

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL**

**FIFTY-SIXTH PARLIAMENT**

**FIRST SESSION**

**Thursday, 4 February 2010**

**(Extract from book 1)**

**Internet: [www.parliament.vic.gov.au/downloadhansard](http://www.parliament.vic.gov.au/downloadhansard)**

**By authority of the Victorian Government Printer**



## **The Governor**

Professor DAVID de KRETZER, AC

## **The Lieutenant-Governor**

The Honourable Justice MARILYN WARREN, AC

## **The ministry**

Premier, Minister for Veterans' Affairs and Minister for Multicultural Affairs . . . . .	The Hon. J. M. Brumby, MP
Deputy Premier, Attorney-General and Minister for Racing . . . . .	The Hon. R. J. Hulls, MP
Treasurer, Minister for Information and Communication Technology, and Minister for Financial Services . . . . .	The Hon. J. Lenders, MLC
Minister for Regional and Rural Development, and Minister for Industry and Trade. . . . .	The Hon. J. M. Allan, MP
Minister for Health . . . . .	The Hon. D. M. Andrews, MP
Minister for Energy and Resources, and Minister for the Arts . . . . .	The Hon. P. Batchelor, MP
Minister for Police and Emergency Services, and Minister for Corrections . . . . .	The Hon. R. G. Cameron, MP
Minister for Community Development . . . . .	The Hon. L. D' Ambrosio, MP
Minister for Agriculture and Minister for Small Business . . . . .	The Hon. J. Helper, MP
Minister for Finance, WorkCover and the Transport Accident Commission, Minister for Water and Minister for Tourism and Major Events . . . . .	The Hon. T. J. Holding, MP
Minister for Environment and Climate Change, and Minister for Innovation. . . . .	The Hon. G. W. Jennings, MLC
Minister for Planning and Minister for the Respect Agenda. . . . .	The Hon. J. M. Madden, MLC
Minister for Sport, Recreation and Youth Affairs, and Minister Assisting the Premier on Multicultural Affairs . . . . .	The Hon. J. A. Merlino, MP
Minister for Children and Early Childhood Development and Minister for Women's Affairs . . . . .	The Hon. M. V. Morand, MP
Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians . . . . .	The Hon. L. M. Neville, MP
Minister for Public Transport and Minister for Industrial Relations . . . . .	The Hon. M. P. Pakula, MLC
Minister for Roads and Ports, and Minister for Major Projects . . . . .	The Hon. T. H. Pallas, MP
Minister for Education and Minister for Skills and Workforce Participation . . . . .	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs . . . . .	The Hon. A. G. Robinson, MP
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs . . . . .	The Hon. R. W. Wynne, MP
Cabinet Secretary . . . . .	Mr A. G. Lupton, MP

## Legislative Council committees

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

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

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

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

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

## Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Heads of parliamentary departments

*Assembly* — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

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

*Parliamentary Services* — Secretary: Dr S. O'Kane

**MEMBERS OF THE LEGISLATIVE COUNCIL**  
**FIFTY-SIXTH PARLIAMENT — FIRST SESSION**

**President:** The Hon. R. F. SMITH

**Deputy President:** Mr BRUCE ATKINSON

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

**Leader of the Government:**

Mr JOHN LENDERS

**Deputy Leader of the Government:**

Mr GAVIN JENNINGS

**Leader of the Opposition:**

Mr DAVID DAVIS

**Deputy Leader of the Opposition:**

Ms WENDY LOVELL

**Leader of The Nationals:**

Mr PETER HALL

**Deputy Leader of The Nationals:**

Mr DAMIAN DRUM

<b>Member</b>	<b>Region</b>	<b>Party</b>	<b>Member</b>	<b>Region</b>	<b>Party</b>
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Leane, Mr Shaun Leo	Eastern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lenders, Mr John	Southern Metropolitan	ALP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Lovell, Ms Wendy Ann	Northern Victoria	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Mr David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Huppert, Ms Jennifer Sue <sup>1</sup>	Southern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William <sup>2</sup>	Southern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
			Vogels, Mr John Adrian	Western Victoria	LP

<sup>1</sup> Appointed 3 February 2009

<sup>2</sup> Resigned 9 January 2009



# CONTENTS

## THURSDAY, 4 FEBRUARY 2010

### PETITION

*Liquor licensing: fees* ..... 153

### VICTORIAN COMPETITION AND EFFICIENCY COMMISSION

*A Sustainable Future for Victoria — Getting Environmental Regulation Right* ..... 153

### PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

*Audit Act* ..... 153

### PAPERS

### PARLIAMENTARY PRIVILEGE

*Right of reply: Colac Otway Shire Council* ..... 156

### SELECT COMMITTEE ON TRAIN SERVICES

*Reporting date* ..... 157

### MEMBERS STATEMENTS

*Aviation industry: government policies* ..... 157

*Minister for Energy and Resources: performance* ..... 157

*Australia Day: Ballarat awards* ..... 157

*Country Fire Authority: Warburton station* ..... 158

*Alcohol: advertising* ..... 158

*Foreign aid: federal budget* ..... 158

*Ovarian cancer: awareness month* ..... 159

*Bushfires: Black Saturday anniversary* ..... 159, 162

*Leader of The Nationals* ..... 159

*Australia Day: City of Glen Eira* ..... 160

*Girl guides: 100th anniversary* ..... 160

*Schools: federal government website* ..... 160

*Sri Lanka: parliamentary visit* ..... 160

*Hon. Lynne Kosky* ..... 161

*Keith and Betty Rooney* ..... 161

*Tattersson Park, Keysborough* ..... 161

*Victorian Tamil Cultural Association: festival* ..... 161

*Planning: Springvale development* ..... 161

*Australia Day: Shire of Glenelg* ..... 161

### STATEMENTS ON REPORTS AND PAPERS

*Road Safety Committee: process of development, adoption and implementation of Australian design rules* ..... 162

*Family and Community Development Committee: supported accommodation for Victorians with a disability and/or mental illness* ..... 163

*Auditor-General: The Effectiveness of Student Wellbeing Programs and Services* ..... 164, 169

*Drugs and Crime Prevention Committee: strategies to prevent high-volume offending and recidivism by young people* ..... 165

*Victorian Multicultural Commission: report 2008–09* ..... 166

*Auditor-General: Responding to Mental Health Crises in the Community* ..... 167

*Lorne Community Hospital: report 2008–09* ..... 168

*Victoria Legal Aid: report 2008–09* ..... 170

*Metropolitan Fire and Emergency Services Board: report 2008–09* ..... 170

### WATER AMENDMENT (ENTITLEMENTS) BILL

*Committee* ..... 171, 188

*Third reading* ..... 188

### QUESTIONS WITHOUT NOTICE

*Victorian Funds Management Corporation: governance* ..... 176, 177

*Victoria's Framework of Historical Themes: launch* ..... 178

*Northern Victoria Irrigation Renewal Project: planning permit* ..... 178, 179

*Fair Work: legislative reform* ..... 179

*Public transport: myki ticketing system* ..... 180, 181

*Housing: first home owner grants* ..... 181, 182

*Planning: urban growth boundary* ..... 182, 183

*Bushfires: recovery* ..... 185

*Minister for the Respect Agenda: performance* ..... 186, 187

*Street violence: drug use* ..... 187, 188

### SUSPENSION OF MEMBER

*Mr Guy* ..... 182

### VICTORIA UNIVERSITY BILL, ROYAL MELBOURNE INSTITUTE OF TECHNOLOGY BILL, SWINBURNE UNIVERSITY OF TECHNOLOGY BILL and UNIVERSITY OF BALLARAT BILL

*Second reading* ..... 188

### VICTORIA UNIVERSITY BILL

*Second reading* ..... 203

*Committee* ..... 203

*Third reading* ..... 204

### ROYAL MELBOURNE INSTITUTE OF TECHNOLOGY BILL

*Second reading* ..... 204

*Third reading* ..... 204

### SWINBURNE UNIVERSITY OF TECHNOLOGY BILL

*Second reading* ..... 204

*Third reading* ..... 204

### UNIVERSITY OF BALLARAT BILL

*Second reading* ..... 204

*Third reading* ..... 204

### PLANNING AND ENVIRONMENT AMENDMENT (GROWTH AREAS INFRASTRUCTURE CONTRIBUTION) BILL

*Second reading* ..... 204

### ACCIDENT COMPENSATION AMENDMENT BILL

*Introduction and first reading* ..... 207

*Statement of compatibility* ..... 207

*Second reading* ..... 213

*Section 85 statement* ..... 227

### TRANSPORT INTEGRATION BILL

*Introduction and first reading* ..... 217

*Statement of compatibility* ..... 217

*Second reading* ..... 219

### MAGISTRATES' COURT AMENDMENT (MENTAL HEALTH LIST) BILL

*Introduction and first reading* ..... 223

*Statement of compatibility* ..... 223

*Second reading* ..... 224

# CONTENTS

---

## BUSINESS OF THE HOUSE

*Adjournment* ..... 228

## ADJOURNMENT

*Bushfires: neighbourhood safer places* ..... 228

*Public transport: myki ticketing system*..... 229

*Schools: literacy and numeracy*..... 229

*Springvale Road, Nunawading: speed limits*..... 230

*Fair Work: casual employment*..... 231

*Rail: Reservoir level crossing* ..... 231

*Workers compensation: claim* ..... 232

*Patterson Lakes: water quality* ..... 232

*Health: Wallan super-clinic*..... 233

*Department of Sustainability and Environment:*

*land purchase* ..... 233

*20th Man Fund: Back to School program*..... 233

*North East Water: board appointment* ..... 234

*Responses* ..... 234

**Thursday, 4 February 2010**

**The PRESIDENT (Hon. R. F. Smith) took the chair at 9.32 a.m. and read the prayer.**

**PETITION**

**Following petition presented to house:**

**Liquor licensing: fees**

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the Victorian Brumby government's unfair fee increases on small-size, responsibly managed packaged liquor outlets that are located in suburbs of the Melbourne metropolitan area where little or no risk exists.

We oppose the massive increase in licensing fees for these packaged liquor outlets and demand that liquor licensing fees for such venues remain at their current levels and that a review of risk levels be immediately undertaken so that licensing fees can be more accurately determined.

**By Mr D. DAVIS (Southern Metropolitan) (260 signatures).**

**Laid on table.**

**VICTORIAN COMPETITION AND EFFICIENCY COMMISSION**

*A Sustainable Future for Victoria — Getting Environmental Regulation Right*

**Mr LENDERS (Treasurer), by leave, presented report and government response.**

**Laid on table.**

**Ordered to be considered next day on motion of Mr D. DAVIS (Southern Metropolitan).**

**PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE**

**Audit Act**

**Mr DALLA-RIVA (Eastern Metropolitan) presented discussion paper.**

**Laid on table.**

**Ordered to be printed.**

**Mr DALLA-RIVA (Eastern Metropolitan) — I move:**

That the Council take note of the discussion paper.

This is a very important review of the Audit Act 1994. It is important in the context that there has not been a substantial review of the Audit Act in Victoria for many years. The Public Accounts and Estimates Committee determined through its own motion capacity to undertake such a review. We are, of course, indebted to the work that has been undertaken by the various people working within the PAEC. They always have a very difficult period as we approach budget time. We are always imposing additional workloads on them, and we are very pleased that Valerie Cheong, Joe Manders, who is the specialist adviser, Vicky Delgos, Melanie Hondros and Mitch Marks, the desktop publisher, have put together this important discussion paper. It is something I take very seriously and would not treat flippantly. I hope people in the financial environment and those who have a strong interest in the way financial accountability is undertaken in this state review this paper.

It is a discussion paper that falls out of some previous work we have done on some inquiries that extended outside the boundaries of Australia, including an Auditor-General's matter in New Zealand. It indicated to me, and certainly to the committee, that we are in need of a review of the Audit Act, and I am sure the Treasurer will agree with that when the report is finally undertaken. We will be looking at a variety of areas. The discussion topics include potential legislative amendments relating to the Auditor-General's relationship with Parliament and a variety of issues we found when we were in New Zealand as part of that conference. Whilst we are ahead of the game in some parts, in other parts we are a bit behind.

**Mr D. Davis** interjected.

**Mr DALLA-RIVA —** We were enjoying the sauvignon blanc, Mr Davis, as well. Those issues need to be looked at. There is also the controversial issue of the audit of non-judicial functions within Victorian courts. There is a view in the discussion paper on how the legislative provisions addressing performance audits in the administrative functioning of Victorian courts could be determined by the Auditor-General. That will be of interest to members of the judiciary, who are making comments on some of the issues in this chamber as well.

The section on the operational powers and responsibilities of the Auditor-General is, to some degree, the wish list of the Auditor-General. I think

there are some issues there, such as the dominance of PPPs (public-private partnerships) in Victoria. I think it is fair to say the Kennett government led the way in relation to public-private partnerships — something that was dismissed by those opposite, who now embrace PPPs fully because they understand the benefits that are derived for the community. If only they managed them better, it would be a different matter.

There are issues about the capacities of the Victorian Auditor-General's Office, its general powers, its relationship to policy objectives of government and so on. I think there are some issues there that it would be worthwhile to debate in the broader community context. There are also the areas of contemporary developments and emerging issues, matters raised by the Department of Treasury and Finance, and of course the continuous improvement and risk management issues, as outlined in that chapter. Other potential amendments are outlined in chapter 7, which I will not go into.

An inquiry held a number of years ago has led us to this inquiry, which will lead to a pretty significant document moving forward. I highly endorse the discussion paper. I again thank the executive and the secretariat of the committee, who put their heart and soul into the job. I understand other committees do not have this type of workload. There is also the intensity of the budget estimates hearings which are coming up, and along the way we are also doing other committee work. For all of that, I commend them.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I too rise to make remarks on the discussion paper on the review of Victoria's Audit Act 1994. I would like to start by thanking the committee secretariat, Valerie Cheong and her staff, and in particular Joe Manders, for the work they did preparing for this discussion paper last year and through the summer period.

As Mr Dalla-Riva outlined, the discussion paper canvasses a number of issues related to the operation of the Victorian Auditor-General's Office. I just want to touch briefly on a couple of issues that are each dealt with in separate chapters of the paper. The first is the constitutional structure surrounding the Auditor-General's office and its relationship with this Parliament and with the executive. Although the Auditor-General is regarded as an independent officer of the Parliament and has his relationship with the Parliament through the Public Accounts and Estimates Committee, there is also a relationship between the Auditor-General's office and the government by way of the budget appropriation that is given to the audit

office. While there is notionally an independence to the audit office directed through the Public Accounts and Estimates Committee, nonetheless there is a heavy reliance on an appropriation from the government, and as members of the Public Accounts and Estimates Committee know, at times those discussions as to the nature of the budget to be provided to the audit office can be willing.

Another issue the discussion paper touches on is the constitutional structure surrounding the audit office. In 2003, along with a raft of other changes, the structure of the audit office was entrenched in the constitution, and this has meant that there is now no flexibility with updating the arrangements for the Auditor-General. We saw this problem when we did an earlier review of other independent officers of the Parliament and recommended that they be put on terms of appointment similar in length, with the appointments being staggered between elections to get them out of a political environment. That is not possible with the Auditor-General because his appointment is enshrined in the constitution.

One of the other issues the paper touches on is audits of non-judicial functions of the courts. This has been a contentious issue for a long period of time. Certainly it is my view, and I think the view of the Public Accounts and Estimates Committee, that the Auditor-General should be able to audit as of right the non-judicial functions of courts — that is, their administration and their expenditure of public money. We do not seek to review the decisions made by the judiciary; nonetheless, it does expend public money in the operation of the courts, and that should be subject to review by the Auditor-General in the same way as all other expenditure of public money should be.

The discussion paper goes on to outline the operational powers and responsibilities of the Auditor-General. Like Mr Dalla-Riva, I have raised the issue of the changing way the government undertakes procurement, particularly major projects, having embraced public-private partnerships (PPPs) in varying models. There is a huge range of models that can be and are used to develop and operate public-private partnerships in Victoria, and it has become apparent that the existing audit legislation is limited in its capacity to enable the Auditor-General to follow the public money trail into the PPPs. That should be addressed in the review of the Audit Act.

I commend the discussion paper to the chamber and the Victorian community more generally. The Public Accounts and Estimates Committee is looking for public submissions on these issues. Prior to preparing

our final report I look forward to seeing what the community has to say about the role and function of the Auditor-General, and I look forward to the development of more contemporary, effective audit legislation.

**Ms HUPPERT** (Southern Metropolitan) — I also wish to make a few comments about the discussion paper on Victoria's Audit Act 1994. I echo the thanks from the members opposite for the work of the secretariat, who have done a sterling job in putting together this discussion paper: Valerie Cheong, Joe Manders, Vicky Delgos, Melanie Hondros and Mich Marks. A lot of work has gone into the discussion paper. The committee has already done a fair amount of work inquiring into the current thinking about the roles of auditors-general in a number of similar jurisdictions, and members have been greatly supported by the secretariat in carrying out that work.

*Honourable members interjecting.*

**Ms HUPPERT** — Let me say to members opposite that I am pleased the Liberal members of the Public Accounts and Estimates Committee have supported the investigation. It was interesting to listen to the comments made by Mr Rich-Phillips and Mr Dalla-Riva, but I find them somewhat hypocritical. This government has always been interested in accountability. It was the previous Kennett government that tried to nobble the work of the Auditor-General and prevent accountability of the actions of the Victorian government. I hope this discussion paper will lead to some interesting work and a review of the Audit Act to ensure that it meets current financial and commercial arrangements in the state of Victoria. It continues the work of this government to ensure that the actions of the government are transparent and that all Victorians get to see what the government is doing. I commend the report to the house.

**Ms PENNICUIK** (Southern Metropolitan) — I too would like to make a few brief comments on the discussion paper from the Public Accounts and Estimates Committee on the Audit Act 1994 on which the committee will conduct a review this year.

The Audit Act is 16 years old. The committee has been looking at developments in arrangements for auditors-general in other jurisdictions, both overseas and within Australia. Two subcommittees visited Western Australia and New Zealand late last year, and reports of those visits indicate that the Victorian Audit Act needs to be reviewed and modernised. This discussion paper goes to particular subjects such as the unique constitutional and parliamentary status of Victoria's

Auditor-General and the relationship of the Auditor-General with Parliament. These are important issues that the community should have some say on, and the Parliament should be looking at whether the current arrangements are appropriate or need to be changed.

Other members spoke about whether there should be audits of non-judicial functions within Victoria's courts. Chapter 5 of the discussion paper goes into some detail about the operational powers and responsibilities of the Auditor-General. The current scope of the act does not allow the Auditor-General to investigate the expenditure of public money in alliances or public-private partnerships (PPPs) that the government may enter into with the private sector. Victoria uses a lot of these types of arrangements — PPPs and alliances — and what is of concern to us and many in the community is that those contracts are secret, so how the public money is used and whether or not it is expended in a way that is of public benefit and in the public interest is not known to the public. Some of those arrangements are to be kept secret for decades to come.

In other jurisdictions, such as New Zealand, it is a matter of course that the Auditor-General can follow the trail of public money and be able to report to the Parliament on whether or not that money has been expended appropriately, but that is not the case in Victoria. More and more of Victorian taxpayers money is hidden from the public and from the Parliament.

I would also like to thank the staff of the committee — Valerie Cheong, Joe Manders, Vicky Delgos, Melanie Hondros and Mich Marks. This discussion paper will be of interest to people in the community. As Mr Rich-Phillips said, the committee is calling for submissions and will be holding hearings in April, and I encourage all members to read this discussion paper and to commend it to people in their constituencies and encourage submissions on this very important issue.

**Motion agreed to.**

## PAPERS

### Laid on table by Clerk:

Office of Police Integrity — Report on Information Security and the Victoria Police State Surveillance Unit, February 2010.

Victoria Police — Chief Commissioner —

Report under section 21M of the Terrorism (Community Protection) Act 2003, 2008–09.

Report under section 30L of the Surveillance Devices Act 1999, 2008–09.

Report under section 31 of the Crimes (Assumed Identities) Act 2004, 2008–09.

**PARLIAMENTARY PRIVILEGE**

**Right of reply: Colac Otway Shire Council**

**The PRESIDENT** — Order! Pursuant to the standing orders of the Legislative Council I present a right of reply from Colac Otway Shire Council to statements made in the Council by Mr John Vogels, MLC, on 2 June 2009.

During my consideration of the application for the right of reply I gave notice of the submission in writing to Mr Vogels and also consulted with him prior to the right of reply being presented to the Council.

Having considered the application and determined that the right of reply should be incorporated into the parliamentary record, I therefore remind the house that the standing order requires me when considering a submission under the order to not consider or judge the truth of any statements made in the Council or the submission.

In accordance with the standing orders, the right of reply is hereby ordered to be printed and incorporated in *Hansard*.

*Reply as follows:*

In the daily adjournment debate on Tuesday, 2 June 2009, Mr John Vogels, (Western Victoria), called into question the appointment process of Colac Otway Shire Council’s appointment of the chief executive officer (CEO), Mr Rob Small, and the payment to the consultant who assisted council in the interview process. In his statement, Mr Vogels referred to the recruitment process as a ‘sham’.

By way of clarification Mr Rob Small was selected on 27 April 2009, following his third interview. Rob Small was formally appointed at a special council meeting held on 5 May 2009. The vote to appoint him was carried 6 votes to 1.

Mr Vogels claimed that a group of Colac Otway shire councillors approached Mr Rob Small after the former CEO announced her departure to request he apply for the position guaranteeing their support and ultimate appointment. Not only is this incorrect, the accusation fails to withstand scrutiny. The former CEO announced her resignation in October 2008, last year. In November 2008 six new councillors were elected with only one councillor from the former council being re-elected.

For Mr Vogels’s accusation to be substantiated at least four councillors would need to have been involved. To suggest that councillors were involved after the former CEO ‘announced her departure’ is impossible. The former CEO

announced her resignation at the end of October 2008. The council election took place on 29 November 2008. The new council selected Mr Rob Small in April 2009. Only one of the former councillors was re-elected in November 2008. Even if such assurances were given by the then councillors, and there is no evidence of this, six of the seven councillors were not in office when Mr Rob Small was selected. Therefore, the course of events outlined by Mr Vogels is impossible.

It should be noted that Rob Small has continuously owned property in Colac Otway shire since 2004. Given his previous experience as CEO of Colac Otway shire and his high standing in the community it is quite understandable that some residents may have encouraged him to apply for the position. We understand that such encouragement did occur.

Council had a thorough process to select the recruitment consultants. Council sent invitations to six recruitment firms in December 2008. Five firms accepted the invitation. The range of quotes for this project was from \$15 250 to \$25 000 plus advertising, and travel and accommodation costs. Three firms were interviewed by councillors. McArthur Management Services was one of those three firms and is a respected leader in the recruitment industry. Their quoted fee was very competitive.

They were selected by the clear majority of councillors. Mr Vogels’s statement infers that the consultant firm and their consultant, Darren Condon-Green, was a party to a ‘sham’ process. Darren Condon-Green was completely professional at all stages of the process and the accusations towards him are unsubstantiated and inaccurate.

Mr Vogels’s claims that Mr Rob Small was removed from McArthur Management Services’s recommended list is incorrect. The opposite is true. There were approximately 50 applicants. The consultant initially interviewed approximately 20 candidates. Councillors did not have input into the candidates initially interviewed. Mr Rob Small was one of this group. Of these, the consultant recommended that a number be considered for interview by councillors. Mr Rob Small was one of those recommended. Councillors interviewed seven candidates, including Mr Rob Small, on 7 and 8 April 2009. Of those seven candidates, two were interviewed a second time by councillors. This occurred on 27 April 2009. McArthur Management Services agreed that both of the two candidates, including Rob Small, were worthy of the final interview on 27 April 2009. Rob Small was selected immediately after the final interviews were completed on 27 April 2009.

One of Rob Small’s referees, a long-time councillor in a regional city, made the comment that had Rob Small not had a break in his local government employment, he would have been a worthy candidate for a chief executive officer position in a much larger municipality than Colac Otway, such as a large regional city.

The selection process was a detailed and thorough process as outlined earlier. The quote from McArthur Management Services represented the best value of the options received. When these facts are considered it is evident that this was a cost-effective process in line with industry standards.

**Laid on table.**

**Ordered to be printed.**

## SELECT COMMITTEE ON TRAIN SERVICES

### Reporting date

**Mr ATKINSON** (Eastern Metropolitan) — By leave, I move:

That the resolution of the Council of 11 March 2009 requiring the Select Committee on Train Services to present its final report to the Council no later than March 2010 be amended so as to now require the committee to present its final report by May 2010.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Aviation industry: government policies

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I draw the house's attention to some of the challenges facing the Victorian aviation industry. Victoria's position as an international gateway is coming under increased competition from Brisbane and Sydney, which will be exacerbated by the Rudd government's Sydney-focused aviation white paper.

Our major aircraft maintenance facilities face growing competition from lower cost alternatives in the Asia-Pacific region. In aviation training, which is an important export earner, the negative publicity surrounding attacks on Indian students risks undermining the sector. Our regional airports are crying out for infrastructure renewal and our intrastate and interstate regional airlines face a constant battle to remain viable. Tourism Victoria has completely failed to recognise the potential of high yield regional aviation-based tourism. With the exception of the standout success that is Gippsland Aeronautics, Victoria's airframe and engine manufacturing capability has been reduced to that of a component supplier.

In November 2000 the Minister for State and Regional Development, now the Premier, committed to developing a Victorian aviation industry plan. Such is this government's commitment to the aviation industry, that nine and a half years later that industry plan has still not been delivered! Only a change of government will give the aviation industry the government focus and the support it deserves.

## Minister for Energy and Resources: performance

**Mr BARBER** (Northern Metropolitan) — The Minister for Energy and Resources is out there bleating, saying that a badly designed mandatory renewable energy target has caused the price of renewable energy certificates to plummet, but this is the same minister who shortly before Christmas brought into this Parliament a bill which got rid of the Victorian target and rolled it into the federal target. At the time he did it he knew that the Greens had already tried to amend the federal scheme to fix exactly the problems that he is now pointing to.

This minister has taken some fundamentally good ideas and turned them into disasters. He has a record of it. Smart meters — a great idea! They are now a rort and a rip-off. The feed-in tariff was popular until he got hold of it. The only thing that was salvaged from that whole exercise was when all the non-government parties lined up together and forced him to green up that measure. We have to remind ourselves that he was the guy who ran public transport for the first seven years of the Bracks government.

With such an enormous challenge as climate change in front of us, we simply cannot move forward with a man like that, a man who has a proven record of bad public policy making, in this portfolio.

### Australia Day: Ballarat awards

**Ms PULFORD** (Western Victoria) — I would like to congratulate foster carer Ronnie Rosenow, who was named Citizen of the Year at the City of Ballarat Australia Day award ceremony on 25 January. Ms Rosenow has cared for more than 150 children while at the same time raising five children of her own. I also congratulate Ballarat's Young Citizen of the Year, Courtney McKay, on her tireless efforts in YMCA Youth Connect, YMCA camps, Delacombe's Healthy Active Australia community and schools grants program, the Delacombe youth group, community events and resident committees. Courtney has helped to arrange activities for local young people including cleaning up the local park, planting trees and delivering care packages to families in need at Christmas.

In addition I congratulate those who participate in Eureka Carols, the winner of the Community Activity of the Year award. The fabulous event was enjoyed by 2000 to 5000 people. It supports local talent and provides an avenue for local performers to showcase their talents while raising money for the community

and the 3BA radio Christmas appeal. It would not be possible without the hundreds of volunteers contributing countless hours.

Finally I would like to congratulate Mr Winston Loveland, who was awarded the Wendouree Australia Day citizenship award ahead of other nominees Jan Allit, OAM, and Lyn Metz, who are also worthy nominees. Mr Loveland has contributed to many organisations over the past 10 decades including, but by no means limited to, the Ballarat Organ Society, the Rotary Club of Ballarat, the Neil Street Uniting Church, and Friends of the Ballarat Botanical Gardens.

I congratulate all the nominees and recipients of the respective awards, and I thank them all for the wonderful contribution they make to the community.

### **Country Fire Authority: Warburton station**

**Mr O'DONOHUE** (Eastern Victoria) — The Labor Government 2006 policy *Ready for any Emergency* states on page 1:

Emergency services are not just about response, but education and preparedness. The challenge is to equip our emergency services with the best people and resources.

I agree. The promise on page 5 of the same document to rebuild the old and inadequate Warburton CFA (Country Fire Authority) station during the term of this Parliament was welcomed. The member for Gembrook in the Assembly obviously also agreed with this. She said in Parliament on 14 March 2007, with regard to the need for a new CFA station at Warburton:

I wish to place on record the importance of the timely delivery of funding for this project, given the impediments currently faced by the brigade operating from its existing site.

Then on 1 May 2007 the Minister for Police and Emergency Services said in a press release:

The 2007–08 state budget delivers on our election commitment to invest in the services that matter to Victorian families, with community safety one of our highest priorities.

He went on:

We will spend more than \$8.8 million to replace or upgrade 18 Country Fire Authority (CFA) stations —

including, amongst others, the Warburton CFA station.

What has happened since then? The Warburton CFA station has not been rebuilt and the government has let down the Warburton community. Earlier this week the member for Gembrook in the other place made some outrageous claims about what the opposition has done in Warburton, when all the opposition has done,

through Peter Ryan, the shadow Minister for Police and Emergency Services in the other place, is promise to deliver where the government and the member for Gembrook have failed — that is, during the first term of the Baillieu government a new Warburton CFA fire station will be built. Before the member for Gembrook makes baseless attacks on the opposition, I suggest she focus on delivering on the promises she made to her electorate and on which she has failed to deliver.

### **Alcohol: advertising**

**Mr HALL** (Eastern Victoria) — During the course of yesterday members spoke extensively about liquor licensing. During the course of that debate much reference was made to violent activities generated by the excessive consumption of alcohol. When I picked up today's newspapers, I saw in both major daily newspapers, which I have read, two full-page advertisements for liquor products which have been placed by major retail chains in Victoria. Other retail chains advertise on other days. Why do they do it? It is simply because it works. It increases sales revenue, and it also encourages a higher consumption of alcohol.

If we as a community consider excessive consumption of alcohol a serious problem for both health and community safety reasons, then one measure we could take would be to ban the advertising of alcohol products. I want to make it clear that I enjoy an alcoholic drink as much as anybody. I am not suggesting that we ban alcohol consumption but that we should look seriously at the impact of alcohol advertising.

If this sounds extreme, I remind members that we did it for tobacco products, and I have no doubt that that has contributed to lower smoking rates. I want to make it very clear that the position I have put today is not a policy position of the Liberal-National coalition nor of The Nationals; it is more a suggestion that, if we are serious about the issues associated with excessive alcohol consumption, we should be looking at all measures to reduce that impact.

### **Foreign aid: federal budget**

**Ms MIKAKOS** (Northern Metropolitan) — I express my utter dismay at the comments of Senator Barnaby Joyce, a senator for Queensland, saying that a federal coalition government would cut Australia's foreign aid budget. Wealthy nations such as ours have a moral obligation to assist the billions of our fellow human beings who are struggling to stay alive. As we saw with the recent Haiti earthquake appeal and the earlier tsunami appeal, Australians are generous people.

Australia has committed to the millennium development goals that aim to reduce world poverty, and Prime Minister Kevin Rudd has previously increased Australia's foreign aid budget, for which I congratulate him. It is also in Australia's strategic interests to assist our Asian and Pacific neighbours at a time when China is seeking to extend its influence in our region and is a way to assist poor nations to develop their own economies, thereby minimising the spread of extremist ideologies, the risk of terrorism and the flow of illegal immigration. Australians should vehemently oppose any threat to reducing Australia's foreign aid budget.

### **Ovarian cancer: awareness month**

**Ms MIKAKOS** — On another matter, I wish to draw attention to the month of February being Ovarian Cancer Awareness Month. With 1 in 70 Australian women developing ovarian cancer in their lifetime, it is saddening to learn that every year up to 850 of them will lose their battle with this disease — that is, one woman every 11 hours. There is currently no test for this disease, and that is why awareness of relevant symptoms and early detection are important. I commend this community health initiative by Ovarian Cancer Australia that aims to save lives through the education of all women. I encourage Victorian women to — —

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

### **Bushfires: Black Saturday anniversary**

**Ms LOVELL** (Northern Victoria) — Saturday, 7 February 2009, will forever be remembered as a day of indescribable tragedy and loss felt by communities right across Victoria. This Sunday, 7 February 2010, I will pause to commemorate the 173 Victorians who lost their lives in last February's horrific bushfires. Especially close to my heart is the O'Gorman family from Humevale. Allan, Carolyn and their 18-year-old son Stuart lost their lives in the fires. Allan and Carolyn are survived by twins Patrick and Bronwyn, who will forever suffer enormous grief at the loss of their parents and brother.

No words can express my continued gratitude and admiration of the Country Fire Authority personnel, both volunteer and career firefighters, who were on the ground throughout Victoria on that day, and also the armies of volunteers who worked around the clock in the days, weeks and months after the fires to assist devastated communities.

On 7 February 2009 the region I represent was literally ablaze with fires burning in urban areas of Bendigo, south of Bendigo in Redesdale, from Kilmore through to Wandong, Kinglake, Healesville and north through Narbethong, Marysville, Buxton, Murrindindi, Flowerdale and many other towns and districts within the fire complex. Fires also burnt in the Mansfield area and around Beechworth and Stanley. These fires were relentless, and my region is the area that suffered the greatest loss of life and property.

I have worked with many of these communities following the fires, and I continue to support these communities as they recover. Although the landscape is scarred, these communities are slowly recovering and starting to rebuild. This will be a slow process for many survivors. I will never forget the loss and absolute devastation caused by the bushfires. Saturday, 7 February 2009, is a date, a day and a tragedy that I will never forget.

### **Leader of The Nationals**

**Mr DRUM** (Northern Victoria) — I want to take this opportunity to inform the house that on 16 December 2009 Peter Ryan celebrated 10 years as Leader of The Nationals. For any parliamentarian to lead any political party for 10 years is a Herculean effort, but when that political party spans the width and breadth of Victoria and there is an inbuilt expectation that the leader needs to be constantly visible throughout the state, then that Herculean effort takes on even greater significance.

Peter Ryan lost his father at a relatively young age and then put himself through university with the help of his mother. He took up a partnership at Warren Graham and Murphy in Sale and from there found his way into the Victorian Parliament in 1992. Having assumed the leadership in 1999, Peter Ryan has been a brilliant Leader of The Nationals, helping Bill Sykes, Russell Northe and Peter Crisp all win new seats for The Nationals from both Labor and Independent members of Parliament.

All members of The Nationals agree that we are very fortunate indeed to have Peter Ryan as our leader. We understand that the collegiate dynamic that has been established within the party is no coincidence and that much of the standing that The Nationals currently enjoy is largely due to the leadership of Peter Ryan.

I want to take this opportunity to congratulate one of the state's great parliamentarians and hope that he, along with his wife, Trish, as well as James, Sarah and Julien, take time to acknowledge this significant

milestone. Maybe the Demons can win a few games this year to give him some real joy in 2010!

### **Australia Day: City of Glen Eira**

**Ms HUPPERT** (Southern Metropolitan) — Australia Day 2010 presented an opportunity for celebration of our shared values and ideals. One way in which we do this is by celebrating those members of the community whose actions epitomise these values. Firstly, I would like to congratulate the many residents of the Southern Metropolitan Region, too many to name this morning, who are recipients of Australia Day honours. A number of municipalities within the Southern Metropolitan Region have chosen to honour the contribution of their citizens on Australia Day. In particular I wish to congratulate those recognised by the Glen Eira City Council: Citizen of the Year, Jack Barnes, who at 90 is still an active community volunteer; Young Citizen of the Year, Marika McKinlay, a member of Glen Eira City Council's youth services Youth Consultative Group; and Community Group of the Year, Community Information Glen Eira.

### **Girl guides: 100th anniversary**

**Ms HUPPERT** — On another matter, 2010 marks 100 years of girl guides. In recognition of this milestone, in Australia 2010 has been designated the Year of the Girl Guide. Guiding is a movement which enables girls and young women to grow into confident, self-respecting, responsible community members, and through a program which provides training in life skills, decision making and leadership. I have to admit to a particular affinity with guiding, having been a member of the movement from the age of 8 to 18, during which time I had the opportunity to learn skills which have stood me in good stead over the years. I congratulate the guiding movement on the work it does, and wish girl guides in Victoria all the best for their centenary celebrations.

### **Schools: federal government website**

**Mrs PEULICH** (South Eastern Metropolitan) — I wish to make a few remarks in relation to the 'My school' website, which was recently launched by the federal Minister for Education, Julia Gillard. The 'My school' website reportedly shows the key areas of learning in which schools are above or below averages set by students nationally in the NAPLAN (National Assessment Program — Literacy and Numeracy) test and those set by schools 'statistically similar'. It is a nice little public relations stunt by Ms Gillard, who wears the pearls and looks more middle class than anyone from Toorak, to make inroads into the agenda

of, and the calls by, the community for a more accountable and transparent performance of our schools to address OECD (Organisation for Economic Cooperation and Development) concerns about the lack of performance of our students in literacy and numeracy.

Technically the website is flawed. If it had been established properly it would not have crashed or slowed down, given its popularity. Conceptually it is inadequate, because you can teach to a single test and try to address a deep-seated and very serious concern raised by OECD results as well as the Attorney-General's report showing that we have failed to make inroads over 10 years, and it is of limited use. In relation to the Brumby government it shows that it has failed to improve the quality of education and has resorted to spin and propaganda to address very deep-seated concerns about the quality of education in the state of Victoria.

### **Sri Lanka: parliamentary visit**

**Mr EIDEH** (Western Metropolitan) — Some weeks ago I had the privilege of being a part of a parliamentary delegation to the Republic of Sri Lanka, in the company of the member for Yuroke in the other house and Parliamentary Secretary to the Premier (Multicultural Affairs and Veterans' Affairs), Mrs Liz Beattie; the member for Cranbourne in the other house, Jude Perera; and the member for Essendon in the other house, Mrs Judy Maddigan, a former Speaker. There was a meeting with the Australian High Commissioner and staff, with many local people, with senior members of the Sri Lankan government and with the Speaker of its Parliament, all of whom send their regards to our Parliament.

Sri Lanka is an island state south of India with a population a little short of Australia's, at some 20 million. While Sri Lanka produces the world's best tea, as well as coffee, coconuts, rubber and cinnamon, and while it boasts the Buddhist religion, a faith of peace and harmony, it is in some ways more notable for its strategic position as a key naval link between west and South-East Asia. But the tsunami of a few years ago is still having terrible effects and its economy has not yet fully recovered. That is why the Victorian Labor government has leveraged \$12 million in donations for different infrastructure projects — for new housing, for education and for new community centres, for a teaching hospital and to rehabilitate its fishing industry. One of the events that occurred during our stay was the awarding of a scholarship to a young Sri Lankan child for further study. The student came from a school which had been rehabilitated with financial assistance

from the Brumby Labor government. It made me feel proud to be Victorian.

### **Hon. Lynne Kosky**

**Mr ATKINSON** (Eastern Metropolitan) — I would like to remark briefly on Lynne Kosky's resignation from the Parliament and from the ministry of the state government, and I wish her well in the future with her family.

