

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 30 June 2011

(Extract from book 10)

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By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AO, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Deputy Premier, Minister for Police and Emergency Services, Minister for Bushfire Response, and Minister for Regional and Rural Development.	The Hon. P. J. Ryan, MP
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Minister for Mental Health, Minister for Women's Affairs and Minister for Community Services	The Hon. M. L. N. Wooldridge, MP
Cabinet Secretary	Mr D. J. Hodgett, MP

Legislative Council committees

Privileges Committee — Ms Darveniza, Mr D. M. Davis, Mr P. R. Davis, Mr Hall, Ms Lovell, Ms Pennicuik and Mr Scheffer.

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

Legislative Council standing committees

Economy and Infrastructure Legislation Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Economy and Infrastructure References Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Environment and Planning Legislation Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, *Mr Tarlamis, Mr Tee and Ms Tierney.

Environment and Planning References Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, Mr Tee and Ms Tierney.

Legal and Social Issues Legislation Committee — Ms Crozier, Mr Elasmr, #Mr Elsbury, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich, #Mr Ramsay and Mr Viney.

Legal and Social Issues References Committee — Ms Crozier, Mr Elasmr, #Mr Elsbury, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich, #Mr Ramsay and Mr Viney.

* *Inquiry into Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011*

Participating member

Joint committees

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Hall, Mr Lenders, Ms Lovell and Ms Pennicuik. (*Assembly*): Ms Allan, Mr Clark, Ms Hennessy, Mr Holding, Mr McIntosh, Dr Naphine and Mr Walsh.

Drugs and Crime Prevention Committee — (*Council*): Mr Leane, Mr Ramsay and Mr Scheffer. (*Assembly*): Mr Battin and Mr McCurdy.

Economic Development and Infrastructure Committee — (*Council*): Mrs Peulich. (*Assembly*): Mr Burgess, Mr Foley, Mr Noonan and Mr Shaw.

Education and Training Committee — (*Council*): Mr Elasmr and Ms Tierney. (*Assembly*): Mr Crisp, Ms Miller and Mr Southwick.

Electoral Matters Committee — (*Council*): Mr Finn, Mr Somyurek and Mr Tarlamis. (*Assembly*): Ms Ryall and Mrs Victoria.

Environment and Natural Resources Committee — (*Council*): Mr Koch. (*Assembly*): Mr Bull, Ms Duncan, Mr Pandazopoulos and Ms Wreford.

Family and Community Development Committee — (*Council*): Mrs Coote and Ms Crozier. (*Assembly*): Mrs Bauer, Ms Halfpenny, Mr McGuire and Mr Wakeling.

House Committee — (*Council*): The President (*ex officio*) Mr Drum, Mr Eideh, Mr Finn, Ms Hartland, and Mr P. Davis.. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Ms Campbell, Mrs Fyffe, Ms Graley, Mr Wakeling and Mr Weller.

Law Reform Committee — (*Council*): Mrs Petrovich. (*Assembly*): Mr Carbines, Ms Garrett, Mr Newton-Brown and Mr Northe.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mrs Kronberg and Mr Ondarchie. (*Assembly*): Ms Graley, Ms Hutchins and Ms McLeish.

Public Accounts and Estimates Committee — (*Council*): Mr P. Davis, Mr O'Brien and Mr Pakula. (*Assembly*): Mr Angus, Ms Hennessey, Mr Morris and Mr Scott.

Road Safety Committee — (*Council*): Mr Elsbury. (*Assembly*): Mr Languiller, Mr Perera, Mr Tilley and Mr Thompson.

Rural and Regional Committee — (*Council*): Mr Drum. (*Assembly*): Mr Howard, Mr Katos, Mr Trezise and Mr Weller.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr O'Brien and Mr O'Donohue. (*Assembly*): Ms Campbell, Mr Eren, Mr Gidley, Mr Nardella and Mr Watt.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Deputy Leader of the Government:

The Hon. W. A. LOVELL

Leader of the Opposition:

Mr J. LENDERS

Deputy Leader of the Opposition:

Mr G. JENNINGS

Leader of The Nationals:

The Hon. P. R. HALL

Deputy Leader of The Nationals:

Mr D. DRUM

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Broad, Ms Candy Celeste	Northern Victoria	ALP	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Davis, Hon. 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
Elasmr, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Hon. Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern 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

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Thursday, 30 June 2011

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.33 a.m. and read the prayer.

PETITIONS

Following petitions presented to house:

Community sector: wages

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the current and serious workforce crisis in the not-for-profit community sector.

The community sector offers support to those most vulnerable in our community and provides services that are central in addressing disadvantage. The sector is an essential part of our community safety net, working to reduce the worst effects of poverty, social exclusion, violence and inequality. To ensure that our community is able to access adequate and appropriate services, the community sector must be able to recruit and retain a skilled, dedicated and stable workforce. The sector is increasingly unable to do this, as the wages and conditions of these workers fall further and further behind other sectors. For example, full-time, qualified community workers earn on average \$15 000 less than the average wage in Australia.

In 2010 the Australian Services Union will be running an equal remuneration case in the Fair Work Australia tribunal to increase the rates of pay for community sector workers to that of comparable workers. For too long the work in this sector has been undervalued and unrecognised — this cannot continue. Now is also the time for proper funding of the community sector.

Your petitioners therefore request that the Victorian government support the community sector by committing to properly funding the pay increase that will result from the ASU's equal remuneration case.

**By Ms DARVENIZA (Northern Victoria) (17 signatures),
Mr EIDEH (Western Metropolitan) (13 signatures),
Mr ELASMAR (Northern Metropolitan) (4 signatures),
Mr JENNINGS (South Eastern Metropolitan) (11 signatures),
Mr LEANE (Eastern Metropolitan) (15 signatures),
Mr LENDERS (Southern Metropolitan) (6 signatures),
Hon. M. P. PAKULA (Western Metropolitan) (15 signatures),
Ms PULFORD (Western Victoria) (15 signatures),
Mr Leane for Ms BROAD (Northern Victoria) (10 signatures),
Mr SCHEFFER (Eastern Victoria) (15 signatures),**

**Mr SOMYUREK (South Eastern Metropolitan) (7 signatures),
Mr TARLAMIS (South Eastern Metropolitan) (18 signatures),
Mr TEE (Eastern Metropolitan) (15 signatures),
and Ms TIERNEY (Western Victoria) (15 signatures).**

Laid on table.

Ordered that petitions be considered next day on motion of Ms TIERNEY (Western Victoria).

Mrs Peulich — On a point of order, President, I wish to seek your advice on whether it is acceptable practice to divvy up a single petition in order to maximise its impact.

The PRESIDENT — Order! As Chair I am not in a position to understand how these petitions came to the Parliament and whether they were collected at a single place and have been divided between members for effect or whether all these petitions were gathered separately. I am not in a position to rule on that. It is quite within the rights of members to bring a petition to this place, and as members of the opposition have indicated, whether there be 1 signature or 10 000 a petition has significance to this place.

Forests: protection

To the Legislative Council of Victoria:

The petition of residents of Victoria draws to the attention of the Legislative Council the issue of logging in Victoria's native forests.

The petitioners therefore request that the Legislative Council of Victoria acts to protect Victoria's native forests, including old-growth forests and water catchments and supports the transition of logging into plantations to sustain jobs and our wood needs.

By Mr BARBER (Northern Metropolitan) (400 signatures).

Laid on table.

Ordered to be considered next day on motion of Mr BARBER (Northern Metropolitan).

Children: Take a Break program

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that funding for the Take a Break occasional child-care program, which is provided at more than 220 neighbourhood houses and community centres across Victoria, will cease after 31 December 2011.

The cessation of Take a Break funding removes a subsidy that currently enables parents, guardians and carers to participate in activities, including employment, study, skills development and volunteering, while their children socialise in a quality early learning environment.

The subsidy is essential for the viability of occasional child-care services, particularly in rural and/or disadvantaged communities.

Full funding for the program was provided by the previous state Labor government in 2010–11, but will not be continued by the Baillieu beyond December 2011.

The removal of the subsidy will mean that families across Victoria will be unable to access affordable, local, community-based occasional child care to undertake tasks that benefit the family, community and local economies.

The petitioners therefore request that the Baillieu government allocates funding to subsidise community-based occasional child care in Victoria to ensure the continued delivery of this vital service beyond December 2011.

**By Ms MIKAKOS (Northern Metropolitan)
(3232 signatures).**

Laid on table.

Ordered that petition be considered next day on motion of Ms MIKAKOS (Northern Metropolitan).

Children: Take a Break program

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria, draws to the attention of the Legislative Council that funding for the Take a Break occasional child-care program, which is provided at more than 220 neighbourhood houses and community centres across Victoria, will cease after 31 December 2011.

The Take a Break occasional child-care program allows parents and guardians to participate in activities including employment, study, recreational classes and voluntary community activities while their children socialise and interact with other children in an early learning environment.

Full funding for the program was provided by the previous state Labor government, but will not be continued by the Baillieu government beyond December 2011.

The cut to funding will mean that families across Victoria will be unable to access affordable, community-based occasional child care to undertake tasks that benefit the family and allow them to take a break.

The petitioners therefore request that the Baillieu government reinstate funding for the Take a Break occasional child-care program.

**By Mr LEANE (Eastern Metropolitan)
(33 signatures).**

Laid on table.

NATIONAL BLOOD AUTHORITY

Report 2009–10

**Hon. D. M. DAVIS (Minister for Health), by leave,
presented report.**

Laid on table.

VICTORIAN CHILD DEATH REVIEW COMMITTEE

Report 2011

**Hon. W. A. LOVELL (Minister for Children and
Early Childhood Development), by leave, presented
report.**

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2011–12 (part 2)

Mr P. DAVIS (Eastern Victoria) presented report.

Laid on table.

Ordered to be printed.

Mr P. DAVIS (Eastern Victoria) — I move:

That the Council take note of the report.

In doing so I advise that this is the second part of the Public Accounts and Estimates Committee report on the 2011–12 budget estimates. This part is one of three which together will provide an overview and analysis of the 2011–12 budget. Whereas part 1 focused largely on the public hearings conducted by the committee in May 2011, parts 2 and 3 are intended to provide a more detailed analysis of the 2011–12 budget. Part 2 specifically focuses on performance measures in the 2011–12 budget. In undertaking this analysis the committee is responding both to its duties as set out in the Parliamentary Committees Act 2003 and to a request from the Minister for Finance to review the performance measures proposed to be discontinued or substantially changed in the 2011–12 budget. The minister's request represents a new step in the budgetary process for 2011–12, which the committee and I warmly welcome as it has increased the government's accountability.

I consider performance measures to be of particular importance in the government's management of the state budget. Performance measures, if designed and used well, have the potential to significantly improve the management, performance and transparency of the government and public sector. They can provide the means to make evidence-based policy decisions and to assess the efficiency and effectiveness of government programs. Performance measurement and reporting also enable the Parliament and the community to assess the government's performance compared to its targets and objectives. Ensuring that the performance measures are sufficient and appropriate is thus a key aspect of the Public Accounts and Estimates Committee work examining the accountability mechanisms for government expenditure.

I believe there is currently potential to improve performance measurement and reporting in Victoria. It is my hope that this report will assist the government in making such improvements. The committee intends to continue examining the government's achievements in this area with the aim of establishing better practice in the future.

There were 24 recommendations in the report. I want to go to what I think are the two most significant recommendations. Recommendation 4 is:

The Department of Treasury and Finance work with departments to increase the number of meaningful, transparent and appropriate outcomes-based performance measures in the budget papers and link this explicitly into the strategic management framework.

Recommendation 5 is:

To enhance transparency and accountability, future budget papers clearly indicate the links between policy objectives, inputs, outputs and expected outcomes.

I want to emphasise the meaning of the expression 'outcomes'. There tends to be a lot of measurement of process when in fact the importance of performance measurement is in ensuring that the investment in effort and resources actually leads to better deliverables and better performance for stakeholders, rather than just providing a chronology of functional behaviour. I think we need to move more particularly towards outcomes-based reporting.

In conclusion, I want to reflect on the efforts of the committee secretariat. It is an amazing effort to produce the reports for estimates. I think an investment is made by all stakeholders. The current Treasurer and ministers, and the Treasurer and ministers of the previous government, will know what effort departmental officers make in preparing for estimates

hearings, which they see as a moment of great excitement, or fear perhaps, because often ministers are put in a position where they are asked questions they cannot answer, and the staff of the secretariat equally put in a huge amount of effort. I would like to thank particularly Valerie Cheong, Christopher Gribbin, Ian Claessen, Michael Herbert, Melanie Hondros and Justin Ong, the secretariat of staff who have worked on this report in particular. Generally speaking the members of the committee have worked well together, and I thank all committee members, including members of the opposition, for their assistance with producing this report.

Hon. M. P. PAKULA (Western Metropolitan) — I too seek to make brief comment on part 2 of the budget estimates report from the Public Accounts and Estimates Committee. I want to start where the chair of the committee ended. The efforts of the secretariat to have this committee report to the Parliament before 30 June were quite outstanding. In years gone by we have been able to have the first part, with the transcript, in before the end of the financial year, but it has been quite difficult to get any more in. There was an extra step this year, because the new government has implemented a policy whereby the discontinuation of performance measures goes to the Public Accounts and Estimates Committee for approval, which necessitates a further step by the committee, and the secretariat's job in having a report ready for the committee to consider earlier this week was outstanding.

I also want to thank the chair of the committee for the cooperative and collegiate way in which he conducted the committee's deliberations on the part 2 report. We were able with a very brief turnaround to have an agreed document. That is only possible when all members of a committee are prepared to consider and agree to each other's concerns and ensure that the document reflects a commentary that all members are comfortable in putting their names to.

In regard to the substantive matters, outcomes-based reporting is an important step. We need to ensure that we do not unnecessarily let departments off the hook by allowing them to create measures that suit them. In conclusion, it is also important that the committee did not simply accept all 127 discontinued measures but in regard to a few of them indicated that in its view it was important that those performance measures be maintained.

Mr O'BRIEN (Western Victoria) — I wish to briefly rise as a member of this committee to thank first of all the chair and deputy chair for the way they conducted themselves in their respective roles in

relation to both the 54 hours of estimates hearings and the preparation of the two reports to have them tabled in the Parliament by the end of the financial year and the start of the first full year, in a budgetary sense, of the coalition government's term.

I would also like to join both previous speakers in thanking the secretariat — Valerie Cheong, Christopher Gribbin, Ian Claessen, Melanie Hondros, Michael Herbert and John Manders, as well as Justin Ong — for their work in preparing in particular this last report, and also the other members of the committee for the way they have applied themselves to their tasks.

Turning to the substantive recommendations, in addition to the comments made already, I would place emphasis on recommendations 12 and 13.

Recommendation 12 states:

To enhance transparency in reporting, explanations be given in future budget papers for each and every change to a performance target.

And recommendation 13 states:

In future budget papers, all explanations for changes to performance targets indicate, at a minimum, whether the change is because of:

- (a) changed government policy, funding or program delivery; or
- (b) changed external circumstances.

The importance of this is to enable us when we are dealing with qualitative measures in particular to wherever possible continue levels of accountability across governments and across terms so that we as members of Parliament can discharge our duties to our constituents in analysing and reviewing the roles of the executive and the departments in the delivery of services to Victorians.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Members of Parliament (Register of Interests) Act 1978 — Summary of Variations notified between 5 April 2011 and 29 June 2011.

Office of Police Integrity — Report on the review of the investigative process following a death associated with police contact, June 2011.

PRODUCTION OF DOCUMENTS

The Clerk — I have received the following letter from the Minister for Tourism and Major Events.

Letter at page 2344; schedule of documents at page 2345.

Ordered that letter and documents be taken into consideration next day on motion of Ms PENNICUIK (Southern Metropolitan).

MEMBERS STATEMENTS

Rail: Merinda Park station car park

Mr SOMYUREK (South Eastern Metropolitan) — I rise to call on the Minister for Public Transport to begin the process of constructing the extension to the Merinda Park station car park, which was funded last year by the Brumby Labor government. Last year the Brumby Labor government funded the construction of more than 350 extra parking spaces at Merinda Park station to make it easier for local commuters to park and ride.

Rail: Hallam station

Mr SOMYUREK — On another matter, I call on the government to upgrade Hallam train station, which is in my electorate. During the term of the previous Bracks and Brumby Labor governments there were many upgrades to stations across the state and to several stations in my electorate, but unfortunately Labor lost government before it had a chance to upgrade Hallam station.

Rail: Dandenong station

Mr SOMYUREK — On another matter, I call on the government to give favourable consideration to the application by the City of Greater Dandenong for a high-quality, wireless closed-circuit television camera system for public surveillance in and around Dandenong railway station under the community crime prevention program for public safety infrastructure grants.

Public transport: government achievements

Mr O'DONOHUE (Eastern Victoria) — Tomorrow is the first day of the new financial year and therefore marks the start of a new budget. I am very pleased that as part of that budget a number of small but nonetheless

important public transport and general transport commitments made before the election will come into effect for individual local communities. The first of three I would like to mention this morning is the abolition of Labor's unfair country fare from Allsops Road, Yarra Junction, to Warburton East.

Secondly, prior to the election, the Liberal candidate for Monbulk, Matt Mills, promised to deliver 10 additional bus stops throughout the shire of Yarra Ranges. I am pleased to advise the house that already during the term of this government 12 new bus stops have been delivered to the shire of Yarra Ranges, doing more than meeting that election commitment

Thirdly, and perhaps most importantly from a safety perspective, the new financial year will be an opportunity for the government to deliver on its commitment to provide a railway crossing at the intersection of the Pakenham line and McGregor Road in Pakenham on the Melbourne or western side. This is a very important piece of infrastructure, one that will allow schoolchildren from the Heritage Springs estate and other residential communities around that area to access the various schools in the vicinity without having to cross the now very busy McGregor Road. I congratulate the government on these initiatives and look forward to their delivery in the very near future.

Freedom of information: government performance

Mr BARBER (Northern Metropolitan) — It is not the Freedom of Information Act 1982 that needs to change; it is the culture around how the act is administered. Despite a complete change of government there has been no change to the culture. In fact the government's outsourced lawyers continue to come up with new and interesting ways to hold back information. Commercial in confidence, despite it being established very well under the FOI law, is still the all-purpose reason for refusing to release a document or set of documents without even releasing the material that could be released.

Lawyers turned up to the directions hearing in relation to Minister O'Brien's department and immediately mounted a jurisdictional argument in relation to \$50 million of public funds about which we were seeking information. Again his department argued that 1000 documents in relation to the Anglesea coalmine approval were too many, thereby effectively arguing that that approval could not be scrutinised. But in contrast that with staff from Mr Guy's department, who enthusiastically went through 600 documents and did not think that was too many. It always ends in

negotiations with us on the courthouse steps anyway, so it is effectively a way of creating lawyers' fees while holding back information that should be available.

Melbourne to Warrnambool Cycling Classic

Ms PULFORD (Western Victoria) — The Melbourne to Warrnambool Cycling Classic, starting in Melbourne, is the oldest cycling race in Australia and the second longest running one-day cycling event in the world. The race was first held in 1895 when 50 riders entered, but alas only 7 finished. Since its beginning the race has been held 90 times. The Warrnambool cycling classic is one of Australia's great sporting events, one Labor was proud to support, and the Liberals appeared to support it too. In May 2010 Denis Napthine said:

... funding for the Melbourne to Warrnambool and the Shipwreck Coast Classic would provide certainty for the future of this historic race ...

Last year the coalition promised \$50 000 a year to this end. As a cycling tragic, one who is counting the sleeps until Cadel Evans's assault on the Tour de France commences, this was good news. It is two sleeps —

Hon. D. M. Davis — Another SBS watcher!

Ms PULFORD — Yes, and we thought Tuesday was a late night! And \$50 000 a year for four years sounded pretty good. I was disappointed to hear race director John Craven explain that after receiving funding from part of the Baillieu government event organisers have been slugged with a \$20 000 bill from another part of the same government. Talk about robbing Peter to pay Paul — or robbing Delahunty to pay Ryan! So Mr Delahunty, the Minister for Sport and Recreation, provides \$50 000 a year, and event organisers have to return \$20 000 to the folks at Victoria Police under the Minister for Police and Emergency Services, Mr Ryan. I hope that between Messrs Baillieu, Ryan, Delahunty and Napthine some common sense prevails and the whopping \$15 000 bill still faced by event organisers can be sorted out. I hope the government comes good on not just the dollar component of its promise but also the promise, in Dr Napthine's words, to:

... provide certainty for the future of this historic race and ensure that it is part of the cycling calendar for many years to come.

Floods: Creswick and Clunes

Mr O'BRIEN (Western Victoria) — Last Friday, 24 June, I had the great pleasure of turning the first sod to mark the start of redevelopment work at the Clunes football and netball ground, Victoria Park. This funding

announcement was made on behalf of the Deputy Premier, the Honourable Peter Ryan. The oval and surrounds were flooded and essentially destroyed by successive flooding events, particularly the January floods, in Clunes as is well known by my colleagues Mr Koch and Mr Ramsay. I am reliably informed that the football team was reduced to training in the streets of Clunes using borrowed footballs. It also received assistance from Collingwood Football Club, for which they are indebted. I should also mention that the netballers were in a similar situation, and to some extent the netball facilities in Clunes still require work from the community.

The Victorian government is contributing \$300 000 to the rebuilding works with Hepburn Shire Council and community groups contributing the remainder of up to \$400 000 of works. The new oval will be rebuilt to a standard that will bring increased defences against future flooding. This will include retaining walls and drainage to better manage excess water.

In the morning, prior to travelling to Clunes, I was also able to attend the Premier's thankyou morning tea in Creswick for flood volunteers and communities. This was a wonderful occasion and an important opportunity to thank those in the flood areas for their hard work during difficult times. I applaud the resilience of small communities such as Clunes, Creswick, Carisbrook and other areas in western Victoria which are able not only to survive these tough times but also resolve to rebuild bigger and better things than before. I congratulate Kaylene Conrick, Shire of Hepburn chief executive officer, and staff, and Bernie Davern, flood recovery coordinator, and the team for the work already completed in completing repairs.

Government: media policy

Hon. M. P. PAKULA (Western Metropolitan) — I want to use my members statement to read an email that I have received from Ben Millar, a journalist at the *Brimbank Weekly*, and which he is happy for me to read out. His email states:

... we had two visits last week to which the *Leader* and *Star* newspapers were invited and from which we (the *Brimbank Weekly*) were deliberately excluded.

Matthew Guy visited the former Sunvale Primary School site on Friday and transport parl. sec. Edward O'Donohue was at the St Albans level crossing site, both visits with Bernie Finn.

Both were pure pic-ops and utterly content free, but when following it up with Bernie's office I was told Bernie had 'issues' with Fairfax and our editor and we could expect the freeze to continue as long as our ed. was in the chair. As for our readers? They would 'just have to read the other papers'.

Honourable members interjecting.

The PRESIDENT — Order!

Hon. M. P. PAKULA — I can see why government members are so sensitive, because it appears that the form of this government and this member is that if a local newspaper has the temerity to write anything negative about the government or the member, they are deliberately excluded from and frozen out of events until they sing to the government's tune. Open, transparent and accountable — I think not.

Carbon price: introduction

Mr FINN (Western Metropolitan) — My plea today is a result of the fear felt by millions of Australians. It is a result of the very real possibility that the western suburbs of Melbourne are about to be hit by a recession the likes of which we have not seen in this country since the 1930s. It is the result of the threat of total economic and social devastation hitting those in this nation who are least in a position to cope with such dislocation.

Australia faces a clear and present danger — Julia Gillard's carbon tax. Putting aside the outrageous lie told in the lead-up to last year's federal election, this is a tax which will wreak havoc on every corner of our wonderful nation. It is a big new tax on everything that will achieve precisely nothing. Even if we were to believe in the theory of man-made climate change, it is important to remember that Australia contributes only around 1 per cent of the earth's emissions. The Prime Minister's tax aims to cut just 5 per cent of that 1 per cent of emissions. We have to ask why the federal government is taking Australia on an economic kamikaze ride for precious little result. It makes no sense at all — all pain for no gain. It is insanity. This week's Lowy Institute poll shows Australians are on to the climate change con; they just do not swallow it any more, and they most certainly do not want any carbon tax.

I ask the Prime Minister to listen to the Australian people and to snap out of the Green-induced, or perhaps Brown-induced, daze she is in and show some concern for those working families she once claimed to care about. I ask the Prime Minister and her government to give Australians a break and ditch the lunacy that is Labor's carbon tax.

Western Metropolitan Region: local government

Mr EIDEH (Western Metropolitan) — Last weekend councillors from most of the municipalities in my electorate went to Canberra to attend a conference of the Australian Local Government Association. This was an excellent national event where councillors from my electorate and across the nation heard the Prime Minister; the Leader of the Opposition; Senator Barnaby Joyce; the Minister for Regional Australia, Regional Development and Local Government, Simon Crean; and very senior public servants talk about different aspects of government policies and programs of benefit to their communities.

I am reliably informed that the mayor of Maribyrnong, Cr Sarah Carter, who is well known to Mr Guy after some famous clashes on public radio recently, the mayor of Hobsons Bay, Cr Raffoul, and councillors from Moonee Valley, Moreland, Darebin and Melton all met and gained valuable advice that will benefit their communities. They are all a part of my electorate, and that is good news, because I am concerned that the Baillieu government neglects my electorate. Many projects have either been shelved by this government while others in more affluent areas are proceeding. I ask government ministers and their backbench colleagues not to forget that no electorate within Victoria has a larger proportion of people with economic difficulties than the Western Metropolitan Region.

Planning: growth areas infrastructure contribution

Mrs PETROVICH (Northern Victoria) — The former Labor government originally chose to target a small group of Victorian families with a GAIC (growth areas infrastructure contribution) tax. I must remind the house that the original growth areas infrastructure contribution model was aimed at 100 per cent of landowners, with a tax of \$95 000 per hectare on first sale of land payable to the vendor. That was devised by a Labor government and imposed on the people of Victoria. The Labor government was prepared to get both its hands on people's hard-earned assets. For two and a half years a group called Taxed Out and other landowners, developers and building industry representatives have fought for a fairer GAIC tax and argued that GAIC should only be paid at the end of the development process to reduce developer holding costs and therefore improve housing affordability. The former Labor government tinkered around the edges of the GAIC proposal without addressing the core issue of the timing of the tax and continually refused to release

any reports or detail sales evidence to support its up-front models, even after two parliamentary inquiries.

In contrast the coalition government has listened to the community and the industry concerns regarding Labor's up-front GAIC model and the election commitments to move all of the GAIC payments to the statement of compliance time and also provide for work-in-kind agreements as part of the full payment of the GAIC. All funds raised by the GAIC will be used to provide vital infrastructure and to oversee development in the growth areas of Melbourne, including Beveridge and Sunbury in my electorate. These reforms will reduce developer holding costs and place downward pressure on housing affordability as well as enabling some infrastructure in growth areas to be brought forward. It will provide developers with greater flexibility when meeting their GAIC obligations.

Opposition members: performance

Mrs PEULICH (South Eastern Metropolitan) — It is interesting to see that since the state election in November last year a number of Labor MPs around South Eastern Metropolitan Region have suddenly rediscovered their voices, rediscovered their electorates and rediscovered an interest in issues even in their local communities. It is most astonishing to hear, for example, the member for Clayton in the Assembly, Mr Hong Lim, after 11 years of silence now raise the issue of the need for an upgrade of Clayton South Primary School, which was neglected by Labor for 11 years. It is even more astonishing to hear him call for action on the mismanagement of tips and landfill in the area, an issue he has been silent on for 11 years and which has made the daily lives of people in his electorate a misery.

The member for Narre Warren South in the Assembly, Judith Graley, after years of silence, is suddenly complaining about the need to start works at Merinda Park railway station, an issue which was also raised by Mr Somyurek today. These are works that the Baillieu government has funded and announced. The question remains: what did these Labor members do for 11 years whilst in government?

In the city of Kingston former MP Janice Munt, the member for Northcote in the Assembly, who is also the shadow Minister for Public Transport, and my colleague in South Eastern Metropolitan Region Mr Tarlamis have been moving from station to station in the south-east handing out petitions that support improvements to public transport and the building of premium stations. If they felt so passionately about the system, why were they silent and inactive for 11 years?

RULINGS BY THE CHAIR

Points of order: not to debate issue

The PRESIDENT — Order! I wish to make a brief comment in respect of the proceedings of the house that I have been listening to over recent days. I am a little concerned about the number of times members jump to their feet with what they claim to be points of order when in fact what they are trying to do is put across some point in debate.

I think members know what a point of order is and know that a point of order is not a device by which they can stand in this place to contradict what another member has been saying in their speech. In most aspects of the Parliament's proceedings members have opportunities to contradict or refute matters that they feel have been put to the house inaccurately, in error or perhaps without full knowledge of a particular position. In many cases points of order are taken by members who are already listed to speak at a later stage of the debate, which clearly gives them an opportunity to address those matters. It may also be that there are other speakers on the list or that the list is not confined — for the most part — by a time limit on the debate, which certainly allows ample opportunity for members to correct the record if they believe something has been said wrongly.

It is quite disconcerting and disruptive of the proceedings of the house for members to unfairly or improperly use points of order as an opportunity to jump to their feet and suggest that there is a matter of concern in terms of the process of the debate or the proceedings of the Parliament when they are in fact trying to get across some point in the debate itself. I urge members to be a bit more circumspect and to understand, as I am sure they do, the role of points of order and use them judiciously.

TRANSPORT LEGISLATION AMENDMENT (TAXI SERVICES REFORM AND OTHER MATTERS) BILL 2011

Second reading

**Debate resumed from 16 June; motion of
Hon. M. J. GUY (Minister for Planning).**

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Bill 2011. The taxi industry is an incredibly important part of our community not only in Melbourne but also

in regional and some rural centres. As we have increasingly and successfully moved from a culture that sees drink-driving as the norm, we have encouraged and almost required people to rely more and more on taxi services, particularly at night, and this can be a concerning experience for young people, and young women in particular. It is important that we get this industry right.

