PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 4 August 2015

(Extract from book 10)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

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Minister for Training and Skills	The Hon. S. R. Herbert, MLC
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Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Environment, Climate Change and Water	The Hon. L. M. Neville, MP
Minister for Police and Minister for Corrections	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Kairouz, MP

Legislative Council committees

Privileges Committee — Mr Drum, Ms Hartland, Mr Herbert, Ms Mikakos, Ms Pulford, Mr Purcell, Mr Rich-Phillips, and Ms Wooldridge.

Procedure Committee — The President, Dr Carling-Jenkins, Mr Davis, Mr Jennings, Ms Pennicuik, Ms Pulford, Ms Tierney and Ms Wooldridge.

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Dr Carling-Jenkins, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Morris, Mr Ondarchie and Ms Tierney.

Standing Committee on the Environment and Planning — Ms Bath, #Mr Bourman, Mr Dalla-Riva, Mr Davis, Ms Dunn, #Ms Hartland, Mr Leane, #Mr Purcell, #Mr Ramsay, Ms Shing, Mr Somyurek and Mr Young.

Standing Committee on Legal and Social Issues — Ms Fitzherbert, Mr Melhem, Mr Mulino, Mr O'Donohue, Ms Patten, Mrs Peulich, #Mr Rich-Phillips, Ms Springle and Ms Symes.

participating members

Joint committees

Accountability and Oversight Committee — (*Council*): Ms Bath, Mr Purcell and Ms Symes. (*Assembly*): Mr Angus, Mr Gidley, Mr Staikos and Ms Thomson.

Dispute Resolution Committee — (*Council*): Mr Bourman, Mr Dalidakis, Ms Dunn, Mr Jennings and Ms Wooldridge. (*Assembly*): Ms Allan, Mr Clark, Mr Merlino, Mr M. O'Brien, Mr Pakula, Ms Richardson and Mr Walsh

Economic, Education, Jobs and Skills Committee — (*Council*): Mr Elasmar, Mr Melhem and Mr Purcell. (*Assembly*): Mr Crisp, Mrs Fyffe, Mr Nardella and Ms Ryall.

Electoral Matters Committee — (*Council*): Ms Patten and Mr Somyurek. (*Assembly*): Ms Asher, Ms Blandthorn, Mr Dixon, Mr Northe and Ms Spence.

Environment, Natural Resources and Regional Development Committee — (*Council*): Mr Ramsay and Mr Young. (*Assembly*): Ms Halfpenny, Mr McCurdy, Mr Richardson, Mr Tilley and Ms Ward.

Family and Community Development Committee — (*Council*): Mr Finn. (*Assembly*): Ms Couzens, Mr Edbrooke, Ms Edwards, Ms Kealy, Ms McLeish, and Ms Sheed.

House Committee — (*Council*): The President (*ex officio*), Mr Eideh, Ms Hartland, Ms Lovell, Mr Mulino and Mr Young. (*Assembly*): The Speaker (*ex officio*), Mr J. Bull, Mr Crisp, Mrs Fyffe, Mr Staikos, Ms Suleyman and Mr Thompson.

Independent Broad-based Anti-corruption Commission Committee — (*Council*): Mr Ramsay and Ms Symes. (*Assembly*): Mr Hibbins, Mr D. O'Brien, Mr Richardson, Ms Thomson and Mr Wells.

Law Reform, Road and Community Safety Committee — (*Council*): Mr Eideh and Ms Patten. (*Assembly*): Mr Dixon, Mr Howard, Ms Suleyman, Mr Thompson and Mr Tilley.

Public Accounts and Estimates Committee — (*Council*): Dr Carling-Jenkins, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr D. O'Brien, Mr Pearson, Mr T. Smith and Ms Ward.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Dalla-Riva. (*Assembly*): Mr J. Bull, Ms Blandthorn, Mr Dimopoulos, Ms Kealy, Ms Kilkenny and Mr Pesutto.

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 A. Young

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Ms G. TIERNEY

Acting Presidents: Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Mr Morris, Ms Patten, Mr Ramsay

Leader of the Government:
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Deputy Leader of the Government:
The Hon. J. L. PULFORD

Leader of the Opposition:
The Hon. M. WOOLDRIDGE

Deputy Leader of the Opposition:
The Hon. G. K. RICH-PHILLIPS

Leader of The Nationals:
The Hon. D. K. DRUM

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	Patten, Ms Fiona	Northern Metropolitan	ASP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr David McLean	Southern Metropolitan	LP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Purcell, Mr James	Western Victoria	V1LJ
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Resigned 25 February 2015
[2] Appointed 15 April 2015

PARTY ABBREVIATIONS

ALP — Labor Party; ASP — Australian Sex Party;
DLP — Democratic Labour Party; Greens — Australian Greens;
LP — Liberal Party; Nats — The Nationals;
SFP — Shooters and Fishers Party; V1LJ — Vote 1 Local Jobs

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Tuesday, 4 August 2015

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.07 p.m. and read the prayer.

ROYAL ASSENT

Messages read advising royal assent on 29 June to:

Appropriation (2015–2016) Act 2015 *(Presented to the Governor by the Speaker of the Legislative Assembly)*

Appropriation (Parliament 2015–2016) Act 2015 *(Presented to the Governor by the Speaker of the Legislative Assembly)*

Court Services Victoria and Other Acts Amendment Act 2015

State Taxation Acts Amendment Act 2015.

GOVERNOR OF VICTORIA

The PRESIDENT — Order! They are the last two messages received from Governor Chernov. Members would be aware that we have a new Governor, Linda Dessau. Some of us had the opportunity of attending her installation, where she made an outstanding address. We certainly look forward to her association with the Parliament. I am sure that she will be a very fine Governor. It is notable in a historic sense that she is the first woman to be Governor of Victoria, and that is long overdue, but we have a very fine and distinguished Victorian in that role.

MINISTRY

Mr JENNINGS (Special Minister of State) — I join you, President, in acknowledging and congratulating the incumbent Governor, Linda Dessau.

I have the opportunity to afford the courtesy of advising the house that Mr Dalidakis has joined the Andrews ministry, replacing Mr Somyurek. He has been commissioned by the Governor to undertake responsibility for the small business, innovation and trade portfolios.

As an additional courtesy, I wish to advise the house of the following representing arrangements that will apply across the upper house ministries and the portfolios we deal with in this house. I will be responsible for issues relating to the Premier, the Treasurer, the Minister for Tourism and Major Events, the Minister for Sport, the Minister for Veterans, the Minister for Industrial Relations, the Minister for Environment, Climate Change and Water, the Minister for Finance and the Minister for Multicultural Affairs.

Ms Pulford will represent the portfolios of public transport, industry, energy and resources, roads and road safety, ports, equality and creative industries.

Ms Mikakos will represent the portfolios of housing, disability and ageing; mental health; ambulance services; health; women; and prevention of family violence.

Mr Herbert will represent the portfolios of education, police, corrections, Attorney-General and racing.

Mr Dalidakis will represent the portfolios of employment; planning; emergency services; consumer affairs, gaming and liquor regulation; local government; and Aboriginal affairs.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I draw the house's attention to the fact that Bill Forwood, a former member of this house, is in the gallery today. Welcome. Mr Young and I have just had a very short conversation saying it is somewhat difficult to welcome former members who are now in a vocation that might well bring them to the Parliament on a different basis. At any rate, it is a pleasure to see you, Mr Forwood.

QUESTIONS WITHOUT NOTICE

Former Minister for Small Business, Innovation and Trade

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Leader of the Government. Given the revelation that Labor's Parliamentary Secretary for Treasury and Finance, Mr Mulino, was informed of allegations of bullying in the office of the then minister, Mr Somyurek, as early as 28 February — 12 weeks prior to the formal complaint being made — can the minister advise whether Mr Mulino detailed these bullying claims to the Premier, the Treasurer, the Minister for Finance, the minister himself as the leader of the Legislative Council or anyone who was in a position of authority to act on these allegations?

Mr JENNINGS (Special Minister of State) — I thank Ms Wooldridge for her question. I believe that if Mr Mulino was aware of these circumstances in February, he did not inform any of the office-bearers that she mentioned. The basis on which Mr Mulino was made aware of this situation, as I understand, was not in any other capacity than as a friend from whom some counsel was sought and in fact he was not authorised or requested to further act on that matter, and indeed he

was not obliged to act on that matter without the authority of the person who was seeking his counsel.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — As a supplementary question to the Leader of the Government, given the serious nature of these allegations and given the subsequent outcomes as a result of the investigation of those actions, can the minister advise whether he will be advising or has advised Mr Mulino — or for that matter anyone in a position of authority — that there is some responsibility and there are actions that should be taken when reports of bullying are made?

The PRESIDENT — Order! That is fairly broad territory.

Mr JENNINGS (Special Minister of State) — It is, President, and I think Ms Wooldridge herself on reflection may recognise that she has gone way beyond the scope of any individual within the government, because in fact she is seeking from me an undertaking that I may advise anybody of those circumstances. It is literally difficult to do so.

Ms Wooldridge — If you are in the government, you are in a position of authority.

Mr JENNINGS — No, that is not what was said. The member said 'anybody'.

Honourable members interjecting.

Mr JENNINGS — I am answering the question. I have already indicated when this issue has been raised in the house previously that I, on behalf of the government, have advised anybody in our employ or anybody with authority within the government to be particularly mindful of allegations under statute, under WorkSafe regulations or under any other relevant law, regulation or standard of public behaviour to report and to act in accordance with those reports when they occur.

Former Minister for Small Business, Innovation and Trade

Mr O'DONOHUE (Eastern Victoria) — My question is also to the Leader of the Government in relation to the cost of the investigation into the complaint against the former Minister for Small Business, Innovation and Trade, which has now concluded. I ask the minister: what is the final cost of legal representation funded by the government in relation to the investigation?

Mr JENNINGS (Special Minister of State) — I have not been advised by the Department of Premier and Cabinet what that cost may be. I do not know what all the accumulated costs were, whether they be legal costs of representing those parties who provided information to the inquiry or the nature of the engagement of Mr Strong and Mr Allen, who undertook those inquiries, in terms of the contractual basis or the cost structure. To my knowledge that advice has not been provided in a consolidated way to the Premier, and it has certainly not been provided to me, so at this point in time I am not able to provide a specific answer to the member.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I note the minister's answer in relation to the legal costs that he has not yet been availed of those costs, notwithstanding the answer he gave in the house on 11 June in relation to a question from the Leader of the Opposition. By way of supplementary question I ask the minister if he could advise the house of the final cost of the Strong and Allen investigations into the complaints, including any payments to the people who undertook the inquiry and investigations and assisted in the preparation of the reports.

Mr JENNINGS (Special Minister of State) — As you would note, President, there is nothing wrong with the supplementary except that it did not take any notice of what I said in my substantive answer. I was not aware of either those itemised issues or the cumulative costs. I am happy to take advice and provide the house with that advice accordingly.