While members on this side of the house have some concerns over the management of the transport portfolio, not all of it was directly the responsibility of Ms Kosky. Her predecessor Mr Batchelor, the Minister for Community Development, left some rather difficult circumstances for her to contend with as the Minister for Public Transport. Lynne Kosky was an outstanding politician in this state and made a significant contribution to the Parliament. In my dealings with her I found she was a very accessible minister. I congratulate her on her achievements in that role and wish her well.

### **Keith and Betty Rooney**

**Mr ATKINSON** — I take this opportunity to congratulate Keith and Betty Rooney, residents of the city of Whitehorse, who were recently presented with key to the city recognition awards. That is an unusual award. It is not presented very often by cities, but in this case it was well deserved because both Keith and Betty Rooney have made an extraordinary contribution over many decades to the city of Whitehorse. They say they are retiring from community life. We do not believe them. We certainly hope that is not the case.

### **Tatterson Park, Keysborough**

**Mr SOMYUREK** (South Eastern Metropolitan) — On Tuesday, 19 January, I had the pleasure of representing Mr Batchelor, the Minister for Community Development, at the official launch of the Tatterson Park playground and community space in Keysborough.

The playground and community space was a joint project between the local, state and federal governments, costing \$926 000 to complete. Judging by the large crowd that gathered to celebrate the official opening of the facility, the government's decision to assist in the funding of the playground based on community involvement in the planning and design of the project was the right thing to do. As a consequence of this community involvement the community has a facility that reflects its needs and aspirations.

### **Victorian Tamil Cultural Association: festival**

**Mr SOMYUREK** — On another matter, I had the pleasure of attending the Victorian Tamil Cultural Association's annual cultural festival, the Tamil new year festival, held at the Springvale town hall on Saturday, 16 January.

Since the formation of the Victorian Tamil Cultural Association in 1993, the organisation, through people such as Mr N. R. Wickiramasingham, have facilitated the settlement in Victoria of thousands of Tamil migrants from all over the world.

I take this opportunity to thank members of the Victorian Tamil Cultural Association for their hospitality on the night and commend them for the good work they are doing in the Tamil community.

### **Planning: Springvale development**

**Mr SOMYUREK** — Finally, I would like to congratulate the Brumby government for clearing the path for the development of a \$286 million homemaker centre development on Princes Highway.

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

### **Australia Day: Shire of Glenelg**

**Ms TIERNEY** (Western Victoria) — On 26 January 2010 I attended the Australia Day ceremony in Portland, where history was made. For the first time two equally deserving community members were named the Shire of Glenelg's 2010 Citizens of the Year.

Ms Gail Jaensch of Heywood has been a local volunteer for over 15 years, opening the Portland branch of the Make-A-Wish Foundation six years ago, and acting as president of the branch, which helps children in Warrnambool, Colac, Port Fairy and Princetown. The mayor of the Shire of Glenelg, Gilbert Wilson, spoke of Gail's contribution to the community stating:

Gail's list of duties is an indication of her care for the community and her willingness to help others. I am proud to present these awards, as they acknowledge individuals who are outstanding role models in our shire.

The other recipient of the award was Mr Graham Sealey of Portland, chairman of the South West Relay for Life organising committee, administrator of the Portland Police Less Advantaged Children's Fund, committee member of the Pete's Walk fundraiser and

organiser of the Police Charity Golf Day for the last 10 years.

I take this opportunity to thank Gail and Graham's families, whose generosity to the wider community has enabled Gail and Graham to spend so much time and energy on important local issues.

At the ceremony there was a very large turnout of community members who enjoyed the fabulous sounds of the children's choir, local poetry and an excellent speech from Shire of Glenelg councillor Ken Saunders. Cr Saunders, a Gunditjmara elder, spoke on indigenous issues and called for unity for all peoples. It was an absolute pleasure to attend the ceremony, which reflected the spirit of Portland and the spirit of our nation.

### **Bushfires: Black Saturday anniversary**

**Ms BROAD** (Northern Victoria) — As our thoughts turn to the first anniversary on Sunday of the Black Saturday and Gippsland fires, I wish to acknowledge the 173 lives that perished in Australia's worst ever natural disaster when bushfires devastated Victoria on 7 February 2009. What occurred in the February bushfires was a tragedy that touched the lives of many Victorians and continues to impact on individuals, families and communities.

As a member for Northern Victoria Region, the region most affected by the Black Saturday fires, I am acutely aware of the impact of the bushfires and their aftermath. Accordingly I wish to also acknowledge the work of all those involved in providing support to individuals and families and helping to rebuild communities over the past year. As the Premier, John Brumby, has said, rebuilding after the February bushfires and preparing for future bushfire seasons are significant tasks for the government, the Parliament and the community. These tasks include continuing to deliver projects under the joint state-commonwealth bushfire reconstruction and recovery plan and working with emergency services and communities to implement the final recommendations of the bushfires royal commission.

## **STATEMENTS ON REPORTS AND PAPERS**

### **Road Safety Committee: process of development, adoption and implementation of Australian design rules**

**Mr KOCH** (Western Victoria) — I rise to speak on the report of the inquiry into the process of development, adoption and implementation of

Australian design rules (ADRs). This is an extensive report that demonstrates that Victoria no longer has its previously well-earned reputation as a world-leading jurisdiction in the field of road safety. This is disappointing as historically Victoria has enjoyed and been envied for its capacity and adoption of leading edge safety technology in new motor vehicles.

Importantly, the committee received nearly 40 submissions from various industry bodies, both written and at the many hearings undertaken. We thank all those parties who gave of their time and expertise to assist in our findings.

Since 1989 implementing the ADRs has been the province of the commonwealth only, as the states and territories were considered to be inconsistent in their applications of best safety technology, a position that has always been refuted. It is now acknowledged that under the existing ADR system the commonwealth government has either refused or significantly delayed the fitting of safety technologies to locally produced and imported vehicles. This saw Victoria again take a lead role in 2008 by requiring from 2012 the inclusion of electronic stability control and the fitting of side curtain airbags in cars registered in this state. These are recognised as major safety factors in saving lives and reducing injury to vehicle commuters.

The decline of ADRs can be attributed largely to the commonwealth government's policy of harmonising the ADRs with the regulations established by the United Nations Economic Commission for Europe. Not for the first time the committee recommends that the policy of harmonisation be replaced by adopting UNECE standards while at the same time being able to amend the ADRs to achieve the higher standards that will offer greater vehicle safety to all Australian motorists, particularly Victorian motorists who should demand nothing less.

In comparing the ADR system with world-leading vehicle safety regulatory systems of Europe, the USA and Japan the committee found that the majority of new Australian vehicles today are considered safer due to the crash testing and promotion of safer vehicles conducted under the Australasian New Car Assessment Program. While up to 85 per cent of new vehicles now achieve ANCAP ratings of either 4 or 5 stars, too many still only achieve ratings of 3 stars or less.

Unfortunately on most occasions buyers are not made aware of this fact. Obviously the cost of poorer performing vehicles with fewer safety features is attractive to a section of the buying community, a situation that remains expensive in terms of personal injury to those owners and also to the public purse in

meeting the cost of our emergency and hospital facilities.

The focus of our motor industry must be towards greater improvement in the safety of the travelling public both by raising ADR standards and through the better use of non-regulatory approaches such as private and public fleet purchase programs. Currently over 65 per cent of sales are to fleet purchasers, which provides a marvellous opportunity to lower the age of our vehicle fleet and at the same time improve safety technologies.

In closing I want to say this has been an important and well researched inquiry. As deputy chairman I would like to thank my colleagues the chairman and member for Lara, John Eren; the member for Geelong, Ian Trezise; the member for Benambra, Bill Tilley; the member for Rodney, Paul Weller; the member for Polwarth, Terry Mulder; and the member for Ivanhoe, Craig Langdon — all of whom are in the other place — as well as Mr Leane, for their commitment in pursuing this reference. The contribution and dedication of our executive staff is a great asset. Alex Douglas and her team, research officers Nathan Bunt and Jason Boulter, along with our former office manager Kate Woodland, as usual left no stone unturned. It should be noted that our executive team has done extremely well to meet the time frame for this report as we have another report running in parallel. We are appreciative of their ongoing efforts.

This report is significant. It clearly outlines where Victorian vehicle safety should lead in the future. This is a worthy document for both parliamentary member and industry consideration. I apologise to the house that I did not have the opportunity to give this contribution prior to Christmas when the report was presented.

**Family and Community Development  
Committee: supported accommodation for  
Victorians with a disability and/or mental  
illness**

**Mr SCHEFFER** (Eastern Victoria) — By any measure the final report of the inquiry into supported accommodation for Victorians with a disability and/or mental illness is a comprehensive survey of both the achievements and the shortcomings of Victoria's delivery of supported accommodation to people with a disability and/or mental illness.

The inquiry took six months longer to complete than expected owing to the huge scope of the task and also to the fact that there were changes to the membership of the research team and time was lost in that process. I

place on record my appreciation of the exceptional work the committee's executive officer, Janine Bush, and her team have undertaken.

In our work as members of Parliament we are all in contact with people who have disabilities and mental illnesses, and all of us are keenly aware of the many complex issues they and the network of people who care for them encounter on a daily basis. Fundamental to this support is accommodation. Without somewhere safe and permanent to live people with disabilities and/or mental illness face considerable difficulties and insecurities.

Throughout the course of the inquiry the committee was deeply conscious of the fact that the issues before it were not simply matters of public policy and political debate. We were aware that our job as members of this parliamentary committee was to listen to the views and personal experiences of people with disabilities and/or mental illnesses, their carers and members of their support network. The committee members were mindful that our job was to faithfully represent those experiences in the context of the evidence that was gathered from experts, researchers, peak organisations and service delivery agencies.

This was a complex inquiry because the committee needed to be responsive and sympathetic to the extremely difficult circumstances that a number of witnesses vividly described while also recognising and documenting the significant systemic gains that have been and are being made. Yes, there are people whose lives are extremely difficult owing to their being unable to access the services they need, and current and past state and federal governments bear considerable responsibility for this failing. However, it is also true — and the committee heard this repeatedly — that Victoria leads the country in its efforts to improve services for people with disabilities and/or mental illnesses through sound legislative changes, policy development and service delivery systems and infrastructure. I believe the committee has pulled no punches in this report, and the 107 recommendations to the government on ways to further improve the delivery of services attest to this.

In accordance with the terms of reference the final report presents an account of the standard and range of accommodation, how we need to work out the level and kinds of demand, how we manage the quality of the accommodation services, how we plan for future demand, how we work towards improvement and how the current approach impacts on individuals with disabilities and/or mental illness and those who support them.

Overwhelmingly witnesses — individuals and organisations, recipients of services and experts in the field — recognised and applauded the significant policy development, program delivery and legislative reform that has been undertaken by the Victorian government in the area of accommodation for people with disabilities and/or mental illnesses. Witness after witness agreed that the Disability Act was a significant landmark establishing in law the rights of people with a disability and the kinds of support they had a right to expect. Witnesses also agreed that the Victorian State Disability Plan 2002–2012, which sets out how the government will implement its programs and services, is a landmark document. They also supported the significant funding commitments and initiatives contained in *A Fairer Victoria*.

The current disability services budget amounts to nearly \$1.3 billion, which is the highest level of expenditure on disability in the history of the state, and over the past two years the government also invested some \$300 million in mental health services. The inquiry found that the vast majority of people affected by disability and/or a mental illness overwhelmingly support the move away from institutional approaches. But, as the executive summary points out, the committee heard a consistent message that there are high levels of demand that are not being met by the current levels of supported accommodation provision. Issues were also raised in relation to long-term planning, funding, innovation and improvements in service provision and in implementation processes.

The inquiry was initiated by the non-government parties in this house and it is noteworthy that, with the exception of the executive summary, the final report including the recommendations was supported by the whole committee on a cross-party basis. The minority report says that the final report fails to capture the sense of urgency and emotion experienced by many families, carers and managers. I believe the final report does capture the breadth of feeling that many witnesses brought to the hearings, and I think the 107 recommendations are the evidence of this.

### **Auditor-General: *The Effectiveness of Student Wellbeing Programs and Services***

**Mr HALL** (Eastern Victoria) — I wish to make a couple of comments this morning on the Auditor-General's report, *The Effectiveness of Student Wellbeing Programs and Services*. I want to start by congratulating the Auditor-General on tackling what I think is a pretty difficult subject — that is, the measurement of the effectiveness of wellbeing programs in schools. The concept of wellbeing is one

that I think is not totally familiar — it is not always in the lexicon of people out there on the streets when you put it to them — so, in terms of starting my comments, I think the definition provided on page 1 of this report is a useful point to start with. It says:

Young people's wellbeing is a reflection of how connected they feel to their family, school and community. Although family is vital to young people's wellbeing, both the school and community environment play an important role in developing mental and physical health. For some young people the school environment can engender feelings of friendship, safety and connectedness, while for others it can present an isolated struggle that can stop them achieving their full potential.

I totally agree with those sentiments. I think the family background plays the most significant role in how students prepare themselves for the many challenges that life has ahead. If they are fortunate enough to have a balanced family background, then most children come out of it pretty well and are prepared to face those challenges. But it would be naive to suggest that we are all perfect parents. None of us are. We make mistakes and we have other influences in our lives which affect the way in which we can give our children a start in life. And so it is that many children do have a difficult start in life and find it difficult to adapt to the life ahead of them and in particular to school.

Growing up is not an easy thing, and we can all cast our minds back and feel that we were not always confident in our schooling, that we did feel a sense of loneliness, a lack of connectedness and isolation at times. We all experience those feelings. Indeed I think we could probably reflect back on certain individuals in our lives who helped us through that. Some of them were schoolteachers, some of them were people outside the family and some of them were relatives, but they helped us through it. The point I want to make here is that I do not think an expectation of community should be that schools should be the ones to solve all the issues related to student wellbeing. That is simply an impossible task for schools and for teachers. It needs to be a combination of all — that is, family, schools and community — that contributes to the wellbeing of young people in our community.

On page viii of the summary the report talks about the inadequate measurement of the effectiveness of student wellbeing programs and services. It mentions the two major criteria that made this assessment — those being the Attitudes to School Survey and attendance data — and says that a link has not been established between those criteria. The parliamentary Education and Training Committee currently has a reference looking at the potential for developing opportunities for schools to become a focus of promoting healthy community

living. The issues of wellbeing and school support programs have been a focus of that inquiry. The inquiry is ongoing and the committee will report towards the middle of this year. At this point in time the committee has heard from a number of people who are providing some very excellent and innovative support programs in schools — a school nursing program, for example, and some mental health programs. I agree with the Auditor-General that there needs to be far better coordination of the programs available in schools, because each school — in fact each individual — has different needs. You have to match programs with individual needs, which is not an easy task. Schools themselves are not always sufficiently resourced to run those particular programs. Despite programs being available, if you do not resource schools sufficiently well to purchase those programs and to have people deliver them or teachers trained to deliver them, then you are always going to be struggling.

The issue of student wellbeing is a challenging one. I think this government and future governments need to put more resources into it. Governments do have a role to play, but let us not forget that it is a three-part responsibility of family, school and community. We must all contribute to the wellbeing of our young people.

**Drugs and Crime Prevention Committee:  
strategies to prevent high-volume offending and  
recidivism by young people**

**Mrs COOTE** (Southern Metropolitan) — I would just like to explain to the clerks that I mentioned to the chamber yesterday that I was listed to speak on two reports and that I wanted to speak today on the government response to the Drugs and Crime Prevention Committee's report on its *Inquiry into Strategies to Prevent High-Volume Offending and Recidivism by Young People*, which in fact is what I am going to do. I think someone needs to take note that I am listed on the notice paper twice. Perhaps the clerks would like to have a look and see that this does not happen again. I am happy to speak on both reports, but may I ask if that is against the standing orders? I have been listed to speak on the Parks Victoria 2008–09 report since the last sitting, so that should have come off the notice paper, but I am listed twice here. I am prepared to speak on both reports, and I can speak on both today if standing orders allow it.

**The ACTING PRESIDENT (Mr Somyurek)** — Order! A member can speak on anything that is listed, so Mrs Coote may speak on both — except for the one she withdrew yesterday.

**Mrs COOTE** — But it is still listed today. The President told me yesterday, when I asked if it could be taken off the notice paper, that that would be done as a matter of course. It has not been done as a matter of course, and I would like to know what the precedent is.

**The ACTING PRESIDENT (Mr Somyurek)** — Order! It was an oversight. It should have been taken off the notice paper.

**Mrs COOTE** — Today it gives me great pleasure to speak on the government response to the Drugs and Crime Prevention Committee's final report on its inquiry into strategies to prevent high-volume offending and recidivism by young people. I do not think enough notice is taken of the government's responses to these reports. All the committees of this Parliament work exceedingly well, and their members have put in some very fine work over a sustained time. Therefore they are bipartisan reports and research, and the staff of the committees are to be commended on that work.

It is important for us, once the government has made a response, to actually look at that response and make certain that it is recorded and recognised, because that is what this Parliament is about. It is something we are chartered to do, and it is important to try to understand a government response.

The committee prepared a very comprehensive report. On March 2007 the committee was given the terms of reference, which were to inquire into and report on justice and crime strategies in high-volume crimes, such as theft and property-related offences, which often involve young people, and to provide recommendations on casual factors that may influence patterns of high-volume crime and strategies that may be effective in addressing the underlying causal factors or recidivist patterns of offending.

I will say at the outset, as I did when this report was first presented to this chamber, that committee members found that the majority of young people in our state are responsible and really good citizens. They are just terrific. I think in this chamber we tend to forget, when we are talking about children who have significant problems, that the majority of young people in this state are just terrific and the future health of this state is in very good hands. That is important, and it is incumbent upon us as legislators to remember that.

The committee came up with 41 recommendations to the government, and the government's response has come back. It does not support 4 of those recommendations; it supports 22 recommendations in

principle, which I have to say I thought was a little vague; and it notes 4 of them. I am a little disappointed that the government did not take a stronger stand on the 22 and 4, which makes 26 in total. I think it is important for the authority of the report that the government give us a better definition of its response. Even if the recommendations were not supported, the government could at least have given us reasons, so I am quite disappointed about that.

The aspect I would like to speak about in more depth today is recommendation 12. I will read it in full:

The committee recommends that the Department of Education and Early Childhood Development consider introducing a truancy service, with the specific task of following up students identified through the tracking provided by a statewide enrolment database. An example of this is the Non-Enrolment Truancy Service (NETS) that operates in New Zealand.

Committee members went to New Zealand to look at this firsthand. I have to suggest that NETS is a very clever tool.

I listened with great interest to what my colleague Mr Hall had to say about the wellbeing of students, including that schools should not be responsible for every aspect of a child's wellbeing, but I think truancy goes to the very heart of what causes recidivism and other problems for our youth today. One of the major problems committee members found was that young students were disappearing out of the system in years 6 and 7, never to be picked up again. Either their parents were not reporting them as not attending school or the children were pulling the wool over their parents' eyes by saying that they were going to school when in fact they were not. They dropped out of the system. Often those children were troublemakers and difficult students for the schools to handle, but that is no excuse. Those children should be followed up and dealt with accordingly. They should be encouraged and supported so they do not fall into bad ways such as criminal activities and then get into a system that is too hard to get out of.

I was particularly disappointed that the government would not support this particular recommendation. The government response was:

It is the responsibility of schools to follow up absences as this is considered most effective when done at the local level.

But it is not being done at the local level. It is all very well for the government to say that it is okay. It is passing the buck and that is not good enough because we have some seriously challenging children who are

falling through the cracks. It is incumbent upon us as a community to give them all the assistance we can.

### **Victorian Multicultural Commission: report 2008–09**

**Ms HUPPERT** (Southern Metropolitan) — I am pleased to make a statement on the Victorian Multicultural Commission annual report 2008–09. Victoria is home to people from more than 200 countries of origin, speaking more than 250 languages and following almost 130 faiths. This diversity contributes to making Victorian society and culture vibrant. However, such diversity brings its own challenges. In particular, we face the challenge of ensuring that each of the various cultural, religious and language groups which make this such a rich and vibrant society live in harmony with each other.

The Victorian Multicultural Commission (VMC) plays an important role in ensuring that this occurs, as both an independent link between the community and government and by providing policy advice to the government in the area of multicultural affairs.

The objectives of the VMC, as set out in the annual report, further expand on this role. They are:

to promote full participation by Victoria's culturally and linguistically diverse communities in the social, cultural, economic and political life of Victoria;

to promote access by Victoria's culturally and linguistically diverse communities to services made available by governments and other bodies;

to encourage all of Victoria's culturally and linguistically diverse communities to retain and express their social identity and cultural inheritance;

to promote cooperation between bodies concerned with multicultural affairs;

to promote unity among Victoria's culturally and linguistically diverse communities; and

to promote a better understanding within Victoria of Victoria's culturally and linguistically diverse communities.

I would like to congratulate the chair of the VMC, George Lekakis, and the commissioners as well as the dedicated staff on the wonderful work they do and the manner in which they go about achieving the objectives of the VMC.

The report shows that the VMC has engaged in a range of activities during the year. One activity is support of community organisations through the community grants program. During 2008–09 the VMC provided funding to more than 1600 community groups and organisations.

Grants included funding for organisational support, senior citizens groups, building and facilities improvements, educational programs, festivals and events and interfaith/multifaith programs. The recipients of these grants are listed at the back of the report. This list gives some insight into the many types of multicultural and multifaith groups which are active in Victoria and the types of programs and services they provide to members of the community at large. A number of the communities and groups which have benefited from these grants are located within Southern Metropolitan Region, and I have mentioned many of them on previous occasions. In particular I want to point out the role that is played by the multicultural and multicultural festivals, which give the broader community in Victoria an opportunity to learn and interact with the many different groups we have in our state.

One of the other activities of the Victorian Multicultural Commission is working towards providing access to and equity for all Victorians in government services. One of the barriers to accessing services is language, and in recognition of this the VMC supports training for interpreters. Cultural differences can also be a barrier to accessing services. This is not an easy matter to overcome, but the VMC plays a pivotal role by supporting the involvement of different cultural, religious and language groups on community bodies and boards and also by providing a forum for consultation with community groups through such means as community consultations and meetings with representatives of various groups.

The VMC also recognises individuals and groups who have made a positive contribution to promoting Victorian harmony, many on a voluntary basis. Again, the award winners are listed at the rear of the report. I wish to congratulate each group and individual who received an award, because it is true recognition of the valuable role that volunteers and volunteer-based organisations play in delivering services to our community. Once again I congratulate the work of the Victorian Multicultural Commission, and I hope that all members of the house will join together and cooperate in achieving the aims of the commission.

### ***Auditor-General: Responding to Mental Health Crises in the Community***

**Mrs KRONBERG** (Eastern Metropolitan) — I am pleased to make a statement on the Victorian Auditor-General's 2009 report headed *Responding to Mental Health Crises in the Community*. It is well known that mental illness affects one in five Victorians each year, so anybody and everybody can be subject to being

stricken by mental illness, and we need to have an outpouring not only of interest but also concern about those who suffer from mental illness. These illnesses come to our attention when there is a mental health crisis. In many reported mental health crises other people are affected, and such crises can lead to a series of events in which people can be mistreated or injured or may even end up dead in the middle of the road.

A mental health crisis is defined as a time when a person is so acutely unwell that they may become a risk to themselves or others and therefore urgent assistance is needed. Responses can come from area mental health services, which are funded by the Department of Health, and also from Victoria Police and Ambulance Victoria. The Victorian Auditor-General focused his report on ascertaining the level of responsiveness. He and his team focused on coordination, preparation and the effectiveness of police, ambulance, mental health triage and CAT (crisis assessment and treatment) teams.

The Auditor-General examined Victoria Police, the Department of Health and Ambulance Victoria to assess whether their agency responses to mental health crises have been coordinated, whether these agencies are adequately prepared to respond to mental health crises and respond appropriately and whether these agencies can show the effectiveness of their responses to mental health crises. The Auditor-General reports that the responses to mental health crises are not consistently meeting the standards set out in the Mental Health 1986 and the agreed interagency protocols.

Apparently, and for me quite appallingly, the needs of the individual experiencing a mental health crisis are seen to be secondary to what the Auditor-General calls 'other considerations', such as competing demands on time and resources and, for me worst of all, the adherence to historical and cultural practices in spite of the investment in training to steer people away from entrenched thinking. A measurable effort has been undertaken by some agencies, such as the project to expand the mental health triage service, Victoria Police's investment in mental health research and the trial of the police, ambulance and CAT team emergency response, but in spite of these fledgling projects the Auditor-General stresses the need for improved coordination. Furthermore, the Auditor-General urges the management of agencies involved to ensure that staff comply with protocols and appropriate training is undertaken.

The Auditor-General commented further that there is a lack of information to give insight into the effectiveness of triage and CAT services, along with police and

ambulance responses. Once again this government and its agencies and departments are not working in a coordinated fashion. They continue to fly blind, and people with mental health illnesses become victims of this hopelessness.

The Auditor-General commented that there is a lack of information to give insight into the effectiveness of departmental and agency responses to mental health crises as well. Because of the paucity of reliable information it is difficult to undertake quantitative analysis and the Auditor-General says there is no way of providing robust performance monitoring, which means that service gaps continue to go unaddressed.

As someone who has encountered a number of individuals who were suffering mental health crises, in both my professional life in education and in public life since, I am deeply concerned about the lack of statistics showing how urgent referrals to CAT services have been measured in the 15 years that CAT teams have operated in this state. The Department of Health still does not know how these services respond, their timeliness or, more importantly, what the outcomes of CAT team responses were.

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

### **Lorne Community Hospital: report 2008–09**

**Ms TIERNEY** (Western Victoria) — I rise to speak on the Lorne Community Hospital annual report 2008–09. It would be safe to say that most members in the chamber, as well as a significant number of Victorians, have visited Lorne, whether it be for a one-off visit or a regular place to spend holidays with family and friends. Events such as the Lorne Pier to Pub race, the Danger 1000 swim, the Falls Music and Arts Festival and schoolies week, to name a few, and the natural beauty of Lorne and its surrounds ensure that at certain times of the year the township of Lorne is almost bursting at the seams. We often look at the many fantastic outcomes that stem from Lorne, such as the tourist dollar and the economic stimulation which results from the population influx during peak periods, but we cannot overlook the extremely hardworking community and community services teams in Lorne that accommodate this population influx.

In the winter months the population of Lorne is less than 1000 people. In the summer months this number can reach more than 10 000 people. During the reporting period outpatient presentations went from 110 in winter to 460 in the peak of summer. The number of acute patients rose from 8 per month to 65 in the same

manner. It takes an extremely hardworking hospital team, working together with a very strong community, to cater for such a huge influx in population and the subsequent demand on services in Lorne.

Relationships are a key part of the hospital's work in a small rural community, and it is encouraging to see the Lorne Community Hospital is now represented on the Lorne community building initiative and is actively involved in the Lorne men's shed. This is mentioned on page 11 of the report and was also reinforced in a report that I received on 27 January from Genevieve Roberts, who is the Lorne community happening/community building initiative facilitator, describing the Wellsprings project that has been undertaken in the community and which involves the community building initiative, the Lorne Community Hospital, the Fig Tree Community House, the Surf Coast shire and the extended Lorne community.

It is about a holistic health partnership between all of those stakeholders. It recognises that an integrated multi-agency approach is necessary to address the complex issues of health and wellbeing. The team also identified the need for a holistic preventive approach in conjunction with specialist acute care intervention. An upstream approach is called for to genuinely impact on health and wellbeing.

I take this opportunity to acknowledge the Wellsprings project team, which won the community organisation wellbeing award for Mental Health Week 2009 for the Geelong and Barwon region. It is these relationships, in conjunction with the strong partnerships between the Brumby Labor government and health services around the state, that provide the roots for such excellent work.

During the reporting period the Minister for Health presented an upgrade of the X-ray machine and training for staff to be licensed to use it. Before this grant was delivered patients had to travel to Geelong if a suitably qualified doctor was not available in Lorne for an X-ray.

I would like to acknowledge and congratulate Dr John Beaumont on receiving a rural doctor's award in recognition of 25 years service to the Lorne community.

In terms of accomplishments of the hospital, a major achievement during the reporting period was gaining a four-year acute evaluation and quality improvement program with the Australian Council of Health Services. This recognises a satisfactory standard of care according to the external standards agency. This is testament to the staff at Lorne Community Hospital.

During the reporting period the hospital also focused on women's and men's health issues. There was a men's health 'Cut your cancer risk' forum and a breast screening day trip to Geelong, and extended Well Women's health clinics were run by the hospital's women's health nurse, Helen Moriarty.

I would like to finish by congratulating the Lorne Community Hospital and the wider Lorne community for their dedication and hard work throughout yet another busy tourist season and also passing on my congratulations on another successful reporting period. I commend the report to the house.

### **Auditor-General: *The Effectiveness of Student Wellbeing Programs and Services***

**Mrs PEULICH** (South Eastern Metropolitan) — I also wish to make a few comments on the report tabled yesterday on the effectiveness of student wellbeing programs and services. Mr Hall made some general remarks about the importance of student wellbeing and the need to set logical goals and measure outcomes and to have these reported on to make sure that valuable education dollars — taxpayer dollars — are spent well in areas of need.

I would like to focus, however, on only one element of this report. That is on page 15, which reports on some very disturbing figures that have come out about student absenteeism and truancy. There are a number of dimensions to this issue. I would like to quote the paragraph dealing with the analysis of data from the annual reports of the Department of Education and Early Childhood Development. It says the problem is that there has been no indication of any significant change in attendance rates between 2006 and 2008, with average attendance remaining constant at about 92 per cent. My concern is that there have been repeated attempts to have a system of measuring and reporting on these matters accurately and effectively and in a way that allows proactive action.

Mrs Coote spoke earlier about a report she was involved in, the response to which was tabled recently, on the incidence of recidivism amongst young offenders and in particular recommendation 12 in that report which states:

The committee recommends that the Department of Education and Early Childhood Development consider introducing a truancy service, with the specific task of following up students identified through the tracking provided by a statewide enrolment data base. An example of this is the non-enrolment truancy service (NETS) that operates in New Zealand.

With the introduction of the Victorian student number I would imagine that that sort of tracking may well occur, but unless we have a commitment to doing something with this data and putting in the resources for officers to follow it up, nothing is going to change. I believe things have not just not changed, they have grown worse.

If you have a further look at this report on the effectiveness of student wellbeing programs and services, you see that it says that the:

... mean absent days per student increased between 2006 and 2008, from 13.2 days to 13.7 days across primary schools ...

That is nearly three weeks of absenteeism for primary school students. The report states that the number increased:

... from 16.2 days to 17.0 days across secondary schools. If the number of days absent is treated as an indicator of student wellbeing, then this indicates that student wellbeing has not improved and may, on average, be declining across Victoria.

This is a very serious issue to which this government has turned a blind eye, focusing instead on papering over its failings with the recent introduction of a respect agenda and the implementation of the bungled 2 o'clock lockouts and the non-risk-based liquor licensing regime. It has failed to address the issues of antisocial behaviour among young people, ensuring the consequence of a value-free education and the consequence of not having specific policies and mechanisms for dealing with truancy. It is not just truancy but non-enrolment, as Mrs Coote pointed out, with some children basically disappearing between years 5 and 7 never to return to the system. Absenteeism and truancy are different because absenteeism can be approved by parents, though it may still be illegitimate.

With such a huge number of absentee days, is it any wonder that the Organisation for Economic Cooperation and Development indicators show that Victorian students are not making improvements in literacy, numeracy and science? This was confirmed by an Auditor-General's report spanning 10 years of this government. This government has failed to address the very serious issue of truancy. This is confirmed in the report that was tabled yesterday. The government ought to be condemned for focusing only on buildings and opening up school halls. Opening ceremonies are conducted and plaques are mounted as part of this splurge of spin and propaganda rather than the government addressing the fundamentals that really count — that is, the welfare and best interests of our students and the educational standards and skills that

are required for a 21st century Victorian education system.

Bronwyn Pike, the Minister for Education, has failed, as did her predecessors. It is an absolute crying shame and reflects poorly on the Brumby government.

### **Victoria Legal Aid: report 2008–09**

**Mr EIDEH** (Western Metropolitan) — I rise to speak on the Victoria Legal Aid report 2008–09. Legal aid is one of those services which we would regard as an essential component of our justice system today. It exists to help the marginalised, the socioeconomically disadvantaged, the needy and in fact all those who could not otherwise afford the often high cost of justice. And yet while the Brumby Labor government has been tireless in its efforts to reduce these costs and to bring justice closer to the average Victorian, there is still a way to go. The people of Victoria regard legal aid as a right, and countless numbers of Victorians take advantage of it each and every year. To quote directly from the chairman, Mr John Howie, at page 1 of the report:

Legal aid is an important component of our social safety net ...

Sadly, there are people who are involved in crime, either as victims or as those committing crimes. While the majority of our sympathy will understandably be for the victims, sometimes the accused are themselves victims, although I do not believe that to be so in every case.

As a Parliament we should all be there to support those who find themselves facing criminal charges by the police and who are brought before our courts. We do that through legislation, through reports such as the Victorian Law Reform Commission's civil justice review and through bodies such as Victoria Legal Aid. When reading through this report I noted the increase in the number of client requests over the past year. Where this might normally be for people with legal issues, criminal cases or requiring advice, other circumstances have added to that workload.

The global financial crisis has caused far more people to experience debt issues than in previous years. They need special support to remain financially stable and to renegotiate a number of credit and insurance matters. Without legal aid they would have been lost.

A more unexpected and tragic circumstance was the calamity that befell our state last year: the bushfires which killed so many and destroyed businesses and homes across the state. That also created a far greater

workload for Victoria Legal Aid, as members can imagine. With homes, businesses and cars destroyed, contents such as bank books, legal papers, identity papers and insurance documents were lost — in fact everything owned by so many was lost. The victims of this horrible event needed legal assistance, and many turned to legal aid.

All those factors led to growth in the need for services of this key Victorian organisation, as we can see when we read the report. I am proud to say, in response to this growing need, the Victorian government gave almost \$25 million in additional financial support as a measure of the Brumby Labor government's commitment to this vital institution.

It is clear from reading the report that Victoria Legal Aid is improving its performance in all areas due to the commitment and the dedication of its staff. I take this opportunity to commend them, one and all, for the great work they undertake on behalf of the people of Victoria. Their professionalism is a credit to our state and to the legal profession as a whole.

I am also interested in the ways in which Victoria Legal Aid has worked to streamline and improve its efficiency by developing a new electronic system to administer its casework and review workflows in each practice area. It is working to deliver a better service whilst also maintaining an awareness of the financial constraints caused by the global financial crisis. The Auditor-General, Mr Pearson, has certified the financial aspects of this report and found that Victoria Legal Aid is run soundly and professionally.

I commend this report to the house, and I congratulate the chairman and board on yet another successful year.

### **Metropolitan Fire and Emergency Services Board: report 2008–09**

**Mr ELASMAR** (Northern Metropolitan) — I rise to speak to the Metropolitan Fire and Emergency Services Board report to Parliament 2008–09. Four million Melburnians rely and depend on the emergency services crews of the Metropolitan Fire Brigade (MFB). It has the task of protecting our homes, property and, in many instances, our lives. Emergency services personnel undertake intensive training and have up-to-date equipment to enable them to counteract the many dangerous situations they are confronted with on most of their working days.

Members of the MFB, like all Victorians, were traumatised by the events of Black Saturday on 7 February 2009. In the aftermath of such a tragedy and

following on from the royal commission's recommendations, strategic plans are now being put in place to allow for a much greater readiness for future fire seasons, though it must be said that the MFB assisted and provided strike teams to areas outside its boundary on Black Saturday. On that day four times the usual number of calls for assistance were made by metropolitan residents in need of help with potential outbreaks of spot fires in Black Rock, Ivanhoe, Dandenong, Deer Park and Reservoir.

While it is true that the MFB has a predominantly male composition, females are also encouraged to apply and have been accepted and trained, and have they graduated equally alongside their male counterparts. However, the number of women recruits is still relatively small. Everybody loves a firefighter whether male or female; it makes no difference. These people are heroes, and they are respected throughout the community. The government is mindful of gender balance, and this is reflected in the carefully chosen MFB board of directors. Members have been selected for their skills, professionalism and commitment to their fellow Melburnians. This means that there is an effective team of board members working together for the betterment and safety of us all.

In December 2008 the MFB launched a disability action plan. The plan provides a framework for an organisational approach to disabled people living in the community. In addition the MFB will develop a policy on redeployment and retraining for MFB employees who acquire or develop a disability. A diversity management committee has been established, and a disability access coordinator has been employed to monitor progress of the disability action plan. This is a positive and proactive step.

Over the years the MFB has successfully sought to connect with the Victorian community at all levels. Whether that is local councils or other state government agencies, its ongoing interaction with the public has meant an increased awareness of fire safety information, and this has enhanced the capability of individuals to respond appropriately in a time of crisis and, just as importantly, to plan ahead for times of fire danger. A holistic planning approach together with practical advice is the key to minimising any potential damage to lives and properties in the future.

Finally, many valuable lessons have been learnt from Black Saturday's bushfires. In the words of the chief executive officer, Mr Ken Latta, we need to ensure that we are in touch with the needs of those we serve. I believe the MFB is endeavouring to deliver on that to the best of its ability.

I salute the brave men and women of the emergency services and the Metropolitan Fire Brigade, and I commend the report to Parliament.

## WATER AMENDMENT (ENTITLEMENTS) BILL

*Committee*

### Resumed from 2 February; further discussion of postponed clause 6.

**Mr BARBER** (Northern Metropolitan) — I do not propose to add further to the debate, but I simply make the point for the record and for any government members who are interested that we are open to further discussions about how this clause could be improved to achieve the sorts of objectives the Greens are interested in.

Many other clauses of the bill which provide for the Minister for Water to exercise his discretion have decision guidelines. In some cases they have reference to very long numbers of considerations that the minister must undertake and require also consultation with other ministers. In this particular provision, the way it is framed and possibly the way it was originally conceived, the bill requires very little homework to be done. It could well be that we could agree to achieve the objective the government is asking for, which is administrative simplicity, but to be very clear that the Greens' interest is in ensuring that all proper considerations are taken before water rights are temporarily qualified. When you look at this clause in its context in the bill, it seems to be extremely light on.

**The DEPUTY PRESIDENT** — Order! When we were last in committee Mr Barber asked a question about some rivers that might be affected.

**Ms Lovell** — I asked that question.

**The DEPUTY PRESIDENT** — Order! Ms Lovell asked that. Everybody wants to ask the same question, and the minister indicated that he might be able to provide that information. Is that possible in this committee stage?

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

**The DEPUTY PRESIDENT** — Order! I invite the minister to respond.

**Mr JENNINGS** — Thank you for the opportunity to respond on that. I will provide the specific

information I gave an undertaking to the committee to provide. The way I will provide that information and a sense of what the government is trying to achieve through clause 6 and how it augments existing provisions in the legislation and the other elements of the bill is to cast a narrative around the government's considerations.

As a starting point, the government is of the view that clause 6 provides an enhanced framework from the existing provision, in that section 33AAA currently is not clear about the time limits on the minister's powers to qualify rights. That issue was raised with me the other day. I can indicate that whilst it has perhaps been considered standard practice that a time frame such as a year might have been allocated to these rights, I have been subsequently advised that indeed in all cases of temporary qualifications in place at the moment specific trigger points are identified, either in time or circumstance, that would lead to the closure of that temporary qualification. So the existing circumstance is that a number of qualifications in excess of a year have specific sunset provisions already outlined in the terms of the qualification made.