A large part of our community also relies on taxis as the only way of getting around, and the previous government moved to increase the number of taxis that were able to carry wheelchairs. I do not think we can underestimate the important role that taxis play in our community in making sure that people with a disability are free from the tyranny of isolation — that they can move from their homes and be engaged with their community and networks. The taxi industry is an important industry, and it is vital that we get the structure right.

The taxi industry has also seen significant change. We have seen a significant increase in the number of taxis. We have seen changes in terms of prepaid fares and safety barriers. I think it is fair to say that drivers have been feeling increasingly vulnerable and that they experience greater fear of being attacked late at night. When your workplace is a car and you are on your own, you are in quite a vulnerable position taking on passengers late at night, particularly in the city at weekends. It is important that we consider the role of drivers as an important part of the equation.

The taxi industry is a very complex one in terms of its operational structure. Licence fees for each taxi are very expensive — it costs about \$500 000 to obtain a taxi licence. A few licence owners have a large number of taxi licences. There are structural issues that need to be considered. Beneath the owners there are a number of operators who effectively run taxis in the sense of maintaining them and obtaining drivers who operate under what is known as a bailment arrangement.

There are also a number of costs associated with the industry. For example, Cabcharge takes a fair slice of the fare box for the use of its machinery and equipment in taxis. There are also the obvious ongoing maintenance and insurance costs associated with the industry. It is a complex structure, with many parts that take a slice from the fare box. There are owners, operators, maintenance costs, insurance and organisations like Cabcharge. We have a small group of large owners sitting on top of a pyramid. Beneath all that sit the drivers. There has been a change in the structure and the fortunes of drivers over recent years in particular. They get the crumbs out of the fare box, as it

were, once those other organisations, groups and individuals have taken their slices.

There are concerns that drivers earn around \$6 an hour; that is the figure that has been put out, and I do not think that has been contradicted in any way. Drivers may earn more, but I suspect some earn less. I think what is increasingly happening is that the old arrangement whereby the driver would earn half the fare box has disappeared. It has been replaced with an arrangement whereby the driver pays an up-front contribution, which might be \$1700 a week, and then the driver makes whatever money they can out of the fare box during that week over and above the \$1700. This makes it a very difficult task, because what it means is that drivers are essentially required to cut corners in order to keep their taxis on the road so that they can make money, and often they need to skip meal breaks and sleep less because every time the car is off the road the fare box is not being fed. As a result it takes drivers longer to make money and earn anything like the sort of return they need in order to pay their wages and look after their families.

In many ways the nature of the driver has changed. Twenty or 30 years ago the job would have been seen as a profession or an industry. Drivers would have seen themselves as being in the industry for a period of time, and the job would have been their career. Increasingly that view is diminishing because of the returns. Instead we have a transient driver community where drivers will do the work until they find something else or something better. As such, drivers will always be looking for another job, because they know they are going to be better remunerated elsewhere and that elsewhere they would not have the risks of driving on their own late at night or being harassed by drunken passengers.

These changes suggest that it is important that we look at the structure of the industry. Once you have a look at the conditions of drivers and the changing nature of that community, you see that the rub is that the service the passenger gets is very much diminished. Passengers complain about drivers not knowing the main roads or how to get to the airport and not being able to communicate effectively because of language barriers, and about dirty taxis and the overall experience they get. All of these factors are linked, and they all contribute to the industry. They are all worthy of review. The bill we have before us seeks to do that, but it misses one crucial aspect of that picture, and that is the driver. It is somewhat surprising that a review that asks for consideration of things like tyres and petrol prices fails to consider the working conditions of drivers.

I will foreshadow an amendment, which I now seek to have circulated, which will address the remuneration and working conditions of drivers as being something that the review being undertaken by Professor Allan Fels should consider.

Opposition amendments circulated by Mr TEE (Eastern Metropolitan) pursuant to standing orders.

Mr TEE — As I have maintained, this matter is an important cog in the wheel. Without considering the remuneration and working conditions of drivers, we miss a critical factor. We must also consider concerns that passengers have raised about their experience. We are not saying that these matters are the be-all and end-all, but you cannot have a fulsome review of the industry, you cannot open up all the options for review, if you close off this aspect of the issue. It is something which we believe ought to be on the table and which the review ought to consider.

That point aligns with the second tranche of the amendments I will move, which require that consultation occur with registered employee organisations, such as unions, and other persons or bodies that represent the interests of drivers. There are provisions in the bill that deal with consultation. They cover consultation with groups like local councils, but they do not cover consultation with drivers' representatives. If this is to be a serious and root-and-branch review, which it should be, then you need to talk to the parties that represent drivers. There are many registered organisations such as unions, but there are also a number of non-registered organisations that represent the interests of the drivers. I think it is appropriate that Professor Fels have the capacity to engage with those organisations so that he can get a clearer picture of the issues and the options that will assist us to move forward.

The amendments I have circulated are about supporting the review by ensuring that it as broad as is required. We do not want to see what we are seeing at the moment, which is that some avenues are being closed off. We will not oppose the bill, but we are keen to ensure that we have an effective review that recommends changes and improves the experience of passengers who are reliant on taxis to get around.

Another part of the bill I will touch on briefly is what is known as the second phase of the bill, which relates to the establishment of an authority to run the industry. Again we have got some reservations about that, but we will support it. Our reservations are about the fact that we would see a curious process where the government would have the review, but before the review was

completed and before we could look at the recommendations, the government would set up an authority to run the industry in accordance with those recommendations. In the committee stage we will be keen to unpack how it is intended that we establish that authority, which would run on the basis of or in response to recommendations that we would not have seen. With those remarks, members of the opposition look forward to the committee stage.

Mr O'DONOHUE (Eastern Victoria) — The government is pleased to be debating this bill and pleased that the opposition has changed its position and is, in Mr Tee's words, not opposing the bill. That contradicts the comments made by the shadow Minister for Public Transport, the member for Northcote in the other place. On 29 March the *Age* published an article by Clay Lucas which, quoting the member, says:

The state opposition savaged the announcement, saying it amounted to nothing more than yet another review.

That is a contradiction of the views of most commentators. I quote from an article which appeared in the *Hume Leader*, which states:

Taxidivers at Melbourne Airport are confident an industry inquiry will solve problems.

The state government last week announced a taxi inquiry to recommend and implement changes to the troubled industry.

The article goes on to quote a Mr Ken Templer as having said:

This inquiry should've been done 10 years ago ...

In its editorial of 30 March the *Geelong Advertiser* said:

The state government's move to have Professor Allan Fels mount a year-long inquiry into the industry is a positive move that should have been undertaken by the previous government.

His overtures already are encouraging: 'There is great customer dissatisfaction with the industry, the quality of service is pretty mixed'. That's putting things mildly.

The government is pleased that, whilst the opposition is not supporting the bill, if a division were called, presumably the opposition would vote to pass the legislation. That is good news for the government, particularly in light of Ms Richardson's criticism. I am glad the opposition has changed its tune.

The *Geelong Advertiser* is correct that a root-and-branch review of the taxi industry, its performance and how to improve the industry is long overdue. As Mr Tee articulated, there are a number of issues with the current operation of the industry. Recent surveys of public satisfaction with the taxi industry

reflect those concerns. I am sure all of us in this place are consumers of taxi services from time to time, and we all understand that the service levels are perhaps not what they could or should be. A number of structural factors have contributed to the erosion of that service delivery over time.

The taxi industry is important to so many different sectors of our community and our economy. It is critical for tourists, and often the first and last experience tourists have in Victoria or Melbourne is with a taxidriver. Taxis are critical for many disadvantaged people in our community, including those who are isolated in terms of public transport and those who cannot afford private vehicles. The scope and role of the taxi industry is critical. The last serious attempt at reform of the industry was made during the Kennett years, so, as I say, this reform is long overdue.

The bill before us will establish the Taxi Services Commission, a statutory authority, and require it to inquire into the structure, conduct and performance of the taxi industry. As Mr Tee mentioned, the bill provides that once the first-phase inquiry and report of the commission have been done, the commission will become the regulator of the industry, building on the outcomes of the inquiry. We have a very clear process in front of us. Whilst Mr Tee mentioned some concerns about that process, I think it is a very good way to tackle the issue. Professor Allan Fels is being given the power to conduct a broad-ranging inquiry, and the structure for the future regulation of the industry has been detailed and foreshadowed in this bill. That is a good thing, because it demonstrates to the public the government's commitment to deliver on this inquiry and demonstrates a clear process for the future regulation of the industry.

This is a very good process. It demonstrates a very clear commitment on the part of this government not just to review and examine the industry as it exists now but also to ensure that reforms are implemented in future. Mr Tee has circulated some amendments to the bill which the government will not support. In circulating his amendments Mr Tee raised a legitimate issue concerning the wages and conditions of drivers. All of us hear stories from drivers or other sources about the poor wages and conditions many drivers work under. The government agrees this is a significant area of concern. Indeed, as I understand it, Professor Fels himself has touched on these issues in public comments. However, to allay the concerns of the opposition and perhaps to remove the need for Mr Tee's amendments, I take Mr Tee to the terms of reference of the taxi industry inquiry, which say:

The inquiry will report regularly to the Minister for Public Transport and make a final report and recommendations focusing in particular on the following ...

A number of issues are then listed, including:

Service delivery and employee conditions, in particular the working conditions, training, standards and remuneration of drivers, and how these contribute to service standards and outcomes ...

I think that comprehensively deals with the issue Mr Tee has foreshadowed in his circulated amendments, and I assume Mr Tee will no longer need to move his amendment as a result of my pointing out to him the terms of reference under which the taxi industry inquiry will operate. I also make the point that the Victorian Taxi Association has supported the inquiry. In a media release dated 20 March the VTA said:

The Victorian Taxi Association welcomes the announcement of a new government inquiry into the Victorian taxi industry. The VTA has long called for structural reform, and is therefore pleased the Minister for Public Transport and Minister for Roads, the Hon. Terry Mulder MP, has chosen to make regulation and restructure of the Victorian taxi industry an early policy objective.

The appointment of Professor Allan Fels to head the inquiry is a demonstration of the government's commitment to tackling this situation. It is also a high-profile step in bringing the industry's issues back into the public realm. We look forward to working collaboratively with Professor Fels, the state government, the community and subsequent Taxi Services Commission.

I think Mr Tee can take some comfort from that press release from the VTA.

This is a very important piece of legislation. It yet again delivers on a commitment that the coalition made in opposition to undertake such a wide-ranging, thorough investigation of the taxi industry. I am very pleased that we are here today debating this important bill and that, with the consent of the house, we will see this bill pass this afternoon.

Ms HARTLAND (Western Metropolitan) — This is an interesting bill; it is very comprehensive; I appreciate the briefing we received. As this is such a complicated bill, it was extremely helpful. However, I am greatly concerned about this bill, as I indicated during the briefing, and I will make a number of points. Most people in the community would be aware of Professor Allan Fels and his work, and I am sure he will do a very good job, but one of my main concerns — and I will move a reasoned amendment — is that we are debating the bill before we see the outcome of the inquiry Professor Fels will undertake. That does not make sense to me. I would have thought

it would be more appropriate to have the inquiry, learn from the things that come out of it and then do the legislation. Therefore I move:

That all the words after 'That' be omitted with the view of inserting in their place 'this house refuses to read this bill a second time until the taxi industry inquiry headed by Professor Allan Fels has been completed.'

As I have indicated, there are a number of issues of concern to me. The first one I would like to talk about in depth is the complete absence from this bill of the core component of the taxi industry which it aims to reform, and that is the service providers — the taxidriviers. I thank Mr Tee for his amendments, and the Greens will be supporting those. We do not believe, after listening to Mr O'Donohue, there is any reason why we would not go ahead with those amendments.

Taxidriviers are an integral part of our public transport workforce, yet their working conditions, safety and welfare are largely ignored. I use taxis quite regularly, and the thing I hear from taxidriviers, especially those who have to work in the city on Friday and Saturday nights, is that they are still encountering many problems. Taxidriviers do not have occupational health and safety protection and Fair Work provisions afforded to workers in other industries. Many work for below the minimum wage, taking home between \$8 and \$13 per hour. They can work a 12-hour day, face violence and unacceptable safety risks and experience racism, discrimination and antisocial behaviour and then go home at the end of the day having earned as little as \$96. There is no holiday pay or sick leave. Taxidriviers fund their own uniforms, clean up after drunken patrons and generally have to personally wear the shortfall when a passenger does a runner.

We would not accept this treatment in any other industry workforce, yet this bill contains not one mention of the taxi industry workforce. These individuals who work under atrocious conditions are the customer service interface of the taxi industry, and that is ultimately the customer experience. The minister says this bill is about customer satisfaction, yet it fails to mention even once those providing the customer service — the taxidriviers. The minister says it is all about service levels but fails to take note of the fact that those who are the interface of the service are working 12-hour shifts in unsafe conditions, experiencing racism and drunken behaviour and, I repeat, doing so for as little as \$96 a day.

How does the minister expect to address customer satisfaction and service levels without addressing the problems facing the service provider? Customers complain about drivers not knowing where to go. Poor

working conditions and poor pay result in the industry being unable to retain drivers. High turnover and inexperienced drivers with limited geographic knowledge are a result. If you want to retain drivers, then provide them with decent conditions and wages. I would have thought that that was just common sense. This bill and the content of each of its 120 pages make no mention of wages and conditions.

Taxis are an essential part of Melbourne's public transport system, and taxidrivers deserve fair treatment. The taxi industry needs to reform to ensure a more equitable distribution of income and safe and reasonable working conditions for drivers. Any attempt to tell me that the bill's wording 'improving the financial viability of the commercial passenger vehicle industry' is going to address the workforce wages and conditions will fail; they are simply not there. Until I see that explicitly stated, I cannot support the reform model proposed in this bill.

The second issue I want to raise is in regard to the fact that the taxi industry inquiry is due to hand down its report in the middle of next year. That inquiry will make recommendations, as I have said, on the reform of the industry. It is at that point in time that we will know how to proceed with that reform; however, the government is ignoring that fact and is pre-empting the inquiry's findings. Until the taxi inquiry conducts its investigation and tables its report here in Parliament we will not know the best way to proceed as determined by experts. Until this occurs we cannot make informed decisions and we cannot support the reform model contained in this bill.

The third issue I want to talk about is the coercive powers. I am greatly concerned about the provision of coercive powers in this bill and the fact that in the briefing it was explained to me that the coercive powers were for the major players in the industry, that there was a need to reform the industry and that there was corruption. But that is no guarantee for me that the drivers who are on between \$8 and \$13 per hour are not going to be the ones caught up in all of this. We have seen the way coercive powers have been used by the Australian Building Commission, especially in the Ark Tribe case. I suggest to anybody who is not aware of that case that they should have a look at it and see how an ordinary worker can be caught up and threatened with jail. Also, the commission will be exempt from FOI. I thought this was supposed to be a government that was going to be transparent and straightforward, yet we are setting up commissions that will be exempt from FOI. I do not think that is acceptable.

The fourth issue I want to talk about is that the industry was not consulted. As I understand it, people in the industry knew of this bill when they heard about it on the radio. Combine that with the poor language in the minister's second-reading speech, which spoke of taxi operators and drivers in a negative light and certainly did not speak of the difficult conditions drivers work under — there was no mention of the statistics that reveal that there is 1 complaint for every 8000 people carried, showing that drivers are delivering a product well above that expected under such poor conditions — and it indicates that this government is not really all that concerned about working with stakeholders. It is not how I would work with stakeholders. I believe the government is setting up an early and bad precedent of untrusting and uncooperative ongoing working relationships. Stakeholders must be centrally involved; the operators and drivers know the industry better than anyone else, and importantly, at the end of the day it is their livelihoods that are being directly impacted.

I conclude by saying that the Greens recognise that there are problems in the industry and that reform is overdue. We look forward to seeing the findings from the commission, and we believe Professor Fels will do an excellent job. He has a good reputation, and I believe he will do the kind of work that we have seen him do in the past. We have no problems with the inquiry; we think it is long overdue. But for all the reasons I have outlined above, it would be difficult for the Greens to support this bill, because it appears to us to be coming the wrong way round.

Ms CROZIER (Southern Metropolitan) — I too am pleased to rise to speak on the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Bill 2011. I strongly support this bill and commend the actions of the Baillieu government in undertaking an extensive review process into the taxi and hire car industry. Mr Tee asked in his contribution whether this is going to be a serious review. I can tell Mr Tee that it will be a serious review. We have had various commentaries, and Mr Tee has heard from Mr O'Donohue in relation to various stakeholders who have congratulated the government for initiating this process. It is long overdue; it is something the previous government either ignored or put into the 'too hard' basket.

There is no doubt that the issues plaguing the taxi industry are complex and longstanding, and it is not at all surprising therefore that the recent quarterly customer satisfaction survey shows that passenger satisfaction with taxis is at an all-time low. The difficulties surrounding this industry should not be ignored. They need to be addressed so that the

reputation of Melbourne and indeed Victoria can be upheld.

This bill has four parts which will address the concerns that have troubled this industry for many years. A major aspect of the bill is the establishment of the Taxi Services Commission, which is a key step in a process of major reform of the industry. The commission will be an independent statutory agency, structurally separate from the Department of Transport, which will have the powers to conduct a comprehensive inquiry into the structure, conduct, performance and regulation of the industry. The inquiry was announced by the government in March this year, and Professor Allan Fels was provisionally appointed to head the inquiry. This inquiry will begin the reform process by assessing the limitations of the current industry and providing recommendations for major and necessary change. Once established, the commission will be able to address many of the systemic failures of the current industry.

Victorians are very concerned about the quality and safety of taxi services. The number of complaints registered by the current regulator, the Victorian Taxi Directorate, has more than trebled from 1564 complaints in 2005 to nearly 5000 in 2010, with driver conduct being the main cause of customer complaint. I am aware of one particular incident, which was a terrifying experience for the person involved, where a taxi sped through streets and went through red lights, and when the passenger asked for his change he had it thrown at him. For that passenger, who was in his 80s, it was a terrifying incident. He felt extremely vulnerable at the time. He was clearly shaken by the experience. It is those sorts of incidents, about which we continually hear reports, that need to be addressed, along with other issues that have been raised.

In saying that, taxis are a very necessary part of our public transport system, as Ms Hartland and others have highlighted in their contributions. The elderly, the disabled and many ill and frail members of our community rely heavily on taxi services to get to appointments, social outings and various other locations — as do other members of the community, including most of us in this house, I would say, not to mention our interstate and international visitors, who rely heavily on taxis to get them around Melbourne.

Tourism is a vital industry for this state and this city, providing significant economic and employment opportunities. A few weeks ago I had the pleasure of attending the launch of a major Victorian tourism campaign with the Minister for Tourism and Major Events, Louise Asher, and my colleague Mr Philip

Davis. Taxi services are a major concern to many in the tourism industry, some of whom have expressed their concerns as to how the service degrades our Melbourne tourism brand. Anyone who has travelled to London or New York cannot help but compare the services overseas to our services here in Victoria.

For too long the key issues that have plagued this industry have been disregarded and ignored. The current taxi regulation model is old; there has not been a review in Victoria for at least 25 years. I think it was Mr O'Donohue who stated that the last extensive reform process was undertaken by the Kennett government in the 1990s. But in saying that, our taxi services and taxidriviers are key to the ongoing viability and success of the industry and need support and protection in the reform process, as Mr O'Donohue said in his contribution.

We know taxidriviers are sometimes reluctant to pick passengers up in certain locations or late at night. Unfortunately just a few weeks ago in Glenferrie Road, Hawthorn, a taxidriver was assaulted as he went to the aid of another taxidriver who was being attacked by four men. That sort of conduct is completely unacceptable, and drivers need to be protected. The safety and security of passengers and drivers is a significant issue for the industry.

In 2010 there were 35 million taxi trips across the various taxi categories carrying 49 million passengers. In Victoria there are 15 000 active taxidriviers, of whom more than 12 000 work within the Melbourne metropolitan area. Most drivers rent a taxi from an operator. Unfortunately the turnover of drivers is high, requiring that 1500 to 2000 new drivers be trained and accredited each year.

The inquiry will be looking into issues such as these. It will consider how taxis as a form of public transport fit in with other transport modes; it will look at working conditions — as has been highlighted by both Mr Tee and Ms Hartland — remuneration, training of drivers and raising the standard of customer service. The inquiry will be independent and far reaching.

Mr Barber interjected.

Ms CROZIER — It will engage with all stakeholders, Mr Barber, and will provide for the necessary reform and change to occur. If Victoria and Melbourne are to progress and compete in a whole range of areas at an international level, and if Victorians are to feel safe and have confidence in our taxi industry into the future, then reform of our taxi industry is

absolutely critical. This bill will ensure that this can be undertaken, and I commend the bill to the house.

Ms DARVENIZA (Northern Victoria) — I am very pleased to rise to make a contribution to debate on this bill, and in doing so I indicate that I will not be opposing the bill and I will be supporting the opposition's circulated amendments. We do have concerns about the bill. One of my major concerns is dealt with in one of the amendments that we have put forward. It goes to the commission's powers to inquire specifically into matters of taxidriver's wages and conditions of employment. Mr O'Donohue's contribution did not provide me with any degree of comfort in this regard, because there is nothing in the bill that sets out how the terms and conditions of employment can be dealt with. The terms of reference for the inquiry are not part of the bill and could be changed at any time at the will of the minister. I am not comforted by Mr O'Donohue's reference to the terms of reference, because nowhere in the bill that establishes the Taxi Services Commission inquiry is there any specific reference to drivers' wages and conditions of employment.

This is particularly of concern given that the bill goes into great detail about the sorts of areas that can be dealt with by the commission. There are matters outlined that the commission should have regard to such as the provision of tyres and petrol and panelbeating. I happen to think that drivers' wages and conditions of employment are equally as important as the state of the tyres, the provision of petrol and the panelbeating of a vehicle, so I do not see why these matters cannot be included in the bill. We also know that many taxidrivers earn wages that are below the minimum wage, so it is important that the pay and conditions of employment are dealt with. Most taxidrivers are on agreements whereby their wages are equal to 50 per cent of the fares paid. Taxidrivers are also required to pay for third-party insurance on the car and any excess and other charges relating to insurance.

The issue of wages and conditions has been raised consistently by various groups representing taxidrivers prior to this review commencing. The Liberal Premier was very happy to appear in photos with taxidrivers and to take up photo opportunities before the election, but now that he is the Premier and we have a bill before the house, when it comes to the ability to look at taxidrivers' wages and conditions as part of this review he is nowhere to be seen at all, and yet we know that this has been an issue. The Premier knows it has been an issue. It is one that has been raised continually.

With respect to driver safety I also have concerns about the commission's ability to consult with stakeholders and groups that are outside the government departments currently mentioned in the bill. The amendments the opposition has circulated go to this matter.

The bill establishes a process for the commission to review safety issues in relation to drivers on an ongoing basis, but — and it is big but — there is currently no requirement to consult with driver advocacy groups or their unions. This is a really big oversight. It is a huge oversight. How can you have a look at driver safety when you are not even prepared to listen to what drivers have to say, if you are not prepared to listen to what their advocacy groups and their unions have to say? We all know, everybody in the public who reads the paper or watches the news or listens to the radio knows, that our taxidrivers have real concerns about safety issues.

Members of the government have raised these concerns about driver safety, and yet there is no provision for these voices to be heard. We can hear the voices of various government departments, but not the voices of the people who are out there on the ground doing the job and not the voices of the people who represent taxidrivers who are out there on the ground doing the job. That is a huge oversight. I received no comfort from either Mr O'Donohue or Ms Crozier in their contributions, and that is why I think the amendments we will be putting up are good and why I will be supporting them.

If members have a look at the list of things the minister regards as important for the commissioner to listen to, they will see that local councils get a mention but not the unions, not the drivers and not the advocacy groups. The opposition is of the view that when it comes to driver safety taxidrivers and their representatives are the best people to be listening to and that they would be able to make the most valuable contributions not only in terms of what the issues are but also in finding remedies and the best way to address those issues to ensure that in the future we have better health and safety for our taxidrivers and members of the public who are using taxis.

Ms Crozier went through the bill in some detail in her contribution. She talked about how the bill establishes the commission as a statutory authority and about the two stages that are going to be set up as part of the working of the commission. Again, we have real concerns about the way that is happening. We think that the cart is being put before the horse. Ms Crozier did not give any explanation in her contribution as to why the government wants to go about it in this phase 1 and

phase 2 way. Very briefly, in phase 1 the taxi commission is to conduct the inquiry into the taxi industry. The Secretary to the Department of Transport will be responsible for regulation of the taxi industry, but the Victorian Taxi Directorate will continue to operate as the regulator while Professor Fels conducts his review. A copy of the report will be delivered to the Parliament, and a copy will be delivered to the minister. The report will contain sensitive information and FOI-exempt documents. That is how phase 1 will take place.

In phase 2 the Taxi Services Commission will be solely responsible for the regulation of the taxi industry and the implementation of the government's reforms. Ordinarily a government would initiate an inquiry and then receive its findings and recommendations. The reforms would be set out, and then a program to implement them would be put in place. But in this instance the government has decided to put the cart before the horse by creating a statutory authority and investing it with certain powers so it will be able to conduct the review prior to it formally becoming a regulator. It is — I was going to say 'arse about', but I do not know whether that is unparliamentary.

Mr Tee — It might be unparliamentary.

Ms DARVENIZA — It might be unparliamentary, so I had better not say that. But it is the wrong way around, and no explanation of that was given in the contributions made by either Mr O'Donohue or Ms Crozier.

In conclusion, when in opposition the Liberals, now the government, gave every indication to all the players within the industry that they were absolutely dedicated. They, and particularly our current Premier, were out there with taxidrivers taking advantage of every photo opportunity. They said they were going to address the concerns, but they never detailed how they were going to do it. They had a lot of nice, pretty pictures and a lot to say about it, but they never outlined how they were going to do it. What we have before us today is a bill that still does not get us to where we want to be. It does not tell us how the taxidrivers are going to have their pay and conditions improved. It does not tell us how the safety concerns and those issues around pay and conditions that led to that dispute back in 2008 will be dealt with. None of those issues are dealt with in this bill. It does not get us there.

While we are not opposing the bill, I certainly support the amendments moved by Mr Tee. I look forward to being provided with any other information that the

government might be able to give us in the committee stage.

Mr ONDARCHIE (Northern Metropolitan) — I rise today to speak on the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Bill 2011. Is it not refreshing that there has been an awakening on the other side? Is it not refreshing that opposition members have finally seen there is a need for taxi reform in the state of Victoria? This is another example of the Baillieu coalition government fixing it up. The Premier of Victoria, the Honourable Ted Baillieu, is Mr Fix-It. This bill is another example of this government having to repair the damage that was left for Victorians after 11 years of neglect. There is a reformation across the chamber, an awakening to the realisation that things need to be done. Where have the members opposite been for 11 years?

These amendments provide for the reform of the taxicab and hire car industry. The bill establishes the Taxi Services Commission to conduct inquiries; amends the Transport Integration Act 2010 and the Transport (Compliance and Miscellaneous) Act 1983 to establish the commission to allow it to conduct inquiries into the structure, conduct, performance and regulation of the industry; and shifts responsibility for the regulation of passenger vehicles from the Department of Transport to the secretary initially and then to the Taxi Services Commission upon completion of this most important inquiry.

This inquiry is needed to address the alarming decline in the standards of the taxi industry due to a decade of government inaction, a decade of the Bracks and Brumby Labor governments turning their back on Victorians trying to use this form of public transport. The taxi industry was once revered in Victoria; it was highly regarded. People were thankful for it. But after 10 years of inaction by the former government we have had an awakening on the other side of the chamber. The levels of satisfaction in customer service are the lowest since surveys began six years ago. There are concerns about taxi queues and incompetent drivers who do not know geographical locations. Not that long ago, in a former life, I got into a taxi in Collins Street, a reasonably well-known street in Melbourne.

Mr Elsbury interjected.

Mr ONDARCHIE — I hear Mr Elsbury agreeing. I said to the taxidriver, 'Could you take me to the airport?'. He asked what he thought was a legitimate question: 'Where is the airport?'. A taxidriver in Collins Street, Melbourne, asked me where the Melbourne airport is! It was not that long ago in this job that I got

into a taxi not far from this place. Because I was running late for an appointment I asked the taxidriver to drive me to the MCG — the home of cricket, the Melbourne Cricket Ground. It is not far from here, but the taxidriver asked me to direct him to the MCG! We have dirty taxis and drivers refusing to accept short trips. Just 12 months ago I got into a taxi in the Melbourne CBD and asked to be driven not too far from there, and the driver was hostile. He was angry that he had to take a short trip.

Mr Barber — Did you break his arm?

Mr ONDARCHIE — Mr Barber interjected, ‘Did you break his arm?’. I have come to expect better than that from Mr Barber, but if he thinks resorting to violence is a way of resolving issues in Victoria, that surprises me. There have been violent and unsafe incidents, but in the main taxidrivers are okay. We are talking about the group that have let Victorians down after 10 or 11 years of inaction by the former government. This gives Victoria a bad image for Victoria, particularly in terms of international tourists and interstate visitors. Taxis provide the only form of transport for those who do not drive and cannot access public transport. Standards need to be lifted for those people, particularly as some of them are our most vulnerable: the aged, the disabled and those who live in rural areas. This inquiry will seek to reform the industry so it is a cleaner, safer and more viable industry for consumers, drivers and operators. I want women to feel safe when they get into a taxi.

Mr Leane — None of us wants that?

Mr ONDARCHIE — Mr Leane interjected, ‘None of us wants that’. That is an interesting comment from the other side.

The commission will be an independent body separate from the Department of Transport. The inquiry will focus on the taxi industry and will also cover the broader hire car industry, including hire cars, restricted hire cars and special-purpose vehicles.

Honourable members interjecting.