Former Minister for Small Business, Innovation and Trade

Ms CROZIER (Southern Metropolitan) — My question is also to the Leader of the Government, who on 11 June 2015 stated to the house:

> … if there is an adverse finding against him —

being former Minister Somyurek —

> in relation to his ministerial position going forward … that in fact he would repay the amount of the ministerial salary component back to the date of 23 May. That is the action that Mr Somyurek himself has volunteered.

Can the minister inform the house if Mr Somyurek has repaid the $6700 ministerial salary and allowance component, as the minister indicated in June Mr Somyurek would?

Mr JENNINGS (Special Minister of State) — I at all times stand by the answers that I have given the house. Mr Somyurek has just personally given me some supplementary information which would indicate that he has not been in the circumstance of receiving his salary from 10 June.

Ms Wooldridge — That wasn't the question.

Mr JENNINGS — He provided me with that supplementary information instantly when the member was asking her question. In terms of his undertaking, which I repeated in the chamber, he will stand by his undertaking. I have great confidence that Mr Somyurek will stand by undertakings that he has made. I inform the house that his salary and his circumstances are fundamentally a private matter. Mr Somyurek has made undertakings in a public — —

Honourable members interjecting.

Mr JENNINGS — They are a private matter in relation to salary. I would not ask members opposite about their salaries. I would not ask them about what they are doing in relation to any repayments that they are obliged to make. Mr Somyurek has volunteered the undertaking; I have mentioned it in the house. Nobody has resiled from that undertaking up until now, and I do not think there should be any belligerence in relation to pursuing this matter because there is no substance beyond the issue that has already been clarified. It is Mr Somyurek's intention to comply with what has been expressed in the house previously.

Supplementary question

Ms CROZIER (Southern Metropolitan) — I thank the minister for that answer, and I thank Mr Somyurek for providing that additional information to the minister. My supplementary question to the minister is: as was the case under the former government and Speaker Fyffe when salary was forgone, will the Andrews Labor government donate this repayment to a relevant charity, such as the Bully Zero Australia Foundation or White Ribbon?

The PRESIDENT — Order! I have some concerns about how apposite this supplementary question is to the substantive question in respect of the forms of this house. I am aware that in raising this question the member has pointed to a precedent in another place, and on that basis I will allow the question to be put and the minister to respond. But, as I say, if this question had not been drawn with reference to the practice in the other place — which we do not always take notice of anyway, I might indicate — then I certainly would not have ruled in favour of it proceeding, because I think it is outside the substantive question.

Ms Shing — On a point of order, President, I refer to the precedent that has been set out in relation to the other place. I note that that instance was related to the forgoing of moneys.

Ms Crozier — Salary forgoing.

Ms Shing — Yes, which in my view does not apply in this instance, which relates to the repayment of moneys. I seek a view from the Chair in relation to that distinction.

The PRESIDENT — Order! I have some difficulty with this because I have no recollection of the matter Ms Crozier has referred to. I am not really in a position to determine, in line with my conscience and to the satisfaction of the house, whether or not there is a difference in the circumstances — although I think Ms Shing is probably right that these are different situations, particularly given that the President and the Speaker of the Parliament do not have responsibility or control in respect of ministerial salaries. That is not a matter that is under our responsibility.

It is interesting in terms of the substantive question that remarks have been made as to undertakings by Mr Somyurek. To my recollection Mr Somyurek did not make such undertakings in this place. He may well have made undertakings elsewhere that there would be a repayment of salary back to the date in May, but there were no undertakings by Mr Somyurek in this place to my recollection. There was a comment made by the Leader of the Government to that effect, and at the time he made that comment I thought, 'That is going well past what I understood was Mr Somyurek's concession'. In my estimation the ball has moved as to where we are at, but the indication in the answer to the substantive question was that Mr Somyurek will honour that undertaking given by the Leader of the Government. That may well be consistent with discussions he has had before. Mr Somyurek may clarify that if he likes.

Mr Somyurek — If I could just clarify, I indeed emailed the Secretary of the Department of Premier and Cabinet (DPC) and put to him that I would, if I had adverse findings against me, repay the money. I did that formally with the secretary of DPC. I will just leave it there at the moment, but I did — —

The PRESIDENT — Order! Yes, because we need to be narrow in this. I will invite the minister to respond, but in doing so I indicate to him that I have made the distinction in terms of the circumstances and

that the Parliament and certainly the President and the Speaker have no role in the determination of ministerial salaries. Whether or not he would rely on that in his answer or on some other matters is for the minister to determine. On this occasion I will allow the supplementary question and the minister's response.

Mr JENNINGS (Special Minister of State) — In terms of whether the government has formed a view about the way in which it wants to either politically or administratively deal with this matter, there has not been a determination of government. In relation to whether such a decision was made to volunteer that payment to any organisation, can I volunteer to the house that I would be more mindful and respectful of Mr Somyurek's view than anybody else's.

Public holidays

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. In the Strong report the former minister, Mr Somyurek, explained that the public holiday debate was a difficult one for his office to manage for a number of reasons. The report refers to:

> … the fact that advocating for additional public holidays was not consistent with his small business portfolio.

Has the minister received any advice that indicates that Mr Somyurek's view that Labor's policy on public holidays is inconsistent with small business is wrong?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Rich-Phillips for his question. Let me state from the outset that as a minister of the Andrews government I am absolutely committed to every election promise that we made prior to 29 November. In keeping with that promise the Premier, as the then opposition leader, made it very clear to the Victorian public prior to that election that this government, if elected, would implement two public holidays: it would reintroduce the holiday on Easter Sunday and introduce a public holiday on grand final eve Friday. I am committed to doing that. It is a commitment this government made, it is a commitment that was well known by the public and the electorate at large and it is something I look forward to ensuring that we commit to — —

Honourable members interjecting.

Mr DALIDAKIS — It is a commitment that was well known by the people, and it is one that I look forward to implementing as the minister.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his answer, and I ask: does that commitment the minister has spoken about to implement these policies stand notwithstanding the massive opposition from small business in Victoria to those policies and the massive detriment that will be incurred by small business as a consequence of those policies?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for his supplementary question. The point remains that the introduction of the public holidays does not force a small business to open. We live with a great liberal tradition, which those opposite have apparently forgotten, of the idea of free will. This government is not about imposing trading restrictions on the men and women who operate small businesses across this state. As a result, if they choose to do their own analysis and they believe the costs outweigh the benefits, they will not open. If they believe the benefits outweigh the costs, they will open. Ultimately nobody knows a small business better than the people who run and operate it themselves, and they will be the ones who decide what they choose to do, and we will support them in whatever choice they make.

Minister for Small Business, Innovation and Trade

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. I refer the minister to the Premier's statement upon his appointment as minister:

> … Philip Dalidakis will play a pivotal role in attracting business and investment to our state.

I ask the minister how this reconciles with his previously published comments that:

> … it is time for Victoria to look at working together, hand in hand with our sister states and territories …

and

> For too long, we have indulged in 'border warfare' as states within our region have attempted to and succeeded in stealing business and cultural events away from each other in a 'zero-sum or lose-lose' game.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I am not sure that dealing with other jurisdictions in Australia and making sure that Victoria gets ahead are mutually exclusive. If Victoria is prosperous, if Victoria wins and if Victoria is economically strong, then we will continue to drive

the rest of the country, as we did under the Bracks and Brumby governments.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — I really enjoy early overconfidence. We have had examples of that before.

Given that the former minister, Mr Somyurek, did not have the plans and did not have the policies, that there was undue influence from external union chiefs, that there were significant budget cuts in his portfolio responsibilities and that the number of Victorian full-time jobs went backwards under his watch, how will the Premier's appointment of Mr Dalidakis as small business minister change anything for Victorian small businesses?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The first thing I will do is ask Mr Ondarchie for his advice, because clearly he has a lot to offer!

Mr Ondarchie — On a point of order, President, in relation to relevance, I note that the minister acknowledges that the coalition has policies for small business while the government does not.

The PRESIDENT — Order! Sometimes when you go away for a little while you forget things. It would be wise for members to remember my views about vexatious points of order.

Native forests

Ms DUNN (Eastern Metropolitan) — My question is for the Minister for Agriculture. Federal Labor's recent agreement to change its position on the inclusion of native forest burning in the renewable energy target scheme reminds me of something. Just like with the 'turning back the boats' policy, Labor has turned over on including native forest burning in the scheme. This represents a dramatic boost in the federal government's support for native forest logging. Will the minister confirm whether the government has approved the burning of woodchips or other logging outputs from Victorian native forests at the Hazelwood power station or any other Victorian power stations?

Ms PULFORD (Minister for Agriculture) — I thank the member for her question and state, as I have on a number of occasions previously, that the government supports a strong and viable timber industry for Victoria. This is an industry that generates more than $1.5 billion of expenditure and supports the employment of over 21 000 Victorians. It is an industry that is heavily regulated, and as I have said in this place before, the government's expectation and my expectation is that our management of forest resources is done in a way that is consistent with the highest possible standards and the best possible practices.

In relation to the member's specific question, I have not made any approvals to that effect.

Supplementary question

Ms DUNN (Eastern Metropolitan) — I thank the minister for her response. Will the minister rule out Victorian native forests being used for power generation at Hazelwood or other Victorian power stations into the future?

Ms PULFORD (Minister for Agriculture) — The government has no plans to change the current arrangements.

Emissions Reduction Fund

Ms DUNN (Eastern Metropolitan) — My question is for the Minister for Agriculture. The federal Emissions Reduction Fund legislation commenced operation in December last year. This is the federal Minister for the Environment's scheme to incentivise carbon storage, as opposed to taxing carbon emissions. The federal environment minister issued a determination on 25 March this year which sets out how the scheme will apply to protect Australian native forests as carbon stores in Australia. This scheme creates an opportunity for VicForests and the government to claim funding estimated to be in the range of $40 million to $70 million each year. This funding could be used to see the transfer of native forest logging solely to plantations and allow our beautiful native forests to remain as permanent carbon stores, as well as boosting tourism, recreation, biodiversity and water catchment quality. Will the minister confirm the process and timing for considering whether to submit native forest preservation to the Emissions Reduction Fund?

The PRESIDENT — Order! I will call the minister. I indicate to Ms Dunn that that had the hallmarks of a set speech, whereas the idea of making remarks in support of a question is to provide context. The member did that, but it did go a little further than that.

Ms PULFORD (Minister for Agriculture) — Elements of that question are perhaps also better directed to the federal Minister for the Environment, as that is a process the federal government is running. But what I would say to the member is that the government supports a consensus approach on the question of the

management of our forestry resources. We are supporting the establishment of an industry task force to provide leadership and explore areas of common ground facing the industry and those in the community who have strong views about the management of our native timber resource.

Supplementary question

Ms DUNN (Eastern Metropolitan) — I thank the minister for her answer. Has the minister assessed the potential funding losses being incurred as a result of not imposing an immediate moratorium on native forest logging in Victoria in the context of the Emissions Reduction Fund?

Ms PULFORD (Minister for Agriculture) — That specific piece of work has not been undertaken, to the best of my knowledge.