The clarity and certainty that clause 6 provides administratively is that the minister would have flexibility to put specific provisions and time frames over the qualification. The clause allows for a sunset of a lesser period if certain triggers are satisfied. The government's argument in bringing forward this clause is it is to enhance accountability and flexibility and indeed to clarify in certain circumstances when qualifications can be removed, so that that can take place in an expeditious way, using the provisions of that clause.

As to the information that was sought from me about the rivers across Victoria, there are 10 rivers and 1 creek where passing flows are affected by a current temporary qualification of rights. They are the Loddon River, the Goulburn River, the Murray River, the Campaspe River, the Coliban River, the Broken River, the Yarra River, the Thomson River, the Tarwin River and the Maribyrnong River, and Birch Creek. There are also 3 temporary qualifications in force that do not affect rivers but relate to water storages. That makes a total of 14 temporary qualifications of rights to surface water.

The government wishes to point out that whilst this may be an imposition on the Victorian community — and on our environment if it had a voice and was unhappy about it — I point out that those 14 qualifications are half the number that were in place at the height of the drought during the worst periods of

2006–07 and 2007–08. That is testimony to the assiduous work of the water authorities, my colleague the Minister for Water and the people who work with him, who tried to ensure, through our investments in the provision of infrastructure and additional works, that our water regime uses water efficiently and distributes water efficiently to meet its various needs. We would be putting the temporary qualifications of rights as a last resort rather than a first-order issue.

Of the 14 qualifications of rights to surface water that are currently enforced, 8 have specific sunset dates of up to two years duration or thereabouts; one is for 2 years and 17 days — that is a very specific piece of advice I have given to members today. Three will expire when Melbourne's water restrictions ease to stage 2, and three will expire when a specific volume of water has been transferred or water allocations of affected systems reach a given level.

During the time when the committee met, a number of questions were asked about the nature of the decision making and who makes the decisions. Whilst Mr Barber had concerns about the delegated nature of this responsibility, I am advised that nearly all of the temporary qualifications of rights to surface water of recent times — and we would anticipate this in the future — would be undertaken by the Minister for Water. The exception to that at this point in time is that Southern Rural Water has made a few qualifications, one of which is currently enforced.

A policy consideration that Mr Barber and others may express concern about is the reduction of environmental flows. Through these qualifications they only occur as a last resort to provide water for essential human needs or domestic and stock purposes. This is clearly a matter that I share a concern about, not only within my ministerial responsibility but as a Victorian citizen who is concerned about the wellbeing of our waterways and our environment. These are important issues on which we do not take action unless it cannot be avoided, because it will lead to longer term environmental damage.

When the qualification is necessary I am aware there are various risk assessments undertaken about the environmental risks that may be evident within our water system. Environmental contingency plans may be put in place to address them which would involve those contingency plans having a number of key elements to them which we would consistently see, such as monitoring water quality to assess the impact upon the qualification of those rights. In the examples that are currently in place there are specific environmental standards and trigger points in terms of the

environmental risks to be averted, and there are contingencies in place to release water to prevent longer term damage. The provisions allow for emergency environmental flow releases. In many instances they are associated with implementing works to mitigate any adverse effects on the environment and affected users.

These elements go to the heart of what are reasonable and legitimate concerns that Mr Barber expressed during the committee stage. I can remember not so long ago during the sittings of 2009 when Mr Hall asked me questions about these matters in relation to the Thomson River. I know he is not alone. The community is not isolated in its concerns about these matters. These are things of which my colleague the Minister for Water and those officers who work for him are mindful.

Even though there may not be a formal requirement within the act, I can assure the committee that in practice I am the beneficiary of the advice that the Minister for Water receives almost in all cases, if not in all cases. My views have been sought on these matters prior to decisions being made. From my point of view that is appropriate and good government administration to ensure all parts of government can acquit their responsibilities. In this case it provides me with a greater confidence about the maintenance of those environmental values.

**Mr HALL** (Eastern Victoria) — I ask one further question, which relates to section 33AAC of the Water Act entitled ‘Procedures applying to qualifications’. I just want to make sure that that section means the procedures applying to both permanent and temporary qualifications. I ask the minister to advise me whether that section applies to both temporary and permanent qualifications. It appears to me that it does.

**Mr JENNINGS** (Minister for Environment and Climate Change) — Yes. However, I want to give members some supplementary information, because I took some advice from the box. The answer I received was slightly longer than yes. The supplementary information is that there are provisions immediately preceding this one in the act that account for the circumstances and considerations that must be taken into account in determining the difference between applying a permanent qualification and applying a temporary one.

**Mr HALL** (Eastern Victoria) — I thank the minister for his answer. It is as I suspected. It reads as though they should apply to both temporary and permanent qualifications, and therefore, according to section 33AAA(3), it should be possible for us, and any

member of the public, to find in the *Government Gazette* the temporary qualifications to which the minister refers — that is, the 14 currently in place in Victoria. Is that correct? Should we be able to find them in the *Government Gazette*?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I appreciate that Mr Hall’s questions are adding to my knowledge. The straight reading of the legislation would lead members to believe that the complete list of temporary qualifications may be in the *Government Gazette*. This provision in the act ensures that if there is a qualification of rights that is not uniformly applied in relation to the percentage allocation across all users that apply to that qualification — if there is a variation that applies in percentage terms inequitably between the various purposes of that water — then there is a requirement to publish it in the *Government Gazette*.

At the moment there is not a list in the *Government Gazette* because those qualifications of rights are not applied in unequal proportions. In normal circumstances I am advised that public notices — for instance, as demonstrated by notifications in the local newspapers and newspapers more broadly across Victoria — are the primary source of information but not the only one. In fact the water authorities would have that information available, but those details are published in the newsprint.

**Mr HALL** (Eastern Victoria) — I thank the minister for his answer. In terms of the publication of those details in the newsprint, am I correct in saying that the minister’s earlier answer suggested that the notices published contain information similar to or the same as that proposed in this new clause — that is, perhaps the period of time for which the declaration is in place or the trigger points at which that declaration may expire? Is that information already contained by way of practice in the notice published in newspapers?

**Mr JENNINGS** (Minister for Environment and Climate Change) — That is another good question, because the existing practice is that in some circumstances that level of detail may be provided in the public notice, but in fact it has not been a standard requirement. If Mr Hall were to show me, out of his back pocket, some newspaper clippings that relate to this, some of the advertising material or the public notices would include the termination date and the sunset provisions and some would not.

From my discussions with briefing officers at this time there is a recognition that this material is appropriate for the public to clearly understand the issue. The

information is not withheld if it is sought, and increasingly it becomes part of the notifications on the website. We are not in a position to be making policy on the run as I stand here before members, but there will probably be some degree of receptivity within the halls of government to the suggestion that it might not be a bad idea to think about making some form of standardised communications plan around these things that might be a little bit more up-front and transparent about when they may be in place.

**Mr HALL** (Eastern Victoria) — I inform the minister that I do not have newspaper cuttings in the back of my pocket. It was not a loaded question; it was just an example. I am not trying to put him on the spot. I am trying to understand the need for clause 6 in this amendment bill, which inserts particular subsections in section 33AAA(2). I still do not understand why we are splitting subsection (2) of section 33AAC, because I do not see there is any substantial benefit to be gained by these new subsections. It does not seem to me to improve the information available to the public or the consumers. I am trying to understand the situation. On reflection, what I am seeking to understand are the advantages of these new subsections. Perhaps the minister could just go over that again for me in light of some of the information supplied by way of background on how the whole thing works. Why do we need the new subsections inserted by clause 6?

**Mr JENNINGS** (Minister for Environment and Climate Change) — Mr Hall should not think that his question was unwelcome or that I am worried about being shown up. His questions have been good.

It is appropriate for us to determine the value of this clause, particularly in terms of administrative clarity and the responsibilities and opportunities that are available to the Minister for Water in issuing temporary qualifications. The clause indicates there will be a degree of flexibility in setting the time period of the temporary qualification and a requirement to set a time period in which trigger points would be met in terms of environmental outcomes or inflows or the availability of water supply, which would lead to the end of the temporary qualification in the first instance. Importantly it adds the opportunity to formally lessen that period of time if those trigger points are met earlier than what might initially be indicated. The clause administratively provides for a degree of flexibility with regard to time or environmental circumstances or water availability which may enable that period of time to be truncated so that the water is not in place.

That is the value of the additional clause. The reason I think Mr Hall's questions are reasonable in terms of the

perspective of consumers, or environmental activists or people in the general community who might be concerned about catchment values which might be dependent on environmental flows or the availability of water, is that with the administrative flexibility and the certainty that this clause may provide it is probably a corollary of that that you would provide that information as a matter of due course to the public who might be affected by it, which might not have been the case in the past.

**Mr HALL** (Eastern Victoria) — Finally, I want to ask: in terms of flexibility is it not true that under the current provisions of the act a temporary qualification can be truncated at any time now?

**Mr JENNINGS** (Minister for Environment and Climate Change) — Mr Hall's question is useful to me not necessarily for the direct answer to his question but in fact how I can extrapolate from it. The answer to the question is that the Minister for Water can revoke a temporary qualification now. That is absolutely true. The value of this clause is that it establishes a requirement of the Minister for Water to specify in the first instance the period of the sunset provision. The current act does not do so.

**Mr DRUM** (Northern Victoria) — Nowhere in the new clause is there mention of trigger point provisions, which the Minister for Environment and Climate Change has talked about with regard to the current practice. Three of the 14 current qualifications seem to be beholden to specific trigger points. Mr Jennings was saying that this practice is going to in effective be enshrined in legislation, but nowhere in clause 6 are these trigger points discussed. The clause is specifically about lengths of time.

**Mr JENNINGS** (Minister for Environment and Climate Change) — The issue, as Mr Drum would appreciate, is that the requirement to specify the time and circumstances of the qualification may be made on the basis of an assumption about when a trigger point would be met. For instance, if you are very risk averse in relation to the availability of inflows and the availability of water, you may err on the side of lengthening that period of qualification in worst-case scenarios relating to the availability of water supply. The key determinant of that period of time will be when that trigger point is met, but you will err on the side of being conservative and put the qualification in place for a longer period than you may have wanted.

The value of defining that trigger point and the circumstances you are trying to achieve is in fact the real issue. The real issue is not crystal ball gazing into

the future but trying to guarantee certainty of the availability of water. That is the issue Mr Drum is trying to address. The Minister for Water can make his best guess based on the available advice about when that scenario might be achieved, and he can set that in the determination with regard to time and circumstance. There is value in doing this even if you are specifying a time, because you are giving an indication to the community about the environmental circumstances or the availability of water circumstances by which you would actually bring that time forward. In those circumstances where the trigger point is reached earlier you have the ability then to bring the temporary qualification to a close to achieve that outcome.

**Mr DRUM** (Northern Victoria) — The minister also has the ability to not do that. Once the trigger points are met, under this new clause the minister has the ability to do absolutely nothing and to leave the temporary qualification in place even though the trigger points have returned to where they were prior to the qualification being put in place. Under this clause there is simply no mention of environmental circumstance and no mention of trigger points returning to pre-qualification levels.

**Mr JENNINGS** (Minister for Environment and Climate Change) — It is the general intention of the government to add to the quality of the decision, and through the questions I have been asked previously, which have run in parallel with the availability of information to the community, that would make sense of why the qualifications are in place, the expected period for which they would apply and, when it may be appropriate to do so, the water availability level that may enable you to move off that. If that is in the public domain in the future, then I think it would be a measure of good decision making and good accountability and community engagement.

Ultimately we will probably find that most people in the Victorian community who are concerned about these issues will think the availability of that information and its accountability will be enhanced through its provision and what might flow from it.

**Mr BARBER** (Northern Metropolitan) — If this was a murder trial, the defendant would have just broken down on the stand and confessed. Firstly, the government has told us there is absolutely no requirement, except in rare circumstances, to even tell the Victorian public what it is doing when it is doing this, so how would anybody be able to move to the next step? Secondly, the government tells us it has in place a whole bunch of administrative good practices, including the way it designs the triggers and the

temporary qualifications, that the right information is taken into account and that consultation occurs between various ministers, and yet there is no requirement to do that under the act.

Thirdly, when you think about all that you realise this section of the principal act is actually the all-purpose tool by which a government can temporarily, but on an ongoing basis, get around every other objective of the entire suite of legislation, including all of its high-level objectives and all the other requirements that might exist in other places in the act. You can literally take away most aspects of this legislation using a temporary qualification.

Lastly, the biggest problem we have here is that the relevant sections of the principal act refer to 'persons affected' and that means only those who use water in a consumptive way. 'Persons affected' in the scheme of this clause and the act are not environmentalists who just care about rivers. They are not fishermen, they are not people who like dabbling their feet in the water, they are not the millions of Melburnians who live along the Yarra River and want to benefit from it or any country people who live along the river and achieve its benefits without drawing water and using it.

I plead with the government to think about withdrawing the bill temporarily and considering how the clause could be rewritten. Bearing in mind all the goodwill of parties around the table, including the government by the way it has described the current operation of the clause, that could be brought to bear on the creation of what would be a beneficial outcome for the environment, for transparency and for certainty in all the things the minister listed in his last response.

**Mr JENNINGS** (Minister for Environment and Climate Change) — I do not take my last contribution as an admission of anything. I think Mr Barber may be a hanging judge and he may have determined his case before I stood last time. Having made that point, the government is of the view that it continues to have confidence in this legislation and supports it in its current form. I am happy to be accountable in the way I have described for achieving those policy outcomes and to have a higher degree of community engagement in the future on these matters. That is where I am today in relation to opposing amendments to the clause.

**The DEPUTY PRESIDENT** — Order! We will go to the jury. The question is:

That postponed clause 6 stand part of the bill.

**Committee divided on postponed clause:**

*Ayes, 18*

Broad, Ms ( <i>Teller</i> )	Pakula, Mr
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr ( <i>Teller</i> )
Huppert, Ms	Smith, Mr
Jennings, Mr	Somyurek, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Theophanous, Mr
Madden, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

*Noes, 20*

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

*Pair*

Darveniza, Ms	Vogels, Mr
---------------	------------

**Postponed clause negatived.**

**The DEPUTY PRESIDENT** — Order! Pursuant to sessional orders I have to interrupt the proceedings of the committee and report progress.

**Progress reported.**

**Business interrupted pursuant to sessional orders.**

**QUESTIONS WITHOUT NOTICE**

**Victorian Funds Management Corporation: governance**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is to the Treasurer. I refer to the Treasurer's statement in the house on 16 September last year in relation to the leadership and governance at the Victorian Funds Management Corporation where the Treasurer asserted:

I am very confident that the correct governance is in place.

Given that in January the new chief executive officer (CEO) publicly described the VFMC as 'rudderless' during the period in which the CEO and chairman roles were vacant, I ask how the Treasurer justifies his assertion.

**Mr LENDERS** (Treasurer) — I thank Mr Rich-Phillips for his overdue question. I note that today the

Leader of the Opposition in the Assembly, Mr Baillieu, has said that the single most important thing in Victoria is families and pressure on families, and the first thing his spokesman in the upper house talks about is governance within a financial institution. As important an issue as governance is, and as important an issue as that financial institution is, it is not particularly consistent with what is important to the Liberal-Nationals coalition when within minutes the highest issue of importance has actually moved.

Mr Rich-Phillips asks about leadership at the Victorian Funds Management Corporation. As I have reported to the house before, a new chair, Mr John Fraser, was appointed to the VFMC last year. Mr Fraser is an international banker and one of the foremost fund managers in the world — and Mr Rich-Phillips calls him an expat or an overseas resident. He obviously does not realise that we are in a global economy and that the global financial crisis is on. Incidentally, in his speech today Mr Rich-Phillips's leader forgot to mention that the global financial crisis exists. We are in a global economy, we have a global fund manager chairing the VFMC and showing strong leadership, and Mr Rich-Phillips goes back to the 1950s, 1940s, 1930s or 1920s and reflects on where the man lives rather than on what he delivers.

Last year the VFMC board also appointed a new chief investment officer (CIO), Mr Justin Pascoe, to the management of the VFMC. The opposition talks of governance, but it spent six months trashing the man's reputation and trying to bring him down and wreck the organisation. Also the VFMC appointed a new CEO, Mr Justin Arter, towards the end of last year.

The leadership of the organisation comprises a new chair, a new CEO and a new chief investment officer. Their job is to manage the VFMC's finances in a global financial crisis so that Victorian families can get some benefit from it. The opposition has spent six months trashing the organisation, attempting to destabilise the leadership of the organisation and making it difficult for the organisation to focus on its prime task, which is the management of funds for the Transport Accident Commission, WorkCover, the emergency services superannuation and a number of other Victorian government bodies.

I say to Mr Rich-Phillips that the VFMC has strong leadership in place, leadership to take it through the global financial crisis and to manage the challenges it has, and the only support it has had from the other side of the house — if I can call it support — is a campaign to destabilise it, to make it rudderless and to make it harder for the organisation to manage the assets it is

expected to manage on behalf of the Victorian community.

The same people who caused a run on the Members Equity Bank try to destabilise the VFMC — and why? So they can score some political points out of the organisation. I say to Mr Rich-Phillips that the VFMC has strong leadership — a new chair, a new CEO and a new CIO — so let us hope that now the VFMC can get beyond the distraction of an opposition baying for blood and trying to score political points and start focusing on managing the portfolio it is required to manage on behalf of the Victorian community under laws set up by former Treasurer Alan Stockdale. It is difficult to focus on financial management when every day you have an opposition trying to put in the tabloid press as many obstacles as possible to that leadership team carrying out its task.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — The Treasurer can accuse the opposition as much as he likes, but it was not the opposition that said the Victorian Funds Management Corporation was rudderless, it was the new chief executive officer. I refer to the Treasurer's further comment on 16 September:

I am not about to intervene, and I am confident it has the correct governance in place.

Why then did the Treasurer intervene one month later and appoint the Secretary of the Department of Treasury and Finance to the board of the VFMC?

**Mr LENDERS** (Treasurer) — I will make a couple of responses to Mr Rich-Phillips. Firstly, he talks about governance. He asked me in this house last year about governance and potential conflicts of interest for Mr Justin Pascoe, who was both the chief investment officer and the acting chief executive officer — a legitimate question from Mr Rich-Phillips and, I might say, one that is more measured than the rants we often get from the shadow Treasurer on these matters. What I will say to Mr Rich-Phillips is this: I wrote to the Victorian Funds Management Corporation board advising it that it needed to manage those governance issues. It was an appropriate course of action, and the board needed to manage it.

What I will further say to Mr Rich-Phillips is that the Vertigan review — which he well knows, as we have canvassed it in this house in a range of areas — was specifically set up to deal with the issue of remuneration and whether policy was being followed. Dr Vertigan has reported to me on that, and I have

released the actions the government has taken in response to his report. The Vertigan review is one component of the discussion on the VFMC.

There are legitimate policy issues as to how a government-owned enterprise remunerates executives who in the private sector would be earning something different. A lot of the underpinning for the government is to cut out the external management fees for the VFMC, which we have successfully reduced by a great extent to the internal management fees the VFMC now has. There are legitimate policy questions about remuneration of executives. They are legitimate, and that is an appropriate thing for debate. But there is a difference between that and when you start personalising it and dragging people down.

A separate issue on the governance of the VFMC is the ability of the organisation to manage the funds that are entrusted to it. They are quite separate issues, and they are being dealt with separately by government. But I say to Mr Rich-Phillips that if the objective of those opposite is to have the VFMC perform and perform well, if that is their prime objective, then I would suggest there are better ways of doing that than dragging down the organisation with a view to scoring a few political blows on the government.

I say that the VFMC is a body that operates under an act that was put in place, moved in this Parliament, by Alan Stockdale — the governance model was put in place by Alan Stockdale. The VFMC's remuneration has been reviewed by the Secretary of the Department of Treasury and Finance, who was there advising Alan Stockdale when the original act was set up, and that review has reported to the government and actions have been taken from it.

The starting point is that the governance of the organisation is sound. There are always improvements that government will make. The appointment of Mr Grant Hehir to the board of the VFMC I thought Mr Rich-Phillips would actually have welcomed, as — —

**Mr Rich-Phillips** — You said you weren't going to intervene!

**Mr LENDERS** — Mr Rich-Phillips clearly does not understand the distinction between appointing a series of distinguished citizens to the board of the VFMC and their roles in governance and what presumably is the Liberal Party view of being a control freak and running it from a distance. He does not understand the distinction.

The VFMC has a series of executives tasked with the job of managing funds — a very serious job in the years 2009 and 2010 with the global financial crisis. It also has a governance board, a board of directors, appointed by the Treasurer as the shareholder for the general purposes of what a board of directors does. I do not think that is particularly complicated. Mr Rich-Philips may wish to make it complicated.

I close by saying that the organisation was set up with the task of managing funds on behalf of Victorians, and that task will be significantly assisted if the opposition has a meaningful policy discussion about that totally legitimate task, but if its members go about trying to wreck the organisation like Mr Wells the member for Scoresby in the other place and Mr David Davis do and therefore cause runs on banks, then they are just Perónists and economic wreckers.

***Victoria's Framework of Historical Themes:  
launch***

**Ms BROAD** (Northern Victoria) — My question is to the Minister for Planning. Can the minister update the house on the action the Brumby Labor government is taking to increase awareness and appreciation of Victoria's heritage and to highlight what is distinctive about our state?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Ms Broad's interest in these matters, and I thank her for the question. This morning, with my ministerial colleague from the other place Richard Wynne, I had the great fortune to be in the Flagstaff Gardens with a number of community representatives to launch *Victoria's Framework of Historical Themes*. This very impressive document has been prepared in collaboration with the Heritage Council of Victoria and as well as that, to complement that work, there has also been a body of work done in collaboration with and through the Aboriginal Heritage Council of Victoria.

It is a document which will be provided to communities, local activist groups in a sense, experts or others interested in the heritage field, particularly heritage professionals — whether they be local government staff, teachers, managers of museum collections or interpreters or others interested in Victoria's natural and cultural heritage — to use as a resource to ensure that the story of the history and heritage Victoria as we know it is a little bit broader than just contemporary history or history since white settlement. There is often a longer and deeper story that is much richer than just the one formed around European settlement. This is about those experts assisting the community to find out what the story is —

those complex layers of Victoria's history — and how each of us is linked to that history and those past events and eras and the way they not only inform our understanding and view of the world but also can assist us in moving forward together in many of these areas.

It reminds us, too, that every part of Victoria is traditional country of a particular Aboriginal people. It provides a lens through which non-material heritage can be seen. People sometimes think that heritage is about just buildings or collections, but often it is about the story and the cultural links to the land that we know are often not appreciated or recognised in the history of this continent.

I would like to congratulate both councils on their joint work. I also take this opportunity to congratulate all those officers who have been involved in the process of creating this publication and thank them for their work. It complements the work we know is undertaken through the respective acts that reflect and protect our heritage. As well as that, it means that going into the future we can have a broader understanding — it will complement everybody's broader understanding — of cultural heritage not necessarily being about just bricks and mortar. This reinforces the inclusiveness of Victoria but also makes sure that Victoria is a great place and continues to be the best place to live, work and raise a family.

**Northern Victoria Irrigation Renewal Project:  
planning permit**

**Mr BARBER** (Northern Metropolitan) — My question is for the Minister for Planning, Justin Madden. The minister issued a planning permit to the Northern Victoria Irrigation Renewal Project. Has he been monitoring compliance with that planning permit, and can he assure us that the project is in compliance?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Mr Barber's interest in these matters. With any of these larger scale projects that I in a sense sign off on when I give planning permission, if there are reporting mechanisms or auditing mechanisms that are required for these projects, then those are reported back to me, via the department more often than not, and eventually I receive that information with advice from the department as to whether the compliance is sufficient. If there are any deficiencies, then I make a response to those. More often than not, if they are projects within the domain of other ministers or other departments, I will notify the respective departments that there must be improvements to what may or may not be taking place. That is the case.

There are issues in many such projects that need to be monitored. I am monitoring those from the reports that I am receiving. If there has been or needs to be any more rigorous approach to the compliance, then I have indicated that to the respective departments to make sure that they will or should continue to comply with the directions or the qualifications issued within those permit conditions.

*Supplementary question*

**Mr BARBER** (Northern Metropolitan) — Clearly in this instance the minister is not sure right now if that project is in compliance with its planning permit, and I would appreciate it if the minister could check out that aspect. But here is the issue, and I ask the minister to respond: the Northern Victoria Irrigation Renewal Project is also seeking an approval under the federal EPBC act (Environment Protection and Biodiversity Conservation Act), and one of the federal minister's decision guidelines is whether NVIRP has a good environmental record. That is something he must consider. NVIRP is a state-owned enterprise that was created solely for the purpose of doing this one project, so it does not have a pre-existing environmental record; it only has the environmental record for the works it is doing right now under the minister's permit. Will the minister therefore report back to the house, and to the federal minister, the compliance of that project as it stands right at this moment?

**Hon. J. M. MADDEN** (Minister for Planning) — I would expect that, if there are qualifications around the monitoring of the performance of the project or the delivery of the performance of the project through the federal government, we would be in contact with the federal government through respective officers within the department to relay that information. I would expect that to be the case if the federal government is seeking that information. I am always happy and would expect to have to provide that to the federal department or the federal minister if that is warranted and if they expect that.

On those other issues in terms of the monitoring, at any given particular point in time I suspect works will be being undertaken and there will be some time lines and schedules under which those reports must be either formulated, audited or provided to me. I am not immediately conscious of when those time lines or those audits or reports would come to me about the project. I am happy to check to see how often they do come to me and how often the federal government may wish to see those or not wish to see those. I am happy to respond to the house accordingly on the basis of seeking information on that.

I am conscious that many people will be interested in the environmental performance of these sorts of larger scale projects, and that is an important public issue. It is important that we give the public confidence that any of the environmental criteria which must be adhered to are adhered to and are sought to be adhered to by those who are delivering the project. I would be happy to provide further advice to the member and to the house at a later date when I have checked on those details.

**Fair Work: legislative reform**

**Ms PULFORD** (Western Victoria) — My question is for the Minister for Industrial Relations. Can the minister update the house on recent changes to the commonwealth Fair Work laws and the implications for Victorian working families?

**Hon. M. P. PAKULA** (Minister for Industrial Relations) — I thank Ms Pulford for her question and for all the work she did as parliamentary secretary for industrial relations. Since we met last in 2009 — —

**Mr Rich-Phillips** — On a point of order, President, I seek your clarification as to whether it is appropriate to ask the minister to comment on changes to commonwealth law and whether that falls within the minister's jurisdiction as a state minister?

**Hon. M. P. PAKULA** — On the point of order, President, the question is absolutely relevant to my responsibilities, because the application of those commonwealth laws to all Victorian workers occurs as a consequence of legislation passed in this chamber.

*Honourable members interjecting.*

**The PRESIDENT** — Order! In my view there is no point of order. I think the minister nailed it when he said it is entirely consistent with his responsibilities as Minister for Industrial Relations.

**Hon. M. P. PAKULA** — For Mr Guy's benefit, the commonwealth referral legislation is absolutely in force and has already been updated once by this Parliament subsequent to its passing in June of last year and will potentially require constant upgrading as further states come into the national system.

From 1 January this year the Fair Work laws have introduced a clear, fair and balanced safety net of minimum terms and conditions for workers, known as the national employment standards (NES). As I indicated, they are applicable to all Victorian workers as a consequence of the referral legislation passed by this Parliament in June last year, which received royal assent on 17 June. For the information of members, the

effect of the NES is to provide statutory protection of key minimum terms and conditions for all workers, including Victorian workers covered by the referral under the national system.

The new national employment standards are: a maximum of 38 weekly hours of work plus reasonable overtime; the right to request flexible working arrangements to enable parents or carers to seek working arrangements that balance their work and family responsibilities; an entitlement to 12 months unpaid parental leave and the right to request a further 12-month period of leave; paid annual leave of four weeks per annum or five weeks for certain shiftworkers; an entitlement to 10 days paid personal or carers leave each year; two days unpaid carers leave per occasion; and two days paid compassionate leave per occasion; community service leave — and we have seen how important that was in the bushfires last year, because that is the leave that enables employees to engage in community activity, whether that is dealing with an emergency or a natural disaster; long service leave, which the commonwealth will seek to unify around the nation — and it will do that through extensive analysis of the entitlements that apply across different industries and states; protection of paid leave on public holidays for employees who are not required to work; notice periods and redundancy pay to ensure that workers whose employment is terminated through redundancy have certainty in their notice and in their severance entitlements; and a requirement to provide all employees with — —

**The PRESIDENT** — Order! The gentleman in the gallery should be aware that mobile phone use in here is verboten. I ask him to refrain from using a mobile phone in here.

**Hon. M. P. PAKULA** — The final requirement is a requirement to provide employees with an information statement on their rights, their responsibilities and their entitlements, so that they are aware of the national employment standards, the modern award system, agreement making, their right to freedom of association, the right of entry and the role of Fair Work Australia.

Along with a streamlined set of modern awards that set out wages, hours, penalties, allowances and related matters, the new Fair Work system provides protection from unfair dismissal, about which we know the Liberal Party has dubious views as it relates to small businesses, requires good faith bargaining, which we know the Liberal Party is dubious about as well, and acknowledges the role of unions in representing their members at all stages of employment, and we know

how the Liberal Party feels about that. This sits alongside the changes this government has made to the equal opportunity legislation that protects workers' rights to ask questions about their rights and their entitlements and that requires employers not to unreasonably refuse to accommodate the parental or other caring responsibilities of their employees.

The Fair Work national system which Victoria has signed up to builds upon the Brumby government's ongoing work in restoring rights to workers, restoring rights to their representatives and encouraging best practice approaches to workplace relations — a best practice approach which during the global financial crisis saw cooperative arrangements between companies and their employees and their unions to save and protect jobs.

The Treasurer has already indicated that in his response to the statement of government intentions the Leader of the Opposition in the Assembly did not mention the global financial crisis. How out of touch is that?

On my reading of it there is another word that did not pass his lips. That word was 'jobs'. Not once did the word 'jobs' pass the lips of the Leader of the Opposition. So when we say he is out of touch with working families, we could have no greater evidence than that.

### **Public transport: myki ticketing system**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is to the Minister for Public Transport, and I congratulate him on his appointment. Given the years of successful operation of electronic ticketing systems in cities such as London, Singapore, Hong Kong, Paris and Bangkok, will the minister explain why the government insisted on reinventing the wheel through the myki debacle rather than purchasing existing, proven ticketing systems?

**Hon. M. P. PAKULA** (Minister for Public Transport) — I think it goes without saying that Mr Rich-Phillips raises an issue about a decision that was made some years ago — —

*Honourable members interjecting.*

**Hon. M. P. PAKULA** — It is a statement of fact — —

*Honourable members interjecting.*

**Hon. M. P. PAKULA** — Do you want to hear the answer? I can wait.

Mr Rich-Phillips's question goes to this long-continuing argument about off-the-shelf versus custom-made ticketing systems. It is a little bit of a furphy. It is a little bit of a red herring to suggest that any jurisdiction can simply pick up an off-the-shelf ticketing system and install it to deal with its own fare structure and zone structure.

The fact is that there are two elements that need to be considered: hardware and software. Hardware can be indeed purchased off the shelf to some extent, as I am advised, but software needs to be developed to take into account the particular fare structure and zone structure of the jurisdiction in which it is going to operate. To say that something could simply be taken off the shelf from London or Hong Kong and immediately be able to operate in a jurisdiction where you have 2-hour fares, daily tickets, city savers, seniors concessions, zone 1, zone 2 and — at the time the decision was made — zone 3, is simply not accurate.

The answer to Mr Rich-Phillips's question is that you cannot simply buy an off-the-shelf product where the software is already designed to take into account all those differences in fare structures — timed fares, daily tickets, zone 1, zone 2, seniors, concessions and the like.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for his answer. I ask then: can he assure the house that reinventing the wheel through the myki system has provided value for money to Victorian taxpayers compared with purchasing and modifying an existing proven system?

**Hon. M. P. PAKULA** (Minister for Public Transport) — The question is rendered somewhat moot by the fact that in his supplementary question the premise Mr Rich-Phillips maintains is that we could have simply purchased another system and installed it without modifying software to suit Victoria's conditions. When he talks about a simple proven system, the impression Mr Rich-Phillips tries to create is that we could have simply done that. We could have simply bought another system and installed it on our network without any need to modify it for Victoria's particular zones, ticketing system and fare structure. As I indicated in my answer to the substantive question, that is simply not the case.

**Housing: first home owner grants**

**Mr EIDEH** (Western Metropolitan) — My question is to the Treasurer. Can the Treasurer update the house

on the progress of the Brumby Labor government's first home owners grant and in particular on how this grant is helping people in Melbourne's western suburbs achieve the dream of buying their first home?

**Mr LENDERS** (Treasurer) — I thank Mr Eideh for his question and his interest in the aspiration of working families to have housing and the ability for their children to own their own homes and deal with the Victorian dream of owning their own homes. What we have seen in the last year has been 3000 first home buyer grants that have been issued in the postcodes 3030 and 3029, which cover the Point Cook, Werribee, Derrimut, Hoppers Crossing and Tarneit areas. We have seen 3000 first home buyer grants issued in that part of Victoria, and approximately half of those are in the Altona electorate.

What we have seen is that this government has gone ahead of the pack during the global financial crisis and asked what it can do to address three key areas that are affecting Victorian families. Firstly, in a time of global financial crisis, what can you do to secure jobs during an economic downturn? Mr Baillieu did not mention the word 'jobs' once — not once — in his address to the Assembly this morning, if we are talking about being out of touch with families. Mr Eideh well knows that the biggest thing governments can do to assist working families is to provide jobs so that families can go forward and take control of their own destiny. The single biggest thing that a government can do is to assist with jobs. All other services follow from that area.

During the global financial crisis this government acted, got ahead of the pack and boosted the grants that were available for newly constructed homes in Victoria. The commonwealth came to the party, and the scheme was expanded. What we have seen with that is a threefold outcome. Firstly — and these are not the words of a Labor Treasurer but the words of Harley Dale from the Housing Industry Association (HIA) on 14 January:

The extra home construction bonus has generated new residential building activity that would not otherwise have occurred and has created around 19 000 additional construction and related jobs in Victoria.

That is 19 000 jobs created by this change in policy.

Mr Eideh asked about what is happening in the western suburbs and in jobs. In those new areas, according to the Housing Industry Association, as a response to this government's policy 19 000 jobs were created. Mr Baillieu does not say a word about 19 000 jobs being created — how out of touch is he with working families? Not only were 19 000 jobs created, but the

aspirations of those young people in working families to own their own homes have been achieved. Furthermore, pressure has been taken off the rental market by those new houses being in place, which means that the pressures that are already strong have been reduced in that particular area.

What this government is about is assisting working families to achieve their aspirations. A key aspiration is a job — —

**Mr Guy** interjected.

**Mr LENDERS** — Mr Guy says, ‘The earth is flat’ — he should not talk about his leader like that. If you listen to Mr Baillieu, the global financial crisis never happened and jobs are not an issue. He has clearly come from the Lawrence Springborg-Juan Perón school of economics: he has come to believe the global financial crisis is not there. This government — —

**Mr Guy** interjected.

**The PRESIDENT** — Order! Whilst I accept that during question time there is a certain amount of interjection, we apply a standard, and referring to someone as a grubby politician is — —

**Mr Guy** interjected.

**The PRESIDENT** — Order! Mr Guy might think it is funny, but I do not. The warning Mr Guy was going to receive is now an ejection for 30 minutes.

**Questions interrupted.**

## SUSPENSION OF MEMBER

**Mr Guy**

**The PRESIDENT** — Order! Under standing order 13.02, I ask Mr Guy to vacate the chamber for 30 minutes.

**Mr Guy withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE

### Housing: first home owner grants

**Questions resumed.**

**Mr LENDERS** (Treasurer) — In conclusion, Mr Eideh asked what the government was doing to assist working families with new homes in the western

suburbs of Melbourne. Across the whole state we have seen record housing starts, we have seen the flowthrough, as the HIA has said, into direct jobs at a time of global financial crisis.

Two-thirds of Australia’s jobs in the last year — since the budgets — have come in this state of Victoria. That is 75 000 Victorians who now have employment who otherwise would not. In a global financial crisis where across many of the developed economies 10 per cent of the workforce is unemployed, Victoria’s actions have made a difference. There is more to be done. We need to be vigilant. We have to be aware that the global financial crisis was real and is real and that jobs are the single most important issue for working families in Victoria.

### Planning: urban growth boundary

**Mr FINN** (Western Metropolitan) — I direct a question to the Minister for Planning. I note that the *Transforming Australian Cities* report, co-funded by the Victorian government, outlines the construction of over 20 000 new dwellings for over 40 000 new residents of the city of Hobsons Bay, and I ask: can the minister advise the house whether the government plans to move the urban growth boundary in this municipality, and if not, what activity centres have been identified to cope with this massive population increase?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome the question from the opposition deputy spokesperson for planning in this place, who is obviously Mr Finn. I thank Mr David Davis for passing the question on to Mr Finn so he could ask it. I would have liked to have received the question from Mr Guy, but he cannot be here for his moment in the sun, so Mr Finn gets the chance to ask the question, and I welcome that fact.

As we have already heard, we have seen enormous growth, and we will continue to see enormous growth in housing for the next 20 years or so. As a government we released *Melbourne @ 5 Million*, and what we identified in that was that we see the need, based on evidence, for an additional 600 000 dwellings in Melbourne in the next 20 years or so. It may be sooner, it may be later; it just depends on the circumstances of partly population growth but also household formation.

I qualify that very closely, because we hear a lot of rhetoric from people about population growth putting a lot of pressure on housing. It is not necessarily just population growth, it is not necessarily the baby boom, it is also the fact that we form our households

differently. People live in smaller household units in terms of the number of people for a longer period of their lives, and people are living longer so it is likely that the people who are living longer will live alone for longer as well, so we need more dwellings. We need higher numbers of smaller dwellings for that reason, and we have seen the industry move in that direction.

Mr Finn makes the point about the urban growth boundary and changes to the urban growth boundary. All you have to do is go out west and see the enormous number of dwellings that are rapidly being developed by the cottage building industry and the volume building industry, and how rapidly housing can be produced. You cannot help but be left with the impression of how, in a sense, efficient the building industry is and how important it is in terms of the local economy.

What is important, though, is that we know people want choice in terms of housing. If you have got a larger family and you want to find the right price point, then more often than not you might go to the outer suburbs. If you have got a smaller household and you want the right price point, you might be located towards the middle or inner ring suburbs. The important thing is that we provide the housing choice, the housing size, the housing scale and the housing numbers — the volume.

I would welcome the opposition's view in relation to this, other than the rhetoric Mr Finn yells from the other side of the chamber. I would welcome its view because to this point in time the legislation that has been before the house, the growth areas infrastructure contribution legislation, has been, in a sense, a flagging of what our intentions are in terms of putting infrastructure into these new suburbs. At this point in time no-one is any the wiser as to the opposition's position in relation to what it wants to do about infrastructure in these new growth suburbs.

It is not a question, but I make that statement on the basis that we have a plan, we have made that plan very clear and we have put it out there for public debate and consultation. If the opposition has an alternative view, we would welcome hearing that, but at this point in time we can only suspect that the position of the opposition is that it is happy to expand the urban growth boundary but it is not prepared to have the infrastructure paid for by developers. What does that mean?