Mr ONDARCHIE — It is interesting to hear the commentary from those on the other side, because I know deep in their hearts they support reform of the taxi industry. I know that because the member for Northcote in the other place talked about passengers frequently complaining about the services they receive, the cleanliness of taxis and the geographical knowledge of drivers. I know deep in their hearts they support these reforms. Mr Tee asked whether this was a serious review. I hope Mr Tee takes this issue seriously,

because I know his colleagues do. I know Mr Tee’s colleagues support reform of the taxi industry so much that the member for Eltham in the other place wrote a letter to his constituents talking about taxi reform and the inquiry, encouraging them to do things to address the issues he was not happy about. He is supported by his colleague in this place, Mr Leane, so much so that together they put out a lovely glossy brochure, authorised by Mr Leane, that talks about cleaning up our cabs and letting Professor Fels know about what needs to be done. It talks about the things that Victorians are not happy about.

I know the opposition in the other place supports reforms, and frankly it surprises me that the opposition here has taken this line today. The opposition talks about instigating major reforms. It talks about cleaning up our cabs. It encourages Victorians to speak up for reforms in this lovely brochure it sent out, so I know deep in its heart it supports these reforms. The opposition knows that after a decade of inaction and regulatory failure by the Brumby Labor government it is time to clean up this industry. The opposition talks about drivers’ terms and conditions. Interestingly enough the terms of reference of the inquiry specifically talk about wages and conditions. Maybe members opposite did not read that bit in the terms of reference. It is interesting. Once again we have examples of denial from the other side.

This bill is clearly about reform. It is clearly about providing outcomes for Victorians and about making this critical element of Victoria, the commercial passenger vehicle industry, safer and cleaner. It is about making it safer for women and for all Victorians after 11 years of neglect. I commend the bill to the house.

House divided on amendment:

Ayes, 3

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

Noes, 34

Atkinson, Mr
Broad, Ms
Coote, Mrs
Crozier, Ms
Dalla-Riva, Mr
Darveniza, Ms
Davis, Mr D.
Davis, Mr P.
Drum, Mr
Eideh, Mr (*Teller*)
Elasmar, Mr
Elsbury, Mr (*Teller*)
Finn, Mr
Guy, Mr
Hall, Mr
Leane, Mr
Lenders, Mr
Lovell, Ms
Mikakos, Ms
O’Brien, Mr
O’Donohue, Mr
Ondarchie, Mr
Petrovich, Mrs
Peulich, Mrs
Pulford, Ms
Ramsay, Mr
Rich-Phillips, Mr
Scheffer, Mr
Somyurek, Mr
Tarlamis, Mr

Jennings, Mr
Koch, Mr

Tee, Mr
Tierney, Ms

Amendment negatived.

House divided on motion:

Ayes, 34

Atkinson, Mr	Leane, Mr
Broad, Ms	Lenders, Mr
Coote, Mrs	Lovell, Ms
Crozier, Ms	Mikakos, Ms
Dalla-Riva, Mr	O'Brien, Mr
Darveniza, Ms	O'Donohue, Mr
Davis, Mr D.	Ondarchie, Mr
Davis, Mr P.	Petrovich, Mrs
Drum, Mr (<i>Teller</i>)	Peulich, Mrs
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Ramsay, Mr
Elsbury, Mr	Rich-Phillips, Mr
Finn, Mr	Scheffer, Mr (<i>Teller</i>)
Guy, Mr	Somyurek, Mr
Hall, Mr	Tarlamis, Mr
Jennings, Mr	Tee, Mr
Koch, Mr	Tierney, Ms

Noes, 3

Barber, Mr (<i>Teller</i>)	Pennicuik, Ms
Hartland, Ms (<i>Teller</i>)	

Motion agreed to.

Read second time.

Committed.

Committee

Hon. M. J. GUY (Minister for Planning) — I seek leave for Mr O'Donohue to join me at the table.

Leave granted.

Clause 1

Mr TEE (Eastern Metropolitan) — In terms of the purposes of the bill concern has been raised that the industry as currently regulated has the minister being responsible — that is, the buck stops with the minister. There is a concern that in its ultimate iteration the authority will now be responsible for the industry and the minister will no longer be accountable to the electorate for the delivery of a taxi service. What assurance can the minister give that the buck will still stop with the minister, and what is the relationship between the authority in its ultimate iteration and the minister?

Hon. M. J. GUY (Minister for Planning) — The new authority will ultimately be answerable to the minister, and clearly, like any minister, the minister is answerable to the electorate. I would say the

opposition's concerns from an accountability perspective are not founded to the extent that we believe the minister will still be responsible. While we are separating the responsibilities and giving them back to a statutory authority, it is ultimately a responsibility of the minister to take responsibility for the authority's actions.

Clause agreed to; clauses 2 to 6 agreed to.

Clause 7

Mr TEE (Eastern Metropolitan) — I move:

1. Clause 7, page 7, line 10, after "industry" insert "(including the remuneration and working conditions of drivers of commercial passenger vehicles)".

I believe this amendment is a test for my amendment 2. Essentially what we say is missing in the bill is a requirement for the review to consider the remuneration and working conditions of drivers. We say this is an important omission because ultimately unless we get more professional drivers, unless we get drivers who see this as a career opportunity and who see they have a long-term future in the industry, and unless drivers have a stake in the industry, it is going to be difficult to attract the sorts of people to drive our taxis who will provide the sort of professional service that the public, the community and the passengers deserve and expect. For that reason we think that requirement ought to be in there. I understand that in Mr O'Donohue's contribution he asked us to have a look at the terms of reference for the inquiry, and they are in there — I take his word for it; I have not had the opportunity to check. However, the point we make is that the importance of having the issue of the drivers' terms and conditions in there ought to be recognised in the legislation. It ought not just be something on the website which the minister can change with the stroke of a pen. It ought to be important enough for the authority to consider it as being important; therefore it ought to be incorporated into the legislation.

Hon. M. J. GUY (Minister for Planning) — I understand Mr Tee's concerns. We stand by what Mr O'Donohue said in his substantive speech. The terms of reference for the taxi industry inquiry state that the inquiry will look at, among other things:

Service delivery and employee conditions, in particular the working conditions, training, standards and remuneration of drivers, and how these contribute to service standards and outcomes ...

That is being considered in a wide-ranging inquiry by Professor Fels. It is on the agenda and it is being looked at. As I said, we believe, as Mr O'Donohue articulated

in his speech, that that will be adequately addressed with these issues being on the agenda.

Ms HARTLAND (Western Metropolitan) — If I can continue in that vein, one of my problems with this is the fact that the minister is talking about the inquiry and we are talking about the legislation. It does not appear to me that there is anything in the legislation that actually talks about terms and conditions. This is the problem: we are having an inquiry at the same time as we are looking at legislation.

Committee divided on amendment:

Ayes, 17

Barber, Mr	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Hartland, Ms (<i>Teller</i>)	Tarlamis, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms (<i>Teller</i>)
Lenders, Mr	

Noes, 20

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms	Lovell, Ms (<i>Teller</i>)
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr (<i>Teller</i>)	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Guy, Mr	Rich-Phillips, Mr

Pair

Viney, Mr	Kronberg, Mrs
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Amendment negated.

Mr TEE (Eastern Metropolitan) — The functions of the Taxi Services Commission in new subsection 115F(1)(b) include ‘reporting on the outcome of the inquiry, including making recommendations’. My question is: will all of those reports and all of those recommendations be made public?

Hon. M. J. GUY (Minister for Planning) — I advise that the final report will be made public.

Mr TEE (Eastern Metropolitan) — So any interim reports, I take it from that, will not be made public.

Hon. M. J. GUY (Minister for Planning) — I understand that to be the case.

Clause agreed to; clauses 8 to 57 agreed to.

Clause 58

Mr BARBER (Northern Metropolitan) — The new definitions section 191A inserted by this clause says:

FOI exempt document means a document that—

- (a) was given to the Commission (whether under Subdivision 3 or otherwise) by an agency (as defined in the Freedom of Information Act 1982) or a Minister; and
- (b) is an exempt document under the Freedom of Information Act 1982 in the hands of the agency or Minister —

that is, the originating agency or minister who first gave it to the commissioner.

New section 191V, inserted by this same clause, says:

The Commission must not disclose or use information from an FOI exempt document other than in accordance with this Subdivision.

As we read new sections 191W, 191X and 191Y we see that what they effectively refer to are what will be the internal purposes of the commission’s work until such time as the commission discloses material in its final report in Parliament. Can the minister tell me why this approach has been taken in relation to this bill?

Hon. M. J. GUY (Minister for Planning) — I am advised that the minister has the power to make any document exempt — rather, the commission will have the same powers as a minister to make any document exempt. I correct myself on that first point, and I apologise. We have given the commission wide-ranging powers and a fairly detailed brief, noting of course that we believe a lot of the information it will be given should be there to protect a number of people, including drivers who will be providing some of that background information or evidence to the commission. As such, that material will be available to the commission to make public, should the commission have the inclination to do so, and the commission will be able to operate in a fairly broad scope and get to the nub of a lot of the problems and issues in the industry, many of which might be given to the commission by the drivers who wish to have those details protected.

Mr BARBER (Northern Metropolitan) — Sure, but the commission itself is subject to the Freedom of Information Act 1982. If I want to make an FOI request about any piece of paper that they have, I can do that. However, there is a particular provision here that attempts to either mirror or alter in some way the exemptions and the processes of the Freedom of Information Act 1982. This commission, or any

agency, can decide not to release a document, and they have a number of grounds of exemption to do that, but here a new definition of 'exempt' is created that references documents that would be exempt if a document was in the hands of another agency. I want to know why the government is doing it in that way.

Hon. M. J. GUY (Minister for Planning) — I am advised that it is simply providing statutory clarity to mirror the powers that exist in the Freedom of Information Act 1982.

Mr BARBER (Northern Metropolitan) — But it does the exact opposite. As I have said, this agency is already subject to the Freedom of Information Act 1982. Here, we are attempting to mirror those other requirements as they would apply in a different agency. I cannot find another example on the statute book where a piece of legislation, internally to itself, attempts to mirror an aspect of the Freedom of Information Act 1982. I can find no other piece of information governing the works of any agency in any way where a definition of an FOI-exempt document appears in that legislation. Can the minister tell me if I have missed something?

Hon. M. J. GUY (Minister for Planning) — I cannot give Mr Barber a direct answer in relation to every other piece of legislation and the mirroring of FOI powers, but as I said it is the government's view that that statutory clarity is important, and that is why that has been put in this piece of legislation.

Mr BARBER (Northern Metropolitan) — Here is the thing — and I am sure Mr Guy has done some FOIs in his time, so he will understand this — if I FOI an agency and that agency has documents from a third party, whether it is another agency, a private person, a private company or whatever, before releasing the documents to me that agency will approach the third party and ask, 'Do you have a view on my release of these documents?'. If the agency decides to release the documents to me, the third party can appeal. If the agency decides not to release the documents to me, I have to appeal. That is the normal process under the FOI act.

What is happening here is something very different. This agency — the commission — has to make a judgement about whether a document would be exempt if it were in the hands of another agency or a minister. I cannot for the life of me understand how that would work or why we would want to effectively create an additional FOI decision loop whereby this commission is meant to consider whether a document would be

exempt in the hands of another agency. Surely it is the other agency's job — —

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Hospitals: election commitments

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health, Mr David Davis, and I ask: during the 2010 election campaign the Liberal Party and The Nationals continued to commit to using the approximately \$1 billion in proceeds from gaming revenue licences to fund health expenditure, including 800 new beds. As the incoming government already knew this amount before the election, what can the minister tell Victorians today about the urgency of rolling out those 800 beds?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question. He is quite right to indicate that the gaming revenues were to be dedicated to health funds, and they will be. Significant funds will be committed through this term of government on schedule as gaming revenue comes in. The chamber and the community will see the great pity of the fact that the gaming process of allocation and tender was botched by the previous government, and they will be concerned that the amount received by Victorians, and Victorian taxpayers, will be about \$3.1 billion less than — —

Mr Lenders — What does the Deputy Premier think of that?

Hon. D. M. DAVIS — I think the Deputy Premier and the whole community is angry with Labor and about that more than \$3 billion of community resources. There is a whole series of phrases about this in the Auditor-General's report — and I urge every member of the chamber to read it — that was tabled in this chamber yesterday. What is very clear is that we indicated that a minimum of \$1 billion would be put into community hospital and health service infrastructure. That promise will be honoured in full. The great fear is that an enormous amount has been removed from Victorian taxpayers by the failed processes of the previous government.

Mr Lenders interjected.

Hon. D. M. DAVIS — Treasurer, you were warned — —

Mr Lenders interjected.

Hon. D. M. DAVIS — The former Treasurer was warned, as Treasurer, and told to look into some of these issues, but he refused to seek a review. I have to say the Auditor-General's report is very stark on the responsibilities of the Department of Treasury and Finance and the Department of Premier and Cabinet. Whilst those are not my areas of responsibility, I too can read the Auditor-General's report, and I encourage every member of the chamber to read it. The great pity is that the billions of dollars that were forgone through the botched process could have been put into additional and further health and hospital infrastructure and would have been welcomed by the Victorian community. The example I gave yesterday was the Swan Hill hospital, a worthy project that could have been funded directly from the additional resources from the gaming licence arrangements.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I am sure you, President, were listening carefully, as I was, to the minister's answer, because we know that in Victoria hospital demand goes up every winter. The minister knew this when he came to government; in fact it is in his metropolitan health plan. We know that every year additional beds are required in winter. When will the minister respond to the question, when will he deliver beds and when will they arrive to support Victorian patients?

Hon. D. M. DAVIS (Minister for Health) — The government's bed commitment will be delivered. The shadow Minister for Health is quite right: there is additional demand in winter. At the moment, for example, we have significant demand on our system through the unseasonally high incidence of pneumonia. That has grown over some months since the autumn period and even through the latter part of summer. There is significant demand on our emergency system, for example, from pneumonia cases that are presenting in a number of our health services. The member is quite right that there is seasonal demand, but this year has been a little unusual in that the demand began a bit earlier than usual.

However, in terms of the substance of the member's question our bed commitments will be delivered. Funding arrangements will come through in the normal way through the budget. The funding guidelines were released on 22 July last year, and we will certainly be working our way through with each health service and negotiating the very best deal we can obtain to ensure maximum capacity across the system.

Questions interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! It is with pleasure that I alert the house to the fact that we have in the gallery a former member of the house — indeed a former Leader of the Opposition, Leader of the Government and President of the house — Monica Gould, who is watching over us today. Welcome, Monica.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Portland District Health: review

Mr KOCH (Western Victoria) — My question is for the Minister for Health, the Honourable David Davis. Can the minister inform the house of the outcome of recent actions on the part of the Baillieu government to improve the performance of Portland District Health — an important service in south-west Victoria?

Hon. D. M. DAVIS (Minister for Health) — I am pleased to answer the question from a member representing the western region of the state. I know that he and his colleagues in Western Victoria Region are very concerned, as many in the Portland community are, about the performance of the Portland District Health service. This is an important service, and it needs to be borne in mind that Portland is quite distant from Melbourne and from other major services. There has been a significant financial problem over some time, with significant deficits. The underlying operating result over the last four years has been in the negative. Some financial obligations taken on by Portland District Health were not well worked through, and they have had a significant impact on the position of Portland District Health.

As I say, it is a very important service. Paxton Partners was asked to undertake a review of the service's governance, management and financial processes. The report of that review has been delivered to me, and I have made that report available.

Mr Lenders — Is it in the man safe, locked away?

Hon. D. M. DAVIS — We do not have a man safe, as Mr Lenders well knows. Members opposite may well regard this as a trivial matter, but it is actually a significant matter. I am concerned to see that the community understands what has occurred at Portland. I thank Paxton Partners for the work it has done.

I have made the report in its final form available to the chair of the board at Portland, and we will be looking for a formal response from the board's chair and the board to the points made in the Paxton Partners report. Following that it is my intention to appoint a number of delegates to the board, because it is important that Portland District Health is able to operate in a way that gets the best result for the Portland community. I have indicated to the chair that it is my intention to appoint two delegates to the board. He has welcomed that step.

I look forward to having further discussions with Portland District Health and ensuring that a plan is in place that guarantees the strength and future of services in Portland. I am determined to make sure that both the acute health services and the other services that Portland District Health provides are protected. That needs to be done in a sustainable way. I note the commitment of the board to achieve these objectives as well. I welcome that commitment.

I have to put on record that the board has been very supportive of this process; it welcomed the independent review that was undertaken by Paxton Partners. I think this has been a very worthwhile process that has enabled many of the issues that have been below the surface at Portland for a significant period to be worked through in a systematic way so that a road map, if you will, into the future can be laid out. The board can now work with the Department of Health, and hopefully putting some delegates on the board will enable that process to go forward.

The objective is to maintain and strengthen services at Portland. Given the distance that Portland is from major centres, there is also a need for Portland District Health to work with other services in the region to ensure that it has the highest quality of acute health services. Again I place on record my thanks to the board for its cooperation through this process.

East Wimmera Health Service: redevelopment

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. The people of Charlton and the clients of the East Wimmera Health Service have been waiting for clarity and certainty relating to the redevelopment of their health-care service. The minister knows that a business case had been prepared for a new service model for the East Wimmera Health Service prior to the floods earlier this year, yet the community is still waiting for clarity and certainty. Can the minister inform the house today precisely when he will be creating that certainty and confidence for the Charlton community about the redevelopment of its health service?

Hon. D. M. DAVIS (Minister for Health) — Members of the house will be very aware of the tragic circumstances that arose in Charlton as a result of the floods that occurred in the early part of this year. They will remember the enormous impact the floods had on the township and the Charlton hospital. The impact of water and sewage moving through the hospital has been very significant. The government moved as quickly as it could in the subsequent period to put in place a field hospital — a mobile army surgical hospital, or MASH unit, if you will — and that was well received by the Charlton community.

Mr Barber — Were they doing surgery there?

Hon. D. M. DAVIS — It was a stopgap measure, obviously, to get some services operational in the town as quickly as possible. Following that, demountables were erected to provide ongoing primary care and other services, and that has provided some significant support to the town.

As I have said publicly on a number of occasions, the Charlton hospital, like a number of hospitals built in the 1960s, 1970s and so forth, was built on lower land, which in this case has been shown to be subject to significant inundation. This has caused the viability of that particular building to be in question. The government allocated \$1 million in the budget for the scoping and planning of a new health service, which potentially includes the purchase of new land in the town.

The process of scoping and starting the architectural work on that important project has begun. I have met with the chair of the health service, I have had conversations with others on the board and I know the Department of Health has met with a number of architectural groups which have been involved in this process of looking for alternate locations and planning the architectural work involved in putting in place a new facility.

I note that this facility will be one that will need to satisfy the town for decades to come — for 10, 20, 30, 40 or 50 years into the future. It is critical that we get this absolutely right. Mr Jennings is quite correct in saying that service planning was undertaken prior to the change of government, but that service planning did not envisage the loss of the Charlton hospital. It did not — and this is obviously not a surprise to anyone — take into account the fact that that hospital would be taken out of action in the way that it tragically was. In those circumstances we need to look at exactly where the hospital will be built in the town.

I again make the point that the very old hospitals in northern Victoria tend to be on higher ground and were not inundated in the flooding process, whereas the newer hospitals, as I am calling them, which were built in the 1960s and 1970s tend to be on lower ground. This has been shown to be a significant weakness.

The process of locating land and designing from scratch a new hospital that will satisfy the needs of the town for decades into the future has been a significant task, and the government is moving as swiftly as it can with that process. We need to get it right. We need to have the services in the town strengthened and protected. We are determined to make sure that Charlton gets a strong, long-term and viable option that improves services in the town.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I am sure, President, you were listening attentively and know that was a reasonable and apposite answer but that the minister did not answer the question relating to the precise time by which certainty and confidence could be provided to the community. That is an essential feature, and I want to reiterate that point.

The fundamental conundrum that the community believes exists is that there may be limits to the insurance cover provided for the hospital in terms of whether it needs just a lowest-common-denominator refit or whether the hospital needs to be refurbished and started again. Can the minister provide the house and the community with any confidence that the government will not be constrained by the limit of the insurance cover and provide a commitment from the government to fund an appropriate redevelopment in Charlton, which the community so urgently requires?

Hon. D. M. DAVIS (Minister for Health) — I am delighted to provide that assurance. The government will not be hampered in any way by the insurance matters that may surround the claim following the flood. We will build a hospital that is satisfactory for the town, and indeed very likely we will expand services into the future. The town has taken a significant impact. It deserves the support of the Victorian community. That is why we have allocated that \$1 million in this budget — to get on with that planning and those arrangements. That is a direct measure of our certainty and our determination to provide for Charlton. I can say we need to get the location absolutely right so that in the future the hospital is not subject to inundation again. We need to have the quality of the building at a standard that will

satisfy the town for decades into the future, and I am determined to do that.

Schools: relocatable classrooms

Mr DRUM (Northern Victoria) — My question without notice is to the Minister for Higher Education and Skills, Peter Hall. With an ever-increasing need for qualified builders to be able to deliver buildings of environmentally friendly design, I ask: what is the government doing in the education and training sector to assist with meeting this demand?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank my colleague for a question that I am sure is of interest to all members of this chamber. I want members first of all to reflect back on their days in the classroom. They may have been located in a portable classroom at their school. Perhaps it was for one lesson, or perhaps it was for a year of primary school. If their recollections are the same as mine, members will recall that in the summer months it was uncomfortably hot in those portable classrooms and in winter it was very cold.

Given that experience, I want members to consider what it would be like to be in a relocatable modular classroom that had the following features: materials made from recycled and recyclable products; design features such as double-glazed windows, automated lighting, a super-insulated roof, external walls and floors; a control system capable of silently opening and closing windows based on the desired room temperature and carbon dioxide levels within the classroom; and an operational energy consumption 90 per cent less than that possible for current relocatable designs.

Such relocatable classrooms now exist, and on Wednesday, 22 June, I had the pleasure of visiting BRB Modular Pty Ltd, which is a company in Kangaroo Flat near Bendigo that is making such a prototype relocatable classroom. That classroom will eventually be located in my electorate at Pakenham Springs Primary School. I think the experience students will have in this type of relocatable classroom will be a far more pleasant one than that had by some of us in relocatable classrooms.

It is important to put on the record in terms of its construction of such classrooms that this company provides training opportunities for 26 apprentices at its location near Bendigo. These apprentices are therefore being exposed to some of the most modern technology in terms of improving the environmental values of such buildings. The product being produced by this

regionally based company and the training opportunities it is providing for young people within the region are absolutely outstanding and should be encouraged.

I am sure all Victorian schoolchildren will be the beneficiaries of the work of and products made by these well-qualified young apprentices at a very strong and worthwhile company, BRB Modular, in Kangaroo Flat near Bendigo, which has my strongest commendation for the work it is undertaking.

Supplementary question

Mr DRUM (Northern Victoria) — I would like to thank the minister for his answer. The minister mentioned a one-off project at Pakenham. Have we, the Baillieu government, made any commitments to roll off more of these projects around the state?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I welcome the supplementary question, because I wished to include in my answer some examples of other places these sorts of portable buildings might also be relocated to. While the one I referred to, which is currently under construction, will go to Pakenham Springs Primary School, given the interest already existing in this design there are advance orders for the following schools: Armadale Primary School, Yarraville West Primary School, Port Melbourne Primary School, Canterbury Girls Secondary College and Box Hill High School. I would therefore encourage Ms Darveniza and others to get behind this project, because it is a company based in Bendigo in her electorate that is doing this fine work, and I am sure — —

Ms Darveniza interjected.

Hon. P. R. HALL — I thought Bendigo was part of Ms Darveniza's electorate too, and therefore I would have been pleased that the company is manufacturing these classrooms in her electorate.

Kindergartens: internet services

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Children and Early Childhood Development. The government is axing free VICNET web-hosting services to kindergartens at the end of the year, and it is estimated that a replacement internet service provider (ISP) and IT support will cost kindergartens more than \$2500, single-handedly wiping out the newly announced IT grants. What analysis, if any, has been done by the minister's department as to how much it will cost each kindergarten to find and pay for their own ISP to host services they previously

received for free, not to mention associated costs such as new stationery and signage?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I note that the kindergarten IT project is one of those projects for which funding was due to lapse on 30 June 2011. IT was not mentioned in the former Labor government's kindergarten policy. We know which of the lapsing programs were to continue and which ones were not because in a document it put out before the election the Labor Party identified two lapsing programs that would have continued, but there was not one word about IT in that document. We know that under the former Labor government this program was due to cease on 30 June this year.

This government has continued that funding beyond 31 December this year, and we are now working with VICNET to develop a solution to support the ongoing IT needs of kindergartens from 2012. I am pleased that this government has recently announced more than \$3.4 million in IT and equipment grants to support community kindergartens throughout Victoria. This represents a grant of \$2500 for each kindergarten, which can choose to use it for IT or other equipment. Of course this money is in addition to the coalition's \$26 million Children's Capital program commitment, which was announced recently. That is nearly \$30 million to support kindergartens in Victoria that was not available under the former government.

Supplementary question

The PRESIDENT — Order! Ms Mikakos.

Ms MIKAKOS (Northern Metropolitan) — Thank you very much, President.

Mrs Peulich interjected.

The PRESIDENT — Order! I am not playing a game where I call a speaker and then Mrs Peulich gets an extra turn at saying something. When I wait for quiet in the chamber and then call a speaker invariably there is another comment.

Ms MIKAKOS — It is my understanding that the minister's newly announced IT grants are one-off grants that will lapse at the end of the next financial year. Will the minister give an unequivocal commitment that these grants will be ongoing so that committees of management and staff will not be wasting even more time adjusting to the government's policies?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I look forward to continuing to support kindergartens long term. Unlike the former Labor government, which left kindergartens underfunded for 11 years and signed up to federal Labor policy commitments without securing adequate funding to support those kindergartens, the Baillieu government is committed to supporting kindergartens in the long term.

Boating industry: government initiatives

Mrs COOTE (Southern Metropolitan) — My question is for the Minister for Manufacturing, Exports and Trade, the Honourable Richard Dalla-Riva. Can the minister inform the house what the Baillieu government is doing to revitalise the marine and boating industry in Victoria?

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — I thank the member for her ongoing interest in my portfolio and for asking me a question the other day as well. It is great to be engaged in understanding the marine and boating industry, because earlier this month I hosted an industry round table to develop strategies for and consider the challenges facing the future development of the \$2 billion boating industry in Victoria. We know that under those opposite we had a decade of neglect of and indifference to various industry sectors, and the boating industry was pleased to have the opportunity to explore potential opportunities for expanding employment and business prospects in the sector.

Members may not be aware that the marine and boating industry contributes \$696 million to the Victorian economy and supports almost 10 000 jobs both directly and indirectly, with more than 3000 people directly employed in the sector. There are 170 000 recreational vessels registered in Victoria and more than 300 000 Victorian recreational vessel licence-holders.

Mr Leane interjected.

Hon. R. A. DALLA-RIVA — This means — so Mr Leane understands the importance of this industry — that 1 in 30 Victorians own a boat. It is a significant industry for us to ensure that we link into.

As I said and as we can tell from these numbers, this sector contributes extensively to the Victorian economy. There is also a large aftermarket in the boating industry — accessories, fishing equipment, maintenance, servicing and launching facilities, and fees. The Victorian coalition government strongly

supports a thriving and competitive recreational boating industry.

The round table was a fantastic opportunity to sit with representatives of the industry and gain firsthand knowledge about not only the current challenges and issues but also some of the opportunities for us in Victoria. It is a first step. Although I have engaged with the industry in other ways, this is a first step in implementing our election commitment to develop a comprehensive strategy to turn the Victorian recreational boating industry into a national leader.

Recreational boating provides an important and popular way for people to experience the coast. It also provides for economic growth outside of metropolitan Melbourne, as boating moves holiday seekers and holiday spending out of the inner city, where most of the Labor members are, to popular coastal holiday destinations in regional Victoria. The Baillieu government understands that much demand for boating is directly related to the ease with which boaters can access popular waterways. That is why we are committed to working collaboratively with industry to drive improved efficiencies and competitiveness. We are also working to revive the state's manufacturing exports and productivity.

As opposed to those opposite, we support a thriving and competitive recreational boating industry, with special emphasis on the sufficiency, maintenance, design and management of boat-launching facilities and marinas. It is just a shame that those opposite do not get on board — literally — as well.

Government: e-services procurement policy

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Assistant Treasurer. The minister's decision to dramatically change the structure and intent of the Victorian government e-services panel by drastically cutting the number of companies on the panel, removing the \$1 million cap and mandating it across the government has the industry in uproar. Mr Ian Birks, the chief executive of the Australian Information Industry Association, is reported in an article in the *Australian Financial Review* yesterday as having condemned the process as follows:

... there was a great deal of dissatisfaction among the ICT community in Victoria about the way the process had been managed and incredulity at the ultimate outcome of this process.

Can the minister detail the consultation that was undertaken with both the industry and departments and advise what issues were raised, in particular with the

Department of Education and Early Childhood Development with respect to the ultranet?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Somyurek for his question about the new Victorian government e-services panel tender. Mr Somyurek started by talking about my decision as minister to cut the panel. I want to place on record that how many participants are on the panel is not a decision of government. This process, the e-services panel process, was an open tender administered by the Department of Treasury and Finance and evaluated by a whole-of-government evaluation panel. The number of companies that have been appointed to the panel as a consequence of this process was based upon the evaluation of those individual tenders, so it is not a case of the government having predetermined that there would be a fixed number of companies on the panel. The number of companies that have ended up on the panel was a consequence of their relative performance in the tender process.

Supplementary question

Mr SOMYUREK (South Eastern Metropolitan) — Given the impacts not only on the industry but also on government departments that were unaware of the changes to the e-services panel, I ask the minister: will he undertake to maintain the current panel and undertake a full consultative review to ensure that this ill-conceived idea is not implemented and that confidence can be restored so that Victoria continues to have a robust IT industry supported by the Victorian government?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Somyurek for his supplementary question. There are a couple of points I will make in response. Firstly, the Victorian government does support the Victorian ICT industry. Obviously I have another hat in another department in that regard. As to the issue of the existing panel, the contracts of those firms which have current contracts with the Victorian government will remain in place. Those contracts will continue to be in place until those contracts are completed, so any existing contractual arrangements will remain in place.

As to the evaluation, of course there is an evaluation process that will follow the completion of the tender process. There is a debriefing process for those companies that bid through this process and there will be an evaluation process undertaken, and I look forward to receiving the report on the evaluation of this tender process from the department in due course.