Firearms

Mr BOURMAN (Eastern Victoria) — My question is for the Minister for Police, who I believe is still represented in this house by Mr Herbert. This one will come as no surprise. Could the minister advise how many crimes of violence have been committed with lever-action shotguns since the inception of registration of firearms in Victoria?

Mr HERBERT (Minister for Training and Skills) — I thank Mr Bourman for his question; it follows a question in the last sitting week in regard to the Adler A110 lever-action firearm. As I said last time, the classification of firearms is being looked at right now by the multijurisdictional weapons policy working group. It will report back to jurisdictions, and the commissioners of police will consider its findings later in the year.

On the actual question that Mr Bourman asked, I am advised that data on types of shotguns in terms of violent crime by type of shotgun used is not kept — I would imagine there are an awful lot of shotguns of different types and different brands — but I can give an answer on shotguns themselves. I know this is not exactly what the member wants, but I can advise that between April 2005 and March 2013 there were 665 crimes against the person involving shotguns. However, I am advised that there is no data on lever-action shotguns.

Supplementary question

Mr BOURMAN (Eastern Victoria) — I thank the minister for his non-answer to my question. I understand that is not his doing, but at the risk of making a speech, I find it highly unusual that we are conducting a review of a shotgun when no-one has any idea if it has caused any problems. Moving right along, would the minister be able to advise me how many of those lever-action shotguns were stolen from law-abiding citizens? I know he cannot give an answer.

Mr HERBERT (Minister for Training and Skills) — As I said, the data on specific crimes by type of shotgun used is not there, and I am also advised that similar data is not kept by crime statistics agencies in terms of the types of shotguns stolen. Of course, as we know, the federal government, whilst it is looking at this whole issue, has banned the importation of Adler A110 lever-action shotguns.

Stolen shotguns are an interesting issue and one that I am sure many members of The Nationals have an interest in in terms of farm crime. In fact a former member for Frankston in the Assembly, Dr Alistair Harkness, who is now an esteemed academic at Federation University, is doing some cutting-edge collaborative research into farm crime, of which one of the issues is gangs using oxyacetylene torches to steal shotguns from unattended farms.

On the member's question, though, I do not have the actual information on lever-action shotguns, but I can advise that between April 2005 and March 2015, 601 shotguns were stolen.

Foetal organ trading

Dr CARLING-JENKINS (Western Metropolitan) — My question is for the Minister for Families and Children, Ms Mikakos, representing the Minister for Health. Controversial tapes have recently been released in the United States, where Planned Parenthood has been exposed on several occasions for undertaking the practice of selling the intact organs of aborted babies for as much as US$100 per specimen to research companies. This has shocked the international community and is a serious ethical issue.

Will the government confirm whether this abhorrent practice of trading in foetal organs, particularly to research companies, is taking place in Victoria? If no trading is taking place, will the minister confirm what guidelines are set up surrounding the donation of foetal organs from babies, who have been terminated up to the time of natural labour, to research institutions in Victoria?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I can advise her that the buying and selling of human tissue,

including foetal tissue, is prohibited by the Human Tissue Act 1982. I am not aware of any buying or selling of foetal tissue, including foetal organs, in Victoria that is occurring in breach of this act. Donating foetal tissue, including organs, may be occurring in Victoria and is allowed under the Human Tissue Act 1982. A woman may donate her foetus for research purposes following her informed consent.

In respect of the issue of the guidelines, I can advise the member that the National Health and Medical Research Council's *National Statement on Ethical Conduct in Human Research* of 2007, updated in 2015, provides national guidelines in respect of this matter.

Supplementary question

Dr CARLING-JENKINS (Western Metropolitan) — I thank the minister for her answer, and I am relieved that she has been able to confirm that to her knowledge no illegal trading of foetal organs is happening in Victoria. Within the donation of foetal organs, which is being practised here in Victoria — the minister has mentioned the consent of the mother — can the minister clarify if there is permission of an overseeing ethics committee and up to what gestational age the donations are being made?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her supplementary question. It goes to some technical information that I do not have at hand, but I am happy to take that supplementary question on notice. That will be referred to the Minister for Health.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have the following answers to questions on notice: 507, 526, 557, 567, 569, 574–76, 578, 579, 594, 600, 601, 605, 611, 620–23, 626–28, 630, 631, 635, 637, 638, 642, 643, 647, 649–51, 658, 659–62, 677–80, 683–87, 691–97, 699, 702, 704–06, 710, 711, 719, 720, 722, 723, 725–32, 738, 740–47, 749, 753, 754, 759, 760–64, 767, 769, 771, 772, 774, 775, 800, 802, 806.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! I Indicate that from today's question time there are two undertakings by ministers to provide further information, and that accords with my view on answers to questions. In the first instance Mr Jennings has indicated that he is prepared to seek some advice on the costs associated with the Strong and Allen reports, which were the subject of the supplementary question, which narrowed down the costs question. I thought the supplementary question was certainly relevant to the substantive question. It narrowed it down, and the minister, having made a response to the difficulties in assembling all of the information for the substantive question, indicated that he would be prepared to seek some information in regard to the specific reports referred to in the supplementary question, so that is due in two days.

Dr Carling-Jenkins's supplementary question was in regard to technical matters raised on the administration of guidelines. Minister Mikakos has undertaken to obtain further information specific to those matters, and as that also involves a minister in another place, the response is due in two days.

Mr O'Donohue — On a point of order, President, I seek some clarity in relation to the substantive question, which was about legal costs, while the supplementary was about the total costs. I seek clarity about whether the minister will be able to provide some information about the legal costs as a subset or a component of the total costs.

The PRESIDENT — Order! The member might need to provide me with the question, then, because my understanding of the supplementary question was that it was specifically about the cost of the reports, was it not?

I ask Minister Jennings to see if he is also able to provide a response on the substantive question, which was about the cost of legal representation.

I also indicate for the courtesy of the house that Mr Somyurek advises me that he has not been paid in any form, not just in his capacity as a minister but indeed as a member of the Parliament, since 10 June. He will have his pay as a member of Parliament reinstated. Obviously that was a matter of determining the appropriate pay rate and allowances, I should imagine. Mr Somyurek has indicated to me that once payment is reinstated, consistent with the remarks made earlier in question time, he is keen to resolve the other matters that were raised in Ms Crozier's questions.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My constituency question is the Minister for Health, and it is in regard to Goulburn Valley Health's emergency department (ED). My constituents are still being forced to wait for unacceptably long periods before being treated at Goulburn Valley Health's ED. In the last fortnight one constituent had to wait 4½ hours to be seen. The current ED was built to service around 24 000 patients annually, yet it is currently servicing around 35 000 patients each year. Our health professionals are doing the best they can, but the current facilities limit their capacity to deliver the services our community needs.

In the first quarter of this year 3269 patients who presented at the ED were not treated within the expected time. This was 43 per cent of all patients, and is the highest proportion in the state. This is further proof that our hospital is starting to strain to cope with a growing demand. With the redevelopment of Goulburn Valley Health still not funded, my constituent would like to know what actions the minister will take to improve ED capacity at Goulburn Valley Health in the short term.

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My question is for the Minister for Families and Children, Ms Mikakos, representing the Minister for the Prevention of Family Violence. A recent study called *Dropping Off the Edge* examined 22 indicators of disadvantage across 667 postcodes in Australia. Those living in the most underprivileged postcodes are more likely to be experiencing long-term unemployment, be exposed to child maltreatment, experience domestic violence, have a criminal conviction or be on the disability support pension. I was disappointed to learn that the most disadvantaged postcode in Australia is within Northern Metropolitan Region: Broadmeadows, 3047. A safe Labor seat since 1962, Broadmeadows has felt the brunt of many funding blows over the years. We need to fund a better Broadmeadows. My question to the Minister for the Prevention of Family Violence is: what is the government doing to address the serious needs that are specific to Broadmeadows?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is for the Minister for Public Transport. It is in relation to a constituent, Gary Birch, who contacted my office. He was concerned because he had made contact with his local Assembly member, the member for Lara in the other place, John Eren, but has had no response from his office. The matter was in relation to overcharging on bus fares of over 80 cents per single journey on a concession fare. That mainly concerns the no. 22 bus route, single zone, where the concession rate is $1.10 but concession users are being charged $1.90, specifically by Benders Busways in Geelong. I ask the minister to immediately look into overcharging through myki, particularly in relation to those with concession entitlements who are being overcharged up to 80 cents for a single-zone bus journey.

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My constituency question is for the Minister for Roads and Road Safety. The government has stated that it will proceed with stage 1 of the western distributor project. This will enable greater traffic flow over Shepherd Bridge and thus an increased number of container trucks will use the route to access the port. Without construction of the West Gate Freeway truck off-ramps, more container trucks will be encouraged to take local streets such as Williamstown Road, Francis Street, Somerville Road and Buckley Street until the truck off-ramps are built or the western distributor is built, which could be five or six years away. My question for the minister is: will the government introduce further curfews to better manage the impact of increased truck traffic through these streets in the interim period, however long that ends up taking?

Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — My constituency question is for the attention of the Minister for Ports. I refer to a media release from the Mornington Peninsula Shire Council dated 15 July, which calls on the government to continue the important work started by the previous government in the development of studies and a business case for the port of Hastings. In her press release the mayor, Cr Bev Colomb, says:

> We need some clarity about the state's plans for the port of Hastings, a project that has significant employment and economic benefits for the south-east region of Melbourne.

The mayor goes on to say:

> Council calls on the government to commit to finalising the port of Hastings studies, building on the work that has already been undertaken.

My constituency question for the minister is: will the minister listen to the council and allow the important work that was underway to continue for the development of the port of Hastings?

Eastern Victoria Region

Mr BOURMAN (Eastern Victoria) — My question is for the Minister for Small Business, Innovation and Trade, Mr Dalidakis. While appreciating that the two newly proclaimed public holidays were an election commitment, I have had numerous complaints and questions regarding the new holidays and the effect they will have on rural and regional small businesses. My question to the minister is: will the government review the newly proclaimed public holidays and consult with rural small businesses, as well as other stakeholders, to ensure that they are not unfairly affected?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Public Transport, and I thank the minister for her answers to my previous constituency questions, none of which, I have to add, provided any useful information. I refer to the debacle occurring at Sunbury railway station on a daily basis. Commuters are increasingly in a state of total confusion as to which trains they can board or indeed when V/Line trains now leave. Some drivers have apparently been directed to leave early to avoid picking up passengers. Will the minister personally intervene to clarify the situation for those seeking to catch trains at Sunbury?

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) — My constituency matter is for the Minister for Planning. I have been approached regarding construction of a building adjacent to a constituent's property in Ringwood North. My constituent alleges that the building in question has been constructed in direct breach of the details of the relevant building permit concerning the setback from the property boundary. Despite his best efforts to obtain a timely response from the relevant authority, the Victorian Building Authority is apparently yet to respond. The address of the property in question is unit 3, 178 Wonga Road, Ringwood North. Will the minister investigate the relevant authority's response in this matter and advise on progress?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Minister for Roads and Road Safety. Prior to the election last year the then Leader of the Opposition in the Assembly, now the Premier, and the then member for Ballarat East in the Assembly, now the member for Buninyong, made a commitment to the construction of a school crossing on Colac-Ballarat Road to serve Napoleons Primary School. As a parent and former teacher, I know all about the importance of safety around schools.

