tribunal or a court that was interpreting and applying this bill would say, 'You can only have one intention in the provision of water'. I would have thought that there are plenty of bathroom taps where the water comes from the mains — the water is quite drinkable — where you could argue that it is intended for any number of purposes, one of which would be hygiene reasons but another of which could be for human consumption. There is a need for much more clarity in terms of what is expected of businesses to comply with this obligation in the bill.

Given there are fines involved for failing to comply, the government owes it to industry, and also to the public, to be quite clear about how this provision is intended to operate. It should be clearer than it is in the bill at the moment, but given that it looks like the government is not prepared to change that amendment to clarify it, it is appropriate that there be guidelines issued to make quite clear what is actually expected and intended with this provision.

The other hypothetical I raised in the bill briefing was what happens if the participants in the Melbourne Marathon stop by the Imperial Hotel and everybody piles in and says they would like some free water. The requirement of the bill is that it be available to any patron during the times when alcohol is served on the premises. What is a patron? There is no definition of patron contained in the bill. Maybe it is the old lawyer in me who looks for loopholes or ways in which legislation could be used or abused, but I worry that the fact that patron is not defined means this could potentially be open to abuse.

The government has an obligation to monitor how this provision applies, once it is enacted, to ensure that businesses are not unfairly taken advantage of by people who are using it. If a customer who is otherwise there eating or drinking asks for a glass of water it

should be available, and it should be available free of charge. If some random person wanders in off the street and asks for water when they are not intending to be a customer of the premises, that is a different category of situation, and the government should be careful that the provision is not abused.

Turning to sexually explicit entertainment (SEE) — I am pleased that I have got the attention of members now — the government is moving to put liquor licensing fees for SEE venues into legislation. Having read the second-reading speech, it is not quite clear to me why SEE venues are being treated differently, because other forms of licensed venues have their fees set by regulation. It looks a little odd because no policy explanation has been put forward. The main effect of this change seems to be to make it harder to increase fees for that type of licence in the future. When fees are in regulations, the minister and the Governor in Council can issue new regulations that increase fees.

By putting fees in legislation, it appears that the government is making it a bit harder for any future government to increase those fees. I can only assume that the intention is that having increased fees for sexually explicit entertainment venues, the government now wants to provide the SEE industry with protection and certainty that those fees will be harder to increase in the future. That may be the government's reason. I am guessing because it has not been made clear, but I am sure that subsequent speakers from the government's side will be able to shed a bit of light on that.

There is another issue in relation to the SEE provisions in this bill. The way in which sexually explicit entertainment is defined is relatively broad. Clause 4(4) of the bill says:

> … sexually explicit entertainment means live entertainment that may be performed for an audience, by a person performing an act of an explicit sexual nature, but does not include the provision of sexual services within the meaning of section 3(1) of the Prostitution Control Act 1994; …

According to my reading of that in plain terms, you could have an example of a country hotel hiring out a function room for a hens' night for which the ladies present might have hired some entertainment that could well meet the definition of sexually explicit entertainment contained in the bill.

Ms Hennessy — What about a bucks' night?

Mr O'BRIEN — The member for Altona is very interested in bucks' nights. I am sure she could speak about those when she gets the call.

Given that the hens' night might involve hiring some male entertainment that might meet that definition of sexually explicit entertainment, does the hotel then become a SEE venue? This is very important, because a SEE venue pays licence fees in excess of $30 000 every year. It is a crucial distinction. If a venue is hiring out a function room to a group that may hire a male stripper for a hens' night, for example — —

Mr Hudson interjected.

Mr O'BRIEN — The member for Bentleigh is very interested in this question, so I put the question to him: is the venue thereby providing sexually explicit entertainment within the meaning of the bill? It is an important question.

I asked this question in the briefing. The government representatives could not answer it, but they took it on notice and got back to me. The answer I was given was that it was the intention that only those venues that regularly provide sexually explicit entertainment would have to notify the director of liquor licensing. What does 'regularly' mean? Does it mean once, twice, once a week, once a month or once a year? I do not know what it means; I doubt the government knows what it means. However, when the consequences of meeting that definition to a country pub that hires out its function room is that its licence fees jump to over $30 000 per year, I think the government has an obligation to be pretty clear about what it means. I will leave it there, but I do think the government should be clearer about what it intends.

The bill also provides exemptions to certain types of businesses that provide alcohol from the requirement to have a liquor licence. This is evidence of how wrong the government has gotten liquor licensing. This government has messed up liquor licensing from day one, and the changes that were brought in last year have been absolutely horrendous. We saw limited renewable licences go from $97 to $397 — a 300 per cent increase — yet the government claims that:

> The proposed risk-based renewal fees are not considered a burden on businesses …

That is what it said. It said, 'We can jack up your fees by 300 per cent, but they are not considered a burden on businesses'. This is from page 41 of *Liquor Control Reform Regulations — Regulatory Impact Statement*, August 2009. The government said it does not consider those massive fee increases a burden on businesses, yet government members today are saying, 'Actually, we got that wrong. These businesses do not contribute to alcohol-related violence'. We could have told them

that; indeed we did tell them that. We told the government that it was targeting the wrong businesses.

This was not genuinely risk-based licensing; this was just a cash grab.

Now the government has been exposed, and its members come back to Parliament and say, 'Actually florists, butchers, hairdressers and gift makers do not contribute to alcohol-related violence; who would have known?'. The government was wrong. Government members should come in here, admit it and apologise to those businesses that have had to pay inflated fees for the last 12 months. These businesses were told by the government that they were part of the problem. The reason it is not safe to go down King Street late at night is not because of florists, hairdressers, butchers, gift makers or bed-and-breakfast operators.

I will refer to one example. I quote from an article in the *Knox Leader* which I believe is dated 9 March and is titled 'Hampered by grog fee':

> A Knox chocolate cafe selling bottles of wine in gift hampers is being slugged with licensing fees similar to pubs and hotels.
>
> …
>
> The director of liquor licensing almost quadrupled the small businesses' fees from $90 to $397 in line with the government's push to pass the real costs of regulating and policing to licensed venues that contribute the most to alcohol-related harm.

It refers to another business and goes on to say:

> … director of liquor licensing spokeswoman Anita Jonceski said the increased fee for both businesses was less than 1 per cent of their gross revenue and would not cause serious financial hardship.
>
> She said the fee would help combat liquor-fuelled violence and save taxpayers from footing this bill.

Government members should explain themselves. Why was it okay to slug these small businesses? Why was it okay to get it wrong?'. Now they say, 'Give us a pat on the back because we are admitting that we got it wrong'.

Let me talk about something else relating to this matter. I asked the government how much this change would cost government revenue. The figure came back that based on currently licensed businesses that would no longer have to be licensed, the revenue forgone in renewal fees would be $273 103.40.

Isn't that interesting? I remember hearing from the Minister for Consumer Affairs and the Minister for Police and Emergency Services the hysterical comment that our plan to have fairer liquor laws would lead to police officers getting sacked right across Victoria.

Here is a headline from a press release dated 23 February 2010 put out by the government. In the government's usual lucid style the headline is 'Ted Baillieu's plan to sack 120 police exposed'. In it the Minister for Consumer Affairs said the new liquor licence fees would enable the recruitment of 120 extra police. If this is the government's proposition and this is what it is trying to claim against us, then let it explain how many police are going to be sacked as a result of the revenue having been forgone? If we are to take seriously the government's argument that losing the liquor licence fee revenue will lead to police officers getting sacked, it is incumbent on it to stand up and explain how many officers are going to be sacked and where they are going to be sacked from. Maybe it was a lie in the first place; it was another rubbishy bit of Labor hyperbole that had no basis in fact. Either way, the government should explain itself to the people of Victoria.

We support those exemptions, but it is only the tip of the iceberg; this is tinkering at the edges of a fundamentally flawed and unfair system that is not genuinely risk based. The government does not even know how many businesses it is taking out of the liquor licensing net. The press release from the minister dated 7 June gives a total of 629 licensed bed and breakfasts, gift makers and florists which are coming out of the net, but the email from the minister's office tells me that there are 386 bed and breakfasts and 264 gift makers and florists, which totals 650 businesses. So the government does not even know how many businesses are coming out of the net.

Other peak bodies, such as the Australian Liquor Stores Association, have requested that delicatessens be treated similarly to butchers and also come out of the net. We need more than tinkering at the edges; we need root-and-branch reform of Labor's unfair liquor licensing fee system that is hitting community clubs, hitting small businesses and hitting country Victoria. The system is hitting the social glue that keeps the community together and is treating people as though they are responsible for the fact that you cannot safely walk down King Street because the Brumby government will not provide enough police. That is what we need to do. This is tinkering to improve the system. While taking some of these businesses out of the unfair licensing system is a step forward, it is just an inch down a long road, because this government has taken us a long way down a bad road when it comes to public policy on liquor licensing.

There are some other amendments in this bill, which I will turn to briefly in the 3 minutes that remain to me. One of them relates to what the government has termed 'housekeeping'. It removes the definition in the Liquor Control Reform Act of 'relevant police member' and substitutes it with the term 'member of the police force'. That is particularly relevant when it comes to the issue of banning notices, because under the Liquor Control Reform Act relevant police members had the power to issue banning notices. This is an important mechanism. Because we assumed that not all members of the police force are 'relevant police members' within the meaning of the act, we thought that this change would lead to more police officers having the power to issue banning notices, which would be a good thing.

In the briefing we asked the minister how many extra police officers would have the power to issue banning notices as a result of this amendment. The answer was, 'We don't know'. They had no idea whatsoever. They said, 'This is just some sort of administrative thing', but it is not an administrative thing; it will actually provide more police officers with the power to issue banning notices under the Liquor Control Reform Act. You would have thought that a competent minister might have had an idea as to exactly how many extra police were being given those powers. You might have thought the minister might even want to have a chat to the police commissioner and ask, 'Are you aware that these officers will now have powers they did not have previously, and can you please let them know about it because we want to see a bit more work done to try to clean up our streets?'. But, no, the government did not even consider that; it has no idea how many extra police are going to have these powers as a result of the amendments in the bill. It just sums up the problems we have with this government. It just lurches from crisis to crisis. It does not know what it is doing. It does not bother doing its homework. It is no wonder that liquor licensing is in such an absolute mess in this state.

There are a number of measures in this bill that we support, particularly in relation to the stepping up of the responsible service of alcohol training, but we think there are gaps that remain. We are supportive of the moves to have free water in licensed venues, but again we note these measures are four years overdue. The government should be clearer about what it is trying to do with the sexually explicit entertainment amendments. There is a lingering concern that the government may be trying to provide for the industry some sort of protection from any further price increases. I would be happy if the government would answer that. That there are exemptions for certain types of small businesses just shows exactly how far the government has had to go to try to fix up its fundamentality unfair, non-risk-based liquor licensing system.

Mr HUDSON (Bentleigh) — It is a pleasure to speak on the Liquor Control Reform Amendment Bill because it makes some refinements to the Brumby government's risk-based licensing fee structure. It is a structure which is fundamentally sound, a structure which works for our community, a structure which reflects the risks that are associated with alcohol-related harm and — notwithstanding the rhetoric from the member for Malvern — a structure which ensures proper compliance with our liquor laws and proper policing on our streets.

The bill will exempt businesses from the need to be licensed where the supply of liquor is incidental to those businesses. They include bed and breakfasts, hairdressers, florists, gift makers and butchers. The bill also strengthens and extends the training requirements for the responsible serving of alcohol, requires the provision of drinking water in licensed venues to reduce the potential for intoxication and regulates venues that provide sexually explicit entertainment. I would have thought they were all worthwhile amendments. The member for Malvern has a somewhat grudging inability to recognise the value of those amendments, but nevertheless this is good legislation and a good bill.

We all know the harm that can be done by alcohol and alcohol-related violence. That is why we have introduced the measures in this bill to further tackle those problems. A year ago we introduced a compliance unit to free up police resources so police could focus on serious breaches of the liquor licensing laws and public safety. Despite the disparaging remarks of the member for Malvern in this and previous debates, the fact is that this liquor compliance unit has done its job. The member for Malvern has previously described the liquor compliance unit as 'bureaucrats with biros'. I think those were the words he used. He said we needed 'cops with cuffs'. The fact is that through the government's reforms not only have those bureaucrats with biros been very effective but we have also delivered the cops with cuffs. Those bureaucrats have had a significant impact. The compliance directorate can issue on-the-spot fines for serious breaches of liquor laws and initiate criminal proceedings against repeat offenders. Despite the disparagement of the member for Malvern, it has had a significant impact. The compliance unit has undertaken 27 000 inspections of licensed premises, and it has identified over 15 000 breaches of the liquor laws. That is a significant result by anyone's measure.

Since that compliance unit was launched a year ago it has issued over 350 infringement notices for the breaching of the liquor licensing laws, including 173 for supplying liquor not in accordance with a licence. It has issued over 1700 warning notices, which can result in fines for repeat offenders.

Mr O'Brien interjected.

Mr HUDSON — The member for Malvern cannot make up his mind as to whether we should be putting these resources into a compliance unit or not. The fact of the matter is that we have better compliance with the liquor licensing laws now than we have ever had before. The reason we have is because we are putting more resources into it — resources that the member for Malvern says should be paid for by the taxpayers, the people who profit from and have the privilege of having a liquor licence and who are able to sell liquor from their liquor licensed premises.

We stand in a very different position from the opposition because we believe those premises with liquor licences should pay for that compliance, not the taxpayers. We know that alcohol-related harm has already cost Victorian taxpayers $366 million per year. We know that that is a cost borne by the taxpayers, and the cost of regulating these licensed premises should be borne by those who profit from the liquor they sell.

Let us have a look at the other things this government has put in place which the opposition does not support. It has — —

Mr R. Smith interjected.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member for Warrandyte is out of his seat and is being disorderly.

Mr HUDSON — That is right. They are being drunken and disorderly. The opposition has not supported the Brumby Labor government's attempts — —

Mr R. Smith — On a point of order, Acting Speaker, I take offence at that comment, and I ask the member to withdraw.

Mr HUDSON — I withdraw; he is just being disorderly. The opposition has not supported our ban on dangerous and tasteless drink promotions. It has not supported us in strengthening the director of liquor licensing's power to declare targeted lockouts. It has not supported us in strengthening the director's power to vary or suspend liquor licences for problem venues. It has not supported us in giving police the power to issue banning notices to remove patrons from venues and entertainment precincts. It has not supported us in introducing a compliance directorate to free up police resources.

What the member for Malvern basically says is, 'You should not have increased these liquor licensing fees'. The opposition has put out press releases saying, 'You should not have dramatically increased these liquor licence fees'. These fees pay for the liquor licensing directorate, and they pay for the 120 extra police who are in our entertainment precincts.

Mr O'Brien interjected.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member for Malvern has had his go.

Mr HUDSON — It is very clear that the opposition has not supported the risk-based liquor licensing fee structure introduced by the government; that is a clear division between us and the opposition.

We on this side of the house say that those who profit from the sale of alcohol, those who have the privilege of holding a licence, should pay for that compliance. We are very clear about that. The opposition, it appears, wants to pander to a few liquor licence-holders, wants to appear to be on their side — not on the side of the taxpayer and certainly not on the side of a government which is cracking down on alcohol-fuelled violence.

The opposition wants to scrap that risk-based fee system. We had the member for Malvern criticising it again today. He said, and I quote, we are 'tinkering at the edges of a fundamentally flawed system that is not genuinely risk based'. That is what he said. The member for Malvern has proposed no amendments to the Liquor Control Reform Amendment Bill — none whatsoever. He has not put one amendment on the table.

The member for Malvern says the bill needs root-and-branch reform and yet he does not move a single amendment. Either he does not have the courage of his convictions or he is full of rhetoric. He is full of wind. He comes in here and he makes broadbased statements, but he is too lazy to develop any amendments, to move amendments to a bill which he says is fundamentally flawed. He is either too lazy to move any amendments or he does not really have the courage of his convictions. He has not put up amendments because he knows in his heart that we need a risk-based system. He knows that basically what we have got in place is a risk-based system — a risk-based system that works.

The member for Malvern also sought to criticise the government over the amendments relating to the provision of free water. The fact of the matter is it was this government which in 2003 entered into a voluntary agreement with the industry around the provision of free or low-cost water in licensed premises. That is what we did. And we gave the industry the opportunity — —

Honourable members interjecting.

The ACTING SPEAKER (**Mr K. Smith**) — Order!

Mr HUDSON — We gave them the opportunity over time to make that work.

Mr Burgess — Tell them to behave then.

The ACTING SPEAKER (**Mr K. Smith**) — Order! The member for Hastings!

Mr HUDSON — We were prepared to see if self-regulation would work. The fact of the matter is there were far too many breaches of that voluntary code. That is why we have introduced these legislative provisions in this bill. I think it is clear that the attitude of people like David Butten of the Melbourne Nightclub Owners Forum, who said drug dealers and bottle shop owners would be the biggest winners from the plan to provide free water in all licensed premises, is unacceptable. That is an attitude we do not agree with. That attitude has resulted in us bringing in the free water provisions in this bill. I commend this bill to the house.

Mr CRISP (Mildura) — I rise to make a contribution to the Liquor Control Reform Amendment Bill 2010. The Nationals and the coalition are not opposing this bill.

The purpose of the bill relates to the completion of approved responsible service of alcohol programs. It is also to require licensees to make free drinking water available to patrons on licensed premises where liquor is consumed, to make provision in relation to licensed premises that provide sexually explicit entertainment, and to provide for an exemption of certain classes of businesses from the requirements of the principal act.

In order to make this happen, the act exempts from holding liquor licences certain small businesses such as bed and breakfasts, butchers, florists, giftmakers and hairdressers. It makes mandatory that all licensed venues provide drinking water and increases the licensing regime for those venues that provide sexually explicit entertainment from a base fee of $30 667 up to $61 334 for those venues with a poor compliance history. It requires licensees who intend to provide sexually explicit entertainment to notify the director of liquor licensing. It also tightens the requirements for the responsible service of alcohol program by requiring businesses to keep a register containing responsible service of alcohol details.

The bill comes as a result of coalition pressure to exempt businesses from the high costs of licensing. However, it still does not deal with small outlets selling packaged liquor, which continue to struggle under the licensing regime of this government. An example is the Hattah Lakes Store. Alex Dowsley has been good enough to send me a letter on this issue. For those who do not know, the Hattah store is about 50 or 60 kilometres south of Mildura in the Hattah-Kulkyne National Park. Alex writes:

> We operate a general store in a small and remote rural community (adult population 12), which includes a packaged liquor licence as a part only of our business with liquor turnover in 2009–10 just under 13 per cent of gross turnover.
>
> Last year … our packaged liquor licence fee was $249.90, including the condition of being permitted to trade on Good Friday at no extra charge. This current year (2010), without any changes to conditions or times, the fee is $6360.

They applied for a reduction in the fee on the grounds of hardship. Although approved, it only reduced the fee to $4770.

Mr Weller — For 12 people!

Mr CRISP — Yes, for 12 people; I hear the interjection. This is amazing. Therefore, they had no choice but to further reduce their trading hours, abandon the Good Friday service to campers and visitors in the national park and get a base fee of $1590. He writes:

> Our payment of the $1590 base fee has reluctantly been made under duress as we believe the fee schedule in its current form is most unjust, and in our case, has caused financial hardship. Considering the servicing of our customers, we cannot afford not to have a licence; financially we can barely afford to have one.

Things are difficult in Hattah, but the store does provide a service, and it is on the highway. Alex Dowsley wishes to register his displeasure, and I wish to reinforce that displeasure at the injustice of the fee structure. His letter goes on:

> We have been told that the financial hardship judgement is made on the total business turnover and not that of the liquor content only. Our store and other similar stores I believe should be judged/classified as a general store with a packaged liquor licence as a part only of their business.

In this case, as I said earlier, it is 13 per cent of the figure. Here is the crunch:

> The business net income for the financial year ended 30 June 2009 was $12 458.

That figure means that 12.76 per cent of the total income will go on the liquor licence.

The Hattah store is making its contribution. As the member for Bentleigh so eloquently said in his speech, this is about extra police. Those extra police and a risk-based system must at the moment have the Hattah store staked out to see what is happening out there.

The Hattah store was in touch with me only a day or so ago to help me with this. I received a text message from the Dowsleys which is rather amazing. It reads, 'Today's alcohol takings $54 from eight customers. Alcohol-fuelled violence rampant in Hattah'. That extra police officer we have down there must be keeping an eye on those people who bought that $54 worth of alcohol from that place, because it is a risk-based system, and that risk-based system is not working for small country outlets.

The impact of changes in relation to completion of responsible service of alcohol (RSA) programs, requiring more frequent updating, means people will need to travel to do the courses, which I understand cost about $75 at TAFE. The provisions relating to responsible service of alcohol are fairly extensive. The bill provides that a director of liquor licensing must not grant an application for general on-premises packaged liquor or late licences unless satisfied that the applicant has completed an RSA course.

The member for Malvern went through some of the difficulties we see with clubs and restaurants being exempted, which then brings me to the provisions relating to bed and breakfast businesses. Florists, gift makers, hairdressers, butchers and bed and breakfasts are exempt; however, bed and breakfasts are interesting in that when it comes to responsible service of alcohol they must have completed RSA training. You can go to the hairdresser's and have a glass of wine — although I would not stay long enough at the hairdresser's to enjoy a glass of wine — and the person who serves you does not have to have done an RSA course. However, in a bed and breakfast facility the proprietor and everyone there must have done responsible service of alcohol training.

This raises the question why this was done. One's mind can only wonder how someone is going to be responsibly served alcohol in a bed and breakfast. Most bed and breakfasts leave a bottle of wine in your room. If it has a spa, they may even leave a bottle of champagne at the spa. Are there going to be three people in the room? Do not mind the third person; they are just there to see that you are consuming the alcohol responsibly. It is just not going to work. I do not know how this RSA requirement is going to work in a bed and breakfast. If that is the meaning of responsible service, then I think our friends in the bed and breakfast industry are going to be very concerned, because I can see that extra person just standing there saying, 'Don't mind me. I'm just here to make sure you don't abuse the alcohol'.

I have gone through the various measures in the bill. Quickly, I think drinking water is an essential part of providing a service. We have been talking about it, and the government has been promising it since 2003; its delivery is long overdue. It means that people who are out at night have the choice of having something other than alcohol to steady and slow their drinking. The government should then support some of the other programs on responsible ways of drinking.

Our area of concern remains that the bill constitutes the Brumby government's failure to implement a genuine risk-based liquor licensing system, and this has fallen hard on those small country stores that are the last bastion of communities. In many places that is all that is left for the community, and the liquor licensing system is eating away at that strongly. It constitutes a belated acknowledgement that the government has made some huge errors in the other areas, particularly with the butchers, the gift makers, the florists and even the bed and breakfasts. There is a lot more to be done in getting this legislation right. This has been a troublesome piece of legislation, and it needs further reform, particularly for the sake of country Victoria.

Mr TREZISE (Geelong) — It is a pleasure to be speaking in support of the Liquor Control Reform Amendment Bill 2010 because it once again highlights the Brumby Labor government's commitment to ensuring there is relevant and effective control of our liquor and hospitality industries when it comes to liquor licensing, in turn minimising alcohol-related violence and other antisocial behaviour.

I speak in support of this bill not only as a member of this government but also as a father, as do a lot of members on both sides of this house. I have two daughters, one 18 and one 20, who now enjoy a Saturday night going out with friends to Geelong nightclubs. As this house is well aware, the issue of alcohol-fuelled violence and antisocial behaviour is not limited to metropolitan Melbourne. In country centres like Geelong — the member for Bellarine, who is at the

table, well and truly realises this — and the regional areas of Ballarat, Bendigo and Warrnambool, and the list goes on, the issue of safety on our streets and in our nightclubs is also of great importance. This issue is not limited just to metropolitan Melbourne.

In Geelong all stakeholders have taken an active partnership approach to the issue of alcohol-related harm. When I say 'stakeholders' I am referring to the local police, who have done a great job especially over the last three or four years; the City of Greater Geelong in partnership; the nightclub owners — I must commend the Geelong nightclub owners, the vast majority of whom have come on board; and others like the taxi industry. All of these stakeholders have come together in recent years and are effectively addressing the issues. The legislation before us tonight will only help to reinforce this great local work that is being done and support the initiatives that have been introduced in the central activities area of my electorate in Geelong.