Toolamba: kindergarten funding

Mrs PETROVICH (Northern Victoria) — My question without notice is for the Minister for Children and Early Childhood Development, Ms Lovell. Can the minister update the house on the community support for the Baillieu government's commitment to kindergarten facilities in Toolamba?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I thank the member for her question and for her ongoing commitment to the Toolamba community and her concern for the future education of Toolamba's children. Members of this house would be aware that on 3 February 2010 unfortunately the Toolamba kindergarten was destroyed in a fire that also destroyed the Toolamba Primary School. They will also be aware that the community was let down by the former Labor government. The former Labor government did not commit one cent to the rebuilding of the Toolamba kindergarten. In fact it misled the Toolamba community by authorising very misleading statements to be included in press releases that led the community to believe there was a commitment to rebuilding the kindergarten when there was not one cent committed to it.

The Toolamba community was extremely disappointed when it found out earlier this year that there was no money committed by the former government. There was no money left by the former government in the Children's Capital program to fund that kindergarten. However, I was delighted on 27 May to stand in the Toolamba community and announce that the Baillieu government would commit \$450 000 to the building of a new kindergarten in Toolamba. It will be a community-owned facility that the government is committing \$450 000 towards. At that announcement the kindergarten committee members were visibly overwhelmed. In fact there were tears of relief that the Baillieu government was supporting them where the Brumby government had let them down.

Since making that commitment I have received a letter from the Toolamba Primary School, which reads:

On behalf of Toolamba PS school council I would like to express our appreciation for the effort you put into securing funding for the Toolamba kindergarten. Early childhood education is a priority for our community. The fact that we will now be able to build a complex which will cater for children in their formative years is very exciting. Having both the school and the kindergarten linked will enable us to further promote and support parent involvement in the education of their children.

Thanking you once again.

It is signed by Heather Kennedy, the principal of Toolamba Primary School. I have also received a very cute framed photograph of the students at the Toolamba kindergarten holding up letters that spell out 'Thank you, Minister Lovell'. They are appreciative of what the Baillieu government is doing for them.

Ms Mikakos interjected.

Hon. W. A. LOVELL — Unfortunately the only person who has chosen to criticise that announcement is the shadow minister assisting the leader on children and young adults, Jenny Mikakos. Ms Mikakos has chosen to use this community for her cheap political point-scoring. She wrote a letter to the editor claiming that this funding was inadequate, which has caused confusion and further distress to the community.

Not only did the president of the kindergarten committee visit my office to say how disappointed she was with that letter to the editor, she also sent me an email saying:

Just a quick note to let you know that myself and, as far as I know, the community did not have anything to do with the letter to the editor from Jenny Mikakos in Thursday's *Shep news* ...so I am unsure as to where she is coming from.

We are so happy with the state government's contribution, and together with the insurance money we are sure we can build a centre for all to be proud of.

The only person using this to score cheap political points is Jenny Mikakos. It is not appreciated by the community, and she should consult communities before she uses them for political gain.

The PRESIDENT — Order! Can I clarify with the minister that that question was not the same question that was asked in the last sitting week?

Hon. W. A. LOVELL — No, it was not.

The PRESIDENT — Order! Was that an adjournment matter?

Hon. W. A. LOVELL — It was just an update for the house on the community support.

The PRESIDENT — Order! I remind members about the standing order that states that the same question cannot be asked of a minister within a specified period. That question bore, to my mind, a striking resemblance to a question previously asked. I did not intrude earlier because I was not sure whether it was raised in the adjournment debate or in question time, but it was clearly about the progress on that particular kindergarten. Whilst this opportunity has been taken to read into *Hansard* and to advise the

public of the acclaim with which the minister's decisions have been accepted, I think this question dangerously skirted that standing order requirement. I caution members to be mindful of the questions that they frame.

Government: advertising

Mr LENDERS (Southern Metropolitan) — My question without notice is to the Assistant Treasurer in his capacity as the minister responsible for WorkSafe Victoria and the TAC (Transport Accident Commission), two agencies that spend a lot of money on advertisements to reduce injuries and death. I ask the minister: why were both agencies instructed to reduce their advertising for the months of May and June?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Lenders for his question. Mr Lenders talks about both agencies being instructed to reduce their advertising for May and June. The government came to power with a commitment around reducing the whole-of-government spend on advertising. The government has put in place a process by which spending on government advertising is assessed, and that includes the outer agencies. The TAC and WorkSafe are part of that assessment process, and where safety messages are meritorious, as they generally are in those two agencies, they are supported.

Supplementary question

Mr LENDERS (Southern Metropolitan) — I thank the Assistant Treasurer for his answer. I specifically ask him then: given that these are both independent boards, when he gives directions to the boards on matters of policy are they documented and are those directions available for the public or the Parliament to see?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I thank Mr Lenders for his question. These are not directions from the minister to the agencies concerned. This is a process of evaluating the material that is put up. They are not directions under the relevant legislation.

Biotechnology: international convention

Ms CROZIER (Southern Metropolitan) — My question is also to the Minister for Technology, Mr Rich-Phillips, and I ask the minister: can the minister provide an update on Victorian participation in Bio 2011?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Ms Crozier for her question. Ms Crozier asked about Bio 2011, which is this year's

annual headline biotechnology conference for the biotechnology industry. Bio 2011 is currently under way in Washington, DC, and I am very pleased to tell the house that Victorian and indeed Australian companies have a very strong presence at Bio 2011 in Washington. There are more than 40 participants from Victoria in Washington this week representing more than 20 individual companies. The Victorian government is very proud to be supporting the participation by Victorian companies at Bio 2011 in Washington.

Mr Lenders — Are you going?

Hon. G. K. RICH-PHILLIPS — To take up Mr Lenders's interjection, I can inform the house that Bio 2011 finishes today, 30 June, and the Victorian delegation will no doubt be returning to Victoria in the next couple of days.

The Victorian government is very proud to support Bio 2011 and Victoria's participation there. We have directly assisted 12 companies through grants to attend Bio 2011 and have also provided assistance to AusBiotech's life sciences event, which took place in New York in the lead-up to Bio 2011 in Washington this week.

The Victorian government has also supported the sponsorship of the Australian pavilion at Bio 2011, and I draw the house's attention to an editorial in the *Australian* of last Saturday titled 'Nation must jump on biotech wagon', which was written by a strong advocate of the Australian biotechnology sector, one Peter Beattie, the former Premier of Queensland. Mr Beattie in his article talked about the strength of the Australian biotech — —

Mr Lenders interjected.

Hon. G. K. RICH-PHILLIPS — As Mr Lenders points out, he was a Labor Premier of Queensland. As Mr Beattie pointed out in his article, Australia has had a very strong representation at the annual biotechnology conference over a number of years, and he pointed out the strong representation of Victoria. Mr Beattie then went on to talk about the strong support and leadership that the current Baillieu Liberal government — the coalition government — is providing to the biotech sector in Victoria. We are very pleased to have the endorsement of Peter Beattie for the work we are doing in biotechnology, and the government is very proud to be supporting a range of innovative Victorian biotechnology companies in their presence at Bio 2011 in Washington this week.

Ordered that answers be considered next day on motion of Mr LENDERS (Southern Metropolitan).

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have answers to the following questions on notice: 406, 422, 621, 645, 671, 716, 800, 801, 804, 808, 809, 827–33, 846.

Ms TIERNEY (Western Victoria) — I am seeking the answers to a number of questions: 639 and 650 to Mr Dalla-Riva; 630 and 644 to Mr David Davis; 653 to Mr Guy; 645 and 671 to Mr Hall; 633, 681 and 646 to Ms Lovell; and 628, 669 and 662 to Mr Rich-Phillips.

Hon. D. M. DAVIS (Minister for Health) — I can assure the member the answers will be provided.

Ms BROAD (Northern Victoria) — I thank the Leader of the Government for his reply to question 846. However, I again raise the matter of answers to questions 612, 613, 614, 615, 616 and 617, which, as he is well aware, I have raised on several occasions and for which I have sought an explanation. I have still not been given any indication by the minister that there is some difficulty in providing responses to these matters, which were raised in April.

In the last sitting week of the Parliament Mr Davis indicated to me in the house that he was informed that responses were on their way, and he said, 'We will get them to the member'. I took that to be the royal 'we' — that is, that Mr Davis was taking responsibility as he is the minister responsible in this place for responding to questions on notice. We are now at a point where the answers have not arrived. We were advised earlier this sitting week that a great many answers to questions on notice would be provided today, but they are not on — what to my hearing was — a short list. I seek further explanation as to what has happened to those responses, given the assurance the minister gave in the last sitting week.

Hon. D. M. DAVIS (Minister for Health) — I thank the member and indicate that she is right; the answers will be provided.

The PRESIDENT — Order! I find this procession of queries about questions to be rather frustrating from the Chair's point of view. Perhaps each member could mention the questions they have outstanding, and I am sure the minister will provide an explanation for all of them together rather than each of them individually. If I

am going to have people bobbing up like puppets, it will be a bit difficult.

Ms PULFORD (Western Victoria) — At risk of being considered to be ‘bobbing up’ — the President’s words — I have a couple of questions for which I seek an explanation regarding tardy responses. One in particular, question 218, was raised on 24 March. The answer has been a long time coming. The question was asked of the Minister for Employment and Industrial Relations.

An answer to question 624 is also overdue, although it is not as extremely overdue as the answer to the first question. I suggest an effective means by which we could all avoid this process would be for the answers to our questions to be given in a timely manner.

Ms HARTLAND (Western Metropolitan) — The answers to all the questions I requested on Tuesday have still not been delivered, which means it will be another six weeks before that might happen, and that will make some of them 120 days overdue.

Ms PENNICUIK (Southern Metropolitan) — I am still waiting for answers to questions 136 to 141, 167, 170, 172, 173 and 175. They are all from March. Questions 684 to 717 — except for 716, which I have just received — 767 and 768 are now at the 30-day limit. I echo what Ms Hartland said: given we now have a six-week break, that means the answers to the questions, especially the earlier ones, are very overdue.

Ms BROAD (Northern Victoria) — I wish to indicate that I take exception to being referred to as a puppet. These are important matters, and nobody forced Mr Davis to say the answers to these matters were on their way. He volunteered that information. I took it in good faith, and clearly that was not an accurate statement.

The PRESIDENT — Order! I apologise for making that comment. I do have concerns about this particular part of our process because, apart from anything else, some of the questions that have been asked have been asked of ministers who are in this chamber. Members are expecting Mr Davis to say where those answers are when the ministers are actually in the chamber and, I would have thought, could have given a better answer, response or assurance than Mr Davis.

I have some concerns about the way this part of the proceeding is operating and the fact that members get up and mention questions and then the Leader of the Government gets up and gives basically the same answer to each of the members. It is a concern I have with that part of the process; it is not a reflection on the

members. I certainly extend my apologies to Ms Broad and any other members if the way in which I have described my concern was not seen as appropriate. I am very sorry about that.

Hon. D. M. DAVIS (Minister for Health) — I agree with Ms Broad. I am glad you, President, apologised for that phrase. It is legitimate for members to raise these matters, and I am willing to respond to them as is appropriate in the chamber. I can assure members that answers will be provided. We will endeavour to ensure that that is done. I am certainly committed to making sure that answers are provided.

Sitting suspended 12.54 p.m. until 2.02 p.m.

TRANSPORT LEGISLATION AMENDMENT (TAXI SERVICES REFORM AND OTHER MATTERS) BILL 2011

Committee

Resumed discussion of clause 58.

The ACTING PRESIDENT (Mr Finn) — Order! My recollection is that before question time Mr Barber was concluding his question or comments, so I will give him the call once again on clause 58.

Mr BARBER (Northern Metropolitan) — Chair, your recollection is wrong: Mr Barber was seeking some information from the government. I am hoping that over the hour of question time and the lunch break Mr Guy has been able to find out from Mr Mulder’s advisers whether this particular provision in relation to FOI-exempt documents exists in any other piece of statute and can provide to us an explanation as to why it is being added here in this way.

The ACTING PRESIDENT (Mr Finn) — Order! That sounds remarkably like a question to me.

Hon. M. J. GUY (Minister for Planning) — I am very happy to inform Mr Barber that I did not just spend the lunch break having lunch — —

Mr Barber — Or at a rally.

Hon. M. J. GUY — Or at a rally; indeed, Mr Barber. I can advise Mr Barber that this legislation is based on the Essential Services Commission Act 2001 and contains similar provisions to it. I think Mr Barber also asked me a question before lunch about the release of the reports. Correct me if it was not Mr Barber; it might have been Mr Tee. For Mr Tee’s benefit the question was regarding the release of the

interim reports. I had stated that the final report would be available. I can tell Mr Tee that the interim reports will be available at the discretion of the commissioner.

Mr TEE (Eastern Metropolitan) — The minister does not have a decision-making power in terms of whether or not to release the interim reports; it is entirely up to the discretion of the commissioner.

Hon. M. J. GUY (Minister for Planning) — I understand that to be the case.

Mr BARBER (Northern Metropolitan) — I will return to the FOI provision. The provision requires that this agency cannot release a document if it is an exempt document, under the Freedom of Information Act 1982, in the hands of the agency or minister that provided the document to the commission. Can the minister tell me how the agency is meant to determine whether a document would be exempt if it were in the hands of another department?

Hon. M. J. GUY (Minister for Planning) — Mr Barber asked whether the FOI would apply in the same way to the commission, and I am advised that it does.

Mr BARBER (Northern Metropolitan) — Yes, I understand it does. That is why in going through the commission's processes under this clause a decision has to be made about whether a document would be exempt if a different decision-maker were making the decision. An exemption, for example, could be a cabinet document that is the basis of an exemption under the Freedom of Information Act 1982. Here we are asking the commissioner to make a decision about whether a document given to them by another department would have been considered a cabinet document if that other department held it.

This seems to create an extraordinarily confusing area of law, because I would now be contesting the administrative decision of a decision-maker who made a decision based on what they thought another decision-maker would have done if they had resided in a different department. That makes it even more complicated, firstly, for me to challenge the decision, and secondly, for the taxi commissioner's FOI officer to make a decision because they have to consider whether the document, if it had been in another department, would be an exempt document.

If Mr Guy has been involved in FOI matters before, and I presume he has been involved in some, he would know it is enormously complicated. In relation to some cabinet documents, for example, or documents purported to be cabinet documents, I have had to have

my lawyers grill individual public servants as to how exactly they went about creating a document and whether the document was, at the time it was created, intended to be a cabinet document. For example, we have to determine matters of fact as to whether the document ever appeared before cabinet, or whether the document contributed to a cabinet decision. The department from where the document originates can normally do that, because it has the entire paper trail and the person who originated the document is there.

In the case I refer to a decision-maker in a separate agency needs to make a decision based on what they think happened in another department, or for that matter in a minister's office, and that is the decision I would have to contest: whether this officer was correct in making the decision that another officer, if making the decision, would have found the document to be exempt. That seems to me to be an extraordinarily complicated way of doing things and arises completely out of the fact that we are attempting to mirror provisions of the FOI act in a new piece of legislation.

Hon. M. J. GUY (Minister for Planning) — The bill is not the only thing that is complex. In reply to that question, I, like Mr Barber, have dealt with the FOI act, and in this circumstance it is normal practice for FOI officers to work across government departments, to have conversations across government departments and to have conversations with other agencies about the purpose of specific material or documents which are then released or not released. FOI officers in agencies and government departments do not operate in a silo mentality. They obviously have a conversation with each other, which is normal practice, has been for some period of time and will continue to be in this instance.

Mr BARBER (Northern Metropolitan) — Yes, except that the FOI act says that decision making must be made in silos. The way the FOI act works is that if I request a document under FOI from a particular agency — it might be from the minister's department — let us take the application in relation to Chepstowe wind farm that I am making to the department — —

Hon. M. J. Guy — If you had asked me for it, I would have given it to you.

Mr BARBER — Let us see how we go with that.

Hon. M. J. Guy — You would have saved \$27.

Mr BARBER — No, that is the point, isn't it, Minister? I have requested under FOI all documents in the department and in the minister's office as well that relate to the Chepstowe wind farm decision. Some of

the documents that the minister holds were generated by third parties — for example, by citizens who made a submission to the minister. The normal way that the FOI act works is that the decision-maker works out if they are going to release documents that were generated by third parties. If they do, they notify those third parties, and then the third parties have an opportunity to appeal the minister's or the department's decision to release the material; or the minister's FOI officer may decide not to give me the material, in which case I have to appeal.

It may very well be a matter of practice that departments talk to each other about things, but when it comes to the act, that is not how it works. The FOI officer makes a decision, and then the third party, the generator of the documents, is given an opportunity to appeal, if the documents are to be released. This bill does something very different. This wraps it all up and says the FOI officer in this department must make a judgement about what an FOI officer in another department, or for that matter in a minister's office, would have decided.

At best it is confusing; at worst it creates further barriers to the release of information. Mr Guy says departments do not operate in silos. In fact the whole purpose of this provision, the way I read it, is that it does put things in silos. It actually creates border control between departments where an individual FOI officer, in this case working for the commissioner, does not get to make their own decision — not wholly — nor do they get to go through the normal procedure of allowing a third-party generator of documents to appeal that decision. In fact this officer must act as if they were the third party and somehow anticipate the decision that might be made in another department, taking into consideration that department's views on things.

This is an extraordinarily difficult and problematic concept to be introducing in this bill. I see no proper value in it. I can see that it creates another eye of the needle that I would have to thread if I were seeking information, but I see no value in it. It seems to work against the spirit of the act. For this reason alone the government should consider putting a stop to our consideration of the bill, remove this clause and bring the bill back before the house.

Committee interrupted.

DISTINGUISHED VISITOR

The ACTING PRESIDENT (Mr Finn) — Order! I interrupt to welcome to the gallery a former member for Waverley Province, Maree Davenport.

TRANSPORT LEGISLATION AMENDMENT (TAXI SERVICES REFORM AND OTHER MATTERS) BILL 2011

Committee

Committee resumed.

Hon. M. J. GUY (Minister for Planning) — I ask if Mr Barber can identify any faults with the operation of the Essential Services Commission Act 2001, which this provision mirrors, because he is saying this provision is difficult and problematic. I accept that is his take on the provision, but I ask if he has any examples of the operation of the clause in that act, which this clause mirrors, being problematic. That is something that perhaps he should consider.

I simply say again in relation to the silo mentality which we have been discussing in relation to the operation of FOI officers that Mr Barber is correct in that the bill states that FOI officers make a decision lying solely, in Mr Barber's own terms, within the silo of their department.

It is not at all stated that FOI officers cannot engage in consultation to get to that decision. That is the key point. It is not about prescribing a method by which a decision can be made. Suffice it to say that people should have the ability, and certainly do under this bill, to consult with other departments and then make a decision of their own accord. However, it does not mean they cannot consult with other departments.

Mr BARBER (Northern Metropolitan) — First of all, I am horrified to hear that it is in the Essential Services Commission Act. Secondly, it is pretty clear to me that what the government is doing with this entire bill is replicating a function that the ESC could probably have done by itself, but that is a wider debate. Thirdly, I do not know whether there has ever been an appeal against a decision made under that particular provision of the Essential Services Commission Act. However, I say again: there is nothing wrong with consultation between departments. In fact the act sets up a particular requirement to consult the third party generator of a document. Not only do they consult them, but that other party — a private party, a quango or a government department — has appeal rights in that

process, which is a good check. What this says is it does not work that way. Now a decision-maker has to somehow guess how a document would be treated if it were in the hands of the original agency. Not only is this a deliberate attempt to place that decision-making process into silos, it also creates a new and complicated test rather than simply leaving it as it should be, which is a test well established under the Freedom of Information Act. That is my objection to this provision.

The ACTING PRESIDENT (Mr Finn) — Order! I now call on Mr Tee to move his amendment 3. It is to the same clause, but a separate matter. I consider this to be a test for Mr Tee’s amendment 4 relating to clause 108.

Mr TEE (Eastern Metropolitan) — Essentially what we are seeking to do here is ensure that there is consultation with registered employee organisations, unions and other persons or bodies involved in or having an interest in promoting the safety of drivers of commercial passenger vehicles in Victoria. I move:

3. Clause 58, page 34, line 15, omit “appropriate;” and insert “appropriate including, in relation to the safety of drivers of commercial passenger vehicles, the following entities —
 - (i) registered employee organisations (within the meaning of section 79 of the **Occupational Health and Safety Act 2004**) that further and protect the interests of drivers of commercial passenger vehicles in Victoria;
 - (ii) other persons or bodies involved in, or having an interest in promoting, the safety of drivers of commercial passenger vehicles in Victoria (including driver advocacy groups);”.

The scheme of the proposal provides that the new commission will work in collaboration with a number of entities to improve the safety of drivers and passengers. It includes in that the municipal councils, so there is a broad range of organisations and individuals that the commission needs to work with — including, as I said, municipal councils — yet there is no reference to the organisations that represent the interests of drivers. Opposition members think that if we can put municipal councils in the legislation, then we ought to put in the organisations that represent the interests of drivers. We say that because the driver is critical to the experience of passengers. We heard in the debate contributions made by members from all sides that were critical of some of the experiences passengers have had in taxis. I would have thought that if we want to improve that situation, then we would need to consult with drivers and their representatives, and that is what this clause seeks to do.

I might add that the provision concerning clause 108 talks about working ‘in collaboration’. Opposition members do not purport to put it on that higher level, although there is an argument that we should. All we are seeking is to formalise a degree of consultation in the same way that rightfully there is to be consultation with municipal councils and others. With that, I move the amendment.

Hon. M. J. GUY (Minister for Planning) — The government is not supporting the amendment. The bill is fairly broad, and it is broad for a reason. It contemplates a range of factors, including the matters raised by Mr Tee. We believe once you start prescribing certain points that should or should not be within the bill, that creates definitional issues in itself. As I said, it is fairly broad and it is fairly broad for that reason. We will not be supporting the amendment.

Ms HARTLAND (Western Metropolitan) — The Greens will be supporting the amendment for the reasons Mr Tee has outlined — that is, if government can consult councils on this issue, clearly it should be consulting people who look after the industrial rights of drivers.

Committee divided on amendment:

Ayes, 17

Barber, Mr (<i>Teller</i>)	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr (<i>Teller</i>)	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Hartland, Ms	Tarlamis, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms
Lenders, Mr	

Noes, 20

Atkinson, Mr	Hall, Mr
Coote, Mrs	Koch, Mr
Crozier, Ms (<i>Teller</i>)	Lovell, Ms
Dalla-Riva, Mr	O’Brien, Mr (<i>Teller</i>)
Davis, Mr D.	O’Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Guy, Mr	Rich-Phillips, Mr

Pairs

Viney, Mr	Kronberg, Mrs
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Amendment negatived.

Clause agreed to; clauses 59 to 128 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The PRESIDENT — Order! The question is:

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

House divided on question:*Ayes, 34*

Atkinson, Mr	Leane, Mr
Broad, Ms	Lenders, Mr
Coote, Mrs	Lovell, Ms
Crozier, Ms	Mikakos, Ms
Dalla-Riva, Mr	O'Brien, Mr
Darveniza, Ms	O'Donohue, Mr
Davis, Mr D.	Ondarchie, Mr (<i>Teller</i>)
Davis, Mr P.	Petrovich, Mrs
Drum, Mr	Peulich, Mrs
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Ramsay, Mr
Elsbury, Mr	Rich-Phillips, Mr
Finn, Mr	Scheffer, Mr
Guy, Mr	Somyurek, Mr
Hall, Mr	Tarlamis, Mr (<i>Teller</i>)
Jennings, Mr	Tee, Mr
Koch, Mr	Tierney, Ms

Noes, 3

Barber, Mr (<i>Teller</i>)	Pennicuik, Ms (<i>Teller</i>)
Hartland, Ms	

Question agreed to.**Read third time.**

**TRANSPORT LEGISLATION
AMENDMENT (PORT OF HASTINGS
DEVELOPMENT AUTHORITY) BILL 2011**

Second reading

**Debate resumed from 16 June; motion of
Hon. M. J. GUY (Minister for Planning).**

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on this important bill. The government's position is quite different from that of the opposition in terms of how best to establish the port of Hastings as a genuine alternative to the port of Melbourne. The coalition took its position to the election, and for that reason we do not oppose this legislation. However, we are concerned about two aspects of the bill and we will be taking the bill into committee to unpack some of those issues in greater detail.

It is worth remembering that Melbourne is the success story in the area of ports. The port of Melbourne punches well above its weight, as it were. It is the largest port in Australia — I think some 30 per cent of

containers that come through Australia do so via Melbourne. It is a successful competitor at a national level. For that reason it is imperative that the government get the model right. It is important that the government focus on the future of the port and take it seriously. The port of Hastings debate comes about because it is anticipated that the port of Melbourne will start reaching capacity at around 2020. It is also concerning that the volume of work that will come through it is set to quadruple. We will have a much larger container throughput at the same time that the constraints on the port of Melbourne's capacity to deal with that throughput will start becoming quite evident.

The government needs to have a clear strategy to develop an alternative to the port of Melbourne. As part of that strategy it needs to be clear about a number of things. The first is the cost of the infrastructure that is required. A Deloitte report costed the infrastructure required at some \$9.4 billion over a 10-year period. This is an expensive proposition, but it is important because as the port of Hastings increases its capacity and throughput a large number of trucks will come from the port of Hastings, and many of them will go through Melbourne. The 2006 *Port of Hastings Land Use and Transport Strategic Study — Final Report* put that figure at over 3000 trucks per day. What is not clear to the communities between the port of Hastings and Melbourne is the suburbs or areas through which the trucks will go. The government has indicated that it is considering using the existing roads, but expanding them; however, the details of that — the housing that might be required as part of it — are as yet unknown.

On the one hand we are today looking at legislation that is intended to progress the establishment of the port of Hastings as a genuine alternative to the port of Melbourne, but on the other hand there is a complete lack of detail in terms of how communities will deal with the additional congestion and the trucks that will be coming through, given the report's estimates that it will cost \$9 billion. The government has said at various times that the time frame might be anywhere between 8 and 10 years, 10 and 13 years or 10 and 15 years, so it is obvious that the government does not have a clear sense as to the time frame. But that makes it all the more imperative — if these communities might have 3000 trucks going through their suburbs in eight years time — that the government set out very clearly how it is going to get those containers and trucks where they need to go.

I must say the figure of 3000 trucks is very conservative, because, as I said, it is a 2006 figure. The more recent projections about the containment requirements indicate that that is a very conservative

figure and that the actual number will be larger. Also, the 3000 trucks a day figure assumes that much of the throughput from the containers will be taken by rail. This government has indicated that it will not rely on existing rail infrastructure and that new rail will be built. The difficulty there is that if we have an eight-year time line, there will be a gap in terms of the planning for the delivery of the rail, the consultation with the community about where that rail will go and the consultation about whether homes will need to be purchased and destroyed as the rail is delivered.

There is cause for concern in regard to the planning for the port of Hastings. I think that cause for concern is exacerbated when you look at this year's budget, in which the government reduced the funding for the design of the port of Hastings by about 30 per cent — the funding is now \$1 million. Either the government is not serious about fast-tracking the port of Hastings, or if it is, it is very much scrimping on the planning that is required to deliver the infrastructure. Those communities would be greatly concerned if they were to have 3000 trucks barrelling through their suburbs in the near future. There are a number of issues that need to be grappled with in regard to congestion and in regard to this government's commitment to ensuring a proper process so that communities can plan for congestion or plan for and accommodate the infrastructure that is needed. I do not think this year's budget demonstrates or provides any confidence in the government's commitment to deliver on an effective process and effective outcome for those communities.

There is another issue that is completely unresolved. It is an issue which the government appears not to have turned its mind to at all in thinking about the development of the port of Hastings, and that is the environment. The port is located near Ramsar wetlands, and the government needs to ensure that there is a comprehensive environmental and planning process. We need to ensure that those wetlands are properly protected and that the right amount of time is taken and the right resources are used to ensure that the outcome preserves the environment. If we do not get the time frames or the funding allocation right and if we do not have the proper process in place, how will we be confident that the environment will not be compromised as this development continues?

Those are the concerns that we have. We do acknowledge that it is necessary that we develop or think about alternatives. We were looking at the port of Hastings, so that much is common ground. Our concern really is in relation to those areas that this bill does not address or touch upon — namely, the issues around the congestion that will result from setting up the port of

Hastings and those around the environment. This will be critical if Victoria is to maintain its competitive advantage as the provider of an efficient transport hub in Australia. With those few words, I look forward to taking the bill into the committee stage.

Ms PENNICUIK (Southern Metropolitan) — The bill we have before us today, the Transport Legislation Amendment (Port of Hastings Development Authority) Bill 2011, simply reverses what happened in the previous Parliament with the Transport Legislation Amendment (Ports Integration) Bill 2010, which amalgamated what was then called the Port of Hastings Corporation with the Port of Melbourne Corporation. Members would remember that the Greens opposed that particular bill. We opposed that bill because of its purpose, which was to fast-track the development of the port of Hastings.

Members would remember that that bill went through the Dispute Resolution Committee, which further concerned us given that we have concerns about the whole dispute resolution process as it has been inserted into the constitution. There are various opinions about whether it is entrenched or not, but a process has been inserted into the constitution whereby the government of the day decides whether a bill is passed or not, despite the view of the Parliament, and that is fundamentally an undemocratic process. The then opposition and now government said that it would reverse that bill if it were to gain government, and here we have a bill in front of us that does that. If you look through the bill, basically it reverses changes made by the former government to the Transport Integration Act 2010. That is really all it does.

For all intents and purposes, whether the port is controlled by the Port of Melbourne Corporation or a port of Hastings authority, the real issue is what is going to happen at Hastings and at Western Port bay. That is the key issue that we should be concerning ourselves with. As I mentioned in my contribution to the legislation in the last Parliament — and I had many discussions with ministers at the time, Mr Pallas, the member for Tarneit in the Assembly, and Mr Batchelor, regarding this issue — the former and current governments do not seem to understand my point and the point of those people who are concerned about the status of Western Port bay, which is an international Ramsar site and a bioregion of international significance. That is the main issue: the preservation of Western Port and its ecology is what is important. Keeping intact the ecological services that are performed by the mudflat mangrove ecosystem in and around Western Port bay will be of more value to the people of Victoria in 50 years time than the question of

whether there will be 200 ships going through the port of Hastings, which is the number currently going through, or 3000, which is the number currently going through the port of Melbourne.