My concern is around who is funding this election commitment. With the battering that local government has been given by this government over the last while, surely the government will not be seeking that councils pay for its election commitments. Already $160 million has come out of the country roads and bridges funding, councils are about to feel the wrath of draconian rate capping and we are seeing on the horizon large rises in the fire services levy. My question is: will the government be funding the crossing supervisor for the Napoleons school crossing or is the government cost shifting to the Golden Plains shire?

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — My constituency question is for the Minister for Environment, Climate Change and Water, and it is in relation to the statewide resource recovery infrastructure plan. The approved statewide resource recovery plan still nominates Kingston's green wedge as a waste hub. I quote from page 37 of the plan under 'Existing hubs of state importance':

> If the industrial zoned land in the Kingston/Clayton/Dingley precinct is to be maintained as a hub then any activities established or maintained on or close to the precinct would need to demonstrate best practice operations and be conducted in a manner that reduces and manages impacts on the community, environment and public health of the surrounding area.

Given that the last Labor Minister for Planning approved a concrete crusher in close proximity to Heatherton Christian College in the Kingston green wedge, will the minister categorically rule out Kingston's green wedge as a waste hub, support any planning scheme changes, such as Kingston's planning scheme amendment C143 which seeks to rezone special use materials recycling to a green wedge zone, and make it clear in the statewide resources recovery infrastructure plan that the Kingston section of the south-east green wedge is not a waste hub?

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Planning and Environment Amendment (Recognising Objectors) Bill 2015

Mr DAVIS (Southern Metropolitan) presented report, including appendix.

Laid on table.

Ordered that report be published.

Mr DAVIS (Southern Metropolitan) — I move:

That the Council take note of the report.

This is the first report of the Standing Committee on the Environment and Planning of this chamber in this Parliament. Its inquiry into the Planning and Environment Amendment (Recognising Objectors) Bill 2015 sets a useful precedent for further such inquiries into bills. There are transcripts of a number of significant contributions made at a formal hearing, and I thank those witnesses. A number of submissions were also made.

I also indicate that the work of the committee on this occasion was undertaken by a small subcommittee consisting of myself; Ms Hartland, deputising in effect for Ms Dunn; and Mr Ramsay. It was a good hearing that enabled the issues to be thrashed out at some length. It was worthy in the sense that it enabled members of key industry groups and local community groups to have their say. I was particularly pleased to see the evidence presented by the Department of Environment, Land, Water and Planning; the Property Council of Australia; the Urban Development Institute of Australia (Victoria); Planning Backlash — and I pay tribute to the contribution of Joanna Stanley and Ann Reid; the Victorian Farmers Federation; and the Planning Institute of Australia. I particularly note my thanks to James Larmour-Reid, the Victorian president of the planning institute.

I should also record the thanks of the committee to Anthony Walsh, the research and legislation officer of this chamber, and note the efficiency with which he ran this hearing. We were able to get through quite a lot quickly and effectively, enabling the relevant groups to have their say.

In terms of the substance of what is provided in the recognising objectors bill, I will have more to say when the bill comes to the chamber. In brief summary, the evidence presented at this hearing shows that the government has achieved the remarkable achievement of having all groups unhappy with the outcome of a bill it has brought forward.

Mr Barber interjected.

Mr DAVIS — No. The changes made to the planning system by this bill are not enjoyed by any of the parties — that is, the industry groups, the Planning Backlash group and the professionals. That is the remarkable outcome of this inquiry.

Ms HARTLAND (Western Metropolitan) — I found the hearing on this matter extremely helpful. It was interesting that a common theme came from all the submitters, which was that in fact this bill would give false hope to especially community members who believe that somehow having more and more objectors would mean that they would be taken more notice of, when in fact they clearly will still have to have planning grounds on which to make their objections.

One thing I would say about the process is that we need to take it one step further when we are dealing with legislation. Members and staff of the committees, who are extremely capable, need to start looking at amendments to bills and making recommendations that could be put forward. Members and staff could look at the model used in the Senate, where that kind of work is actually done. With those few words, I indicate that it was a worthwhile process, the staff were fantastic, as usual, and the process provides a good opportunity to look at legislation and see how we can actually make it better.

Motion agreed to.

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Children, Youth and Families Amendment (Restrictions on the Making of Protection Orders) Bill 2015

Mr O'DONOHUE (Eastern Victoria) presented report, including appendix.

Laid on table.

Ordered that report be published.

Mr O'DONOHUE (Eastern Victoria) — I move:

That the Council take note of the report.

The committee self-referenced this report on 10 June, and therefore had a relatively short reporting date to report back to the house by today. I would like to thank

in that context all those involved in the inquiry and the report, particularly the secretary of the committee, Ms Lilian Topic, and Mr Anthony Walsh, the research and legislation officer, who coordinated the hearings and the other issues to make sure the report was tabled on time.

I would also like to thank my colleagues Ms Springle, Ms Fitzherbert, Mr Melhem, Mr Mulino, Ms Patten, Mrs Peulich and Ms Symes for the way we were able to work together to produce this report. The committee received 27 submissions, and I would like to thank those who took the time to submit to the committee and also to appear at the public hearings that the committee undertook.

The issue of child protection and all the issues associated with that are very complex, and every child's individual situation is of course different and particular to that individual. The role of the state, carers, courts, parents and a range of others will all be relevant in determining what is in the best interests of a particular child. This important area has seen a range of reviews in recent years, from the Ombudsman's *Own Motion Investigation into the Department of Human Services Child Protection Program* in 2009 to the *Protecting Victoria's Vulnerable Children Inquiry*, producing the Cummins report, in 2012, and more recently to Auditor-General's reports into various aspects of how, when and why services are delivered to vulnerable children.

The implementation of a number of recommendations of the Cummins inquiry were delivered through legislation last year. The bill before us seeks to retain oversight by the Children's Court of service provision by the Secretary of the Department of Health and Human Services and make some other minor amendments. Notwithstanding the narrow nature of the bill, most submitters provided evidence and submissions based on the 2014 reforms, many of which do not commence until 2016.

From the Cummins report and many other inquiries much has been made of the notion of drift — that is, the period of time that children can be in the child protection system, with numerous placements and court hearings and without certainty, often for years. In fact the Cummins inquiry found that the average period of time before a permanent placement was made was five years. The reforms that followed that report sought to tackle this unacceptable period of time to give the thousands of Victorian children in some form of out-of-home care certainty.

I would like to quote from one of the witnesses, Ms Krysia Rozanska, from the Foster Care Association of Victoria, who said:

> I think it is important to know that it is a permanent home, that nobody can ask you to leave … that you can be naughty. You could do something really bad but your parents are not going to call social services or say, 'I can't handle him anymore' … we have got to find permanent homes.

Let me conclude where I began by thanking all those who helped to contribute to this report. It is a most challenging, difficult and complex area. I commend the report to the house.

Ms SPRINGLE (South Eastern Metropolitan) — I would like to firstly start by thanking the committee. There was an enormous amount of goodwill brought to the table on a really challenging inquiry. As the person who referred this to the committee, I would like to express my gratitude that everybody came to a really complex inquiry in a really short time frame with such goodwill and such eagerness to work together and to collaborate. I extend my thanks to Mr O'Donohue, Ms Patten, Ms Symes, Ms Fitzherbert, Mr Melhem, Mr Mulino and Mrs Peulich on this particular inquiry.

I am also very pleased to rise to talk to this report briefly, not just because it is our first inquiry and I think we have done a good job, but also because I have come to this place straight from the child and family welfare sector. It is an area I am very passionate about; it is very dear to my heart. I was pleased to see so much uptake from the sector in putting forward views on this inquiry. Essentially the reason I felt it important that those voices be heard is that there was so much feedback from the sector on this area of child protection. I congratulate the sector for standing up and putting its voice on record.

I will make a much more robust contribution in the coming days about this report and about amendments to the forthcoming bill, but I would like to say thank you to those who made submissions or gave evidence and particularly those who previously felt their voices had not been heard.

Ms SYMES (Northern Victoria) — I would also like to make a brief contribution on the report that has been tabled today, and I am pleased that I will be able to make a more fulsome contribution to debate on the bill later in the week. I join with the chair, Mr O'Donohue, and deputy chair, Ms Springle, in thanking everyone who made a submission or appeared before the public hearings of our committee. It is the first completed reference from a committee that I have

been involved in, and the committee worked collaboratively and respectfully to prepare this report.

I have got to say the title of the report — *Inquiry into the Children, Youth and Families Amendment (Restrictions on the Making of Protection Orders) Bill 2015* — is somewhat misleading. The reason for that is obvious from the terms of reference that this inquiry landed on. They provide for a consideration of other current legislation relating to the protection of vulnerable children.

Not surprisingly the vast majority of submissions and comments expressed in the public hearings related to concerns about the previous government's legislation, as well as the failure of the previous government to consult on that legislation — for example, the Law Institute of Victoria raised concerns about the lack of community consultation that resulted in the 2014 amendment act. In addition, the Victorian Council of Social Service was concerned about not being consulted at all.

The bill before the house this week had close to unanimous support from those who made a submission to the committee. Briefly, that bill is going to restore oversight of the department by the Children's Court. As the minister highlighted in his second-reading speech:

> It is clearly desirable to make timely decisions and avoid harmful 'drift' in care arrangements where children are subjected to lengthy periods of uncertainty about their future care. However, this has to be balanced by a strong emphasis on timely service provision.

The former government's legislation will be subject to review, which the minister has announced.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! The member's time has expired.

Mrs PEULICH (South Eastern Metropolitan) — I have just a couple of brief words to say. I also thank the committee. I thought the committee worked well. There was certainly goodwill, a lot of different perspectives were brought to the table and there was an understanding that these were difficult and vexed issues and that often there is no black and white. There was certainly an attempt made to find common ground.

Obviously there will be a debate of the bill when we resume debate, but suffice to say that the area of child protection is a very significant area about which the Cummins report has a lot to say. All I want to say is that the former government and former minister were involved in a number of reforms of the sector as a result of an inquiry that we, the former government, commissioned. This bill is only one small component of that. What should not be lost in the debate is the significant reform that was instigated and initiated as a result of the Cummins report, which was progressed by the former ministers and which will no doubt continue to be developed by successive governments.

Ms PATTEN (Northern Metropolitan) — I also would like to briefly speak to this report and the inquiry itself. It was my first experience at a committee process, after having heard many times over the years that the real work in Parliament is done in that committee time and that the theatre of question time et cetera is just that — theatre. I was really pleased to be a part of that process and see the very bipartisan and cooperative nature that committee was able to bring to this really important issue of child protection.