For example, in the last 12 months local nightclub operators in Geelong have introduced ID scanners as a proviso to entering their clubs. It is an effective initiative in relaying the message to troublemakers that if they do muck up, their chances of being identified and therefore caught are very high indeed. We have seen a number of examples of troublemakers being caught following recognition of their ID through scanners. The clubs have also introduced a system of communication between them and are banning troublemakers as they make their way between venues in the main streets of Geelong. This type of initiative, in conjunction with new police powers this government has introduced over the last couple of years to ban troublemakers from nightclub areas and issue on-the-spot fines, has helped reduce antisocial and violent behaviour. The legislation before us tonight benefits the work that has been done in the past not only by this state government but also by stakeholders right across the industry.

Other local initiatives in Geelong have also reduced alcohol-fuelled violence. For example, the *Geelong Advertiser's* Just Think campaign is one initiative, as is the important Operation Nightlife, which was introduced by Victoria Police two or three years ago and was led by Wayne Carson of the Geelong police. I congratulate people like Wayne Carson and Superintendent Peter O'Neill, who are doing a great job in our area of Geelong. However, there is always more that can be done and more that has to be done. The bill before us is a big step forward in controlling the issues that relate to the serving of alcohol.

Initiatives in the bill like the extension of requirements for the responsible service of alcohol training, the availability of free water in nightclubs and the exemption of businesses like bed and breakfasts, florists and gift makers, are all issues that have been raised with me by constituents — individuals and small business operators — over recent years. For example, I have lost count of the number of people who have come to me — and no doubt they have come to people like you as well, Acting Speaker — and raised the idea of free water being available in nightclubs. It is a common-sense idea that should have been introduced a number of years ago, and I commend the minister for taking this step.

When they go out to have a few drinks the majority of young people do the right thing when it comes to drink-driving. They take the initiative and nominate a designated driver before they go out. This arrangement is a great idea. The availability of free water will only reinforce that and encourage young nightclubbers to do the right thing. When it comes to responsible drinking, the availability of free water will also encourage young people to balance their alcohol intake with water. I fully support that step, and I know the wider community fully supports that step as well.

In the last 12 months a number of small businesses, specifically based in Pakington Street in my electorate, have spoken to me with regard to complementing their main source of business through small sales of alcohol, mainly champagne and wine. For example, as other speakers have noted, through this bill gift shops and florists that make up presentation or gift packages which contain a bottle of wine will be exempt from the requirement to be licensed if a number of requirements are met. A couple of small businesspersons who raised this issue with me made their point loud and clear — and I made sure I relayed their concerns to the minister. I am pleased to see that the minister has listened to concerns from people like me and has acted on those concerns through this legislation.

I also commend the minister on his initiative to extend the responsible service of alcohol (RSA) requirements within the industry. The RSA program has proven to be effective in ensuring that people who are working behind the bar serving alcohol are well versed in their responsibilities in serving alcohol to customers. I commend the minister on extending the RSA program further into the industry to include those working in venues like pubs, clubs and restaurants and tightening up the program through, for example, the requirement to maintain a register of RSA training that has been completed at a premises. This is important legislation. It takes further steps forward in minimising the problems

we have with alcohol-fuelled violence and antisocial behaviour. I therefore commend the bill to the house.

Ms ASHER (Brighton) — I too want to make a couple of comments on the Liquor Control Reform Amendment Bill 2010. As has already been indicated by the member for Malvern, we are not opposing this bill. The bill looks at a range of provisions on the responsible service of alcohol, matters relating to sexually explicit entertainment, free drinking water and a range of other issues. However, I wish to concentrate my remarks on the small business exemptions the government has brought to the house in this bill in my capacity as the shadow Minister for Small Business.

I want to refer to the clauses that give fee relief to small businesses, but I also want to outline the route by which the government has got there, which is not a consistent one. Clause 6 relates to an individual bed and breakfast — and there are provisos attached to this; it is not for large bed and breakfasts, it is for small ones — provided the business does not provide accommodation for more than eight adults at any one time, with a range of other provisions ensuring that the bed and breakfast does not provide alcohol to minors, and so on. So small bed and breakfasts will get licence fee exemption.

At clause 6B the government has provided for an exemption for a florist or gift maker, using the bill's terminology. That is defined to mean businesses such as hamper shops and the like which only supply liquor that is packaged together with flowers, food or other gifts. It also requires that the business or the proprietor of the business purchase the liquor on a retail basis. Further provisions set out that not more than 1.5 litres of liquor is to be supplied to each recipient in any one day and that the value of the liquor in its container is to be not more than 50 per cent of the total sale price of the supplied items. Some larger liquor hamper suppliers will not be covered by the exemption, but clearly the government's intention is to give this exemption to the very small gift makers, hamper makers and florists where the sale is incidental or ancillary.

Likewise in clause 6C there is an exemption for hairdressers under particular circumstances. Clause 6C spells out that the liquor must be consumed on the business premises, the liquor must be supplied without charge and the supply of liquor must be ancillary to the provision of hairdressing or barber services. I can attest to the fact that there are many hairdressers who wish to supply a glass of champagne or wine while people have their hair done. That is a common occurrence in the Brighton electorate; I know you like to make reference to the Brighton electorate, Acting Speaker. The previous small business minister actually allowed hairdressers the opportunity, should they want to, to apply for a liquor licence. This exemption for incidental supply is a good step forward.

Clause 6D allows for an exemption under certain circumstances for butchers, and it is articulated and clearly spelled out in the bill that the liquor is to be supplied in sealed containers, bottles or cans for consumption off the business premises, as opposed to the hairdresser example, and that not more than 1.5 litres of liquor can be supplied to any recipient in any one day.

Those are the specifics of the small business exemptions the government has included in this bill. The government's rationale for this is detailed on page 3 of the second-reading speech as distributed in the chamber. To summarise the government's position — I hope fairly — I note that the government reports there have been 25 000 inspections and basically the compliance directorate that has undertaken these inspections has indicated that for the businesses I have just outlined the supply of alcohol is absolutely a 'small and incidental part of their operations', to use the expression in the second-reading speech.

The second-reading speech makes great play of this in saying, and I quote:

> This bill will therefore reduce the financial and regulatory burden on these businesses.

In itself that is a good thing, and again the bill spells out the manner in which these exemptions will be applied, with businesses advising the director of liquor licensing that they intend to do this. Obviously there will be an obligation to comply with the law in order to take advantage of this exemption. However, in this contribution I wish to make the point that the government's self-congratulatory sentence about the bill reducing the financial and regulatory burden on these businesses was not its starting point on this particular matter. Members would recall that there was a bill before this house not so long ago which would have had a completely opposite financial consequence to the one the government is presenting to this house now. We debated a bill previously which sought to increase the liquor licensing fees for businesses such as the hamper shop I instanced previously. The government was strident at that time in its claims that the increase in liquor licensing fees was meant to deal with risks, and on this side of the house we made the point over and over again about these small traders, many of which are located in country Victoria. I certainly saw an instance of a small hamper shop in my own electorate which sold wine sealed in hampers. It was my view that that was not the cause of

alcohol-fuelled violence, and indeed that sentiment was echoed by many people on this side of the house.

The government proceeded with that previous bill and had the effrontery to produce a regulatory impact statement — and the member for Malvern made much comment on this at the time — which made the ridiculous claim that these increased licence fees would not impact on business. I have seen some pretty stupid regulatory impact statements in my time in this place, but this was the most stupid of all — to actually claim that an increase in liquor licensing fees would not impact on small business is an absolute joke and typical of the way this government has handled small business.

However, we have here a complete change of heart. We have some exemptions, which, as the member for Malvern said, obviously indicates that the government's approach at the time was wrong. I suspect this approach has more to do with Mark Brennan being installed as the director of liquor licensing than it has to do with the Minister for Consumer Affairs actually understanding cost implications on small business. We moved for the regulations which were envisaged under the previous bill to be disallowable by either house, and again I refer to that abysmal regulatory impact statement which was part of that debate.

I am very pleased to see these exemptions to small businesses in very targeted circumstances, and I would applaud anything that reduces cost burdens on small businesses and allows small businesses to grow, flourish and create employment. These are desirable features that are always supported on this side of the house. However, they are not always supported by the other side of the house, and this government has a pattern of behaviour which impacts on small businesses negatively.

I could instance the government's clearways policy. The government has devised a transport-traffic policy that has absolutely killed the small businesses impacted by it. Again, there have been a number of studies showing the economic impact of that, but I digress.

I am simply making the overall point that the approach in this bill, which does reduce some of the cost impact on small business, is not the government's general approach, and it certainly was not the government's approach to liquor. Previously the government increased substantially the fees on very small businesses. Government members in this chamber and the other place argued that those businesses posed some risk on the streets of Melbourne in terms of fuelling violence generated by alcohol.

The government was wrong previously. I am pleased to see the government has at least had the guts to admit it was wrong. I am pleased to see something that advantages small business. But the government still has a long way to go before it can be seen as small business friendly.

Debate adjourned on motion of Ms HENNESSY (Altona).

Debate adjourned until later this day.

CONSUMER AFFAIRS LEGISLATION AMENDMENT (REFORM) BILL

Second reading

Debate resumed from 28 July; motion of Mr ROBINSON (Minister for Consumer Affairs).

Mr O'BRIEN (Malvern) — The Consumer Affairs Legislation Amendment (Reform) Bill 2010 is an omnibus bill. It constitutes the second tranche of reforms arising from the consumer affairs legislation modernisation project. The opposition has gone through the various amendments proposed to be made by the bill. We support some of them but others are of sufficient concern to us that, while we will not oppose the bill in the Assembly, we will reserve our position on it in the other place while further consultation is undertaken with relevant stakeholders.

Mr Foley — Coward!

Mr O'BRIEN — We on this side of the house actually care about issues such as housing affordability, and from his interjection the member for Albert Park obviously does not. I am very happy to have that debate with the government about housing affordability, which I will come to in due course.

The bill amends or repeals a number of different acts. Given the limited time the government provides for debate on these sorts of matters, by necessity I will have to be extremely brief in dealing with particular issues. I will go through them thematically.

The first deals with uncollected goods. The bill repeals the Disposal of Uncollected Goods Act 1961 and amends the Fair Trading Act 1999 to introduce a new framework for disposing of uncollected goods. It clarifies how a person can dispose of goods that have been left in the possession of that person but not claimed. We are advised by the government that the Victorian Automobile Chamber of Commerce has highlighted problems in how the current legislation

operates so the government has decided to adopt an approach that is based on the New South Wales model. Given the absolute shambles of that government, I hope this government, which is not too flash itself, does not take too many pointers from New South Wales. In this instance, the proposed disposal regime seems to have some merit.

The amended Fair Trading Act will apply to all uncollected goods rather than just those left for repair or treatment. The bill also removes the requirement for obtaining a court order before disposing of goods. A provision in the bill permits a party to seek a court order for the disposal of goods, which is presumably in circumstances where a party may wish to ensure that there is court supervision of an action and there is no question at all about the right of the person disposing of those goods to do so.

The regime proposed by the bill places different obligations on the parties seeking to dispose of uncollected goods depending on the value of the goods. Three tiers are proposed. The first is for low value goods, which are described as being worth less than $200; the second is for medium value goods, worth between $200 and $4999; and the third is for high value goods, described as being worth $5000 or more. As one would expect, there are more onerous obligations on those disposing of high value goods. In particular I note that the party disposing of high value goods is required to sell them via an advertised public auction. The bill also allows for relevant charges that are incurred to be recouped from sale proceeds, and again that seems to be sensible.

The bill provides that the common law relating to bailment of goods remains in force to the extent to which it is not affected by part 2. That is a sensible provision because over the years a significant body of common law on bailment has been built up. It is one of the issues that we spent a little bit of time on in contract class in law school. I would hate to think that all those other lawyers and those interested in the law, such as the member for Brunswick, who have probably gone through those sorts of issues might have thought that it was all for nought. They will be delighted to hear that the common law in relation to bailment still remains.

As I indicated, the bill requires that high value goods be disposed of by way of a public auction which has to be advertised at least seven days in advance or held over a period of at least seven days. That is useful to the extent that modern platforms such as eBay can be used to sell such goods.

Moving on, the next element of the bill is about the regulation of introduction agents. The minister stated in his second-reading speech that this reform follows Productivity Commission recommendations that occupations licensed in only one or two jurisdictions be repealed. The Productivity Commission made those recommendations as part of its assessment of the national consumer framework. As a result, the government is repealing the Introduction Agents Act 1997. However, it is essentially re-enacting the vast majority of those provisions in the Fair Trading Act, so it is reasonable to ask exactly how compliant the government is being with the Productivity Commission's recommendations.

One significant change in the regulation of introduction agents is that the bill moves it to a negative licensing system. Rather than an introduction agent having to go through a process and be licensed by the business licensing authority, anybody can carry on business as an introduction agent as long as they are not disqualified from doing so according to the various criteria set out in the bill. Those criteria include being under 18 years of age, or being insolvent under administration or having been found guilty of a serious offence or an offence under the Introduction Agents Act or an equivalent offence in another jurisdiction within the past five years. There are also some further prohibitions. Another is being a licensee or an approved manager under the Sex Work Act 1994. It would be pretty useful for there to be a quite clear dividing line between introduction agents and sex workers, so that is an appropriate prohibition.

The other matter I note is that the bill records a number of exemptions for people who are not considered to be introduction agents. Proposed section 93AK contains an exemption for organisers of dances et cetera. I asked the government whether organisations that arrange speed dating and the like would be covered by that exemption, and the government said it was not entirely sure. New section 93AG(1)(b) provides exemptions for activities with a community purpose and that a party will not be considered to be acting as an introduction agent where:

> (b) the net proceeds from the activity are solely applied (or to be applied) to furthering that purpose.

Whether it is done for profit but for a community benefit or in a not-for-profit way will determine whether or not that activity is caught by these provisions in the Fair Trading Act.

The bill deals with limiting accommodation providers' liability. The current limits on strict liability for accommodation providers were set by legislation in

1970. Forty years on it may well be the case that those limits should be updated. Strict liability has been applied to some extent for accommodation providers on the basis that if you are a visitor or tourist in Australia or Victoria and you lose something or something is taken from your room and you are only going to be in the country for a week, you do not necessarily have the opportunity to issue proceedings to recover moneys from the accommodation provider. Imposing a regime of strict liability on accommodation providers was seen as a method of encouraging tourism and providing an opportunity for redress by tourists who might otherwise lose their legal rights by reason of being out of the jurisdiction before having a chance to issue proceedings to reclaim the value of what they had lost.

In 1970 the limits for strict liability were set at $100 for goods not in safekeeping and $2000 for goods in safekeeping. These limits applied provided the accommodation displayed the required signage. It is interesting that the government proposes that the $100 limit on strict liability increase to $300 and the $2000 limit where goods are provided for safekeeping increase to $3000. We have gone from $100 to $300 and from $2000 to $3000. Those limits were set in 1970. The government believes that over a period of 40 years the limit should increase by only 200 per cent in the case of unsecured goods and by 50 per cent in the case of secured goods. I am not sure what the maths of members opposite is like — when you look at things like the myki ticketing system and smart meters you can draw your own conclusions — but I would have thought those limits will not keep pace with inflation. I understand the government has decided they are appropriate limits, and we will not oppose them.

The bill provides for the consolidation of the sale of goods by repealing the Sale of Goods (Vienna Convention) Act 1987 and the Sea-Carriage Documents Act 1998 and amending the Goods Act 1958, and it repeals the now redundant offence of signing an untrue bill of lading. Those provisions are quite involved and detailed, but since there is no substantive change involved in the measures, it is probably better to move on in the limited time available to discuss other matters.

One matter I am very keen to spend a little bit of time on is part 4 of the bill, which relates to debt collection. Once the federal Australian Consumer Law takes effect it is going to prohibit certain general practices in relation to debt collection and repossession. However, what the government is doing in this bill is providing for the prohibition of specific practices in relation to debt collection in the Victorian Fair Trading Act. New section 93M(2)(a) specifies particular prohibited practices such as the use of physical force or undue harassment or coercion. When I see the term 'undue harassment' it always makes me wonder what 'due harassment' is, because the use of the term 'undue harassment' presupposes there is an appropriate type of harassment. I suppose the very nature of debt collection is telling somebody who owes money that they have to pay up, and that might be regarded as a form of harassment no matter how you do it. It is an interesting turn of phrase that 'undue harassment' is referred to as a 'prohibited practice'. It presupposes that there is something that is an acceptable level of harassment.

After paragraph (a) the new section continues:

> (b) entering or threatening to enter a private residence without lawful authority;
>
> (c) using any threat, deception or misrepresentation to obtain consent to enter a private residence;
>
> (d) refusing to leave a private residence or workplace when requested to do so;
>
> (e) doing or threatening to do any act that may intimidate a person or a member of that person's family;
>
> Example
>
> Carrying a firearm within the meaning of the Firearms Act 1996 or a dangerous article within the meaning of the Control of Weapons Act 1990.

I have no doubt that the example provided would qualify within the meaning of paragraph (e), but I suspect that would be at the more extreme end of the scale. There would be a lot of other activities that could potentially be covered by that paragraph.

The new section continues:

> (f) doing or threatening to do any act that may expose to ridicule a person or a member of that person's family;
>
> Example
>
> Parking a vehicle outside a debtor's private residence that displays information that a person is engaged in debt collection.

That example raises some interesting hypotheticals. Does this mean that a debt collector's car cannot have any indication of where it is they work, because if they were to park it outside the front of the house of somebody they were visiting to discuss a debt issue, that would fall foul of new subsection (2)(f)? If that is the case and the debt collector then parks next door, does the neighbour then have a cause of action? It may not even necessarily be the debtor, because the bill refers at paragraph (f) to:

> doing or threatening to do any act that may expose to ridicule a person …

This seems potentially to have a very broad application. I wonder whether the government has thought about all the consequences of this particular subclause. The intent of it is something that is not unreasonable at all. You can easily envisage circumstances where a debt collector may overstep the bounds of propriety and try to expose a person to ridicule because they owe a debt. That is not an appropriate method of attempting to collect a debt, but the example the government has used in this bill is one which potentially raises some of its own issues.

New section 93M(2)(g) continues:

> (g) using a document that is not an official document but that resembles or purports to be an official document …

Examples

> Any document that gives the appearance of having been authorised, issued or approved by a court, government or government agency when it has not been.
>
> Serving a summons that has not been issued.

From communicating with the government I understand that through this provision it is seeking to, amongst other things, deal with the phenomenon of private car parks. A number of private car parks have been set up using a business model where people are encouraged or invited to drive in and park at a private car park and are required to get a ticket. I know how this works because my local supermarket has this sort of model. At my local supermarket you are allowed to have 2 hours of free parking but only if you get your ticket and display it on your dashboard. If you forget to do that, then you are in trouble. But if you want to stay for more than 2 hours, you have to buy a ticket for the whole period, including the 2 free hours.

An issue that has been raised in this Parliament by members on my side of the chamber, and I suspect members on the government side of the chamber, and in the media quite a bit is that some companies have acted in what can only be described as an unscrupulous way. Where they have reason to believe a car may have stayed in the car park without having the appropriate ticket, they have issued documents to the registered owner of the vehicle that give the impression that the person has committed an infringement under an act or regulation and therefore owes a fine. These documents, from my understanding, are calculated to give the impression that the person has breached criminal law.

Mr Carli — Have you got one?

Mr O'BRIEN — I have not got one, but I am touching wood as I say that. I am told these documents are intended to try to convey the impression they are an official fine or other infringement notice and that therefore there is a legal obligation on the recipient of the document to pay money. That is not the case because the issue is arguably a breach of contract and a claim for liquidator damages of some sort. There is always a bit of a fine line between what constitutes liquidator damages and what constitutes a penalty. There is a strong argument that what some of these private car parks are attempting to do is to seek a penalty, which is not something the law permits, rather than liquidator damages. But in any event the idea of sending out documentation to give somebody the impression they are under a legal obligation, and an obligation to the state, to pay money in the same way they would a speeding fine or traffic fine of some sort is completely inappropriate. I am pleased to see that in that regard the government has stepped up to deal with this issue.

New section 93M(2)(h) continues:

> (h) impersonating an employee or agent of the State, another state, a Territory or the Commonwealth …

There are a couple of new subsections which I have concerns about — one of them is subsection (1) of new section 93M, which refers to:

> contacting a person by a method that the person has asked not to be used, unless there is no other method available …

You do wonder whether somebody might decide that they just do not want to hear from a debt collector pretty much at all and therefore tell the debt collector, 'You are not to phone me; you are not to come to my door; you are not to send me letters; you are not to send me emails; you can only send me a fax to a fax machine that is sitting over my kitchen bin'. There needs to be some reasonableness in the way these practices are considered.

I would be very concerned if we did not have understandable and appropriate moves to ensure that we have appropriate debt collection practices operating in Victoria. On the other hand, we do not want to see some sort of debt dodgers' bill of rights. We want to ensure that this cannot be open to exploitation. That concern is amplified by new section 93N, to be inserted by clause 23 of the bill, which provides:

> (1) A natural person who has experienced humiliation or distress —

they are very broad terms —

> due to a course of conduct of another person in contravention of section 93M with respect to a consumer debt may apply to a court or the Tribunal for an order that the person engaging

> in that conduct, or a person involved in that conduct, pay damages of up to $10 000 (or another prescribed amount).

The government could prescribe $100 000 or $1 million. Debtors and people who just do not want to pay their debts could potentially make money out of the efforts of debt collectors to make them pay up if there are two technical breaches of the prohibitions set out in the bill. The government says it is going to provide that claims not be awarded to vexatious claimers under this heading — and that is all well and good — but I worry that it is going to be encouraging people who are professional debt dodgers to use technical breaches of some general propositions in this bill to try to make money from dodging their debts. This is something the government needs to be careful of. We want to stand up for the rights of people to be treated reasonably and fairly in relation to debt collection, but we do not want to have a debt dodgers' bill of rights.

We will have to watch carefully to see if the government has got the balance right regarding this bill. Whether I continue to be in opposition or change jobs to whatever degree after the election, both sides of the house should commit to doing that — that is, to watching the implementation of this bill to make sure it gets the balance right in practice not just on the written page of this bill.

New section 93M inserted by clause 23 sets out all the prohibited debt collection practices, and I note that subsection (5) provides that:

> This section does not apply to any of the following acting in an official capacity —
>
> (a) the sheriff or a sheriff's officer;
>
> (b) a member of the police force;
>
> (c) a bailiff;
>
> (d) any other employee or agent of the state, another state, a territory or the commonwealth.

I love the fact that apparently it is improper for a private debt collector to use a threat, deception or misrepresentation to obtain consent to enter a private residence, but it is okay for the government to do it. This is really a case of 'Do as I say, not as I do'. I agree that people who use some of the practices that are outlined here should be put out of business, but I find it interesting that the government says, 'We are allowed to use these practices. They are so terrible the private sector cannot use them; they are prohibited from using them. You could be sued for up to $10 000 for using these practices. But it is okay if we do it'. The government's hypocrisy knows no bounds.

I turn now to other provisions, the first of which relates to real estate agents. Under the bill the processes for submitting audit reports will be brought into line with federal laws. A definition of a registered office will be clarified. There is a provision for higher penalties — 60 penalty units — for pretending to be a licensed real estate agent. I will avoid the temptation to query why somebody would want to pretend to be a licensed real estate agent; it might reflect on our own occupations here in this chamber. However, given that the purchase of property is usually the most valuable, most expensive and often the most fraught transaction in somebody's life, it is important that we get real estate regulation right. I think there are some very sensible measures in part 5 of the bill.

The Real Estate Institute of Victoria has contacted me in relation to a number of these matters. I will refer to them in due course.