**Mr Drum** interjected.

**Hon. J. M. MADDEN** — So the opposition's plan, and it is a very useful one for Mr Drum to question because he should ask his own people — —

**Mr Drum** interjected.

**Hon. J. M. MADDEN** — I will tell Mr Drum. What that means is that there is either a shortfall in infrastructure, so the opposition would not build the infrastructure — —

**Mr Finn** interjected.

**Hon. J. M. MADDEN** — The opposition, Mr Finn, would not commit to the infrastructure, would not spend the money. Alternatively what is likely to happen from the opposition's point of view is that it would leave all that expenditure to local government. You would get significant infrastructure shortfall or a rate increase. What Mr Finn may not realise is that the position the opposition is taking — —

**The PRESIDENT** — Order! I remind the minister of the issue of debating.

**Hon. J. M. MADDEN** — That alternative view is one where, through the policies of others — or the lack of policies of others — we would see significant rate increases in the likes of the west and the likes of Hobsons Bay. So I say that unless those others can come up with an alternative view that does justice, then we know what their plan is, which is to see local government increase rates substantially to pay for the shortfall in infrastructure, and what I say to those others is: shame, shame, shame on you!

*Supplementary question*

**Mr FINN** (Western Metropolitan) — While I consider what all that was about, I note that the Department of Planning-funded SGS report into residential intensification along tram and secondary routes found that residential supply could be increased up to 19 times existing levels, accompanied by the removal of third-party appeal rights for complying developments, and I ask: now that the government has had some time to consider the report, can the minister inform the house if the government intends to implement its findings and can he confirm that secondary routes include routes like Millers Road, Altona?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Mr Finn's interest in these matters.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I take up the interjections from both sides of the chamber. I am surprised that ‘Altona’ can actually come out of the mouth of Mr Finn. I was not sure he could even spell the word. But can I say that the question from Mr Finn is ironic.

**Mr Tee** interjected.

**Hon. J. M. MADDEN** — That is exactly right. It is the question proposed to me by the opposition, asked by Mr Finn, as opposed to being Mr Finn’s question; there is a slight difference there, and Mr Finn might take some time to work that out. What I would say is that this is very typical of what we see time and again in the themes that come out of the opposition on planning matters.

**Mr D. Davis** — On a point of order, President, as you know, this is question time. Questions are asked by the opposition and others, and ministers should answer questions rather than debate the issue or attack the opposition. The minister has had a lot of latitude on that first question and on the supplementary question; he should simply answer the question.

**The PRESIDENT** — Order! Mr Davis does not get to debate it either. The Leader of the Opposition is correct: I have already said that there is to be no debate. Even though question time tends to be a bit of a debate, there is none in terms of the answers, and they must be relevant. With regard to attacking the opposition, it is about overt criticism, not a slap on the wrist of the sort that is being received at the minute. I ask the minister to be relevant and to respond without debate.

**Hon. J. M. MADDEN** — Mr Finn’s question asked specifically about Millers Road, Altona, so Mr Finn is trying to say that I want particular buildings in Millers Road, Altona, in an effort to scaremonger in the local electorate. That is what he is saying.

First of all I make this point: I do not build the buildings and I do not make the applications. Proponents make the applications, and in all these circumstances, in all these locations currently, there are third-party appeal rights.

**Mr Finn** interjected.

**The PRESIDENT** — Order! Mr Finn is not helping.

**Hon. J. M. MADDEN** — We do not believe there should be any change to these third-party appeal rights, so it is up to a proponent to come up with a good plan and to consult broadly or for locals to oppose the proposal through the system we have. There is no

intention at all to adjust those settings in relation to Millers Road, Altona. I make that point.

The other point I make in relation to Mr Finn’s question is this, and I will start a bit broader but I will narrow it so we get a bit more specific and so it is a direct answer to Mr Finn: you cannot be a group of people that take the position to oppose changes to the urban growth boundary or stall or try to not support changes to the urban growth boundary and then say, ‘We don’t want infill development’. You cannot say that.

**Mr D. Davis** — On a point of order, President, you were very clear in your ruling that the minister needs to be relevant to the question. This is quite a specific question about densification of areas of development along Millers Road, Altona, in particular, and the minister seems to refuse to — —

**The PRESIDENT** — Order! I understand Mr Davis’s point of order, and again it is correct, but we have to accept that ministers do have licence. We cannot tell them exactly what they can and cannot say in their answers, as long it is relevant and not argumentative or critical et cetera or debating. I would suggest to the minister that he is starting to get close to debating.

**Hon. J. M. MADDEN** — I will start off a little bit broadly but will narrow it down specifically to Millers Road, Altona, as I get over the preamble. What I am saying is that you cannot say that you do not want to support development on the urban growth boundary and you do not want this intensity and at the same time — —

**Mrs Peulich** — On a point of order, President, the minister is flouting your ruling about not debating the question.

**The PRESIDENT** — Order! I thank Mrs Peulich for her assistance, but I will be the judge as to whether or not the minister is flouting my ruling. Rest assured, if I feel he is, he will know about it.

**Hon. J. M. MADDEN** — The initial question before the supplementary question related to changes to the urban growth boundary. The supplementary question related to density and intensity in Millers Road, so I am trying to bring those together in my answer, which is that you cannot oppose expansion of the urban growth boundary and at the same time oppose densification whilst also at the same time saying, ‘We want more housing’. You cannot have that. You have to provide options for housing somewhere, and our plan, as we have suggested through Melbourne @ 5 Million is very clear, and that is to provide a significant number

of houses out on the fringes, but also, where opportunity provides, through consultation with community and with council, to provide housing in the right locations. We would leave it to local government, work with local government and consult with them.

I completely reinforce that the opposition would love to scare people about housing, but we need housing. We all need housing, and of course what is important here is that we have a plan, and our plan is very clear about where we want to locate housing. Mr Finn may wish me to say something about Millers Road, and I will, which is basically that we have no plans for increased densification in Millers Road. We have no plans to build any houses. We do not build the housing, Mr Finn. Some proponent might come up with it, and that has to go through the local planning process and be considered accordingly.

### **Bushfires: recovery**

**Mr VINEY** (Eastern Victoria) — My question is to the Minister for Environment and Climate Change. Can the minister update the house on the rehabilitation and recovery program being undertaken by Parks Victoria and the Department of Sustainability and Environment on the eve of the anniversary of Black Saturday?

**Mr JENNINGS** (Minister for Environment and Climate Change) — I thank Mr Viney for the opportunity to briefly reflect on the anniversary of 7 February, which our community will be particularly mindful of in the coming days in terms of the grief and loss that members of our community experienced last year through the fires and the environmental damage that was done to the Victorian countryside, as well as the remarkable response that has been associated with the recovery period and the great courage and dedication of Victorians to supporting one another through this adversity and to rebuild and to recover. That has been very strong indeed. We should be proud about that. We should be happy that we have seen, through this adversity, a great degree of support for one another.

One aspect my agencies, being the Department of Sustainability and Environment and Parks Victoria, have been responsible for has been to work in a collaborative fashion with Victorian communities to try to revive environmental values across 286 000 hectares of the public land estate in park reserves or state forests. The environmental values have been threatened, if not severely damaged, by the fires, whether through the loss of vegetation or habitat or the loss of soil integrity leading to landslip and erosion that may be associated with the soil being severely damaged by the fires. That

work has been scoped, outlined and supported by scientific assessment in terms of the capability we have to restore those values. Those agencies have developed a plan which will be undertaken over the course of the next two years. It is an extensive work program.

Not only have officers of the department been responsible for this, but we have been supported in the work that has already been achieved by a remarkable volunteer effort that has supported our agencies. We have had people from as far-flung an organisation as the California Conservation Corps come to assist our work. They have joined hand in hand with great conservation efforts that we have here, including the Australian Green Corps team. Conservation Volunteers Australia has been supporting that effort. As members of our community would understand, there are many friends groups — friends of parks and friends of reserves — and committees of management made up of volunteers from across Victoria who have supported that effort. We should thank them sincerely for their voluntary efforts.

We have seen the opportunity to provide private employment, including through private contractors. A particular program has been undertaken to support licensed tour operators who may have had their livelihoods diminished because of a lack of access to their tourism product. We employed them, following an additional round of expressions of interest for them to become contractors, to support our efforts in restoring tracks and facilities across the Victorian landscape. We will continue to support the tourism industry and tourism operators by providing ongoing employment opportunities.

I will briefly and quickly run through a list of examples of the types of work that have been undertaken in some of our important reserve system and tourism attractions across Victoria. One of the most famous attractions, and one of the attractions most impacted by the course of the fire, is Steavenson Falls and its surrounding walking tracks. This was important in seeking to revive those environmental values so the falls could be the centrepiece of tourism activity and the revival of Marysville. We have dedicated a lot of resources. I thank the Treasurer and other parts of government for the significant support that was mobilised. The Victorian Bushfire Reconstruction and Recovery Authority has been associated with assisting the financing and scoping of that work. A shuttle bus has been operating and travelling to Steavenson Falls since December; that will continue until we revive the core amenities and facilities at that site and it is safe for people to return unaccompanied. We anticipate that work being finished by September.

I return to Wilsons Promontory, which is one of the most famous and popular tourism locations in Victoria. Remarkable work has been done to restore the walking tracks at Cotters Lake, Darby River, Darby Saddle, Five Mile Beach, Lilly Pilly Gully, Lower Barry Creek, Millers Landing, Tin Mine Cove and the Yanakie airstrip — quite a significant amount of work has been undertaken there. We understand there is further work to be undertaken, but that is quite significant.

At Baw Baw National Park the Eastern Tyers campground has been revived. We are currently working on the Poverty Point bridge, and that is expected to be reopened by Easter. People will see the symbolism and importance of the work that has been undertaken in the Kinglake National Park. Sugarloaf Peak reopened on Australia Day, which was just last week. The Island Creek site is expected to reopen in June 2010. Concept plans have been developed for Jehosaphat Gully and Mason Falls. The Walhalla Historic Area is obviously important to the Gippsland tourism industry. We have seen numerous landslips that have been repaired. Ongoing work has been required to restore those values.

These examples are indicative of the great effort we have seen. They are indicative of our intention to restore those values to make sure Victorians enjoy our natural environment. I conclude by thanking all of the people who have so actively participated in that program and supported the revival of the Victorian community during the last 12 months.

**Minister for the Respect Agenda: performance**

**Ms LOVELL** (Northern Victoria) — My question is for the Minister for the Respect Agenda. Yesterday I asked the minister a question, as the minister responsible for the respect agenda, about whether he had officially met with representatives of the Indian community in his new role. He gave a long answer but indicated his priority had been to enjoy his holiday. Given the serious deterioration in the relationship between the Brumby Labor government, India and Indian communities in the last 24 hours whereby the Indian High Commissioner said that the Victorian government was in denial over the scale of the attacks, I ask: is the minister in denial or will he now meet urgently with representatives and members of the Indian community?

**Hon. J. M. MADDEN** (Minister for the Respect Agenda) — I welcome Ms Lovell's question. One of the most important things we can do as citizens — and this relates to the respect agenda as much as anything — is to do justice to our own families for

starters. That is what I have done recently by taking annual leave, which I was always going to take. If Ms Lovell believes that is not warranted, then she should advocate that strongly to the community. If she does, then I say to Ms Lovell that she fails to understand the respect agenda. The first thing you must do is respect and give respect to your own family. That is part of the respect agenda. I take the comments from Ms Lovell very much to heart. I feel they are completely unwarranted. That is the first point I would make to Ms Lovell. If Ms Lovell wants to advocate that, then she should go and advocate it outside of this place to the public and say that people should not do justice to their own family and the four children their family might have. I take great offence at Ms Lovell's assertion.

Secondly, on the matters around those groups that I need to meet, I will meet those groups. We are working through the number of groups that we will need to meet and how soon we will meet them, because since the announcement of the respect agenda and the portfolio responsibility we have had a number of letters from people requesting meetings with me. There is a great deal of enthusiasm in the community for meetings to discuss these matters. We are trying to work through who we will meet sooner rather than later, because we cannot meet everybody at once. That is the key priority.

In relation to the recent media commentary about how the community in India views the Australian situation, particularly in Victoria, we all know that media outlets will write what they want to write. However, we must also realise that there are an extraordinary number of media outlets in India. If anybody in this chamber has been to India and seen the extraordinary number of media outlets, they will realise that the media in India is incredibly competitive. In this day and age the print media not only has to compete amongst itself, it also has to compete very strongly with all the other forms of media, particularly the instantaneous World Wide Web-based media. Where does the print media take the next story from and where does it get the next angle on the next story?

This is probably part of what is feeding the frenzy in parts of India in relation to the media coverage. That is not to say that the media coverage is wrong; what I am saying is a number of media outlets are trying to get those stories and add to stories that may already exist. I am conscious of that, and I will be very conscious of how we relate these matters to the media, through the media and into our community.

Another issue which is particularly important is the fact that in light of recent events and the comments made by

the Premier in recent days, as always in all situations, there are two sides to the story. Often it is no use anybody believing one view, particularly when criminal activity is involved, until the police have undertaken their specific investigations. I know the Chief Commissioner of Police, the Premier and I have said on a number of occasions that there may well be instances of racism or racist themes within some of these criminal activities, but there may also be instances where it is just that people are vulnerable to that risk and some others take advantage of them.

An overlay to that is the fact that in many instances students of all nationalities and backgrounds sometimes find themselves working in situations where they are, due to the nature of the job, the hours and the extreme times, in a more risky place. This is not a criticism of those individuals; it is just that this is a matter for consideration.

I say to Ms Lovell that we are working proactively on these fronts. We have a strong law and order agenda to support that, but importantly, as I have said — and I draw the comparison with seatbelts and a lot of proactive cultural change campaigns — these things do not happen overnight, but they do happen. I am confident the respect agenda will see this happen. It will not happen overnight, but it will happen.

*Supplementary question*

**Ms LOVELL** (Northern Victoria) — As the Minister for the Respect Agenda the minister has a higher calling. Given that the minister to date has failed to seek an understanding of the Indian community's concerns about the escalating violence, will he now distance himself from the unwise comments of the Premier reported in today's press, or is the minister's new role simply a hollow title?

**Hon. J. M. MADDEN** (Minister for the Respect Agenda) — I completely support the comments made by the Premier, and they are about balanced reporting. I recognise that those comments are fair and reasonable. If Ms Lovell supports unbalanced reporting, then I am not sure what message she is trying to send out — or is she prejudging situations before they even occur? I suggest to Ms Lovell that she not prejudice any situation from either point of view before there has been a thorough investigation and an understanding of these situations has been gained. That is the only way we can respect the situation and the only way we can respond with what needs to be a dispassionate assessment of each situation. Rather than prejudging the police, certain activities or any circumstances, we should consider the matter dispassionately based on the

circumstances around it. That is what I would suggest Ms Lovell do.

We anticipate meeting many groups over the next fortnight or so on these matters. Events are being scheduled as I speak. I look forward to meeting with representatives, not just from the Indian community but also from all the other priority areas that we want to put in place around the respect agenda. Whether it is about violence against women, whether it is around supporting parenting and all those sorts of matters that need to be considered and supported as part of the respect agenda, I look forward to working with my colleagues.

I make this point again to Ms Lovell and to this place: my responsibility is not only to support and be proactive in the respect agenda but also to assist my colleagues to coordinate our approach across government. There will be instances where other ministers continue to conduct their duties where they have some responsibility for these issues within their portfolios. If it is specifically in relation to a law and order issue, it might be the Attorney-General or the Minister for Police and Emergency Services who meets the group. If it is specifically in relation to an education issue, it might be the Minister for Education.

The important issue here is that across all those portfolios all those ministers understand the complexity of these situations and endorse a certain position, which is about being proactive and reacting accordingly where it is warranted. We want to make sure that not only are we being reactive where we need to be but we are also being proactive in changing the culture to one of respect across the community so that we can all have confidence that our children will grow up in a community where respect is valued, deserved, earned and regarded.

**Street violence: drug use**

**Mr DRUM** (Northern Victoria) — My question is to the Minister for the Respect Agenda. Does the minister acknowledge that the consumption of drugs other than alcohol is having a significant impact on the levels of community safety and community violence?

**Hon. J. M. MADDEN** (Minister for the Respect Agenda) — I welcome the question from the Liberal-National coalition representative, Mr Drum, on these matters. There is no doubt that substance abuse in all its forms can be a catalyst for all sorts of inadvertent events that relate to either reckless or sometimes criminal activity.

**Mrs Peulich** — Use the word ‘violence’.

**Hon. J. M. MADDEN** — I am happy to indicate violence as well. What is particularly important, however, is the risk-taking behaviours. We know that sometimes there can be a range of substances, and sometimes part of the risk-taking behaviour is the substance abuse itself, but that can also lead to further risk-taking behaviours.

I am very conscious that that is the case, and there is potential for substance abuse or self-harm due to substance abuse to put others in risky situations. These are all issues that no doubt are part of the respect agenda. More often than not people can find themselves in positions where normally that may not have been the case — traditionally people may not have ventured in there. Substance abuse is part of that. I recognise that. Of course there will be individual situations and circumstances, so I will not make broad, sweeping generalisations, but if Mr Drum has anything in his supplementary question in relation to that, I am happy to answer it.

*Supplementary question*

**Mr DRUM** (Northern Victoria) — Is the minister able to quantify the impact that drugs are having in regard to violence in our community? If not, what action is the minister planning to take so that he will be able to have a better understanding of the quantifiable problems of crimes that are being committed in the streets of Melbourne and throughout Victoria as a consequence of illicit drug use?

**The PRESIDENT** — Order! The minister may or may not choose to answer this, but I have to say that I am a little confused as to exactly what responsibilities the minister would have in relation to that specific question. I will allow it today, but I will put on my thinking cap about that for future reference. I just want to alert the house to that.

**Mrs Peulich** — On a point of order, President, in relation to that, the minister did indicate earlier that he would be working with all the ministers across all the portfolios in his respect agenda.

**The PRESIDENT** — Order! There is no point of order.

**Hon. J. M. MADDEN** (Minister for the Respect Agenda) — As I answered earlier, I am keen to meet groups that represent many of these issues, and we are trying to prioritise that. Illicit drug use is no doubt a very complicated issue, and I am happy to take advice from experts and also to go out into the field and meet

people in those pressure situations who have to deal with people who might be engaged in illicit drug use or substance abuse in some form, to help in being informed about many of those issues.

There is another issue. I do not profess to be an expert in mental health, but we know there is a direct correlation between mental health issues and substance abuse. It is a matter of whether one comes before the other — whether the chicken comes before the egg; it is that sort of thing. I am happy to receive advice and look at research and evidence in relation to these matters, and I am happy to continue to work with my colleagues in these areas and to venture out into the electorates to meet with experts in the field and to hear from others about how we can improve the recognition across the community of the harm and damage that is done by illicit drug use and other substance abuse and how those matters relate to either violence or people’s disregard for themselves and others.

**Sitting suspended 1.10 p.m. until 2.16 p.m.**

**WATER AMENDMENT (ENTITLEMENTS)  
BILL**

*Committee*

**Resumed.**

**Reported to house with amendment.**

**Report adopted.**

*Third reading*

**Motion agreed to.**

**Read third time.**

**VICTORIA UNIVERSITY BILL, ROYAL  
MELBOURNE INSTITUTE OF  
TECHNOLOGY BILL, SWINBURNE  
UNIVERSITY OF TECHNOLOGY BILL and  
UNIVERSITY OF BALLARAT BILL**

*Second reading*

**Debate resumed from 2 February; motions of  
Mr LENDERS (Treasurer).**

**Mr HALL** (Eastern Victoria) — When these bills were being debated several days ago I had almost come to the conclusion of my comments. I had spoken about the general framework of each of these four pieces of

legislation. I had also spoken individually about each of the four universities in question in these bills, they being Royal Melbourne Institute of Technology (RMIT), Swinburne University of Technology, University of Ballarat and Victoria University. I spoke about each of those universities in turn. I was about to come to the amendment to be moved by the Greens. I thank them for giving me notice of that.

I want to talk about the proposed amendment. I am sure Ms Hartland will explain to the house in full exactly what her amendment seeks to do. In my understanding the amendment seeks to add an additional object of the university in clause 5 of the bill. Basically the object is to promote and provide educational opportunities beyond secondary level in the western metropolitan region of Melbourne.

My comment in respect of my first sighting of this amendment is that we were told by the government that given we were developing legislation for each of the eight universities under a template structure, there would not be any difference between each of the bills apart from the preamble and the transitional measures, and in some cases there would be criteria attached to some members of the university council. That has been the case up to this point in time. I am well aware that many of the universities in their submissions to the government regarding the review of the university acts argued that there should be an inclusion of some of the special characteristics of each of the universities and therefore a re-enactment of parts of the previous acts. The government resisted this and essentially came up with template legislation for each of the eight universities. The amendment would therefore result in a variation, and Victoria University would be the only university which would have a particular objective different from all the others.

If you look at clause 5 in each of the four bills in this cognate debate, you will see the objects of the four universities are identical — they are exactly the same. Clause 5 is repeated in each of these four bills, but now an additional object is proposed to be inserted in the Victoria University enabling act.

In principle, in terms of what it seeks to achieve, I really do not have any objections to the amendment. It is common sense. It is looking to place as an object of the university a specific provision to develop and provide educational opportunities in the western metropolitan region. The only query I have is why would we do this for one university and not for the others when other universities also often have a focus to provide education in an area. Even the Swinburne

University of Technology, for example, has a focus in the eastern and outer eastern areas of Melbourne. The University of Ballarat provides a focus for central and western parts of Victoria. There are no such provisions in the legislation for these three universities, but Ms Hartland's amendment is proposing that Victoria University does have these provisions.

I think it is a step out of the general direction the government has framed for these university bills, but at the same time, as I said, it is probably not an issue that we want to fight or quibble over. Most of the focus is mentioned in the preamble to the bills. Nevertheless, given that it has no impact on the workings of the legislation, if the government and other members of Parliament are in favour of this particular provision, we indicate that at this stage we will not stand in the way.

I will listen with interest to the arguments put by the Greens as to why they are proposing the amendment. I will also listen with much interest to what the government says as to whether it considers the amendment should be part of what is supposed to be template legislation. We will listen with interest and vote accordingly when we get to the committee stage to consider the amendment, but I indicate at this stage that although it seems out of step with the general direction the government has sought for this legislation, it is not an issue we should be fighting over.

With those comments, as I said from the outset, the Liberal-National coalition supports each of the four bills in the cognate debate as it did with the previous four bills last year. We are proud of the universities we have in the state of Victoria. We wish them well in the future, and we trust the bills we will be passing today will assist them to continue to provide quality education for Victorian, Australian and international students.

**Ms HARTLAND** (Western Metropolitan) — I would very much like to thank Mr Hall for the detailed way in which he has gone through these bills, so I will not cover much of that detail. I want to speak mainly about my dealings with and feelings about Victoria University, but I would like to start by acknowledging the importance of Victoria University to both the western suburbs and Victoria as a whole. I studied at the St Albans campus of the university as a mature age student.

Support services available at Victoria University at the time made it possible for me to come back to education at the age of 40 to earn a professional qualification for the first time. I made good use of the student services because I had left school early and there were gaps in

my school education at a government school in Morwell. I can make jokes about my lack of education. In this place I might be seen as a troublemaker — maybe we can blame Victoria University for some of it, but it probably preceded that time — but the government should not remove the university's obligation to foster education opportunities for students like me in the western suburbs.

Before I did the VU course I was a home-care worker on a relatively low wage, but once I was qualified I was able to get a much better job with Western Region Health Centre, and in fact the job paid double what I had been paid. Mature age education is a way out of poverty for women. The staff at VU are incredibly dedicated. They care about education and they care about the western suburbs. Many staff are drawn to the university because of its special place in the community.

There are plenty of intelligent people in the western suburbs, but many of them miss out on a university education because they lack opportunity. Some people were born in countries where war or extreme poverty prevented them from realising their potential. Others have simply had the disadvantage of coming from an underresourced state school in Victoria, and I put myself in this category.

I could go off on a tangent here and talk about the utter irony of the 'My school' website. The government keeps saying it has something to do with choice, as if everyone has the choice to whisk their kids out of an underachieving school. We should be improving schools and not naming and shaming already disadvantaged schools.

The state government should be encouraging Victoria University to strengthen its commitment to creating education opportunities for schools in the western suburbs, and one of the real problems with the bill is that I believe it has reduced it. But with the help of the government we may be able to bring it back and the bill will strengthen it.

Victoria University has a special place in the western suburbs. It was established after many years of struggle in the west for a university of our own. The Victoria University of Technology Act 1990 recognised in the university's objects its unique status. Section 6(i) of the act provides for the university to foster educational opportunities in the western suburbs. Of late this must indeed have been a troublesome clause for the university as it has been trying to cut costs and slash staff and the support services that made it possible for

disadvantaged students to achieve their degrees. It has been troublesome enough for that preamble to have gone missing from the Victoria University Bill 2009. Instead at this stage the government has inserted a preamble about the western suburbs. However, there has been an indication from the government that it will accept our amendment.

Initially when the government was briefing the Greens on the bill it advised that the preamble is legally the equivalent to the content of the legislation. The government has legal opinion to prove it, but I suspect it is in a tightly locked drawer somewhere. I was not convinced about it then and I am not convinced now. I have never seen a preamble like this. There has to be a reason for it, and the reason is that something very valuable used to be in the legislation and now it is not.

As I have indicated, I will move an amendment which in effect maintains the old section 6(i) in the Victoria University of Technology Act, under the same heading, 'Objects of the university', which will become clause 5 of the bill. Maybe now the government is coming around to our point of view. It has said the preamble is legally binding, but hopefully it has come around to supporting the idea that it is needed in the legislation and therefore will support the amendment. It creates no additional burden on Victoria University than the preamble would indicate. I am pleased the Minister for Education's office has indicated that the government is inclined to support the Greens amendment.

Obviously if this occurs it will be a very significant moment for us. Firstly, it will indicate that the government has a commitment to providing education in the western suburbs. Secondly, it will be only the second occasion in the history of our time in the Victorian Parliament that the government has accepted a Greens amendment. The only time the government accepted a Greens amendment up until now was on a technical issue to do with public reporting of levy money in relation to cemetery trust funds. This amendment is about much more substantial issues that affect the everyday lives of people in the western suburbs — issues such as education, social justice and access to resources.

A number of recent events have raised concerns that Victoria University is starting to move away from its special responsibility to the western suburbs. In 2007 the university retrenched 70 staff, in an austerity program that caused cuts to student services. Information obtained by the Greens via freedom of information showed that, at around the same time, the university held a New Year's Eve party for 90 people at

a cost of \$25 000. Over an 18-month period senior managers of the university spent a further \$71 000 on their university credit cards on entertainment at some of Melbourne's most expensive restaurants. One university councillor spent \$3600 on attending a Melbourne Football Club game.

In August 2009 cuts to Chinese, Japanese and Spanish teaching at Victoria University were announced. In October 2009 cuts were announced to maths courses, and the Australian Mathematical Sciences Institute said they would result in maths teacher shortages in western suburbs high schools. In November 2008 VU announced the closure of the Melton and Sunbury campuses and proposed 270 redundancies without prior consultation. Friends of Victoria University, of which I am a member, was formed in outrage at those cuts. They approached me to move this amendment, and I am happy to do so.

The university's campus in Sunbury has closed and has been leased to a private school on a 12-month lease. Unfortunately it looks like the door has closed for education in Sunbury, but maybe it is not locked. It is my understanding that the school does not want to stay on the site but wants to build on a new site as soon as it is able.

I have a letter from careers adviser Chris Bromley, who works at Kyneton Secondary College. He has some good advice for the government. He reminds us that the state and federal governments originally gave the Sunbury campuses, including beautiful heritage buildings, to Victoria University to be used for post-secondary education needs in Sunbury and the Macedon Ranges area. The amount of \$40 million was then spent on developing the buildings. However, someone forgot to put in the contract that if Victoria University does not want to use the gifts of land and buildings for local post-secondary education, it should hand them back. The university owns the land but cannot lease it for more than 21 years or sell it for more than \$5 million without the minister's permission. The minister should not give permission for this, and if she does, the Greens will campaign against the decision. Instead the minister should use this legislation, strengthened by the amendment from the Greens, to encourage the university to reopen the Sunbury campus.

When Victoria University closed the campus the vice-chancellor said that it was not really working to provide local education because only 6 per cent of the students were local. But, as Chris Bromley pointed out — and I would agree — if only 6 per cent of students are local,

the university should not close the campus but should try to figure out what courses it can offer to meet the aspirations of the other potential 94 per cent of local students.

It will not be big news to this house when I say that kids from private schools in the eastern suburbs are more likely to gain a place at university. They are no more intelligent than kids in the western suburbs, but they have more advantages — which are reflected in their higher ENTER (equivalent national tertiary entrance rank) scores. The final report on the Education and Training Committee's inquiry into geographical differences in the rate in which Victorian students participate in higher education clearly shows that students from interface suburbs receive lower ENTER scores than those from metropolitan or rural areas. The report notes that low achieving is linked to early school leaving and lower educational aspirations.

Youth support organisation Western Chances told the committee that perfectly capable students in the western suburbs of Melbourne can believe that higher education is not an option for them. Western Chances wrote in what is a heartrending submission:

They believe that they will not be able to get into courses; that university is just for 'rich private schoolkids' and so on. Our trainers observed several very intelligent students, who believe they could never get into a university...

A school captain at a Glenroy school, Ms Dalal Hamoud, submitted this passionate plea at the end of a submission about resources:

Why should a student who attends a school in the city, who has rich parents who give him/her everything and anything they need, have an advantage over us?

This isn't a complaint that they're richer than us but is more so a plea to get something done. We want the facilities they have, we want the care and attention they get, but most of all we want the marks and universities they get.

This is exactly the sort of student who will perform better at university than her ENTER scores would predict, compared with students who have been hot-housed. Students who have to overcome disadvantage at school are better at thinking for themselves and researching, and tend to be much more self-motivated and self-reliant. These are the skills you need at university, but they are not the skills that get you into university.

People in the west have lost so many education opportunities. Apart from the closures of campuses and courses, staff cuts have impacted on the ability of

academic and support staff to help students like me. As a mature age student, I needed extra support.

I would like to close by acknowledging some good things the university is doing, some of which have been made possible by the Victorian and federal governments. Research scholarships have increased to about \$2 million a year. The increase has been both in the amount per scholarship and the amount overall. Access and equity scholarships have increased from roughly \$300 000 in 2005 to an average of \$1 million a year for the past two years. The selection criteria for scholarships favour students who are at a financial, educational or social disadvantage. However, in my view, because of the unique circumstances of Victoria University scholarships, links with schools and educational opportunities should also favour students who have come from schools in the west.

Victoria University is not like the other universities. It was formed with a unique purpose to provide education in an area that was missing out. If it becomes just like all the other universities, then the unequal access to education in the west will become entrenched. I ask that my amendments be circulated.

**Greens amendments circulated by Ms HARTLAND (Western Metropolitan) pursuant to standing orders.**

**Ms TIERNEY** (Western Victoria) — I rise to speak in relation to the bills before us this afternoon that deal with the University of Ballarat, RMIT and Swinburne and Victoria universities. Prior to the Christmas break a number of bills were before the house in relation to the University of Melbourne, La Trobe University, Monash University and Deakin University. Whilst I touched on all of those universities during my contribution to concurrent debate on those bills, I spent some time on Deakin University as it has a significant presence in the electorate of Western Victoria Region, which I share with Ms Pulford.

I want to go through and talk about each of the institutions that we are dealing with today because this debate provides an opportunity to sit back and reflect on the activities of all four institutions. I think we have heard from previous speakers that the University of Ballarat is one of this country's newer universities, having been declared a university in 1994. The university merged with the School of Mines and Industries Ballarat, which had a campus in Ararat as well as the one in the heart of Ballarat, and with the Horsham-based Wimmera Institute of TAFE, which had a Stawell campus as well. Ms Pulford and I have

had a fair bit to do with the Horsham campus during our time as elected members of this place.

Whilst the institution was recognised as a university as recently as 1994, it actually goes back to 1870 when the School of Mines and Industries Ballarat was founded; this makes it the third-oldest tertiary education institution in this country. During this time, particularly with the recent mergers, the University of Ballarat has concentrated on the issues that confront the communities in which it has campuses, particularly Ballarat but also central and western Victoria. It has been able to do that at the same time as extending its strategic options within the region and overseas.

The university has spearheaded its way into making important connections between industry and tertiary institutions. It has been able to establish a very successful technology park that currently houses 10 organisations, including IBM's South-East Asia office and research component, the State Revenue Office and Ambulance Victoria, so we have services as well as technology and education and research merging. That is creating a lot of interest and delivering enormous benefits to the local community.

The institution combines teaching and research, especially teaching which is informed by that research. It continues to be highly relevant, particularly with the work that is undertaken by the Institute for Regional and Rural Research and Innovation.

In terms of my experience with the University of Ballarat in Ballarat, at all the community functions that I can recall the university has been not only present but involved in all the planning and rigour that is associated with making sure that it is not just a university that happens to have its major campus in Ballarat but is integral to and integrated into the community and is part and parcel of ensuring that there is a progressive agenda.

I think members of this chamber will recall that in the latter months of last year we had the fortunate experience of having the leaders of Ballarat here at Parliament House. For a whole week we had the opportunity to see and talk to a range of people connected with Ballarat as well as the townships around Ballarat in Queens Hall. It was a showcase of what Ballarat and the surrounding community has to offer the rest of Victoria, and it showed that very strong marriage between the University of Ballarat and the whole area.

Every opportunity I have had for contact and a relationship with the University of Ballarat has been

very positive. It has always been particularly interested in the parliamentary committee that I am on, the Rural and Regional Committee, and it has made a number of submissions to the inquiries I have been involved in over the last three and a bit years. I am sure Ms Pulford will also have some comments to make about the University of Ballarat because it really is one of the absolute gems that we share in the electorate of Western Victoria Region.

As Mr Hall said, RMIT University began as the Working Men's College in 1887, and traditionally it has been a strong trades and technology-driven institution. However, whilst that tradition has been retained, RMIT has broadened its scope to deliver a whole range of different courses over the last 25 years. International development, psychology, sociology and a number of other schools are now part and parcel of RMIT. RMIT engagement initiatives span a full range of university endeavour.

RMIT is engaged in research, learning, teaching, student experiences and social responsibilities, but it also has a campus at Hamilton, another location that is in the electorate of Western Victoria Region. In recent times the Rural and Regional Committee has called on the services of academics at that campus to assist with its inquiry into regional centres of the future, and it is good to have academic experts of the calibre that we have in Hamilton who can be part and parcel of the very engaging debate on regional development that we have had right across this state.

Victoria University is a university with a strong tradition in the area of technical and further education. It was founded in 1916 and became a university in 1990. As we have heard, Victoria University is one of the largest universities; it is culturally diverse and has a high proportion of people from lower socioeconomic backgrounds — I think Mr Hall gave a figure of at least 20 per cent. The university is very much tied to the western suburbs, but it also has a number of other campuses as well. It is an institution that has been born out of those suburbs and very much reflects them in the way that it delivers its courses, but it also ensures that there is inclusion from those suburbs.

Swinburne University became a university in 1992. Essentially it was established in 1908 in the eastern suburb of Hawthorn, but it has grown from being a local provider of technical education into being a multidiscipline multicampus provider of higher education.

I am particularly interested in, and have been for some time, something that Swinburne has excelled at — that is, the application of industry-based learning programs. Swinburne was definitely a pioneer in that area. In my previous life in the car industry my direct experience of contextual industrial-based learning was with RMIT and Victoria University. It was important to ensure that not only skills were imparted but that there was ongoing commitment to adult education. We were able to ensure that a number of vehicle workers who had not completed secondary school, who predominantly came from other countries and who were not necessarily literate in the language of their country of birth were able to participate in courses that were run by those institutions, but also all three institutions were prepared to sit down with us and consult with the workers about the types of learning experience they had had and about different education models to ensure that they had new opportunities. A number of stories could be told, let alone a number of PhDs written, about what occurred over those years.

Before us this afternoon are four bills which affect four different tertiary institutions. They are all different — unique — but their core objectives are to educate, research, impart skills, lead and strive for excellence. To enhance the activities of these institutions, on 5 February a review of the Victorian higher education legislation was announced. That is contained in the document I have in my hand which contains an introduction by the then Minister for Skills and Workforce Participation, Jacinta Allan.

The review was foreshadowed while a review was being conducted of other education and training legislation in 2005 and 2006. While the university acts are amended from time to time, there had never been a comprehensive review of the acts in total and against each other. This review was generally directed at developing robust legislation that meets contemporary needs and, as far as possible, contrary expectations, with two specific objectives.

The first objective is to provide consistent provisions, and a number of them have been drafted for all the university acts to ensure operational consistency across the sector where appropriate — and we have heard about that today, yesterday and in contributions about that prior to Christmas. The government consulted closely and exhaustively with universities to ensure that the revision of each individual act is in line with each university's objectives, and that each university will retain its own sense of history and identity. Although each university's act shares common features, it remains the case that Victoria's cultural diversity and

long history of education and training is reflected in the unique preamble of each university's legislation. The legislation has come out of this review process and will distinguish Victoria from other jurisdictions in Australia by ensuring that the legal framework for our universities is user friendly, transparent and entirely reflective of the needs and aspirations of our communities.

Universities are operating in an increasingly contestable and commercial environment, and they require some greater flexibility and less prescription in their governance and administration. Essentially the four bills before us modernise the foundation legislation of Victoria's universities to conform to contemporary standards and expectations, introduce greater flexibility in governance and administration, standardise powers and provisions across each of the university acts and remove redundant and obsolete provisions. Although some common features are shared by each of the Melbourne, Monash, Deakin and La Trobe University acts, as I said, it is important that the cultural diversity and long history of education and training at each institution is reflected in the preamble of each bill.

The minister will continue to be able to compulsorily acquire land under the Land Acquisition Compensation Act 1986, and the universities will still be unable to alienate any Crown land or land gifted by the state without prior ministerial approval. There has been a change to the maximum values of land or property. Similarly each university will be unable to grant or lease land or property for more than 21 years. I use that as an example to demonstrate the sorts of flexibilities that were envisaged not only with the streamlining contained in this bill but which are now required as our universities move into partnerships with a whole range of private institutions.

The technology parks that are being established in a range of institutions essentially mean we need to have a more flexible framework in which our universities can operate, and not just operate but excel and take us into the future. Higher education obviously plays a vital role in respect of the future of an innovative and creative economy in Victoria. The bills set out, I would argue, a contemporary legislative framework that is good for governance and administration of our universities and for the benefit of the people of Victoria and the wider Australian and international communities in which they serve.

Can I indicate at this point that the government will support the amendments put forward by the Greens that are before the house. On that basis I commend the

Victoria University Bill 2009, the Royal Melbourne Institute of Technology Bill 2009, the Swinburne University Technology Bill 2009 and the University of Ballarat Bill 2009 to the house.

**Mrs COOTE** (Southern Metropolitan) — I have great pleasure in speaking on these particular bills and in reiterating what Peter Hall said on behalf of the Liberal-Nationals coalition. Mr Hall gave a very detailed and explicit presentation, and I will not go over much of what he has said, aside from saying that the purpose of these bills is to abolish the existing university acts and to establish new acts setting out legal structures for the operation of these universities. The main provisions are to adopt template legislation that is being used for the eight Victorian-based universities. The composition of university councils will reflect current positions in each of their acts. In addition there are dual sector universities. One council member must have a substantial knowledge or experience of vocational education and training.