Both the opposition and the government seem to have this vision of turning the port of Hastings into a port of Melbourne. It is interesting that Minister Napthine, the Minister for Ports, talked about competition between ports and how we need competition between them — that has always been a furphy. Ports are usually located where there is a need for them. For example, the port of Portland is not a container port, and it exports produce that comes through the industries near Portland. Both generally and in Australia container ports are usually situated in major cities. The minister spoke about competition between ports, but another statement he has made is that the ports will not be competing but will be complementary to each other. I am not sure why they would be set up as competing authorities when they are meant to be complementary to each other.

At the moment the port of Hastings has 200 ships visiting it per year, which is not many — not even 1 a day — as opposed to the 3000 ships and 2.2 million TEUs (20-foot equivalent units) that go through the port of Melbourne per year. You cannot compare the port of Melbourne to the port of Hastings. It is mainly break bulk that goes through Hastings at the moment, and in tonnage it is far less than what goes through the port of Melbourne. Now the idea is to replicate the port of Melbourne. We hear figures concerning this, and I will be asking the minister about them. A longstanding issue of mine has been the projections concerning the number of containers that will be going through certain ports in 2030. The minister is saying trade through the port of Melbourne will quadruple by 2030, so that instead of 2.2 million TEUs going through the port of Melbourne per year we will have four times as many — 8.8 million. Does that mean we are going to have four times as many people as we do now, or that we are all going to buy four times as much as we do now? I am not sure. If there will be four times the approximately 4 million people now in Victoria in 2030, that would be 16 million people. Is that our aim: that we keep consuming at the rate we are? Just that basic assumption is questionable.

Members would remember that during the whole channel deepening saga that went on for years we had many problems. The first environment effects statement (EES) had to be redone because it was so bad and the port information could not be relied upon. There was also an economic statement which questioned the basis of the projections — and on the issue of projections I will, as I said, be asking the minister to validate these

2030 projections. Even during that time, however, economists were saying it was simply impossible to predict with any sort of accuracy what number of TEUs will be going through the port of Melbourne or any other port for that matter in 2030 or 2035.

If we just envisage what it would mean to turn the port of Hastings into a port that is, for example, two-thirds the size of the port of Melbourne, we can see that would mean expanding the port of Hastings to 10 times the size it is now — from a port handling 200 ships per year to one handling 2000 ships per year. That would be with it becoming, as I said, two-thirds the size of the port of Melbourne. Inflicting that on the people of Hastings and surrounding communities such as Tyabb, Crib Point and Stony Point — places that are currently sleepy hollows — and turning the area into a huge industrial port area is something for people to think about. As Mr Tee mentioned, the number of trucks referred to in the various logistics projections and so on is 3000 trucks per day coming out of the port of Hastings and trundling down the Mornington Peninsula towards Dandenong and Frankston. This is the idea for which both the government and the coalition are in the cheer squad.

Mr Tee mentioned in passing the Ramsar convention. Also, I read the speech made by the former Minister for Roads and Ports, the member for Tarneit in the Assembly, and noted that he stuck it in at the second-last line of his two or three-page contribution; he mentioned Ramsar fleetingly at the end of his speech.

Mr Tee — You're being harsh.

Ms PENNICUIK — It might be harsh, but it's accurate.

I would like to draw the chamber's attention to the Ramsar convention and the fact that the whole of the Western Port bay — which is defined by drawing a line from Point Leo across to Phillip Island and following Phillip Island's coast past Newhaven and San Remo — is a Ramsar site of international significance. I draw members' attention to the fact that this is the 40th year of the Ramsar convention, which was signed in Iran in 1971. The secretariat of the Ramsar convention in Geneva has released a report called *Ramsar's Liquid Assets — 40 years of the Convention on Wetlands*, to which also I draw the attention of members; it is a very interesting document. The document starts off by noting that 40 years ago people did not understand the importance of wetlands. This is why the report was called *Liquid Assets* — to highlight the importance of wetlands.

In the time since, people have come to understand more the value wetlands play in terms of ecosystems and the services they provide for us and for the other flora and fauna we share the planet with, which are often forgotten in the argument. We depend for our survival on the health of ecosystems. At its beginning the report says that 40 years ago this was understood by scientists and people closely involved in the protection of wetlands but it was very much not understood or was very much ignored by governments. That has changed in some ways but still not enough here in Victoria to bring governments of either persuasion — this or the previous government — to pause in their gung-ho attitude towards the expansion of the port of Hastings on this Ramsar site.

As I mentioned, the whole of Western Port bay is part of the Ramsar Western Port wetland. For the benefit of members who are not familiar with this — and people can look this up on the Western Port Ramsar site — the descriptions given as part of the information published on the value of Western Port as a wetland include:

... The wetland is a particularly good representative example of a natural or near-natural wetland characteristic of the appropriate biogeographical region.

Western Port bay is a particularly good example of a natural wetland marine embayment with extensive intertidal flats, mangroves, salt marsh, and seagrass beds within the south-east coastal plain.

That there are intertidal flats with mangroves, salt marsh and seagrass beds is the salient point here, because Western Port is not the same as Port Phillip Bay. Port Phillip Bay also has ecosystem values, many of which have been put under threat by the channel deepening project, and I will return to that in a moment. Western Port bay is a different bay. It has a very extensive tidal movement in that at least half of Western Port is exposed during the changing of the tides. When the tide goes out mudflats are exposed and when it comes back in they are covered by water. The water is quite warm, because it is not very deep on the tidal flats, although there are deep parts of Western Port, which is why the port is there — mainly for the export of petroleum and steel products that at the moment come out of Hastings.

To transform the port into a major container port is a serious issue that needs to be considered. I say what I said last year: that the health of Western Port bay as a bioregion and Ramsar site is the most important consideration and that expansion of the port is a secondary consideration. In my conversations with the previous government and in looking at what has been said in statements by the Minister for Ports recently, it seems the approach is, 'We will expand the port to

become a huge container port, and we will do environment effects studies to figure out what the effect might be on Western Port bay'. I do not have a lot of faith in environment effects statements, having been through at least two rather large ones and others. The first channel deepening statement was discredited; the second one was pretty well rushed through; the environment effects statement for — if we are sticking to the same region — the Frankston bypass, or Peninsula Link as it is now known, was also inadequate in terms of identifying the effects on pockets of remnant flora and fauna and protected species such as the southern brown bandicoot, and it was just rushed through.

A report by ACIL Tasman was mentioned in the paper today. It says that these huge road projects are a waste of money and do not provide benefits to the community that are concomitant with the costs. As I said about that project, the whole traffic issue in the Frankston-Mornington area would have been fixed in a better, cheaper and more effective way by undertaking upgrades of existing roads, and that is exactly what the report says.

If we go back to the information about the value of this Ramsar site, we see that, for example, 31 threatened bird species visit the site as well as 6 threatened mammals: the swamp antechinus, the swamp skink, the southern right whale, the humpback whale, the glossy grass skink and the New Holland mouse. All those endangered animals are present at that site.

As I was saying before, the science is clear that mangroves and mudflats are the most productive and valuable land on earth. The environmental services provided by such areas far outweigh even those provided by our green wedges. We are concerned about the protection of green wedges and agricultural land around our major cities, but it is the services provided by wetlands, particularly coastal wetlands, that have always been underappreciated, and they need to be protected for our own health now and that of future generations.

The library put together a very good brief on this bill and in it mentioned that the Greens had opposed the bill which amalgamated the Port of Hastings Corporation with the Port of Melbourne Corporation during the last session of Parliament. The two reasons mentioned in the library briefing are the questioning of the reliability of the port of Melbourne trade forecast figures, which I have mentioned, and our concern over the behaviour of the Port of Melbourne Corporation and its environmental record on the dredging of Port Phillip Bay, which we said had caused 'irreversible damage' to

the bay. I maintain that the channel deepening project has caused irreversible damage to the bay.

I do not know how many members have been down to Portsea lately. I visited it last summer, so a few months ago now, to see the water coming up over the beach and onto the land behind it. Lots of work by the Department of Sustainability and Environment is going on down there, and as far as we know about \$2 million has been spent. I do not know if the Port of Melbourne Corporation is being made to pay for this, but — whatever — it still comes back to the taxpayer, the Port of Melbourne Corporation being owned by the taxpayer.

A photo taken on 30 May has been sent to me. It shows that six layers of sandbags now pass for the Portsea beach. The beach has completely gone and has been replaced by six rows of sandbags, and even they are starting to break up and disappear. The reason for this is that the deepening by 5 metres at Port Phillip Bay Heads during the channel deepening project has caused a change in direction of the currents in and out of the bay and a change in the strength of the tidal surges on each tide. This has been documented by people who have lived in the area for years and by the people who operate fishing and dive vessels in and around Port Phillip Heads and have done so for years. Dive operators are saying they cannot dive at the spots where they used to dive, because the currents are too strong. They go in different directions and there is a lot more turbidity in the water, so it is not as safe for diving as it used to be. Even when I was down there, water was coming over the Portsea pier. They were not waves. It was not windy and wavy the day I was there, and they were not waves breaking over the pier. It was just surge coming through Port Phillip Heads.

As I said at the time, that is something that is irreversible. That 5 metres cannot be put back at Port Phillip Heads to fix the problem. These sorts of problems will continue forever, particularly at the southern end of Port Phillip Bay. Who knows what will happen at Portsea in the next 10 to 20 years? People are reporting erosion on other beaches along that southern part of Port Phillip Bay. I have heard reports from the other side, around Drysdale et cetera, of water coming up over the sand, across the road and into the field beyond at high tide. These are very serious issues. The government and the Port of Melbourne Corporation were warned about these issues at the time. They dismissed them, saying there would be negligible changes to the tide, but even small changes to the tide can result in quite significant damage to parts of our coastline, as we are seeing at Portsea beach.

We still have the ongoing problem of a toxic dump of sludge material dredged out of the Yarra that has been plonked in the middle of Port Phillip Bay, off the coast of Mordialloc. Hardly anyone is monitoring that. The Australian Conservation Foundation tried to monitor it but was not able to keep funding that. The Office of the Environmental Monitor is not keeping a close eye on it, so the people of Melbourne really do not know what is happening with those toxic substances that are still in the bay. I remind members that they are still there. Just because the channel deepening project has finished and everyone has forgotten about it does not mean that the big pile of sludgy material containing heavy metals et cetera is not still in the middle of the bay, and it is subject to these changing current and tide conditions that we are seeing in Port Phillip Bay as a result of channel deepening. That is why we were not prepared to hand over the port of Hastings to the Port of Melbourne Corporation. At the end of the day the main issue that we should be concerning ourselves with is the approach and the attitude towards Western Port.

I notice today that the Victorian National Parks Association (VNPA) has put out a media release about this legislation headed 'Western Port bay legislation sets government on collision course with environment and community groups'. I will quote from that media release which states:

New legislation due to be debated in state Parliament today will set the Victorian government on a collision course with environment and community groups over plans to expand the port of Hastings in Western Port bay.

...

'The primary purpose of this new legislation is to encourage the rapid expansion of the port of Hastings into a container port, with little consideration of protecting and enhancing Western Port bay's immense environmental and recreational values', said the Victorian National Parks Association's marine and coastal project officer Simon Branigan.

'The new legislation for the Port of Hastings Development Authority should have the protection of the bay's environmental values as its core operating goal, not just fast-tracking development based on a projected growth in container shipping traffic'.

I agree with the sentiments expressed in that media release.

A couple of months ago I raised an adjournment matter for the Minister for Ports, Dr Naphthine, asking him to hold off on plans to expand the port of Hastings until the study into Western Port bay that is being spearheaded by Melbourne Water is finished. That particular study is ongoing. Its proponents are a group of scientists from Melbourne University, amongst others, working under the auspices of Melbourne

Water. They are carrying out a study that pulls together all the science about Western Port bay, including the seminal Shapiro study which was done in 1971 and further studies that have been done. They are also doing a bird survey and looking at other aspects of Western Port bay with the objective that I have been talking about, which is to make sure that we know what we are dealing with in terms of Western Port bay and its values for us into the future. It is called the Western Port Scientific Review. My staff member contacted Melbourne Water on my behalf to hear where that study was up to, because it was expected to be released in July. I have heard that it is on track to be released at the end of July or perhaps in early August.

I will quote from the Melbourne Water webpage relating to the study. It says:

There is widespread agreement amongst stakeholders about the need for an expert review of the scientific knowledge base that underpins current management of Western Port. An updated and consolidated understanding of Western Port will better inform natural resource management, environment protection, planning, on-ground works and future research. This has been highlighted in various strategic plans including the Port Phillip and Westernport Regional Catchment Strategy and more recently, the Better Bays and Waterways water quality improvement plan.

The review is looking at the environmental assets and threats identified by stakeholders, government agencies, scientific experts and community groups. The study will consolidate existing knowledge on key environmental assets and threats, consider the extent of alignment between existing knowledge and current and/or planned management activities, advise on potential short-term management actions arising from any new understanding developed in the review, consolidate strategic information, identify critical knowledge gaps and scope a targeted environmental research program, including method, costs and delivery options.

I raise this because this is an important study that is being carried out into Western Port bay, and I support that study. My point really is, though, that what we need is to preserve the ecosystem of Western Port bay as a Ramsar site, as a bioregion, into the future. As I said in my contribution to debate on this issue last year, the unhappy truth might be that it is not in the best interests of Western Port bay to expand it into a large port, in particular a container port. That is the approach we should be taking in terms of Western Port bay and Hastings. I agree with the Victorian National Parks Association when it says the new legislation should have the protection of the bay's environmental values as its core goal, not the fast-tracking of development based on container shipping projections.

New section 141S, which is to be inserted into the principal act by clause 11 of the bill, talks about ensuring that there is facilitation and collaboration regarding the growth of the port of Hastings, basically, and that there are essential port services provided for the port of Hastings. New section 141T(1) talks about planning for the development and operation of the port of Hastings, the land and waters for the port, enabling and controlling the management by others of the port of Hastings, promoting and marketing the port of Hastings and facilitating the integration of infrastructure and logistics. Nowhere does it talk about the effect of the port of Hastings on its natural environment. Nowhere in this bill and nowhere in the approach of the government to it is anything more than lip-service paid to the great asset that Western Port bay is for the people of Victoria.

If I can refer again to the joint media release today by the VNPA and the Blue Wedges coalition whose spokesperson Jenny Warfe said that once the development proceeds to the environment effects statement phase the proponents control the process, with economics being the focus, not the environment. I agree; that is my experience. We await, of course, the result of the inquiry by the Environment and Natural Resources Committee into the environment effects process, because I have certainly lost faith in it. It is a process that is controlled by the proponents, usually with a lot of money — sometimes the government is the proponent. The ability of small community groups or scientists et cetera, who may wish to participate in the EES process and raise concerns about whatever proposal is going through it, is very small compared to that of the proponents, who usually have the ability to pay experts and hire lawyers to put their case and to attend the hearings full time. In contrast, community groups and independent scientists have to take time off work to try to get to hearings and to read through reams and reams of information that the proponent puts forward in the EES documentation — mainly to try to make it difficult for people to get through it all. It is a process that is stacked against the community and the environment and in favour of proponents, in my experience.

The 2006 port of Hastings land use and transport strategy, which I have my well-worn copy of here, reminds everybody that the whole idea about developing Hastings and Western Port bay is not a new thing. It goes back many years, but it has not ever gone very far because of the environmental issues at Western Port bay. It goes back to previous Liberal governments that also had grand visions for this area. I have a different vision for Western Port bay, and that is for it to continue to provide ecosystem assets for the people of Victoria, an area of protection for threatened species

and an area for Victorians to live in which is not overdeveloped and overindustrialised and assaulted with a growth in container trade and trucking activity that will impact on the livability of people on the Mornington Peninsula.

There have been various plans for upgrading the Western Port Highway and the Mornington Peninsula Freeway and putting another railway through parts of the Clyde area, which the community there did not accept. There are also ideas about many more trains on the Frankston line. All this stuff has been around for a long time, and all of it will have huge impacts and impose great costs on the community of Victoria; and what would the benefits be? It is interesting too that only a couple of months ago, in February, the federal government released its national freight strategy. The Greens have always called for a national freight strategy. To us it makes no sense to be building up port facilities in each capital city and also regional ports without some sort of national coordination as to what is the best way to do things.

The Brisbane to Melbourne rail link has been on the cards for a long time. That seems to be on the backburner again. It comes from the backburner to the front bench and then goes back to the backburner again. But there are a lot of inland towns, like Parkes, for example, and others along that route that favour the building of that rail link rather than the expansion of sea ports. That would perhaps mean that more ships would go to Brisbane and offload freight there, which would travel by rail from Brisbane to Melbourne and to places in between. The previous government was absolutely horrified by that idea, because its notion was that Melbourne needed to be the premier port in Australia. All I ever heard from Mr Brumby and Mr Pallas was that Melbourne is the premier port and must stay the premier port. But is that really in the national interest? That is why we need to have a national approach to how we move our freight around in a sustainable way.

The national freight strategy that has been released does not talk about peak oil and the cost of moving freight on rail as opposed to road, as opposed to ships or as opposed to which ports are used. We have a long way to go in Australia in terms of getting some national coordination in this area with a vision that is about sustainable logistics and freight movement around the country.

In passing I should mention too that there is something that is not happening with the truck action plan in the west. The western suburbs are going to continue to be assaulted with unbearable movements of trucks from the port of Melbourne through the western suburbs

because nothing was done by the previous government, and I do not see much sign of its being done by this government in terms of moving freight onto rail. Since I have been in the Parliament, the amount of freight going on rail has gone backwards, not forwards. There is less freight on rail than there was and more freight on trucks. Previously the Minister for Ports and I agreed on the folly of putting on the road large B-double trucks — —

Mr Tee — Monster trucks!

Ms PENNICUIK — They are monster trucks, as he used to call them. All of a sudden he is now in favour of them being on the roads. The damage they do to the roads and the congestion they cause is not compensated for by them; it is an externality for them. They can damage roads, they can cause congestion and a lack of livability for the people who live in the surrounds and the small businesses in those areas and they can cause a lot of air pollution, none of which is compensated for by them.

Fundamentally I question the purpose of this bill. I thought it was a bad idea to amalgamate the port of Hastings into the port of Melbourne. It is not a good idea to set up the Port of Hastings Development Authority if the idea of doing it is to expand the port into a huge container port at the expense of the ecosystem values of Western Port bay and the surrounding rural areas. The area around Hastings and Tyabb — that part of the Mornington Peninsula — has a lot of wineries and agriculture. I certainly do not want to see it turned into a great industrial area. At the moment the impact of the port is not non-existent; there has been an impact on the port and there has been an impact on the wetlands around Western Port bay. However, the type of expansion envisaged by the government and by the previous government needs to be called into question. As a society we need to be looking at the values that places like Western Port provide for us in terms of ecosystem values above and beyond the movement of containers.

I cannot sit down without reminding the chamber about one of the statistics that came to light during the channel deepening inquiries and investigations into the movement of containers through the port of Melbourne. Let us remember that we were told we had to have channel deepening in order to allow huge ships to enter and leave the port of Melbourne. In fact studies at that time showed that only 4 per cent of ships were ever documented as being unable to come in or out of the port fully laden. That was always overexaggerated by the Port of Melbourne Corporation, and that is what the essential services commissioner and the

Auditor-General found: that the need for channel deepening was always overexaggerated. Few ships were unable to come in or out, so I do not rely on the Port of Melbourne Corporation's projections in terms of the figures et cetera that it provides and the government uses.

One of the figures that came to light was that 40 per cent of the exports out of the port of Melbourne are empty containers. We deepened the channel of Port Phillip Bay to make it easier to get empty containers out! The government was saying it was all about exports, but I do not believe that; I believe it was more about imports than exports. Even so, we spent all that money, \$1 billion, damaged the bay and put a toxic dump in it so we could make it easier to ship 40 per cent of our exports, which are empty containers, out of the port of Melbourne.

The Greens will not be opposing the bill, but the Greens oppose the vision contained in it to turn Western Port bay and the Hastings area into an industrialised port. It will be at least 10 times bigger — if not more — than it is now. I oppose everything that will be inflicted on the surrounding environment and the small businesses and residents in and around Hastings at the moment.

Mrs PEULICH (South Eastern Metropolitan) — I also wish to make a few remarks in relation to the Transport Legislation Amendment (Port of Hastings Development) Authority Bill 2011. In doing so I want to say that this is an issue that has certainly been raised with me by a range of municipalities on behalf of their communities as a much-needed direction, because at the end of the day that is where the future of Melbourne and the rest of the state resides. In particular, the City of Casey has made strong representations about the need for this direction because it is looking to see some of the job opportunities that come with this direction, which will offer some more economic opportunities for its community. Currently 95 per cent of the working residents of the city of Casey travel outside the city to their employment. I also know through informal discussions that the Mornington Peninsula Shire Council is also supportive of this direction, as is the City of Greater Dandenong, which is certainly well advanced in planning for the inland port that will go along with it and the future infrastructure that will be required.

This is a simple bill. It is a simple start. It maps out a legislative framework for where our state needs to be. It is not a direction that has been queried significantly by the opposition. At the end of the day the opposition also believes this needs to occur. The differences exist around how we will get there. I was pleased to hear

Ms Pennicuik say on behalf of the Greens that they will not be opposing the bill. The major concerns raised by the opposition and the Greens have involved the Labor Party fearmongering about traffic and the movement of containers and trucks. If as a major capital city we do nothing — Mr Tee has already indicated that the volume of containers will quadruple; one can expect therefore that traffic movements will also magnify and increase significantly unless they are where they need to be at the ports — sit on our hands and stick our heads in the sand for the next two decades, not only will we choke from congestion in having all of those movements converge into the heart of the city but the environmental degradation which will come through that will also negatively impact on the amenity and livability of Melbourne, something of which we are proud but to which we believe further improvements need to be made.

Mr Tee has been trying to engender some fear. Ms Pennicuik believes we should wait and do nothing, although I am glad to hear that the Greens will not be opposing the bill. She wants to wait and do nothing, but unfortunately if we adopted this approach, we would get nowhere. In particular, she wants us to wait for a national approach on freight logistics. Generally speaking, we can wait for the top-down rescue or we can work through things from the bottom up and hope that the good ideas percolate from the bottom to the federal level and are picked up in that national approach. I do not believe the two approaches are necessarily at odds. The approach is certainly in the direction that Victoria wants to go.

We are a state in our own right, we are a Parliament in our own right and we should be able to develop a direction that we believe is good for the state, and this should be reflected in a national strategy. Ms Pennicuik has also raised certain concerns on environmental grounds. The people passionate about this particular legislation to whom I have spoken believe the environmental concerns and issues involving the necessary protection of important flora and fauna are better dealt with through the Port of Hastings Development Authority engaging appropriately with the stakeholders and the local community than through the Port of Melbourne Authority, which can just bowl over the top of a community and ignore many of its concerns. There is an enormous amount of local knowledge that has been accumulated over decades about some of these significant environmental issues, which are best addressed through an authority that is the subject of this legislation.

As Ms Pennicuik rightly pointed out, this legislation is simply a reversal of the reforms brought in by the

Labor government in its transport integration legislation, which the Greens opposed at the time, as we did. We said then that we were going to reverse it; we were completely up-front about that. I believe not going down this road would wreak greater environmental damage in and around the sensitive environs of the port of Hastings. As Ms Pennicuik would know, traffic congestion contributes something like 15 per cent to our pollution, and to simply ignore it and not do anything — to not put in the appropriate infrastructure and begin that process, which will take time — would just be surrendering our environment, the livability of our city and future economic prosperity to a do-nothing, stand-by, bystander approach. I do not believe we can afford that, and nor can our environment.

This is a simple bill. It reverses what occurred in 2010 through the merging of the then Port of Hastings Development Authority and the Port of Melbourne Corporation through the Transport Integration Act 2010, which was part of the Labor government's view of how best to achieve a similar outcome. Mr Tee forecast the same growth; he is cognisant. He admits and concedes that we need to do something and that this course of action is inevitable. Where there is a difference of opinion is in how it is done.

Mr Tee also said that in this legislation there is no commitment to the associated infrastructure that is required. The Minister for Ports has said that one of the very first tasks of the authority will be to undertake economic, environmental and social impact assessments and to prepare a detailed plan for that development. I certainly welcome that, and I believe it completely addresses the concerns. We do not intend to cut corners; we intend to address the issues and progress what needs to happen — what Labor members themselves concede needs to happen into the future.

Mr Tee also said that this vision is going to cost a lot of money. If there had been better administration of the allocation of electronic gaming machines (EGMs) — which was the subject of the Auditor-General's exposé yesterday — I would have been very proud to have seen the \$3 billion lost on that find its way into consolidated revenue and be disbursed on much-needed investment in infrastructure. One of the major reasons why the former government was thrown out of office was its failure to invest in that much-needed infrastructure. Whether it was public transport, roads or some other form of infrastructure, Victorians did not believe they were getting their rightful return and that instead a lot of money was being wasted.

If we had the \$3 billion the Auditor-General claims was lost as a result of maladministration of the allocation of

EGMs, that would have been almost one-third of the forecast costs. Imagine if the desal plant had not been so wasteful — \$500 million more could have been added. The desal plant will cost Victoria \$2 million almost every day for the next 30 years. That would be well in excess of one-third of the associated costs that Mr Tee was talking about. It is a shame that the development of our infrastructure has been compromised through maladministration, but I believe once the economic, environmental and social impact statements have been undertaken we will be in a better position to develop a detailed plan for development of this port.

The bill establishes the Port of Hastings Development Authority as an independent, dedicated agency responsible for the port of Hastings. It will facilitate the development of the port as an alternative to the port of Melbourne. Yes, it will possibly mean competition. Yes, it will probably be complementary as well. It will probably be a bit of both.

Ms Pennicuik interjected.

Mrs PEULICH — At the end of the day people make a decision as to where their needs are best met. That is part of the free enterprise system. That is part of having choice. They are decisions for businesses to make — —

Ms Pennicuik interjected.

Mrs PEULICH — Certainly having one authority means that you have no choice. So this will increase the capacity, efficiency and competition in the container port sector to manage what is obviously going to be an expected growth in trade. Projections by the Port of Melbourne Corporation dictate that the total port container throughput will quadruple from just over 2 million TEUs (20-foot equivalent units). We cannot just stand by and do nothing. It would demonstrate a lack of leadership. The port of Hastings has geographic characteristics that make it a viable competitor to the port of Melbourne's monopoly on container trade in Victoria. It is a deepwater port with good potential to develop improved transport links to the south-east of Melbourne, which is one of the city's fastest growing areas. The creation of a second container port with supporting infrastructure will also promote efficiency and help ensure the port service charges paid by Victorian exporters and importers are competitive.

It is an environmentally sensitive area, and I believe there is a real commitment to ensuring that we make the best possible decisions to protect those sensitive environmental areas. Western Port has been the subject

of detailed environmental studies since the early 1970s. The most comprehensive investigation was the Western Port bay environmental study of 1973–74, which is also known as the Shapiro report. It involved an intensive gathering of baseline data. The work resulted in detailed knowledge of the environmental values and processes of Western Port. This knowledge is obviously applicable to environmental planning and a number of state government strategies and plans that are relevant to the management of Western Port.

Western Port bay is listed under the Ramsar convention on wetlands of international importance for its wetlands habitat for migratory waterbirds, and Ms Pennicuik went through some of those. Western Port is also part of a United Nations Educational, Scientific and Cultural Organisation biosphere reserve. There are passionate environmentalists — not just locals — who understand the value of this important flora and fauna. Locally handled by the Port of Hastings Development Authority (POHDA) in consultation with the community, the appropriate environment impact assessments can achieve both the development of the port of Hastings in the most sensitive environmental way and better outcomes for Victoria and for local communities.

The bill recognises that the development of Hastings should be done by an agency that is close to the affected people of the Western Port region and not the Port of Melbourne Corporation from its city offices. The future development of the port of Hastings to be undertaken by POHDA is likely to be a major boost for the region, generating thousands of new jobs and economic opportunities in the Western Port region. This is of significant interest to local communities, and certainly all those people who live in the city of Casey, the Mornington Peninsula shire and the city of Greater Dandenong want to make sure that they get the jobs and opportunities that people in other parts of the state enjoy. That applies in particular to people in the city of Casey, where the majority of those who are in the workforce have to travel out of that city area, and as a result their cost of living increases because of increased transportation costs. They also spend more time travelling to and from work.

We need to make sure that jobs go to interface areas, and this is a wonderful opportunity to do that. This bill will help to address and diminish the problems that will be facing Melbourne in terms of the congestion, convergence and quadrupling of traffic over the next two decades, create jobs for the interface councils, address the environmental concerns in and around the port of Hastings and protect the flora and fauna interests, which are well documented and well

understood — they are better understood locally than in a head office in the port of Melbourne.

There are a range of third-party endorsements in relation to this legislation. Chris James, executive manager, communications and public affairs, Victorian Employers Chamber of Commerce and Industry said:

Hastings will future-proof Victoria's manufacturing, freight and export sectors for the long term.

The *Geelong Advertiser* of 26 May quoted Lindsay Fox, discussing the need for more infrastructure, as having said:

Developing Western Port should be part of a national plan for ports in Australia.

The *Supply Chain Review* of 31 May quotes Victorian Freight Logistics Council executive officer Rose Elphick as having said:

Plans to turn Hastings into a container port need to start immediately.

I commend the bill to the house.

Mr SCHEFFER (Eastern Victoria) — The port of Melbourne is one of the 50 biggest ports in the world and is effectively the port of Australia, handling some 36 per cent of the country's containerised trade and well over 3000 freight vessels a year. The figures cited in the parliamentary library's research brief, drawn from the port of Melbourne's annual report, are impressive and attest to the critical importance of the port to every level of Victorian and Australian trade and prosperity. The need for greater capacity grows each year. The increase in total trade in 2009–10 was 5.5 per cent over the previous year, and container trade in the same period increased by 3.7 per cent.