In the brief speaking time remaining to me there is one issue I would like to raise, and that is part 7. Clause 57 in part 7 of the bill changes the legal ability to charge deposits on off-the-plan sales. At the moment there is a statutory maximum of 10 per cent. The government wants to double that to 20 per cent. This leads me to say we want to reserve our position on the issue in the upper house. The government speaks hollow words about caring about housing affordability, but it wants to double the deposit young families will have to pay to buy property off the plan.

What is the Real Estate Institute of Victoria (REIV) saying about this? It says:

> The REIV has concerns about the increase of the minimum deposit from 10 to 20 per cent for sales off the plan.
>
> Home buyers are very familiar with deposits being 10 per cent and whilst it is proposed as a maximum, in reality it will quickly become the norm.
>
> For a home buyer, a deposit of 20 per cent is a large sum of money.
>
> For instance, a median priced unit or apartment is currently $463 215. A 20 per cent deposit equates to $92 643.
>
> The purchaser is denied access to this money until such time as the development is delivered or fails, in each case a number of years can elapse between the events which is out of their control.
>
> …
>
> This change also seems to run contrary to the state's desire to increase housing supply by offering substantial incentives to first home buyers of new homes. First home buyers have a substantial problem raising a 10 per cent deposition let alone a 20 per cent deposit. The proposal is likely to result in significant consumer detriment.

On 9 August the law firm of Middletons put out a brief in which, under the heading 'The potential impact of a 20 per cent deposit', it said:

> It is the first time in almost 25 years that developers have been allowed to hold more than a 10 per cent deposit for off-the-plan sales and if passed the ramifications of this change could be potentially highly damaging for property developers.
>
> The 20 per cent deposit would be a maximum deposit amount and developers could require and accept a smaller deposit. However, financiers may require all deposits to be 20 per cent to qualify for construction finance. If this occurs, there will undoubtedly be an impact on the number of sales that will qualify as presales, as many purchasers will not be able to afford a 20 per cent deposit. The ability of property developers to obtain construction finance will therefore be severely restrained. Prescribing a 20 per cent deposit is also likely to have an adverse effect on sales. Developers should discuss these proposed changes with their financiers prior to commencing marketing of a project.

It is pretty clear: the REIV says this will lead to a significant detriment to consumers. It will hurt housing affordability. Middletons lawyers are saying it will not help property developers. Why is this happening? Which members of Progressive Business have called on the government to put this provision in the bill? How much have they paid for the privilege? How much have this government's grubby mates been putting forward to get this sort of contribution?

They might stand for Progressive Business; we stand up for the interests of home owners, and we stand up for the interests of consumers. We will take the time between the debate in this house and the debate in the upper house to consider exactly what the ramifications of this move will be for housing affordability. The brain donkeys opposite may think that it is okay to just double the deposit for first home buyers, but this side of the house stands up for consumers and their interests.

In conclusion, let me say that the doubling of the deposit for off-the-plan sales is something that concerns us. We will consult, unlike this government. We will put the interests of consumers first, unlike this government. We will make a reasoned decision on this matter when the bill gets to the upper house, unlike this government.

Mr CARLI (Brunswick) — It is with great pleasure that I rise in support of the Consumer Affairs Legislation Amendment (Reform) Bill. I am also pleased that the member for Malvern largely supports this bill.

Ms Richardson — Do you think so?

An honourable member — Apparently.

Mr CARLI — Apparently he supports this bill. This is the second tranche of what has been a fairly substantial reform, modernisation and updating of a number of bills that sit within the consumer affairs portfolio, and it is important that it has come in. The bill also repeals three pieces of legislation: the Disposal of Uncollected Goods Act 1961, the Carriers and Innkeepers Act 1958 and the Introduction Agents Act 1997. I am always pleased to see the number of acts on our statute book reduced. I am particularly pleased to see the end of the Carriers and Innkeepers Act, because many years ago I was involved in the Scrutiny of Acts and Regulations Committee review of that act when we had a look at it and tried to find ways to move elements of it — the limitation of accommodation providers liability — into some other act.

I will focus, in particular, on amendments to the Fair Trading Act that deal with debt collection practices, specifically in relation to an ongoing battle I have had — and a number of members of Parliament have had — with private car parking firms that are hired by Safeway, Coles and other supermarkets to manage their car parks and use very unethical practices to try to get payment for what people are told are fines. In fact they are not fines. They are companies like Care Park Australia and Australian National Car Parks, firms that I have had much correspondence with over a number of years, and I have worked with lots of constituents who have been chased and harassed by the debt collection practices of those firms.

Those firms basically manage car parks. They put up little boards with what are deemed to be rules or contracts. They ask people to take a ticket and offer free parking for the first 1 or 2 two hours while they shop. People forget to take the tickets and they get what purport to be fines but which are not fines. Essentially what they are is an attempt by these companies to seek damages as a result of breach of contract. That is the excuse, but when you look at the documentation the firms send out, you see that what they purport to be are fines. They do not say they are fines, but they look like fines and every effort is made to make them look like official documentation from a public authority.

What has been prohibited under these changes is the impersonation of public officials, the use of documents that resemble official documents such as infringement notices and all the threats to issue fines or take possession of people's goods where there is no entitlement to do that. There have been attempts to impersonate. This bill basically gets rid of those practices and makes it an offence to falsely represent a debt as a fine or a penalty. It stops firms using letterheads that mislead people into thinking they come

from a public authority with a certain status and standing.

The bill gets rid of the attempt to purport something to be a fine and suggest there is a summons and that they must go to court as a result of a fine or penalty which in fact does not exist. These are really major changes and represent a major protection for consumers. This will force those companies that own these car parks — generally supermarkets — to have a different practice, another practice, to manage their car parks or to work with local government to find a scheme to adequately manage the car parks and get rid of these private firms which have used all sorts of practices to try to collect supposed debts from people.

There are other elements to these changes too. There are also prohibitions on firms using physical force, undue harassment, coercion and other forms of force. I am not suggesting that those methods are used by these car parking companies, but clearly they do exist, and this is trying to ensure that those practices are prohibited and that if a person is harassed or coerced, the people carrying out these prohibited debt-collecting practices face fines — that people doing these things are liable to pay potentially up to $10 000 to compensate consumers. The bill is protecting consumers from unfair practices, and it allows consumers to have a level of protection that has not been there. I think it is a very good thing, having seen these things in practice and the effects on people who have innocently left cars in car parks without getting tickets. It is a good thing that there is now a level of protection and we can start seeing better management of those facilities.

This is very much an omnibus bill. That was just one element of it; there are a number of areas of change and reform, and I will touch on a couple of them. One is the repeal of the Carriers and Innkeepers Act. One element of that act is that there is a liability maximum in relation to goods that are not in safekeeping. It is currently $100, and it will be extended to $300 when the provision is inserted into the Fair Trading Act. Where there are goods in safekeeping, in terms of a motel or hotel or some other organisation that provides accommodation for guests, there will be a liability maximum of $3000, which is currently $2000. That is essentially all that was left of the Carriers and Innkeepers Act that still had to be protected and that is now going to carry over to the Fair Trading Act. That is an important thing in terms of clearing redundant legislation from the statute books and moving those elements that are left into other pieces of legislation.

The previous speaker mentioned the changes in terms of the disposal of uncollected goods. That has been an area of enormous complexity and confusion. This is about trying to provide a much clearer structure and time frame according to three categories which are based on the value of the goods. It is very much about ensuring that if those goods are not collected and are sold, the people who have got possession of them are allowed to have enough money to recover their charges and costs, and the rest is handed in as unclaimed money to be returned to the owner.

There are also amendments to the Introduction Agents Act 1997 — a fairly recent piece of legislation. This is largely about deregulating introduction agents by taking from the 1997 act those elements that protect people by prohibiting certain people from being introduction agents. In a certain sense it is deregulating, but these are negative regulations in terms of people who are not allowed to be introduction agents. For example, sex work service providers are prohibited from operating as introduction agents to ensure that the public can clearly distinguish between introduction agents and sex work service providers. This is about providing a level of safeguard but without the level of regulation which has been deemed by a Productivity Commission review to be an unnecessary burden. That is a good change.

We have also heard from the member for Malvern that the bill proposes an increase in deposit limits for off-the-plan sales of land from 10 per cent to 20 per cent — that is the maximum. Clearly this is a very competitive market, and I think it is very unfair to suggest that this is suddenly going to cause affordability problems. It is about contracts for off-the-plan sales of land, and where the deposit amount is negotiable it is allowing for that to be a larger figure. It is there to protect the various parties, and within that there is also an improvement in terms of legal advice during the cooling-off period.

Mr CRISP (Mildura) — I rise to make a contribution to the debate on the Consumer Affairs Legislation (Reform) Bill 2010. The Nationals in coalition are not opposing this bill in this house. At the outset I would also like to pay tribute to the extensive contribution made by the member for Malvern. I am only going to touch on a few of the issues.

The purpose of the bill is to implement the second tranche of reforms arising from the consumer affairs legislation modernisation project by consolidating, modernising or repealing many of Victoria's consumer laws.

The main provisions of the bill deal with uncollected goods. The bill lays out some regimes for how long goods must be left before they can be disposed of, a mechanism to do with the value of those goods and the process that has to be gone through before they can be disposed of, which is a common-sense change.

The bill also makes changes to the regulation of introduction agents following the Productivity Commission's recommendation that unnecessary regulation regarding occupations licensed in one or two jurisdictions be repealed. The government is repealing the Introduction Agents Act 1997; however, it is re-enacting many of its provisions in the Fair Trading Act. As we heard earlier, there are some difficulties regarding how this applies to not-for-profit organisations and how it will work with the sex industry.

The bill limits the liability of accommodation providers — this is to do with the old Carriers and Innkeepers Act — and changes the thresholds regarding goods lost in places of accommodation to reflect what has changed since those provisions were introduced. It increases the threshold from $100 to $300 for goods not in safekeeping and from $2000 to $3000 for goods in safekeeping. The signage in places of accommodation will therefore need to change. Tourism is an important part of Mildura's industry, and I pay tribute to the people who are in the accommodation industry and work so hard in that valuable tourism sector.

I come to the thorny area of debt collection, which we have had some concerns about. Debt collection management is still confusing. We have deregulated it in the past, and now we are here changing some provisions in the legislation. In the past if you were a debt collection agent, you had a process to go through. We did away with that, which was something I had some concerns about, and here we are strengthening these provisions, particularly through new section 93M, which sets out all the prohibited debt collection practices and some of the things people are very concerned about.

Some of these prohibitions are reasonable and should never have been an issue, such as those set out in new section 93M(2):

> (a) using physical force or undue harassment or coercion;
>
> (b) entering or threatening to enter a private residence without lawful authority;
>
> (c) using any threat, deception or misrepresentation to obtain consent to enter a private residence;
>
> (d) refusing to leave a private residence or workplace when requested to do so;
>
> (e) doing or threatening to do any act that may intimidate a person or a member of that person's family;

The last provision also raises some concerns. The bill provides an example of this:

> Carrying a firearm within the meaning of the Firearms Act 1996 or … within the meaning of the Control of Weapons Act …

that may be interpreted as threatening. The provisions continue:

> (f) doing or threatening to do any act that may expose to ridicule a person or a member that person's family

This new section goes on and on regarding what you cannot do.

Another issue that has been raised regarding this part of the bill is that of private car parks. For country people visiting the city they are a trap for the unwary. Supermarket car parks with private operators operate this way, but it is not something I have come across in Mildura, and I hope it will not find its way there. We have been spared a lot of difficulties that have been well articulated by other members in their presentations to the house. The bill goes on to set out a lot of the dos and don'ts of this industry. Slowly but surely we are reintroducing the regulation that is necessary for the debt collection industry.

The member for Malvern articulated very well that under new section 93N, the recourse section, people may now be able to construct circumstances such that they can qualify for compensation. However, people who have suffered as a result of these unfair practices are entitled to compensation, so we have to come up with a balance. This will be difficult, and a lot of work will have to be done by the courts as we get some of this legislation defined as to the dos and don'ts and the compensation required.

Another issue I wish to speak on is the changes to provisions regarding off-the-plan sales of real estate, which has proved to be quite contentious. The Real Estate Institute of Victoria has had a bit to say about this. A measure to double the minimum deposit for off-the-plan sales has been criticised by the REIV as likely to result in significant consumer detriment. This is a concern**.** The REIV has advised that the change prevents purchasers who obtain legal advice on a sale from being able to waive the three-day cooling-off period. The organisation has also expressed concern about changes to the owners corporation proxy rules. It argues for no proxies being allowed, or that if they are

to apply, that the proxies should be exercisable only through an existing committee member.

We have some concerns, some of which have been addressed, about housing affordability as well. There is a concern that the increase to 20 per cent in the minimum deposit for sales off the plan may spread to other areas and get in the way of people endeavouring to buy their first home.

Those are our concerns with the bill. It is an omnibus bill, and it does many things that are long overdue. The Nationals in coalition are therefore not opposing the bill in the house.

Mr FOLEY (Albert Park) — It is with great pleasure that I rise to make a few brief comments on the Consumer Affairs Legislation Amendment (Reform) Bill 2010. I thought for a few moments after listening to the contribution from the member for Malvern that I might be in the uncharted territory of agreeing with his contribution, but, true to form, he came home with the wind in his sails, with overblown rhetoric and ill-considered judgements, and has re-established my faith in his ability to continually overblow his arguments and seek to mislead and deliberately put forward propositions that he knows in his heart of hearts are not appropriate.

As we have heard from the contributions so far, and indeed from the minister's second-reading speech, this legislation continues the government's commitment to its own modernisation regime of rationalising and bringing into the 21st century aspects of consumer affairs legislation. It also discharges a number of the state's obligations for national consistency and reform in this important consumer affairs legislation area.

Consumer affairs legislation is fundamental to the delivery of certainty to and protection for the millions of consumers in this state. For evidence of that, one has only to look at the number of calls made to the Consumer Affairs Victoria call centre and also to the inspectors and others every year. It is a very much sought after area of the Victorian government's activities. Ensuring that the legislation is kept up to date, relevant and modern is an important part of this government's commitment to the people of Victoria, and that is being more than ably discharged by the Minister for Consumer Affairs.

In that context, what this bill does, as we have heard, is put in place a new framework for the disposal of uncollected goods. The bill also simplifies the regulation of introduction agents, clarifying their role and when and how they relate to sex work service providers. The bill also limits the liability of accommodation providers under the Carriers and Innkeepers Act and various other pieces of legislation, as the member for Brunswick outlined. The bill amends the Goods Act 1958 and repeals the now redundant offences of signing an untrue bill of lading and other arrangements in this area. In some substantial areas it deals with debt collection practices to take account of the ever-changing methods by which those unscrupulous elements of the market deal with our more vulnerable consumers in a range of different practices.

The bill also amends different arrangements in regard to how real estate agents and conveyancers go about their business. As the member for Malvern pointed out, it increases deposit limits for off-the-plan sales of land, to which I intend to return. It also contains a series of amendments relating to owners corporations. There is also a raft of other amendments that take into account the implications of various pieces of litigation that the director of Consumer Affairs Victoria on behalf of the state has been involved with, as well as a range of other tidying up amendments to the Landlord and Tenant Act, the Motor Car Traders Act, the Travel Agents Act and a range of others.

I wish to focus a few of my comments on the debt collection practice commitments that this legislation seeks to put in place. As we have heard, part 9, clause 70 deals with prohibited debt collection practices under the Fair Trading Act. Like the member for Brunswick, I have had a number of constituents raise concerns about the activities of private car park operators. I will not call them car park owners but I refer to those companies that purport to manage and police the activities of private car parks, such as Care Park, Australian National Carparks and, to a lesser degree, Ace Parking. The measures that are set out in clause 70, which inserts proposed section 162AA into the act, deal with prohibited debt collection practices. Proposed section 162AA(2) sets out a number of particular practices and provides examples. As others have pointed out, paragraphs (g) and (k) of that proposed subsection have some resonance in the area of private car park operators.

What we have heard is that this is more an issue of contract law than involving those organisations that purport to act on behalf of the state or local government or other agencies that allow issues to be dealt with by way of fines and infringement penalties. I am aware of particularly dogged efforts by a constituent of mine from Port Melbourne who was determined to pursue one of these three operators through every possible means he could find, and, with the assistance of

Consumer Affairs Victoria, he took this operator through every single loop and hoop, all the way through to demands from the lawyers. At the end of the process the private car park administrator of one of those three companies decided to blink. This raises a substantial issue not just for the likes of large owners of car parks and their administrators but also for local government, which certainly in some areas of my electorate seems to be the agency of government that has let some of these contracts to these organisations. There is a range of issues as to how this would be dealt with appropriately.

I want to deal with the overblown assertions by the member for Malvern, as the shadow minister in this area, regarding increased deposit limits for off-the-plan sales of land. The minister dealt with some of these arrangements in his second-reading speech, and I will refer back to some of them. The constraints placed on transactions relating to off-the-plan sales of land are currently in place. What this proposal will do is increase the maximum deposit available for such off-the-plan arrangements from 10 to 20 per cent. As the minister pointed out, there are a number of safeguards associated with this. It is, of course, optional. There are two additional proposed safeguards dealing with disclosures: firstly, advising that a deposit is negotiable and a warning that time needs to elapse between the day a contact is signed and when a person becomes a registered proprietor; and secondly, joint accounts that have been established in some areas of this activity will be removed. The bill will also ensure access to legal advice during the cooling-off period.

What the member for Malvern seeks to do is somehow portray this as a sleazy arrangement; he suggests it is unclear who has entered into this arrangement and with whom they have entered into it. Rather than scurrying away and suggesting that this is an area where the Liberal-Nationals coalition should use the cover of the Legislative Council to have a crack at it, if the member for Malvern had the courage of his convictions, he would stand up with the Liberal-Nationals coalition and vote against this proposal. But, no, as usual, on an important provision such as this he seeks the easy way out by ensuring his work is done elsewhere. What else would we expect from this lazy, leaderless opposition in dealing with this particular matter? As the opposition does with all important issues, it takes the easy way out. I wish the bill a speedy passage.

Mr HODGETT (Kilsyth) — It is a pleasure to rise to make a contribution to the debate on the Consumer Affairs Legislation Amendment (Reform) Bill 2010. At the outset I put on record that the coalition is not opposing this bill. Despite what the member for Albert Park said, I note the member for Malvern's extensive contribution to the debate on this bill, and I will take the opportunity to highlight a couple of his points in the brief time I have available.

Moving to the purposes of the bill, the explanatory memorandum under the heading 'General' states:

> The bill implements the second tranche of reforms arising from the Consumer Affairs Legislation Modernisation project. The purposes of the bill are to consolidate, modernise or repeal many of Victoria's consumer acts.

I will go on to talk further about the purposes of the bill. It is a bill for an act to amend the Fair Trading Act 1999, the Goods Act 1958 and the other consumer acts. It will also repeal the Disposal of Uncollected Goods Act 1961, the Carriers and Innkeepers Act 1958, the Introduction Agents Act 1997, the Sale of Goods (Vienna Convention) Act 1987, the Sea-Carriage Documents Act 1998 and the Landlord and Tenant Act 1958. It is a very important bill.

A number of members have made contributions on a number of the main provisions of the bill, but I will restrict my contribution to the debate to two of the main provisions — uncollected goods and debt collection. Firstly, I will discuss uncollected goods. The bill repeals the Disposal of Uncollected Goods Act 1961 and amends the Fair Trading Act 1999 to introduce a new framework for uncollected goods that clarifies how a person can dispose of goods that have been left in the possession of that person but not claimed. I understand that this new approach is based on the New South Wales model. The amendment to the Fair Trading Act 1999 will apply to all uncollected goods rather than only those left for repair or treatment and removes the need for a court order before goods are disposed of. Instead goods may be disposed of 28 days after correct written notice is given or after a longer period if the owner of the goods cannot be found: 60 days for low value goods, 90 days for medium value goods and 180 days for high value goods. The procedures for the disposal of goods vary depending on whether the goods are of low value, being less than $200; of medium value, being from $200 to $4999; or high value, being greater than $5000, with more onerous obligations applying to high value goods, including a requirement to sell by advertised public auction.

The bill also repeals the Landlord and Tenant Act 1958, which provides for the disposal of goods left behind at the end of tenancies not covered by the Residential Tenancies Act 1997. We hear from landlords about numerous examples of tenants who leave goods behind when they vacate and of difficulties they have experienced in being able to fairly and reasonably dispose of those goods and comply with the law.

I will now move to the next provision I wish to discuss in the limited time I have available to me, which is debt collection. The Australian Consumer Law will prohibit certain general practices in relation to debt collection and repossession. However, this bill provides for the prohibition of specific practices in the Fair Trading Act. The bill specifies further prohibited practices in debt collection and repossession such as the use of physical force, undue harassment and coercion, which replicates sections of the Australian Consumer Law. Other prohibited practices include the impersonation of public officials; the use of documents resembling official documents such as infringement notices, which is likely to impact on private car parks that attempt to claim damages from customers who overstay; threats of repossession where there is prohibited disclosure of debt information; and the use of false or misleading representations about debts. Other prohibited practices include contacting a person by a method that the person has asked not to be used, unless there is no other method available, and communicating with a person in a manner that is unreasonable in its frequency, nature or content.

I note that the prohibition on certain debt collection practices does not apply to any employer or agent of the state, a territory or the commonwealth. As the member for Malvern rightly pointed out in his contribution, this is certainly a case of the government telling the private sector: do as I say, not as I do.

The bill will make it much harder for private car parks to follow-up overstayers they wish to pursue for breach of contract, as it makes it an offence for collectors to demand payment from a person unless they have reasonable grounds to believe that the person is the debtor, their representative or liable for the debt. What this means is that the car parks will have to rely on the registered owner of a vehicle, firstly, admitting they were responsible for the overstay, or secondly, informing the car parks as to who was responsible. This might have an impact on the economic viability of some private car parks, particularly smaller car parks, which could lead to increases in parking charges. That is a concern of the coalition. We do not want to see costs escalating given the number of people who are doing it hard out there with the cost of utilities and the cost of living and other things. Any increase in the cost of parking as a result of this measure is of concern to us.

The bill also introduces a provision permitting a court to award up to $10 000 in compensation for distress or humiliation arising from a course of conduct that breaches prohibited debt collection practices. Notwithstanding that the bill allows for costs to be awarded in the case of frivolous or vexatious litigation, it is still open to abuse by bad debtors. Again, that is a concern.

I will bring my contribution to a close. As I said at the outset, coalition members are not opposing this bill. I have spoken about only a couple of the main provisions; other honourable members in their contributions have outlined further main provisions of the bill. I will conclude on that note.

Debate adjourned on motion of Ms RICHARDSON (Northcote).

Debate adjourned until later this day.

Sitting suspended 6.29 p.m. until 8.02 p.m.

PLANT BIOSECURITY BILL

Second reading

Debate resumed from 28 July; motion of Mr HELPER (Minister for Agriculture).

Mr WALSH (Swan Hill) — It is a pleasure to rise to talk on the Plant Biosecurity Bill, which replaces the Plant Health and Plant Products Act 1995. The coalition will not be opposing this legislation. We think there is quite a lot to be recommended in this legislation. From my understanding of it, this is one example in which the government has gone about introducing new legislation and actually followed the proper process and worked with industries and the communities. The bill that has been introduced reflects the discussions that have been had, rather than in some instances where explanatory bills are put out and then the bills we see in this place are totally different to what has been discussed. Full credit to those involved as what we have before us is what has been talked about with industry, and in general the principles have been agreed by industry.

The Plant Health and Plant Products Act was introduced in 1995. It is interesting to read that particular bill because it repealed the Fruit and Vegetables Act 1958, the Seeds Act 1982 and the Vegetation and Vine Diseases Act 1958. If you think back to the various industries that were around at that time and had their own specific pieces of legislation, you realise it is quite fascinating. I remember my time in the horticultural industry and some of the marketing acts we had on the statute book. I was a great believer in the Processing Tomato Industry Act 1975, where we had some power to negotiate the processes in that industry and could actually have some regulated prices

initially and later some recommended prices. In some ways it is interesting to go back and look at the history and sort of dream of what was and what could have been if we had had good governments at that time. I can still remember the poison pill that Ian Baker, the then Minister for Agriculture, left the tomato industry by deregulating our pricing mechanism in the dying days of the Cain government.