Of these university bills being debated concurrently today — the Royal Melbourne Institute of Technology Bill 2009, the Swinburne University of Technology Bill 2009, the University of Ballarat Bill 2009 and the Victoria University Bill 2009 — I want to concentrate on the Swinburne University of Technology Bill, which affects my electorate. There are two campuses of Swinburne in my electorate: the Hawthorn campus, which is the traditional campus, and the Prahran campus.

We have spoken in this place about the history of Swinburne, but I would like to put it on the record as well. Swinburne was established in the eastern suburbs as a technical college by George Swinburne, and the first students were enrolled in 1909. When the classes began they included carpentry — the college was just for boys — plumbing and blacksmithing. Soon a boys junior technical school and the first girls technical school in Victoria were established. The university is thus seen to be very much part of the innovation of Victorian schooling as well as of vocational schooling best practice, right throughout its history.

In 1913 the institution changed its name to Swinburne Technical College, which was in memory of George Swinburne, who by this stage was a former mayor of Hawthorn and member of Parliament. He was, as I said earlier, responsible for initiating this college. In 1965 Swinburne affiliated itself with the Victoria Institute of Colleges, which was established by an act of Parliament to foster and improve tertiary education in technical, agricultural, commercial and other fields of learning,

including the liberal arts and humanities, in institutions other than universities of Victoria. I will come back to that later because Swinburne — once again as a leader in its field — has some very innovative programs. As I said, I will talk about those in detail in a moment.

The range of courses and the various levels at which they were offered grew to such an extent that in 1969 the boys and girls technical schools were taken over by the Victorian education department. In 1976–78 there was the passing of Victoria's Post-Secondary Education Act, and under new arrangements Swinburne council was given power to grant bachelor degrees. As members can see, Swinburne has been right at the forefront of technical education in this state.

One of the turning points for Swinburne was 15 March 1993 when Richard Pratt was installed as Swinburne's foundation chancellor. I would like to say something about Richard Pratt's appointment. At the time Richard Pratt became chancellor in 1993 the university was just moving along: there was nothing innovative or exciting about it. After having had such an auspicious start and being a leader in the field for such a long time it was, it would be fair to say, just bubbling over.

Richard Pratt decided we really needed to have proper vocational training with jobs at the end. One of the things he did when he was the foundation chancellor — the first thing he did — was to make quite certain that the students leaving Swinburne actually got a job. This sounds quite extraordinary in this day and age, because we expect all children leaving these institutions to be able to get a job, but he made it a priority. He encouraged a rich relationship with the business community, the university committee and the student community. There was a lot of mentoring and networking, which was quite innovative at that time. I commend the late Richard Pratt for the work he put into that, because it certainly set Swinburne up for something very special for the period between 1993 and the present day.

I would like to talk about a couple of the courses that were initiated under Richard Pratt's guidance. One of them people would not normally think of as being something we needed to think about: the bachelor of circus arts. We look at the Cirque du Soleil, which comes to this country every couple of years, and we see the high performance of this French circus troupe and how well it does, but we have something far closer to home. We need to have courses that can give students the technical skills and encourage them to take up courses in the circus arts.

The key objectives of the bachelor of circus arts at Swinburne are:

... to produce graduates who are professional artists prepared to take their places at a national and international level in professional circus and physical theatre industry in a range of contexts and become leaders in the next generation of circus professionals ...

This information comes from the university website. The skills students will develop during the course include:

Basic training: flexibility, strength, conditioning.

Circus skills: aerial, acrobatics, manipulation, balance.

Performance skills: improvisation, clown, character, movement, dance, voice, act creation.

History and culture of circus.

Circus business and career management.

Health and safety in the circus environment.

When you read these details you realise that if we want to have a circus industry and to be seen as leaders in the world, it is important that we have people with skills such as the ones I have just read out. It is commendable that Swinburne, under the guidance of Richard Pratt, initiated such a creative course.

Another course at the Prahran campus is a TAFE course offering a diploma of specialist make-up. It is a one-year course, and once again it is important to understand why we need to have such courses. Not only do we need to have such courses to help and support our very rich and vibrant theatre and theatre production industry but we also need them for some other areas such as prosthetics and post-surgery requirements.

The course description on the website states:

Diploma of specialist make-up services students will gain application skills in prosthetics, special effects, stage, photographic, bridal, period, television, film and fashion make-up. Also, hairstyling, facial hair manufacture and wig styling and maintenance.

The course offers quite a variety of skills. Like the minister, I was smiling about the wig styling and maintenance; however, I remind all members of this chamber to think about people who have had severe chemotherapy who need to have wigs and for whom it is very important. It is not just for the theatre, it is also for social reasons as well.

The course aims to provide:

... training in all aspects of make-up beginning with morphology, the study of bones and muscles of the face ...

...

... period make-up, both in theory and practice, working through the decades to 1990s ...

...

prosthetic work including plaster impressions, clay modelling, the manufacture of latex pieces and bald caps for film and television ...

When we go to see films, watch television or go to the theatre to see plays, we should remember that there are people who have been trained at Swinburne University in the technical aspects of how to do this work using the best possible world practice. Once again I commend Swinburne for the scope, detail and excellence of its courses.

There is also a diploma of community welfare offered by the Swinburne campuses in my electorate. The website for this course states:

The diploma of community welfare is designed to equip participants with the skills, knowledge and understanding to work in the community welfare sector in service delivery to clients, in a wide variety of settings.

...

The course aims to provide participants with the knowledge, skills and values to perform competently as professional social welfare workers.

As we have an ageing population with a lot of challenges ahead of us, it is imperative that we have a trained workforce.

I commend Swinburne and the far-sighted approach of its founding chancellor, Richard Pratt. I believe it is going from strength to strength, and I commend everyone who has been involved with Swinburne and wish them a happy future in the coming decades.

**Ms PULFORD** (Western Victoria) — I am very pleased to rise and speak in support of the four bills which are the subject of this cognate debate today. In doing so I urge members to support the bills because, as we are all aware, education is the no. 1 priority of this government. From the early childhood years we need to ensure that all Victorian children have the best possible start in life, throughout their education, the transition to primary school — this is a very important week to be talking about education as so many Victorian students enter their new classrooms this year — the transition into secondary school and then along the different

pathways that are available to people in the latter years of their secondary education, including, for those for whom tertiary education is an option, into our universities and other higher education institutions.

It is the latter stages of the education life cycle of our young Victorians that we are discussing and the review that has taken place of the legislative arrangements that govern Victoria's eight universities. This review has already led to legislation in this place for four universities, and this debate today concerns the other four universities.

The review has considered matters of university governance, objectives of our universities, subordinate legislation, the capacity of our universities to enter into commercial arrangements and also, as in any legislative review, has considered obsolete measures and a modernisation of our legislation so that our universities can function in a modern and effective way.

Listening to previous speakers in this debate, I had cause to reflect on my experience at university. Whilst it is not such a terribly long time ago, since 1992 there has been an enormous change in the way that people can access a university education. There has been huge facilitation through IT innovation and the great take-up of the use of the internet leading to flexible learning opportunities that were really few and far between as recently as 1992.

Our universities have adapted well to the changing ways in which people need to interact with universities to fit their study around work and family commitments. Higher education is something that many people enter into immediately out of school, but for a great many other people, through circumstances and for reasons of finance, geography or family or other obligations, university study is something that they are able to enter into only at a much later stage in life. These are some of the types of circumstances that have required a modernisation of legislation governing universities so that they can continue to be flexible.

Many international students have a different set of needs and a separate set of demands of their education institutions. Study in the traditional two-semester block with a big three-month summer break does not suit all people any more. So, like anything else, the university sector has adapted and changed. These bills support that and, like the amendments to the Melbourne, Monash, Deakin and La Trobe university acts, the legislation we are discussing today continues that process.

Universities now compete in a way that they perhaps did not before. My niece has just been going through

that transition from year 12 into university. Over the summer just gone there has been a lot of conversation around the table at a couple of recent family events about the Melbourne model versus a more traditional model for a course that Melbourne University now has chosen to offer only as a postgraduate course. So evolution of this sector continues.

The review has sought to modernise the foundation legislation to provide greater flexibility in governance and administration, to standardise arrangements where that is appropriate and also to reflect the uniqueness of each of the four institutions.

The commencement date for the legislation is no later than January 2011, so universities will have 12 months to be ready for the new arrangements. Our universities in their governance arrangements will still be able to determine the number of council members within a range, and those councils will then be able to determine the role, function and responsibilities of the academic boards, academic structure and organisation and the naming of their various divisions as faculties, schools, units or institutes.

It is the government's intention that universities continue to be self-governing entities, and for that reason this legislation is not highly prescriptive but rather sets the framework. These bills require the appointment of a chancellor for a term of no longer than five years and define more clearly the roles of the vice-chancellor and the university council.

The legislation clarifies the circumstances in which universities can make rules around arrangements for library facilities and parking, use of their spaces for meetings and also the way in which universities can acquire property through gift, grant or bequest. The universities will be able to participate in the formation of companies, but this will be able to be oversights by the Auditor-General, who will have power to undertake audits of those types of companies. This is a reflection of the modern and global economy in which our universities operate.

Higher education plays an important role in our society in so many different ways. It is an absolutely essential part of our economy, but of course universities are institutions of learning and research, and that is their primary function. Many of the institutions have areas of some specialisation, and those specialisations contribute to the great cultural fabric of our society in a number of ways.

The four universities in question really have a rich history. RMIT has a longer than 120-year history and

has always sought to provide very technical and practical-based courses that are particularly adaptable to immediate employment. RMIT has many thousands of students in Vietnam, so I was interested to learn in a discussion with a colleague earlier this week that RMIT enjoys a reputation in Vietnam as that country's premier teaching institution. That reputation means there are many Vietnamese students learning both at home and here through RMIT.

As Ms Tierney said, RMIT has a campus in Hamilton — no doubt Mr Koch would know it well — which provides a great opportunity for people who want to study nursing in particular. I know one of the topics most dear to Mr Hall's heart is the question of how kids from rural and regional Victoria can access higher education, because of course there is an added imposition on families or on those students of supporting a move out of home. Study varies from course to course, but any type of study will impact on somebody's capacity to work any number of hours in the week, so it is always a greater challenge for kids from the country to study. RMIT at Hamilton provides a wonderful option for aspiring nurses in particular. Again, it is a course that has a great connection with industry and produces graduates who are absolutely ready to be caring for people in our health system.

Victoria University is a multisector university, one of four dual-sector universities in Victoria that deliver TAFE and higher education courses simultaneously. Those universities have many specialist research functions as well. Swinburne University of Technology, I was interested to learn, was built to service the needs of people in Melbourne's outer eastern suburbs. In 1908 the edge of Melbourne's outer eastern suburbs must have been about where the Hawthorn campus of Swinburne university is. I wonder at that, because when I was at Monash University, that was planned to be in the population centre of Melbourne. Of course as the state grows over time and the population moves around, the locations of these campuses become a bit of a mark in time of where there was great demand for education.

It has been a while since Hawthorn was considered an outer eastern suburb. Many specialist courses and industry-based learning programs are delivered through Swinburne University and others have spoken about that.

The University of Ballarat Bill is the fourth piece of legislation which is a part of this cognate debate. The University of Ballarat is a central part of the Ballarat and district community. The university is to be congratulated on receiving a five-star rating for

teaching quality in the 2010 *Good Universities Guide*. It has also received a five-star rating in the non-government earnings area. There are many Indian students at the university and in the Ballarat community. Notably the university received four stars for the number of students going into full-time work soon after graduation, which is an essential part of what education is all about. It is an important thing in and of itself, but for most people it is about being able — as Ms Hartland said — to get a better job and do new and interesting things.

On the topic of employment, the University of Ballarat has a special relationship with the University of Ballarat Technology Park, which houses the State Revenue Office, the Rural Ambulance Service, IBM, the Greenhill Enterprise Centre and the Global Innovation Centre, which currently employs around 1400 people. A remarkable expansion can be witnessed there.

Another 300 jobs are anticipated to be created following a \$10.8 million investment from IBM in partnership with the City of Ballarat, the University of Ballarat and the Victorian government, which contributed \$5 million through the Regional Infrastructure Development Fund.

Ballarat University has three campuses in and around Ballarat. There is the old School of Mines campus which provides TAFE programs, the Mount Helen campus which provides bachelor degrees and higher qualifications and the Camp Street campus, which is in the heart of the city, located in what is becoming a quite lovely arts and cultural precinct between Her Majesty's Theatre and the art gallery. The Camp Street campus has programs including theatre, music, graphic design and traditional fine arts.

As Ms Tierney indicated, three other campuses are located throughout our electorate of Western Victoria Region. They are in Stawell, Ararat and Horsham. The location of university campuses in those places opens up a world of opportunities for young people living in or near those centres, as the people who live in the towns are able to access education close to home. A whole lot of other people who live within reasonable commuting distance are also able to access education. The University of Ballarat has a tremendous commitment to providing educational opportunities for young people throughout regional and rural Victoria. The vice-chancellor, David Battersby, is a particularly strong advocate of this cause.

**Mr Hall** — He certainly is.

**Ms PULFORD** — Yes, he certainly is, Mr Hall. The retention of young people and young people with skills and qualifications is critical to the lifeblood of our country communities. In 2009 the University of Ballarat had around 25 000 students, including 7500 international students, across six campuses. Many of them will go on to live in Victoria. The university's figures tell us that three in four of the undergraduate commonwealth-supported students at the University of Ballarat go on to work in regional and rural areas following graduation. You really cannot put a price on that kind of investment in our regional communities. They make a sensational contribution.

The University of Ballarat has some notable alumni including: former Premier Steve Bracks, which is of no surprise to anybody; Olympian Steve Moneghetti; Kiran Mazumdar-Shaw, who is India's richest woman and the chief executive officer of Biocon; and, as I was interested to learn in preparation for my contribution to this debate, Dr Cyril P. Callister, the creator of Vegemite. How is that for a feather in your cap?

The University of Ballarat has recorded an increase of more than 20 per cent in first-round offers to prospective students compared with last year. The institution is important to my electorate and to those many thousands of students participating in their learning there.

These bills will enable our universities to continue to flourish and adapt. Victorian universities employ more than 28 000 people and educate a great many more.

In conclusion, I would like to urge the speedy passage of these four bills and congratulate all the fine educators in our higher education sector. Given it is the start of the year and that students will be heading off to their orientation week activities in the not-too-distant future, we wish all Victorian students well in their studies this year. I commend the bills to the house.

**Mrs PETROVICH** (Northern Victoria) — I rise to speak in the concurrent debate on these university bills, and in particular I would like to make a contribution on the closure of the Victoria University (VU) campus in Sunbury. The purpose of the bills is to abolish the existing university acts and establish new acts setting out the legal structures for the operations of these universities.

The main provisions of these bills adopt the template legislation which is being used for the eight Victorian-based universities and the composition of the university councils reflect provisions in each of the current acts: Swinburne — one from the outer eastern region;

Ballarat — two from Ballarat and one from the Wimmera; Victoria University — three who live in and around the western metropolitan region; and RMIT. These are dual-sector universities and one council member must have substantial knowledge or experience of vocational education and training.

I would also like to acknowledge the proposed amendments to the Victoria University Bill that have been circulated by Ms Hartland for consideration.

To start, I take the opportunity to highlight the travesty of what has occurred in the Assembly seat of Macedon and how that has impacted on the lower house electorates of Melton and Seymour and those communities that have relied on the services provided by Victoria University at Sunbury. This has occurred under the guidance and with the full knowledge of the former Minister for Skills and Workforce Participation and current Minister for Regional and Rural Development, Ms Allan, and has received an apathetic response from the members for Macedon, Melton and Seymour in the Assembly. I will articulate this a little later in my contribution while discussing the catchment of this university and how this closure will directly impact on those communities and how difficult it will be. It is a valid point to make that as a result of this closure there will be no university or TAFE campus along the Calder corridor — that is, no such facility between Bendigo and St Albans.

VU has been loved by the people who have attended there. Staff members have had a very good reputation and have been very well regarded by the community and by those who have studied there. As Ms Hartland said earlier, it has provided a great opportunity for mature age people, particularly mature age women who may not have been able to attend university full time because of child-rearing responsibilities. They have been able to access the Sunbury campus especially from the area where I live, which is the Macedon Ranges, but also from Kilmore, Wallan and other areas as well as those western suburbs areas such as Melton.

VU has given those people an opportunity to aspire to attain a tertiary education and a university qualification and to achieve one. The Sunbury campus provided a good focus for business education and TAFE nursing. I know from discussions with the students there that it had a marvellous music program and a fantastic hospitality facility.

I have heard from many people who have expressed their anger with Victoria University over its intention to close the campus. I feel great sadness for those future

students who will be denied access to it. Many of the younger people who accessed that campus came from areas in the Macedon Ranges as far away as Kyneton. Some of those kids might not have had high ENTER scores but they were able to access that university and it has given them a foothold into tertiary education which they would not otherwise have been able to achieve.

I always think education can be a modular experience and not everybody goes through and does their degree in one block. We are not all the same; we all have different circumstances. This university, because of its location and the types of subjects it offered, enabled those people to have a building block from which they could complete a worthwhile education, improve their financial situation and career opportunities, and make better lives for themselves.

There have been a whole series of events which I will talk about briefly. There is a chronology of how this has happened. It is a travesty. It seems to have gone through without a blip on the radar from the communities outside that education precinct and those students directly affected by it.

The facility was originally the Caloola Training Centre. It was gifted by the Kennett and Keating governments and was designed to provide an extra 1500 further and higher education places by 2003. That was effectively 3000 full-time student enrolments, which is quite significant. However, that was not achieved. Whilst many of the programs offered at the campus were of a very good standard, the majority were of a low standard. They produced a low demand in such a broad catchment, and that was not a very good outcome. Unfortunately I think this campus was set up to fail before it started.

In April 2008 the Noonan report was published. It was commissioned to examine the demand for tertiary education in outer western Melbourne, which sounds like a fine ideal. It correctly identifies the importance of local access for a wide range of potential students from school leavers to adults returning to study. It identifies the necessity of providing appropriate courses to attract students and other positives.

The demography in this report is a bit of a mess. It states on page 12 that in 1993 Sunbury had a population of 51 000 when in fact the 2004 census data shows a population in the Sunbury ward of the Hume City Council of just over 30 000. One thing that it does not take into consideration is the catchment of that university campus — that is, including places in Macedon Ranges such as Kilmore, Wallan and

Broadford. It simply focuses on and is a snapshot of Sunbury. When we look at future planning and how we are to develop growth corridors and urban growth boundaries that we are all talking about, it highlights that this government has an inability to plan for growth and an inability to consider the importance of infrastructure and how people will need to live their lives. It does not consider the need for schools and hospitals, appropriate housing, open space and universities. That report does not recommend the closure of the Sunbury campus, but there was a subsequent report called the Bradley review.

Vice-Chancellor Elizabeth Harman referred extensively to the Noonan report in her submission to the all-party parliamentary inquiry into geographical differences in student participation. The final report of that inquiry was published in 2008. One of the terms of reference for that inquiry was to improve access and outcomes for students from lower socioeconomic backgrounds. The report refers specifically to challenges in outer metropolitan provision. It refers to demographic data for future growth in school leavers which it says will occur in outer metropolitan areas — and this is a fairly important part of my contribution — these primary areas of low-to-middle socioeconomic status with low participation in higher education.

Extraordinarily the panel conclusion was that additional Australian government funding should not be earmarked to support smaller outer metropolitan campuses. It determined that these campuses should grow and decline in response to planned decisions by providers and that structural adjustments funding should be made available to enable this to happen. I think that is contrary to where we need to be. If there is a demonstrated need, then there should be some requirement for that to continue to be met.

In 2009 the Deputy Prime Minister and federal Minister for Education, Julia Gillard, agreed to transfer higher education places from Melton-Sunbury to other VU campuses, and I think this signed the death knell for Sunbury.

There are some issues around this. The Sunbury campus is now closed for business. Many of the students who would have attended Sunbury have now moved on to other universities. The focus that has been put on sporting programs is a travesty; it is all about sport in the western suburbs. It seems to be the new focus. That is fine. A lot of money has been put into that in collaboration with the Western Bulldogs, but unfortunately we have lost the diversity of programming that we would expect. Everybody wants

to be a personal trainer, but there are simply not the jobs out there. There is a level of responsibility required in promoting that career path.

I could talk for a lot longer, but I know that we are pushed for time today. On behalf of my constituency I register my displeasure at the closure of this university. I wish Ms Hartland success with her amendments.

**Mrs PEULICH** (South Eastern Metropolitan) — I would like to make a few remarks on this bill, which is a little flat-footed.

The coalition is supporting the Royal Melbourne Institute of Technology Bill, the Swinburne University of Technology Bill, the University of Ballarat Bill and the Victoria University Bill. These bills are all similar in nature. They establish consistent governance arrangements for the four Victorian universities by the adoption of template legislation that had been used for the other four Victorian university bills previously debated and passed by this house.

This legislation is part of that national approach to get consistency across Australian universities, yet in Victoria the university governance legislation is a state responsibility. The vast bulk of government funding is from the federal government, and the arrangements, programs and the oversight of universities are all largely a federal government matter, but the universities are creatures of the state government. The states rightly have some controlling interest in universities. After all, the universities were established within the states and it is important that we retain that control and oversight.

It interests me that a broader debate has not taken place on the question of who should be responsible for the universities of Australia. I guess the government is preoccupied with trying to find various ways of extracting more fees out of TAFE students and generally making life difficult for young people who are trying to get an education rather than genuinely engaging in important educational debates.

Having the right governance arrangements is very important. Each of these bills looks at the structure of the university's council. It renames each vice-chancellor as president to reflect broader roles, a more global presence and a broader range of business interests. I think that is appropriate. A greater degree of flexibility needs to exist in these governance arrangements. The bills look at programs and structures of the organisation and the right to develop statutes. All that is good stuff.

In addition to having the right governance arrangements we need a number of other things for an effective higher education and tertiary system. Education needs to be affordable. We have the higher education contribution scheme, or HECS. You have to give it credit. It is a very good system.

My son was lucky enough to get a scholarship to go and study in New York for four years. It did not cost us a lot of money in terms of the payment for tutorials, but all the additional costs were substantial. Parents in the United States make a huge financial sacrifice for the university education of their children. Graduation is such an important milestone in the lives of those families and students because they have made a huge financial commitment. That is not to say that our students do not make a financial sacrifice. They do, but it is much smaller. HECS makes it possible for them to incur that debt and then repay it over time as their earnings increase. Some students incur fairly substantial debt so it takes them a bit longer to pay off the debt.

Universities need to be accessible. It is great that we have in these universities a strong regional presence, because the challenges facing our regional and country students are greater than for those who live in metropolitan Melbourne. Online education provides access to educational opportunities for those who live in remote areas or whose lives do not allow them to attend a university campus. The four universities are dual-sector institutions, with a TAFE component as well, so there is a reticulation of education from one to the other. These are all positive improvements in the delivery of education in this state and this nation.

The costs involved in gaining a university education are prohibitive and young people need to be able to utilise various services that are available through our education sector. First and foremost of these services is student accommodation. It is too expensive, and it is particularly expensive for our international students. University placement of international students is a large, multimillion-dollar industry in Australia. Revenue earnings are something like \$3 billion to \$4 billion per year. Yet we have seen the problems facing Indian students and students from other countries who come here. They have had a rosy picture painted about life in Australia and how they are going to get wonderful jobs, or they have perhaps underestimated the cost of living.

Affordable, safe student accommodation is very important. The new, modern structure for the universities as outlined in this legislation will allow them the opportunity to pursue some commercial

opportunities and make it possible for them to pursue this more assiduously and hopefully as a goal and a priority. Our young people need safe, affordable student accommodation, and this is the big challenge for our university sector.

The welfare of students continues to be a priority at universities. Our tertiary education institutions need to have foremost in their mind their ability to earn some income support. There are difficulties involved in registering for the youth allowance. As a result of the federal government reforms, the time it takes to qualify to receive the allowance has increased. These sorts of problems will make the life of students even more difficult, as will the award reforms that we heard about this morning. A casual employee will now need to work a minimum of 3 hours per stint as opposed to 1 or 2 hours, for example, or anything that might come their way. I worked during my time at secondary school and worked my way through university. I think it was not until I graduated with my first degree that I had the experience of going shopping on Friday night or Saturday morning, because I worked my butt off —

**Hon. J. M. Madden** — And you have not stopped since.

**Mrs PEULICH** — Absolutely. I have not stopped working since.

**Hon. J. M. Madden** — You haven't stopped shopping!

**Mrs PEULICH** — No. In fact I detest shopping. My notion of window-shopping is flicking through the junk mail in my letterbox. That is about it.

All I am saying is that if we are to be an egalitarian society, then we have to provide for and harness people's aspirations. It does not matter what their origins are or what their status in life is. Even someone who has no money or who came here as an immigrant with no money and no knowledge of English has to believe the system can make all things possible, and it can. We have to make sure young people and families can work their way towards realising their dreams. Both this government and the federal government are making that much more difficult.

Affordable transport is crucial for young people. My second degree was completed at the Clayton campus of Monash University, getting to which by public transport is immensely difficult. What we should have had was a railway station there to begin with. Hopefully in the future when educational institutions are established much more planning will go into transport. I

am not suggesting it will be, but transport is crucial if there is to be an effective mix and access to students.

In terms of quality and range of courses it is crucial that we provide equality of education. As Mrs Coote said, at the end of the day it is about getting jobs. Many institutions are doing a sterling job at the moment, and I hope that continues well into the future. Flexible delivery modes are crucial. As I said before, it is regrettable that the government has gone down the track of TAFE reform. People may need retraining, particularly those who have their first diploma and who as a result of either having to return to work or perhaps changing directions now have to look at taking out higher education contribution scheme-type loans in order to access a second diploma at TAFE. Of course this affects many women. It is a mixed bag. Many universities are very good at looking after themselves, but we have to make sure that government policies across all levels are complementary and make it easy for them to do their job.

As I have said before in the house, the absence of effective and integrated technical education at the secondary school level since the Labor government's closure of technical schools in Victoria in the 1980s has left a very big void from which we have not really recovered. Our dual-sector institutions, which have a TAFE component, are very important in trying to fill some of that void and in making up for some of the deficiencies, and that continues. In fact the other day I was reading a paper which said that in the 1970s or 1980s there had been a shortage in about 36 skill areas. Now it is down to about 34, so we have not really made a lot of progress in terms of addressing skill shortages in the state. It requires forward planning and effective and integrated technical education at the secondary school level to feed into TAFE and our university sector.

The dual-sector institutions are very important when there are skill shortages. They have to be commended for the work they do in bringing a broader range of opportunities and entry points for Victorians and of course for our international students as well — especially when you look at Ballarat and at the outer eastern or western suburbs where there are not the same number of educational institutions — into one usually fairly convenient area served by public transport.

A broad range of educational courses can be undertaken not only by young students but by the mature workforce as well. The reticulation in the dual-sector in particular works very well. Education is a lifelong pursuit. On average all of us intend to have seven or

eight career or job changes in our life and so education is very important.

We have a diverse range of universities, courses, areas of study and individuals in Victorian universities. This diversity is a strong point for Victoria. Universities and educational institutions are a strong point in what Victoria can offer the people of Victoria as well as those from around the country and internationally. The diversity is our competitive strength, and it is important that the legislation will enable individual universities to continue to prosper and grow. It will enable them to expand into other areas of interest, not only in terms of where the campuses are but also in their research and the structure of the courses they offer. The Auditor-General will continue to have oversight of our universities as well as the Parliament, and that is entirely appropriate.

The objects of the various provisions of the legislation are expressed in broader terms, and clearly that reflects the realities of modern-day universities and their tasks. In recent times how universities are governed, the courses they offer and the people who attend them have changed significantly from, say, 30 years ago. This includes the interaction with international students, courses being available online and research being conducted, although unfortunately in many instances there is not sufficient emphasis on research. Universities have partnerships with business and with medicine or whatever the case may be.

I wish all in that sector well, and I urge them to take very seriously the challenges that exist, in particular in dealing with student welfare, student accommodation and transport. By keeping education affordable and accessible we will retain our competitive advantage and that is crucial to what we have become over the last 20 years which is much more of a knowledge nation.

In closing I want to say what a bad move it was to reform the youth allowance and make it so much more difficult for our regional and rural students and for students in general to qualify for the youth allowance. I think it is a travesty. When that is combined with the award reforms which make part-time work much more difficult my fear is that we will end up being a two-tiered country where education is more available to those who are financially well off, and the working class and the impoverished will have fewer chances to take advantage of our wonderful education system that this legislation is helping to flourish and strengthen.

**VICTORIA UNIVERSITY BILL***Second reading***Motion agreed to.****Read second time.****Committed.***Committee***Clauses 1 and 2 agreed to.****Clause 3**

**The DEPUTY PRESIDENT** — Order! I invite Ms Hartland to move her amendment 1, which I indicate to the committee I consider will be a test for amendments 2 to 4.

**Ms HARTLAND** (Western Metropolitan) — I move:

1. Clause 3, page 5, line 12 omit “Visitor.” and insert “Visitor;”.

This has been a very interesting debate because we are all in fierce agreement about the need for really good and diverse education. The amendment by the Greens takes the commitment to education in the west, which was in the Victoria University of Technology Act, and brings it into the new Victoria University Bill. When I say ‘the west’ I need to be able to specify what I mean by that. It is shorthand for the areas served by Victoria University, including the western and northern suburbs, and the peri-urban area serviced by the university campuses, including those at Melton and Sunbury. These areas are defined in the amendment.

As it stands, the bill omits Victoria University’s legislative commitment to the west and replaces the obligation in the former Victoria University of Technology Act with a set of broad statements in the preamble. The Greens amendment seeks to create an obligation for the university to develop and provide services and foster participation in the western region. As an example of this — and this has been spoken about in the debate in the other house — the university has decided to drop maths and languages in favour of building a sports science centre at the Whitten Oval. I disagreed with that decision, but now that it is going ahead I want to make sure the sports centre is filled with students from the west.

I had a really good time when I was a student briefly at Victoria University, and I think education is incredibly important, especially for mature age students. This

amendment is very important because Victoria University needs to remain bound by the obligation to expand education opportunities in the western suburbs. Otherwise, who else will break the cycle of students in my area thinking they are not good enough to attend university?

**Mr HALL** (Eastern Victoria) — I will ask Ms Hartland just one question about this amendment. I think Ms Hartland indicated in the second-reading debate that the amendment was requested by the Friends of Victoria University. I would like to know whether representatives of the university itself have been consulted on this amendment and, if so, are they comfortable with it?

**Ms HARTLAND** (Western Metropolitan) — The university people have not been consulted, and I doubt very much that they are comfortable with it. That is why we are moving this amendment: we think they have moved away from their obligation to provide education in the west.

**Hon. M. P. PAKULA** (Minister for Public Transport) — If I could provide assistance to Mr Hall on that matter, I understand that Schools Victoria officers have indeed spoken to people at Victoria University about the amendment, and they are quite comfortable with it.

**Ms HARTLAND** (Western Metropolitan) — That is excellent to know, and I hope their behaviour will change to indicate they are comfortable with it.

**Amendment agreed to.**

**Ms HARTLAND** (Western Metropolitan) — I move:

2. Clause 3, page 5, after line 12 insert —

“*Western Metropolitan region of Melbourne* means the following —

- (a) Brimbank City Council;
- (b) Hobson’s Bay City Council;
- (c) Maribyrnong City Council;
- (d) Moonee Valley City Council;
- (e) Hume City Council;
- (f) Wyndham City Council;
- (g) Melton Shire.”

**Amendment agreed to; amended clause agreed to; clause 4 agreed to.**

**Clause 5**

**Ms HARTLAND** (Western Metropolitan) — I move:

3. Clause 5, page 8, line 18, omit “otherwise.” and insert “otherwise;”.
4. Clause 5, page 8, after line 18 insert —

“( ) to develop and provide educational, cultural, professional, technical and vocational services, and, in particular, to foster participation in post-secondary education for persons living or working in the Western Metropolitan region of Melbourne.”.

**Amendments agreed to; amended clause agreed to; clauses 6 to 74 agreed to; schedule 1 agreed to.**

**Reported to house with amendments.**

**Report adopted.**

*Third reading*

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the bill be now read a third time.

In doing so I would like to thank all members of the chamber for their contributions to the debate. Additionally I would like to thank Larry Isaac, Tom Johnson and Jane Atkins for their assistance in the drafting of the legislation and the principles upon which it is based.

**Motion agreed to.**

**Read third time.**

**ROYAL MELBOURNE INSTITUTE OF TECHNOLOGY BILL**

*Second reading*

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

**SWINBURNE UNIVERSITY OF TECHNOLOGY BILL**

*Second reading*

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

**UNIVERSITY OF BALLARAT BILL**

*Second reading*

**Motion agreed to.**

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

*Third reading*

**Motion agreed to.**

**Read third time.**

**PLANNING AND ENVIRONMENT AMENDMENT (GROWTH AREAS INFRASTRUCTURE CONTRIBUTION) BILL**

*Second reading*

**Debate resumed from 10 December 2009; motion of Hon. M. P. PAKULA (Minister for Public Transport).**

**Mrs PETROVICH** (Northern Victoria) — I rise with no pleasure to speak on this piece of legislation. I have followed this since February 2009 when residents were notified by mail in the week after the fires of 7 February about what was to be imposed on their rights, their land and their earnings, and given one week to respond. As we know, many of those people were displaced, and many of those people did not have letterboxes. Those who had not been fire-affected were helping others who had been fire-affected. So this was imposed right from the start with a most insensitive and ill-conceived approach to consultation.

Since then I have attended a number of public meetings. Most of them have been very well attended with 500, 600 or 700 people who are directly affected by this ridiculously thought-out piece of legislation. It is quite frankly just a cash grab. It is about the Premier and the Treasurer, Mr Lenders, putting both of their hands very firmly into people's pockets to remove a large part of their asset base.

The group Taxed Out has formed, and I would like to commend it. It is a most organised group of people who have come together from diverse backgrounds to oppose this insidious tax. It collected 4798 signatures on petitions which I have tabled in the house. These people are not only farmers or country people; many of them are city residents who are definitely opposed to the growth area infrastructure contribution. This contribution, or development tax, of \$95 000 per hectare is to be paid on the sale of residential land which will be rezoned by Melbourne's growth area authority. The majority of that land is on the fringes of Melbourne, so that growth boundary area has been held by farming families and small landowners. Many of these people actually enjoy a country lifestyle and still contribute to agricultural purpose.

I have spoken previously about lack of planning on this government's part. When we look at what happens in other countries with food production and lifestyle, I think there has been very little thought put into this except the government has recognised that Melbourne 2030 was a complete failure and that the government needed to house an additional 1 million people. The claim we hear all the time is that the government needs to house people.

**Mrs Peulich** interjected.

**Mrs PETROVICH** — They did not even plan properly for Melbourne 2030, Mrs Peulich. That is absolutely right. Now the government has been stuck with looking to expand that — —

**Mr Barber** interjected.

**Mrs PETROVICH** — Is that right, Mr Barber? Unfortunately there are people involved who were not consulted. I have heard many instances in which this contribution has exceeded the current land valuation, and that is a real problem for many people. One person I have spoken to is a woman called Jeanette Laffan from Taxed Out. She has spoken out very loudly about how the group is opposing the tax and reiterated that it is not just the affected landowners who realised the injustice and absurdity of this tax but many other people who are opposed to it. We see a new minister

sitting opposite me who is unfortunately not in the chamber at the moment. Mr Madden has been given the responsibility — —

**Hon. M. P. Pakula** — The one sitting opposite you is in the chamber.

**Mrs PETROVICH** — Minister Madden is not in the chamber. He should be.

**An honourable member** — Callous disregard!

**Mrs PETROVICH** — It is callous disregard. Incidentally, Minister Madden is the minister who has been given the respect agenda portfolio. This is the minister who has failed to listen to people and failed to meet with people after numerous requests from people who have been frightened, upset and distraught for well over 12 months now. He has failed to properly understand the issues, as we have heard many times in this chamber, and he has failed to treat country Victorians in a fair way.

The minister has failed to realise the consequence of his ill-thought-out actions and his ill-thought-out tax. He has also failed to provide evidence to support his claims that the growth boundary provides a significant value increase to property included in the boundary. He also has failed to make public the report on which the urban growth boundary tax is based. If this minister is the Minister for the Respect Agenda, I think his portfolio — —

**Mrs Peulich** — Such a joke! A bad joke!

**Mrs PETROVICH** — It is a joke, Mrs Peulich. I think his title should be changed to the Minister for No Respect — no respect for property, no respect for the rights of the individual and no respect for the rights of people to achieve a capital gain from the sale of their property, which is worse.

The changes to the proposed tax announced on 16 October, which transferred the tax to the purchaser, did nothing to fix the issue. This tax remains payable on the first sale or subdivision of land. This tax is still applicable at the flat rate, regardless of the sale price. Unfortunately development time lines are not taken into account. The landowners will be directly hit with the tax as it will be factored into the price of anyone willing to pay. Lending institutions will only lend against a property's market value, not the value plus the GAIC (growth areas infrastructure contribution) liability. It is insidious stuff.

In effect the GAIC freezes personal land assets until development is imminent, which in many cases could

be — who knows? — a decade away. In the meantime landowners, because of increased valuation at local government level, will have to pay higher rates. All landowners within the new and existing growth areas are to have a notice registered on their certificate of title warning the purchasers will be liable for the GAIC tax if they purchase. These landowners are now branded. In other terms this is almost a restriction of trade. I do not know how we could devalue anyone's credit rating in this way. The option to pay the tax up front or defer the liability and incurring it at a rate that is indexed annually means that most will be facing a compound liability. It just keeps going on.

The fact is that urban development is many years away in some areas. Even if a farmer or landowner wanted to retire, he or she will have the liability of \$95 000 per hectare, even if the land sells for much less. It is just a grab for cash. Property owners who now fall under this new urban growth boundary will be stripped of their fundamental right to decide where they can live and when they can move on. This change affects a whole range of things. It affects families if there is the unfortunate circumstance of a divorce and they are forced to sell, or if there is a bereavement. With this pending tax liability all landowners in these areas have become overnight a major credit risk through no fault of their own.

Make no mistake, this is a financial crisis for many of these landowners, and it lies 100 per cent squarely on the shoulders of the absent minister for respect and Minister for Planning, Justin Madden. The very least he could have done was to have sat down with those people and had the decency to show them respect by having a discussion with them. These people have asked for the Charter Keck Cramer report, which was the basis of this push to bankrupt landowners whose property falls within the urban growth boundary, and I would like to know why it has been hidden. I can assure the minister that even if he has not read it, there are plenty of people out there who would like to.

In some respects it would be good to get this legislation out of the road, because I know it has caused enormous emotional distress to those people who have been caught up in it. It has taken an inordinate amount of time for those people who have committed themselves to fighting this tax, and I commend them for doing so. However, we need to be clear.

We in the Liberal-Nationals coalition support the system that has prevailed — that is, that a developer pays the tax after the purchase of the land. This has always been the case and has always worked reasonably well. I have talked to developers, so I know

they are more than happy for this to happen. I believe that imposing this particular type of tax on people will have the net effect of locking up land. It will create classes of people.