Globally, shipping companies are adding massive capacity to their fleets on the basis that the phenomenal growth in global trade that we have seen will continue into the future. In her contribution Ms Pennicuik raised some concerns over this, and they are surely points well made. Concerns have been raised over the extravagance of a global trading system that is rapidly consuming fossil fuels to import and export products, in some cases it could be argued, unnecessarily. Food is a good example, where increasingly there is an argument around producing and consuming locally produced food in season, and that may well turn out in the longer term to be more efficient than relying on some unsustainable imports.

It is also true that with the increase in oil prices the running costs of ships will continue to escalate because freight shipping and shipping in general consume a

great deal of fossil fuels. One outcome of this is that the high oil price will provide a further impetus for technological improvements in the performance of ships and in the future will encourage the use of alternative energy, such as gas, for shipping. There is also debate around the use of biofuels in this space. The dramatically rising cost of oil has already pushed shipping interests to create new efficiencies, and one of these is slow steaming or sailing vessels at lower speeds, saving energy by doing so, as well as changing routes and adopting a range of low-energy technologies. Notwithstanding those particular issues, overall it is clear that there will not be a reduction in global shipping, and it is therefore critical to position Victoria so that it continues to be able to provide the most effective port facilities in the country.

Mrs Peulich made the observation that everyone agrees that the port of Hastings should be developed, and that is true. We disagree on how that should be done, and that is the mainstream issue of the debate in the chamber today. The disagreement is really about time frames — that is, whether that should be done quickly over the next decade or so as the government is asserting or whether that should be extended over a 30-year period with a staged process, which is what the previous government believed and the opposition still believes.

This debate is not a small debate, because the complexity of the ports and the integral part they play in the national economy is huge — almost incomprehensible when you think of all the different layers and aspects of the export of our product and the impact that has on the economy. The operation and future development of the port of Melbourne impacts not only upon Port Phillip Bay and the complex of docks but also on the road network. I understand that as much as 80 per cent of the transport that moves the product that goes through the port is carried by our road system. Those transport systems impact on the amenity of hundreds of thousands of people living near the ports.

The parliamentary library's research brief cites the Ports and Environs Advisory Committee's concern that new urban developments in Yarraville, Footscray, Garden City, Beacon Cove, Docklands, E-gate, Fishermans Bend and Williamstown are imposing new environmental and social expectations on the port of Melbourne. As we remember, the coalition vehemently opposed Labor's Transport Legislation Amendment (Ports Integration) Bill 2010 when it was considered last year because coalition members believed that the amalgamation of the management of the ports of Hastings and Melbourne into a single corporation was

anticompetitive and that the Port of Melbourne Corporation would limit the growth of the port of Hastings. The then Labor government believed — and the opposition still believes, as I indicated earlier — that the two ports should be developed within an integrated transport framework.

It seems to me that the coalition's preoccupation with competition is ideologically driven. Competition and markets absolutely have their place in environments that are regulated by government and regulated by the state, but they always need to be assessed on a case-by-case basis as to whether they serve the public interest. There is such a thing as a natural monopoly. Perhaps a little bit cheekily I suggest the Sydney Harbour Bridge is one example: you would not want to set up a second bridge right next to it so that you could have competition. That is a clear example. Water and electricity transmission lines might be other examples of natural monopolies, and I would say that an integrated transport framework is another way of harnessing better planning and delivering improved efficiencies.

When you look at it, competition between the port of Melbourne and the port of Hastings is not a realistic option. Hastings is a relatively small concern with net assets of around \$20 million and a small number of staff — three, I think. As many of us will know, the CEO of the port of Hastings, Ralph Kenyon, has over the years done a fantastic job with the corporation, and he is a highly respected person in his field. By comparison with the port of Hastings, the Port of Melbourne Corporation has net assets of around \$1.4 billion and around 200 staff. It seems to me that to set up these two bodies in competition with each other outside an integrated transport framework is folly, but this is what the bill before us today aims to deliver.

The bill establishes the Port of Hastings Development Authority and transfers the function relating to the port of Hastings from the Port of Melbourne Corporation. The bill also sets out the tasks of the Port of Hastings Development Authority, including the management and operation of the port and the facilitation of future growth and development as a container-handling facility. The opposition does not oppose the bill because its provisions, as Mr Tee observed earlier, are the result of a clear coalition election commitment to reverse the merger between the two ports under the existing act.

One of the concerns we on this side of the house have is the truncated time line — the range is between 8 and 15 years — within which time the government says that the redeveloped port can be delivered. Another concern

opposition members have is the government appears not to understand the funding requirements of the port of Hastings development or of the costs involved in the medium-term infrastructure needs of the port, or of the port of Melbourne and environs transport issues that Mr Tee mentioned and the environmental and social impacts.

In 2007 the coalition said that the port of Hastings development should be completed in 8 to 10 years, but the second-reading speech for this piece of legislation confirms that it is apparently going to be within the next 10 to 13 years, stretching out to 2024. This is not just a squabble about inconsistency, because what underpins it is the fact that no work has even begun, so one does have to ask what the basis is for the government's forecasts.

The shadow Minister for Ports and member for Tarneit in the Assembly, Tim Pallas, has said that estimates prepared by Deloitte last year set the cost at around \$9.4 billion, but as far as I know we do not know what the government's assessments of that Deloitte report are. However, we do know that delay always escalates cost. An example of that is the way that rail infrastructure is impacted upon by the housing that is growing every day along the corridor. The government said that its preferred transport option is to use the Western Port Highway, but that minimally will involve grade separation and running rail along the length of the highway. It will be important to acquire the easements along each side of that transport route, and that will be phenomenally expensive. The developments in that part of the region require long lead times to enable communities and local governments to make the necessary transitions.

During Labor's time in office the development of the ports was a high priority. Labor focused on long-term needs as well as developing solid strategies that would tackle issues of a more immediate nature. Labor merged the port of Hastings and the port of Melbourne because the separate management of the two ports was becoming increasingly problematic. It was clear that the ports operating independently was running counter to the development of a single Victorian strategy that would enable the state as a whole to capitalise on future national and global developments. The idea was for Hastings, as Victoria's second container port, to increasingly after 2030 handle the overflow from Melbourne. That is a long-term strategy that would enable the two ports to manage the flow and changes in the complex environments in which both ports were working. The competitive model will reduce effectiveness and efficiency. By 2009, under what was a de facto competitive model, we were seeing the port

of Melbourne working to maximise the throughput of its own port and holding off diversion to the port of Hastings as long as possible because that was in the port of Melbourne's competitive interests. Hastings on the other hand was tending to operate as a port in competition with Melbourne, but given those huge imbalances to which I referred earlier, this was unsustainable, counterproductive and frankly inefficient.

It is also worth mentioning that while competition is obviously useful in instigating technological innovation and in opening new markets, if it is not properly focused it can encourage wasteful duplication. A key task of the port of Hastings was to prepare for the conduct of complex and sensitive environmental approval processes for the development of the port. The port of Melbourne actually had that expertise because it had completed similar exercises around the channel deepening project and it was well placed to provide advice and indeed undertake that kind of work. I do not think there could be a better example of the benefit of working in collaboration as part of an integrated framework. This was what the merging of the ports of Hastings and Melbourne was all about — that is, supplementing the knowledge and capability of stakeholders, eliminating duplication and integrating land use and waterway development strategies so as to build a mutually supportive capacity, to build in a range of timing options and to accommodate different development trajectories.

All this is now under threat with this legislation. While there is almost universal support for the development of the port of Hastings, there is widespread concern that the time lines that the government has set are unachievable and that the government is not sufficiently focused on the details of the complex range of issues that are involved in a development of this type. As Mr Tee has indicated, the opposition will not be opposing the bill, but it is very clear that there are big and serious issues with the direction the government is taking with this legislation.

Mr TARLAMIS (South Eastern Metropolitan) — I rise to make a brief contribution to the debate on the Transport Legislation Amendment (Port of Hastings Development Authority) Bill 2011. I do not intend to revisit a lot of the points that have already been made, as they have been covered quite thoroughly, other than to endorse what my colleagues have already said.

I indicate at the outset that the opposition will not be opposing this bill. The bill's objective is to promote increased capacity and competition in the container ports sector in Victoria. It establishes the Port of

Hastings Development Authority and transfers the functions of the port of Hastings from the Port of Melbourne Corporation to the Port of Hastings Development Authority.

The current and former governments have very different policies in respect of managing Victoria's ports and their approaches to the port of Hastings development. The former Labor government's position was for merging the port of Hastings with the port of Melbourne and delivering the port of Hastings as a complementary container port. It had a clear direction in transport policy and a strategy for the two ports to share common goals with other transport bodies. It positioned the ports of Melbourne and Hastings as essential components in an integrated and sustainable transport system. Labor considered the amalgamation and management of the two ports as the most effective way to direct and drive future development of the port of Hastings.

I am not sure why the government thinks reversing this merger will create a greater and more viable role for the port of Hastings. Opposition members have indicated a number of concerns about this legislation and the ability of the government to effectively deliver a redeveloped port of Hastings. Our first concern is about the projected time line and completion date that the government has set for container facilities to be delivered at the port. While the minister responsible for the project had up until very recently maintained that the port would be delivered in 8 to 10 years, which had been his position since 2007, his most recent media release, of 31 May, offers another time line of 10 to 15 years with an additional claim that the project has been fast-tracked. Members can understand my confusion when a further time line was given on 1 June in the minister's second-reading speech in the other place. The minister stated, 'The government is acting now to ensure that a container port is developed at Hastings within the next 10 to 13 years'. With that justification I am concerned that the government does not seem to have a firm time frame for how long this significant project is going to take.

Another concern the opposition has with this legislation is the funding that the government has allocated to the project. Independent costings produced by Deloitte for the Department of Transport reveal that developing the port of Hastings to its full potential over a 10-year time line will cost \$9.4 billion, a figure that could blow a hole in the state budget. I mentioned earlier the minister's claim that this project is being fast-tracked. This is despite the Baillieu government allocating only \$1 million to the project in this year's budget, which is a 30 per cent decrease from the previous Labor

government's commitment of \$1.3 million in last year's budget for project delivery over a 25-year period. It is therefore quite confusing that on the one hand the government is promising to fast-track the development of the port of Hastings but on the other hand is allocating less money to the project.

Victoria's ports are crucial to Victoria and the nation's economy. They handle 99 per cent of Victoria's international trade, which when combined with coastal trade represented \$100 billion worth of cargo in the 2007–08 financial year. Their importance to our economy is too great to bog them down in uncertainty, which is happening under the Baillieu government. I spoke earlier about concerns that the government is not being clear about how it will finance the port of Hastings. I wonder if government members are going to revisit the agenda they had when they were last in government — to privatise the port of Melbourne to fund the port of Hastings development. Without real measures, real concrete commitments and real funding, this may well be the case.

Another real concern which has been raised is the environmental impact on the area surrounding the port of Hastings. The port is located near declared Ramsar wetlands and requires a thorough environmental assessment and a comprehensive planning process so that residents of Hastings and surrounding areas can have confidence that the port of Hastings development does not damage the environment in any way. If the government cannot get the time frames and funding allocation right, how can we have any confidence that it will get the environmental assessment right?

It goes without saying that the development of a container port at Hastings will mean increased freight movement in the community, with conservative estimates of 3000 trucks per day, yet the government has no plan for the transport corridors to and from the port of Hastings. We see no plans for road duplication or upgrades, no rail or other reserves being put in place and no plans for improved infrastructure. These things do not happen overnight, and if this government was serious about fast-tracking the development of the port of Hastings, it would have taken steps to address these issues.

The government must ensure wide community consultation and involvement in its decision-making processes by all those who will be affected by this development. The government has so far illustrated its inability to appropriately design and plan this project. It now needs to get its act together, as the implications of continued uncertainty in relation to the port of Hastings

development are immense for the local community, the south-east and the Victorian economy as a whole.

Motion agreed to.

Read second time.

Ordered to be committed later this day.

GOVERNOR'S SPEECH

Address-in-reply

Debate resumed from 3 March; motion of Mr ELSBURY (Western Metropolitan) for adoption of address-in-reply.

Hon. B. N. ATKINSON (Eastern Metropolitan) — The coalition government of the Kennett era left office in 1999, and the coalition was re-elected last year at the 2010 election. From the coalition's perspective the period between those two election results saw the world change dramatically in terms of politics and economics and even in terms of social change.

It is important to recognise that this change of climate, if you like, around the world has also been a significant factor in terms of its environmental definition. The world has changed dramatically in the past decade in ways beyond the control of any state government. There are certainly implications for state governments, notwithstanding the fact that they do not have control over many of the circumstances that now confront them in a global world. Without wishing to diminish the scale of the tragedies that have occurred recently in a number of countries or indeed the environmental impact of a series of natural disasters experienced over the past two years — including earthquakes, volcanic eruptions, tsunamis, floods, hurricanes et cetera — I contend that over the past decade there has been a seismic shift in the economic, political and social environment in which we live.

The previous state government dealt with a wide range of issues and established a policy framework that I think advanced Victoria's cause in many areas. At the same time I think it created some issues in regard to priorities. I hope those priorities will now be addressed by the Baillieu government so that we do not look only at the amount of money that is provided for goods and for those services that the state government predominantly provides and so that we do not look only at what the state government might save by exiting certain programs. What needs to be understood by opposition members inclined to criticise the government regarding programs is that many programs

have a life cycle. They are not necessarily programs we should have forever. They are usually designed to address particular issues, and very often those issues or demands are met by those programs. One should not necessarily anticipate that programs will go on forever just for their own sake.

Beyond that process of exiting certain programs or looking at what the government could do in terms of allocating and prioritising resources to services in major areas, I hope that one of the key things the Baillieu government will do is address some of the priorities that have started to become ingrained in our system that are not to the benefit of communities. Far too often the previous government — and it is obviously a challenge to this government to make sure it does not fall into the same trap — tackled projects and gave out grants simply to create photo opportunities for ministers and good public relations for the government.

Members of this place would know I have a particular passion for small business, and I am particularly concerned that the government encourage, support and help to develop the small business sector in this state. Of course that includes the farming sector and many organisations and small family businesses in country areas. I am keen to see them supported. I am particularly keen to see us invest as a state in areas that encourage greater innovation in collaboration with universities and other institutions involved in learning, research and development, as well as with business operators and entrepreneurs, who make things happen and bring products and services to market.

I am particularly concerned when I read about the \$49 million investment in the Australian Formula One Grand Prix when we cannot ensure the funding of the synchrotron project. I think that project offers a much greater return to Victoria across the board in terms of industry, research and innovation and perhaps in terms of finding cures for cancer and other critical diseases, and it provides opportunities for achieving greater energy efficiency and doing a wide range of scientific things to improve the efficiency of our food production and energy production, particularly in some of the bioscience areas. The payoff from something like the synchrotron could be worth billions of dollars. It is unfortunate that governments have over recent years started to have the attitude that it is important to have circuses in town rather than looking at some of those basic things that could make a much greater contribution to our economy.

The word 'circuses' is interesting, because this government has recently granted \$15 million to a circus organisation. I recognise that the arts sector is a crucial

part of Victoria's economy that generates significant income for the state. Victoria is renowned for its contribution to the arts and for the quality of its arts. However, I lament the fact that against that allocation of \$15 million for a circus and indeed \$25 million for a football stadium in Geelong for an organisation that is fairly well endowed with money — the AFL — the Victorian branch of the National Trust of Australia receives just \$250 000 a year from the state government. It is not even enough to pay the insurance on its buildings, yet it looks after the built heritage of this state, which I think is just as important as some of these other things that are being pursued by government.

Clearly in this sort of speech there is a limited amount of time to acknowledge all the things that ought to be covered. It is interesting that in a few days time I will have the opportunity of taking members of this place down to the Governor to present the address-in-reply. It is an interesting quirk of history that the Governor who gave the address to the Parliament last November has now finished his term and is no longer in office, but I certainly pay tribute to David de Kretser for his contribution as Governor and thank him for his address last November. I look forward to again introducing members of this place to the new Governor when we present the address-in-reply.

I take this opportunity to congratulate all those members who have returned to this place and to the other place. I particularly welcome the new members of the Legislative Assembly whose electorates are within my electorate — Neil Angus and Dee Ryall. I congratulate Mr Dalla-Riva and Mrs Kronberg, who have returned to this place with me in the electorate of Eastern Metropolitan Region, and I extend those congratulations also to Mr Tee and Mr Leane. I offer congratulations to the Premier and his ministers in the other place and to the ministers in this place, as well as to the members who have taken up shadow ministry positions as part of the team led by Mr Lenders.

I place on record my thanks to my supporters and family for their help over many years, and I thank this chamber for the privilege it has given me of being President of the Legislative Council. I trust that I have discharged that responsibility up to this point in a way that is consistent with the expectations of those members who voted last November. As I said, I do not take this role for granted. I really do appreciate the privilege that I have, and I will continue to strive to do my level best to bring to the role a sense of dignity, fairness and integrity that I think members would expect and regard as crucial to what is done.

As I said, we live in a very different world. I think the challenge for this government and for us as policy-makers is going to be significant in this current term of Parliament. I had the opportunity of going to Europe last year with the Economic Development and Infrastructure Committee. We visited the European Central Bank, the Organisation for Economic Cooperation and Development and the European Parliament. We asked questions at that time. I was particularly insistent in asking questions about Greece. You did not have to be Einstein to understand that there was a significant problem there. Unfortunately at the time the European bank did not seem to agree. It thought there was no real problem in Greece, no real danger to the euro or to the union itself, that everything was going along swimmingly and that the worst that could happen would be that the Greek people might have to pay a little bit more for their goods and services because of higher interest rates.

The tolerance of the German people is running out in relation to the European community. Britain is quite happy that it did not join the euro, that it is sitting on the sidelines and is not part of the current bailout. As one journalist on the ABC said last night about the Greek situation, what they are doing is simply kicking the can along the road. The solutions that have been proposed at this time are not solutions that will fix the problems that are evident. They will simply delay the inevitable. I noticed that there is a lot of commentary suggesting that investors ought not take a haircut as part of this exercise of the bailout of Greece. There is a very good reason for that — many of the investors are sovereign governments. Those sovereign governments took over bank liabilities at the time of the global financial crisis and are therefore very much intertwined with the Greek circumstances now.

In Greece we are seeing riots, but what is happening there has been repeated in France and in the UK and no doubt will be repeated in other places as well, because the significance of these debt issues around the world is such that it is really starting to make countries and policy-makers in those countries sit up and take notice. They have to take some very real action to rein in their debt. In many cases that is an unpalatable situation for the people of those countries. It is not just a contagion in Europe. The United States is one of the biggest debtors in the world, as is Japan. Of course Japan has been beset by a natural disaster, which has made its economic circumstances worse. America at the moment, as we know, is borrowing \$1.4 trillion just to keep its debt rolling over — not to actually settle anything, but just to keep paying its debts. That country is facing significant cost spikes in health and retirement savings and because of the issues revolving around

energy and so forth in the world today. The USA has very few urban transit systems in major cities, so it is facing some significant investment pressures as well.

The importance of that to Australia is that we live in that global world, and unfortunately it is a much smaller world than it ever was before. The implications of what is happening globally are going to affect us as well. If nothing else, our banks are going to find it a lot more difficult to access capital because those other countries in trying to address these debt issues internationally are actually going to be really drawing down on much of the available capital around the world. I think our governments are going to face tougher times. Whether or not the Reserve Bank of Australia moves interest rates up, the chances are that the banks will move them up because of the cost of money. We are facing more difficult times. We are facing escalating costs in a number of areas, and I think we need to be careful about a wage outbreak or overproviding on construction costs. In my view there should be no more \$55 million railway stations in the suburbs, because we simply cannot afford to have projects that run over budget.

We need to do a lot more to focus on what should be the priorities of government and particularly on the services that are most important to people, such as health and education. Obviously transport is an increasingly important issue, as indeed are some of the environmental issues that are before us now. We need to do this in a way that provides good leadership to the people and is cost effective. I thank members for the opportunity to make this address.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I am pleased to rise this afternoon to make some brief remarks on the address-in-reply to the Governor, following the contribution made by the President, Mr Atkinson. Obviously as a member of the Baillieu government I am very keen to endorse the speech given by His Excellency in this place last December, which set out the government's plans for the next four years. I am very pleased that with its first budget, delivered on 3 May, the government moved a long way towards delivering upon those matters that it committed to in His Excellency's speech in December, but more particularly I am pleased that over the course of the last 12 months the now Premier, in setting out his vision for the state of Victoria, convinced a majority of the Victorian electorate that the vision he articulated was the best way forward for the state. It is a great privilege for me to be here this afternoon as one of the ministers in the Baillieu government committed to delivering upon the program the government has brought forward.

I am particularly pleased that in my own portfolio areas of Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry I will be able to deliver a number of programs that the government committed to in the technology area. We have committed to the new Victorian Biotechnology Advisory Council, which was funded in the budget on 3 May. It will shortly come into operation.

I indicated to the house yesterday that the government is seeking expressions of interest from suitably qualified participants in the biotechnology field. We are looking for candidates with very broad experience, both those with corporate involvement with the various streams of the biotechnology sector spanning the medical, agricultural, industrial and environmental fields, and those with very broad qualifications and individual experience at various other levels — the clinical, research, investor, financing and management levels. We are thus keen to have a very broad pool of people to give advice to government on the key issues of concern to the biotechnology sector. I look forward to receiving expressions of interest around that process by the end of July and to thereafter making appointments to a council which we believe will serve as a very effective mechanism acting between the government and the biotechnology sector in terms of further sector development.

We see that area as one of the key opportunities for industry development in this state. The Premier has allocated me the technology portfolio, spanning biotechnology, nanotechnology and ICT, because the government sees convergence across those three technology streams. It sees an opportunity given the different levels of development in the three industry sectors. IT is obviously the more mature sector, though I will not say 'mature', with biotechnology undergoing substantial growth and nanotechnology a relatively new player in the technology stream. We see a lot of synergy across those three streams and considerable potential for them not only as industry sectors in their own rights but as tools to drive productivity in the Victorian economy over the coming years.

One of the big challenges we as a new government face is driving productivity in the economy over coming years. So much of Victoria's economic growth in recent years has been on the back of population growth. As members of this house and members of the Victorian community know, we have had very strong population growth in the Victorian economy, and that has put pressure on a lot of our services — our public transport, hospital and education services and so on. The community feels that. In my electorate of South Eastern Metropolitan Region, where much of the growth of the

last decade has taken place — though the growth is now moving through and developing also in the north and the west — the communities have felt the impact of population growth on the delivery of local infrastructure. We are now seeing population growth slowing in Victoria, however, and as a consequence our economic growth, which had been on the back of population growth, needs to transfer to being based on productivity growth. We see the technology streams as being so important to driving that productivity growth in the Victorian economy.

The other area I would like to touch on, again wearing my hat as a minister with responsibility for the Department of Business and Innovation, is the aviation portfolio. This is a new portfolio that was established by the Premier because the government sees the aviation and aerospace fields as a very significant sector in the Victorian economy and one with substantial growth potential. What the government is seeking to achieve in that sector relates to enhancing business investment, growing exports, developing skills and developing sector infrastructure. I am very pleased that the first budget of the Baillieu government has delivered a regional aviation program worth \$20 million over four years to allow for the upgrade of aviation infrastructure.

Much of Victoria's aviation infrastructure is old; a lot of it dates from the Second World War. We believe the expansion of the Regional Aviation Fund and the provision of \$20 million over four years and \$5 million a year ongoing will make for a very useful resource by which the public-use airports around Victoria can be upgraded. The guidelines for that fund will shortly be in place, and we look forward to receiving applications from the operators of public airports around Victoria seeking support through that fund, particularly for the upgrade of operational infrastructure. We are looking to enhance the operational capacity of these facilities. We see them as important transport links to our regional communities and important for developing tourism in our regional communities.

We also see such facilities as a very important tool in terms of the infrastructure that is available to the aviation training sector. Victoria has been very successful in attracting aviation or pilot training activities to this state. We have traditionally enjoyed some very strong competitive advantages in this area. Before the Australian dollar reached its recent very high levels Australia had a solid cost advantage. Regrettably that has now been diminished given the current exchange rates, but in terms of access to aviation infrastructure for training, Victoria's Melbourne basin is particularly well served. It is far better served than

Sydney in terms of training operators having access to key infrastructure such as exists at Essendon Airport, Moorabbin Airport, Avalon Airport and the country centres. To date we have had good weather compared to that of North America and Europe, and we enjoy relatively uncongested airspace, which is also a significant competitive advantage. We therefore see the sector in Victoria as enjoying significant competitive advantages, and we are very keen to see that sector further develop.

I am delighted that in speaking in this address-in-reply to the Governor's speech I can acknowledge the work the government has already undertaken in delivering on the commitments made in that speech last December.

As the house is aware, since that speech was delivered last December we have had a change of Governor. Like the President, I would like to acknowledge the work of Professor David de Kretser, our former Governor, who served in that office for five years with great distinction. I was very privileged to attend a function in honour of the departing Governor back in April when he concluded his term. It was very fitting that he be recognised for the contribution he made to Victoria in the role of Governor over that period — of course he has made a much longer contribution to the state of Victoria in his professional role in medical research. On behalf of the government I take this opportunity to thank Professor de Kretser for his contribution.

We now have a new Governor in His Excellency the Honourable Alex Chernov. The government welcomes Governor Chernov to that role and looks forward to his further contribution to Victoria. He is also a very distinguished Victorian, having served as a member of the judiciary and having served the University of Melbourne as its chancellor. I am sure that he will make a distinguished contribution in the office of Governor.

Noting the change of Governor in Victoria and acknowledging His Excellency's new role, the motion that is currently before the house needs to be amended. I move:

That the words 'you for the speech which you have' be omitted with the view of inserting in their place 'the former Governor for the speech which he'.

That amended motion will acknowledge that the speech has been presented by a different Governor to the Governor who will now receive the address-in-reply at Government House. With that amendment I commend the Governor's speech to the house.

The ACTING PRESIDENT (Mr Ramsay) — Order! Just before I call Mr Davis I would like to say I

was thoroughly enjoying the President's contribution to the address-in-reply. Mr Atkinson made a very thought-provoking contribution, but I was having trouble hearing some of it. I hope members accord some respect to Mr Davis as he makes his contribution to the chamber.

Mr Barber — It depends on what he says.

Mr P. DAVIS (Eastern Victoria) — Just for Mr Barber, I was going to address the matters raised by the Governor in his speech, which was so carefully written by him, I am sure, late at night. I will respond to the Governor's speech, because that is the purpose of the address-in-reply. I thought I would pick up the issue raised by way of accountability, transparency, honesty and impeccable integrity in government, on every point of which the previous government completely failed. That was brought home to us yesterday with the release of the *Allocation of Electronic Gaming Machine Entitlements* report by the Victorian Auditor-General's Office (VAGO). What was brought home to us was just how fundamentally flawed were not just the process but also the administrative competence of the discredited Bracks and Brumby governments in that they would forgo three-quarters of the potential revenue from that allocation.

Worse still, in 2007 we in this place sought clarification in some detail of the process. In fact we asked the government politely, then increasingly assertively, for the documents lying behind that process. I ask Mr Barber: what did the government say? I recall well that Mr Barber and I had a common view about that, which was that the government should explicitly advise the house —

Mr Barber — He's being given the wind-up!

Mr P. DAVIS — Already? The previous government should have advised the house what the process was and produced the documents that were relevant to that process, which cost the Victorian public, as we now know, \$3 billion. Just imagine what that money could have been used for in public transport, hospitals and schools.

Mr Barber — Subsidising woodchip operations.

Mr P. DAVIS — Indeed, in supporting rural jobs. My concern is that over the last decade there has been a lack of transparency, and that was evidenced in the secrecy of behaviour of the previous government. There is no better illustration than the electronic gaming machine process. The government refused to provide to the house, as politely requested and as assertively requested progressively, the documents behind that to

the extent that eventually the Leader of the Government in this place, for the first time in the 150-year history of this chamber, was suspended from the service of the chamber because he refused to provide the documents which this house requested.

In my view there is no greater accountability than the accountability of the Parliament in relation to the performance of a minister. That minister subsequently became Treasurer and, in my view, stands condemned by the VAGO report, because it was under his watch and the watch of the now Leader of the Opposition in the Legislative Assembly, Daniel Andrews, who was the Minister for Gaming at the time, that the process was initiated to allocate these gaming machine licences. Indeed the Honourable Daniel Andrews, with the previous Treasurer, was the architect of the loss to Victoria of \$3 billion.

What is the Victorian government now doing? The Premier, Ted Baillieu, has made a very clear commitment about transparency, honesty, openness and accountability in government. It is well understood by this chamber that in due course we will be considering legislation relating to the independent, broadbased anticorruption commission. I have to say I welcome the introduction of that legislation. There is a lot of commentary now, both in the Parliament and the wider public, about how that should operate. There was an article in the *Age* this morning or yesterday commenting that there should be oversight of that anticorruption body and what sort of oversight there should be, reflecting on parliamentary oversight processes. I will be interested, as others will be, in how that emerges and what the executive proposes in respect of that as legislation comes forward.

I want to give one example of the openness that there is in the approach of government presently. Just today we saw in this place and in the Assembly the tabling of a further report, part 2, on the Public Accounts and Estimates Committee (PAEC) inquiry into budget estimates. Part 2 relates to performance measures. What is telling about this is the openness and transparency approach of government. This specific report is the result of a formal policy position taken to the election and a request from the Minister for Finance, the Honourable Robert Clark, to PAEC to undertake a review of performance measures which have been deleted from or amended in this year's budget and to put in place an ongoing process of giving government advice on changes to performance measures. That is an endeavour by the government to ensure that it is accountable and that the public sector is held more accountable to the Parliament and the public. I welcome

that initiative and that demonstration of openness and transparency.