The Plant Biosecurity Bill 2010 is a bill for an act to re-enact with amendments the laws relating to plant pest and disease control and plant product descriptions, to repeal the Plant Health and Plant Products Act 1995, as I said, and for other purposes. The main purposes of this bill are to provide for the preventing, monitoring, controlling and eradicating of plant pests and diseases; to provide for the packaging, labelling and description of plants and plant products; and to facilitate the movement of plants, plant products, used packages, used equipment and earth material within, into and out of Victoria. In effect this legislation introduces what has been in the livestock industry for quite a long period of time.

The issue of property identification codes, I suppose, is the genesis a lot of this legislation and the change from the previous bill. The definitions clause on page 6 of the bill states:

> property identification code means a code issued by the Secretary in relation to a property under section 15 or a property identification code issued under section 9B of the Livestock Disease Control Act 1994 …

If you read clause 15 and look at what is involved, you see that under 'Property identification code' it states:

> A person who owns or occupies a property on which any prescribed plant is grown must, within 30 days after the plant is prescribed or starting to be grown on the property —

and it goes through and lists some of the things that have to be done by that particular property owner.

If you go to the definition of what particular plants or things are prescribed, you see that 'prescribed material' means any:

> (a) plant, plant product or plant vector;
>
> (b) used package or used equipment;
>
> (c) earth material;
>
> (d) beehive —
>
> that is prescribed or of a class prescribed by the regulations for the purposes of this Division.

If you go through that, you see it is an extensive range, including plant crops that can be grown and the storage or transportation of those crops in the state of Victoria.

The bill at page 10 goes on to talk about the importation of prescribed material. It says:

> (1) A person must not —
>
> (a) import, introduce or bring into Victoria from a prescribed State or Territory or a prescribed part of another State or Territory any prescribed material —

as previously described —

> ; or
>
> (b) introduce or bring prescribed material into any part of Victoria from another part of Victoria that is declared by order to be a restricted area — —

Mr Helper interjected.

Mr WALSH — It is. But one of the things we need to bear in mind is that we must make sure the biosecurity of Victoria's plant industry is maintained. It is absolutely critical that we do not get in this state particular pests or diseases that could be a huge cost to our industry and put at risk our export market. That is what this is about. We do not want to go overboard, but we cannot be too careful in some ways about how we do this.

The other issue I would like to talk about in detail is in clause 36 of the bill, which talks about border security. It says:

> (1) If the Minister reasonably suspects an exotic disease or pest exists within Australia but outside Victoria, the Minister may by order prohibit absolutely, restrict, or impose conditions upon, the entry or importation into Victoria of any plant, plant product, plant vector, used equipment, used package, earth material or beehive.

An issue that is mentioned in the second-reading speech that would apply to this clause of the bill is that of fire blight. Fire blight has been a contentious issue in Victoria for almost as long as I can remember. In the horticultural industry we have always had the threat of fire blight getting into Australia. There has been a sort of defensive action against apples coming here from New Zealand, but also apples from other countries. That has been an ongoing issue that has recently come to the fore again with the importation of apples from China and the issues around the Suzuki fly, and the contra: that China will not let our export table grapes into China unless its apples are allowed into Australia. Now New Zealand has said, 'If you are going to let Chinese apples in, you should be letting our apples in

because we have better security mechanisms in our country than China does'. I probably do not disagree with that, but that still does not say that New Zealand does not have fire blight.

I can remember this debate raging a number of years ago. I had the opportunity to serve on the board of SPC, the fruit cannery, for about nine years before I entered this place. One of the issues we had as a company was that if fire blight were to into Australia it would affect the apple industry. However, the industry that would be absolutely devastated is the pear industry, particularly the processed pear industry, because the price paid to growers for processed pears is not all that much, and they would not have the margins to afford the antibiotics to control fire blight in their pear trees. If fire blight got into Australia, you would see the wipe-out of the processed pear industry, let alone the damage it would do to other pome fruit industries, particularly the apple industry.

In the unfortunate situation that New Zealand apples come into Australia, and in the even more unfortunate situation that fire blight ends up in Australia and New South Wales or Tasmania, as I read the bill, the Victorian minister would then have the power to stop any pome fruit coming from those states into Victoria and limit the spread of fire blight. It would not be an easy job for the Minister for Agriculture to ban the interstate trade in pome fruit in that situation, but I am sure whoever is the Minister for Agriculture will take up the mantle and make sure the Victorian industry is protected from those risks.

The other matter I want to briefly talk about is the prohibition of the sale of diseased plant material. The bill puts in place clause 18, which provides that a person must not sell:

> (a) any plant or plant product, other than seeds, which the person knows, or may be reasonably expected to know, is affected by any disease or pest; or
>
> (b) any seeds for sowing that are mixed with any seeds that the person knows, or may be reasonably expected to know, are affected by any disease and the affected seeds form a proportion of the total quantity of seeds —

et cetera.

We have to be careful, as some people are not as scrupulous as others and may trade grain or hay that is infected with particular diseases or product. Here the bill puts in place a mechanism whereby they can be held to account. I particularly like the phrase 'may be reasonably expected to know'. Ignorance is no defence here. If they should reasonably know they are trading a product that is wrong, they should be held to account.

There is a range of things that we do not want in this state. One of those — and the minister would be well aware of this — is broomrape. In South Australia there is a plant called broomrape, a parasitic weed of broadleaf plants. Where that has been found, eradication programs have been put in place to make sure it does not spread. But if someone knowingly has or has reason to believe they have seeds of broomrape, they should not trade product out of that area, because there is a risk of it spreading throughout the state. There is a whole heap of pest plants and diseases that we have here in Victoria which we would not have if we had had legislation like this a number of years ago. We would not have had Bathurst burrs introduced back in the gold rush days in hay that came into Australia. Apparently we would not have had a whole heap of other things that came into this state.

As far as particular plants and diseases are concerned, one of the concerns that is raised with me as I travel around is that as we get pieces of legislation like this — and recently we made some changes to the control of weeds and pest animals with another piece of legislation — we are getting better legislation and better enforcement mechanisms in Victoria, but in some ways the issue of pest plants and pest animals is getting worse. I would like to see not only pieces of legislation brought into this place that help with the control of pest diseases and plants, as in this particular case, but that we had a government that put in resources to make sure some work is done to control pest plants and animals in this state.

One of the examples I would like to use is that of the recently set up red gum national parks in northern Victoria. Hundreds of thousands of hectares of land have now been declared a national park, but it will take a lot of resources to manage them. I know the area where the Leaghur State Park has been set up near my home town of Boort is riddled with a plant called golden dodder, which is another parasitic plant that spreads. It particularly loves summer crops like lucerne, tomatoes and some of the other crops that are grown in that area. Now the government has taken control of this land. It stopped the people who were leasing it and running sheep in it a number of years ago, but it is not putting any effort into controlling the plant in that area. There is then the risk of it spreading to private land.

We need a government that will put in the resources and effort to stop this weed. There is a saying in the vernacular in country Victoria that quite often the government is the neighbour from hell with the land it owns, which it does not manage particularly well.

The last issue I would like to touch on is also covered in the definitions contained in the bill. I refer to the definition of 'exotic pest'. It states:

> Exotic pest means any pest which is declared by Ministerial Order or by Order in Council to be an exotic pest;

We all know that locusts are endemic to Australia, but the state government has quite rightly declared locusts to be an exotic pest. I commend it for doing that. I think we need to make sure every effort is put in place this spring to control locusts in Victoria. When we raised this as an issue in the autumn — and they were principally a pest for north-west Victoria in the autumn — and started making some press comments the Minister for Agriculture, who is at the table, accused me of scaremongering because I was saying that locusts are a real issue and something needs to be done about them.

Mr Helper — It was based on science, mate.

Mr WALSH — They were decisions based on science. The science was driving around and the car was covered in locusts after it had gone a few kilometres, and everyone knew that. Locusts have been declared an exotic pest, and as I said, that is great. After the government accused us of scaremongering because we were raising the issue and after we said we would fund and put in place a locust control program, to the government's credit the Premier and the Minister for Agriculture went to Bendigo and launched their $43 million war on locusts.

Mr Helper — It is $43.5 million.

Mr WALSH — It is $43.5 million, all right. The government announced a $43.5 million war on locusts. We had the Premier as the chief general — —

Mr Helper — I am on the task force for that.

Mr WALSH — You are on the task force too?

Mr Helper — For the moment.

Mr WALSH — Field Marshal Brumby was in charge of the task force. You have Sergeant Helper, who is on the task force, and the Minister for Health's rank is?

Mr Andrews — I am not sure.

Mr WALSH — You're not sure? He is not sure of his rank. The point I want to make is that the government has put in a lot of money. It has given the problem the status of having the Premier chairing this task force and having senior ministers on it.

The concern I have, and it is an issue that has been raised with me continually — it was raised at the Speed field day by quite a few people when we were out there last week — is that a lot of money has gone in, there are a lot of resources going in and there is going to be a lot of Department of Primary Industries effort put into this program, but it is relying on the farmers to buy the chemical to control the locusts. The government is rebating the money — it has said it will rebate the money, and I will give it credit for that — but if it is fair dinkum about running this program, then there is a decision-making tree that needs to be put in place, and the first thing is to make sure it has enough chemical in this state to do the job that is needed.

When I talked to the senior people in some of the chemical supply companies back in autumn I was told there is a lead time of about three or four months in importing the technology and manufacturing the chemical to control locusts. In our view the government should have determined how much chemical and what type of chemical is needed, gone out to the market and then put in place a tender process to buy that chemical. By buying an amount of chemical like that the government would have been able to buy it at a very good price. The chemical companies were not thrilled with that idea because their margins would have been trimmed pretty tight.

What the chemical resellers and farmers are saying to me is that they are going to have to buy this chemical and they are going to have to pay for it, and if they do not have the money for it, they are going to take it off the chemical resellers, effectively making the chemical resellers the bank of last resort and putting the cost on their books. What they are saying to me is that they have had a run of particularly poor seasons in north-west Victoria and the chemical resellers do not have the financial capacity to carry this cost on their books. The emails I have been getting recently from a lot of the farmers are saying that they have had a good season and the first thing they want to do is spread urea on their crops to maximise their yield potential. If it keeps raining, they are going to look at spraying some fungicides for rust on the crops. They are going to have to pay for the urea and the fungicides and then think about whether they can afford to buy chemical to put in the shed to control locusts in the spring. A lot of people are going to leave it until the last minute and not necessarily have the chemical that is needed because the chemical resellers do not necessarily have the capital to go and order a whole heap of chemical and put it in their sheds.

Locusts have been declared an exotic pest as described in this bill. The government has committed quite a

substantial amount of money and deserves full credit for that. It has done a lot of planning around having a lot of centres set up to coordinate the whole program. The major flaw is that it is relying on the farmers to buy the chemical and carry the cost of that through to the spring. They will be rebated and that is good, but they will be rebated, as I understand it, on the presentation of a signed statutory declaration that they have actually sprayed locusts on their land. If they find that because the locust hatchings are too early or too late and the chemical they have in the shed does not fit the withholding periods when they need to spray on that particular crop, they will have to buy some additional chemical and the stuff they bought will not be any good to them. If they do not have the money, do not have enough chemical or want to wait until the last minute, the chemical may not be available.

The point I would like to emphasise to the minister at the table is that we should re-examine that one part of what is a big commitment from the government to control locusts and make sure we get this right, because the information provided to me is that even if we get 90 per cent control of the locusts, which is an outstanding result, the locusts will still be 10 times worse than they were in the autumn. Every effort needs to be made by every person to make sure we maximise this opportunity. Let us think about how we can change the funding of chemical purchases to get the best result we can in the spring, because it is not just about north-west Victoria.

The thing is — and the Premier said this when he was at Huntly — that if the locusts reach maturity and fly, they could be in Melbourne, Bendigo or Ballarat. We could have the situation of Tullamarine airport being closed because of locusts. What would that do to our international reputation? It depends on when the hatchings happen and when the locusts fly. The races in Mildura were shifted to Swan Hill. The Melbourne Cup could be postponed because locusts have affected the course.

I urge the government, including the Minister for Agriculture and the Minister for Health, who is also at the table and tells me that he is a member of the task force, to go back and re-examine how that critical part of the program will be managed so we can ensure that there is enough chemical out there of the right type to do the job that needs to be done.

That coalition is not opposing the Plant Biosecurity Bill 2010. As I said when I started, there is a lot in this legislation that is to be commended. I congratulate the Department of Primary Industries and the Minister for Agriculture for going through the process with the people in the industries to develop the bill and to present what has been talked about with the people in the industries. Again, as I said when I started in this place, often exploratory bills are put out and they have no bearing or representation in the bill that is actually presented in the house.

Mr HARDMAN (Seymour) — It is a pleasure for me as well to rise to support the Plant Biosecurity Bill 2010. I thank the member for Swan Hill for his comments on the bill and for his compliments about those who put it together. The Department of Primary Industries (DPI) officers have worked very hard for a long time to bring this bill together. Listening to the comments by the member for Swan Hill, I realise it has been a worthwhile task and one that the people of Victoria will thank those people for over a long time.

I also wish to relay my thanks to the officers of DPI and the people in the office of the Minister for Agriculture for their work and their briefings to me to ensure that I had a very good understanding of this bill. The Seymour electorate has a number of plant industries, including growing of strawberries, seed potatoes, wine grapes and apples, and other horticultural industries. I really appreciated the attention given to me by the people at DPI.

The bill repeals the Plant Health and Plant Products Act 1995. It will enhance biosecurity plant measures by ensuring that we have the best possible mechanisms to prevent, monitor, control and eradicate plant and pest diseases. The purposes of the bill are to provide for preventing, monitoring, controlling and eradicating plant and pest diseases; to provide for the packaging, labelling and description of plants and plant products; to facilitate the movement of plants, plant products, used packages, used equipment and earth material within, into and out of Victoria; and to repeal the Plant Health and Plant Products Act 1995.

The bill seeks to modernise the legislative arrangements we have in Victoria to improve responsiveness to biosecurity threats, based on improved knowledge of the risks. Again, when I was briefed by DPI officers, they described their work in Mildura. They told me that people in the industry in that area really appreciated the advice given to them that the information collected through the PICs (property identification codes) will ensure that in the future they will be able to better protect their products and therefore their markets. We need to ensure that we protect the industry from exotic plants and diseases. By managing and controlling plant pests and diseases in Victoria we maintain the productivity of our industry and access to markets for plants and plant products.

The bill covers all plants and plant products, including fruit, vegetables, nuts, seeds and grains, forests and timber, native flora, ornamental plants and flowers, but not weeds, because they are covered under the Catchment and Land Protection Act 1994. The management of plant biosecurity issues requires the effective and timely use of a suite of tools that include legislative and non-legislative measures. The aim is obviously to achieve the desired outcomes of maintaining and improving plant production and access to markets for Victoria's produce.

By protecting plants and plant products we protect 11 000 agricultural plant-based enterprises, and 90 per cent of those are from rural communities. Those businesses generate about $3.4 billion in value to the Victorian economy at the farm gate. It is important that we get this right as Victoria's agricultural plant-based industries are significant exporters, with 37 per cent or $386 million of Australia's horticultural industry products coming from Victoria. As well as that, Victoria produces $508 million, or 20 per cent of Australia's total, of grain exports. Again, with some trepidation after previous seasons, we look forward to what will happen this year with the price of wheat. The markets seem to be going very high, and our own industries are benefiting from the fantastic season we are having right now, so we have fingers crossed that we can control the locusts and get a good amount of product out through the gate.

Many export markets and other states are increasing the requirements for demonstrating the disease and pest-free status of Victoria's crops. That is obviously another big issue. It is very important for us to ensure that we get it right.

As I said, DPI did a lot of work. Its officers looked at the Plant Health and Plant Products Act 1995. They looked at its effectiveness and at how best to improve it to meet the modern requirements and frameworks. We live in a world of significant change where people are far more protective of their own markets and the health of their own plants and industries. We live in a highly technological age in which people can find out information much more quickly than they could in the past. We need to make sure that we are on the game in all ways.

In examining the Plant Health and Plant Products Act 1995, the people at DPI looked at prevention, preparedness, monitoring, response actions and compliance. They asked how effective the legislation was at the moment for addressing all those areas. They came up with specific issues, particularly in relation to preparedness, prevention and response capability, and monitoring of compliance with the act, and with some great ideas on how to enhance the effectiveness of existing arrangements.

After they had done that, they went out to industry and consulted. They have been doing that for a long time. They released a discussion paper that identified and provided proposals to address legislative and non-legislative problems. After getting feedback, they prepared a draft business impact assessment to accompany the approval-in-principle cabinet submission, seeking approval for the drafting of an exposure draft of the Plant Biosecurity Bill for public consultation. They released the exposure draft and accompanying explanatory paper and got feedback on that from people in the industry, who were mostly very supportive of what the DPI officers were proposing. Then DPI prepared a final business impact assessment — and now we have the Plant Biosecurity Bill.

Congratulations to all those who have worked on preparing the bill. From my discussions I know that the Minister for Agriculture has also had a long association with preparing the bill to bring it to the Parliament. The fact that The Nationals did not take the opportunity to move any amendments shows the bill has obviously been very well put together.

Mr Helper interjected.

Mr HARDMAN — The minister says it is the best thing since sliced bread. That, of course, is made of a plant product and one that we need to look after well into the future. With no further ado, I congratulate the minister and DPI on the bill. It is great to see that the industry, The Nationals and the Liberal Party are supporting the bill, and I wish it a speedy passage.

Mrs FYFFE (Evelyn) — I am pleased to rise to speak on the Plant Biosecurity Bill 2010. This bill introduces a new legislative framework for regulating plant, pest and disease control and plant product description in order to improve responsiveness to biosecurity threats in Victoria by preventing, monitoring, controlling and eradicating plant pests and diseases; providing for the packaging, labelling and description of plants and plant products; and facilitating the movement of plants, plant products, used packages, used equipment and earth material within, into and out of Victoria. It also repeals the Plant Health and Plant Products Act 1995.

The main provisions of the bill will enhance biosecurity plant measures to prevent the entry of pests and diseases into Victoria through transport regulations and

enforcement provisions; manage and control the spread of pests and diseases within Victoria through the use of administrative procedures such as property identification codes and inspection and enforcement procedures; and maintain productivity and market access for plants and plant products through labelling and quality assurance procedures.

The explanatory memorandum states:

> The bill will apply to pests and diseases of agricultural, forest, native and amenity plants, as well as plant products such as fruit, grains, vegetables, herbs, cut-flowers and timber.

That is the area I wish to concentrate on in the time allocated to me. My electorate covers quite a large area of intensive horticulture and viticulture. We grow some of the best strawberries and cherries in the world, and we need to make sure that our growers are protected.

I would like to talk about the varroa mite and its effects on the bee and honey industry. There are severe biosecurity threats to honey bees and pollination that have not yet arrived in Australia, including the varroa mite, which would cause a major decline in Australia's feral bee population and a rapid increase in demand for pollination services. Australia is currently the only major honey-producing country to be free of the microscopic pest, but pollination and horticultural industries believe it is a matter of when, not if, it arrives here. In the past three years the mite has reached New Zealand and Papua New Guinea, almost wiping out their wild bee populations.

The naturalised European honey bee supports an Australian honey and bee products industry valued at approximately $80 million. That estimate was from the Australian Honey Bee Industry Council submission to the House of Representatives Standing Committee Inquiry into the Future Development of the Australian Honey Bee Industry. The industry is composed of about 1500 commercial apiarists and many thousands of part-time and hobbyist apiarists, producing around 30 000 tonnes of honey each year. It is estimated that bees directly contribute to between $4 billion and $6 billion of agricultural production, mostly from unpaid sources such as feral bee colonies. The varroa mite would decimate Australia's feral bee population and cause a rapid increase in demand for pollination services. Apart from reduced honey production, apiarists would need to repeatedly treat their hives to ensure their survival.

However, the major cost of the mite would probably be felt not by the honey bee industry but by other industries with crops that rely on honey bees for pollination, including almonds, avocadoes, cotton, stone fruits, pome fruit, melons and pumpkins. Honey bee pollination provides significant value to Australian horticulture, with services being valued at $3.8 billion per annum for the 35 most important honey bee-dependent crops. For these crops pollination can be a grower's only real chance to have good yields. The extent of pollination dictates the maximum number of fruits.

Farmers pay for hives to be placed within or in close proximity to flowering crops which are reliant on the activities of bees to achieve fruit set or to maximise fruit quantity and quality. Farmers in the Yarra Valley tell me that they have to book hives well ahead to have sufficient numbers on their properties to pollinate their crops. If this process is affected in any way, it is going to seriously disadvantage the economy of the Yarra Valley. Increasingly paid pollination is being used for crop production in Victoria, with a significant number of beekeepers deriving 20 to 40 per cent of their income from this source. Agriculture Victoria Services estimates a minimum of 20 000 hives are used for pollination.

The varroa mite was discovered in New Zealand in 2000, and it has already had a major economic impact with significant control costs and losses of bees, hives, honey production, crop yields and export revenue. It is not known how the mite arrived in New Zealand. It is usually spread by live bees, but there have been no live bee imports permitted into New Zealand for at least 40 years. The mite probably arrived either with an illegal introduction of queen bees from a varroa-infested country or in a bee colony or swarm that established itself on or in a shipping container and survived the journey to New Zealand without detection.

Live bees cannot be imported into Australia without strict quarantine measures. Visitors must declare all bee and honey products for inspection, and some states also have their own quarantine restrictions on the movement of honey and bee products. Without bees there would be a food shortage. Without sufficient bees there would be insufficient fruit and crops to supply domestic demand, resulting in more and more fruit imports, which would make the control of diseases an ongoing concern.

I also wish to talk about apple and pear imports. Again, it is a very important issue for my electorate. We have growers who have invested heavily in the pome fruit industry — they have invested in very expensive hail nets which cost about $200 000 and only protect a small area of their crop. They grow crops to the standards required by the supermarkets and are exceptionally well-recognised for the quality of the fruit

they produce, but they are very concerned about the potential importation of New Zealand apples.

Apple imports from New Zealand have been banned since 1921 because of the danger of introducing fire blight to Australia. No fruit-growing area in New Zealand is free of fire blight. On 10 August 2010 the World Trade Organisation (WTO) overturned this 90-year ban on importing New Zealand fruit. The Australian government intends to appeal this decision, and apples will remain banned until the outcome of this appeal is known. In 2007 Australia allowed imports subject to strict quarantine conditions to prevent the spread of the bacterial disease fire blight. New Zealand believed the conditions were too strict and anticompetitive for its growers and took the case to the WTO, and that case was decided in its favour.

Fire blight is endemic in New Zealand but is not present in Australia. Australia's apple and pear orchards would be devastated by fire blight. It is estimated that over a five-year period fire blight would cost Australia's apple and pear industry $1 billion. It would wipe out our pear industry, severely damage the apple crop and undermine the social and economic foundations of entire rural communities, such as the one we have in the Yarra Valley. Fire blight is spread by wind, rain, birds, insects and aerosol droplets. Australia has a significant number of insects which could spread the disease, and it also has a wide range of plants other than apples and pears which are susceptible to the disease. In ideal conditions the fire blight bacteria can replicate from 1 to 1 billion in 30 hours, and weather conditions in Australia are much more favourable for the establishment and spread of fire blight than those in New Zealand.

There are also concerns about the Suzuki fruit fly. Apple and pear growers have added the risk of a Chinese fruit fly to their battle to keep the industry free of disease. Apples imported from China present a risk of new pests and diseases entering this country. The fruit fly has spread from Asia to the USA, Canada and Europe, in some cases causing damage to up to 30 per cent of a range of fruits. Biosecurity Australia allowed the importation of Chinese apples after an independent risk assessment panel concluded that the Suzuki fruit fly was known to only penetrate soft fruit rather than hard-skinned apples and pears. Growers are concerned that those flies can lay eggs in soft spots on apples. There are also reports of a new subspecies that can penetrate intact fruit.