I spoke to one lady at Beveridge who attended one of the meetings. She was desperately trying to find out what was going to be done to her. She had lost her first home in the recession we had to have. Paul Keating's recession was designed to do a whole range of things, but it did a lot of things to families. That woman and her family had fought their way back, had purchased their current home and were within sight of paying it off. She was devastated on the night of that meeting. She wondered where this situation would leave her. She had hoped that she might have been able to subdivide and make some capital gain from her property, knowing full well that the property would not appreciate in the way the government has said it would — that is, that this tax would create such wonderful windfall gains for these people.

I am on the record, along with the shadow minister, Matthew Guy, as saying I am opposed to this tax. At that meeting it was interesting to see that members of the Assembly — Ben Hardman, the member for Seymour, Danielle Green, the member for Yan Yean, and Don Nardella, the member for Melton — were so ill informed. They had not had a briefing from the department, and no people from the department were there. Those members have subsequently put out a press release saying that they do not support this growth areas infrastructure contribution. Let us see how much sway they have with their government and their planning minister, and let us see how much influence those members of Parliament have with the Premier of the state of Victoria. If they are to truly represent the people in the areas encompassed by the expansion of the urban growth boundary, then they need to yell a little louder.

I will continue to support those communities. The growth areas infrastructure contribution is the most insidious tax, and opposition members will not be supporting it in its current form.

**Debate adjourned on motion of Ms HUPPERT (Southern Metropolitan).**

**Debate adjourned until next day.**

## ACCIDENT COMPENSATION AMENDMENT BILL

### *Introduction and first reading*

**Received from Assembly.**

**Read first time for Mr LENDERS (Treasurer) on motion of Hon. M. P. Pakula.**

### *Statement of compatibility*

**For Mr LENDERS (Treasurer), Hon. M. P. Pakula tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Accident Compensation Amendment Bill 2009.

In my opinion, the Accident Compensation Amendment Bill 2009, as introduced to the Legislative Council, is compatible with human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

#### **1. Overview of the bill**

The purpose of the Accident Compensation Amendment Bill 2009 is to amend the Accident Compensation Act 1985 (the act) in response to recommendations made by Mr Peter Hanks, QC, in the Accident Compensation Act review (the Hanks report).

The bill introduces a package of reforms for the operation of the compensation scheme that applies to injured workers under the act (the scheme).

#### **2. Human rights issues**

The bill has been assessed against the charter.

##### *Discrimination — clauses 12 and 54*

Under section 82(2A) of the act, compensation is not payable in respect of mental injuries that arise wholly or predominantly from reasonable management action or decisions. Clauses 12 and 14 of the bill have the effect of widening the definition of ‘reasonable management action’, thereby potentially creating more situations in which a relevant claim may be rejected.

Part 6 of the bill amends the act in relation to an injured worker’s entitlement to compensation for non-economic loss where he or she suffers from a permanent impairment. Pursuant to clause 54 of the bill, the amount of the lump sum benefit to which an injured worker will be entitled varies depending on the type of permanent impairment suffered by the injured worker and its impact on the worker’s whole person.

Under clause 54 of the bill compensation for non-economic loss for injured workers with a permanent spinal impairment and with an impairment rating between 10 per cent and 30 per cent is increased by a factor of 1.1 over the other permanent injuries with a similar impairment rating.

Under section 98C(3) of the act, entitlement for lump sum benefits for injured workers with a permanent psychiatric impairment is subject to a higher threshold for compensation (i.e. 30 per cent of whole person impairment) than other types of permanent impairment (i.e. 10 per cent of whole person impairment). Clause 54 (section 98C(4)) retains the different thresholds for compensation but equalises the amount applicable to permanent psychiatric impairment and other types of permanent impairment above 30 per cent. The ameliorating effect of the amendment assumes the continuation of the higher threshold applicable before persons suffering permanent psychiatric impairments may recover lump sum benefits.

Section 8 of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination (within the meaning of the Equal Opportunity Act 1995). Under the EO act, ‘direct’ discrimination occurs where a person treats someone with an attribute less favourably than the person treats someone without that attribute, or with a different attribute, in the same or similar circumstances. The relevant attribute is ‘impairment’.<sup>1</sup> In clauses 12 and 54 of the bill, the discrimination argument arises not from the treatment that a person with an impairment will receive vis-a-vis a person with no impairment, but from the treatment a person with a specific type of impairment will receive compared to a person with a different type of impairment. This is otherwise known as intra-attribute discrimination. In my view, intra-attribute discrimination is comprehended within the Victorian definition of discrimination by the reference to treatment that is less favourable than a person ‘with a different attribute’. That reading of those words is necessary in order to make the definition of discrimination work in contexts that it must obviously have been intended to cover. This is because discrimination on the basis of certain categories of attribute (e.g. race, sex or age) assumes comparison between persons who fall into different subsets of the same attribute. For example, race discrimination envisages a comparison to be drawn between persons of different racial groups.

Discrimination on the basis of a disability or impairment is more problematic because it is more difficult to identify the subcharacteristics that it is legitimate to compare in assessing a claim of intra-attribute discrimination. Hence, not all claims of intra-attribute discrimination ought necessarily be recognised as falling within the scope of the EO act. Where, however, the claim is made that persons suffering from a particular disease are being treated differently from persons suffering from some other disease this seems to fall within the scope and purposes of the equality regime. That is because the protection against discrimination on grounds of impairment is clearly intended to proscribe the stigmatisation of particular kinds of disease or disorder. So, a person who suffers from HIV should not be treated less favourably than a person who suffers from lung cancer, any more than a person who is Asian should be treated less favourably than a person who is black.

<sup>1</sup> The EO act defines this to mean a range of total or partial physical or mental disabilities such as loss of a bodily function or part; the presence in the body of organisms that may cause disease; loss of a part of the body; malfunction of a part of the body, including mental disease or disorder; or malformation or disfigurement.

*Mental injuries arising from 'reasonable management action'*

Currently under section 82(2A) of the act, claims for stress-related and psychiatric injury are subject to exclusion from compensation where these arise wholly or predominantly from certain actions or decisions that are reasonably taken by an employer in respect of the worker.

Through the existing exclusion, any 'stress' response or reaction to these legitimate employer actions is and will continue to be ineligible for compensation. Such actions currently include reasonable actions to transfer, discipline, demote, redeploy, retrench or dismiss a worker. The act also protects reasonable decisions not to promote, reclassify or transfer a worker or provide them with leave or other employment benefit. Similarly, any expectation by a worker that such actions or decisions will be taken is also exempted under the act.

Clause 12 confirms the intent in section 82(2A), which treats persons with mental injuries arising from reasonable management action less favourably than persons suffering physical impairments, such as disfigurement or loss of bodily functions or parts, or from persons suffering other mental injuries, unrelated to management activity.

The essence of what clause 12 is trying to achieve is to clarify the operation of the existing exclusionary provision for mental injuries arising as a consequence of reasonable management action. The relevant comparison, therefore, is probably with persons suffering physical injuries where the employer's conduct has been similarly reasonable. Clause 12 treats persons with a mental injury resulting from reasonable management action less favourably than persons suffering physical injuries in circumstances where the employer has acted reasonably.

I therefore accept that the amendments relating to claims for mental injuries under clause 12 may limit the right to equality, as protected by section 8 of the charter. Assuming this to be so, for the following reasons I nevertheless consider that any limit is reasonable and demonstrably justifiable in terms of section 7(2) of the charter.

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

The right in section 8 of the charter is a right to 'recognition and equality before the law' in a manner that affords effective legal protection against discrimination. Its effect here is that a person should not be refused access to facilities or benefits enjoyed by others because they suffer from a particular medical condition. The key idea behind equality is that persons should not be unfairly disadvantaged by assumptions that stigmatise certain members of the community. I accept that this protection is important to persons suffering mental injuries arising from workplace incidents because of the high level of stigmatisation surrounding these conditions.

*(b) the importance and purpose of the limitation*

The limitation serves a number of important purposes:

The limitation is designed to protect the capacity of employers to regulate workplace activities and to ensure that employees comply with their contractual obligations. For this reason, clause 12 only limits mental injury claims arising from 'reasonable management action'. In my view, the ability of employers to regulate employee conduct through 'reasonable management

action' reflects an important public interest in maintaining effective, efficient and supportive workplaces and encourages both workers and employers to cooperate towards this end.

The assessment of mental or psychiatric injuries is not assessed in the same manner as physical injuries. Rather, mental injuries, unlike physical injuries that are assessed on the basis of scientific data, are based wholly on self-reporting of a worker's mental state or behavioural examination by clinicians. As a result, diagnosis turns on clinical judgement and consideration of the subjective experience of claimants. Limiting mental stress claims where there has been reasonable management action is designed to discourage fraudulent claims where this would expose the scheme to systemic abuse.

The restriction on mental injury claims also reflects the difficulty in establishing a causal link between the stress-related injury and the reasonable management action. As noted in the Hanks report (Hanks report 70), psychiatric injuries are frequently caused by multiple factors including a worker's personal life, interpersonal relationships and personality factors.

*(c) the nature and extent of the limitation*

There is no blanket exclusion of claims for mental injuries arising from workplace incidents or from any management action. Rather, the restriction on recovery by workers suffering these types of injuries is limited to where the injury arises from 'reasonable management action'.

*(d) the relationship between the limitation and its purpose*

For the reasons given above, the limitations on section 8 of the charter presented by the differential treatment of mental injury claims under the bill directly address issues which go to the heart of the integrity of the scheme — its financial viability and its role in compensating claims for genuine workplace injuries.

*(e) any less restrictive means reasonably available*

The restriction on compensation for mental and psychiatric injuries under the bill is narrowly tailored to addressing these ends. The relevant provisions do not deny injured workers the right to claim compensation for any mental or psychiatric impairment which is said to arise from a workplace injury. Rather, the limitation on mental injury claims is narrowly focused and seeks to limit claims only where the mental injury is wholly or predominantly caused by reasonable management action. The amendment thus only limits claims for compensation for mental injury to the extent necessary to safeguard the ability of an employer to take steps to manage employee relations. A worker may continue to claim compensation where an employer has acted inappropriately or unreasonably. Clause 12 encourages employers to appropriately and reasonably manage workplace activities. This restriction is consistent with the public interest in maintaining the productivity of workplaces and the legality of the relations governing them.

Clause 12 of the bill presents a reasonable and fair option for achieving the three objectives of protecting the scheme's integrity, economic viability, and of protecting employer's autonomy in managing workplace activities and employee relations. Clause 12 implements recommendation 7 of the Hanks report.

The amendments do not prioritise financial viability over worker entitlement. Rather, clause 12 accommodates the important objective of compensating workers with mental or psychiatric injuries with the public interest in protecting the affordability of the scheme so that it can adequately compensate both mental injuries and other injuries in accordance with the act.

In conclusion, therefore, to the extent that clause 12 limits section 8 of the charter, I consider that the limit is reasonable and proportionate to the objective of maintaining the integrity of the scheme, its affordability and the interest of employers in regulating workplace activities, productivity and performance.

*Different threshold for permanent psychiatric impairments*

Although the bill improves benefits for workers suffering permanent psychiatric injuries by adjusting the calculation for impairment assessed at 30 per cent and above, clause 54 specifically retains the current statutory exclusion of compensation for permanent psychiatric impairments below 30 per cent. This aspect of clause 54 of the bill results in persons with permanent psychiatric impairments being treated less favourably than persons suffering a permanent physical impairment of at least 10 per cent whole body impairment but less than 30 per cent.

Clause 54 has the effect of reinforcing the less favourable treatment of persons with psychiatric injuries compared with persons suffering physical injuries resulting in a comparable degree of impairment (of at least 10 per cent whole person impairment but less than 30 per cent). In my view, however, that is not the relevant comparator group because persons with permanent physical impairments are differently situated for the purposes of assessment under the scheme. As noted above, the assessment of psychiatric impairment is based on the worker's self-reports and behavioural observations by clinicians and is highly subjective. Consequently, the reliability of psychiatric injury assessments presents greater risks to the scheme than physical injuries (which are more readily assessed through objective criteria) and is more susceptible to abuse than physical injuries.

The statutory limitations are directed at correcting the perceived unfairness where workers are able to claim compensation for mild mental impairment on the basis of subjective criteria that are difficult to verify. They also reflect the difficulty of establishing that these injuries were caused by workplace incidents.

The difficulty in identifying an appropriate comparator means that clause 54 is unlikely to limit the equality right protected by s 8 of the charter. In any event, I consider that such limit is justified for the following reasons.

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

The nature of the right has been outlined above.

(b) *the importance and purpose of the limitation*

The differential treatment of a person with at least 10 per cent but less than 30 per cent psychiatric impairment with a person with the same degree of physical impairment directly addresses the need to maintain the financial viability of the scheme.

The burden on the scheme of claims for mental or psychiatric injury has already been noted.

The different threshold level for permanent psychiatric impairments also takes account of the challenges that the assessment process for psychiatric injury presents for the integrity of the scheme. These challenges have been outlined and suggest that it is sometimes inappropriate to compare physical injuries with psychiatric injuries as there can be a difficulty in establishing a causal connection between psychiatric impairment and workplace incidents. This is particularly the case where the level of impairment is mild and below the 30 per cent threshold reflected in the bill.

(c) *the nature and extent of the limitation*

There is no blanket exclusion of claims for permanent psychiatric injuries. Indeed, clause 54 operates to increase the current statutory entitlement of persons with a permanent psychiatric impairment of at least 30 per cent to achieve parity with the entitlement of persons with a physical impairment of a comparable rating.

(d) *the relationship between the limitation and its purpose*

Largely, for the reasons already given, there is a rational connection between the objectives of the bill and the limitations on rights. I note that injured workers will be entitled to claim compensation for most moderate psychiatric impairments and all moderately severe or severe impairments. These levels of impairment are more reliably assessed than lesser degrees of impairment under the current *Guide to the Evaluation of Psychiatric Impairment for Clinicians* standards.

(e) *any less restrictive means reasonably available*

In my view, the retention of different thresholds for compensation for permanent psychiatric impairment and permanent physical impairment is a reasonable and fair option for achieving the objectives of protecting the scheme's integrity and economic viability. The restriction on recovery for psychiatric injuries under clause 54 of the bill is narrowly tailored to the public interest in maintaining the integrity of the scheme and its financial viability. The relevant provisions do not deny injured workers an entitlement to claim compensation for all permanent psychiatric impairment. Rather, the bill reinforces the need to limit recovery in circumstances where the psychiatric impairment is mild and consequently more vulnerable to fabrication or based on idiosyncratic or non-work related factors.

In conclusion, therefore, to the extent that clause 54 limits section 8 of the charter, I consider that the limit is reasonable and proportionate to the objective of maintaining the integrity of the scheme, its affordability and the interest of employers in regulating workplace productivity and performance.

*Lump sum benefits for permanent spinal impairments*

The formula under clause 54 of the bill for calculating economic loss for permanent spinal impairments does not treat such persons more or less favourably than persons suffering other types of permanent impairment. The seemingly more 'favourable' formula applicable to spinal impairments corrects a perceived injustice arising from the current assessment process for such injuries. In particular, the current AMA assessment standards assess a worker's

impairment as against his or her disability or the impact of the impairment on the worker's daily life.

Consequently, the assessment process ignores the impacts of a spinal injury on a worker beyond the worker's assessed impairment and does not adequately recognise the prolonged pain and lost activity frequently associated with back injuries. The increase in compensation payable for spinal injuries ensures that all spinal injuries receive a level of compensation that is commensurate with the severity of the injury. The adjustment in compensation payable for spinal injuries reflects the recommendations in the Hanks report.

*Right to be presumed innocent — clause 23*

Section 25(1) of the charter protects the right of a person charged with a criminal offence to be presumed innocent until proved guilty according to law. This means that the burden of proving all elements of the particular charge is on the prosecutor and the accused has the benefit of doubt unless the charge is proved beyond reasonable doubt.

Clause 23 of the bill strengthens the offences under section 242(3) of the act relating to discriminatory conduct by employers and prospective employers against employees and prospective employees where the employee has notified the employer of an injury or made a claim for compensation under the act. Under clause 23 (section 242AA(6)), once the prosecution has shown that the employer or prospective employer has engaged in discriminatory conduct the employer is required to adduce evidence that the dominant reason for that conduct did not relate to the worker's injury or claim for compensation.

Clause 23 (section 242AA(6)) imposes on the defendant an evidential onus. It does not transfer the legal burden of proof because once the defendant employer has adduced or pointed to some evidence, the prosecutor will still have to prove beyond reasonable doubt that the reason in the charge was the dominant reason for the discriminatory conduct.

The dominant reason for the discriminatory conduct will be a matter that is peculiarly within the knowledge of the defendant. The evidential burden removes the need for the prosecution to conduct the impossible exercise of eliminating a potentially infinite number of possible reasons by requiring the defendant to put in issue the precise reason that he or she wishes to rely on. The defendant must provide sufficient evidence but the burden remains with the Crown to disprove to the ordinary criminal standard. Further, the imposition of an evidential onus presents a fair and reasonable option for increasing the success rate of prosecutions for discriminatory conduct offences which have been notoriously difficult to establish.

Under clause 23 (section 242AA(7)), the employer is provided a defence if he or she proves that:

the conduct was necessary to comply with requirements in the act or in the Occupational Health and Safety Act 2004; or

the employee or prospective employee was unable to perform the inherent requirements of the employment, even with reasonable adjustments; or

the employee was engaged in fraud or dishonesty in relation to, or associated with, the giving of notice of the injury or pursuit of the claim for compensation.

The question whether it is possible in the light of section 32 of the charter to read the words 'if he or she proves' as imposing an evidential onus is currently before the Supreme Court. For now, the safer assumption is that in accordance with the ordinary meaning, the words 'if he or she proves' place a legal (or persuasive) onus on the employer to satisfy the court that the facts relevant to the defence are proven. The prosecutor, having established that the employer has undertaken discriminatory conduct and that the dominant reason did not relate to the worker's injury or claim for compensation, is taken to have proved what is necessary against the employer unless the employer satisfies the court on the balance of probabilities to the contrary. However, I consider that the limit is justified for the following reasons:

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

The right to be presumed innocent protects defendants in criminal proceedings from conviction, and the potential loss of liberty or imposition of financial penalties, where the prosecutor is unable to prove all elements of the offence beyond reasonable doubt.

*(b) the importance and purpose of the limitation*

The provision of defences under clause 23 (section 242AA(7)) is designed to give employers and prospective employers an opportunity to avoid conviction where they have been shown to have undertaken discriminatory conduct for a prohibited reason. In particular, the defence aims to protect employers where they engage in discriminatory conduct for other legitimate reasons which also reflect the public's interest in the lawful behaviour of employers and workers, or in maintaining performance standards and operational efficiency in the workplace.

*(c) the nature and extent of the limitation*

Clause 23 (section 242AA(7)) only becomes relevant once the prosecutor has established that the employer engaged in discriminatory conduct and that the dominant reason related to the employee or prospective employee's injury or claim for compensation. The defence does not shift the legal burden to the defendant to prove that the reason alleged in the charge was the dominant reason. The legal burden to prove the essential elements of the offence remains with the prosecutor under clause 23 (section 242AA(7)).

*(d) the relationship between the limitation and its purpose*

The legal burden placed on employers and prospective employees under clause 23 (section 242AA(7)) is rationally connected to its protective purpose by giving employers an opportunity to explain the reasons for their discriminatory conduct. In particular, employers should not be able to rely on the defence and escape liability for discriminatory conduct unless they are able to articulate the chain of reasoning which motivated that conduct and demonstrate their internal investigations or decision making on the matters going to the defence. Further, the defence is limited to matters of strong public interest and in respect of which employers can be said to have significant responsibility and control — matters relating to an employer's compliance with the act or the Occupational Health and Safety Act 2004, to the maintenance of workplace productivity and employee performance, and to the integrity of the scheme by honest compliance with its requirements.

*(e) any less restrictive means reasonably available*

There is no less restrictive means that achieves the purpose of giving employers an opportunity to defend their conduct which otherwise would comprise an offence against clause 23 (section 242AA(1)). An evidential onus would be insufficient because it would enable an employer to avoid the consequences of discriminatory conduct without significant and detailed proof of these additional matters.

*Right to a fair trial — clauses 23, 57(2A), 71, 114, 91, 43, 135*

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right to a fair hearing has three potential applications in the bill.

*Reverse onus in civil proceedings — clause 23*

It is possible that a provision which transfers the legal burden of proof in civil proceedings to the defendant might, in some circumstances, compromise the right of the defendant to a fair trial.

Clause 23 (sections 242AD and 242AE) provides for civil proceedings against employers or prospective employers who have engaged in discriminatory conduct for a prohibited reason. The amendment targets the same conduct as discussed in relation to clause 23 (sections 242AA).

Clause 23 (section 242AD(7)) is in similar terms to clause 23 (section 242AA(6)) and provides that once the plaintiff has proved all facts constituting the discriminatory conduct, the defendant employer or prospective employer must adduce evidence that the reason alleged in the proceeding was not a substantial reason for the discriminatory conduct. For the reasons given above in relation to clause 23 (section 242AA(6)), clause 23 (section 242AD(7)) has the effect of imposing an evidential burden on the defendant but does not transfer the legal onus to him or her. Similarly, for the reasons already stated, I do not consider that the imposition of an evidential onus compromises the right to a fair hearing under section 24(1) of the charter. Further, to the extent that clause 23 (section 242AD(7)) may limit the right to a fair hearing, the limit is justified for the reasons stated in respect of clause 23 (section 242AA(6)).

Clause 23 (section 242AD(8)) is in similar terms to clause 23 (section 242AA(7)). For the reasons given above in relation to clause 23 (section 242AA(7)), clause 23 (section 242AD(8)) has the effect of imposing a legal onus on the defendant employer. Similarly, for the reasons already stated, to the extent that the imposition of a legal onus might limit the right to a fair hearing under section 24(1) of the charter, the limit is justified.

*Retrospective application of laws to pending proceedings — clause 57(2A)*

There is no general bar on retrospective laws in the charter but case law from the European Court of Human Rights suggests that retrospective laws may compromise the right to a fair hearing if they apply to alter the current legal position of parties to civil proceedings where the state is one of those parties. Laws of this kind need to be examined carefully in order to ensure they do not violate the principle of equality of arms.

Clause 57(3) (section 134AB(19A)) provides that a determination by the authority that a worker has a 'serious injury' and so is entitled to recover damages at common law in respect of the injury does not give rise to an issue estoppel in those proceedings.

In my view, preventing injured workers relying on an issue estoppel in this way does not make the common-law proceeding unfair as against the injured worker. This is because the authority is not advantaged as the defendant insurer in the sense of being able to avoid liability for damages due to the worker that are commensurate with the degree of seriousness of the relevant injury.

*Restriction of the jurisdiction of the Supreme Court — clauses 71, 114, 91, 43, 135, 23*

Numerous provisions of the bill are subject to a statement made under section 85 of the constitution on the basis that they are intended to deprive the Supreme Court of its jurisdiction, powers or authorities. The relevant clauses affect provisions of several types: provisions providing that no review is allowed against particular decisions under the act (clauses 71, 91, 43, 135 and 23); and provisions requiring mandatory review by bodies other than the Supreme Court before proceedings can be brought before that Court (clause 114). Careful consideration has been given to each of these provisions and whether their terms restrict the right to access a fair hearing by an independent and impartial tribunal for the purposes of section 24(1) of the charter. Given the extensive nature of procedural protections afforded to an aggrieved person under these clauses, including rights of appeal or other review, I consider that the amendments are compatible with the right to a fair hearing.

*Privacy — clauses 17, 57, 29, 76, 77, 89, 129, 158, 177, 143, 126*

Section 13(a) of the charter protects a person's right not to have his or her privacy, family, home or correspondence interfered with in a manner that is unlawful or arbitrary. The secrecy of personal information (including medical records and other information about a person's identity and personal relations) lies at the heart of the privacy right because of its direct relevance to the choices or circumstances of an individual's personal life over which he or she is responsible and autonomous. The protection of privacy through confidentiality of documents is not, however, absolute. Disclosures that are authorised by law and not arbitrary are permissible under the charter.

The bill provides for the disclosure of information to the Victorian WorkCover Authority (the authority) in a range of circumstances. Various provisions in the Bill specifically require the disclosure of medical information relevant to the injured worker's claim for compensation:

Clause 17 of the bill gives the authority access to information from the Chief Commissioner of Police, a court or the Roads Corporation in relation to workers injured while drink driving or drug driving.

Clause 57 of the bill provides that any serious injury application must be accompanied by an authorisation releasing relevant medical information to the authority.

Clause 29 of the bill relates to the disclosure of medical information that is relevant to an injured worker's claim

for compensation for the purposes of resolving disputes before conciliation officers.

Clause 76 authorises the court to refer medical questions to a medical panel for the opinion of the panel either on its own motion or at the request of a party to proceedings before the court. Clause 77 provides that medical information and reports will be admissible in proceedings under the act irrespective of the provisions of 'any Act (other than the Charter of Human Rights and Responsibilities), or at common law'.

Clause 129 of the bill introduces new provisions designed to encourage employers and injured workers to cooperate to ensure that workers successfully returned to work. Participation in the return-to-work program is likely to involve scrutiny of personal medical information about injured workers.

None of these provisions reflect an arbitrary interference with the right to privacy that is protected by section 13 of the charter. I note that injured workers bring themselves within the regime established by the act by making a claim for their injuries. They do so on the understanding that all matters relevant to legal entitlement, including particulars of their injury, incapacity for work and rehabilitation progress are to be scrutinised and assessed. The uses of personal information, especially information that goes to the worker's medical condition, is necessary to assess entitlement and to ensure the proper administration of the scheme. There is no suggestion that personal information collected in accordance with the bill will be put to ulterior purposes unrelated to the operation of the scheme.

In relation to all provisions relating to disclosure of medical information (except clause 77) the importance of responsible handling of personal information is reinforced by the provisions of the Information Privacy Act 2000 which apply to the authority and other bodies (including self-insurers) established or appointed for public purposes under the act. The Information Privacy Act establishes a regime for the responsible collection and handling of personal information in the Victorian public sector and restricts the collection of personal information unless the information is necessary for one or more of its functions.

In respect of clause 77, the further disclosure of medical information produced in accordance with the act is not subject to the provisions of the Information Privacy Act. The further use of medical documents that is envisaged by clauses 76 and 77 is strictly limited to proceedings relating to the worker's claim for compensation under the act. In these circumstances, any intrusion on the right to privacy by the disclosure is proportionate to the legislative objective of ensuring all workers receive compensation for compensable injuries and cannot be said to be arbitrary.

A number of additional provisions raise privacy issues of a different kind.

Clause 158 of the bill strengthens the obligations of employers to keep a register of injuries under section 101 of the act and introduces new penalties for non-compliance. The register identifies workers by name and job title and records the particulars of an injury, including the bodily parts affected. Under section 101(1) of the act, the register is an open record and must be kept in a place readily accessible to workers

employed in the workplace. Nothing, however, suggests that the recording and viewing of this information is arbitrary or unlawful so as to limit the privacy right. Information is recorded on the register following notification of an injury by an injured worker or at the request of an injured worker. The register of injuries is an important mechanism for the efficient and effective reporting of injuries by workers and in these circumstances, my view is that clause 158 of the bill does not limit the privacy right of injured workers under section 13 of the charter.

Clause 177 of the bill authorises a court to make adverse publicity orders against persons found guilty of an offence against the act. Adverse publicity orders involve publication of the particulars of the offence, its consequences, the penalty imposed and any other related matter to a specified person or class of persons. The amendment authorises the publication of a person's personal information which is already on the public record as a consequence of judicial proceedings. In these circumstances, clause 177 does not disclose information that is 'private' but communicates in a different form information that is already in the public domain. In my view, the disclosures envisaged by clause 177 of the bill reinforce the integrity of the scheme and do not communicate information that is protected by the privacy right under section 13 of the charter.

Clause 143 of the bill relates to the investigation of conduct of persons providing medical or allied health services to injured workers and the referral by the authority of particular providers for review by the relevant professional body. The referral may be initiated following complaints by injured workers or on the authority's own motion. It is likely to involve the communication of sensitive information relating to compensable claims, including medical information and records relating to injured workers and the handling of individual cases by service providers. The communication of personal information is not, however, to the world at large. Personal information about injured workers and/or service providers may be communicated to the professional body for the purposes of scrutinising the conduct of the service provider in connection with the effective and proper management of claims under the act. In these circumstances, I am of the view that clause 143 is reasonable and not arbitrary and does not limit the right to privacy under section 13 of the charter.

*The right not to be compelled to incriminate oneself—  
clause 133*

Sections 25(2)(k) of the charter protects the right of persons charged with a criminal offence not to be compelled to testify against themselves or to confess guilt. In a recent decision, the Chief Justice has said that this right not to be compelled to incriminate oneself is also protected by the general right to a fair trial found in section 24(1) of the charter.<sup>2</sup>

Clause 133 (section 248D(1)) of the bill protects this right by providing that persons may refuse or fail to give information or do any other thing that they are required to do under the act

<sup>2</sup> *Re an application under the Major Crime (Investigative Powers) Act 2004* [2009] VSC 381 (7 September 2009) (*Major Crime*).

or regulations if giving the information would tend to incriminate them. However, clause 133 (section 248D(2)) provides that this protection does not apply to: 'the production of a document or part of a document that the person is required by this Act to produce'. Section 239 of the act provides for a broad range of circumstances where a person may be required by the authority to produce documents and books where it is necessary for determining whether the provisions of the act or the Accident Compensation (WorkCover Insurance) Act 1993 have been contravened.

I accept that the absence of any protections in the bill against the use of documents obtained under compulsion in a subsequent prosecution against the individual concerned may limit the right not to be compelled to incriminate oneself, as protected sections 24(1) and 25(2)(k) of the charter. In my view, however, that limit is reasonable and demonstrably justifiable in terms of section 7(2) of the charter.

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

The right in section 25(2)(k) of the charter is a right not to 'testify against oneself', the core idea being that a person should not be conscripted into incriminating themselves. For that reason, a search of and seizure of a person's records is not generally considered to breach the privilege against self-incrimination. The High Court of Australia has recognised that the application of the privilege to documentary material is potentially less far reaching than the protection for oral answers.<sup>3</sup>

Furthermore, an abrogation of the privilege against self-incrimination in the case of compelled production of already existing documents may be considerably easier to justify than an abrogation of the privilege in the case of oral testimony or documents that are brought into existence to comply with a request for information. A number of law reform bodies in other jurisdictions have agreed with this proposition.<sup>4</sup>

*(b) the importance and purpose of the limitation*

The primary purpose of the abrogation of the privilege is to assist the authority to enforce penalty provisions or to prosecute offences by employers and others. The abrogation of the privilege is designed to protect the public interest in ensuring that the authority has adequate powers to inquire into and monitor activities that are relevant to the lawful operation of the scheme.

*(c) the nature and extent of the limitation*

Clause 133 (section 248D) of the bill allows persons to refuse to give information or do acts required by the act where the

disclosure or act is likely to incriminate the person but carves out an exception for documents. This is restricted to the production of documents that are required by the act. It does not go further and require a person to create any incriminating documents. For example, in my view, a person would still be able to claim the privilege against self-incrimination in relation to a requirement to give evidence on oath or by statutory declaration under section 239(2) of the act. Further, the requirement to produce documents only applies where the purpose of the request is to determine whether the act has been contravened and whether a person has a liability or entitlement under the act.

I note that the act also provides important procedural safeguards for individuals required to produce information. For example, the act qualifies the duty to disclose documents by requiring the authority to give written notice requiring the production of information and books. These safeguards alleviate concerns that the potential loss of privilege may involve an abuse of powers of interrogation or intrusion on the right to privacy.

*(d) the relationship between the limitation and its purpose*

In my view, the abrogation of the privilege facilitates the enforcement of penalties and safeguards compliance by giving the authority access to information and evidence that is difficult or impossible to ascertain by alternative evidentiary means. The successful prosecution of contraventions against the act would be seriously undermined if these documents could not be relied upon.

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

There are no less restrictive means reasonably available that would achieve the purpose of clause 133. Although the privilege against self-incrimination is an important human right, the legislature is entitled to protect the public interest in ensuring that the authority has adequate powers to inquire into and monitor activities that are relevant to the lawful operation of the scheme. Further, the act establishes a compulsory compensation scheme which involves the keeping of specified records. Disclosure of these documents is necessary to ensure the purposes of the scheme are respected and offences under the act properly investigated.

In conclusion, therefore, to the extent that clause 133 (section 248D) limits sections 24(1) and 25(2)(k) of the charter, I consider that the limit is reasonable and proportionate to the objective of ensuring reasonable prosecuting prospects for offences against the act.

### Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

John Lenders, MP  
Treasurer

### *Second reading*

**Hon. M. P. PAKULA** (Minister for Public Transport) — I wish to advise the house that 24 amendments were made to the bill in the lower

<sup>3</sup> *Environment Protection Authority v. Caltex Refining Co Pty Ltd* (1993) 178 CLR 477 per Mason CJ and Toohey J at p 502. See also per Deane, Dawson and Gaudron JJ at p 527 and per McHugh J at p 555.

<sup>4</sup> For example, the New Zealand Law Commission, *The Privilege Against Self-Incrimination*, (Preliminary Paper 25, September 1996); Joint Statutory Committee on Corporations and Security, *Use Immunity Provisions in the Corporations Law and the Australian Securities Commission Law* (November 1991); Queensland Law Reform Commission, Report, *The Abrogation of the Privilege against Self-Incrimination* (Report No 59, December 2004).

house. There are several substantive amendments, and the remainder correct typographical errors or were consequential amendments.

Section 325(1) applies the amendments to section 134AB contained in clauses 57(2) and (3) of the bill — namely, to exclude issue estoppel from arising in respect of any serious injury determination to serious injury applications that are determined or resolved on or after the date of commencement. The amendment is necessary to ensure that all claims for damages are properly covered by the amendment.

New section 350(3) and (6) applies clause 129 of the bill, which inserts into the act a number of employer return-to-work obligations contained in new sections 194, 195 and 196. This amendment ensures that the new return-to-work obligations the bill seeks to introduce apply appropriately from the intended commencement date of 1 July 2010.

Sections 114 and 114B require consequential amendment to ensure that there exists an accurate interrelationship between the entitlement provisions of the bill and to avoid conflict with the subsequent transitional provisions.

Clause 54(5) is necessary to ensure that entitlements pursuant to section 98C for psychiatric injuries sustained before 3 December 2003 are calculated on the correct date.

The following typographical errors have been identified in the bill. In clause 191, new section 308, the reference to 'section 10894)' should be to 'section 108(4)'. In new section 319 the reference to 'section 1114(2)(ii)' should be to 'section 114(c)(ii)'. In new section 346 both the heading and the body refer to 'Division 3A'; this should refer instead to 'Division 3AA'. In new section 350(8) the 'or' between the references to section 156(2) and 158(1) should be 'and'.

The amendments made in the lower house have been attached to the bill. I move:

That the second-reading speech be incorporated into *Hansard*.

#### **Motion agreed to.**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the bill be now read a second time.

#### **Incorporated speech as follows:**

The reform package contained in this bill is of the utmost importance to Victorian workers, their families, and employers.

Victoria has the safest workplaces in Australia, and yet still nearly 30 000 workers every year are injured seriously enough to lodge a claim for workers compensation. Viewed in this way, the significance of the workers compensation scheme to the Victorian community cannot be overstated. When we consider the ripple effect of every workplace injury, thousands of Victorian families are touched by workplace injury and death.

Prudent management of the scheme by this government over the last 10 years has resulted in record low employer premiums that are also the second-lowest of any state in Australia. We are rightly proud of this achievement. It follows that because of this outstanding performance, the government is now in a position to provide the benefit enhancements contained in this bill.

The bill represents the government's legislative response to the review of Victoria's workers compensation arrangements conducted by Mr Peter Hanks, QC. In preparing his report, Mr Hanks embarked upon a review process that was characterised by the breadth and depth of its community consultation, before ultimately presenting over 150 recommendations to government for consideration. The overwhelming majority of these have been accepted, and are sought to be implemented by this bill.

This bill has been specifically designed to provide simpler and faster access to fairer entitlements, better rehabilitation and return-to-work outcomes, and greater transparency and accountability around decision making.

Specifically, this bill delivers:

- a landmark decision to be the first jurisdiction in Australia to pay compensation in the form of superannuation contributions for eligible injured workers;

- the highest lump sum payments of any jurisdiction for some of the most vulnerable members of the Victorian community — workers suffering from severe permanent injuries and the family members of those workers who tragically lose their lives at work;

- increases in weekly compensation payments to reduce the gap between pre-injury income and compensation payments;

- streamlined obligations on employers to return injured workers to work, with an emphasis on outcomes rather than processes; and

- a transparent and robust mechanism for review of premium decisions.

The package of reforms contained in this bill will therefore provide fair, tangible and immediate benefits for injured workers, while ensuring the long-term financial viability of the scheme.

This bill delivers on Labor's commitment to review Victoria's accident compensation legislation to ensure

workers receive the assistance, support and benefits they deserve.

### **Simpler and faster access to entitlements**

Timely access to benefits for injured workers is crucial. This bill will improve the claims process to assist both workers and employers in serving and lodging claim forms more efficiently and encourage earlier decision making.

The changes include reducing the formalities that need to be complied with when completing a claim form. This will be of particular benefit to workers from a non-English-speaking background. These changes also anticipate a range of more efficient methods by which workers can give or serve a claim to an employer, including by facsimile and other electronic methods such as email. Such changes will speed up the process by which workers can make claims and will reduce red tape for workers and employers.

### **Better and fairer benefits**

It is important that injured workers and their families are provided with the highest level of appropriate benefits to ensure that they have all the support they need.

This bill provides the most substantial increase to statutory benefits in the history of the scheme, but also applies these improvements across every category of statutory benefit.

The government will significantly increase the amount of compensation and benefits available to the dependants and other family members of deceased workers. Other amendments will ensure that this vulnerable group of claimants will be able to access such compensation and benefits more quickly and efficiently.

Currently, only persons who were dependent on the earnings of the deceased worker are entitled to compensation under the act. However, there may be some circumstances where a worker dies leaving no dependants but his or her family members nonetheless suffer financial disadvantage because of the worker's death. To ensure equity and to protect family members who find themselves in such unfortunate circumstances, the bill will enable a court to order reimbursement of their reasonable expenses of up to \$30 000 per family in the event of financial hardship.

The maximum amount of lump sum benefits payable to the most severely permanently impaired workers is to be aligned with the maximum amount available at common law for pain and suffering damages for workers with a serious injury.

The bill also increases lump sum payments by 10 per cent for workers with spinal injuries. This increase will apply where the worker has a spinal impairment only, or has multiple impairments where their spinal impairment attracts the highest amount of compensation, in which case the worker will receive the amount payable for the spinal impairment only.

The bill removes a disparity between lump sum benefits awarded for psychiatric impairments and those for physical impairments, by aligning the lump sum payments for psychiatric impairments between 30 per cent and 70 per cent with the equivalent physical impairment amounts.

I am particularly proud to announce that Victoria will be the first jurisdiction in Australia to provide compensation in the

form of superannuation contributions for long-term injured workers. Eligible workers who continue to receive weekly payments after 52 weeks will be able to nominate a complying superannuation fund into which WorkSafe or a self-insurer will pay a superannuation contribution directly and, in the process, minimise any administrative burden on employers. The amount contributed will be a percentage of the worker's gross weekly payments, pegged at the percentage prescribed for employer contributions under the commonwealth superannuation guarantee act — currently 9 per cent.