It was a very short review, but to receive 27 submissions in that short period showed the passion that is out there in the community about this issue. It certainly was raised many times that, while this bill goes some way to addressing problems that are seen in the child protection area, we need to do more. Issues around resourcing were raised. It is not necessarily that there are not enough resources, although that was raised many times; it is the way that we use our resources. In future we need to do a much stronger review, and I was pleased to hear that the minister has committed to a review in the middle of 2016. That certainly will help the very passionate and committed people in this field, who have shown such a commitment to the welfare of children and the way that we could do things better in the future and the way we should be doing things better now.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Regulations and legislative instruments review

Mr DALLA-RIVA (Eastern Metropolitan) presented 2014 report, including appendices.

Laid on table.

Ordered that report be published.

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

> That the Council take note of the report.

In doing so, as I said in the tabling of the report, I note that it is the *Annual Review 2014*. Not often would I move to take note of a report, but given that the report

is essentially covering the term of the previous government I thought I would put some comments to it. Firstly, I make a note of appreciation to the staff, as we always should in the process of committee work. Mr Nathan Bunt is the executive officer, though he was not the executive officer then. Andrew Homer was the previous executive officer, and he is still providing advice to Mr Bunt. I also make a note of appreciation to Ms Helen Mason, who is the legal adviser, regulations, and really had the dominant role in the process of developing this report; Mr Simon Dinsbergs, as the business support officer; Ms Sonya Caruana, as the office manager; and of course our human rights adviser, Professor Jeremy Gans.

The regulation review subcommittee is a subcommittee of the committee, and this subcommittee scrutinises the regulations and legislative instruments as defined in section 3 of the Subordinate Legislation Act 1994, and it also conducts inquiries in relation to regulations and legislative instruments. I am currently one of the subcommittee members, as I was in 2014. The Honourable Christine Campbell, the former member for Pascoe Vale in the Assembly; Don Nardella, the member for Melton in the Assembly; and Graham Watt, the member for Burwood in the Assembly were also members last year. The chair of the subcommittee was Michael Gidley, the member for Mount Waverley in the other place.

The review of the regulations during 2014 carried into the first five months of 2015, the reason being that the regulations obviously have a lead time. A range of issues might be attached to a regulation, including the time lines allowed for it to be considered and also the fact that a regulatory impact statement (RIS) may accompany a statutory rule. Just for the record, the entire 2014 statutory rule series comprised 212 statutory rules, and 10 of those statutory rules were accompanied by an RIS. Members may recall that during the term of the previous government a select committee looked into the regulatory impact statement process. The subcommittee of the last Parliament also considered that process, and the select committee provided quite a detailed report.

We also considered 60 legislative instruments, 4 of which were accompanied by a regulatory impact statement. The subcommittee did not make any reports to Parliament in relation to the statutory rules series, but a range of queries were raised with the relevant ministers. Indeed some of the members of that subcommittee are new ministers in the current government. One such query concerned the uniqueness of the type of oversight undertaken by the Scrutiny of Acts and Regulations Committee and the reasons why it should be an all-party committee.

On the report's table of ministerial correspondence, I was just reflecting on the Transport (Taxi-cab Industry Accreditation) Amendment Regulation, Ministerial Direction MD 141, and members may recall that this was an interesting instrument. There was also Ministerial Order 765 in relation to a Treasurer's exemption certificate. One amendment that recently became an issue when I was away somewhere else — not in Australia — concerns Corrections Amendment (Smoke-Free Prisons and Other Matters) Regulations 2014, SR 147. That amendment was obviously about having smoke-free prisons, which has now become an issue in Victoria, as it probably has become in every other place. There was also correspondence on planning and environment issues. In the remaining seconds available to me, I commend the report to the chamber.

Motion agreed to.

Alert Digest No. 8

Mr DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 8 of 2015, including appendices.

Laid on table.

Ordered to be published.

PAPERS

Laid on table by Clerk:

Gambling Regulations Act 2003 — Amendment of the Category 1 Public Lottery Licence, 3 June 2015.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3) in relation to Statutory Rule Nos. 42 and 82.

Melbourne Cricket Ground Trust — Annual Report, 2014–15.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes —

Ballarat Planning Scheme — Amendment C188.

Baw Baw Planning Scheme — Amendments C110 and C112.

Benalla Planning Scheme — Amendment C30.

Brimbank Planning Scheme — Amendment C134.

Cardinia Planning Scheme — Amendment C185.

Casey Planning Scheme — Amendments C115, C174, C203 and C214.

Colac Otway Planning Scheme — Amendment C85.

Colac Otway Planning Scheme and Greater Geelong Planning Scheme — Amendment GC27.

East Gippsland Planning Scheme — Amendment C123.

Glen Eira Planning Scheme and Stonnington Planning Schemes — Amendment No. GC30.

Greater Bendigo Planning Scheme — Amendment C130.

Greater Geelong Planning Scheme — Amendments C307, C308 and C312.

Greater Shepparton Planning Scheme — Amendment C176.

Hume Planning Scheme — Amendment C168.

Manningham Planning Scheme — Amendments C106 and C108.

Mansfield Planning Scheme — Amendment C32.

Maroondah Planning Scheme — Amendment C103.

Melbourne Planning Scheme — Amendment C263.

Mildura Planning Scheme — Amendment C90.

Moorabool Planning Scheme — Amendments C6 (Part 3) and C62.

Mornington Peninsula Planning Scheme — Amendment C188 (Part 1).

Mount Alexander Planning Scheme — Amendment C49.

Nillumbik Planning Scheme — Amendment C93.

Stonnington Planning Scheme — Amendment C186.

Surf Coast Planning Scheme — Amendment C104.

Warrnambool Planning Scheme — Amendment C90.

Wyndham Planning Scheme — Amendment C141.

Yarra Planning Scheme — Amendments C186, C187 and C193.

Yarra Ranges Planning Scheme — Amendment C129.

Public Interest Monitor — Report, 2014–15.

Statutory Rules under the following Acts of Parliament —

Building Act 1993 — No. 70.

Court Security Act 1980 — No. 89.

Domestic Animals Act 1994 — No. 64.

Electricity Safety Act 1998 — Nos. 67 and 68.

Emergency Management Act 2013 — No. 82.

Guardianship and Administration Act 1986 — No. 81.

Major Crime (Investigative Powers) Act 2004 — No. 65.

Plant Biosecurity Act 2010 — No. 80.

Port Management Act 1995 — No. 71.

Regional Development Victoria Act 2002 — No. 83.

Road Safety Act 1986 — Nos. 78, 79 and 84 to 86.

Safe Drinking Water Act 2003 — No. 88.

Sex Offenders Registration Act 2004 — No. 90.

Subordinate Legislation Act 1994 — Nos. 69 and 77.

Transport (Compliance and Miscellaneous) Act 1983 — Nos. 72 to 75.

Transport (Safety Schemes Compliance and Enforcement) Act 2014 — No. 76.

Victorian Civil and Administrative Tribunal Act 1998 — No. 66.

Wrongs Act 1958 — No. 87.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of —

Legal Profession Uniform Regulations 2015

Rail Safety National Law National Regulations (Fees) Variation Regulation 2015

Rail Safety National Law National Regulations Variation Regulations 2015

Statutory Rules Nos. 47, 55, 59, 60, 64 to 66, 68 to 91.

Legislative Instruments and related documents under section 16B in respect of —

Greater Metropolitan Cemetery Trust Scale of Fees and Charges effective as of 25 June 2015 under the Cemeteries and Crematoria Act 2003.

Southern Metropolitan Cemetery Trust Scale of Fees and Charges effective as of 2 July 2015 under the Cemeteries and Crematoria Act 2003.

Amendment to the Code of Practice for the Operation of Breeding and Rearing Businesses 2014, 30 June 2015, under the Domestic Animals Act 1994.

Order Exempting Certain Breeding Dogs from Payments of Council Registration Fee and De-Sexing Requirements, 7 July 2015, under the Domestic Animals Act 1994.

Determination of gaming machine entitlement, 20 July 2015, under the Gambling Regulation Act 2003.

Victorian Bar incorporated Legal Profession (Approved Clerks Trust Account) Rules 2015 under the Legal Profession Uniform Law Application Act 2014.

Ministerial Order of 22 June 2015 under section 66AC(1) of the Liquor Control Reform Act 1998.

Fixing of fees, notice of 30 June 2015, under the Livestock Disease Control Act 1994.

Determination of Fees: Commercial Passenger Vehicle Licences, Accreditations Applications and Annual Taxi-cab Licence fees made under the Transport (Compliance and Miscellaneous) Act 1983.

Wrongs Act 1958 — Scale of Fees and Costs for Referrals of Medical Questions to Medical Panels, 14 June 2015.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Court Services Victoria and Other Acts Amendment Act 2015 — 30 June 2015 (*Gazette No. S183, 30 June 2015*).

Education and Training Reform Amendment (Child Safe Schools) Act 2015 — Remaining Provisions (except sections 4(2), 5(1), 5(2) and 5(4)) — 1 July 2015 (*Gazette No. S183, 30 June 2015*).

Limitation of Actions Amendment (Child Abuse) Act 2015 — 1 July 2015 (*Gazette No. S183, 30 June 2015*).

Regional Development Victoria Amendment (Jobs and Infrastructure) Act 2015 — Whole Act (except section 18) — 1 July 2015 (*Gazette No. S183, 30 June 2015*).

BUSINESS OF THE HOUSE

General business

Ms WOOLDRIDGE (Eastern Metropolitan) — By leave, I move:

That precedence be given to the following general business on Wednesday, 5 August 2015:

(1) the notice of motion given this day by Mr Rich-Phillips to establish a select committee inquiry into the port of Melbourne;

(2) order of the day 5 standing in the name of Mr Barber for the resumption of debate on the Alcoa (Portland Aluminium Smelter) (Amendment) Act Amendment Bill 2015;

(3) the notice of motion given this day in my name calling for documents on the Peter MacCallum Cancer Centre and the Victorian Comprehensive Cancer Centre;

(4) the notice of motion given this day in my name relating to the bullying and capabilities inquiries involving the former Minister for Small Business, Innovation and Trade;

(5) the notice of motion given this day by Mr Rich-Phillips calling for documents from the Department of Economic Development, Jobs, Transport and Resources relating to two government contracts; and

(6) notice of motion 127 given by Mr Davis calling for documents regarding an underground railway station located in South Yarra.

Motion agreed to.

MINISTERS STATEMENTS

Learn Local

Mr HERBERT (Minister for Training and Skills) — I am delighted to advise the Council that for the first time in many years Learn Local organisations — that is, not-for-profit adult and community education providers — will see an increase in the pre-accredited training student contact hour rate. This increase will see the Andrews Labor government invest an additional $1.8 million in pre-accredited training next year across more than 300 Learn Local organisations statewide. The rate increase, which will apply from 1 January 2016, is a critical element of the strategy to support Learn Local organisations to deliver not just quality training but, more than that, quality opportunities for those they serve.

Learn Local organisations play a vital role in engaging and retaining some of the state's most disadvantaged learners. These learners often find it difficult to fit into other educational settings or to engage in other levels of our education system. Sometimes they just need a helping hand to get back into education and back onto that path to employment and success. That is what Learn Local organisations do best. The increase in the rate is long overdue. Under the former government there were no increases in the rate whatsoever in the Learn Local sector. At a time when the former government was ripping funding from TAFEs, it was also turning its back on the absolutely vital community education sector.