Growers in my area are concerned that if this pest entered Australia, it would have a devastating impact on a large number of the local fruit crops, including apples, cherries, blueberries, peaches, nectarines, plums and grapes. It is essential we never relax our vigilance when it comes to protecting Australian growers from diseases that exist outside our island nation.

Mr HOWARD (Ballarat East) — I am pleased to be speaking on the Plant Biosecurity Bill. It is good to speak on a new bill as opposed to an amendment bill. We are repealing the Plant Health and Plant Products Act 1995 and putting in its place an entirely new bill. In putting in place the Plant Biosecurity Bill 2010 the government has undertaken a great deal of consultation and has talked with key people in the plant industries across the state about how we can, in developing a new bill, ensure that we streamline arrangements to ensure that we have a high level of plant biosecurity so we can deal with plants that are introduced that we do not want introduced and pests associated with plants in the best possible way.

We are doing this because we recognise that various forms of plant industries across this state are important to the economy and the welfare of communities across so many parts of the state. Within my electorate there is a very broad range of plant industries where work is undertaken, whether they be standard cereal industries, which are a great tradition within Australia, the significant horticultural industry — particularly the potato industry in part of my electorate — or those newer horticultural industries that are becoming so important, including the grape and wine industries.

We know that in 2007–08 Victorian horticultural exports accounted for something like $386 million of the nation's horticultural exports. That is very important. In 2007–08 Victorian grain exports accounted for $508 million. We can add to that the forest industries, including the timber industry; the timber industry adds about a billion dollars worth of value annually. We need to work to ensure that we have best practice when protecting those industries across our state.

The bill aims to ensure that we monitor any potential pests and introduced species, prevent them advancing, develop the best control and eradication systems we possibly can and address issues associated with packaging, labelling and the description of plants so we ensure that at every step on the path we have best practice in relation to protecting our industries.

Those who are key players within the industry are very much aware of those issues and are supportive of ensuring that we operate at the best level and have good border protection. This bill ensures that we have best practice in relation to recognising that issues in relation

to plants coming across the border, earthmoving machinery and rocks, gravel and any material that might possibly carry pests or seed are monitored and appropriate controls are put in place.

A new section in the bill enhances the emergency response capability and ensures that we can make declarations when there is a serious issue so we can act on it appropriately.

Further, there is the development of the property identification code so we can ensure that we can identify as quickly as possible where materials are coming from and that we have appropriate certification processes in place. This bill addresses all of those issues to ensure that we are leading the nation and we are supporting our plant industries well by having the best possible practices in place.

Like speakers before me, I am pleased to see there is a strong sense of support from The Nationals and the Liberal Party for this bill. All of those who have spoken before me recognise that a great deal of work has gone into the development of this bill. I want to congratulate all of those involved because this bill is very sound legislation. This new bill brings together best practice under the plant biosecurity code. We will continue to have top industries in this state in terms of our horticultural industries and other plant industries. I fully support this bill.

Dr SYKES (Benalla) — I wish to contribute to the debate on the Plant Biosecurity Bill 2010. I look at it from a plant perspective and a human perspective. Can I lay the groundwork? Plants may not hurt, but people do. As I work through my presentation members might pick up on the meaningfulness of that.

Firstly, it is absolutely critical that we have in place a sound plant biosecurity strategy. It has been spoken about in relation to fire blight. The people of northern Victoria are particularly concerned about risks associated with importing apples from other countries which may be contaminated with fire blight. If that occurs and if the disease gets into Victoria, then there will be a serious impact on the orchard industry and, more importantly, on many individuals.

Similarly, in relation to plant biosecurity we have the issue of the impact of breakdowns in biosecurity even with our serious endemic plant diseases and weeds. We saw that played out in relation to the north–south pipeline, where in the early days of laying down the pipeline against the will and wishes of the local community there were accusations by land-holders of failure by the contractors to comply with basic plant biosecurity measures. Those failures, as was explained quite passionately by the land-holders, were the fundamental basis for concerns about the north–south pipeline.

Another issue where the importance of planned biosecurity has been highlighted is in relation to bushfires and the implications of the generosity of people donating fodder to those farms that were burnt out in the 2009 bushfires. Regrettably, with the importation of fodder has come the importation of weeds and weed seed. As has been raised with me by The Nationals candidate for the electorate of Seymour, we have a very significant problem there with a proliferation of weeds as an unintended consequence of the generosity of people who donated feed to help those in need.

If I can just draw on my experience as a veterinarian and for the benefit of all those who are listening in the house this evening and outline the implications of what happens if you get biosecurity wrong. As I have said, plants do not hurt but people do. My experience as a veterinarian included going to the United Kingdom in 2001 to help deal with an outbreak of foot-and-mouth disease. I went there in May 2001, five months after the outbreak had been confirmed. What I experienced in the month that I was there will live with me and haunt me for the rest of my life, because I saw unbelievable pain experienced by people who had suffered the consequences of biosecurity measures failing.

I went to Yorkshire. On my first day I was sent out to do surveillance, starting in a beautiful place called Settle. As we drove out to inspect one particular farm, we initially went through properties that were stocked and then progressively we came to open fields where there was no stock. Eventually we arrived at a property where there was some stock, and we established that this was an island consisting of a small number of properties that still had stock in an otherwise vacant area of land where all the other animals had been destroyed because of foot-and-mouth disease. As I examined the stock and attempted to determine whether the animals were diseased, I looked into the eyes of the land-holder. I saw unbelievable pain and hurt in those eyes, because for months he had been wondering when his turn would come, wondering when his herd or flock would be determined to be infected and his farm would have to be destocked.

Mr Eren interjected.

Dr SYKES — I thank the member for Lara for that wonderful contribution.

We will move on to consider the impact of what happens when you get it wrong with biosecurity measures. In my role in the UK I was involved in surveillance activities. Eventually, if you look hard enough for a disease, you will find it. I found it on Richard's place. We then proceeded to destock his herd. It was not a pretty sight, particularly when, as we moved to another herd at another location, there was some doubt about the diagnosis. But we proceeded to slaughter his whole herd. Although Richard accepted it, it would be fair to say that his wife was not very happy.

I then went on to another fellow's place, a Mr James, who at age 65 had milked cows all his life. We proceeded to slaughter his herd, not because they were infected but because they were neighbours of an infected property. We started with a bull, because he did not want to see the bull disturbed by the slaughter of the other animals around him. The problem was that we stuffed it up because the slaughts did not have a rifle to shoot the bull. We had to put the bull through a drawn out and agonising process of putting him down with an overdose of intravenous anaesthetic. We then worked through the rest of his herd, and during this time Mr James was up on the hill having a picnic lunch courtesy of some caring people in the community who had tried to take him away from this dreadful experience of seeing his livelihood slaughtered in front of his eyes. He sat up on the hill trying to get away from that, courtesy of some caring people.

Would members like to know what we finished it off with? We finished off by killing his poddy calves. I will tell members how that is done. The slaughts were professionals. You get the poddy calf to come up and suck your finger and while it is sucking your finger you put the captive bolt to its head and you blow it away. That is pretty tough going; I congratulate the slaughts for being able to continue to do it. You then move on to the next place.

An honourable member interjected.

Dr SYKES — It is obvious some people in this house have not been through the pain of having to deal with a serious exotic disease. You then take out the next place. In my case this was a property that belonged to a fellow called David. David was reluctant to have his property under surveillance as a result of the outbreak of foot-and-mouth disease. However, he agreed to my coming along to do it. Regrettably his neighbour went down with the disease, and he got the phone call at 5 o'clock on a Saturday night telling him that his herd would go down on the Sunday. He rang me and asked me if I would do that for him.

In between times I went out to the wedding of the son of Richard, the fellow whose herd I had slaughtered the week before. While this was all happening, I had been slaughtering another herd, and when I finished that job the farmer invited me into his dining room to sit down and have a cup of tea and scones and get over the grief of having taken away his livelihood. When I left, that farmer shook my hand and thanked me for slaughtering his herd and taking away generations of breeding. If members have ever been there, if they have ever had someone shake their hands and not let go, they know what it is like to experience the pain of what happens when something goes wrong with biosecurity measures.

The story goes on. I could tell members many more tales. But the message is that it is absolutely critical that we have adequate biosecurity measures in place, and that is why this legislation, which attempts to do that for plants, is so important. As the member for Swan Hill said, it is absolutely critical that we apply the same measures to locusts, because the people who are about to be affected by locusts have been through a living hell for the last 12 years. They are just recovering as we have a break in conditions, and if they cop the pain of a locust plague, they too will need enormous help.

I say to the government, to all those present and to the public of Victoria that it is absolutely critical that we put in place the appropriate legislative powers and carry out those to the best of our ability to protect the human beings in Victoria from the pain associated with exotic diseases.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

TRADITIONAL OWNER SETTLEMENT BILL

Second reading

Debate resumed from earlier this day; motion of Mr BRUMBY (Premier); and Mr CLARK's amendment:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until there has been adequate time for proper consultation on the contents of the bill with the community and with affected stakeholders'

Mr HERBERT (Eltham) — It is a pleasure to speak in the debate on the Traditional Owner Settlement Bill 2010. It is an honour to speak in the debate because this is a really important issue in our history. It is an issue

which has brought shame because of the past treatment of our indigenous people and pride in the steps taken to restore legal and just access to legitimate land rights for them in recent times. It is an important issue, and this is an important bill because it continues the process of delivering justice to indigenous people that was denied to them for aeons. After more than a century of injustice of rights, wrongs are not easily overcome. It is part of a legislative process where we continue to tackle those injustices and try to improve the rights and bring justice to indigenous people.

The bill will bring in quicker, more reliable and fairer ways of making agreements and will deliver much more certainty in terms of the land-right process for all involved. It provides a framework which will allow for quicker resolution of claims, reduce transaction costs and compensation liability for the state and, importantly, provide finality — certainty for the state, business and industry in relation to native title claims.

What is also important about the bill is that it has followed a rigorous policy and consultation process. It is broadly supported by indigenous people, developers and by industry stakeholders. Given the importance of improving economic opportunities for indigenous Victorians, this bill promotes settlements which focus on employment and economic development opportunities for traditional owners. As such it is part of the ongoing, firm commitment — whether it be in health, education or jobs — that the Victorian Labor government has made to closing the economic gap between indigenous and non-indigenous people.

This bill comes on top of other bills, and it is worth reflecting on the huge steps forward that we as a society have made in recognising the legitimate rights of indigenous people — recognising rights that came after the Mabo determination was enshrined in 1993, not that long ago in our history. It was a turbulent time, 1993, in terms of land rights. I think this whole issue really does clarify the divide between Labor and the Liberal-Nationals coalition on the issue of land rights and justice for indigenous people.

Like a number of people, I was working in the Senate when that native title legislation went through in 1993, and I clearly recall the absolute opposition to that legislation from the Liberal members in the Senate — not just opposition as political parties will have on a logical point, but opposition from the core of their beliefs, opposition that saw the most disgraceful delaying tactics designed to stop the Parliament, the Senate, and the process of the bill through the Senate. The bill was debated day and night virtually 24 hours a day, and every 90 seconds, maybe every 3 minutes, there were calls for quorums and divisions from the opposition all in an attempt to try to close down debate on this issue. I think it is to the credit of the Australian Democrats, that they supported the bill, and it is to the credit of the Prime Minister at the time, Paul Keating, that he had the tenacity to push this legislation through the Parliament — —

Mr Wynne — Gareth Evans.

Mr HERBERT — And Gareth Evans in the Senate, who started a process of justice for indigenous people to have access to their legitimate claims to the land to which they have long-term links and which is part of their heritage. That process has continued and has continued with a clear divide between Labor and Liberal. Look at the issue of the apology to the Stolen Generations. It took a Labor government nationally to come out and say the simple word ‘sorry’ for the atrocities that were conducted against indigenous children by earlier white families and by institutional prejudice. In Victoria only recently, in 2004, did we recognise Aboriginal people as the original custodians of the land in our constitution. Then in 2006, when I was in Parliament, we ensured that enjoyment of identity and culture was part of our charter of human rights of which I am quite proud. This legislation — including the bill that we have now — is part of that continuing process of providing certainty and justice for indigenous people, and I highly commend the bill to the house.

Dr NAPTHINE (South-West Coast) — I rise to speak on the Traditional Owner Settlement Bill and particularly to support the reasoned amendment moved by the honourable member for Box Hill. That reasoned amendment seeks a further continuation of debate on this bill so there is adequate and proper consultation on the contents of the bill before it is rushed through this Parliament.

The bill itself is best described by its long title which says it is:

> A bill for an act to recognise traditional owner groups based on their traditional and cultural associations to certain land in Victoria, to provide for the making of agreements between the state and traditional owner groups, to recognise and confer rights on traditional owner groups as to access to or ownership or management of certain public land and as to decision-making rights and other rights that may be exercised in relation to the use and development of the land or natural resources on the land …

That has got to be seen in the context of a report that was released earlier this week entitled *State of*

Victoria's Children 2009 — Aboriginal Children and Young People in Victoria which highlights the Aboriginal disadvantage in our community. The report is a snapshot which provides a real focus on the disadvantage that faces not only Aboriginal children but all Aboriginal people in this state. That report highlights that young Aboriginal people are half as likely to have completed year 12, three times more likely to have been involved in the justice system, three times more likely to have two unemployed parents, twice as likely to suffer eye and ear problems, are significantly overrepresented in our child protection systems, and are more likely to be exposed to issues of substance abuse, violence, crime and psychological distress.

I think those results are not something that we as a community should be proud of, and they do highlight the disconnect between the Aboriginal communities and their land. Indeed I think those issues are issues that we as a community need to continue to work to overcome.

However, I have concerns about some aspects of this bill. Some of the concerns include that the bill allows an agreement to be entered into over reserved or unreserved public land in Victoria, even in areas where there is no prospect of a successful native title claim. This includes conferring freehold or Aboriginal title which may apply in perpetuity and restrict future use of the land. The question asked is whether we should allow alienation of public land without parliamentary approval or parliamentary veto.

The bill also treats multiple native title claimants in the same area as one group, and I will have more to say about that in a minute. Where there are no native title holders or claimants in an area the bill allows the Attorney-General to decide what group to recognise as traditional owners, with no right of appeal for excluded groups. Many Aboriginal groups have strong complaints about how the government has excluded them in the past, and they are fearful about how they will be treated under this legislation.

The bill allows agreements to be reached with an entity appointed by a group, with no specification for determining how or whether an appointment has been made. It allows that land agreements to grant freehold title or Aboriginal title need not be in settlement of native title claims. This means land may be granted in areas not subject to native title claims, and the granted land need not settle a native title claim.

There are some serious concerns about the bill. I sent the bill out to a number of people in my community, in particular to a number of Aboriginal people and to community leaders in Aboriginal communities across south-west Victoria. I have received a number of comments from those individuals in response. In particular they advised me that in the south-west area, in the Maar nation, there are six major groups and many more tribes, clans and family groups. These groups often have diverse views and multiple claims, and relationship problems between the groups have been exacerbated over the last hundred years by the movement of Aboriginal people across regions and across the state and fundamentally by Aboriginal politics.

A real concern that has been raised with me by a number of Aboriginal community leaders is that they were not aware that this legislation was being rushed through Parliament. They asked me to come to Parliament and say, 'Can we please delay the passage of this bill so these people will have more time to consult with their family members, community groups and Aboriginal groups'. This request has come from Aboriginal people in south-west Victoria who feel excluded from this process. They are concerned that this bill will set up a divide-and-conquer approach that will set family against family, tribe against tribe and group against group.

They are also concerned about the lack of grassroots consultation with local Aboriginal communities. A number of community leaders said this, and they said it in quite strong terms. They said this is another white government solution using white thinking, white systems and white approaches by white people to Aboriginal people, with a complete lack of understanding of the relationship between Aboriginal people and the land and the relationships within and between Aboriginal tribes, communities and families. That was said by more than one Aboriginal community leader in south-west Victoria in response to the legislation I sent out to them.

I also wish to raise for the house's attention the lack of consultation with the wider community: with local councils, which were hardly aware of this legislation, despite the enormous impact it will have on local government; with occupiers and managers of Crown land; with public land users; with the fishing and forestry industries; and with the recreational fishing community. Given that lack of consultation not only with the Aboriginal community but also with the broader community, I emphasise the need to support the very reasonable position put by the honourable member for Box Hill.

I raise a specific example to highlight the problems we have with this area. The Moyne Shire Youth Council

wanted to erect a rotunda on the site of the common in Hawkesdale. It wanted to have it open next year at the celebration of the township's 150th birthday. The common is Crown land and is subject to an ongoing native title claim. Mr Bill Lyons, native title coordinator with the Department of Sustainability and Environment in the south-west, said the following on 5 March:

> The erection of the proposed rotunda is deemed a public work which under the Native Title Act would extinguish native title.
>
> Although the state does not agree or represent that native title in fact exists the erection of the rotunda is not specifically validated under the native title act and … can only proceed with the registration of an … (indigenous land use agreement) …
>
> Native Title Services Victoria has been requested to facilitate the agreement which in usual circumstances can take up to six months.
>
> At this stage the matter is still with Native Title Services for determination.
>
> Depending on the type of agreement reached the National Native Title Tribunal may … take —

another —

> 30 to 90 days from notification to registration of the agreement.

This means that to put up a few signs and build a simple rotunda on the common at Hawkesdale could take at least 9 to 10 months. I wrote to the Minister for Environment and Climate Change, who is responsible for the Department of Sustainability and Environment, and to the Attorney-General, but neither of them could speed up the process. If this is the sort of thing we are going to get into through this sort of legislation, we are making a huge rod for our own backs.

There is broad community support among the Aboriginal community and the broader community of Hawkesdale that this rotunda is a good thing — that improving the common, cleaning up the weeds, putting in a path and putting up signage are good things — but we are bogged down with the red tape that has been created by the very sort of legislation that is before us today. Unfortunately because of this government's mad rush to push this through the Parliament for whatever reason, without proper consultation with Aboriginal communities, the broader community or local government, we are exacerbating this red tape and these problems.

Finally, as shadow Minister for Racing I point out that many country and city racetracks are actually on Crown land — including Flemington, Caulfield and an enormous number of other racetracks right across rural and regional Victoria. I want assurances from the government that this legislation will not impact on the ongoing use of that Crown land for racing, because that is a very important industry for the 75 000 people employed across the three racing codes and an enormously important industry for tourism and the economy of this state. This industry is contingent on ongoing access to Crown land for racing. We want assurances that this legislation will not jeopardise that in any way, shape or form.

In conclusion, it is time to sit back and consult with the wider community on this issue.

Mr WYNNE (Minister for Aboriginal Affairs) — It gives me great pleasure to speak in support of this bill which continues to show the Brumby Labor government's commitment to redressing the past wrongs experienced by Aboriginal people. This has already been amply demonstrated, as my colleague the member for Eltham pointed out in his contribution, with changes to the Victorian constitution and the 2006 Charter of Human Rights and Responsibilities, both of which gave recognition to the special place Aboriginal people have in Victorian society.

This bill is one of the most important to come into this Parliament. It reaffirms our continued repudiation of the legal fiction of terra nullius. It goes some way to addressing the injustices experienced by Aboriginal people who were moved off their traditional lands, separated from their families and discouraged from speaking their languages. It recognises that despite all those forced changes Aboriginal people have not lost their connection with the country and their deep desire to express that connection through caring for that country for the benefit of all Victorians.

The bill provides an important mechanism for giving legal effect to these longstanding and important Aboriginal community aspirations. Since the High Court of Australia decision in the Mabo case the Victorian government, like all other governments in Australia, has been grappling with responses to native title claims lodged over Crown land. Our experience in the long, drawn-out litigation in the Yorta Yorta case showed clearly that a litigated approach results in huge financial costs and, most importantly, huge social and community costs. That case set neighbouring Aboriginal and non-Aboriginal communities against one another and tore families apart. The final decision was devastating in its impact on the Aboriginal community in that it questioned its identity and attachment to traditional lands.

The adversarial approach must be avoided at all costs. At present native title claims take too long to settle — up to 10 years on average — and impose huge legal costs on both the government and applicants. This is funding that could be better used to support the implementation of negotiated agreements and be redirected to traditional owner groups.

The bill introduces a framework that has been developed through negotiation with Victoria's traditional owner groups and has been widely supported by indigenous communities and other land stakeholders including industry and developers. It sets a framework for native title claims to be more speedily and effectively resolved. The approach has received support because it offers certainty to all parties. Recognition and settlement agreements will provide clarification and recognition of the traditional owners as the appropriate decision-makers for a particular area.

The bill establishes streamlined processes. Land use activity agreements will replace the cumbersome future acts process of the Native Title Act 1993, thus clarifying processes for ongoing management of Crown land. It will provide benefits to all those — I repeat, all those — with an interest in using Crown land by promoting speedier and lasting resolution of claims and by codifying the roles and responsibilities of all parties to agreements.

The framework also provides a mechanism for identifying and specifying the roles and responsibilities of all parties to agreements reached through the negotiated processes established by the bill. In addition, the bill includes a small but highly significant amendment to the Aboriginal Heritage Act 2006, which I administer. This amendment will enable a group which has entered a recognition and settlement agreement with the government to be appointed as the registered Aboriginal party on application to the Aboriginal Heritage Council. The amendment is consistent with the processes established under the Aboriginal Heritage Council which promote traditional owner groups as the rightful decision-makers in relation to their cultural heritage. Having their role as decision-makers in respect of their unique cultural heritage recognised is one of the most important aspirations of traditional owner groups. Management of Crown land and all its resources will also be of benefit through the application and sharing of traditional knowledge held by Aboriginal people.

As well as resolving native title claims, these settlements will focus on providing lasting benefits to Aboriginal community groups through the promotion of employment and economic development opportunities. I am joined now by the Attorney-General in his role as the chair of our Aboriginal advisory group within government. The magnificent work that he chaired on our behalf in developing a new pathway in relation to economic development for Aboriginal people and an excellent funding package has set the way forward for us. It is an agenda which is about a partnership between Aboriginal and non-Aboriginal people to ensure enduring outcomes from the benefits that will derive from the economic development strategy.

There will be ongoing funding and other support to ensure the sustainability of traditional owner groups that enter into agreements with the government. An agreement will signal the beginning of a new stage in the relationship between government and traditional owners as the focus of the relationship moves from agreement making to implementation. We will continue to work with traditional owners in this new phase of the process.

Real recognition such as that provided by the bill is a critical step in redressing past wrongs and healing the damage they caused. Ultimately we as a community will be richer as a result of the passing of this bill, which will lay a stronger foundation not just for Aboriginal Victorians but for all Victorians.

I commend the bill to the house as yet another important step in achieving a real and lasting practical reconciliation with Victoria's Aboriginal community. I implore the opposition parties not to delay and not to frustrate the modest aspirations of Aboriginal people in this community.

Honourable members interjecting.

The ACTING SPEAKER (**Dr Sykes**) — Order! If members could give the minister who is speaking their full attention, that would be much appreciated.

Mr WYNNE — If we in this Parliament are to understand anything about Aboriginal people, we have to understand and respect the sacred linkage between Aboriginal people and their lands. By this bill, in a modest way — do not shake your head, member for Shepparton — by this modest bill before us tonight we will start to address in a practical way reconciliation that will fundamentally address a wrong that was wrought upon the Aboriginal people of Victoria by a High Court of Australia decision and due to practices that were undertaken by successive governments to displace Aboriginal people from their lands. We seek to redress that fundamental wrong.

I say to the opposition: do not delay, do not frustrate the aspirations of our Aboriginal people for access to land and for cultural, social and economic outcomes. I commend the bill to the house.

Mr CRISP (Mildura) — I too rise to make a contribution on the Traditional Owner Settlement Bill 2010. The Nationals in coalition are supporting the reasoned amendment moved by the member for Box Hill. That reasoned amendment states:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read the bill a second time until there has been adequate time for proper consultation on the contents of the bill with the community and with the affected stakeholders'.

The purpose of the bill is to provide a framework for the state to recognise groups as traditional landowners, to enter into agreements with such groups relating to funding and land ownership, management, access and use, and for such agreements to form the basis of the settlement of native title claims.