This bill also increases weekly compensation payments in ways that better reflect a worker's real earnings. It increases the second step down from 75 per cent to 80 per cent of eligible workers' pre-injury average weekly earnings. This will be of immediate benefit to enormous numbers of injured workers already receiving benefits under the scheme.

The maximum weekly payment to eligible workers in the future will be significantly increased to \$1753.80 to reflect double Victoria's average weekly earnings. This bill will also double the period during which overtime and shift allowances are included in pre-injury average weekly earnings for the purpose of calculating the worker's weekly compensation payments, from 26 weeks to 52 weeks.

For workers who have a work capacity after 130 weeks of compensation payments, but who subsequently require surgery because of their injury and need time off work, the bill includes a provision that enables workers to receive up to 13 weeks of weekly compensation payments to allow these workers sufficient time to recover.

The bill sets out a clearer process for determining any entitlement to weekly compensation payments for those workers who return to work after 130 weeks but not to their full capacity. In addition, the bill will make it easier for those workers to maintain their current level of weekly compensation despite temporary fluctuations in their work hours.

Another benefit improvement for injured workers introduced by this bill is the ability for them to retain any redundancy and severance payments without affecting their weekly compensation payments. In addition, injured workers will be able to retain their disability pensions — up to the level of their pre-injury earnings, as well as accessing their own contributions to any superannuation or retirement fund, without affecting their ongoing weekly compensation payments.

### **Return to work, return to life**

Improving the ability of injured workers to return to work is a key consideration for the government in introducing reforms to the compensation system.

Following the success of Victoria's occupational health and safety reforms, the return-to-work provisions of the act will be reframed. In simple terms, this means there will be less focus on processes and more emphasis on results.

The objective is to encourage a workplace culture that is more conducive to early, safe and sustainable return to work, while reducing red tape and administrative costs for employers.

This bill clarifies the duties of employers and workers in relation to return to work. It will provide a clear basis for

consultation and cooperation between workers and employers, and a clear direction for return-to-work guidance material issued by WorkSafe. It will also put a greater emphasis on compliance by increasing the powers of return-to-work inspectors.

The objectives of the return-to-work provisions of the bill set out how return-to-work obligations are to be interpreted, making plain that everyone involved in returning injured workers to work — employers, workers, health practitioners and occupational rehabilitation service providers — has an important role to play.

Allowing for greater flexibility in how the obligations are met does not mean that current standards will be reduced. An injured worker's employer will have an obligation to plan the worker's return to work, which is an ongoing process of gathering information; identifying, assessing and proposing suitable employment options; consulting with the worker and the worker's health practitioner and occupational rehabilitation service provider; communicating with the worker about the worker's duties, hours of work and arrangements for his or her return to work; and monitoring the worker's progress.

Worker obligations in the return-to-work process will be expressed more simply. All workers will continue to be required to make reasonable efforts to actively participate in return-to-work planning, occupational rehabilitation and assessments of rehabilitation, progress and future work prospects.

The government also recognises that the current compensation penalty for a worker failing to participate in the return-to-work process can in some cases operate unfairly. A staged approach has been introduced to any compensation penalties that might be imposed on the worker for failing to comply with their return-to-work obligations. This is intended to give workers fair warning of the consequences and thereby encourage them to comply.

By implementing a performance-based approach to the return-to-work obligations, matters of detail that must be prescribed will be contained in ministerial directions. WorkSafe will be able to issue codes, like those issued under occupational health and safety legislation, which will provide employers with practical guidance on how to comply. WorkSafe will also publish guidelines that give further guidance, advice and information about return-to-work obligations.

The powers of the return-to-work inspectorate are also being increased. The role of return-to-work inspectors is to enforce non-compliance with return-to-work obligations, and to raise awareness of those obligations and to provide advice about compliance. Return-to-work inspectors will have similar powers to those exercised by their counterparts under occupational health and safety legislation, including the power to issue improvement notices to employers.

### **Preventing discrimination**

The new discrimination provisions in this bill will generally align with the provisions prohibiting discrimination under the Occupational Health and Safety Act.

The amendments broaden the range of conduct that will be captured under the offence of discriminatory conduct for a prohibited reason. This will prohibit conduct including

dismissal, altering the position of a worker to their detriment, treating a worker less favourably and threatening to do these things.

In addition, it will be an offence in some circumstances for employers to refuse employment to an applicant for employment where that refusal is relevantly connected to compensation matters. These antidiscrimination provisions are not intended to override return-to-work obligations on employers.

The bill will also give the court a broad range of remedies to flexibly and effectively address instances of discrimination. These will be available in relation to both civil and criminal offences.

### **Protecting the rights of workers to pursue common-law damages**

In 2000, the Labor government reintroduced the right to access common-law damages for seriously injured workers in Victoria, marking the restoration of a fundamental right removed by the Kennett government. In doing so, key controls were also introduced to ensure only those workers who were seriously injured could access common-law damages.

Today I take this opportunity to restate the clear intent of the Parliament when common law was reintroduced; that the government sees the deeming test to be the main gateway for access to common-law rights.

Maintaining access to common-law damages for seriously injured workers is a fundamental priority for this government. However, sustaining this aspect of the scheme requires careful management of its ongoing financial viability.

The bill reinstates the approach of the act to a worker's earnings from suitable employment for the purpose of determining whether the level of these earnings satisfy the requisite 'serious injury' threshold for loss of earning capacity. The references to 'suitable employment' throughout the act were always intended to capture a wide range of employment, vocational training and education arrangements through which workers may be returned to gainful employment. This concept has been obscured through restrictive interpretation by the courts of what suitable employment entails, most recently in the case of *Smorgon Steel Tube Pty Ltd v. Majkic*. This undermines fundamental controls in the scheme as well as the core objectives of the act, including the common-law economic loss gateway and return-to-work obligations.

### **More transparent decision making and efficient dispute resolution**

It is inevitable that disputes will arise in the administration of a workers compensation scheme. When they do, both workers and employers should be provided with quick and accessible means of reviewing the decisions that affect their entitlements and obligations under the scheme.

The Accident Compensation Conciliation Service is the primary vehicle for resolving statutory benefits disputes for workers. This bill makes a number of important amendments to promote the efficiency of the conciliation process for workers and employers.

This bill also makes several amendments to the current medical panel processes that are designed to improve its efficiency and fairness. The changes focus on improving the quality of referrals of medical questions to the panel by conciliation officers and the courts.

This bill will take the important step of removing the limitations on the jurisdiction of the Magistrates Court to deal with workers compensation claims in order to improve access for injured workers.

This bill also improves accountability for decisions made by agents from the perspective of employers. There will now be some circumstances in which employers may seek written reasons for decisions by agents, internal review by WorkSafe, and ultimately, review by the Supreme Court.

This bill will introduce changes to improve accountability and transparency in the premium process to make the system fairer and simpler. It creates a process for review of aspects of premium calculation via WorkSafe and the Supreme Court. The process is broadly based on the model for internal review of taxation decisions that has been tested and works well.

The bill will also provide for the review of the setting of premiums by an independent expert body. This acknowledges both the need for a higher level of transparency in the process of setting premium, and the complexity of this process for both employers and the general community.

The bill introduces a number of important changes to reflect the need for the act to enshrine and protect occupational health and safety principles. The act currently provides an avenue for potential recovery of compensation costs from a third party. These recovery actions ultimately benefit both the scheme and employers.

However, host employers commonly seek to protect themselves from liability under the act by means of 'hold harmless' clauses in their labour hire agreements. These purport to have the effect of shifting the financial burden of a host employer's negligence back onto the labour hire agency.

Amendments to the act will render unenforceable any contractual provisions that require the real employer of the worker to indemnify a third party (such as a host employer) for any liability that might be imposed upon the third party by the act.

As a matter of principle it is important that each party remains accountable for its role in workplace safety.

#### **Claims for mental injury caused by stress**

This government supports the right to compensation for a worker who suffers an injury caused by the mental anguish of being the victim of unreasonable treatment in the workplace.

This right is to be balanced against the need to ensure employers are reasonably able to manage their businesses effectively. The provision previously developed to balance these competing interests has not worked as intended. At times it has resulted in delay and confusion.

This bill therefore seeks to amend the act to simplify its language, to clarify the definition of 'management action' to include contemporary management practices, but to preserve the protections afforded to workers who suffer injury arising from unreasonable employment circumstances.

#### **Section 85 of Constitution Act 1975**

*Section 85 statement; see page 75.*

#### **Conclusion**

This bill provides fairer and better benefits to injured workers and their dependents, recognises that getting injured workers back to work is a central pillar of the scheme, and provides greater transparency for employers in their interactions with the scheme.

The benefit enhancements in this bill are financially responsible, affordable, and consolidate Victoria's position as the leader in workers compensation in Australia.

I commend the bill to the house.

#### **Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Koch.**

**Debate adjourned until Thursday, 11 February.**

## **TRANSPORT INTEGRATION BILL**

### *Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Hon. M. P. PAKULA (Minister for Public Transport).**

### *Statement of compatibility*

**Hon. M. P. PAKULA (Minister for Public Transport) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Transport Integration Bill 2009.

In my opinion, the Transport Integration Bill 2009, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

#### **Overview of bill**

The bill creates a new framework for an integrated and sustainable transport system in Victoria. It incorporates the key elements of the transport system under one central statute and sets out the vision, objectives and decision-making principles for the transport system to guide the activities of transport bodies and interface bodies.

Aside from empowering the minister and the Department of Transport with the central strategic policy and portfolio coordination role for transport, eight of the transport system's current agencies, categorised as transport system agencies, transport corporations and transport safety agencies will be transferred from various acts into the bill. The inclusion of the remaining agencies will occur in an amending bill in 2010 as part of the Port Futures project. This will include an

amalgamation of the Port of Melbourne Corporation and the Port of Hastings Corporation and will also include the transfer of the Victorian Regional Channels Authority.

Three name changes are included in the alignment process proposed by the bill. The V/Line Passenger Corporation is to be renamed the V/Line Corporation to better reflect the range of its operations, which also include responsibilities for network access and freight interests. The Southern and Eastern Integrated Transport Authority is to be renamed the Linking Melbourne Authority to reflect the broadening of its role into further complex urban road projects across Melbourne. Clause 202 of the bill repeals the Southern and Eastern Integrated Transport Authority Act 2003.

The chief investigator, transport and marine safety investigations is to be renamed chief investigator, transport safety as the marine sector is part of the transport system.

Similarly, the offices of the director, public transport safety and the director of marine safety are to be amalgamated into the single and independent office of director, transport safety. This amalgamation supports the safety functions shared by both offices, providing greater consistency, efficiency and transparency in safety regulation. It also addresses the lack of independence of the director of marine safety, who is currently appointed by the secretary and responsible to the department. The powers which would be available to both the chief investigator, transport safety and director, transport safety under the Marine Act 1988 are under consideration as part of the current review of marine safety laws towards a new proposed Marine Safety Act in 2010.

The bill also provides the department with a body corporate capability for project delivery through the transport infrastructure development agent.

### **Human rights issues**

The bill has been assessed against the charter.

### **Land acquisition**

The right to property in section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. Any law that deprives a person of property must be accessible, sufficiently precise and should not provide for an arbitrary interference with property.

Under clauses 36, 72, 121 of the bill, the Secretary to the Department of Transport, the director of public transport and Victorian Rail Track may compulsorily acquire any land required in connection with the performance of their powers or the exercise of their functions. Similar acquisition provisions are included in sections 112 and 114 of the Major Transport Projects Facilitation Act 2009.

Compulsory acquisition of an individual's land under the bill is a deprivation of property for the purpose of the right to property. However, the acquisition of interests in land under the bill requires ministerial approval and the acquisition and compensation requirements in the Land Acquisition and Compensation Act 2009 (LACA) will apply, with minor modification. A person deprived of their land under these clauses must be properly notified and compensated, and they may test the lawfulness of an acquisition through judicial review.

Accordingly, in my view, compulsory acquisition of land under the bill would be in accordance with the law and these provisions do not limit the property right.

### **Entry onto land and premises**

Section 13 of the charter establishes the right of a person not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. A 'lawful' interference is one authorised by an accessible, sufficiently precise positive law, which is reasonable and proportionate.

Clause 37 of the bill permits the secretary to enter any land and do all things necessary and convenient for the purpose of determining whether the land should be compulsorily acquired. Under clause 98 of the bill, the Roads Corporation may enter into a building and undertake activities necessary to ascertain the construction and condition of a building. This power of entry is required to allow the Roads Corporation to inspect and record the condition of properties in the vicinity of planned works, before those works commence. Under clause 126, Victorian Rail Track may enter any land to construct or maintain works supporting any rail signalling system.

These provisions will enable the secretary, Roads Corporation and Victorian Rail Track to enter into private residences. Similarly, under the bill, residential land is not exempt from the entry and temporary occupation power under section 75 of the LACA in connection with land acquisitions under clauses 36, 72 and 121. However, a number of safeguards are included in the bill which prevent them interfering with a person's home and privacy arbitrarily.

The secretary may only exercise the powers in clause 37 with the consent of the owner after giving written notice or in the case of an emergency. Residential land may only be accessed during the day (until 6.00 p.m.), and the secretary (and those acting on his or her behalf) must cooperate with the owner, causing as little inconvenience as possible and must compensate any damage.

The Roads Corporation may only enter a building and Victorian Rail Track may only enter land when it is necessary and convenient to fulfil its respective functions. The Roads Corporation must give an occupier reasonable and written notice and may only enter a building during the day. Unless immediate entry is necessary because of an emergency, Victorian Rail Track must give an occupier seven days notice and may only enter residential land when authorised between 7.30 a.m. and 6.00 p.m. (unless the occupier consents to the entry and agrees to a different time). Further, when exercising this power of entry, Victorian Rail Track must cooperate with the owner and occupier of the relevant land, and can only stay as long as is reasonably necessary and must cause as little inconvenience as possible. Before the director of public transport or Victorian Rail Track can temporarily occupy land, they must comply with the notice requirements set out in sections 75(3) and (4) of the LACA.

Accordingly, I consider the powers of entry in the bill do not limit the right to privacy.

### **Disclosure of information**

The right to privacy in section 13 of the charter has been described above. It also requires that a person has the right not to have their reputation unlawfully attacked.

Clause 177 of the bill permits the director, transport safety to disclose information obtained in the performance of his or her functions or powers, and to publish any information arising out of an investigation or inquiry. The director's functions are set out in clause 173 of the bill and include investigating and reporting on transport safety matters (clause 173(1)(d)) and collecting information and data relating to transport safety matters ( clause 173(1)(i)).

Information disclosed or published by the director under this clause could include private information about individuals. That information could impact on a person's reputation, particularly if related to his or her involvement in a transport safety matter or incident. However, disclosure of personal details under this clause is only permitted when the director considers that disclosure to be necessary for the safe operation of transport. Similarly, only information considered necessary for the safe operation of transport can be published, and any publication authorised by the director cannot identify a person by name. Disclosure and publication of personal information under this clause would be permitted by law and is reasonable and proportionate having regard to the public interest in transport safety.

Accordingly, in my opinion, this provision does not limit the right to privacy.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions do raise human rights issues, these provisions do not limit human rights.

Martin Pakula, MP  
Minister for Public Transport

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Hon. M. P. PAKULA (Minister for Public Transport).**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

This bill represents a watershed in the evolution of transport policy and legislation in Victoria and Australia. It confirms an end to the 'old' thinking and outdated debates about transport.

In essence, the bill charts the government's new direction in transport policy and delivery, providing a framework for integrated thinking on the best ways to move people and goods across the state.

Contemporary transport policy recognises that our transport system should be conceived and planned as a single system performing multiple tasks.

It also recognises that our transport system should be planned and delivered in a way that considers the broader social, economic and environmental impacts both now and in the future.

This means an integrated and sustainable transport system:

a system in which each and every transport activity — public transport on road and rail, commercial road and rail transport, private motor vehicles, commercial and recreational water transport, walking and cycling — works together as part of an integrated whole;

a system that complements, and is complemented by, integrated land use planning and decision making;

a system that delivers robust economic, social and environmental benefits for the state, with an eye on national and international responsibilities and opportunities.

This has not always been the theme of transport ministers in this house. We have come a long way since the then Minister of Railways, the Honourable R. G. Menzies, KC, spoke at length in this house back in November 1932 arguing that transport legislation was needed as a means to regulate 'the competing agencies in transport'.

Seventy-seven years later, this bill takes a very different approach.

There are major interdependencies in play across our transport system, so the notion of 'competition' between modes can potentially lead to areas of the portfolio acting to the detriment of the system itself.

The Brumby government takes a contemporary view of transport and transport policy. By aligning all transport agencies in pursuit of an integrated and sustainable transport system, we are helping to shape a livable and prosperous Victoria now and in the years ahead.

The bill will replace the Transport Act 1983 as Victoria's primary transport statute.

The government's vision for our transport system has been articulated over a number of years, most recently in the Victorian transport plan — the government's \$38 billion program of action to modernise our transport system over the next decade and beyond.

The bill is a key part of the plan. As the plan stated (p. 146):

The Transport Integration Bill will set a strong new direction for transport policy and legislation in Victoria, aimed at building an integrated and sustainable transport network. It will establish new overarching principles to provide transport decision-makers with a clear legislative framework and enable more effective planning and coordination of transport services, as well as consolidate existing legislation and remove duplicate and redundant provisions.

The vision enshrined in law by this bill guides the unprecedented investment set out in the Victorian transport plan.

For the first time, the bill brings together all elements of the transport portfolio — those responsible for all land and water-based transport, historically segmented as roads, rail, ports and marine — under one statute.

By unifying all elements of the transport portfolio, the bill ensures that transport decisions and activities are

complementary and work towards delivering the common vision.

It is important to note, however, that the bill cannot do this alone. It sits at the top of an extensive new legislative structure.

The Transport Integration Bill provides the broad policy and agency settings, while various subject-specific statutes contain the policy and regulatory detail relating to particular transport system activities. Regulations and other subordinate instruments support each act as required.

This is a comprehensive and contemporary structure that responds to the current and emerging challenges facing transport in the early 21st century, rather than the challenges that existed when the Transport Act was introduced 26 years ago.

**Shortcomings of the current legislation**

In 1983, the Transport Act was the largest overhaul of transport services management in the history of Victoria, initially repealing over 100 pre-existing acts.

The institutional and regulatory arrangements for transport have changed significantly since 1983. More importantly, the challenges facing the transport system and the community's expectations for transport are very different now than they were a generation ago.

Among the limitations of the current legislative arrangements for transport:

There is no clear vision for the transport system articulated in legislation.

It is not clear what constitutes the transport system.

The government's broader policy objectives or frameworks are not adequately reflected.

There is minimal guidance about social policy objectives.

Environmental objectives are not mentioned at all.

Transport bodies are established under different legislation and have different objectives.

Some decision-makers who can influence transport outcomes are neither established in, nor recognised by, the Transport Act.

The lack of overarching objectives for the transport portfolio was identified as an important issue by the Victorian Competition and Efficiency Commission (VCEC) in its 2006 report on transport congestion.

The government, in response to VCEC's report, supported developing unified objectives for transport legislation and reviewing the way transport agencies are set up.

**Integration**

To achieve transport integration, the different transport modes must operate together as an efficient, effective and seamless system.

Crucially, the bill recognises that transport planning and land use planning are essentially one and the same thing. Land use decisions determine existing and future transport needs, and transport decisions can alter land use patterns.

For example, the location of housing and businesses affects the levels of travel to and from those locations — while building new transport infrastructure or providing new transport services may increase demand for housing or commercial development in particular areas.

The government has demonstrated the importance of transport and land use integration by simultaneously developing the Victorian transport plan and Melbourne @ 5 million.

Importantly, the bill recognises that decisions impacting on the transport system are not made solely by transport agencies. It identifies a range of 'interface bodies' and explicitly acknowledges, for the first time in legislation, their important role in creating an effective transport system.

So those who plan for the development of our state — land managers, VicUrban, the Growth Areas Authority and Parks Victoria — are designated as interface bodies under the bill. Similarly, the legislation under which these bodies perform their functions is declared interface legislation.

This is a key aspect of this reform. These interface bodies are required to have regard to the objectives and decision-making principles when their decisions are likely to have a significant impact on the transport system.

The bill creates a common platform on which we can build a more integrated and coordinated effort across many areas of government.

**Sustainability**

The transport system needs to be planned, operated and managed so that it is sustainable, securing ongoing economic, social and environmental benefits for the state.

A transport system needs to support social outcomes by being inclusive and providing access to economic and social opportunities. It enables people to get to their jobs and to visit their families and friends. It can also support the health and wellbeing of individuals and communities — for example, by encouraging walking and cycling.

A transport system needs to support prosperity through efficient and effective access to jobs, markets and services. It facilitates economic activity in vital sectors such as freight and logistics, and the tourism industry.

And a transport system needs to support environmental responsibility by protecting the local and global environment — by mitigating negative impacts, by promoting forms of transport, energy and technologies which have the least impact on the natural environment, and by improving the environmental performance of all modes of transport. When transport and land use are integrated, they contribute to better environmental outcomes by reducing the amount of travel needed and increasing access to sustainable modes.

Creating a sustainable transport system also involves looking at impacts and outcomes over the long term. This requires robust strategic planning processes which set clear priorities and reflect integrated transport and land use planning.

**The policy framework**

Comprised of a vision, transport system objectives and decision-making principles, the framework in the bill provides the guidance needed to achieve an integrated and sustainable transport system.

The vision tells all decision-makers what we are working towards.

The objectives centre on a triple-bottom-line approach, highlighting the social, economic and environmental outcomes we are seeking.

This is achieved by specific social, environmental and economic objectives as well as objectives related to ‘transport and land use integration’, ‘efficiency, coordination and reliability’ and ‘safety, health and wellbeing’.

The decision-making principles set out the other key considerations and processes which lead to good decision making.

The policy statement, *Towards an Integrated and Sustainable Transport Future — A New Legislative Framework for Transport in Victoria*, provides additional guidance for decision-makers on the context and intent of this framework.

Context for integrated transport decisions is also provided by other transport policy documents including *Port Futures*, *Freight Futures* and the *Victorian Cycling Strategy*, together with a range of higher level government economic, environmental and social policy documents.

**Consolidation of transport agencies**

Enshrining these important objectives and principles in legislation will not alone achieve the outcomes we seek for our transport system. We also need a contemporary approach to the organisation of the transport agencies.

At present, transport agencies tend to be:

- scattered across a range of portfolio statutes; and
- created at different times with their own charter, which sets no objectives, or limited objectives, for the agency to achieve.

This has been exacerbated by the absence of an adequate central statute with a common goal to unite transport agencies in a system-wide approach to transport policy and management.

The bill reverses past practice and deliberately clusters all transport agencies under the one statute.

At the same time, it makes appropriate changes to the charter of each agency. Clarifying these charters improves coherence within the portfolio by ensuring that bodies act within their remit (whether that be operational policy, system development, operations or regulation).

The bill provides for a realignment of transport agencies so they are best placed to deliver the vision and objectives for an integrated and sustainable transport system. It supports these agencies in performing their roles.

A key focus of the bill results from the creation of the Department of Transport in April 2008.

The bill reconstitutes transport agencies established by legislation such as the Transport Act, the Rail Corporations Act and the Southern and Eastern Integrated Transport Authority Act, bringing them within the same legislative framework.

This allows the bill to:

- ensure that transport bodies are set up to deliver outcomes aligned to the vision and objectives for transport;
- address inconsistencies between the charters of the transport bodies and the new policy framework; and
- address existing overlaps, conflicts and gaps between the transport bodies across the portfolio.

The department’s leadership role provides an important context for framing roles for the other bodies in the portfolio and monitoring their performance.

In particular, the bill clarifies that VicRoads is responsible for road safety-related strategic policy, while the department is responsible for all other strategic transport policy functions and advice.

This approach was supported by the State Services Authority review of the governance and operational capability of VicRoads, released earlier this year. The bill implements elements of the government’s response to this review.

The bill identifies the broad roles that transport bodies undertake within the portfolio and aims to remove any conflicts, support coordination and provide greater clarity.

Transport bodies have been defined and grouped as:

- transport system agencies (director of public transport and VicRoads);
- transport corporations (V/Line Corporation, VicTrack and the Linking Melbourne Authority, with the port corporations to come later — including the merger of the port of Melbourne and port of Hastings corporations as recently foreshadowed in *Port Futures*); and
- transport safety agencies (the director, transport safety, and the chief investigator, transport safety).

The bill supports the State Services Authority review such that VicRoads will continue to have a wide function, as the state’s prime road authority, in providing, operating and maintaining the road system. Importantly, it reinforces the pivotal partnership between VicRoads and the director of public transport, as transport system agencies, in delivering broader outcomes for sustainable transport in Victoria.

The name of the Southern and Eastern Integrated Transport Authority (SEITA) is formally changed in the bill to the Linking Melbourne Authority, reflecting its broader role in the delivery of projects under the Victorian transport plan.

The bill supports the ongoing role of V/Line in providing important passenger services to regional Victoria, but also its broader remit to operate the network in relation to below-rail assets and rail freight. In light of this role, the corporation will be renamed simply V/Line Corporation (as the term

'passenger' in its previous title does not reflect its broadened role).

Milestone changes under the legislation significantly strengthen and refine the role of VicTrack in supporting the transport network. The changes are designed to properly recognise the crucial part that VicTrack has to play — as custodian of much of the state's transport-related land, infrastructure and assets — in the delivery of quality transport outcomes. While VicTrack's operations are diverse, the bill reflects the government's intention that its core responsibility should be the protection of transport land, infrastructure and assets for the benefit of present and future transport users.

The 2004 TFG International review of the role and accountability arrangements for public transport and marine safety in Victoria provided the framework — implemented by the Rail Safety Act 2006 — to establish the independent director, public transport safety, and the chief investigator, transport and marine safety investigations. However, the director of marine safety has not yet been given this same independence.

The bill addresses this by merging the director of marine safety and the director, public transport safety. This is a significant change, creating a single independent transport safety regulator. It will provide a more integrated approach to safety regulation, while it is also likely to drive efficiencies by removing unnecessary duplication in systems and processes.

In 2010, legislation will effect the amalgamation of the Port of Melbourne Corporation and the Port of Hastings Corporation. The new port corporation, with the Victorian Regional Channels Authority, will be transferred into this statute, finalising the consolidation of all transport agencies under this new framework.

**Key elements of the bill**

The bill has two major sections:

- the new policy framework for integration and sustainability;
- alignment of transport bodies to the new policy framework.

Part 1 of the bill sets out preliminary matters such as the purpose and definitions, and describes the agencies that have been declared transport bodies or interface bodies for the purposes of the bill.

Part 2 sets out the new policy framework for transport — the vision, transport system objectives and decision-making principles — to deliver an integrated and sustainable transport system. It also includes the capacity of the minister to make statements of policy principle to provide support to transport and interface bodies in respect of the interpretation and application of the framework.

Part 3 of the bill sets out the general powers of the minister and the secretary as well as the charter of the Department of Transport to support the minister in the administration of the bill. It also provides for the establishment of a transport infrastructure development agent in the department to deliver projects under the Victorian transport plan.

Part 4 sets out the planning requirements for the portfolio, including requiring the department to prepare or revise both

the Victorian transport plan and corporate plans in line with the policy framework. The corporate planning provisions apply across the transport agencies established in the bill and enable a more integrated planning process led by the department and aligned to the policy framework in the bill.

Part 5 continues the establishment of Victoria's transport system agencies: the director of public transport, who plays the crucial role in managing our public transport system; and the roads corporation, VicRoads, which plays a crucial role in road management, construction, maintenance and safety as well as supporting public transport, walking and cycling.

Part 6 continues the establishment of the state's transport corporations, Victorian Rail Track and V/Line Corporation, and establishes the Linking Melbourne Authority (formerly SEITA).

Part 7 provides for the state's independent safety compliance and investigation offices. This includes the director, transport safety and the chief investigator, transport safety. The director, transport safety is charged with public transport and marine safety regulation — subsuming the roles of the director, public transport safety and the director of marine safety.

Part 8 of the bill relates to general matters, including regulation-making powers.

**Broader reform process**

Victoria's transport legislation is being completely rewritten with a more logical and integrated structure and reflecting contemporary policy and regulation.

This major reform program has been under way for a number of years, with important milestones to date including:

- the Rail Safety Act 2006;
- the Transport Legislation (Safety Investigations) Act 2006;
- the introduction of taxi industry accreditation in 2006 (Transport (Taxi-cab Accreditation and Other Amendments) Act 2006);
- the Accident Towing Services Act 2007;
- the Bus Safety Act 2009;
- the Major Transport Projects Facilitation Act 2009; and
- other important legislative initiatives aimed at improving integration and sustainability outcomes including improved safety, road priority and compliance.

Proposed future reforms include a new marine safety bill, a new taxi and hire car bill, a new walking and cycling bill, and a new road safety bill. Each of these will be major reforms in their own right, all within the framework established by this bill.

This reform program has positioned Victoria as the national leader in modern transport policy and legislation.

**Conclusion**

In essence, the Transport Integration Bill:

1. places a requirement on transport bodies and key non-transport bodies to have regard for the objectives and decision-making principles of the bill;
2. requires planning to be undertaken in line with this policy framework;
3. establishes transport bodies under one piece of legislation, with a common goal to work together to foster greater integration and sustainability.

This bill lays the policy and legislative foundation for an integrated and sustainable transport system.

It affirms the importance of an integrated and sustainable transport system for a modern and prosperous economy, for an inclusive and vibrant community, and for a clean and green environment.

In so doing, it shapes the direction of Victoria's transport system for current and future generations.

Generations that will see the benefits, right across the state and in their local neighbourhood, as the Victorian transport plan is put into action.

I commend the bill to the house.

**Debate adjourned on motion of Mr KOCH (Western Victoria).**

**Debate adjourned until Thursday, 11 February.**

## MAGISTRATES' COURT AMENDMENT (MENTAL HEALTH LIST) BILL

### *Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Hon. M. P. Pakula.**

### *Statement of compatibility*

**For Hon. J. M. MADDEN (Minister for Planning), Hon. M. P. Pakula tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Magistrates' Court Amendment (Mental Health List) Bill 2009.

In my opinion, the Magistrates' Court Amendment (Mental Health List) Bill 2009, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

### **Overview of bill**

The bill will introduce a new procedural framework in the Magistrates Court of Victoria which is designed to assist courts to appropriately address the issues associated with offending behaviour of accused persons with mental illness and co-occurring impairments. Court-based interventions and support programs which target complex needs of mentally impaired persons have been shown to be effective in reducing the risk factors associated with reoffending.

One of the principal features of the mental health list (the list) is that it will have a dedicated magistrate who will be actively involved in supervising the progress of the accused's individual support plan. The program will also have a clinical assessment function which will be undertaken by qualified court-based mental health practitioners. The third aspect of the program involves the coordination of health and welfare services which will be undertaken by experienced court-based case managers.

A suitable term of court supervision will be determined based on the accused's specific needs and circumstances. It is anticipated that the majority of accused will be discharged from the program within six months. However, the services will be available for up to 12 months where an accused's circumstances require a longer period of care.

The bill establishes the mental health list by amending the Magistrates' Court Act 1989. Clause 5 of the bill introduces sections 4S to 4Y into the Magistrates' Court Act 1989.

### **Human rights issues**

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

##### *Section 8 — recognition and equality before the law*

Section 8(3) of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

The proposed section 4T of the Magistrates' Court Act 1989 engages the right in section 8(3) by limiting the jurisdiction of the list to accused with a mental illness, thereby differentiating between accused with a mental illness and those without.

However, section 8(4) of the charter recognises that 'measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination'.

The measures introduced by the bill are designed to assist courts in dealing with accused persons who have a mental illness or multiple complex needs.

Research has shown that mentally impaired defendants present to court with coexisting problems, including homelessness, substance abuse, poor social or interpersonal skills and unemployment.

The bill creates a new procedural framework for eligible individuals in the Magistrates Court of Victoria, featuring a case management function, as well as a therapeutic component, which are designed to meet the particular needs of mentally impaired individuals and assist courts in dealing

with individuals who have complex therapeutic needs. These measures can be characterised as promoting 'positive discrimination' within the meaning of section 8(4) and are compatible with the charter.

*Section 13 — privacy and reputation*

Section 13 of the charter protects a person's right to privacy and reputation.

The proposed section 4U of the Magistrates' Court Act 1989 engages the right in section 13 as involvement in the list requires the accused to reveal personal and medical information to treatment providers and the court.

An interference with privacy will not limit the right if the interference is neither arbitrary nor unlawful. The interference will not be arbitrary if the restriction on privacy accords with the objectives of the charter and is reasonable in the circumstances. The interference will not be unlawful if the law authorising it is circumscribed, precise, and determined on a case-by-case basis.

The provision of information in the proposed section 4U is prescribed by law and will be determined on a case-by-case basis. The court, the mental health practitioners and the treatment providers will remain under their respective legal obligations to safeguard an accused's right to privacy and not disclose the accused's personal information (except where otherwise required or permitted by law). The provision of information is necessary to ensure the efficient functioning of the list and that the accused receives effective treatment. Furthermore, participation in the list is voluntary and requires the consent of the accused. As such, the requirement is neither unlawful nor arbitrary and does not limit an accused's right to privacy.

*Section 25(1) — the right to be presumed innocent until proved guilty*

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

The proposed section 4V of the Magistrates' Court Act 1989 engages the right in section 25(1) as it may require the accused to complete an individual support plan prior to entering a plea. This may involve undergoing treatment prior to a charge being proved. However, while the bill does impose additional obligations on the accused, the right is not limited because the list operates at the pre-plea and pre-sentence stage of the criminal process, which means that the accused can choose to contest the charges and plead not guilty at any time. In that case, the matter will be diverted from the list and heard by a magistrate in the mainstream Magistrates Court. As the accused's participation in the program is voluntary, they are able to opt out of the list at any time and can have their matter heard and determined in the mainstream Magistrates Court where they can plead not guilty. Therefore, the right to be presumed innocent is not limited.

*Section 26 — right not to be tried or punished more than once*

Section 26 of the charter provides that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

Under the proposed section 4U of the Magistrates' Court Act 1989, the court may require an accused to complete an individual support plan prior to entering a plea. This may involve undergoing treatment and complying with directions of the court prior to a charge being proved.

Under the proposed section 4Y(6) of the Magistrates' Court Act 1989, a court may find that the accused did not participate in the individual support plan satisfactorily which will then require the accused to be sentenced. Participation in an individual support plan under this bill is voluntary and is not a form of punishment. Rather, an individual support plan is therapeutic in its aims and designed to assist and support the accused, not only in relation to the proceedings at hand but also in dealing with related issues such as homelessness and drug and alcohol abuse. As such, the right not to be punished more than once is not engaged.

In addition, the proposed sections 4Y(5) and (6) require that the court must take into account the extent of the accused's participation in the individual support plan when sentencing the accused. Furthermore, the accused can choose to contest the charges and plead not guilty at any time. In that case, the matter will be diverted from the list and heard by a magistrate in the mainstream Magistrates Court. As the accused's participation in the program is voluntary, they are able to opt out of the list at any time and can have their matter heard and determined in the mainstream Magistrates Court where they can plead not guilty.

**Conclusion**

I consider that this bill is compatible with the charter because this bill does not limit any human right protected by the charter.

Justin Madden, MLC  
Minister for Planning

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Hon. M. P. PAKULA (Minister for Public Transport).**

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

The Magistrates' Court Amendment (Mental Health List) Bill 2009 will facilitate the establishment of a modern procedural framework in the Magistrates Court of Victoria which is designed to meet the particular needs of defendants who experience mental illness and cognitive impairments. The mental health list ('list') is a key component of the Victorian government's mental health reform strategy, Because Mental Health Matters.

Because mental health matters, the government has created a special ministerial portfolio for mental health, providing \$128 million over four years for initial seeding reforms to address the disadvantages of these particularly vulnerable members of our community. Our vision is that all Victorians should have the opportunities they need to maintain good

mental health and wellbeing, and that those experiencing mental health problems should be able to access timely, high-quality care and support to live with success and dignity in the community. We have been working hard to turn this vision into reality.

The program facilitated by this bill recognises the particular circumstances of mentally impaired defendants and seeks to assist courts to appropriately address the issues associated with their offending behaviour.

Research has shown that mentally impaired defendants present to court with coexisting problems, such as homelessness, substance abuse, poor social or interpersonal skills and unemployment. Mental illness can be exacerbated without appropriate treatment and support, and lead to a 'revolving door phenomenon', where mentally impaired defendants continue to cycle through the criminal justice system, with diminishing prospects for reintegration in the community. As a result, mental illness is disproportionately represented in the prison population.

The program facilitated by this bill recognises that our courts can find a better, more dignifying and more humane way to respond to persons with a mental illness. Early intervention programs, such as the one facilitated by this bill, seek to divert defendants to services that can address the matters that contributed to their offending behaviour effectively.

The bill also seeks to address other immediate and practical issues confronting these individuals, by providing better alignment and service coordination between the courts, government agencies and service providers who can assist the defendants in addressing their coexisting problems such as drug and alcohol abuse and homelessness.

The model proposed by the bill is based on a number of successful interstate and international programs, adopting the 'best practice' features of each of those models, while also taking into account the particular characteristics of the existing health services and associated infrastructure in Victoria.

The model will continue to deliver on the government's commitment to take a problem-solving approach to justice, address disadvantage in the justice system and modernise courts.

Much has been achieved over the past few years; however, we can and must do more to make Victoria a better and fairer place to live. We are strongly committed to developing more innovative, client-oriented and responsive court strategies that will ultimately improve the way in which we provide justice.

Following the establishment of the list, Victorian courts will be at the 'leading edge' of practice in this area. The list will utilise therapeutic jurisprudence principles which we have successfully pioneered in the Drug Court in Dandenong, the Koori courts across Victoria, the Neighbourhood Justice Centre in Collingwood and the Court Integrated Services program.

The procedural and clinical measures facilitated by this bill will enhance the capacity of our courts to respond to defendants who experience mental illness or coexisting impairments.

The courts will be able to reach this group of defendants at an earlier stage of the offending cycle, thereby reducing their

likelihood of reoffending. Furthermore, the program will improve the efficiency of the court processes by streamlining the procedures via a dedicated program, while at the same time reducing the high cost of imprisonment and other correctional services.

#### **Key features of the mental health list**

The list will hear cases involving defendants who have complex needs and moderate to severe mental impairments, including:

- mental illness;
- intellectual disability;
- acquired brain injury;
- autism spectrum disorder; and/or a
- neurological impairment, including dementia.

Eligibility will be restricted to cases that do not involve serious violence or serious sexual offences. In cases involving low-level sexual offences, the magistrate will have the discretion to admit the defendant to the list, following consultations with the coordinating magistrate for the sexual offences list. The defendant must consent to participate in the list. List participants may withdraw from the list at any point prior to their matter being finalised. If they withdraw from the list their matter will return to the 'mainstream' Magistrates Court. Withdrawal from the list will not prevent defendants from accessing other court-based support services.

The list will focus on those defendants whose risk of reoffending is related to their mental health issues. Priority will be given to defendants who would most derive benefit from involvement in the problem-oriented court process and from receiving coordinated services in accordance with the support plan. These defendants will include individuals who have complex health and welfare needs and those who have 'fallen between the cracks' of the community service system.