The announcement I am making today is an interim measure to support Learn Local organisations as we await the final recommendations of the vocational education and training funding review. That major review is being undertaken by Mr Coulson and Mr Mackenzie. It is a measure that I know will be welcomed, and not only by the adult and community education sector. I know it will be great news for those seeking to get back into education and back into jobs,

who desperately need to get out of the unemployment queue and back on the path to success.

Ministerial Advisory Council for Volunteers

Ms MIKAKOS (Minister for Families and Children) — I rise to inform the house about a significant move of the Andrews Labor government to recognise the enormous contribution of Victoria's volunteers. The Andrews government has established a new Ministerial Advisory Council for Volunteers. We have called for nominations from organisations and the community of individuals who have valuable experience to share in the area of volunteering. Representatives could come from peak organisations, could be representatives of corporations with volunteering programs or could be individual volunteers in the community. The Ministerial Advisory Council for Volunteers will advise the government on how best to support and strengthen the volunteer sector and oversee a broader program of volunteer recognition. My colleague in the other place and Parliamentary Secretary for Carers and Volunteers Gabrielle Williams, the member for Dandenong, will chair the new council, which will meet quarterly.

I am sure we would all agree that volunteers make an enormous contribution to the Victorian community and the Victorian economy. These selfless individuals are the backbone of many an organisation, and many tasks done in the community just would not be done without the active support and participation of our volunteers. The 2012 *Economic Value of Volunteering in Victoria* report showed volunteering contributions were worth about $23 billion to the Victorian economy in 2011, estimated to grow to up to $42 billion by 2021.

The value of the volunteers in our community cannot be underestimated, and I take this opportunity to thank them for the enormous support they are providing to the community right across many sectors. Whether it is in emergency services, in our health system, in community services or in our education system and schools, these volunteers are providing and delivering enormous capacity in service of the community.

MEMBERS STATEMENTS

Nursing union conference

Ms WOOLDRIDGE (Eastern Metropolitan) — I rise to set the record straight. There was a tweet by an ALP member saying that I did not accept an invitation to speak at the Australian Nursing & Midwifery Federation annual delegates conference in July. This was retweeted by the union itself. In fact I never received an invitation to speak at the annual delegates conference, and the nurses union has now acknowledged that the email address it sent the invitation to was incorrect and that it should have followed up with my office.

Pearl Lubansky

Ms WOOLDRIDGE — I rise to acknowledge the passing of Pearl Lubansky, a 40-year contributor and philanthropist in the Manningham community. Her contributions included those made through the Jewish centre; Doncare, where she was made a life member; the U3A; the arts centre; and Friends of Manningham Dogs and Cats. May she rest in peace. My thoughts are with her and her family. She was widely loved and well regarded by all.

Native forests

Ms DUNN (Eastern Metropolitan) — I rise to bring members up to date on some developments concerning native forests in Victoria. I want to commend the dedication and tenacity of the members of Environment East Gippsland Inc. Their courage and determination in taking on the government to uphold its environment protection laws is remarkable.

Around three weeks ago this group reached another out-of-court settlement with the government in relation to the alleged failure to protect the habitat of the sooty owl, the masked owl and the powerful owl. This settlement has resulted in agreed arrangements to protect around 2000 hectares of forest in East Gippsland.

Other exciting news from East Gippsland has been the discovery of a rare plant species in the pristine Kuark Forest. In announcing the discovery of the bristly shield fern, citizen scientists of the Goongerah Environment Centre noted that the plant had previously only been identified more than 250 kilometres away. This is the same group that has discovered over 90 rainforest species in the Kuark Forest.

On the federal front, details of how the Emissions Reduction Fund is being offered to state governments to preserve native forests have come to public attention. With $13.95 per tonne for carbon dioxide abatement, the Emissions Reduction Fund will provide the Victorian government with a significant financial incentive to stop native forest logging. This has been estimated to be in the range of $40 million to $70 million per year, based on the calculations of carbon stored. I commend these developments to the house and call on the government to take full advantage

of the Emissions Reduction Fund to protect native forests and complete the transition of our wood requirements to commercial plantations.

Governor of Victoria

Mr ELASMAR (Northern Metropolitan) — On Wednesday, 1 July, it was my singular pleasure to witness, along with many of my parliamentary colleagues and invited dignitaries, the inauguration of the Honourable Linda Dessau as the state's new vice-regal Governor of Victoria. Ms Dessau is well known throughout Australia for her tireless efforts to enhance the lives of ordinary Australians. She is a credit to her family and to all Australians. I wish her every happiness and success in her new endeavour.

Hume citizenship ceremony

Mr ELASMAR — On the evening of Tuesday, 7 July, I attended the Hume City Council's citizenship ceremony held at the council's Craigieburn premises. There were more than 250 people present on the night, 126 of whom were taking their oaths and affirmations of allegiance to their adopted new country. I was honoured to address them and then give each person a native plant to take back with them as a memento of this memorable occasion. I saw excitement and joy in their faces, and it reminded me of my own naturalisation ceremony, at which I was full of hope and enthusiasm for the future.

Renew Shepparton

Ms LOVELL (Northern Victoria) — I rise to express my support for the Renew Shepparton initiative. Renew Shepparton is opening up vacant shops in the Shepparton CBD to trial small businesses rent free, to boost foot traffic and to reinvigorate the local economy. So far we have seen five new shops open in less than two months — an excellent outcome that is making our CBD a more exciting place.

I am very proud to be able to personally support this initiative by making available my own commercial landholding to a promising local business, Vintage Chic Boutique, run by a mother-and-daughter team who design and handcraft a wide range of fashion accessories, including fascinators and handbags.

Early childhood facilities

Ms LOVELL — As Minister for Children and Early Childhood Development in the former state government I had the pleasure of providing a $650 000 grant for a new early learning centre in Gisborne. During the winter break I had the honour of turning the first sod at the site of the new facility, and it was fantastic to see construction underway.

I recently visited the Nathalia and District Preschool Centre to see its new kitchen, bathroom and office facilities, which were made possible through a $101 000 grant that I was able to provide during my term as minister. It was wonderful to see the renovations completed.

Numurkah District Health Service

Ms LOVELL — It was fantastic to celebrate the opening of the primary care facility in Numurkah with the federal Minister for Health, Sussan Ley; the federal member for Murray, Sharman Stone; Numurkah hospital board representatives and the CEO, Jacque Phillips; and the Numurkah community. Together with the new $18.3 million Numurkah hospital, which was funded by the former Liberal state government, this federally funded primary health facility completes the new state-of-the-art Numurkah District Health Service precinct. Congratulations to the board and especially Jacque Phillips on having achieved a wonderful outcome for the Numurkah community.

DonateLife Week

Ms HARTLAND (Western Metropolitan) — This week is DonateLife Week. It is a reminder that we all need to think about what we want to happen to our organs upon our deaths. What is the point of taking your heart, your eyes or your liver with you to heaven or wherever you are going to go, when someone on earth could use them? I have the privilege of being on a parliamentary committee that is looking at many of the issues around end-of-life choices, including organ donation. I have been struck by the amazing choices families have made to give life to a person in someone else's family.

An issue that has been raised during the inquiry, which I think has real merit — and I hope the government will look at it — is that some parents want death certificates to indicate that their child had actually been an organ donor. It was not the reason why they died, but it was part of it. It is really worthwhile to consider organ donation. People should think about what they want to do at the end of their life. They should update all of their information and make sure that they talk to their family about their wishes.

Ballarat rail services

Mr MORRIS (Western Victoria) — The rollout of the new regional rail link timetable in Ballarat has been an absolute disaster, and what has the member for Buninyong in the other place done? Mr Howard has blamed the previous government for it, despite the fact that the Ballarat service was running perfectly well up until the new timetable came into operation on 22 June this year. Ballarat rail commuters are standing all the way to Melbourne in the morning and all the way home in the afternoon.

The Minister for Public Transport took six weeks to come to Ballarat, and when she did finally wake up and visit Ballarat, what did she say about this pressing issue affecting Ballarat commuters? She said, as reported in the Ballarat *Courier*:

> I'd prefer to wait until we see what comes through the regional public transport development plan.

She would prefer to wait! The commuters of Ballarat would rather have a seat on the train, get to work on time and maybe get home in time to see their children before they are tucked up into bed at night. On WIN News the minister said that no carriages have been taken from the Ballarat services, which is rather difficult to believe when trains that did have five carriages now have three. Trains are now taking longer to get to Melbourne, despite a dedicated regional line. Only Labor could make such a mess of our regional trains.

The member for Buninyong should apologise for the new timetable rolled out over six weeks ago, which has seen overcrowded and consistently late train services, both to and from Ballarat. The member is making Ballarat commuters stand for over 3 hours on top of a full working day, and for this he owes the commuters of Ballarat an apology. Shame, Mr Howard! Rather than complaining and pointing the finger, the member for Buninyong should set about fixing this mess his government has created.

Telstra business awards

Mr MULINO (Eastern Victoria) — I rise to make a members statement to acknowledge the winners of the 2015 Telstra Victorian business awards. I was fortunate to be able to attend the presentation of these awards. The business of the year award went to Furst Electrical Services, a fast-growing business helping Victorian manufacturers become more competitive through automation and innovation. The business was established in 2012, and it already employs 11 staff. It has a number of key contracts across a range of sectors, including having won a $1.6 million project to install an electrical control system for the crop protection product manufacturing plant of chemical giant Accensi, which is located in Geelong.

I would also like to acknowledge winners of some of the subcategory awards. In addition to winning the overall award, Furst Electrical Services also won the start-up award. The micro business award went to Elite Executive Services Pty Ltd, which is located in Cheltenham. The small business award went to Cargo Crew in Brunswick East; the medium business award went to Setec in Knoxfield; the regional business award went to Skin Smart Australia in Somerville; and, to reiterate, the overall winner was Furst Electrical Services. I wish Furst all the best in trying to win the national business award. Congratulations to the recipients of all of these awards.

Lang Lang Aged Care Support Group

Mr O'DONOHUE (Eastern Victoria) — I rise to congratulate the Lang Lang community, particularly Rudy de Jong, Glen McGregor, Jan Kruizinga, Brian McIntosh, Sue Carson and the other members of the Lang Lang Aged Care Support Group. The organisation recently signed a long-term lease for land at 1 Salisbury Street, Lang Lang, which was previously owned by VicTrack, to build an aged-care facility. The Lang Lang Aged Care Support Group consists of many dedicated community-minded people who have worked together with members of Parliament and government departments for many years to see this lease eventuate.

This is a fantastic result for the committee, but more importantly it is a fantastic result for the Lang Lang and broader communities. I understand that planning is well underway, and building should commence in the near future. Members of the Lang Lang community should be proud of the commitment and hard work undertaken by the Lang Lang Aged Care Support Group. It is an absolutely fantastic group of individuals; they are a true reflection of the wonderful community that is Lang Lang.