The crux of this bill for me is that it is enabling legislation that creates a framework for agreements between the state and traditional owner group entities for areas of Crown land, and the legislation will only be given effect when the Attorney-General on behalf of the state enters into a recognition and settlement agreement with the traditional owners.

Clearly this is a very important bill. As I understand it the shadow Minister for Aboriginal Affairs has contacted Aboriginal cooperatives for comment and has only received two replies so far. They are from Bangerang Cultural Centre Co-operative and the manager of the Victorian Traditional Owner Land Justice Group secretariat. I understand too that the member for Shepparton has contacted 79 local governments, the Municipal Association of Victoria and the Victorian Local Governance Association asking for their comments on this but has had no response yet. I have contacted my local Aboriginal group, the Mildura Aboriginal Cooperative and am yet to receive a response on this.

In Aboriginal culture silence is not consent. I believe this silence indicates that they have not had time to understand the legislation. We want this issue fixed, but silence from Aboriginal groups concerns me. The Attorney-General has the power to determine these issues. What if he gets it wrong? Such a problem could further divide Aboriginal people. It could cause further fragmentation as one group fights another — the very thing we are trying to overcome. Aboriginal people need time to disseminate and dissect this proposal, and that takes time in Aboriginal culture. It is a very difficult area to work through with them so that they might come to the understanding that is needed. I am concerned that the time needed has obviously not been allowed for in this process because of the silence with which the shadow Minister for Aboriginal Affairs has been met.

I understand and respect the process of consultation and know how difficult it is for Aboriginal groups. They need to understand this legislation and then provide comment to assist the Parliament to debate this bill. With the opposition receiving so little feedback at this time I do not think we are in a position to debate the bill. There is a risk we could cause more legal battles than we already have. There are a considerable number of Aboriginal people in my electorate, and their silence on this issue is scary. I have concerns. This is already a fragmented group. I do not want us to do anything that causes further fragmentation. Rather, I want them brought together to address the serious issues that Aboriginal people face.

Aboriginal people do not like to say no, as it is considered discourteous, but silence should not be interpreted in this case as consent. That is the difficulty we face with this bill. Not just the electorate of Mildura but all of Victoria has much at stake with this issue, so we need to make sure that we get it right; thus my support for the reasoned amendment, so we can pause for a while and give just a little more time to consultation.

Mr HULLS (Attorney-General) — This amendment is a disgrace. It is nothing more than a delaying tactic by those on the other side, who know there has been an enormous amount of consultation in relation to this piece of legislation. When the Mabo decision was handed down, former Premier Kennett said people's backyards were at risk, which was a disgrace. We now have the member for South-West Coast saying that as a result of this legislation racecourses are at risk, for goodness sake. This is just a disgrace. He obviously has not read the bill.

The fact is that this bill is not about playing politics. Despite the remarks of the member for Mornington earlier today this bill is about righting the wrongs of the past. That is what this bill is about. At its heart it is about reconciliation and delivering long-awaited land justice for Victoria's traditional owners. I want to clarify and provide some more detail on some of the issues that were raised this morning.

I have to say that the shadow Attorney-General, in moving this amendment, is doing nothing more than

playing a pretty ordinary political stunt. He does not have the guts to come out and support the bill. He does not have the guts to oppose the bill. He just wants to delay it in the never-never so it is never dealt with. The fact is that this is just not going away. Delaying now is not an option. It is not an option for the traditional owners of Victoria, and it is not an option for this government.

We as a government first undertook to progress an out-of-court settlement of native title with Victorian traditional owners back in 2005. The government has been working in partnership with Victorian traditional owners and the Victorian Traditional Owner Land Justice Group. This group is the peak body representing Victorian traditional owners in the development of this bill. I will now read a letter I received this afternoon from the Victorian Traditional Owner Land Justice Group, and I am happy to table it:

> Traditional owners strongly oppose the amendment moved by Mr Clark, the shadow Attorney-General, in Parliament today, which would have the effect of indefinitely deferring the Traditional Owner Settlement Bill 2010.
>
> It is critical this bill is debated and passed as soon as possible. Many of our elders have passed on waiting for land justice. Traditional owners of Victoria have been waiting far too long for this legislation.
>
> There has been extensive consultation about it over a long period of time. Indeed, the Victorian Traditional Owner Land Justice Group, which is a federation of traditional owner groups from across the state, have been instrumental in negotiating this initiative since 2005.
>
> The Traditional Owner Settlement Bill 2010 is vital for the traditional owners of Victoria and its passage through the Parliament should not be delayed.

The letter is from Melissa Jones, Graham Atkinson, Bobby Nichols and Annette Xiberas, co-chairs of the land justice group. I seek to table that document.

In relation to delay, as I said, in 2008 the government established a steering committee to develop this policy. It was chaired by the eminent Australian Professor Mick Dodson and brought together key government agencies and traditional owners to develop a new process for settling native title. I want to take this opportunity to recognise and thank Mick for his magnificent contribution and leadership in relation to this reform.

We have been talking to other major stakeholders since 2008. Briefings and consultations have been conducted with a wide range of peak industry stakeholders. We have met with the Victorian division of the Minerals Council of Australia, the Victorian Farmers Federation, Tourism Victoria, the Equal Opportunity and Human Rights Commission, the Victorian National Parks Association, the Association of Forest Industries and the Seafood Industry of Victoria, to name but a few. All these groups expressed strong support for the steering committee's recommendations for an alternative, quicker and fairer way to resolve native title.

The Minerals Council of Australia, for example, says this about the framework:

> The minerals industry in Victoria has supported the new approach …
>
> The new approach offers significant advantages to the traditional owner groups and provides certainty for businesses that use Crown land in Victoria.

Despite the insinuations of the opposition members of the house earlier today, it is important to remember that the broader public is generally not affected by this bill. This gets to the nonsense about racecourses raised by the member for South-West Coast. He knows full well that all existing leases and licences on Crown land remain unaffected by the operation of this bill. This is the same bloke who stood up in this place when we were debating the neighbourhood justice centre legislation and said, 'This is apartheid justice'. No-one should give any credence to what he says in relation to this type of legislation.

As I said, former Liberal Premier Jeff Kennett said Mabo was about people's backyards being at risk. Now the member of South-West Coast has the audacity to come into this place and say racecourses are at risk as a result of this proposed legislation. He knows that is totally untrue. He is nodding his head. We ought to stand up and apologise. What he has done in this place tonight is a disgrace. He mentioned a rotunda, for goodness' sake — a rotunda is being held up because of this legislation. That is a nonsense, and he knows it is a nonsense.

The fact is — —

Dr Napthine interjected.

Mr HULLS — Because it is under the Native Title Act, you goose!

The ACTING SPEAKER (**Dr Sykes**) — Order! Through the Chair!

Mr HULLS — The fact is that under this legislation any type of activity such as building a rotunda, such as the member for South-West Coast has spoken about, is an advisory activity. The fact is that only consultation is required under this legislation. No negotiations are required under this legislation, and that relates to all

minor public works. The fact is he has been hoisted with his own petard.

The reality is that this legislation makes it a lot easier to do the sort of work he is talking about. He is a goose. He has not read the legislation. He is deliberately coming into this place and scaremongering, just as Jeff Kennett did years ago. The fact is this is good legislation. We cannot wait, and we will not wait. This bill delivers a raft of benefits to traditional owner groups — to the state, to industry, to developers, to land managers and in turn to the community as a whole.

It sets the pieces in place for a meaningful and practical recognition of the unique traditional owner groups of Victoria as the first peoples of this state who hold specific rights that are given effect through agreement making. It ensures that practical reality occurs not only with what has already been recognised in the 2004 amendment to the Victorian constitution and indeed the Charter of Human Rights and Responsibilities but also with our long-held determination to do better by our traditional owners. That is what we stand for on this side of the house.

The approach set out in this bill will fast-track the resolution of native title claims that are lingering in the courts. It will redirect limited resources to meaningful funding arrangements with traditional owner group entities that will equip them to meet their obligations and help to build a base of economic self-sufficiency. It will put an end to public expenditure on unnecessary native title administrative and legal costs that we all know bring limited outcomes. It will provide for the good management and appropriate development of Crown lands and natural resources. What is more — and those on the other side just do not get this — it will foster positive relationships between the government and Victoria's traditional owners.

Just as the dispossession of this land's first people is this nation's greatest tragedy, I believe reconciliation in all its forms is our greatest opportunity for redemption. It is our greatest opportunity to ensure that we foster meaningful long-term positive relationships with indigenous Victorians. Business will only be finished when all the legacies of dispossession and assimilation, of racism and disadvantage, are dismantled. The possibility of genuine land justice is one such opportunity, and we must grasp it, as indeed is the capacity to participate as equal partners to a dispute and as equal partners to its resolution.

The opposition would deny and delay indigenous Victorians getting meaningful land justice. We on this side of the house are not prepared to play that grubby little game. We want this legislation passed. We think this is good legislation. There has been an enormous amount of consultation. The bill is supported by traditional owner groups. It is supported by the majority of stakeholders. It is good legislation, and finally it will show that we as a community are fair dinkum about delivering proper justice to indigenous Victorians. We absolutely reject this amendment. I hope that this bill receives a speedy passage through both houses.

Mr DELAHUNTY (Lowan) — I rise on behalf of the Lowan electorate to speak on this very important Traditional Owner Settlement Bill. In response to previous speakers, I just cannot believe we are getting verbal abuse thrown across the chamber.

Honourable members interjecting.

The ACTING SPEAKER (**Dr Sykes**) — Order! Can the Attorney-General and shadow Minister for Racing please give the member for Lowan the respect of listening to his contribution.

Mr DELAHUNTY — I cannot believe the verbal abuse that is being thrown across this chamber when we are supposed to be people who try to debate things for the betterment of people within the community of Victoria. As we know, the minister who has just spoken is the Attorney-General, the chief law officer in this state, and he is talking about native title being a nightmare for legal process. He is one person who can do something about that to fix up the process. If he wants to do something about native title, he should fix up the native title process. But importantly that is a federal issue; this is a state issue.

I want to talk about some of the things that are important to my electorate of Lowan. It is the largest electorate in the state, and there are many good stories we can talk about with the Aboriginal community working with the community in general. Whether it be the Goolum Goolum people, the Barengi Gadjin people or the many people around the Grampians and the south coast, there are some fantastic people. We have the great example of Harrow, and in each instance the community is working together, and there is great understanding about it.

As we know, the purpose of this bill is to provide for the making of recognition and settlement agreements between the state and traditional owner groups, to recognise traditional owners' rights and confer rights on the traditional owner groups. The minister has already spoken about the fact that there has been a lot of consultation.

I can tell you that in the groups I have spoken to there has been no consultation. A lot of them do not know about this legislation. Only one group among all the groups I represent had an understanding of this legislation — and it was a minimal understanding. That is why I am up here tonight supporting the reasoned amendment moved by the member for Box Hill to provide that 'this house refuses to read this bill a second time until there has been adequate time for proper consultation on the contents of the bill with the community and with affected stakeholders'. The term 'stakeholders' refers to not only the stakeholders in the Aboriginal community but also local government, users of public land and the sporting groups I represent as shadow minister. I believe this government is trying to pick those who will be winners.

I can assure members that many of the people in the groups I have been speaking to feel they will be losers as an outcome of this legislation — and as we all know, there is no appeal process available. I have spoken to many people who are very concerned. They feel this will create enormous animosity between the Aboriginal communities. We should be trying to bring our communities together, whether it be the Aboriginal community or various other groups in the community. At the end of the day we should all be working together for the betterment of everyone, not only the Aboriginal community. The people I have spoken to believe this will create financial burdens on groups which are not strong enough and which have weak family connections. They feel they will be the losers in this debate.

There is concern about funding for these groups.

One group is concerned about funding for young people in particular, the youth in our community. I will come back shortly to refer to a media release on that issue put out by the shadow Minister for Aboriginal Affairs. Many in the groups I have spoken to are concerned about the young people, who are disconnecting with the education system. If members of the Aboriginal community cannot get a proper and decent education, they will not be able to contribute more to society, which is what they want to do.

That is highlighted in the media release put out today by the shadow Minister for Aboriginal Affairs, the member for Shepparton. It refers to the report entitled *State of Victoria's Children 2009 — Aboriginal Children and Young People in Victoria* and condemns the Brumby government for its failure to care for indigenous youth. This government has been in power for 11 years, and we get this disgraceful report which highlights that what we should be doing for our young people is giving them an education. The report states that only half of our indigenous young people complete year 12, that they are three times more likely to be involved with the justice system and that they are twice as likely to suffer eye and ear problems. There are enormous challenges in trying to give our young Aboriginal people a future for their lives and the lives of the community they want to contribute to.

This government has had 11 years, and yet it has released a disgraceful report which highlights that it has failed many young Aboriginal people. The government has failed to address widespread physical abuse, widespread health problems and educational disadvantage among our young indigenous Victorians. This government stands condemned for those failures. The government talks about consultation. I can give members examples of many other Aboriginal groups that did not know about this legislation. I have a letter that was addressed to my colleague the member for Shepparton and shadow Minister for Aboriginal Affairs. It is about the Traditional Owner Settlement Bill of 2010. It states:

> I want to reaffirm our position that we are totally opposing this bill again for the following reasons …

The letter is signed by Trevor Edwards on behalf of the Wadda Wurrung Traditional Owner Group. It further states:

> … the bill encourages or leads to discrimination amongst our mobs …

It goes on to state:

> There has been little or no consultation around the state with Aboriginal people let alone traditional owners, the VTOLJG —

the Victorian Traditional Owners Land Justice Group —

> statewide meeting on 31 July and 1 August … did not —

and I highlight 'did not' —

> formally support the bill, yet I believe a letter was tabled in Parliament today that the VTOLJG supported the bill, therefore the letter is not factual.

We have heard the other letter read out by the minister here before. This was a letter to the member for Shepparton signed by Trevor Edwards. It highlights that the groups I have been speaking about, and there are many of them in western Victoria, are very concerned about this legislation.

I will finish by saying that I know Mick Dodson; I went to school with Paddy Dodson, his older brother. I have

an enormous amount of time for Pat. He has done an enormous amount of work to try to reconcile people across Australia. I do not know Mick as well, but I do know that he does not live in the state of Victoria. Surely there are some Aboriginal people in the state of Victoria who can lead this debate.

The minister talks about a framework, but the framework does not give any certainty. After all, it is only a framework — and as I said before, there are no appeal processes. Where is the certainty that the ministers have spoken about today? I feel we are not going to right the wrongs of this state. We need more consultation. I believe this is a political stunt to rush the legislation through, because, as I have highlighted in the letters I read out and the comments I made, there is enormous concern in Aboriginal groups in the electorate of Lowan, which I represent. Members of those groups are not aware of the legislation, and they are concerned that it will create a divide between the weak and the strong. It does not provide any appeal processes.

I therefore strongly support the reasoned amendment, which will provide ample opportunity for proper consultation to get a better outcome for all Aboriginal people in the state of Victoria.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

LIQUOR CONTROL REFORM AMENDMENT BILL

Second reading

Debate resumed from earlier this day; motion of Mr ROBINSON (Minister for Consumer Affairs).

Ms HENNESSY (Altona) — I rise to make a contribution to the debate on the Liquor Control Reform Amendment Bill. I would particularly like to speak to and endorse the government's responsiveness to business and community feedback in relation to the regulatory structure that was previously adopted and also the government's ongoing commitment to ensure that alcohol is responsibly served. In striking the right regulatory balance and further finetuning the regulation of the service of alcohol this government has been conscious of the need in doing that to take account of the fact that not only does alcohol abuse have a detrimental impact on health but also that it has an incredibly important impact on community safety.

Earlier today when we heard other contributions on this bill we failed to give due recognition to the fact that the government has sought to come back and ensure that the targeted risk-based approach to the regulation gets the required further finetuning. As part of this refinement the government has recognised that businesses that supply very small amounts of liquor as an incidental or minor part of their business should really not bear the same regulatory burden as those that supply liquor as their primary business activity.

Some examples contained in the exemptions in the bill include businesses like bed and breakfasts, florists, gift makers, hairdressers and butchers. In her contribution the member for Brighton referred to hairdressers in her electorate providing a glass of wine on a Friday night. I would like to assure the house that we in the western suburbs are also the beneficiaries of such actions by hairdressers. I am pleased that those hairdressers will be able to provide those services to their clients as a consequence of the exemptions contained in the bill. Pertinently these are businesses that pose an extremely low risk of alcohol-related harm, and the government recognises that they should be able to supply very small amounts of liquor without the regulatory and financial burden associated with obtaining a full liquor licence. Even more pertinently, the reforms contained in this bill also recognise that there may be other sorts of businesses that have a similar risk profile, and there is provision in this act to provide for additional business types to be exempted by way of future regulation so the government can respond to those sorts of concerns more efficiently and effectively.

In the debate earlier today we also heard the member for Malvern pose a question in relation to the responsible service of alcohol training provisions contained in the bill. He posed the question of whether it will be businesses that bear the burden of the provision of that initial training and ensuring that it is updated every three years or whether the individuals who work in the industry will bear that burden.

I would like to speak in support of what is contained in this bill. Those who work in the liquor trades industry are often not paid high wages. They are often casual workers and often do not necessarily work in the industry for a long period of time, so I think it is entirely appropriate that the regulatory burden be placed on the licensee, not on employees.

I also would like to endorse the reforms around the provision of free drinking water. Whilst this reform largely formalises existing practices, I think it is important that we impose it as a mandatory requirement. I know there has been some comment in

the policy development process asking if people will exploit this. I personally do not see the provision of free drinking water as an incredibly grand imposition on licensees or an unfair or onerous imposition. Obviously the provisions in the bill would enable the director of liquor licensing to address those circumstances where existing infrastructure means potable water may not necessarily be available, for example at farmers markets where winemakers are providing tastings et cetera.

Finally, there was some discussion in the chamber earlier this afternoon about the implications for things like a one-off hens night or a bucks night. There was a query about what the liquor licensing implications around such activities were, particularly where there might be a racy performance involved, and whether such activities would be captured by the liquor reform laws insofar as they apply to sexually explicit entertainment. It is my understanding, though I should emphasise that I have had no cause to inquire in great depth into such matters, that obviously where such an event is a one-off activity and not part of an ongoing business providing sexually explicit entertainment there will be no regulatory impact, and that would be well within the power of the director of liquor licensing to address if that were the case. I trust the member for Malvern will take some comfort from that assurance, and I commend the bill to the house.

Ms WOOLDRIDGE (Doncaster) — I am pleased to be here today to speak on the Liquor Control Reform Amendment Bill 2010. The bill will ensure that employees of licensed venues have a current responsible service of alcohol certificate not less than three years old at any given time, that licensees make free drinking water available and that sexually explicit entertainment fee provisions are legislated for. The bill also exempts some business types from having to hold liquor licences.

This bill is before the Parliament at a time when the impact of excessive alcohol consumption is at the fore of public debate and concern. Hardly a week passes by in which I do not speak with a concerned parent worried about their children and the threats of excessive alcohol consumption or alcohol-related violence.

While some might like to dismiss such concerns as purely a reaction to recent media coverage, the facts speak for themselves. A report published in the *Australian and New Zealand Journal of Public Health* last week noted that when it comes to alcohol consumption in Australia, 'Victoria is particularly worthy of attention'. Specifically the report noted:

> The largest increase occurred in alcohol-related ambulance attendances, which have increased by 167 per cent over the past nine years. Emergency presentations for intoxication have almost doubled, increasing by 98 per cent, while night-time assaults, domestic violence, hospitalisations and treatment episodes have … still grown significantly (49 per cent for assaults, 43 per cent for domestic violence, 47 per cent for hospitalisations and 55 per cent for treatment episodes).

These are very concerning results on the impact of alcohol and alcohol-related violence in Victoria. These are highly concerning figures and should bring nothing but shame to the government that has presided over such a staggering increase in the statistics and experiences of people in our community.

As shadow minister for drug abuse I want to particularly comment on clause 15 of the bill, which inserts a provision that licensed premises must serve drinking water to patrons free of charge. This is not a new or original concept — the government introduced voluntary guidelines in 2003 which deemed:

> It is essential that drinking water is readily available in order to prevent dehydration, which is often associated with the consumption of alcohol and some illicit drugs. The drinking of water can also slow down alcohol consumption and minimise the potential for intoxication.

I would like to go through some of the history in relation to this issue. In 2004 New South Wales made it mandatory for free drinking water to be provided at any premises that served alcohol for consumption on site. This is also the case in Western Australia, which introduced this requirement in 2006 following a recommendation from a major review of its liquor licensing laws. In fact in the state of Victoria in March 2006 the Victorian Parliament's Drugs and Crime Prevention Committee recommended to the government that it introduce a requirement making the provision of free drinking water mandatory at licensed premises. Clearly it was already obvious that the voluntary provisions that the government had put in place were not working.

In 2008 I conducted an online survey of more than 2000 young people. Key suggestions that came out of that online survey included the provision of more services for people struggling with alcohol abuse, action to limit the availability of alcohol to young people, more alcohol and drug education in schools, an increased number of alcohol-free events for young people and free water in pubs and clubs. On this latter point over 80 per cent of all 2000 respondents supported the introduction of mandatory free water in pubs and clubs, and as a result of the voices of young people coming through I called on the state government to legislate that free water must be provided at all pubs and clubs.

At the time the issue got a lot of media coverage because young people wanted to be heard and their voices were obviously of interest, and I would like to comment on some of the media coverage. The *Lilydale and Yarra Valley Leader* published an article titled 'Water works for youth'. The article reflects that I was 'calling on the state government to legislate that free water must be provided'.

It also quotes Dr Matthew Frei, an addiction specialist with Eastern Health, who said that drinking water in a nightclub or bar was a sure way to reduce the harmful effects of intoxication. He said also:

> From a behavioural point people, who are used to touching a glass to their lips, can interchange alcoholic drinks with water to slow their alcohol intake … It also makes sense physiologically because it dilutes the alcohol in your body. It certainly helps to reduce drunkenness and goes towards tackling associated problems like violence.

The *Whitehorse Leader* commented similarly in an article headed 'Let the water flow'. The *Standard* in Warrnambool had a headline 'Booze plan support; WRAD urges action' which was about a local drug action group, the Western Region Alcohol and Drug Centre. The Bendigo *Advertiser* had an article that was headed in part 'Alcohol violence on the rise' that also highlighted the call by young people for free water in pubs and clubs. The *Manningham Leader*, in my area, had an article headed 'Call for free water in Melbourne pubs and clubs', which once again highlighted the call to legislate for free water and the response that the government was considering the move. As I said, this was back in 2008. The article reported:

> State government spokesman Michael Sinclair said the Department of Human Services was researching the levels of compliance with the present water guidelines and would consider including drinking water requirements as a condition of liquor licences.

Once again, there was all that coverage two years ago.

Interestingly at about that time the government was spending $70 000 from the Victorian Law Enforcement Drug Fund on reviewing the voluntary guidelines. The width and breadth of the review must have been something to behold because I did a free online survey and heard from 2000 young people that the voluntary guidelines were clearly not working.

In October 2009 Melbourne man Adam Jaffrey utilised Facebook to establish a group called 'Free water in Melbourne's licensed venues'. This group currently has in excess of 14 000 members. Once again, the real voice of young people who attend pubs and clubs is coming through. The comments contained on this site offer a real and genuine insight into the need for water in licensed venues. Group members have commented about the charging of excessive amounts for bottled water. They have said that environments are being heated to encourage the drinking of alcohol. Water is served in small containers and sold at considerable cost.

Business interrupted pursuant to standing orders.

Sitting continued on motion of Mr WYNNE (Minister for Housing).

Ms WOOLDRIDGE (Doncaster) — The people on that Facebook site also commented on their frustration with the assumption that those drinking water are doing so because of the use of illegal drugs. They said that free water was being refused to people who were actually passing out in the clubs and that venues were removing the cold water taps and having only the warm water taps to prevent the free consumption of water. That is clearly a range of very concerning things. Pubs and clubs were not providing the water that was needed by people in the evenings. I congratulate Adam on all his work in initiating this and all those involved for their advocacy on this important issue.