I wish to make a couple of further remarks on other matters relating to the broad-ranging debate that is had around the address-in-reply. In fact I have never found the limits to this debate in all the time I have served in this house. I have never found that there is a limit to the matters that can be raised, because presiding officers have either been tolerant or it is such a debate that there are no limits. I do not know the answer at this point. I may be better informed another day.

Mr Barber — Except there is hardly anything in this speech.

Mr P. DAVIS — I think it is an excellent speech, because it gives members the opportunity to make a significant contribution on a wide range of issues. Having said that, I want to talk about something that is very close to Mr Barber's heart, and that is public land management. I want to talk about the disgraceful neglect of our public land over the last decade. I have to congratulate this government on allocating additional resources to, for example, employ additional rangers in our national parks. I thought that was a great initiative of the Minister for Environment and Climate Change; I congratulate him for —

Mr Leane — Who is the Minister for Environment and Climate Change?

Mr P. DAVIS — You don't know. You should take a closer interest in the management of our natural land assets, because the environment minister is in fact an outstanding young man who has begun his parliamentary career with an appointment as Minister for the Environment and Climate Change and is doing a great job. Ryan Smith is an outstanding young minister, and he will make a very big contribution to the Parliament of Victoria over his career.

However, I urge him, as a very important task, to deal with Parks Victoria. Parks Victoria is an institution which in my view needs a broom through it. It is an organisation which has neglected its primary function, which is to care for the over 4 million hectares of public land entrusted to it. I have the view that it has totally failed in its performance and in the discharge of its key performance indicators. It has allocated resources from its budget to all sorts of things other than the maintenance of parks infrastructure.

As somebody who spends as much of their leisure time as possible — not that many MPs have much leisure time — in our great parks in Victoria, I have watched the progressive deterioration of the management of

parks in this state. I have noticed that increasingly tracks and trails within our park system have been closed for want of maintenance. I have noticed that there has been less access to parks, there has been less maintenance, assets destroyed in bushfires have not been replaced, there have been increases in weed infestation and there are areas that were managed much more effectively by previous governments than they have been over the last decade.

My concern is that Parks Victoria as an institutional organisation is dysfunctional, because if it is not dysfunctional, why is it that we have seen this decline in asset management? Maybe it is due to the fact that there was a policy problem with respect to the way the previous government administered Parks Victoria. Maybe it is simply a fact that Parks Victoria was given directions by the previous minister which were inappropriate, but whatever the case I would urge the minister with responsibility for Parks Victoria to now seize the opportunity to give Parks Victoria a good shake and, given that he is the manager of the majority of state-controlled land, ensure that the organisation is retasked and refocused to more effectively ensure that we have proper public land management.

I have no doubt that it is the view of the majority of rural people in Victoria that Parks Victoria needs some retasking. It is certainly my view, and it is a view that I have put in this place consistently for the last decade, so there is nothing inconsistent about it. I would be a hypocrite to let Parks Victoria off the hook just because there has been a change of government. Parks Victoria has failed in its stewardship role in public land management.

In conclusion, I am pleased to congratulate the can-do Baillieu government for intervening in a matter which is significant to people in Victoria who are associated with the seafood industry. Today is the last day that the Melbourne Wholesale Fish Market will be under the management of the Melbourne City Council. The Melbourne City Council chose to abandon its responsibility to operate the seafood industry's major form of exchange, being the wholesale fish market, and formerly intended to close the market today. Today would have been the last day of trading.

At 5 o'clock this morning I went out to the market and met with people there who are involved in the business, whether they be wholesalers, provedores or indeed fish shop owners. They were overwhelmed with gratitude to the Baillieu government for stepping in, intervening and saving their industry, their jobs and their businesses, because after 11 years and repeated approaches to the previous Labor government, which

failed to intervene in any way at all, the industry has been able to get a transition plan. It has only been able to succeed due to the intervention in the last week of the Baillieu government. That plan will ensure a continuation of trading at the site of the Melbourne Wholesale Fish Market as a result of VicTrack taking over the land from the Melbourne City Council and offering a licence arrangement to the market to allow it to continue operating for six months until it relocates to a new site.

I congratulate the Premier, the Treasurer, the Minister for Public Transport and the Minister for Agriculture and Food Security for exercising the capacity of the government of Victoria to do something for the people of Victoria, for consumers of fish and for the industry that depends for its livelihood on the proper commercial exchange of fish. Importantly, I was humbled to see the gratitude to the Baillieu government of all of those individual small business people and their families who were at the market today celebrating a red letter day for the industry. They have got a reprieve that the previous Labor government was unable to deliver. Acting President, I thank you for your courtesy and the invitation to make a few remarks, and I look forward to hearing further contributions on this debate.

Amendment agreed to.

Amended motion agreed to.

Ordered that address-in-reply be presented to the Governor by the President and members of the house.

ACCIDENT TOWING SERVICES AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, I make this statement of compatibility with respect to the Accident Towing Services Amendment Bill 2011.

In my opinion, the Accident Towing Services Amendment Bill 2011, as introduced to the Legislative Council, is compatible with the human rights provided for in the Charter of Human Rights and Responsibilities. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill amends the Accident Towing Services Act 2007 to:

1. implement certain recommendations of the Essential Services Commission identified in its *Review of Accident Towing and Storage Fees* completed in June 2010; and
2. make other changes to the Accident Towing Services Act 2007 to improve its operation.

The most significant amendments are:

the creation of a power for the Minister for Roads to determine the charges applicable for basic salvage operations performed by tow trucks;

a new requirement that any accident towing, vehicle storage or salvage charges which are not determined by the Minister for Roads be reasonable;

a new requirement for the Essential Services Commission (the commission) to undertake a review every four years of the accident towing service charges, storage of accident-damaged vehicle charges and basic salvage charges determined by the Minister for Roads;

provision for the annual adjustment of all accident towing service charges, storage of accident-damaged vehicle charges and basic salvage charges determined by the Minister for Roads, by reference to the consumer price index;

the creation of an express power to prescribe the way in which salvage operations must be undertaken;

authorisation of the storage of towed vehicles in holding yards other than those specified in the authority to tow, provided that these yards are approved for that purpose by VicRoads;

a requirement for tow truck operators to take all reasonable steps to prevent loss of or damage to an accident-damaged vehicle stored by that operator.

The bill also makes a number of additional amendments to the Accident Towing Services Act 2007 to address operational issues, including:

a change to the term used to describe 'standard' tow truck licences (currently described as 'non-limited tow truck licences') to simplify terminology;

the insertion of a new offence in relation to the use of a vehicle other than a tow truck to provide towing services for hire or reward;

a reduction in the maximum penalty for an offence of driving or accompanying the driver of a tow truck without accreditation where the person concerned has merely failed to renew his or her accreditation;

an amendment to clarify when a suspension of accreditation ceases to have effect.

Human rights issues

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

The bill engages the right to take part in public life, the right to freedom of expression and the right to freedom of movement, as protected by the charter.

Conduct of review

Taking part in public life

Section 18 of the charter provides that every person in Victoria has the right, and is to have opportunity, without discrimination, to participate in the conduct of public affairs, directly or through chosen representatives.

Clause 212C(4) provides that if the commission holds a public hearing the commission has discretion as to whether any person may appear before the commission in person or be represented by another person. This clause engages the right to participate in public life as the commission may refuse to allow a person to appear at the public hearing. However, the right does not go so far as to include an expectation to participate in all public hearings.

The clause enables the commission to determine who may appear before it at a public hearing. It is envisaged that in the majority of instances businesses and individuals will be represented at reviews by their representative industry body. This will ensure that a breadth of information is provided to the commission and that a cross-section of the industry have their views represented in a timely and efficient manner. However, if individuals wish to appear before the commission they may so apply. It will only be in limited circumstances that an application to appear would be refused, for example if there were tight time lines associated with the hearing.

Powers relating to reviews

Clause 212E provides that the commission may serve upon any person a notice requiring that person to provide evidence in writing; a notice to produce specified documents; or a summons to appear before the commission to provide evidence. Clause 212E(3) makes it an offence to fail to comply with a notice or summons of the commission. Clause 212E(4) provides that it is a lawful excuse for an individual to fail to comply on the grounds that compliance would tend to incriminate the person or make the person liable to a penalty or forfeiture. These powers to obtain information raise the right to freedom of movement under section 12 of the charter and the right to freedom of expression under section 15 of the charter.

Freedom of movement and freedom of expression

Section 12 of the charter includes the right to move freely within Victoria.

Section 15 of the charter establishes a right for an individual to have freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. The right has also been held to include the right not to impart information.

The power in clause 212E to require a person to attend before the commission and provide evidence in writing; to produce specified documents; and appear before the commission to provide evidence engage a person's right to freedom of movement, as provided in section 12 of the charter, and a person's right to freedom of expression, as provided in section 15 of the charter. However, I consider that the limits upon the right are reasonable and justifiable in a free and democratic society for the purposes of section 7(2) of the charter having regard to the following factors:

(a) The nature of the right being limited

The right to freedom of movement is a fundamental human right, which protects against restrictions on people's ability to move freely within the state.

Freedom of expression is an important right for individual dignity, as well as being essential in enabling democracy to work and public participation in decision making.

(b) The importance of the purpose of the limitation

The power to require a person to appear before the commission and provide evidence or documents to the commission is an important mechanism for the commission to obtain up-to-date financial information on the costs associated with accident towing services, the service of storing accident-damaged motor vehicles, and basic salvage services. This will enable the commission to make an accurate assessment of the real costs of such services so they can make a reasonable recommendation as to appropriate charges that should apply. This will protect consumers while also reflecting the practical realities of towing, storage and salvage service providers.

(c) The nature and extent of the limitation

It is only a temporary restriction on a person's freedom of movement.

Further, in relation to a person's right to freedom of movement and freedom of expression, it only applies if the commission reasonably believes the person required to attend may be able to give information of relevance to the review. The powers to compel information and attendance apply only in the context of a review; they are not powers used by the commission in relation to individual matters. The powers enable the commission to properly carry out its review functions and are appropriately circumscribed, ensuring that they are only used when the information is necessary for the review.

(d) The relationship between the limitation and its purpose

The imposition of the requirement to attend before the commission and give evidence or to provide documents is directly related to its purpose of obtaining relevant information to assist in the conduct of the review.

(e) Less restrictive means reasonably available to achieve the purpose

In relation to the limitation on the right to freedom of expression, no less restrictive means are reasonably available.

In relation to the limitation on the right to freedom of movement, the clause also provides for the commission to require a person to give information in writing in the

alternative. However, in some cases, requiring a person to attend before the commission will be more appropriate in the circumstances.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit or restrict any rights under the charter.

Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill amends the Accident Towing Services Act 2007 ('act') to implement the recommendations of the Essential Services Commission contained in its *Review of Accident Towing and Storage Fees*, completed in June 2010. It also makes a number of other changes to improve the operation of the act.

The act regulates accident towing in Victoria by providing that accident towing businesses and drivers must be licensed by VicRoads. The legislative scheme is designed to ensure that accident towing services (being the cleaning of debris and the salvage, towing and storage of vehicles) are provided in a safe and timely manner, minimising the impact on other vehicles. Importantly, the scheme implemented by the act also regulates the price of some accident towing services in the 'Melbourne controlled area'. This area is usually referred to as the 'controlled area' and covers the metropolitan Melbourne and Mornington Peninsula areas. The purpose of the regulation of charges is to ensure that motorists involved in an accident do not pay excessive amounts, given the historic difficulty of negotiating a fee with multiple towing operators who turn out to the scene of an accident in the immediate aftermath of an accident.

The act regulates charges through ministerial determinations. The ministers in the former Bracks and Brumby governments exercised this regulatory power, determining the charges for accident towing and storage of vehicles, for activities in the controlled area.

A central problem with the scheme is that it contains no automatic or mandatory mechanism to deal with rising costs over time. In practice this has caused difficulties. Ministers in the previous government exercised the determination power infrequently, with the result that the value of regulated fees had fallen. The accident towing industry has not only borne increased costs without price increases, it has been hampered by a lack of certainty as to when price increases would be determined. While the need for price increases may be offset in part by improvements in efficiency, the absence of a formal adjustment process means that towing operators could be

compromised in their ability to recover increased costs. This in turn could have implications for customers, if these cost issues threatened the ongoing viability of accident towing operators.

The problem has been explored by the Essential Services Commission, which in its review of the fees charged by the accident towing industry noted that at the time of the review, accident towing and storage fees had not increased since 2003, with a significant fall in real terms.

The commission recommended that accident towing charges be subject to mandatory annual indexation. The commission recognised that while annual adjustments would provide for smoother prices and costs, they were not sufficient to ensure a fair price over time as they do not deal with underlying costs. To that end, the commission recommended that the act be amended to require the commission to undertake a review of charges every four years to realign regulated charges with the underlying costs of service provision.

The Baillieu government, as part of its commitment to improve the operation of the industry, will implement these changes. The bill provides automatic annual indexation of all regulated accident towing and storage charges and requires a four-yearly review of all regulated charges.

Another area of concern, addressed by the bill, is the levying of charges outside the controlled area.

There are some important distinctions between the controlled area and the rest of the state. In the controlled area, licensed accident towing operators have an exclusive right to attend at the scene of accidents, but are required to charge the regulated charge (that is, the amount set by ministerial determination). A centralised allocated scheme is used to allocate accident towing work, on a roster basis, to the towing business that is licensed to operate in the controlled area whose depot is located nearest the scene of the accident. This system ensures a response time within 30 minutes, providing a timely response that minimises impact on other vehicles. Importantly, by providing a regulated charge it prevents monopolistic behaviour and avoids the need for a motorist to negotiate a 'fair' price under stress. As I have mentioned before, charges outside the controlled area are not regulated.

The regulation mechanism adopted for the controlled area would not be effective outside the controlled area as the allocation system does not operate outside the controlled area. There has however been concern, particularly in the insurance industry, that some operators have been overcharging for accident towing and storage services outside the controlled area. To address this problem, the bill reintroduces the requirement, removed by the former government, that these charges be reasonable. The bill further provides that if an unreasonable charge is made, a court may require the operator to refund the consumer a portion of the charge. This change, which is consistent with the approach of the Essential Services Commission, will provide protection to consumers while ensuring that operators are able to charge a fair price, but without introducing excessive regulation.

Another area dealt with by the bill is salvage services.

Salvage services are necessary where a vehicle is in a position in which it cannot be towed, for example where the vehicle is down an embankment or upside down. Currently, the act does not prevent tow truck operators from charging for salvage

services but does not regulate the charges that may be levied for those services, nor require documentation to justify the charges. Given the exclusive rights enjoyed by tow truck operators in the controlled area that I outlined earlier, there is the potential that operators attending at the scene of an accident will levy excessive salvage charges or even levy a salvage charge when it is not required (for example for clearing of debris which should be part of the accident towing charge). This is of particular importance as affected parties will generally have a limited ability to 'negotiate' with tow truck operators in the aftermath of an accident.

In dealing with salvage services, it is necessary to distinguish between 'complex' and 'basic' salvage. Complex salvage involves heavy or more difficult salvage activities, requiring specialised equipment, such as heavy tow trucks and mobile cranes. This typically involves significant additional cost to the operator which cannot be accurately predicted (such as the cost of hiring specialist equipment). Complex salvage services are accordingly not suitable for the kind of regulated charges that apply to the accident towing industry.

However, the majority of salvage operations could be described as 'basic' salvage and do not require specialist equipment. Those charges could readily be regulated in the controlled area in the same way that accident towing and storage charges are regulated.

The bill implements the recommendations of the Essential Services Commission in this area by empowering the responsible minister to determine the charges for basic salvage and requiring complex salvage fees to be reasonable, paralleling the regime for accident towing and storage charges. Again, like accident towing and storage charges, the charges for basic salvage will be regulated in the controlled area, through a determination which I will make as the responsible minister, fixing those charges in accordance with the recommendations of the Essential Services Commission.

To ensure that basic salvage fees do not fall in real terms over time, they too will be subject to the annual indexation and four-yearly Essential Services Commission review that will apply to regulated accident towing and storage charges.

The bill provides some further protection for consumers in the salvage area by including an express power to make regulations in relation to the conduct of salvage activities. This will enable regulations to be made which will improve salvage operations, including implementing the Essential Services Commission requirement that towing operators take at least two photographs of the salvage operations and include an invoice with detailed information of the work undertaken. This will improve the transparency and consistency of invoicing practices.

The changes to the salvage regime provide a balance, protecting consumers in relation to salvage charges, while enabling the accident towing industry to levy reasonable charges over time.

The bill contains a number of other improvements. Other consumer protection measures include the requirement that tow-truck operators take all reasonable steps to prevent loss or damage to an accident-damaged vehicle whilst that vehicle is being stored by the operator. This will prevent loss of property left in the vehicles and further damage to accident-damaged vehicles.

The bill also responds to industry concerns by reducing the maximum penalty (from 60 penalty units to 30 penalty units) for a failure to renew accreditation under the act where the person concerned was previously accredited under the act and not had that accreditation suspended or cancelled but inadvertently failed to renew his or her accreditation.

The bill will enable tow-truck operators to store legally accident-damaged vehicles in secure areas which have been approved by VicRoads even if those areas have not been specified in the relevant 'authority to tow' document (provided that they are located within a short distance of the place identified in the authority to tow location).

The bill also introduces a number of housekeeping amendments, including changes to simplify terminology in the act and an amendment to ensure that only licensed tow-truck drivers are able to attend accident scenes for the purpose of towing vehicles for commercial gain.

These are important changes to the legislative regime governing accident towing. They provide for a fair charging regime that balances the concerns of industry and the need for consumer protection in a manner that is sensible, achieving sound outcomes without excessive regulation, as well as providing a number of other improvements.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA on motion of Mr Leane.

Debate adjourned until Thursday, 7 July.

CONSUMER ACTS AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Consumer Acts Amendment Bill 2011.

In my opinion, the Consumer Acts Amendment Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends a range of consumer and other acts to improve their operation. Specifically, the bill:

redrafts section 55 of the Estate Agents Act 1980, which restricts estate agents who have been commissioned to sell a property and agents' representatives employed by those estate agents from obtaining a beneficial interest in that property. It aims to deliver fair outcomes to vendors and operate in a manner similar to equivalent Queensland and New South Wales legislation;

clarifies delegations to owners corporation committees, allows owners corporations to restrict voting rights of certain proxyholders of committee members, clarifies standing to have owners corporation disputes heard by the Victorian Civil and Administrative Tribunal and provides more flexibility for service of documents under the Owners Corporations Act 2006;

amends the Conveyancers Act 2006 to remove a restriction on conveyancers undertaking legal work on sales of businesses from 1 July 2012;

redrafts section 144 of the Fair Trading Act 1999, which imputes liability to principals for the actions of officers, employees and agents, to bring it into line with the Competition and Consumer Act 2010 of the commonwealth;

makes amendments to new uncollected goods provisions to increase the value limits for motor vehicles and allow the disposal of high-value goods by private sale where the receiver of the goods is of the opinion that the best price could be obtained by private sale and notice has been given;

defers or removes default commencement dates in several acts;

repeals the Companies (Administration) Act 1981, with appropriate savings and transitional provisions; and

includes the necessary amendments to legislation to reflect the change of name of the National Institute of Accountants to the Institute of Public Accountants.

Human rights issues**Human rights protected by the charter act that are relevant to the bill**Section 20 — Property rights

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

Clause 23 of the bill amends division 1 of part 2 of the Consumer Affairs Legislation Amendment (Reform) Act 2010, which introduces a new framework to allow people such as repairers to dispose of other people's goods that are uncollected in a manner that is confined and structured, rather than arbitrary and unclear, in cases where other legislation does not make provision for such disposals.

The two main amendments in this clause of the bill provide for:

increased thresholds for low-value motor vehicles; and

a capacity to sell high-value goods by private sale where required notice has been given, the bailee of the goods holds a reasonable belief that the best price can be achieved by private sale and the bailee takes reasonable care to ensure that the goods are sold for the best price that can be achieved.

I consider that the amendments engage, but do not limit, property rights.

At common law, bailees face onerous duties to safeguard goods and can generally only dispose of goods if it is absolutely necessary to do so, or where the goods have been abandoned.

The increased thresholds for low-value motor vehicles will not remove an obligation on the bailee to make reasonable attempts to advise the bailor that the goods are uncollected goods. If there is a dispute about the charge or other aspects of the bailment (for example, the condition of the goods after the bailment), either party may apply to the Victorian Civil and Administrative Tribunal or a court to resolve the dispute before the goods are collected or disposed of.

The ability to sell goods by private sale is intended to benefit bailors of goods by ensuring that bailees are able to exercise discretion to sell privately if they have a reasonable belief that doing so will yield the highest price and notice has been given. Improving the capacity of bailees to obtain the highest price possible is important because any surplus proceeds from the sale of goods disposed of (after the bailee has deducted their reasonable costs) remain the property of the owner and can be claimed from either the bailee or, in due course, the registrar of unclaimed money. This minimises any deprivation of property that may occur.

Therefore, any deprivation of property that may occur under these amendments is appropriately confined and would be in accordance with law. Consequently, section 20 of the charter act is engaged but not limited.

Section 25(1) — The right to be presumed innocent

Section 25(1) of the charter act provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law.

Clause 4 — Restriction on agent purchasing property

Estate agents are fiduciaries. As such, they are expected to act in the best interests of their principal and put those interests ahead of their own where they would otherwise conflict. At times, estate agents may wish to purchase the property they have been commissioned to sell, which can represent a conflict of interest (because of the incentive to minimise the price paid for the property) and duty (to obtain the highest price for the vendor). The purpose of section 55 of the Estate Agents Act 1980 is to provide a framework to regulate such transactions. The section currently makes it an offence for an estate agent or employee to be concerned or beneficially interested in the purchase of any property that the estate agent has been commissioned to sell.

Clause 4 of the bill amends section 55 of the Estate Agents Act 1980 to make it an offence for an estate agent or an agent's representative employed by an estate agent to obtain a

beneficial interest in a property or business that the estate agent has been commissioned to sell.

Subsection (3) lists a range of scenarios where the person is considered to obtain a beneficial interest, including where their associate (employee, spouse, domestic partner, parent or child) purchases the property or a corporation over which they or their associate exercises control purchases the property.

Subsection (4) provides that estate agents and agents' representatives do not contravene the section in certain circumstances. It states that a person will not commit an offence where they advise the vendor prior to the sale that they are obtaining a beneficial interest in the property, and obtain the vendor's written acknowledgement and consent. They must also act fairly and honestly in relation to the transaction and cannot receive a commission or reward for the sale. They must also demonstrate that the principal is in substantially as good a position as they would be if the property or business were sold at fair market value.

The exemption in subsection (4) involves a reverse onus as it requires the accused to adduce evidence of facts essential to the determination of their guilt or innocence if charged. This evidential burden is imposed only in respect of the exemption: the prosecution still has the legal burden to establish the elements of the offence beyond a reasonable doubt.

Because of the reverse onus, the exemption engages and limits the right to be presumed innocent as set out in section 25(1) of the charter act. However, for the reasons described below, I believe the limitation on the right to be presumed innocent is justifiable under section 7(2) of the charter act, and that there were no less restrictive means to achieve the purpose of the exemption provided for by proposed section 55(4).

Consideration of reasonable limitations — section 7(2)

(a) The nature of the right being limited

The right to be presumed innocent is an important right that has long been recognised. However, the courts have held that it may be subject to limits particularly where the exemption is enacted for the benefit of an accused to escape liability where they have taken reasonable steps to ensure compliance, in respect of what could otherwise be a strict liability offence.

(b) The importance of the purpose of the limitation

The purpose of imposing a legal burden of proof is to ensure the effectiveness of enforcement of, and compliance with, the legislation. The purpose of imposing an evidential burden on the accused is to ensure that the offences can be effectively prosecuted and operate as an effective deterrent.

(c) The nature and extent of the limitation

The purpose and effect of the exemption is to provide a defendant with an opportunity to avoid culpability in the event they were up-front as to their intentions to purchase the property, acted fairly and honestly in relation to the transaction, and did not disadvantage their principal. The exemption also relates to matters that are within the knowledge and control of the defendant and it would be difficult and onerous for the Crown to investigate and prove them beyond reasonable doubt.

(d) The relationship between the limitation and its purpose

Without the availability of the exemption, the offence may bring within its scope estate agents who obtain a beneficial interest in real estate or a business they have been commissioned to sell, but who did so honestly, with the consent of their principal and without placing their principal at a disadvantage.

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

Because of the need to include requirements to gain consent, act honestly and not place a principal at a disadvantage in the exemption provided, I consider that there are no less restrictive means of achieving the purpose of the exemption.

(f) Any other relevant factors

Consumer Affairs Victoria will undertake education of estate agents and agents' representatives to ensure that they are familiar with the new requirements. This will include website content, and making available to estate agents acknowledgement forms as required under the legislation. These acknowledgement forms will include guidance on the new provisions.

Clause 16 — Conduct by employees or agents of principals

Proposed section 144(4) in clause 16 of the bill provides that conduct engaged in on behalf of a principal other than a body corporate is taken to have been engaged in by the principal if an employee or agent is acting within the scope of their actual or apparent authority, or in the case of any other person, if that person is acting at the direction, or with the consent of the employee or agent, and the employee or agent is acting within the scope of their actual or apparent authority.

This imposes a reverse evidentiary onus as any conduct engaged in on behalf of a principal by their employee or agent, within the scope of actual or apparent authority, is taken to have also been engaged in by the principal. Clause 16 therefore engages and limits the right to be presumed innocent as set out in section 25(1) of the charter act. I am of the opinion that this limitation on the right to be presumed innocent is justifiable for the following reasons.

Consideration of reasonable limitations — section 7(2)

(a) The nature of the right being limited

The nature of this right is discussed above.

(b) The importance of the purpose of the limitation

The purpose of imposing a legal burden of proof is to ensure the effectiveness of enforcement of, and compliance with, the legislation. The purpose of imposing an evidential burden on the accused is to ensure that the offences can be effectively prosecuted and operate as an effective deterrent.

(c) The nature and extent of the limitation

Clause 16 imposes a reverse evidentiary onus as any conduct engaged in on behalf of a principal by their employee or agent, within the scope of actual or apparent authority, is taken to have also been engaged in by the principal. The principal has a defence available to them that enables them to establish that the conduct was an accident or was caused by

other circumstances beyond his or her control, and that he or she took reasonable precautions and exercised due diligence to avoid the conduct in accordance with the defences available under section 155 of the Fair Trading Act 1999.

(d) The relationship between the limitation and its purpose

The presumption of fact underpinning the clause is rationally connected with the practical realities of employer-employee or principal-agent relationships in the context of offences under the Australian Consumer Law and the Fair Trading Act 1999.

It would otherwise be difficult for the prosecution to discharge a legal onus in respect of the element in question as it relates to matters that are within the knowledge and control of the defendant.

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

This provision is necessary to hold principals to account for the actions of agents that they have authorised. As such, I am of the opinion that there are no less restrictive means reasonably available to achieve the purpose of the legislation.

(f) Any other relevant factors

There are no other relevant factors.

Conclusion

For the reasons given in this statement, I consider that the bill is compatible with the charter act.

Hon. Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill represents another step by this government to improve the consumer protection framework in Victoria. The bill amends several consumer acts to improve their operation and makes several statute law revision amendments.

Estate agents — conflict-of-interest sales

The bill proposes amending provisions in the Estate Agents Act 1980 dealing with conflict-of-interest sales, furthering this government's commitment to improve real estate regulation.

Section 55 of the Estate Agents Act 1980 regulates the situation where an estate agent or an agent's representative acquires a beneficial interest in a property that the estate agent has been commissioned to sell. Such an acquisition is a

conflict of the estate agent's interest and their duty to their principal.

Until recently, vendors and purchasers were required to obtain the consent of the director of Consumer Affairs Victoria to such a transaction. While this procedure may have appeared appropriate, in practice, any agent wishing to act in a dishonest manner with respect to such sales did not seek the consent of the director. It also diluted estate agents' fiduciary duty to act in the interests of their clients, with estate agents who sought the consent of the director able to point to such consent to deflect the personal obligation owed by an agent to a principal.

This procedure was recently changed to require the estate agent to obtain the consent of a legal practitioner, conveyancer or accountant. However, this model still requires a third party to consent to a vendor's decision to sell their own property.

The bill therefore proposes a completely new approach that focuses on ensuring fair outcomes for vendors, rather than regulating the procedures surrounding the sale. The new section is intended to operate in a manner similar to equivalent legislation in New South Wales and Queensland.

In essence, the bill proposes that an estate agent or agent's representative will be prohibited from obtaining a beneficial interest in property that they have been commissioned to sell. The legislation specifies a wide range of examples where an estate agent will be considered to have obtained a beneficial interest. Significant penalties, including up to two years imprisonment, will apply if an estate agent or agent's representative contravenes the section.

However, the legislation also sets out an exemption to allow vendors and estate agents to reach mutually beneficial arrangements regarding the sale of property. The key elements of the exemption are that the estate agent: must obtain the vendor's acknowledgement and consent to the estate agent obtaining a beneficial interest; must act fairly and honestly; must not be paid commission or other remuneration; and must obtain the interest at a fair market value. This exemption will ensure that the onus will be on the estate agent — and the estate agent alone — to demonstrate that they had acted in the best interests of the vendor. In doing so, the strict fiduciary duties that are owed by agents to their principals — in this case, owed by estate agents to the vendors for whom they are acting — will be reinforced.

The bill also requires the refund of any commission paid in contravention of section 55.

Amendments to the Owners Corporations Act

The bill proposes four important amendments to the Owners Corporations Act 2006.

First, the bill introduces new rules for the management of the owners corporation and the owners corporation's power to delegate its powers and functions. The statement that an owners corporation is to be managed by or under the direction of the lot owners is intended to emphasise that lot owners own the common property as tenants in common and can collectively direct how it is managed in accordance with the procedures specified in the act. This contrasts with trading corporations where directors are generally free to manage the company without interference by shareholders.

An owners corporation's power to delegate its powers and functions is also clarified. In particular, while an owners corporation can choose to specifically delegate powers to the committee, by default the committee will have all powers and functions that can be exercised by the owners corporation except matters requiring a special or unanimous resolution, the power of delegation and any matter reserved to the general meeting by section 82 of the Owners Corporations Act 2006.