Above and Beyond exhibition

Mr O'DONOHUE — On a separate matter, it was a privilege to attend the launch of Above and Beyond — an exhibition to honour the service and sacrifice of Victoria Police during World War I. At the time 138 Victoria Police members enlisted, and of those 27 lost their lives. I encourage all members of the house and indeed of the community to visit the Victoria Police Museum at the World Trade Centre and see for themselves this amazing exhibition.

Northern Victoria Region health services

Ms SYMES (Northern Victoria) — Last week it was my great pleasure to join my fellow member for Northern Victoria Region, Mr Herbert, who is also the Minister for Training and Skills, and the Minister for Health to announce the government's major funding package for our hardworking health services in the north of the state. This coming financial year the Andrews Labor government will spend a total of $15.85 billion across the entire Victorian health system. Those funds will be spent on hospitals, ambulance services, mental health and drug services, aged care, community health and public health services. This is an increase of 6 per cent on the previous year. This additional funding will assist health services to meet the increasing demands of a growing and ageing population, an issue that is of increasing concern in rural and regional Victoria.

My most recent personal experience is that my grandmother has moved into an aged-care facility after a lengthy stay in Benalla hospital, so I know firsthand the stress and anguish this process places on families. To have certainty of funding in this space is an absolute must for many Victorians. The doctors, nurses and staff in each of the northern Victorian services do a fantastic job, and I can attest to this from my recent experiences.

I am proud to be part of a government that is investing in our health system. The budget allocations for Northern Victoria Region include $212 million for the Albury-Wodonga hospital, $13.4 million for Seymour hospital and $20.8 million for Benalla hospital. All of this is a welcome increase on — —

The ACTING PRESIDENT (**Mr Elasmar**) — Order! The member's time has expired.

Climate change

Mr FINN (Western Metropolitan) — In the midst of the coldest winter Melbourne has experienced for two decades, and often torrential rain that Tim 'Sandbags' Flannery told us would never fall again, I noticed a number of ministers in the Andrews government lining up to pay homage at the feet of shyster-in-chief, Al Gore, on his recent visit to Melbourne. How pathetic!

Gore has made tens of millions of dollars out of the global warming climate change scam, so he would have made it his business to ignore the plummeting temperatures in Australia and overseas, the number of scientists on ships stuck in ice at the polar caps and the fact that there has been no global warming for almost 20 years. Mr Gore would undoubtedly call this a 'pause'.

The global warming myth has already cost Australians many thousands of millions of dollars. Bureaucracies and assorted programs to fight something that does not actually exist have hit the national budget hard. Here in Victoria we have one of the world's greatest white elephants sitting down at Wonthaggi — a memorial to Labor's gullibility. The desalination plan will cost Victorians almost $2 million a day for years to come. The time has come — long gone in fact — for governments of Australia to officially declare global warming a sham and shun prize shysters such as Al Gore and Sandbags Flannery. It is time to grasp reality with both hands. To do otherwise is to fail those who put their faith in them.

Western Women's and Children's Hospital

Mr EIDEH (Western Metropolitan) — Constituents in my electorate will soon have access to some of the best health facilities in the new, state-of-the-art Western Women's and Children's Hospital in Sunshine. I was pleased to hear the announcement last week by the Premier that the Andrews Labor government has commenced its search for a major construction company to begin building the new hospital.

I am happy to say that this new hospital was an election commitment made last year which is now being delivered to those in the western suburbs. It is a need that my constituents have been highlighting. This hospital will have 20 maternity delivery rooms, 237 hospital beds, 39 special care nursery cots and 4 theatres. This specialist facility will also have the benefit of freeing up beds at Sunshine Hospital to treat more patients. It will allow for 7000 more operations each year and free up space for services such as cancer treatment, subacute care and rehabilitation.

Sunshine Hospital currently has the third highest number of births in Victoria and has been under strain. This birthrate is evidence of the need for this important facility in one of Australia's fastest growth areas. The health of every Victorian is a priority. It is also important that mothers and babies have access to the highest level of care close to home, close to their families and in one central, specialised location.

Route 8 tram

Mr DAVIS (Southern Metropolitan) — My members statement today concerns the no. 8 tram, which has run down Toorak Road since 1927. It then runs up to the city, towards Melbourne University and

beyond. The Stonnington community in the Prahran lower house electorate is very unhappy with the Andrews government's decision to axe this tram route. Make no mistake: this tram being taken away is a vindictive act.

I compliment those who are part of the ongoing campaign to save the no. 8 tram. Thousands of petitions have been signed, and many will be tabled in this Parliament in the forthcoming period. I congratulate Stonnington City Council, and Cr Matthew Koce in particular, for their step in passing a motion at the Stonnington council meeting last night. I congratulate the group of traders who are fighting to save the no. 8 tram. I congratulate those at the Royal Botanic Gardens and at major institutions in the Prahran electorate who are also fighting to save the no. 8 tram. I congratulate Susie Norton on the views she put so forcefully in an interview with me, which is available on YouTube for those who wish to see it.

This is a campaign to save a local tram route which has been running since 1927. Daniel Andrews said he would add to public transport. Instead he is trying to substitute public transport and take it away. It is a disgrace.

Racial and religious tolerance

Mrs PEULICH (South Eastern Metropolitan) — The commitment of the Liberal-Nationals coalition and the Victorian Parliament to freedom, equality, diversity, respect and understanding has been pivotal to the success of our multicultural policies, which have shaped Australia as a modern nation and are supported by all major political parties. They have the overwhelming support of the Victorian and Australian communities and are widely respected by countries around the world.

There is strong agreement that there is no room for racism anywhere, and I am proud to say that the overwhelming number of Australians stand by this. Recently, however, we witnessed a protest in front of our seat of democracy, the Victorian Parliament, involving confrontations between small numbers of left-wing and right-wing extremists. This is not consistent with the basic values of our democracy, freedom of religion and our defence of free speech being exercised responsibly and within the parameters of the law.

My personal view is that holding protests against Islam during a religious period for the Muslim community such as Eid is akin to protesting against Christianity during Easter or Christmas. Furthermore, the booing of Adam Goodes and the issues surrounding an important national debate have the potential to unleash sentiments which we as a nation need to resolve both positively and constructively. Restraint and respect are critical to moving forward from difficult personal and public displays which can fuel division.

Racism and ethnic rivalry are not our way. I say this as a proud Australian born in the Balkans. Together I think we can all agree that in this country there is no room for racism.

Latrobe Valley Enterprises

Ms BATH (Eastern Victoria) — Since its inception in the late 1960s as a not-for-profit sheltered workshop, Latrobe Valley Enterprises (LVE) has evolved into a network of commercially viable businesses that provides employment opportunities for people disadvantaged by disability. Recently I had the pleasure of touring LVE with its chief executive officer, Guy Webb, and meeting some of the team members, including Mario, who are committed to ensuring great products and services are delivered. Guy outlined how LVE removes barriers to employment by empowering people to develop real work skills that enable them to be productive and to contribute to the economic and social vitality of their community. The enterprise believes in the power of work and how it continues to transform lives every single day.

I marvelled at the sight of the enterprise's high-tech laser and 3D printers in action and was happy to receive a desk bar identifying me as the 'Nationals Whip in the Legislative Council'. The grounds maintenance supervisor, Leon Robinson, demonstrated the capabilities of the new $150 000 Batta mower, which is able to mow on incredibly steep slopes with ease, and I witnessed firsthand the problem-solving abilities of the wastepaper recycling team.

I thank Guy Webb and the team at Latrobe Valley Enterprises, and I commend their ethos, their humanity and their commitment to producing great products and services.

VICTORIA POLICE AMENDMENT (VALIDATION) BILL 2015

Second reading

Debate resumed from 11 June; motion of Ms PULFORD (Minister for Agriculture).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to rise to speak on behalf of the opposition in relation to the Victoria Police Amendment (Validation) Bill 2015. This is a relatively straightforward bill which contains just four clauses. It flows from the Victoria Police Act 2013 that was introduced by the previous government, and I take this opportunity to pay credit to the former Minister for Police and Emergency Services, the member for Rowville in the Legislative Assembly, Mr Wells, and his predecessor, former Deputy Premier Peter Ryan, because as I understand it the Victoria Police Act was in development for about 10 years, and it took Minister Ryan and then Minister Wells to bring it to fruition. It was a significant advance and improvement in the way the legislative framework for Victoria Police was outlined. I make that point at the start.

As I said, this is a relatively straightforward bill. Following the introduction of the Victoria Police Act 2013 some authorisations were made without appropriate validation, and the purpose of this bill is to retrospectively validate prior authorisations for the operation of breath testing equipment and the performance of driver drug testing procedures by police members. These were found under audit to have been erroneously made by a deputy commissioner of police instead of the Chief Commissioner of Police.

I thank the advisers who provided the briefing to the opposition and gave more detail about that audit. The audit was undertaken in a routine manner to ensure that things were being done in accordance with the new legislative framework and found that they were not. By way of explanation, under the previous legislation deputy commissioners had the power to issue authorisations, but under the new act the chief commissioner is required to issue those authorisations. That did not occur with the commencement of the new act on 1 July 2014 until the error was discovered in March this year.

Of course the Parliament must always be very cautious in passing retrospective legislation, but in that context I note the report of the Scrutiny of Acts and Regulations Committee on page 7 of *Alert Digest* No. 6 which says:

> The committee —

the Scrutiny of Acts and Regulations Committee —

> accepts that the retrospective validation of purported actions taken under defective delegations made by deputy commissioners is administrative in nature and does not appear to disturb substantive rights or the admissibility of evidence. The validation appears justifiable in the circumstances.

As I said, that proposition was supported by advice the opposition received in its briefing on the bill.

I note that if these retrospective amendments were not made, 660 invalid authorisations made to police officers under relevant legislation resulting in approximately 1400 drug and alcohol tests undertaken, of which over 1100 were positive tests leading to driver charges and enforcement processes, would be deemed invalid. Serious consequences would flow if the Parliament did not pass this retrospective validating legislation.

For that reason the opposition will be supporting the bill that is before the house. It is a relatively straightforward piece of legislation. It has four clauses seeking to validate tests that were done without the appropriate authority following the introduction of the Victoria Police Act, which came into effect on 1 July 2014.

Let me conclude my remarks by saying that in regard to police we have seen precious little from the new government. The Victoria Police Academy is operating at significantly reduced strength. The government has made no commitment for additional police numbers, save for a handful of additional police for Geelong and the Bellarine Peninsula area. The government is not providing Victoria Police with the resources or the police members that it needs to respond to the challenges of population growth and the changed operating environment in which Victoria Police officers find themselves, having to deal with the threats from terrorism and the like and the scourges of ice and family violence.