After years of inaction and having spent $70 000 of taxpayers money, the government has finally come to the conclusion that mandatory provision of free water in pubs and clubs is a good thing. Interestingly there are still concerns. The penalty for failing to provide free water in a licensed venue is 30 penalty units or about $3500. This figure falls significantly short of the $10 000 maximum fine in Western Australia and the $22 000 maximum fine in New South Wales.

It took seven years for it to be mandatory to provide water, even though it was clear that the provision of water in bars and clubs could reduce alcohol-related injury and alcohol-related violence. It has been more than four years since the provision of free or inexpensive water was recommended by the government's own Drugs and Crime Prevention Committee. Now that the changes are being introduced, but they fail to highlight the seriousness of non-compliance in terms of the penalties.

I am glad that we are finally debating this bill. I am pleased that it will be mandatory to provide free water, but it is incredibly disappointing that once again the government, which tries to position itself as one of action, is shown up for a complete lack of action, for prolonged delays and for a lack of real commitment to tackling alcohol-related violence.

Ms THOMSON (Footscray) — I will speak in support of this bill, and I will speak briefly. I do so because this is a measure of changes to our liquor laws

that go hand in hand with a number of other actions the government has taken in relation to the serving and abuse of alcohol, predominantly by young people. After hearing what the member for Doncaster said, I suggest she should be very pleased that the government is moving on the mandatory serving of water free of charge in licensed premises. Members must also understand that this is a complex issue for which legislation provides only part of the solution. This is now a worldwide trend. We are seeing alcohol-inspired or drug-inspired violence occurring across the world in numbers that horrify those of us who sit back and watch it. You can go so far with legislative responses but then you have to have a community that is prepared to tackle the problems that are the causes of them.

While I can I want to talk about the responsible serving of alcohol. I acknowledge the fact that the responsible serving of alcohol was initiated by the Australian Hotels Association as a voluntary responsibility that its members took on. The government mandated it for packaged liquor licensing because there were real problems in the packaged liquor area. Now the government is mandating that, with the number of licensed venues where there are obviously issues around the serving of alcohol, it is the responsibility of licensees, and so it should be. This is an industry where staff come and go and a lot of people work casually. There is one constant, and that is the licensee — and that licensee has to be responsible.

The government has not been idle in this space. We have been updating and changing the laws to meet the needs of this community as they arise. Members heard the member for Altona talk about the exemptions we are providing because of the new categories of businesses that are now getting licences, that serve alcohol responsibly and add to the fun of those who enjoy the responsible drinking of alcohol. It would be a misnomer to describe the government as being idle.

We have increased police powers and on-the-spot fines. We are tackling the issue. We have police out there actively dealing with what is occurring on our streets. Since December more than 8900 on-the-spot fines have been issued. We are seeing police using their powers to ban troublemakers from designated entertainment areas for 72 hours.

We are focusing on where the problems are and on resolving those problems. We understand that the only way we will ultimately resolve the problems with alcohol abuse is if we do it together as a community. I commend the bill to the house.

Mr DIXON (Nepean) — In my contribution tonight in the debate on the Liquor Control Reform Amendment Bill I want to refer to the provisions regarding bed and breakfasts. When the original bill was before the house last year I raised issues regarding the provisions for bed and breakfasts in my electorate. Many of my bed and breakfast operators were very upset about what the government was proposing. I said that bed and breakfasts in Sorrento and Red Hill were hardly hotbeds of alcohol abuse and street violence and they should not have imposed on them the sorts of fines and fees that the government was placing on them and that were making an important part of their businesses just not viable. In fact it was the straw that broke the camel's back in a number of instances. People just closed up shop or could no longer undertake an important part of their business by offering alcohol to their guests. In some cases their business suffered.

Bed and breakfasts are very important in my electorate. They are a very important part of the tourism industry, which is the most important industry in my electorate. When I and other members, especially those who had bed and breakfasts in their electorates, first raised the issue the government said there was no need for change. It stonewalled on the issue. Only after the opposition, operators and operators associations added their weight to arguments did the government finally decide to listen. It has backflipped, and hence we have this amendment bill tonight which addresses these issues.

As I said, it is going to be too late for some of the bed and breakfast operators in my electorate. I hope the lesson for this government will be to perhaps spend a little bit less time on its dirt unit and a bit more time listening to the community and consulting properly when it is working on legislation and drafting legislation in the first place.

Mr SEITZ (Keilor) — I rise to support the Liquor Control Reform Amendment Bill 2010. I am particularly pleased the bed and breakfast industry will be exempt from requiring a licence, because if you have ever been to one, you will know the service usually has a welcoming bottle of wine in the room as a gift. Sometimes people bring food in the evening and want to have a drink with their meal. Again, it is specified in the bill how that is handled at a bed and breakfast facility; in particular there must not be more than eight people present within the accommodation and staff on duty must have had responsible liquor handling approval within the last three years. That is a great step forward and I welcome it. I have used bed and breakfasts at different times and seen the opportunities

there; the welcome bottle of wine is part of the business.

The same situation applies to the gift industry, whether it be flowers, chocolate baskets or things like that. Again, the exemption is a welcome change to the act and is very important for those shops, although I am sure it was not intended in the original legislation put forward by the minister. Correcting those positions is common sense, clarifying the situation not only for the industry but also for law enforcement agencies.

Lastly, I want to make an observation about the provision of water, which is an important thing. As a member of Parliament I was astonished when it first came up that disco centres were cutting out cold water taps and only had hot water taps running. It was a greedy and inhumane decision that these proprietors would sink so low as to deny people drinking water, even if it was only in the toilet facilities.

Water is an expensive commodity and the cost of a bottle of water has gone up over the years. Recently I costed a 75 millilitre bottle of water at $7.50. I can see why people would rather buy alcohol than spend $7.50 for a bottle of water, but that is what I recently experienced in a hotel.

This legislation and the amendment concerning the mandatory supply of water are very important. It does not have to be sealed and purified mountain water, just as long as it is palatable water that passes our health standards. I will now allow other people to make some comments on this bill, because whenever we are talking about aqua, whether it is alcohol or water, everybody wants to talk on it! With those few words I commend the bill to the house and wish it a speedy passage.

Dr SYKES (Benalla) — I wish to contribute to the debate on Liquor Control Reform Amendment Bill 2010 and note that the amendments included in this bill today are welcome, but it is a pity that they arise following a fundamentally flawed so-called risk-based licence fee structure. These amendments are being presented in this bill by a government dragged kicking and screaming to Parliament as a result of outrage expressed by many of my constituents in a wide range of liquor outlets. Many of the consumers in my electorate cannot believe that the tired, out of touch, arrogant Brumby government would inflict this nonsensical, inappropriate, massive grab for cash on ordinary Victorians.

The bed and breakfast operators were subjected to outrageous price increases, and it has now been recognised by this government that they actually present a low risk. We have had the gift makers and the other people who give away complimentary alcohol, such as florists and butchers, again belatedly recognised by this government as a low-risk group. This government is yet to get the message from other groups that it has got it wrong in relation to its risk assessment approach. I am talking about low-volume takeaway alcohol premises, community clubs, community pubs and seasonal tourism venues.

I would like to quote examples of some of the ongoing concerns raised with me. I invite members to consider the case of a low-volume alcohol takeaway venue such as the Breakaway Twin Rivers Caravan Park near Alexandra, whose proprietors emailed me earlier this year and said:

> … we have a packaged licence, which looks like we will be surrendering as of … 30 June. Our package licence is limited to customers of the park only. We are 12 kilometres from Alexandra and it is only a service to our customers; it only make a few hundred dollar. Our licence went from $220 to $6400. We agreed to close on Good Friday and Christmas Day and it was reduced to $1590.

What an outrageous increase in fees for a small country business, seeking to provide a service to its customers enjoying the ambience of holidaying in north-east Victoria!

Similarly, Sandra and Jim Duell, owners of a caravan park close to Mansfield, said their fees in 2009 were $249.90 but if they traded for additional hours, it was going to be $412.10. In 2010 this so-called risk-based fee structure meant that its fees would go up by $1590 for normal trading and for trading additional hours and by providing a service — it provides a service for its customers; it is a family-based customer business — such as providing alcohol on Good Friday and Christmas Day, its fees would go up to an outrageous $4770. That issue has not been addressed in the amending bill before us today.

Seasonal tourism businesses and industries are very important to my electorate, particularly the alpine resort tourism-based industries which we have now. These industries rely on making an income during a short season. Fee increases are something the minister has recognised as an issue but has failed to address. The fees of Cloud 9 at Falls Creek have gone up from $957.10 to $5325 and the fees of Dicky Knees have gone up from $323.90 to $3195.

Community clubs, which are the heart and soul of many of our small country communities, have been hit by outrageous fee increases — for example, the Devenish Railway Hotel was taken over by the community because it was about to crumble. The

community took the hotel on because it recognised the importance of keeping it going as the local watering hole during 12 tough years. Subsequently the community sold it to Carolyn Otteson. Carolyn and her partner are now running the pub and have been hit with outrageous fee increases. When they sought to have a fee reduction based on hardship grounds, the director of liquor licensing at the time said, 'We will give you a little bit of a break, but you will still have to wear a massive increase of fees up to about $1600'.

The issue regarding community clubs has been raised many times in this house. Community clubs provide a service and have a licence so that people can come from other communities to sit down together — for example, at the Avenel Tennis Club people can come along and play tennis and then enjoy each other's company afterwards. They can have a little touch of white line fever on the tennis court but then sit down and enjoy each other's company. The Avenel Tennis Club got hit with a fee increase of $99 a year to $396 a year. Whilst the club said the $99 a year fee could basically be covered by the small profits of its alcohol sales, the massive fee increase of up to $396 could not be covered.

In terms of the issue of low-volume takeaway alcohol outlets in the Alexandra area, Kevin Bootes wrote to me and pointed out that the fees of the Alexandra Foodworks would go up from $1686 to $6360 and the fees of the Yea Foodworks would also go up from $1686 to $6360. There are situations where there has been an outrageous increase in liquor licensing fees which is supposedly based on a risk-based fee structure which has shown to be fundamentally flawed. The new director of liquor licensing has brought some common sense to the fee structure, but we have a long way to go before we return to recognising the principle that those organisations which are truly high risk should pay fees and those organisations which are low risk should not be burdened with this penalty. Whilst this bill goes some way to addressing this issue, there is still a long way to go.

The question I put to the house is: why has it taken a tsunami of public outrage to make these changes? I suggest it is because we have a tired, out-of-touch government. The minister at the table, even though he is the Minister for Sport, Recreation and Youth Affairs, is yawning because he reflects the tired, out-of-touch Brumby government which is also arrogant. It thinks it can ride roughshod over Victorians, particularly country Victorians who are endeavouring to hold our communities together after we have gone through 12 tough years. The arrogant, tired and out-of-touch Brumby government has inflicted pain on people who own establishments, whether they be community clubs, community pubs, bed-and-breakfast places or other establishments which have attempted to provide a forum and venue for people to get together and support each other in these tough times. They have had outrageous increases in fees.

I welcome this small step towards a common-sense approach. But I challenge the minister and the Brumby government to take the next step — that is, to live by their statement that more needs to be done. I challenge them to make a difference and put in place a structure that ensures that our community clubs, community pubs, small takeaway outlets and others that provide a service to our community are not subjected to these massive fee increases. I welcome what has been done so far, but the challenge is there for the government to ensure that more is done sooner rather than later.

Dr NAPTHINE (South-West Coast) — I rise to speak on the Liquor Control Reform Amendment Bill. Clause 15 of the bill requires licensees to make free drinking water available to patrons. I support this change, but I want an assurance that this will mean that free drinking water will be readily available in the bar, not simply disposable cups being available in the toilet.

Clause 10 imposes higher licensing fees for venues that feature sexually explicit entertainment. Despite the comments of the member for Altona, I seek assurances on this issue. While I support in principle this change, I seek advice on assurances with respect to the impact of these provisions on, for example, a country hotel that once or twice a year hosts visiting shows such as Manpower Australia or Chippendales, or a country pub or hotel — —

An honourable member interjected.

Dr NAPTHINE — It is a long time since I have been to sexually explicit entertainment.

Honourable members interjecting.

Dr NAPTHINE — I cannot remember the last time. What happens if a hotel or club hires out a room for a hen's night or a buck's night where there may be sexually explicit entertainment? Where these are rare occasions and just occasional events then I do not think those hotels or venues should be caught up with the significant additional fees that genuinely belong to the clubs in Kings Street and other areas that other members might be more familiar with that provide sexually explicit entertainment. Clause 6 exempts from the act — —

Mr Herbert interjected.

Dr NAPTHINE — It was the member for Dandenong who was caught there one night. Clause 6 exempts certain businesses from these laws, such as bed and breakfasts, florists and giftmakers, hairdressers and butchers. I think this is clear evidence that the government got it wrong with its bumble-footed approach to liquor licences when it imposed massive fee increases on liquor businesses across Victoria. Fundamentally it was about revenue raising and incompetent management. We know that liquor licence fees collected $15 million in 2009 and are proposed to collect $35.8 million in 2010.

There are many examples in my area of local businesses that have been significantly and adversely affected by this government's bumble-footed approach to liquor licences. It is not truly a risk-based licence system, and it is not geared to preventing alcohol-fuelled violence. It is purely about revenue raising. For example, a locally owned and operated IGA supermarket that paid $175 for a liquor licence in 2008 is up for $6360 in 2010, a 2444 per cent increase. A similar increase applies for a small family-owned packaged liquor business in North Warrnambool — 2444 per cent increases, massive increases not related to alcohol risks.

Clubs such as the Warrnambool Field and Game sporting club, the Port Fairy Cricket Club and many other sporting clubs have had their fees increased from $93 in 2009 to nearly $400 this year. A function room that attracted fees of $957 in 2009 is this year facing a fee of $2385 for a couple of nights a week. Those fees are simply out of kilter with a so-called risk-based approach. The government has got it wrong. The Brumby government has not listened to the community, has not consulted appropriately and needs to go that next step in changing these provisions.

Similarly, local wineries that conduct cellar door sales to promote their wines and businesses in a very competitive market, especially the smaller wineries, and that add significantly to the tourist product available in the region to attract and retain visitors, given that food and wine tourism is increasingly important to local economies, are concerned about massive increases in their liquor licence fees. They have concerns about a lack of common-sense flexibility which would allow smaller wineries to participate in local markets and promotional events such as farmers markets, wine tastings and functions under the licences they have for their cellar door sales. I believe we need provision for a licence for cellar door sales that also covers 10 to 12 events a year that they can participate in.

Finally, I refer to country hotels which are still being significantly disadvantaged by the liquor licence fees imposed by the bumbling Brumby Labor government. One hotel in my area, the Richmond Henty Hotel, has raised concerns about the way the calculation of the venue capacity multiplier applies to their whole premises when their late licence only covers a very small part of their premises. That is fundamentally wrong. They think the risk-based system would be better if it were based on an infringement-based record of where there are problems rather than just an implicit decree about risk. They also argue that in rural areas there needs to be greater flexibility in terms of licensing.

Country pubs are disadvantaged, country wineries are disadvantaged, country sporting clubs are disadvantaged and country packaged liquor outlets are disadvantaged by an unfair system imposed by an uncaring, out-of-touch, tired and arrogant, city-centric Brumby Labor government.

Mr KOTSIRAS (Bulleen) — It is a pleasure to stand to briefly speak on this bill. I say at the outset that the bill before the house illustrates this government's failure when it comes to liquor licensing. The bill, I believe, is an admission by a tired and lazy government that it has failed to implement an appropriate and fair risk-based liquor licensing fee system in Victoria. It was the coalition that tried to point out the flaws with the previous legislation, but unfortunately, like so many other times, the government refused to listen.

It was the coalition that campaigned strongly against Labor's massive fee grab at the expense of florists, hairdressers and gift shops, which do not contribute to antisocial behaviour. But once again the government refused to listen. That is exactly what happens when you are in government for 11 dark years — you become arrogant, as this government has become. Even this bill does not fix up the mess this government has created. Responsible organisations will continue to be hurt by this government's unfair liquor licensing fees.

The other issue that I wish to briefly raise is the matter of free drinking water. The supply of free drinking water is a real issue in nightclubs. I have spoken to many young people, even to my children, who attend nightclubs and they tell me that the availability of free drinking water is a big issue. This is something the government promised in September 2006 and again in May 2008, but nothing has happened for four years. The government is more interested in getting a front-page story with gimmicks and rhetoric than implementing what it has promised to do. It has taken it

four years to finally bring something into this house which goes some way to addressing the issues.

However, even now there is no clear explanation as to what is meant by free water. As other members have said, does it mean that you go into a toilet and drink water from the tap or does the owner have to supply bottled water to anyone who asks for free drinking water? It is unknown, and I ask that the Minister for Consumer Affairs come into the house and explain what it means.

The measures in this bill are largely overdue. While they go some way, there is a lot more work to be done. But I ask the government to listen to the community, to listen to other members of Parliament and to make sure that it stops being arrogant, because for 11 dark years it has treated Victorians with contempt.

Mrs VICTORIA (Bayswater) — I too rise to make a contribution to the debate on the Liquor Control Reform Amendment Bill 2010. The main purpose of this bill is to amend the Liquor Control Reform Act 1998. Specifically some of the reforms are in regard to the responsible service of alcohol and the training around that topic. It is also to legislate for licensees to make free drinking water available in certain places, to increase regulations regarding licensed premises providing sexually explicit entertainment and to specify the exemption of certain business types from certain licensing obligations.

I will go through a couple of those things bit by bit. I will start with the responsible service of alcohol (RSA) provisions. Under the bill the director of liquor licensing cannot grant an application for a general on-premises packaged liquor or late-night licence unless there is proof that the applicant has completed an approved RSA course in the past three years. The provisions in this bill will mean that this training needs to be done every three years for the licensee, and the staff and licensees will need to do a refresher course at least every three years. Those who have not already undertaken one of those courses will need to have training within one month of selling or serving alcohol, especially those new to an establishment, and there will be a 12-month grace period, if you like, for current licensees subject to RSA requirements to comply with the new requirements.

However, there seems to be an anomaly between what we have been talking about and what is being recommended in the bill — there are no specific requirements for club, restaurant or cafe licensees. This appears quite discriminatory because some clubs — certainly, some of the clubs in my area — could quite easily serve more alcohol than a pub on a weekend, especially on a busy Friday or Saturday night. Over a good weekend of trade you might actually find that they are serving more alcohol and yet they do not have the same types of boundaries.

On the sexually explicit entertainment (SEE) venues and the provisions in regard to those establishments, I certainly do not make any judgement on the activities in any venue as long as it is operating within the law, but the licensing fees for SEE venues are being included in this legislation, and I am not quite sure why they have been singled out. SEE venues are treated differently to other types of licences, the fees of which are all governed by regulation. To put one very specific, narrow, small, industry into the act seems quite strange. I wonder whether the minister will be able to clarify for us when he is summing up whether he intends any other sectors of the industry to be included in the act rather than just in regulations. If these categories are included or excluded it would be really good if we knew why; it seems quite inequitable.

Something for which patrons have been asking for a very long time is included in clause 15 — the provision of free drinking water. As somebody who when she goes out is usually the designated driver and who is not a big drinker at all, I am quite happy that there is water to be had. I know that at a lot of restaurants water is always freely available, but if you are the designated driver and you choose to drink water — I have no problems with buying a couple of bottles — or if you are trying to get people to balance out what they are doing with their consumption of alcohol and trying to make them more responsible, then I think this is a great step forward.

One thing which we are not taking into account and which I am not hearing enough of, not only in this bill but also in the community, is the proposition: what about harm prevention rather than harm minimisation? It is fine to say, ‘We are going to provide water to complement what you are drinking’, but what about actually teaching young people to consume alcohol when they want to and not necessarily with peer group pressure, and also to say no if they choose to — that is, let us actually go to harm prevention rather than just minimise harm. That is something I would like to see a lot more of out in the community to give young people really clear choices. They do not have to succumb to pressure to do what their friends are doing. I certainly think more education would make them more comfortable in doing that. I was recently at something called the No Brainer Summit, held recently and put together by Shane Varcoe, who is a tireless campaigner in harm-prevention strategies. I learnt an awful lot.

Some club owners have said they are not too keen on losing profits from having water provided, but I think overall it is certainly a very good strategy.

There are liquor licensing-exemption provisions contained within this bill, and all I can say to members opposite is: we told you so. At the time we debated earlier in the year this exact idea of tarring everybody with the same brush so many of us came out and said, 'But what about the establishments like bed and breakfasts that are not King Street nightclubs; what about those that are providing alcohol as part of their business but it is not actually being consumed on the premises, such as in gift baskets and that type of thing?'. At the time I could not understand this absolutely ridiculous grab for money through the fees; it was so blatantly obvious that what the government was doing was wrong. I brought up a couple of different examples in my speech earlier this year.

One example is Schokolade, which is the most beautiful chocolate shop at Studfield shopping centre. Proprietors Troy and Rochelle were saying, 'Hang on, our fee has gone from under $100 to almost $400 in one year and all we do is put a few bottles of champagne in baby baskets throughout the year. Nobody drinks alcohol on the premises, yet our fee has quadrupled'. Under the new provisions it looks like they are going to be safe from more cash grabs. Heathmont Flowers is a wonderful florist. Helen down there is part of a professional group whose liquor licensing fees are included in its association fees. It will be interesting to see whether the exemptions will lead to a reduction in those fees because they no longer have liquor licensing as part of it.

One person in particular who struck me as being somebody who has been left out of this entire equation is a lady, called Fiona Ludvik who came to see me. She operates a very small business — she is a sole operator — called Bottled Occasions. She makes the most beautiful labels for fancy bottles for commemorating births, 21st birthdays, weddings and that type of thing. She also makes canisters that match, and they are given as a gift to commemorate a special occasion. Again, this is not risk based, but because alcohol is her only business — she is selling alcohol, but it is specialty alcohol that people do not usually open and is bought particularly for its container as a keepsake — this lady, who certainly earnt a profit of far less than $400 last year, a mum with kids trying to get a fledgling business off the ground, is now considering whether or not her business will sink. She has a lot of stock, but the question is whether she should allow her business to die because her liquor licensing fee will be more than her profit for the last year.

We have taken this issue to the minister. For a long time he refused to correspond with us. When eventually he did write back, it was less than satisfactory. I really do feel for Fiona and others in her situation who are trying to make a buck and get back into the workforce because the fees that they are being charged are not in any way based on risk. In that way this is inequitable. Fiona could never be accused of being the cause of alcohol-fuelled violence.

With that, I would like to say that I and my colleagues on this side of the house will not be opposing the bill, but it is too little too late for some of the businesses that found the fees that were imposed in the earlier cash grab to be exorbitant. I hope the government thinks more about how it drafts bills in the future.

Mr DELAHUNTY (Lowan) — I rise on behalf of the very important Lowan electorate to speak on the Liquor Control Reform Amendment Bill 2010, which amends the Liquor Control Act 1998 in relation to responsible service of alcohol (RSA) training, requires licensees to make free drinking water available, further regulates licensed premises providing sexually explicit entertainment and provides for the exemption of certain business types from certain licensing obligations.

I have to say I believe this bill is a real admission by the government, which has been in power for 11 years and is showing signs of tiring, of its failure to generally implement a risk-based liquor licensing scheme. The changes the bill makes are the reason why I, along with my coalition colleagues, will not be opposing this legislation, but I believe it does not go far enough. There are still major concerns that the liquor licensing scheme is impacting upon bed and breakfasts, florists, hairdressers and gift shops. I do not believe it was ever about reducing the level of antisocial behaviour; it was basically a cash grab by this lazy government.

I have raised in this house many concerns expressed by various sport and recreation clubs. The Minister for Sport, Recreation and Youth Affairs is at the table, and he would have also had concerns raised with him about the difficulty of providing access to sport and recreation. I particularly focus on the Jeparit District Bowling Club, which has only 20-odd members. Its liquor licensing fees have jumped from $93 to over $200. Those 20-odd members, not all of whom always participate, have to dig into their pockets to enable that facility to stay open. The club has received grants to put in synthetic turf, but unfortunately the way things are going the costs will become so great that club members will not be able to participate in a recreational activity that is not only good for their physical health but also, importantly, good for their mental health.