It is anticipated that the list will work with approximately 300 defendants per year. Referrals to the list will be accepted from defendants themselves and other people involved in their lives, as well as from magistrates, police, prosecutors, defence lawyers, and other court-based support services. Defendants will participate in the list for between 3 and 12 months. The list will have a court-based clinical assessment function and a case management and liaison function. The clinical assessments will be undertaken by a small team of experienced mental health practitioners who will undertake comprehensive assessments of defendants, prepare individual support plans, advise the court of the defendants' treatment progress and provide some time-limited psychological interventions.

Support for defendants during their time of involvement with the list will be provided by case managers, who will be able to purchase certain additional services to address defendants' needs related to mental illness or cognitive impairment, homelessness, as well as drug and alcohol abuse. One of the most significant features of the program will be the effective coordination of health and welfare services, which will be facilitated by the program's case managers. Early referrals to the list will be encouraged in order to maximise service and treatment options for eligible participants. The critical task for the court-based mental health practitioners and the court will

be to assess and refer defendants to appropriate treatment and support services, with the aim of reducing their involvement in the criminal justice system.

While the program will be available for up to 12 months, it is anticipated that the majority of defendants will be discharged from the program within 6 months. Flexibility in this regard is designed to ensure (on a case-by-case basis) that a suitable term of supervision is set, based on the defendants' specific circumstances. The aim will be to stabilise the defendant in the community and provide the court with an indication of the defendant's progress for the purposes of sentencing.

One of the most important procedural aspects of the list is that the magistrate will be actively involved in the processes of monitoring and supervising the defendant's individual support plan. The magistrate will be able to adjourn the matter and conduct periodic status hearings to ensure that the defendant has complied with the program and individual support plan undertakings. Successful completion of the pre-sentence program could result in the magistrate discharging the defendant or imposing a sentence that takes into account the defendant's participation in the program.

The bill does not amend the Sentencing Act 1991, and the magistrates will retain the full range of sentencing options available under that act. The Sentencing Act 1991 requires magistrates to decide an appropriate sentence after taking into account factors such as deterrence, punishment, rehabilitation, protection of the community and concerns of the victim. This remains the same for the mental health list.

Further, the list will have the same sentencing dispositions available to it as the 'mainstream' Magistrates Court, from a dismissal to a fine, through to a community-based order or imprisonment. Successful participation in the list program by a defendant will be taken into account by the list magistrate in determining an appropriate sentence. Though the bill provides that the list magistrate may dismiss charges where appropriate this merely clarifies an existing option that magistrates already have.

The mental health list will commence operations early in 2010 and will be piloted until 30 June 2013. The trial of the mental health list will be formally evaluated by independent evaluators to ensure that it is effectively achieving its intended outcomes.

### Conclusion

We have made significant progress in improving the Victorian justice system over the past nine years, and I commend all those who have worked tirelessly to bring about positive institutional and cultural change in our justice system. We are determined to continue working in this direction, and this bill is a result of our determination to reduce disadvantage in the criminal justice system.

The fairness of our system, our institutions and our democracy is measured by the manner in which we treat the most vulnerable members of our community, including mentally impaired individuals. One of the great strengths of the mental health list is its ability to deliver responsive, meaningful and fair outcomes for these individuals and to improve the way in which justice agencies and service delivery networks work together in response to the needs of the community.

I commend the bill to the house.

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

### Debate adjourned until Thursday, 11 February.

**Mr Rich-Phillips** — On a point of order, Acting President, with respect to the introduction of the Accident Compensation Amendment Bill, notwithstanding the discussion I had with the Government Whip, I seek your clarification on the introduction of this bill, which does not reflect the bill that was introduced to the Parliament insofar as there are amendments from the other place which have not yet been incorporated. I seek your guidance as to the appropriateness of that practice.

**Mr Viney** — On the point of order, Acting President, I apologise to the house for the mistake. The reasons do not matter, but there was no awareness on my part that there was a section 85 statement in the second-reading speech. Perhaps I should have been familiar with that, but I was not. We seek leave from the house for the minister to make the section 85 statement in relation to the Accident Compensation Amendment Bill.

**Mr Rich-Phillips** — Further on the point of order, Acting President, I seek the guidance of the Chair as to the practice of introducing a bill which has amendments but which does not reflect the bill that was passed in the other place.

**Mr Viney** — Further on the point of order, Acting President, it is true that a number of amendments, as outlined by the minister in relation to this bill, were introduced into the lower house and passed in the lower house. In order to facilitate the passage of this bill through the house without undue and unnecessary delay, I sought guidance from the President and I advised the Opposition Whip of the fact that the amendments have been attached to the bill and that, as I am advised, a fully clean copy of the bill will be available to members electronically within 24 hours.

The President indicated to me earlier that he was comfortable with those arrangements. We went to some trouble to make sure that a comprehensive explanation of the amendments would be given by the minister at the table, and the statement in that regard was made by the minister. The list of amendments in the lower house is attached to the bill. Within 24 hours a fully clean copy of the bill will be available.

## ACCIDENT COMPENSATION AMENDMENT BILL

### *Section 85 statement*

**Hon. M. P. PAKULA** (Minister for Public Transport) (*By leave*) — I make the following statement under section 85 of the Constitution Act 1975 of the reasons why it is the intention of this clause of the bill to alter or vary section 85 of the Constitution Act 1975.

Clause 71 inserts section 92D into the Accident Compensation Act 1985. Section 92D allows WorkSafe to make provisional payments to the dependants of a deceased worker prior to any formal decision as to their entitlement, subject to certain restrictions. It is the intention of this clause to alter or vary section 85 of the Constitution Act 1975.

The nature of a decision by WorkSafe under clause 71 is a preliminary one and is not ultimately determinative of a dependant's rights to compensation. Where WorkSafe decides not to make a provisional payment to a person under this section, that person is then entitled to make a claim under the act in respect of the worker's death. This would have the effect of requiring WorkSafe to make a decision as to the person's entitlement to compensation 'proper' under the act. In the event that WorkSafe were to reject such a claim, the person would then have access to their full court review rights under the act, as is the case for any other disputed claim.

Clause 114 introduces part 2A into the Accident Compensation (WorkCover Insurance) Act 1993 ('the insurance act') that provides for a process of review by WorkSafe of premium amounts that are disputed by employers.

The clause inserts new sections 32–36M into the insurance act that:

require employers to first seek review by WorkSafe of their disputed premium before they can bring court proceedings in respect of that dispute; and

restrict the ability of employers to seek review of decisions by WorkSafe not to allow applications for judicial review out of time.

The new premium review process set out in the bill is aimed at providing an accessible, low-cost process for employers to challenge premium decisions that will deliver consistency in premium decisions. Employers who remain dissatisfied following a review outcome

will continue to have access to their full review rights under the bill.

The exclusion of applications for review that are made out of time ensures that the exercise of WorkSafe's discretion to allow an application that is made out of time is not reviewable.

Clause 91 introduces a limited objection right for employers in connection with initial decisions by WorkSafe to accept liability for certain claims for compensation. It is the intention of this clause to alter or vary section 85 of the Constitution Act 1975. The clause inserts new sections 114H–114R into the Accident Compensation Act and restricts the ability of employers to seek judicial review of decisions by WorkSafe not to allow objections that are lodged with WorkSafe out of time.

The exclusion of objections that are lodged out of time ensures that the exercise of WorkSafe's discretion to allow an objection that is made out of time is not reviewable. However, employers will continue to have access to the courts outside of the objection process set out in the act.

Clause 43 introduces a right for employers to request written reasons from agents for certain liability decisions. It is the intention of this clause to alter or vary section 85 of the Constitution Act 1975 by inserting section 109AA, which restricts the ability of employers to seek judicial review of the written reasons of those liability decisions. This is because the review of those liability decisions is already provided for in the internal and external review mechanism introduced by clause 91.

Clause 122 of the bill inserts subsections 138(6)–138(9) to authorise WorkSafe to recover, on behalf of employers, certain payments that they have made to workers, and for which they are directly liable, pursuant to certain provisions of the act. It is the intention of this clause to alter or vary section 85 of the Constitution Act 1975. The clause inserts new section 138(8) to exclude any right of appeal or review by employers in respect of such recovery actions.

The payment amounts that may be recovered under the provision are very small, and therefore it would be inefficient to provide for appeal or review rights in respect of disputes over whether or what proportion of these payments are recovered.

Clause 23 of the bill inserts section 242AC into the act to allow a person to request WorkSafe to bring a prosecution against an employer who contravenes the antidiscrimination provisions under the act. Where

WorkSafe refuses to bring a prosecution, that person can then request that the matter be referred to the Director of Public Prosecutions for his consideration. New section 242AC(7) excludes any right of appeal or review in respect of WorkSafe's decision to bring proceedings against an employer.

Section 242AC(3) provides an appropriate and proportionate mechanism whereby WorkSafe decisions under this new provision may be subject to scrutiny by an expert body.

Clause 135 of the bill inserts section 252AA into the act to allow a person to request WorkSafe to bring a prosecution against an employer who contravenes a provision of part VIIB of the act. Where WorkSafe refuses to bring a prosecution, that person can then request that the matter be referred to the Director of Public Prosecutions for his consideration. New section 252AA(7) excludes any right of appeal or review in respect of WorkSafe's decision to bring proceedings against an employer.

Section 252AA(3) provides an appropriate and proportionate mechanism whereby WorkSafe decisions under this new provision may be subject to scrutiny by an expert body.

## BUSINESS OF THE HOUSE

### Adjournment

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the Council, at its rising, adjourn until Tuesday, 23 February 2010.

**Motion agreed to.**

### ADJOURNMENT

**Hon. M. P. PAKULA** (Minister for Public Transport) — I move:

That the house do now adjourn.

### Bushfires: neighbourhood safer places

**Mr KOCH** (Western Victoria) — My issue is for the Minister for Police and Emergency Services and relates to safety within rural Victorian towns in the event of bushfire. It is a disgrace that the 2010 bushfire season is likely to be over before places of last resort, or neighbourhood or community safer places, are announced in many communities within western

Victoria. The Brumby government's inaction in getting places of last resort up and running demonstrates the contempt with which Labor regards regional Victorians. Nine of the 23 municipalities in western Victoria do not currently have community safer places compliant with Country Fire Authority (CFA) guidelines. Alarming, amongst those are some of the most populated areas in the region.

Rather than apply government funding, resources and expertise to the identification and establishment of places of last resort throughout western Victoria, the government has handballed that responsibility to cash-strapped local councils and the CFA. Local councils and the CFA have acted admirably in their attempts to get the system up and running but have been thwarted by a lack of government support and poor timing.

The Shire of Pyrenees, for example, has identified 12 locations it believes meet the safety requirements to serve as a neighbourhood safer place or place of last resort in the event of a bushfire. The CFA worked tirelessly to try to fast-track approval of those locations. However, CFA approval is only the first step in the process and a final sign-off by councils is still required.

The government knows that councils do not meet during January. Some recommendations for places of last resort were completed in late December, but many are located on Crown land, so further application must be made to various government agencies to secure these sites as places of last resort. Since February is the first opportunity for councillors to sign off on these recommendations, many of the places of last resort will not be bushfire compliant before the end of the current fire season. Combined with the confusion that has spread through western Victoria in relation to code red and catastrophic days, this bushfire season is an accident waiting to happen.

Following the tragic events of February 2009 a more thorough attempt would have been expected to sort out the procedural and administrative aspects of a system so important to the saving of lives in the event of a bushfire event. Minister Cameron has failed to act with the urgency required and expected by communities, especially those reliant on tourism, like the people at Halls Gap, to deal with the threat of summer bushfire.

My request is for the minister to assist in fast-tracking the securing of places of last resort, especially in western Victoria, and offering those vulnerable communities the security of community safer places in the extreme circumstances that may confront many families during our fire-prone months.

### Public transport: myki ticketing system

**Mr BARBER** (Northern Metropolitan) — My adjournment matter is for the Minister for Public Transport, who happens to be here in the chamber — and that is great. Of all the lurks and perks around this place, the one that I actually endorse is the pass that provides free public transport for politicians, and that is because, if it encourages politicians to use public transport, that can only be for the good.

On the bottom of my pass it says, ‘Valid until replaced by myki’.

**Mr Finn** — Will any of us live that long?

**Mr BARBER** — That might be Mr Finn’s approach to this, but what I am requesting of this minister is that he go ahead and issue myki cards to all the politicians in this place.

**An honourable member** interjected.

**Mr BARBER** — Yes, I know I can go out and buy one if I want to, and you have already done so, but I am talking about the other 126 members of this place, who, if they were issued with myki cards, would have to go out and be human guinea pigs for it. It would only add to the level of the debate, because then members would be working off their personal experience rather than simply reflecting on what they are reading in the newspapers and bringing that into this chamber.

My adjournment request to the minister is that as soon as humanly possible politicians be issued with myki cards so they can learn for themselves how the system may or may not be working.

### Public transport: myki ticketing system

**Mrs COOTE** (Southern Metropolitan) — My adjournment matter is also about the myki system and is for the minister at the table, Minister Pallas — —

**Hon. M. P. Pakula** — What is my name?

**Mrs COOTE** — I beg your pardon; your name is Pakula. I am sorry. I have been dealing with Mr Pallas all day. The minister at the table looks like him.

**Hon. M. P. Pakula** — Just for that, I am not giving you an answer!

**Mrs COOTE** — My adjournment matter for this evening is for the Minister for Public Transport, who is Mr Pakula. It is to do with the myki debacle. I have had another irate constituent contact me about myki discrepancies. This constituent lives in Camberwell.

I will explain some of his problems. On 22 January he was charged a zone 2 fare of \$4.94 at 7.12 a.m. and a zone 1 fare at 7.34 a.m. at East Camberwell or Camberwell; on 28 January he was charged a zone 2 fare of \$4.94 at 6.02 a.m. and a zone 1 fare at 6.25 a.m. at Camberwell. He arrived in the city at 6.55 a.m., and it should have been a free journey because he was supposed to be deemed an early bird traveller.

If you go through Flinders Street station before 6.30 a.m., you often cannot touch off as the barriers are not operating. The statement my constituent received has no record of when he touched on or touched off. He should have been able to use his ticket at 11.00 a.m. in the morning on a tram, at which time his ticket would revert to a daily ticket, so he could have travelled for free in zone 1 for the rest of the day. But he was debited \$2.94 on boarding the tram, and he had to buy a tram ticket to go up Collins Street later in the morning. He got charged \$2.94 on the myki system on the way home.

He is a student at the University of Melbourne who has to go from Camberwell to Melbourne University. He has to go from Camberwell station to Melbourne Central station under the myki system. Then he has to purchase a tram ticket at Melbourne Central and then get a return tram ticket because he spends over 2 hours at the university. He returns home by going from Melbourne Central to Camberwell on the myki system. This used to be a \$5.85 journey; it is now a \$7.80 journey under the myki system. He is finding this issue extremely frustrating.

The action I seek is for the minister to immediately simplify the myki system to ensure that university students returning to university in March will not be discriminated against.

### Schools: literacy and numeracy

**Ms PENNICUIK** (Southern Metropolitan) — My adjournment matter is for the Minister for Education. It regards the so-called Australian schools index and the policy of naming and shaming schools that perform below the average in national literacy and numeracy testing which are then published on the ‘My school’ website.

Ms Pike has stated she is against simplistic school league tables, but she has done nothing to prevent the NAPLAN (National Assessment Program — Literacy and Numeracy) test results of Victorian schools from being included on the federal government’s ‘My school’ website. Information on the website provides the data necessary to construct league tables.

Newspapers like Hobart's *Mercury* and Brisbane's *Courier Mail* have already published such tables, and other media organisations will surely follow. A report released on 27 January 2010 by the Grattan Institute, an independent education think tank, concluded that the information on the 'My school' website is:

... prone to mismeasurement and may be biased against schools serving lower socioeconomic communities ...

In May last year a leading Australian educator, Professor Brian Caldwell, called on the nation's education ministers to scrap plans to publish information which compared schools. He said it would not give parents the information they needed and could stigmatise some schools, especially disadvantaged government schools.

I have looked at the 'My school' website, and I do not believe it provides information to parents that is any more valuable than what is already available on the Victorian Department of Education and Early Childhood Development website. Nor does it supply more comprehensive information about the progress of children than the schools themselves.

The information on the 'My school' website is based only on the results of the NAPLAN tests. Years 5, 7 and 9 numeracy tests are not designed to rank students, let alone teachers or schools. The tests are crude measures of accomplishments in spelling, reading, grammar and maths. Results are being misused on the 'My school' website for a purpose for which they were not designed. They say nothing of the quality of teaching in these areas or other educational achievements.

The federal government's website will undermine confidence in schools that have low scores, even though many of them are doing an excellent job in difficult circumstances, including having a lack of resources. It will force teachers to sacrifice time spent on other important curriculum areas to teach students about the tests to boost scores.

Julia Gillard, the Deputy Prime Minister and federal Minister for Education, has urged parents to have robust discussions with teachers in schools which perform below the average. In my opinion this is unconscionable. The 'My school' website is not a measure of transparency, because it includes only an average snapshot of the performance of a whole year level on a narrow test on a particular day. It is not accountable, because it does not hold federal and state governments accountable for the growing inequities between schools and students — which they preside over — due to the inequitable funding and resourcing

of schools. This is why teachers, principals and education experts are opposing them.

My request to the minister is that she refuse to hand over future NAPLAN test results to her federal counterpart until steps are taken to prevent the construction of simplistic league tables of data.

### **Springvale Road, Nunawading: speed limits**

**Mr ATKINSON** (Eastern Metropolitan) — I wish to raise a matter for the Minister for Roads and Ports. It concerns initiatives which I believe need to be taken regarding Springvale Road following the completion of the Nunawading railway crossing project and the merger of the Nunawading Primary School with Springview Primary School, which has already been achieved and is located on the Nunawading Primary School site for this year while the Springview Primary School is being rebuilt. Springview Primary School is on Junction Road, which runs off Springvale Road.

I have been in discussions with a large number of the residents from the region between the EastLink project and Springfield Road about a number of traffic management issues. Having consulted those residents, I am of the view that there is a need for the minister to now adjust speed limits on Springvale Road between Whitehorse Road and the EastLink freeway, and possibly even as far as the Mitcham Road crossing. The issue is — and this happens in many parts of Melbourne — there are different speed zones in different places, and they do not all tend to make a lot of sense.

The concern that a lot of residents have in the area I have described is that the speed limit from Springfield Road to Mitcham Road is 80 kilometres per hour, and that obviously picks up traffic that is going onto EastLink either in a westerly or easterly direction. As the minister will appreciate, there is a lot of jockeying for position as to who wants to go west and who wants to go east and who wants to continue on up Springvale Road. It seems a rather foolish thing to have an 80 kilometre-an-hour zone at that point, particularly when on other parts of Springvale Road — including the section around Nunawading Primary School on the hill going down towards Springfield Road — the speed limit is 70 kilometres an hour.

The other issue I wish to raise in the same context, because it is still an initiative involving Springvale Road, is that the minister look at the installation of a pedestrian overpass in the vicinity of Junction Road as a means of people crossing Springvale Road. That is very close to the freeway, so we have some significant

traffic issues — the awareness of drivers as they are switching lanes and so forth coming off the freeway or trying to avoid traffic from the freeway. It is a very dangerous place for pedestrians to cross, and given the change in the status of the school with the merger, it is important to recognise the number of children and families who will now be making some pedestrian movements that they would not have made in the past. I ask the minister to look at that crossing.

### **Fair Work: casual employment**

**Mr VOGELS** (Western Victoria) — I raise an issue for the Minister for Industrial Relations, Martin Pakula. It concerns the federal government's new Fair Work workplace relations system, which became law from 1 January 2010. During question time today we heard the minister extolling the virtues of the new awards and expressing how proud he was to take ownership of these laws on behalf of the Brumby government.

This morning on Neil Mitchell's radio program on 3AW we heard a person from a business in Terang — the town that I grew up in — which has just laid off six casual staff. These are basically schoolkids who come in at 4 o'clock when school has finished. The co-op where they work closes at 5.30 p.m., so they can work for only an hour and a half. The people who run the business tell me that they had to lay off these 17 and 18-year-old kids because nobody is allowed to work less than 3 hours per day under the new award system. As a result the business can no longer employ those staff.

Obviously the regulation is going to cost tens of thousands of jobs, and not only for schoolkids who are earning pocket money, not to mention learning the values of money and work. I have been told all casual staff will be affected. What effect will these new laws have on other casual employees such as housekeepers, office cleaners who turn up for an hour a day to clean an office, a relief milker called in by a dairy farmer, the school bus driver who only drives in the morning or in the evening and a school crossing supervisor?

Can the minister clarify these concerns for me and the people of Terang — and they are just one example? If what I have heard is true, what action does the minister intend to take to make sure that thousands if not tens of thousands of casual jobs are not lost across Victoria?

### **Rail: Reservoir level crossing**

**Mr GUY** (Northern Metropolitan) — My adjournment matter tonight is for the Minister for Public Transport, Martin Pakula, and it concerns the rail

level crossing in Reservoir in Melbourne's northern suburbs. This level crossing is a complex one. It is where the Epping line intersects with High Street and forms part of a four-way intersection at Cheddar Road and Spring Street. Thus the level crossing runs right in the middle of the road junction and divides the Reservoir shopping centre into an east and west area.

Reservoir, and this level crossing in particular, carry a huge amount of the road traffic from the booming suburbs in the north such as Epping North, which has the Springwood and Aurora estates, Mill Park Lakes and Epping itself. As the Whittlesea corridor is one of the fastest growing areas of Melbourne and indeed Australia, it is obvious that the road traffic is only going to increase. The traffic congestion at weekday peak hours has been at breaking point for some time, but nowadays it is also on weekends. That traffic is exceptionally congested.

The level crossing divides the suburb. It creates massive congestion that stretches far beyond the Reservoir shops and impacts upon traffic movements right along adjoining streets. It is without doubt one of the worst gridlocks in the northern suburbs. It should also be remembered that Epping itself is a stabling yard for many metropolitan trains, thus the boom barriers are down more than just during the regular passenger services. They are down at all times of the day and night as empty trains are ferried back to the stabling yards at Epping.

I fully understand and acknowledge that any grade separation is hugely expensive and cannot be done in a short period of time and nor can a commitment to complete the works be given on the spot. I acknowledge this project would be an expensive one, but I believe that the debate about removing this level crossing must begin. In my view it is no longer good enough for Melbourne's northern suburbs, and pressing issues like this within them, to be ignored simply because of their electoral location. Too often Melbourne's north, like the west, has been ignored, particularly over the last 10 years. In saying that I remind members that it was the Kennett government that removed a rail level crossing black spot in Werribee, which at that time was not a marginal seat. But the issue was pressing and it was done.

Tonight I simply ask the minister to give a commitment to the people of Melbourne's north that study works will be commenced into the elimination of the Reservoir level crossing so that the full cost, the logistics and the feasibility of the project can be known and the debate about its removal can be put well and

truly on the agenda for the current and future governments in Victoria.

### **Workers compensation: claim**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Finance, WorkCover and the Transport Accident Commission. It relates to a matter raised with me by a Mr Rob Verity who in 1976 suffered a severe workplace injury while working as an employee of his own business on a third-party site. As a consequence of that accident Mr Verity lost the use of his legs. He is now in a wheelchair. He has required substantial rehabilitation. He was hospitalised for a long period of time and has ongoing battles with the agent for his claim, QBE Workers Compensation, with respect to having various modifications made to his house.

It was therefore with some surprise that on 24 December 2009 he received a letter from QBE seeking the payment of an excess with respect to his claim from 1996, some 14 years earlier. Mr Verity indicates that by virtue of the fact that he was effectively both the employer and employee at the time as a director of his own company he is aware of having paid the excess at the time or paid accounts for various expenses up to the excess that applied at the time. He is frankly appalled that 14 years after his claim — possibly as a consequence of the ongoing dispute with QBE as to the modifications he requires to his home — he received on Christmas Eve this demand for payment by his company of accounts to the value of \$582, which is the way the excess works. One of the issues is that the amount of \$582 is the excess that applies now in 2010; it is not the excess that applied when the accident occurred in 1996.

The second issue is that Mr Verity has indicated he has already paid accounts to cover the excess that was applicable in 1996 and it is unreasonable for QBE and the Victorian WorkCover Authority to expect him to have retained those records for 14 years. He makes the very good point that even the Australian Taxation Office requires records to be retained for only six years.

It is my view that it is appalling and mean-spirited on the part of QBE that Mr Verity, having suffered these extensive injuries and extensive losses, should be presented with this demand for an excess payment of \$582 on Christmas Eve 14 years after his accident. I ask that the minister intervene to have QBE retract this demand for the excess and apologise to Mr Verity.

### **Patterson Lakes: water quality**

**Mrs PEULICH** (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Environment and Climate Change. It is in relation to a meeting that I had with residents of the Quiet Lakes development at Patterson Lakes in relation to water quality following the removal of various elements of the lakes system that were intended to keep the water flows and also the water quality at a swimmable level.

Ten years ago this waterside residential development began to be mismanaged by Melbourne Water, denying residents use of a very key facility. It was part of the Patterson Lakes project. Development permits that apply have been ignored, and there is a legal contract that requires the council — initially the Dandenong Valley Authority and subsequently the Kingston City Council — and Melbourne Water to maintain the water quality. Certain pipes and pumps have been removed. I have raised the matter with the Minister for Water. He is sticking by Melbourne Water, which is prepared to look at some minor works, to fudge and forget the legal contract that exists and probably to add to the precept that it is paid by residents. However, there is a legal contract in place.

But most importantly the quality of the water has declined substantially. There is strong concern about a toxic algal bloom. In fact when I went there recently I saw that there is a sign advising against swimming. Apparently Melbourne Water put up the sign to please the Department of Sustainability and Environment, but Melbourne Water's newsletter to the residents states that it is okay to swim and that the algae are non-toxic.

Clearly there is a need for an investigation of that water quality and for the EPA (Environment Protection Authority) and the minister to take whatever action is appropriate to force these authorities to stop snubbing residents and to honour their legal obligations. Otherwise I fear that the residents, having waited for 10 years now, will run out of patience and will take legal action. There will be a class action and there will end up being an entrenched position.

The authorities have clearly failed. There are environmental and health issues. No-one wants anyone to be negatively affected as a result of algal bloom. Tests need to be done, independent investigation needs to occur, and the minister needs to take action via the EPA or his department to make sure that these matters are addressed and that Melbourne Water does not shirk not only its legal but also its moral responsibility to protect the health and welfare of the residents of the Quiet Lakes region at Patterson Lakes.

### Health: Wallan super-clinic

**Mrs PETROVICH** (Northern Victoria) — My matter on the adjournment is for the Minister for Health. It relates to the debacle around the Wallan super-clinic, which was promised by the Labor Party during the last federal election. At the time I questioned the amount of money committed, which was a paltry sum of \$1 million. As I have said before, this is the fastest growing community north of Melbourne and it has not had the level of commitment to infrastructure required for this growth from state or federal Labor governments. We need to remember that the state Labor government has been in power for 10 years. Rail, road, education and health have all suffered, and here is just another example of the neglect.

With a super-clinic promised and the realisation that \$1 million will not buy the land let alone the clinic or the car park the federal government has gone very quiet on the whole deal. Meanwhile it appears Mitchell Community Health has been charged with expending the \$1 million and all the indicators are that, because there is not enough commitment or budget, health services will be provided out of the Wallan community centre. This does not address the issues of health in Wallan; it simply puts a bandaid on the gaping need for planning, infrastructure and increased services for this burgeoning community.

To make matters worse, there has been no consultation. This has increased speculation among the many community groups at the Wallan community centre. There is no explanation of how increased use by Mitchell Community Health will impact on groups such as senior citizens, the neighbourhood house and occasional care, just to name a few. There is a current application for funding through Regional Development Victoria of approximately \$500 000 to refurbish the rooms at this facility for use by Mitchell Community Health, and it seems we now have a state and federal partnership in this debacle.

The action I seek from the Minister for Health is an honest and prompt briefing for me and other stakeholders in the Wallan community centre on the status of this project and how it will impact on this community facility and its usage by the community, and on Labor's vision for health in Wallan.

### Department of Sustainability and Environment: land purchase

**Mr P. DAVIS** (Eastern Victoria) — I raise an issue for the attention of the Minister for Environment and Climate Change, Mr Jennings, concerning plans by the

Department of Sustainability and Environment to purchase private farmland in East Gippsland. Information has found its way to landowners in the alps in the far East Gippsland area that the DSE is looking to buy a specific, sizeable farm in the Benambra district. Word on the local grapevine indicates this is just a beginning — DSE is said to be sitting on \$21 million that has been earmarked to buy East Gippsland properties.

The relevant guideline for a property purchase of this nature is the state's native vegetation management policy, which requires any loss of native vegetation due to clearing to be offset. In this case it is understood that DSE is pursuing the property acquisition to offset the clearing of vegetation for government projects. It is a strange way to go about creating an offset — to buy land more than 400 kilometres away in place of what may well have been the construction of a road in Melbourne.

The property in question will provide somewhat less than a genuine offset, however, in that it is run down — it is described as a vast blackberry patch overlying a vast rabbit warren. It is also in a subalpine area where the natural vegetation is substantially different from what would be found anywhere else in the state, particularly in the coastal environs of Melbourne around the Port Phillip district. More to the point is the question of the proper management of the land, which is a major concern for adjoining land-holders, who fear it will be allowed to deteriorate further into a breeding ground for weeds and vermin. Rehabilitation and then revegetation of the property and its ongoing care will represent a huge management task, and in this respect severe shortcomings are evident in the large area of East Gippsland that is already public land.

In that light, I ask the minister to act to suspend any land purchases for vegetation offset in East Gippsland pending a review of the purchase program with respect to proposed land management plans and consultation with affected adjoining landowners and managers in areas where land purchases are intended.

### 20th Man Fund: Back to School program

**Mr FINN** (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Education. It follows an event that I attended last Friday, the 21st anniversary celebration of Les Twentyman's Back to School program. In the past 21 years the program has helped some 11 000 children get to school. Those are mainly children who might not otherwise have received a proper education. I think every member of this house will join in congratulating 'Sir' Les on an outstanding

contribution not just to the young people in his area but to the economic and social health of the entire western suburbs.

The gathering last Friday morning was at Whitten Oval. It included child safety commissioner Bernie Geary. Doug Hawkins was there, as was comedian Elliot Goble. We heard consultant psychologist Michael Carr-Gregg give a powerful address. He pointed out strong linkages between a low education level and criminal activity. He said that this is arguably one of the most vulnerable generations in the history of Australia and that there are four compelling reasons that the Back to School initiative is so important and should be expanded across Australia. He said completing year 12 provides a significant buffer against unemployment and that early school leaving costs Australia \$2.6 billion a year. He said unemployment has a devastating effect on the psychological and social development of young people and increases the risk of homelessness, involvement in crime, failure to develop a work ethic, self-harm and youth suicide. In short, it is false economy to not proactively address this issue.

Dr Carr-Gregg pointed out that studies show that young males who are not in the labour force have a mortality rate 8.6 times higher than their working or studying counterparts and that youth unemployment truncates their future through low wages, underemployment and unemployment, which is a one-way passport to lifelong poverty. He concluded by saying that in the olden days we used to send our early school leavers into the trenches. He said the modern equivalent seems to be unemployment or work-for-the-dole queues, the pub, the clubs or the broken-down old cars, after which either we bury them or patch up their broken limbs, give them Prozac or Ritalin and send them on their way. He said also that we need to applaud, support and expand this Back to School program because if we think education is expensive, we should try ignorance.

What I ask the minister tonight is to provide Les Twentyman and the 20th Man Fund with a degree of funding because for 21 years Les has done his work without any government funding at all. It is about time the government came to the party. I ask the minister to provide the necessary funding to support and expand the 20th Man Fund's Back to School program.

### **North East Water: board appointment**

**Mr D. DAVIS** (Southern Metropolitan) — My matter for the adjournment tonight is for the attention of Tim Holding, the Minister for Water. It concerns a recent appointment to the North East Water board. This is a very important water authority, managing as it does

the water that runs into the Murray River, which is a critical part of Victoria's water infrastructure. I refer to the recent appointment of Lisa Mahood, the failed Labor candidate for Benambra, but also of the Premier's office. When Ms Mahood lost the election in 2006 she was quickly given a plum job in the Premier's office, employed in the north-east of the state — not even required to move to Melbourne but employed by a special arrangement as a staffer for the Premier in the north-east of the state.

As we know, recent legislation implemented on the recommendation of the Ombudsman required local councillors who were also employed by state or federal members of Parliament to make a difficult decision — and I understand this was retrospective — and that bill was supported by this chamber and the Parliament.

Ms Mahood had to make that decision. She chose to remain on the Wodonga council, as was her absolute right. What is unusual about this, though, is that within weeks of her making that decision the Premier provided her with a golden parachute into a plum job. If you look at page 112 of the recent annual report of North East Water, you can see the remuneration that is paid to responsible persons at that organisation. I make no complaint about people on water boards who have very responsible jobs being remunerated appropriately — that is important.

The question here is the appointment process by which the Premier's pet, Lisa Mahood, was parachuted into a plum job on a water board. The likely earnings — looking at the arrangements here for 2009 — would be of the order of up to \$30 000 a year, as I understand it from a reading of page 112 of the report. That would be a reasonable estimate for payments, but I stand to be corrected if that is an overestimate. Either way it is a significant payment to Ms Mahood, who has been golden parachuted into there.

I ask the minister whether he approved this recent appointment in the full understanding that she had recently been in the Premier's office and whether this was a job for the boys or girls, a golden parachute. I therefore ask him whether he will launch an independent review of the appointment process to ensure probity is preserved.

### **Responses**

**Hon. M. P. PAKULA** (Minister for Public Transport) — There were numerous matters raised during the adjournment debate. Mr Koch raised a matter for the Minister for Police and Emergency Services in regard to places of last resort in rural and

regional Victoria and asked that there be fast-tracking of places of last resort, particularly in western Victoria, and I will convey that to the Minister for Police and Emergency Services.

Mr Barber raised a matter for me as Minister for Public Transport in regard to free public transport for politicians, asking me to effectively expedite the provision of free myki cards for members of Parliament.

**Mrs Coote** — I have got my own.

**Hon. M. P. PAKULA** — As have I, Mrs Coote. Mr Barber did acknowledge, to be fair, in his adjournment matter that I have purchased my own, as I suspect have other members of Parliament. It remains open to members of Parliament to do that if they want to try out the system. My answer to Mr Barber is that, given that MPs all currently possess travel passes which remain valid, members of Parliament are at this stage a less urgent priority for me and for the Transport Ticketing Authority than members of the travelling public who have been proactive and gone on the website and ordered myki cards, as I and other members of this place may well have done. A myki card will be provided in due course.

**Ms Lovell** — He wants his for free!

**Hon. M. P. PAKULA** — Quite clearly.

Mrs Coote also raised a matter for me as Minister for Public Transport and it was in regard to a student who has been using myki. Allow me to dispose of the matter in this way. The example that Mrs Coote provided was one where because this student had used myki on a train and then a Metcard on a tram the total cost of his daily travel had gone up, if I understand her remarks correctly. That is the case. That is why we have said quite clearly that if you are a traveller who uses more than one mode of transport during the day — if you use the train plus either the tram or the bus — our strong advice is to stick with a Metcard for the time being. Myki will provide the best fare all day on all three modes when it is up and running on all three modes, but if you are a traveller who currently uses trains and trams, you should stick with a Metcard, because you can simply buy a single daily ticket and receive the daily rate.

Ms Pennicuik raised a matter for the Minister for Education, Ms Pike, in regard to state schools publishing league tables — the National Assessment Program — Literacy and Numeracy. Her request was that the minister refuse to hand over future test results to the Deputy Prime Minister and federal Minister for

Education, Ms Gillard, until stronger measures are in place to prevent the publication of league tables. I think both Ms Pike and Ms Gillard have indicated their opposition to the publication of league tables. I do not regard it as likely that the minister will accede to Ms Pennicuik's request, but nevertheless I will pass it on.

Mr Atkinson raised a matter for the Minister for Roads and Ports seeking an adjustment of speed limits between Whitehorse Road and Mitcham Road on Springvale Road and a pedestrian overpass on Springvale Road in the vicinity of Junction Road, and I will convey that to the minister.

Mr Vogels raised a matter for me in my capacity as Minister for Industrial Relations in regard to some casual staff in Terang whom he says have been laid off — as a consequence of the introduction of modern awards, I presume. He says this may jeopardise tens of thousands of jobs. Mr Vogels should be aware that even during WorkChoices, and certainly prior to the passage of the referral legislation, the majority of workers were always covered by an award of some kind. Not all but the majority of workers were covered by federal awards, or state awards back in the days of state awards, and minimum payment for casual work of 3 or 4 hours has been a feature of those awards for decades. That has not been the case for everybody, and it has not been the case for all time. But the offer I make to Mr Vogels is that if he provides me with the name of the employer and the industrial instrument under which — —

**Mr Finn** — Don't you listen to Neil?

**Hon. M. P. PAKULA** — I did not listen to him this morning, Mr Finn, because I was on the train with Ms Pennicuik. If Mr Vogels provides me with the information, I will look into it for him.

Mr Guy raised a matter for me in regard to a rail level crossing in Reservoir near the intersection of High Street, Cheddar Road and Spring Street. He seeks a grade separation for that level crossing. Under the Victorian transport plan there is funding for a series of grade separations. There is obviously a need to prioritise, and in his contribution Mr Guy acknowledged that these separations are extremely expensive. Having said that, I undertake to provide Mr Guy with a response.

Mr Rich-Phillips raised a matter for the Minister for Finance, WorkCover and the Transport Accident Commission in regard to an individual, Mr Verity, who had a workplace accident and lost the use of his legs

back in the 1990s. He indicated that QBE Insurance is now seeking payment of an excess from 1996, and he asks that the minister intervene to have QBE retract that demand. I will convey that request to the Minister for Finance, WorkCover and the Transport Accident Commission.

Mrs Peulich raised a matter for the Minister for Environment and Climate Change in regard to residents of Quiet Lakes at Patterson Lakes. She seeks that tests be done via the Environment Protection Authority or the minister's department in regard to algal bloom, and I will convey that to the minister.

Mrs Petrovich raised a matter for Minister for Health in regard to the Wallan super-clinic. She seeks from him a briefing on the status of that project, and I will convey that to the minister.

Mr Philip Davis raised a matter for the Minister for Environment and Climate Change in regard to the Department of Sustainability and Environment purchasing private farmland in East Gippsland and is seeking to have those purchases suspended. I will convey that to the minister.

Mr Finn raised a matter for the Minister for Education in regard to Les Twentyman's Back to School program, seeking that the minister provide funding for that program. I will convey that to the Minister for Education.

Mr David Davis has raised a matter about the appointment of Ms Lisa Mahood to the North East Water board. In his remarks Mr Davis raised the matter of local government councillors not being able to be employed by members of Parliament. He would be aware that there was no restriction placed on local councillors being appointed to any boards and there are indeed a number of local government councillors on a variety of boards across the state of Victoria. But he has sought an independent review — —

**Mr D. Davis** — Of the appointment process.

**Hon. M. P. PAKULA** — Of the appointment process. The appointment process is a cabinet process; however, he has sought an independent review of that, and I will convey that to the minister.

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

**House adjourned 5.25 p.m. until Tuesday,  
23 February.**