Second, the bill gives owners corporations a power to make a rule restricting the voting rights of people who have been appointed to act as a proxy for a committee member where they have not been elected or coopted to the committee. In such cases, the consent of the other committee members is required before the proxyholder can vote, although such consent must not be unreasonably withheld to minimise the risk of oppressive conduct. Stakeholders have expressed concern that lot owners who are committee members may appoint inappropriate people to act as proxies, for example people with a conflict of interest.

This amendment will ensure that the two competing issues relating to committee membership — namely, the right of lot owners to choose who serves on the committee, and the right of those elected representatives to make their opinions known once elected if they are unable to attend meetings — can be balanced in a fair manner. It is worth noting that Queensland allows proxies for committee members by default, but gives bodies corporate the ability to determine the extent to which such proxies are allowed. New South Wales strata legislation and the Corporations Act both contain provisions that restrict alternates from acting without the consent of other members of the board or committee.

Third, the bill clarifies that the rule in *Foss v. Harbottle* does not apply to owners corporation disputes. The rule in *Foss v. Harbottle* is a common-law principle in company law that provides that where a wrong is done to a company, the company is the proper plaintiff to pursue any claim. Unless one of five complex exceptions to the rule applies, shareholders are generally denied standing to pursue claims on behalf of the company.

However, lot owners are not merely shareholders — they have a direct proprietary interest in the common property, which the owners corporation holds for the lot owners as a nominee. It is therefore inappropriate to deny a lot owner standing to resolve an owners corporation dispute by applying the rule in *Foss v. Harbottle*.

In particular, a lot owner should be free to pursue any claim that can be characterised as an owners corporation dispute relating to their co-ownership of any common property managed by the owners corporation, the misuse of any other assets such as owners corporation funds held by the owners corporation to which they have contributed through their fees, the incurring of debts by the owners corporation without proper authorisation to which the lot owner would be liable to contribute through the payment of fees, and the provision of any other good or service by the owners corporation or another person for the lot owner's benefit, whether directly or indirectly, where that good or service is not being delivered. This is especially the case where an owners corporation, or its agents or employees, is managing the property in a manner that may be contrary to the interests of the lot owners as a whole.

In making this amendment, it is not intended to limit the powers of the Victorian Civil and Administrative Tribunal to strike out or dismiss claims that are frivolous, vexatious or an abuse of process. It should also be noted that section 18 creates a mechanism by which the lot owners may, by special resolution, use the owners corporation as their vehicle for pursuing legal action related to the owners corporation and spread any expenses incurred. However, that is as far as the section goes.

Finally, the bill includes provisions to make the service of documents under the Owners Corporations Act 2006 easier. The rules of the Victorian Civil and Administrative Tribunal do not make provision for overseas service of documents. This has led to the unfair situation where lot owners who live overseas can escape claims to recover arrears of fees unless an owners corporation pursues a costly action in a court. The new legislation therefore proposes that, should no address in Australia be specified by a lot owner, and service to the lot owner's last known Australian address is ineffective or an Australian address is not known, the Victorian Civil and Administrative Tribunal can order service of documents in any manner it considers appropriate to overcome this problem.

Amendments to the Fair Trading Act

The bill proposes to amend section 144 of the Fair Trading Act 1999 to bring the operation of that section into line with equivalent provisions of the Competition and Consumer Act 2010 of the commonwealth to promote consistent enforcement outcomes.

Section 144 imputes states of mind and liability for conduct to principals for the actions of officers, employees and agents in circumstances where the officer, employee or agent was acting within the scope of their actual or apparent authority. It also imputes liability for the conduct of other persons where that conduct was at the direction of, or with the consent of, an officer, employee or agent of the principal.

Other sections in the act have also been amended to ensure that they operate consistently with section 144.

The bill also clarifies that the Victorian Civil and Administrative Tribunal or any court of competent jurisdiction may hear and determine a cause of action arising under the Australian Consumer Law.

Conveyancers — sale of business

On 1 July 2013, the licensing of conveyancers will be transferred to the national occupational licensing system. It is expected that when this occurs, conveyancers will be able to do any work that they would have been able to do in their original jurisdiction.

Currently, all other mainland jurisdictions that license conveyancers allow them to do legal work on sales of businesses. On the other hand, Victorian conveyancers are expressly prohibited from undertaking legal work on business sales.

This will mean that from 1 July 2013, interstate conveyancers will be able to undertake legal work on business sales in Victoria, but Victorian conveyancers will be prohibited from doing so.

To ensure Victorian conveyancers can compete on a level playing field, the bill therefore proposes to amend the Conveyancers Act 2006 to allow conveyancers to work on business sales provided that they are suitably qualified to do so. The proposals enact the findings of a review of the restriction on conveyancers undertaking business sales undertaken by Allen Consulting and tabled in Parliament in 2009. This review found that the costs of the restriction outweighed the benefits.

Administrative processes will be used to manage the transition for existing licensees. Existing licences will be reissued in a form that indicates conveyancers will only be able to work on land transactions until their ability to work on business sales is recognised. Conveyancers who are existing licensees and who possess suitable qualifications will be able to apply to the Business Licensing Authority to have these qualifications recognised.

Other conveyancers will have to obtain the prescribed qualifications.

Changes to default commencement dates

The bill proposes to defer the default commencement dates for the Associations Incorporation Amendment Act 2009 and the Associations Incorporation Amendment Act 2010 from 1 December 2011 until 1 July 2012. This allows sufficient time for the associations incorporation regulations to be remade taking account of the extensive amendments to the Associations Incorporation Act 1981, including reconsideration of the model rules for incorporated associations that are prescribed in those regulations. It also provides an opportunity for the government to consider further options for improving the regulation of incorporated associations, in consultation with the sector.

The default commencement date of the Consumer Affairs Legislation Amendment (Reform) Act 2010 has also been deferred. This is to ensure that the replacement of the schedule of infringement offences in the Residential Tenancies Act 1997 by regulations specifying infringement offences and penalties in accordance with section 64 can incorporate offences contained in relevant provisions inserted by the Residential Tenancies Amendment Act 2010. It will also ensure new uncollected goods provisions can commence operation at the same time as the personal property securities register. Finally, it will mean that amendments made to the Sale of Land Act 1962 will be commenced coincidentally with consequential amendments to the contract for the sale of land prescribed under the Estate Agents Act 1980.

Personal property securities

The personal property securities register represents arguably the largest reform to security interests in goods ever undertaken in this country. However, the commonwealth recently advised that the commencement of the register has been delayed from April 2011 to October 2011. There is a risk that the commencement may be delayed further still. This has ramifications for two acts.

First, the Personal Property Securities (Statute Law Revision and Implementation) Act 2010, which amends a large number of Victorian acts as part of the transition to the federal scheme, has a default commencement date of 1 December 2011. The bill removes this date to ensure that the amendments can occur at the same time the register

commences operation should the commencement of the register be delayed further.

Second, the new uncollected goods framework introduced by the Consumer Affairs Legislation Amendment (Reform) Act 2010 will be affected. This new framework will require people wishing to dispose of certain high-value goods — motor vehicles, boats and aircraft — to notify people with a security interest of the proposed disposal. This notification is reliant on a person obtaining a written search result from the register. While it is still intended to bring in the new uncollected goods framework at the same time that the register commences operation, the bill introduces a transitional provision to enable the new framework to come into operation earlier if further delays to the commencement of the register occur.

Uncollected goods

Following feedback from stakeholders, the bill changes the thresholds for motor vehicles to reflect higher values for scrap vehicles and allows people to dispose of high-value goods such as motor vehicles by private sale where notice has been given and the person disposing of the goods has a reasonable belief that the best price can be achieved by private sale.

Sex Work Act

The bill provides for a 1 penalty unit infringement penalty for the offence of failing to produce an identification card. This penalty was inadvertently omitted from previous amending legislation.

Statute law revision

The bill repeals the Companies (Administration) Act 1981 and makes consequential amendments to a number of other acts. The Companies (Administration) Act 1981 established the position of commissioner for corporate affairs. With the recent transfer of responsibility for trustee companies to the commonwealth, the commissioner no longer has any regular functions to perform under any legislation and as such, the act is redundant. To ensure that any unforeseen issues that arise under the now repealed state-based corporations legislation can be attended to, the director of Consumer Affairs Victoria will be vested with a capacity to exercise any powers or functions of the commissioner.

Finally, the bill also makes a number of statute law revision amendments. In particular, amendments are made to various acts relating to the recent decision of the National Institute of Accountants to change its name to the Institute of Public Accountants.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA on motion of Mr Leane.

Debate adjourned until Thursday, 7 July.

**PARLIAMENTARY SALARIES AND
SUPERANNUATION AMENDMENT BILL
2011**

Introduction and first reading

Received from Assembly.

Read first time for **Hon. D. M. DAVIS (Minister for Health)** on motion of **Hon. G. K. Rich-Phillips**.

Statement of compatibility

For Hon. D. M. DAVIS (Minister for Health), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter act), I make this statement of compatibility with respect to the Parliamentary Salaries and Superannuation Amendment Bill 2011.

In my opinion, the Parliamentary Salaries and Superannuation Amendment Bill 2011, as introduced to the Legislative Council, does not engage or limit any human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Parliamentary Salaries and Superannuation Amendment Bill 2011 amends the Parliamentary Salaries and Superannuation Act 1968 to provide that members of Parliament who are suspended from Parliament for the remainder of the day under the standing orders of the relevant house of Parliament shall be fined. Where a member is suspended for the remainder of a day's sitting, he or she will be fined an amount equivalent to one day's basic salary. A suspension of multiple days would lead to a fine equivalent to the member's salary for the number of days of the suspension.

The bill will ensure that members of Parliament are appropriately penalised for a breach of the standing orders that results in the naming of a member and their suspension from the relevant house.

Human rights issues

Human rights protected by the charter act that are relevant to the bill

In my opinion, the Parliamentary Salaries and Superannuation Amendment Bill 2011 does not engage or limit any human rights protected by the charter act.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006.

The Hon. David Davis, MLC
Minister for Health
Minister for Ageing

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The government believes that, as elected officials with public responsibilities, members of Parliament should be held accountable for inappropriate conduct in Parliament.

The Parliamentary Salaries and Superannuation Amendment Bill 2011 will amend the Parliamentary Salaries and Superannuation Act 1968 to impose a fine on members of Parliament who are named and subsequently suspended from the Legislative Assembly or the Legislative Council under the standing orders of the relevant house.

Currently, no other jurisdiction in Australia adopts this practice. Therefore, Victoria will lead the way by introducing a disincentive for inappropriate conduct.

This bill draws on the practice in the United Kingdom. Since 1998, the standing orders of the United Kingdom House of Commons have provided that a suspended member of the house shall not be paid a salary for the duration of the suspension. Introducing a similar regime in Victoria will increase the accountability of members of Parliament to their respective houses, and strengthen the ability of the houses to address misbehaviour of members.

The current practice in Victoria is similar in both the Legislative Assembly and Legislative Council. Under the Legislative Assembly standing orders, the Speaker may order a member whose conduct has been disorderly to withdraw from the house for up to 1½ hours. No penalty applies apart from the member being excused from the service of the house. Members are still able to attend a division.

However, a different procedure applies for more serious cases of misbehaviour, such as a member who:

persistently and wilfully obstructs the business of the house;

uses offensive words, and refuses to withdraw or apologise; or

persistently and wilfully refuses to conform to any standing order, rule or practice of the house.

In these more serious cases, the standing orders allow the Speaker or Deputy Speaker to name a member and a motion to be moved that the member be suspended from the house for the remainder of that day's sitting or for such period as the house may think fit. A member suspended under the order must immediately withdraw from the house and must not re-enter the chamber during the period of the suspension. Suspended members are not able to attend a division.

Similar standing orders operate in the Legislative Council.

The government believes that members exhibiting inappropriate conduct that leads to their suspension deserve more significant punishment than conduct that requires them to simply withdraw. This bill therefore imposes fines for such behaviour. This will operate both as a disincentive to such conduct and a punishment in the event that it does occur.

The bill provides that a member who is suspended is to pay a fine equivalent to the basic salary of members of Parliament for the period of their suspension. Where a member is suspended for the remainder of a day's sitting, he or she will be fined one day's basic salary. A suspension of multiple days would lead to a fine equivalent to the member's salary for the number of days of the suspension.

For members of the Legislative Assembly, the fine will be paid into a fund administered by the Speaker of the Legislative Assembly. For members of the Legislative Council, the fine will be paid into a fund administered by the President of the Legislative Council.

The entire fund for each house must be distributed by the Speaker or the President on an annual basis to a charitable organisation or organisations nominated by them. The imposition of a fine will not affect the other entitlements of members, such as their allowances or superannuation.

I commend the bill to the house.

Debate adjourned on motion of Mr LENDERS (Southern Metropolitan).

Debate adjourned until Thursday, 7 July.

BUSINESS OF THE HOUSE

Adjournment

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the Council, at its rising, adjourn until a day and hour to be fixed by the President, which time of meeting shall be notified in writing to each member of the Council.

Motion agreed to.

ADJOURNMENT

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I move:

That the house do now adjourn.

Northern Victoria Irrigation Renewal Project: progress

Mr LENDERS (Southern Metropolitan) — The matter I raise this afternoon is for the attention of the Minister for Water. Often when I am travelling around regional Victoria I listen to the ABC's *Country Hour*. A couple of weeks ago I heard on the program an

interview with Murray Smith, the CEO of the Northern Victoria Irrigation Renewal Project (NVIRP). He was talking about the progress of its work. The reason I am raising this matter with the minister is that the CEO was concerned about the productivity and timeliness of the work going on and the ability of his senior staff to complete this important irrigation project, not just the work already in hand but also the important work of getting the \$1 billion for stage 2, of which the commonwealth, from recollection, is committed to providing \$900 million and the state of Victoria is committed to providing the other \$100 million for the capital works.

The reason I raise this matter for the attention of the minister is that the CEO was talking about a particular task that the minister had given to his organisation and said that it was certainly making it challenging for his staff. He said:

We'll be very keen to see the inquiry closed out ... we're all a little tired of it frankly and it's wearing on senior staff.

The CEO was referring to the Ombudsman's review of NVIRP. I am not commenting on the review; that is something before the Ombudsman. It is within his jurisdiction to deal with it, and he will appropriately report — assuming he chooses to — to the Parliament at some stage. I understand it was an election commitment because the now minister was on a witch-hunt to try to find impropriety. He was not satisfied with an Auditor-General's report on the project; he wanted another report on the project. The action I seek from the minister is for him to desist from these politically motivated inquiries and let these important Victorian institutions get on with the job of building important capital works projects and to accept that the election is behind him. He does not need to do this any more. He needs to let these bodies get on with the job and let the Ombudsman deal with new areas rather than referring him to projects for political witch-hunts.

Snowy Scientific Committee: membership

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the Minister for Water. I request that he promptly appoint the two Victorian nominees for the Snowy Scientific Committee for submission to the New South Wales Minister for Resources and Energy, Chris Hartcher. This is history repeating itself, because in an adjournment matter raised in 2007 the former member for Gippsland East in the Assembly, Mr Ingram, lamented the delays of the former Victorian government in submitting its two nominees to the Snowy Scientific Committee. This

committee is required to be established under the relevant New South Wales legislation, but the previous committee lapsed and the same process has to commence again. On my information, the New South Wales minister is waiting to learn of Victoria's nominees while the Victorian minister is waiting for the New South Wales minister to ask him for nominees.

I am aware that both the scientific and environmental positions have attracted curriculum vitae from well-qualified people who have expressed their willingness to be on the committee, and they are ready to start work once the minister is ready to nominate them. We have had the switcheroo of two governments north and south of the border, and we are getting the same old story: a general go-slow on action to secure healthy environmental flows. The concerning aspect about the process of appointment to this committee and my reason for raising this adjournment matter is that the process of amending Snowy Hydro's water licence is currently under way. It proposes to further restrict the ability of the corporation to release environmental water that will make its way down the rivers. Without a scientific committee overseeing the proposed amendments, decisions will be left to public servants and the all-powerful Snowy Hydro Corporation, with its strong influence.

All members in this chamber should agree that the disastrous state of the Murray-Darling Basin review is an example of what happens when science is drowned by politics. Without the oversight of the committee, the environment will remain at the back of the queue despite the fact that all of our economic prosperity is ultimately dependent on the health of an individual river. If the minister does not feel the current system is working, I encourage him to advocate for a new process to be put in place to return water to the Snowy River. Clearly enthusiasm for the Snowy River is very low amongst Liberal and Labor members both north and south of the border. I would like to see the minister enthusiastically embrace this project in relation to both the Snowy River and the Murray River and to embrace this matter publicly as well.

Wyndham Park Primary School: upgrade

Mr ELSBURY (Western Metropolitan) — This afternoon my adjournment matter is for the attention of the Minister for Education, Martin Dixon. It relates to the upgrade of Wyndham Park Primary School promised by the previous government. I seek from the minister a way forward on this issue.

When the Glen Devon Primary School and the Glen Orden Primary School in Werribee were merged last

year, the two school communities were promised by the previous Labor government that the new school would benefit from a significant upgrade to the tired buildings which constitute the school. With this promise clearly in mind, the respective school councils and parents of students agreed to the merger. When the children moved into the renamed school, Wyndham Park Primary School, on the Glen Orden Primary School site this year they found the school to be in a very similar state to that which it was in before the merger was proposed. Apart from a few classrooms built at great cost through the federal government's Building the Education Revolution program, which were unfinished, the rest of the school remained untouched.

The evening after students began school in 2011, the main building, including the classrooms, library, administration area, staff areas and limited indoor recreation space afforded to students, was flooded in a storm event. I was there on that night. I saw firsthand the flooding of the classrooms. On the second level of the main building I stopped walking down a hallway so a small green frog could hop across in front of me.

Labor let this school community down. It is a school in an area which has a large amount of social housing. Over 11 years Labor allowed the state of the Glen Orden Primary School buildings to degrade to a point where people visiting the school could think that they are in a condemned building. There are major cracks and holes in the walls, windows that no longer open, doors that no longer close and a playground with no discernible drainage.

I hosted the minister's tour of the school site a few weeks ago. I have to say I felt the look on his face was priceless when he saw firsthand how much Labor had let this community down. Hollow promises made by the former Labor government left those involved with the school with an unhealthy level of mistrust of the Department of Education and Early Childhood Development and the government. As I have stated, I seek from the Minister for Education a way forward to deliver an upgrade to Wyndham Park Primary School to provide the children attending the school with a stimulating and safe learning environment.

I congratulate the former school council president, Kim Owen, and her husband, Lucas Owen, on their passionate advocacy for this school. I congratulate the principal, Daniel Vella, on his leadership of the Wyndham Park Primary School community during this very disrupted time.

The need to sort through the mess left by Labor at this school is vital for the educational opportunities and

future job prospects of the children living in one of Werribee's most disadvantaged areas.

Youth Parliament: funding

Ms MIKAKOS (Northern Metropolitan) — My matter is for the Minister for Youth Affairs, Ryan Smith. Each year some 100 young people from schools and groups around Victoria get to participate in the YMCA Victorian Youth Parliament program — a program that allows young people the opportunity to take over Parliament, raise issues that are important to them and ultimately have the chance of seeing their bills formally debated in the Victorian Parliament. This program has been instrumental in providing the Victorian government with an insight into the thoughts and opinions of young people in Victoria. In fact more than 20 Victorian Youth Parliament bills have gone on to become Victorian law.

Members have been advised that the next Youth Parliament will take place between 11 and 14 July 2011. I am aware that one group of students from Whittlesea Secondary College in my electorate were unable to create a team on their own and therefore teamed up with some students in Ballarat, creating the Whittlesea-Ballarat team. The team was able to put up the deposit but struggled to raise the balance of funds that would have allowed it to attend this year's Youth Parliament. I have just been advised in the last few days that through their desperate fundraising efforts the group has now managed to reach the required level of funds, and I congratulate them on their tremendous effort in doing so.

In a pre-election media release of 17 November 2010 the then coalition opposition promised to lower the cost of Youth Parliament to allow more young people the opportunity to put their ideas forward through legislation. It promised to provide a further \$25 000 a year over the next four years to improve the accessibility of the program to young people across rural and regional Victoria. I am puzzled as to why the Whittlesea-Ballarat team — and I presume there would be other teams in the same predicament — was not extended the benefit of the additional funding of \$25 000. I would have thought that was exactly the kind of situation the funding was intended for.

As I understand it the \$25 000 additional funding will apply to three Youth Parliament sessions only. Putting aside the Baillieu government's special one-off contribution of \$50 000 for this year's 25th anniversary of Youth Parliament, the fact remains that the coalition committed to \$25 000 every year over four years, and that should include the 2011–12 financial year.

If rural and regional teams participating in this year's Youth Parliament were not able to access that funding, it begs the question as to what that money will be used for. I ask the Minister for Youth Affairs to provide a breakdown as to what this allocated funding will be spent on and to ensure that this year's \$25 000 of funding for Youth Parliament is used to improve the participation of students from rural and regional Victoria.

Strathmore Primary School: upgrade

Mr EIDEH (Western Metropolitan) — My adjournment matter is for the Minister for Education, Martin Dixon. Strathmore Primary School may be located in one of the better areas within my electorate, but the school itself is in sorry need of an upgrade in several areas.

Apart from the brick main building, which could always benefit from an upgrade, and the brilliant new facilities paid for by the federal Labor government, the school has classrooms that are an utter disgrace, with rotting walls and unsafe and unhealthy conditions for young students to learn in and for teachers to work in. This is an environment that is not in the best interests of education. The Labor government promised an upgrade, which the minister stopped.

I am now aware that Minister Dixon has agreed to reconsider his earlier decision and allow some work to proceed. I ask the Minister for Education: how much will the school be given and how long will the children need to wait for these critical improvements to occur?

Children: Take a Break program

Ms BROAD (Northern Victoria) — My adjournment matter is for the Premier, and the action I seek is that he intervene to ensure the continuation of the Take a Break occasional child-care program, including at the Murchison kindergarten.

I am going to chance my arm here and suggest that there is actually a high level of support for the Take a Break program. I have not heard government MPs criticise the program, and the fact that the Minister for Children and Early Childhood Development has declined to release the evaluation of the program suggests that the evaluation is positive and that it would be inconvenient for it to be released at this time.

As well as that, the Baillieu-Ryan government promised to cut the cost of living for Victorians at the last election. Clearly, cutting the Take a Break program will achieve the exact opposite. Indeed if members of the government put themselves in the shoes of

Victorian families, especially families on low to average household incomes, they would understand that cutting the Take a Break program will increase the cost of living for average families.

I refer to a letter I received from a kindergarten teacher at the Murchison kindergarten, in which she stated:

... I have had the pleasure of being part of a community that despite its small population of around 1000 works very hard to maintain a sense of cohesion and family support through its social and educational networks and services.

She went on to say:

... by taking away the funding of the occasional care service in Murchison, not only does this reduce the community's capacity to provide a continuum of early childhood support but it also undermines the previous work of local government and organisations who have worked very hard to achieve improved service implementation.

She went on to say:

The current state government's attitude to funding occasional care is a retrograde step towards maintaining momentum in community capacity building, particularly in regional areas which the previous state Labor government worked hard to achieve through community-building initiatives ...

She concluded by saying:

It is disappointing ... that our children's future and the ability of our families to maintain a healthy family life/work/study balance is at risk.

Today there was a rally hosted by the Association of Neighbourhood Houses and Learning Centres in support of the 220 centres that provide occasional child care, just like Murchison kindergarten. I hope the Premier understands the high level of support for the Take a Break program, even if the responsible minister was too busy to attend the rally on the front steps of Parliament House today.

Responses

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I have an adjournment matter to be sent to the Minister for Water from Mr Lenders, who asks the minister to stop intervening.

I have a request from Mr Barber for the Minister for Water to intervene.

I have a request from Mr Elsbury for the Minister for Education to intervene in the upgrade of a school.

Ms Mikakos requests the Minister for Youth Affairs to intervene on a particular matter.

Mr Eideh requests the Minister for Education intervene.

Ms Broad raises a matter for the Premier regarding the Take a Break program and asks him to intervene. Perhaps there may be a phone call to the feds as well.

I will pass those matters on.

I also have written responses to adjournment debate matters raised by Ms Broad on 4 May, Mr Eideh on 25 May, Mr Elsbury on 25 May, Ms Crozier on 26 May, Mr Ramsay and Mr Eideh on 1 June, and Mr Lenders on 16 June.

Mr Lenders — I have four outstanding adjournment matters — three with Minister Walsh and one with Minister Davis — for which the responses are way over the 30-day deadline. The response I received today is from Peter Walsh, so I still have two matters outstanding with him and one with David Davis. I seek responses to those adjournment matters, particularly from the minister in this chamber. I know he is celebrating in his office tonight, but it would be nice if he had the respect to respond to this adjournment matter. The matter simply pertains to his diary. He has been asked to respond to a request from a health service in Gippsland that he set a date for a meeting. I ask the minister to follow up with his leader, and I also ask that the Minister for Health and the Minister for Water both respond to adjournment matters.

Ms Broad — I seek your advice, President, as to whether you want to take these matters one at a time.

The PRESIDENT — Order! I prefer to have them all together.

Ms Broad — I thank the Treasurer for his response through the minister to my adjournment matter of 4 May. However, I raise an overdue response to an adjournment matter I raised on 24 May for Minister Mulder regarding the Yackandandah Creek bridge replacement and a meeting which has been sought by the Indigo Shire Council with the minister. To the best of my knowledge it has not yet had a response either, and the reason I am asking for an explanation tonight is I believe this is an urgent matter of road safety. I therefore seek an explanation as to the lack of response to my adjournment matter raised on 24 May.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I have noted the two matters addressed to Minister Walsh and one to Minister David Davis from Mr Lenders and Ms Broad's matter to Minister Mulder from 24 May. I will follow up those matters with a communication to those ministers. Since I am not able to give specific

ADJOURNMENT

Thursday, 30 June 2011

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answers, I take those matters on notice and will get back to the members concerned.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 5.15 p.m.



**Minister for Innovation, Services and Small Business
Minister for Tourism and Major Events**

Ref: D2011/24847

Mr Wayne Tunnecliffe
Clerk of the Legislative Council
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Dear Mr Tunnecliffe

LEGISLATIVE COUNCIL REQUEST FOR AGPC DOCUMENTS

I refer to the Legislative Council's resolutions of 2 March 2011 and 1 June 2011 seeking the production of:

- *"the financial arrangements/current contract between the government of Victoria and the Australian Grand Prix Corporation (AGPC) regarding the staging of the 2010 Formula One grand prix event and, if not included in the above document, the rent paid by the AGPC to Parks Victoria for the use of Albert Park Reserve for the 2010 event, any subsidies in the form of sponsorships, advertising or corporate entertainment or for other services relating to the 2010 event paid by government departments or agencies to the AGPC and any services provided to the AGPC by other government departments (for example Victoria Police) relating to the 2010 event;*
- *the economic study performed as the basis of the five-year contract extension to 2015; and*
- *the most recent cost-benefit analysis of the Australian grand prix."*

I also refer to two letters dated 21 March 2011 and 24 May 2011 respectively from the Attorney-General, and my letter to you dated 14 June 2011, regarding the above matter.

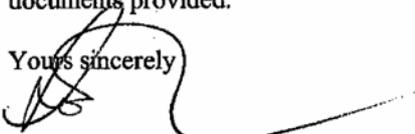
I confirm that, save for with respect to Cabinet documents, the Government has arranged for relevant departments and agencies to identify documents in relation to the Legislative Council's resolution. Following the completion of thorough and diligent searches 12 documents were located. I have enclosed copies of 10 of these documents with this letter.

I wish to draw the Legislative Council's attention to the fact that some of the documents sought contain sensitive financial and commercial information. This information along with the names of various individuals has been redacted from these documents.

Two documents have been withheld as the release of these documents in their totality would damage the State's financial and commercial interests.

I respectfully request that the Council not insist on the production of these documents or the withheld text of the documents provided.

Yours sincerely


THE HON LOUISE ASHER MP
Minister for Tourism and Major Events

Schedule

- (1) Agreement between the Australian Grand Prix Corporation and Bayside Health in respect of the Alfred and the Confederation of Australian Motor Sport Ltd in respect of the provision of medical services to the Foster's Australian Grand Prix, 2002 to 2006 (February 2002);
- (2) Transport Services Agreement between the Director of Public Transport and the Australian Grand Prix Corporation (2001);
- (4) 2009 On Track Service Agreement between the Australian Grand Prix Corporation and Ambulance Victoria (March 2009) and letter dated 11 March 2010 extending the agreement until 31 December 2010;
- (4) 2009 Off Track Service Agreement between the Australian Grand Prix Corporation and Ambulance Victoria (March 2009) and letter dated 11 March 2010 extending the agreement until 31 December 2010;
- (5) Letters from the Australian Grand Prix Corporation to Bayside Health in respect of the Alfred dated 22 December 2006 and 12 December 2007 extending and varying the agreement between the Australian Grand Prix Corporation and Bayside Health in respect of the Alfred and the Confederation of Australian Motor Sport Limited in respect of the provision of medical services to the Foster's Australian Grand Prix;
- (6) Funding Agreement between the State of Victoria and the Australian Grand Prix Corporation in relation to the funding for the staging of the Australian Formula One Grands Prix 2008 to 2010 and the Australian Motorcycle Grands Prix 2007 to 2011 (1 August 2007);
- (7) Memorandum of Understanding between General Manager, Australian Grand Prix Corporation and Superintendent, Region 5, Grand Prix Operations Commander in relation to Victoria Police Access to Australian Grand Prix Corporation CCTV (undated);
- (8) Critical On Track Incident Response Protocol for the 2010 Formula One Qantas Australian Grand Prix (March 2010);
- (9) Licence from Parks Victoria to Australian Grand Prix Corporation to use part of Albert Park to carry out kerb modification and various works — turns 2, 9, 12 and pit lane exit (22 December 2009); and
- (10) Parks Victoria Licence to Australian Grand Prix Corporation to use part of Albert Park to carry out 2010–2012 recurrent works (18 December 2009).