Football and netball clubs play a very important role, particularly in my electorate of Lowan, as the social connectors of the community, especially during drought and difficult times. They create what is very much a family atmosphere, catering not only for males but also for females. They provide beer and wine and that type of thing. Their liquor licensing fees have also gone up astronomically.

In what is left of the short time I have been given I want to make a couple of quick comments about the responsible service of alcohol (RSA) provisions. Applicants for general on-premises packaged liquor licences or late-night licences will not be able to operate until the director of liquor licensing is satisfied that they have completed an approved RSA course in the last three years. There are no requirements under this proposed legislation for club, restaurant or cafe licensees to complete a responsible service of alcohol course, yet there are for bed and breakfast operators.

We fought hard on this issue, saying that bed and breakfast operators were harshly discriminated against by the liquor licensing regime. The government took a step back and said those fees will not apply to them, but now it says they have to have RSA certificates. It is saying to a restaurant and club that serves alcohol, 'You don't have to have an RSA', but it is saying to a bed and breakfast operator, 'You do, so you have to check at night that customers have not drunk too much of the wine out of the fridge' and that type of thing. It has gone too far.

There is still a lack of clarity regarding what the free drinking water provisions mean. There are a lot of concerns in the industry about what they mean. We strongly support these provisions. A lot of young people would like to be able to get hold of drinking water at times when they go to hotels. Some hotels make a lot of money out of it, and they are concerned about how it will operate. We need the government to provide some clarity in relation to that.

It is my understanding that bed and breakfast licensees cannot access the new provisions until they have completed a responsible service of alcohol course. Many of these bed and breakfast operators will not be able to meet the RSA requirements in time this year, and they will therefore have to pay the 2011 fees before they can get their certificates. I do not believe that any of these people received refunds last year.

Again, there are some concerns regarding the bill. The government should explain why it took four years to introduce free drinking water provisions. The government still has work to do. In the short time I have left I again indicate that I will not oppose this legislation.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

Remaining business postponed on motion of Mr MERLINO (Minister for Sport, Recreation and Youth Affairs).

ADJOURNMENT

The ACTING SPEAKER (**Mr Nardella**) — Order! The question is:

That the house do now adjourn.

Victoria–Beresford roads, Lilydale: pedestrian refuges

Mrs FYFFE (Evelyn) — My request for action is addressed to the Minister for Roads and Ports. The action I seek is for the minister to look at the impracticality of the newly constructed pedestrian refuges at the Victoria and Beresford roads, Lilydale, T-intersection.

Residents have concerns about engine brakes being used along Beresford Road. In May 2010 I wrote to VicRoads on behalf of a Mr Ribberink, who resides at Beresford Road, Lilydale, after he repeatedly noticed large trucks trying to use Beresford Road to access the nearby Unimin quarry. The frequency of the trucks passing and the use of noisy engine brakes are leaving residents frustrated by the constant disturbance in their otherwise peaceful neighbourhood.

In July VicRoads responded that there are no alternative routes available for the trucks to use, so they cannot be diverted from the area. While that is understandable given current road access, there must be options available to help reduce the impact of engine brakes, which is distressing residents.

However, rather than addressing the noise concerns, the council, together with VicRoads, has recently upgraded the Victoria Road–Beresford Road T-intersection by constructing one pedestrian refuge on Victoria Road and another on Beresford Road. This ill-conceived action has severely narrowed the space in which trucks can make the sharp right turn into Beresford Road. As a consequence the incidence of truck drivers using their engine brakes is increasing. Even the most skilled truck drivers are finding it almost impossible to turn the

corner without driving over either the nature strip or the road refuge. Local residents report seeing tyre marks on their nature strips — a telltale sign of the difficulties the trucks are experiencing.

It is puzzling that VicRoads, which is aware of residents' concerns about trucks travelling in the area, made the decision to construct these pedestrian refuges, which have only created another traffic problem rather than solving the existing one. I request that the minister examine the problem-riddled intersection and have VicRoads determine, firstly, whether a solution to the issue of engine brake noise can be found; and secondly, whether the pedestrian refuges are the best option available, considering the nature of the traffic that uses the Victoria Road–Beresford Road intersection.

Highett Youth Club: funding

Ms MUNT (Mordialloc) — I wish to raise a matter for the Minister for Community Development. The action I seek is for the minister to support Bayside City Council's forthcoming application to the Victorian community support grants program for the redevelopment of the Highett Youth Club. The club is within a broader precinct known as the Highett community hub, an integrated model of community facilities and co-located services that include the seniors community centre, neighbourhood house, children's centre, kindergarten and counselling services. The youth club is the facility in the precinct that is in most need of redevelopment; it is in desperate need of an upgrade.

The Highett Youth Club services a varied community. Some areas have a low socioeconomic demographic where the provision of youth services is vital to the community. Currently the club has approximately 470 members, primarily girls and young women, most of whom are under 15 years of age.

The Highett Youth Club plays an important local community role, as is evidenced by the waiting list for the club's gymnastic program. A redeveloped youth club will double the gymnastics space, create a more welcoming environment and meet the standards expected of a modern community recreational facility. The current facilities are aged and deficient. The building is seriously inadequate and potentially dangerous, with some walls needing to be reinforced with steel crossbeams to allow structural integrity. It is to everyone's advantage that the building be redeveloped so that it will become a source of local pride, inspiring more young people to want to participate in the youth club programs and enjoy its facilities. The redevelopment of the Highett Youth Club will play a key role in the overall development of the Highett community hub.

Last night Bayside City Council voted unanimously to support an application to the Victorian community support grants program for this important project. In the coming weeks we will do all that is necessary to make this application a strong one.

I call on the minister to request her department to provide the necessary advice to Bayside City Council regarding this application to give the people of Highett the best possible chance of a positive outcome that will deliver to them a wonderful new and much-needed multipurpose community facility.

I give my great thanks to all those who have worked to make this initiative happen: Rebecca Pyper from the Highett Youth Club; Terry O'Brien, who has worked tirelessly; and of course the staff servicing the southern metropolitan region branch of the Department of Planning and Community Development, which has also worked tirelessly to make this application happen. I also congratulate Bayside City Council for supporting this redevelopment of the Highett Youth Club. It really is a most deserving facility in the Highett area, which has pockets of significant disadvantage, and the club is the only youth facility in that area. Young people would be able to go there to avail themselves of all the facilities that a redeveloped Highett Youth Club would provide.

I call on the minister to provide every possible assistance so that this can become a wonderful reality for the people of Highett, particularly those at the Highett Youth Club who have worked so hard to make this a reality.

State Emergency Service: Morwell unit

Mr NORTHE (Morwell) — I raise a matter for the attention of the Minister for Police and Emergency Services. The action I seek is for the minister to assist the Morwell State Emergency Service (SES) unit in its endeavours to establish a facility to garage one of its heavy road rescue vehicles.

Morwell SES unit has approximately 50 active members and turns out to approximately 350 incidents per annum. The Morwell SES team has been recognised constantly for its professionalism and dedication, and one should not underestimate the vital role it plays in our community.

In recent years Gippsland has suffered its fair share of traumatic events, and the SES has played an integral role in assisting community members during these

distressing times. Whether at times of storms and floods, road trauma, or when assisting other emergency service personnel during bushfires, the SES is always there to lend a hand at times of need. In 2009 the Morwell SES unit was honoured with a statewide service chief executive award for its efforts in rescuing injured persons in a crash between a bus and a truck near Traralgon in 2008. We are blessed to have such wonderful, highly trained volunteers in our midst.

The Morwell SES unit has its base at Latrobe Regional Airport, which is between the townships of Morwell and Traralgon. It is here that it houses some of its smaller assets and undertakes training, administrative and communication tasks. While the SES has four turnout vehicles, the two heavy road rescue vehicles in its possession would be unable to meet their turnout targets for road trauma if they were housed at its base at the airport. To accommodate this, one of the heavy road rescue vehicles is currently housed at the Ambulance Victoria site in Campbell Street, Traralgon while the second vehicle is housed in an industrial estate in Morwell. However, it is not garaged and is exposed to the elements.

Essentially the Morwell SES unit requires a two-bay garage to be constructed within the township of Morwell to accommodate this vehicle. I wrote to the minister in January 2009 telling him of the plight currently confronting Morwell SES, and in his response the minister indicated that he was aware of negotiations taking place between VICSES, which is the Victorian State Emergency Service, the Morwell SES unit and Latrobe City Council. It seems that despite the best efforts of all concerned no progress has been made, which is a major disappointment.

GippsTAFE, which is based in Morwell, has offered land to Morwell SES for the purpose of housing the heavy road rescue vehicle. However, to construct a purpose-built shed there would cost considerably more because of the aesthetic requirements of the site. As it appears that most options have now been exhausted, I hope the minister will support the Morwell SES unit in further exploring this option.

Sunbury day hospital: ministerial visit

Ms DUNCAN (Macedon) — The matter I wish to raise is for the attention of the Minister for Health, and the action I seek is for him to accompany me and members of the Sunbury community to visit Sunbury and the site of the new Sunbury day hospital in Macedon Street. I ask the minister to visit this exciting project to check on the progress of the new day hospital. I know he is acutely aware of the project, is as excited as I am and is looking forward to the opening of the facility as much as the community of Sunbury and the surrounding areas.

The new hospital will offer a range of day procedures, which will mean that Sunbury people will not have to leave town to access many of the services they currently need to travel to. We know that many procedures that previously required an overnight stay in hospital can now be done as day procedures, and this number continues to grow annually; I think going in the last 10 or so years from about 50 per cent to nearly 70 per cent of hospital procedures which can now be done as day procedures.

This project has been made possible because the government has provided a 7.5 per cent increase in funding to Western Health, which equates to $28 million. It will provide the funds to allow Western Health to commission the Sunbury day hospital. The funding will allow not only the capital funding for this facility but also the recurrent funding to ensure that the best level of service and care will be provided to the residents of Sunbury. This funding increase to Western Health represents a 167 per cent increase since 1999. It is a mighty effort and a testament to this government's commitment to health in the state. I ask the minister to visit this exciting project to check on the progress of this important health facility for Sunbury and the surrounding areas. I thank the minister for all the support he has provided to this project.

Western Port Highway: duplication

Mr BURGESS (Hastings) — I wish to raise a matter for the attention of the Minister for Roads and Ports. The action I seek is for the minister to visit my electorate and meet with a large number of landowners in Langwarrin whose properties are currently under threat of possible compulsory land acquisition by VicRoads, apparently as part of works to widen the Western Port Highway in that area. My constituents would like the minister to meet with them and to explain why their properties are currently under this threat when VicRoads has only recently completed acquiring large amounts of land from them, apparently for the same purpose. When these members of the community received the notices from VicRoads they thought there had been an unfortunate mistake. Compulsory acquisition of a person's property is seldom a pleasant experience and is often extremely traumatic for those affected. It is therefore the duty of those doing the acquisition to always act with great care, in good faith and with understanding and empathy.

A committee has been formed by the landowners affected by this ridiculous situation, and it has agreed to act as a consultative group that will liaise with VicRoads and the state government to ensure the interests of these families are represented. I strongly encourage the minister to meet with these people as urgently as possible to resolve the situation and relieve the anxiety my constituents are experiencing because of the actions of his department.

Either there has been a ridiculous mistake made in identifying the properties to be considered for acquisition or there has been a monumental blunder by this government in planning the configuration of the relevant part of the Western Port Highway. It has been clear for more than 40 years that when the port of Hastings is developed the Western Port Highway will need to be widened and duplicated.

However, it is difficult to conceive of a situation where going to the same property owners to acquire property for the same purpose twice within two or three years is anything but the product of another bungled Brumby government major project. My constituents have relayed to me a range of very concerning stories of being misled, deceived and manipulated by those involved in the acquisition process. It also became clear that the explanations being given to the different groups as to why a second acquisition of the same properties was being considered were inconsistent at best and deliberately misleading at worst.

Having experienced a significant number of consultation processes conducted by VicRoads and a range of other Brumby government bodies, these inconsistencies from and attempts to mislead by this government are nothing new. This government's approach to consultation is to provide as little information as possible and then separate communities and divide and conquer. There is a conscious effort to ensure that no member of the community has all the pieces of the puzzle.

A perfect example of the sham approach the Brumby government has brought to this state's community consultation process was the community consultation sham that was conducted by the Linking Melbourne Authority with the community of Baxter regarding what is now known as Peninsula Link and how it would intersect with their township. It was disturbing to watch a Victorian government body attempt to con an entire community in much the same way as can be observed through responses provided by the Premier and ministers of this government during most question times — responses that are difficult to brand as blatant lies but which everyone knows are not quite the truth.

Moore Street, Footscray: trucks

Ms THOMSON (Footscray) — My adjournment matter is for the Minister for Roads and Ports, and the action I seek is in relation to the increased number of trucks travelling down Moore Street in Footscray.

Moore Street is fundamentally a residential area now, although it is considered an arterial road by VicRoads. It has houses on both sides, and the neighbourhoods around it are also housing areas. The number of trucks travelling down there is particularly causing difficulty for residents at night. They are not just little trucks; they are the big trucks heading to the port.

Local residents have raised the issue of the increased truck traffic with me, and whilst we know that WestLink and the options of building a tunnel through that area and ensuring that trucks use that tunnel will alleviate this problem, there is concern about what will happen in the interim.

The action I seek from the minister is that he investigate what options might be available to be put in place during the interim that will alleviate the problem now being faced by residents whilst ensuring that we do not move this problem to other areas in Footscray, so the people of Moore Street and surrounding areas get their night-time back, have peace and rest at night and the long-term issues of traffic within Footscray that is not destined for Footscray are taken care of, thus alleviating the pressure on our residential streets.

I know we have a very good transport plan that has meant four great projects for Footscray — two rail and two road — which will mean increased capacity for our public transport and train services and that we get trucks and traffic not destined for Footscray out of Footscray; I think they are fantastic projects. But I am asking the minister to investigate what options might offer some relief to those residents in Moore Street so they can have a good night's rest.

Local government: regional and rural funding

Dr SYKES (Benalla) — My issue is for the Premier, and my request is that he meets with the Strathbogie Shire Council and other members of the Small Rural Council Advocacy Group, listens to their concerns about the unbearable costs they are experiencing and changes the funding arrangements for local government to ensure that all local governments have long-term, sustainable futures and that ratepayers — particularly those in small rural councils — also have long-term, sustainable futures.

The background to this request is the Whelan report that was recently made public and which identified 18 small rural councils that are under extreme financial pressure. Five of those councils are in my electorate. They are the Alpine shire, the Murrindindi shire, the Mansfield shire, Benalla rural city and Strathbogie shire.

Just last week I attended a rally at Kirwans Bridge near Nagambie where the mayor of Strathbogie shire launched a campaign to highlight the serious financial state that Strathbogie shire and the other 17 shires find themselves in. The site they chose was Kirwans Bridge. The bridge has had to be closed because the Strathbogie shire simply does not have the funds to maintain it — the $1 million-plus that is necessary to keep it safe for local and through traffic.

The impact of this bridge closure on locals is going to be significant. It will affect their daily need to keep in contact with their local community at Nagambie. Their capacity to access shops to buy their bread, milk, and medical supplies has now been severely reduced. There are also concerns about increased risks in relation to medical emergencies and in the event of fire, should it come in from the west.

We have a situation where Kirwans Bridge is not able to be repaired, but this is the first of many roads and bridges that will not be able to be maintained unless there is a dramatic change in the funding arrangements. In the absence of the state government and the Premier taking some action we are going to have massive increases in rates. For example, the Strathbogie shire this week passed a rate increase of 16 per cent for this year and 9 per cent next year. Certain people such as rural land-holders and businesses, with the additional removal of rebates, are looking at rate increases in excess of 35 per cent. That is simply unsustainable. If we then add the additional costs imposed on local governments as a result of the recommendations of the royal commission, clearly unless the Premier responds to my request and puts more money on the table many small rural councils are going to become unviable and may collapse.

Plenty Park: facilities

Ms GREEN (Yan Yean) — Tonight I wish to raise a matter for the attention of the Minister for Sport, Recreation and Youth Affairs. The action I seek is that he provide funding to Nillumbik shire for the further development of sport at Plenty Park. The vision that Nillumbik council has is to improve the facilities at Plenty Park. They are pretty good right now, but the council wants to expand those facilities so that this park can become a multi-access training facility.

This ground is currently home to the Plenty Cricket Club and the Diamond Creek Women's Football Club. The total project cost is $250 000. Nillumbik shire is intending to contribute $190 000 and is seeking only $60 000 from Sport and Recreation Victoria to expand this facility. It would see the development of a multipurpose training facility with fully enclosed nets located off the main playing surface, which will improve the training facilities and provide a better playing surface for the Diamond Creek Women's Football Club and the Plenty Cricket Club.

Both of these clubs are fantastic community clubs in the local area. The Diamond Creek Women's Football Club provides a safe and accepting environment for women to learn and develop their skills at all levels of Australian Rules football whilst promoting respect, camaraderie, good sportsmanship, health, fitness and enjoyment. The club was only established in 2002, and in the period since then it has won two premierships. In its ninth year it is striving for excellence and fun. The reserves and the senior teams are regarded highly as good, clean competitors in the premiers division of the Victorian Women's Football League.

The Plenty Cricket Club last year had many players who played cricket in Plenty. Three of its sides made the finals in 2009 and two were successful in the Barclay Shield, and the under-16s were premiers last season. In the Barclay reserves they were the runners up. I am sure that with an improvement in facilities at Plenty Park these two clubs can go from strength to strength. It is fantastic that Nillumbik council aspires to put money into this facility, which goes to both men's and women's sports and improves the great tradition of Nillumbik being a great place to play, live and raise a family.

Autism: funding

Mr K. SMITH (Bass) — Tonight I have a serious matter for the Minister for Children and Early Childhood Development and ask that she sees that some action is taken to assist not only my constituents but also other parents whose children suffer from autism spectrum disorder (ASD) or Asperger's syndrome. In the past 12 months this is the third parent with whom I have had to deal who has had this type of problem. My constituent is Mrs Helen Wise, who has a five-year-old son, Matthew. He is a student at Lang Lang Primary School, where I am advised there are a number of students who have a similar disability and who are also being treated, I believe, appallingly by the

department but magnificently by the school and the school community, which raise funds to assist the children. This is a departmental responsibility, and the department should be providing at least level 4 funding.

If we want disabled children to have a reasonably normal adult life, we have to assist them in their early formative years. Matthew has been assessed with having autism spectrum disorder, which is Asperger's syndrome, by Geneva Van Es, who is a psychologist from Vita Psychology and Education Services, and Chantele Edlington, a pathologist from the department. Ms Edlington's summary opinion and comments are:

> Matthew has difficulties with social interaction, the pragmatics of language, communicating using oral language, adapting to change and emotional regulation. It is important to remember that Matthew is a generally well-behaved and compliant child, who because of his ASD becomes lost in his own world and fails to comprehend the world around him.
>
> Although Matthew does not meet the criterion of -2 SD below the mean in expressive and receptive language, this is not indicative of his ability to be able to communicate with others. Due to Matthew's severe pragmatic difficulties, consistent with his diagnosis of ASD, he is unable to communicate effectively with others and access the curriculum without intensive support. Matthew has a severe pragmatic language disorder.

The report goes on further, but it finishes in saying that this child is five years old and has been assessed not only by the two professionals that I have mentioned but by others who say he has a problem and needs to receive help to be able to function properly. The difficulties that are being experienced by Helen Wise and her son, Matthew, are replicated across Victoria, yet the department is not helping as much as it should. I am asking that some action be taken by the minister to ensure that Matthew and his mother and their family and other children who are in a similar position are going to be looked after and given assistance so that they can grow up to live a proper, normal life instead of having to struggle for the rest of their lives.

Consumer affairs: job advertisement scams

Mr LIM (Clayton) — The matter I raise is for the attention of the Minister for Consumer Affairs. It concerns the recruiting of so-called dispatch managers by fraudulent organisations. The action I seek is that the minister, as part of the anti-scam programs run by Consumer Affairs Victoria, take steps to warn people of the existence of fake employment scams such as these and to consider whether recruiting organisations should be held responsible for the advertisements they carry. Consumer Affairs distributes an excellent publication, *The Little Black Book of Scams*. Perhaps a warning about this scam could be added to future editions.

A woman in my electorate was recently burnt by such a scam. The woman, a recent migrant, was recruited through an official employment website. She believed she had legitimate employment, redirecting packages delivered to her to other addresses. That was until she was besieged by angry suppliers demanding payment for the goods, which had been purchased using stolen credit card information. The police have stated that these types of criminal syndicate job advertisements were focused on international students and new migrants. Naturally the dispatch managers receive no pay for their work, and they run the risk of being held criminally liable for the fraud.

I urge the minister to ensure that consumers, particularly those who are most vulnerable, such as newly arrived migrants and international students, are informed of the existence of such fake job scams. I also call upon him to investigate whether there is a duty of care for the recruiting organisation to check the credentials of a company advertising for staff through its organisation.

Responses

Ms D'AMBROSIO (Minister for Community Development) — I wish to thank the member for Mordialloc for raising the issue of the Highett Youth Club with me, and I take the opportunity to congratulate the member for Mordialloc for the work she has done in garnering support for what appears to be a most admirable project. I know she is passionate about this project, and she certainly is a wonderful member for her local community.

Last year my predecessor approved $25 000 from the Victorian community support grant for Bayside City Council to undertake a feasibility study for the proposed Highett Youth Club project. I understand that this has now been completed, the community has been consulted and the council has thrown its support behind the project and is now in a position to seek funding assistance.

The member for Mordialloc indicated that council will be applying for a Victorian community support grant. The Victorian community support grants program is a key part of the Brumby government's support for strong, vibrant and resilient communities. The Victorian community support grants fund a huge range of projects that deliver tangible results for local communities right across Victoria. The key aim of the grants program is to ensure that funded projects are locally responsive and that facilities are well planned and accessible to all in the community.

I strongly encourage Bayside City Council to seek guidance from the department's southern metropolitan team, which will be able to steer it through the funding guidelines and advise it of what is needed for a successful outcome. I, for one, will certainly be requesting the department to work closely with the council on this important project. I assure the member for Mordialloc that I will see to that.

When that project is complete and an application has been lodged I will gladly give the project my full consideration. Until then I wish to again congratulate the member for Mordialloc for her dedication to the project and to her community, and I would also like to congratulate Bayside City Council for being responsive to community needs and supportive of community aspirations.

Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) — The member for Yan Yean raised an application to the Community Facilities Fund for a multi-use training facility at Plenty Park in Nillumbik shire. That is a project that would be of benefit, as we have heard, to the Diamond Creek Women's Football Club and the Plenty Cricket Club, so I thank the member, who is a great advocate for her community and a great supporter of sport in her community. In the electorate of the member for Yan Yean and the broader community that she supports the Community Facilities Fund program has funded tennis courts across Whittlesea, a new synthetic pitch and clubrooms at the Greensborough Hockey Club and has provided $3.5 million for the Diamond Creek basketball stadium and pool upgrades at Diamond Creek, among many other projects.

This is an impressive project that the member for Yan Yean has outlined. The key criteria for me and for Sport and Recreation Victoria is the capacity for these projects to increase participation. There are two things we need to do in community sport. One is to increase — —

Mr Burgess — There needs to be a Labor electorate.

Mr MERLINO — No, that is not right at all. These facilities — —

Mr K. Smith interjected.

Mr MERLINO — Every member of this house, including the member for Bass — and I refer to the Inverloch Surf Life Saving Club — knows we have funded facilities right across the state. There are two main criteria for me: one is increasing participation, and the second is providing pathways for talented young sportsmen and sportswomen so they can learn their craft and cut their teeth in their local community, because every elite superstar starts off in their chosen sport in their local community. I thank the member for Yan Yean for raising this matter with me. I can assure her that this project will be taken under strong consideration over the coming weeks and months.

I will refer the other eight matters to the relevant ministers for their action and response.

The ACTING SPEAKER (**Mr Nardella**) — The house is now adjourned.

House adjourned 11.17 p.m.