It is time for the minister and the government to set out a clear agenda when it comes to improving community safety by providing Victoria Police with the resources it needs to respond to the multiple challenges that confront it as an organisation, as well as those that confront us as a community. I note that the minister, when asked about resourcing, often refers to the

custody officers that the government promised when in opposition. Yet here we are, more than eight months into the term of the government, and the legislation for the custody officers has not yet been brought before Parliament. As I understand it the training and recruitment of custody officers is yet to commence, and it is anyone's guess as to when we will see the first custody officers deployed to police stations to relieve police and enable them to move back to the front line.

There is precious little in the form of an agenda from the government in relation to police resourcing within Victoria Police. What the government has promised and committed to seems to be a long way off on the horizon. With those words, the opposition supports the bill. It is relatively straightforward, and the consequences of not passing it may be significant, so we support it.

Ms PENNICUIK (Southern Metropolitan) — The Greens support the Victoria Police Amendment (Validation) Bill 2015. The bill falls into a small category of bills that we have seen before Parliament in previous sitting periods, which seek to address administrative errors or a lack of correct authorisations in the implementation of new acts of Parliament. When those administrative errors or defects are discovered, it is necessary to introduce retrospective legislation to correct those errors as far back in the past as they go. Some bills in the past have had errors or defects that go quite a way back into the past, but this particular bill will address errors that occurred following the commencement of the Victoria Police Act 2013 on 1 July 2014.

The errors relate to certain authorisations that were therefore made unlawfully to police officers by deputy commissioners of police to authorise those officers to conduct drug and alcohol testing and to carry out oral fluid sample procedures. The authorisations made between July 2014 and March 2015 were unlawful because the required instrument of delegation by the chief commissioner to allow the deputy commissioners to exercise these powers had not been made. As Mr O'Donohue said, in the previous police regulation act there was the ability for deputy commissioners to make those delegations, but under the Victoria Police Act 2013 that needs to be done by the chief police commissioner.

We are told that this has resulted in some 660 invalid authorisations being issued to police officers under road, marine and rail safety legislation, which affected the conduct of drug and alcohol testing between July 2014 and March 2015 and has resulted in the risk that legitimate prosecutions and infringements for drink and drug driving that rely on evidence obtained through these tests could fail on that technicality of the unlawful delegation by deputy commissioners.

The second-reading speech also states that in excess of 1400 drug and alcohol tests carried out in that time were conducted by police officers operating under invalid authorisations, and police have identified that in excess of 1100 of these tests returned positive results, forming the basis of enforcement. The statement of compatibility states — and the Scrutiny of Acts and Regulations Committee confirmed — that the admission of evidence obtained in reliance of actions conducted pursuant to invalid authorisations will not produce unfair trials and will not lead to unfairness of the accused because the evidence of positive drug and alcohol tests was not tainted by being obtained under threat, trickery, violence, subterfuge or any other improper methods. The accuracy of the tests conducted has not been affected in any way. Instead the error occurred because the senior command continued to follow the prior management protocol that had been lawful under the previous Police Regulation Act 1958 — more than half a century.

It is therefore understandable, in a way, that the police deputy commissioners continued to operate the way they did, but it is not understandable in other ways in that the police should have been aware of the changes that were made under the Victoria Police Act 2013 and not made this mistake. However, the fact is that the mistake has been made, and hence we have the legislation before us. If the bill is not passed, the possibility exists for all of those tests to stand as invalid. If the bill is passed, it will validate those tests and allow those prosecutions to proceed, but of course the courts will still be able to use their discretion to either convict or not convict on the basis of those tests and any other evidence that is put before them in respect of any of the cases.

I take the opportunity to talk about some other changes that were made under the Victoria Police Act 2013 to the previous regime that existed under the Police Regulation Act 1958. Mr O'Donohue was correct in that changes to the act were at least seven years in the making, because I can remember being presented with a police bill back in 2007, and in fact the changes to the act only passed in 2013.

There was a lot of discussion among the various parties about the bill introduced by the previous government. One of the issues the Greens were concerned about was the issue of vicarious liability of the state for police torts. It is fair to say that under the Victoria Police Act 2013 some movement away from the regime in place

under the previous act was made, whereby if a police officer or protective services officer (PSO) acted with wilful or serious misconduct and injured a person, that person would have to take action against the particular police officer in the courts and seek redress, including financial compensation, from that police officer. We argued that Victoria Police and the state should be vicariously liable for all actions of police officers and protective services officers, whether they had acted in good faith or had behaved in a way which constituted serious or wilful misconduct.

In saying that, we would say that the vast majority of Victoria Police members do not act in that way, but of course there are cases where it has been found that police officers have done so and members of the public have been injured. Under the new act, in the first instance, a police tort, or a victim making a claim against the state for abuse or misconduct by a police officer or protective services officer, would now be made against the state. But there still remains in the act, under section 74(2), the ability for the state to claim that it is not liable for a police tort if it establishes that the conduct giving rise to the police tort was serious or wilful misconduct by the police officer or PSO who committed the offence. We still think that is a loophole, and it is one that could potentially put victims at a disadvantage again.

It is our view that the state should be vicariously liable for all police torts, and if there is a problem with the police officer, Victoria Police should take action against the police officer, and the injured person, the member of the public, should take their action against Victoria Police. Under section 74(2) there is still a loophole which could put members of the public at a disadvantage. Removing the loophole and some other consequential provisions in the act would bring Victoria into line with the commonwealth and with New South Wales and Queensland, where the state is vicariously liable for all police torts.

I have raised in Parliament on other occasions the issue of Ms Corinna Horvath, who was the subject of negligence and reckless behaviour and suffered injury as a result of the actions of police officers. She has finally received an apology and an ex gratia payment from Victoria Police after pursuing her case through the courts since 2001. This is the sort of case we do not want to see in Victoria again. I ask the government to consider making changes to the act to bring it into line with the commonwealth and with New South Wales and Queensland and to make it clear that the state is vicariously liable for the actions of police officers and not leave it to injured parties to have to take action against police officers if the state establishes that a police officer engaged in serious or wilful misconduct because, from the point of view of a person injured in such a case, it should not be up to them to have to pursue an individual police officer through the courts. It should be the state that is liable, and the state should then pursue the police officer through its mechanisms with regard to misconduct by police.

With those few words, and drawing the attention of the house to that outstanding issue, the Greens will support the bill.

Mr ELASMAR (Northern Metropolitan) — I rise to contribute to the debate on the Victoria Police Amendment (Validation) Bill 2015. I understand the passage of this bill is an urgent matter due to an administrative oversight made in the Victoria Police Act 2013. It relates to the Chief Commissioner of Police's instrument of delegation which, at the time the legislation was amended, omitted the inclusion of deputy police commissioners. The Victoria Police Amendment (Validation) Bill 2015 will rectify a serious issue identified by Victoria Police in March 2015.

The amendment is fairly straightforward. Victoria Police members conduct drug and alcohol testing and assessment under a range of legislation, such as the Road Safety Act 1986, the Marine (Drug, Alcohol and Pollution Control) Act 1988 and the Rail Safety (Local Operations) Act 2006. Under the previous Police Regulation Act 1958, deputy commissioners exercised the same powers as the chief commissioner, allowing them to authorise police officers to operate drug and alcohol-testing equipment and conduct impairment assessments.

It would seem the amendments made by the Victoria Police Act 2013 omitted the addition of deputy police commissioners to legally authorise or issue drug and alcohol testing to properly qualified personnel. The oversight has resulted in 660 invalid authorisations being issued to police officers under road, marine and rail safety legislation. Subsequent legitimate charges laid by those police are now open to legal jurisdictional challenges. However, as soon as the error was identified on 5 March, Victoria Police took urgent action to ensure that the omitted delegations were operative and legally reinstituted authorisations that had been invalidly made during this period. It is now imperative that the legislation reflect legal and proper delegations from the chief commissioner to his deputies.

As more motorists join those on our roads and highways, all too often we see the results of intemperate

driving under the influence of drugs and alcohol. This legislation is an important weapon against the road carnage, and it has been proven successful in slowing down the casualty rates on our roads. Road trauma affects not only the individuals involved but also families and in the long run the entire community. Victoria Police and ambulance paramedics who attend those motor vehicle accidents are also deeply affected by what they see. Their professionalism and compassion cannot be overstated or minimised, and I am sure that once the motoring message of 'Don't use drugs and drive or drink and drive' is realised, we will all be a lot safer and happier.

Finally, Acting President, I commend the bill to the house and wish it a speedy passage.

Mr RAMSAY (Western Victoria) — It gives me pleasure to speak on the Victoria Police Amendment (Validation) Bill 2015. Along with my parliamentary colleague and friend Ed O'Donohue, I indicate that we on this side of the chamber support the passage of this bill. I congratulate Mr O'Donohue on his contribution to this debate and also that made in his past role as the Minister for Crime Prevention. It is a great pity that the Andrews government did not see fit to continue that portfolio. Under the previous coalition government a lot of good work was done in that portfolio in fighting crime and dealing with some of the preventive solutions to crime in the state of Victoria, but as members know, the Andrews government saw fit not to continue that portfolio, which will be to the detriment of the Victorian community.

As Mr O'Donohue did, I congratulate the former ministers for police — Kim Wells, the current member for Rowville in the Assembly, and Peter Ryan, a former member for Gippsland South — on the introduction and implementation of the Victoria Police Act 2013.

As has been said, the coalition supports this bill, which amends the Victoria Police Act 2013 to retrospectively validate prior authorisations for the operation of breath testing equipment and the performance of driver drug testing procedures by police members, which as a result of an audit were subsequently discovered to have been erroneously given by a deputy commissioner of Victoria Police instead of the Chief Commissioner of Police. The bill inserts validating provisions and addresses issues that had arisen under the old Police Regulation Act.

I am somewhat comforted by the statement of compatibility incorporated in the Assembly by the Minister for Police and the Minister for Agriculture in this house. It is worth noting that the statement observes that:

> … the admission of the evidence obtained in reliance of actions conducted pursuant to invalid authorisations is not productive of an unfair trial and will not lead to any unfairness to an accused. The evidence of positive drug or alcohol tests were not obtained under threat, trickery, violence, subterfuge or any other improper methods.

As has been said, if this bill were not supported, approximately 660 tests would not be validated, and therefore potential convictions would not be made. The statement of compatibility goes on:

> The validated authorisation has no effect on the underlying basis for carrying out the test, the manner in which the test was conducted or the class of officer who carried out the test.

The officers were appropriately trained to conduct the tests and make the assessments. The statement continues:

> All officers who conducted the tests and assessments had completed the requisite training and had the technical skills to ensure accuracy of the test results.

The public should take some comfort from the fact that even though there was an omission in relation to the appropriate authorisation by the Chief Commissioner of Police, the carrying out of the tests was done by appropriately trained officers who conducted the tests appropriately. as they would have done under the authorisation of the Chief Commissioner of Police. That is why I am happy to support the retrospectivity of this legislation. When we in this house are considering and being asked to support potential retrospectivity in a bill, it is not something that I normally take comfort from. In this case it is important that we fix the error in the authorisation that was found during the audit and allow those 660 tests to go forward for assessment and potential conviction of the people involved.

As I said, the legislation contains provisions that have retrospective effect. It is always important that the Parliament consider the appropriateness of retrospectivity. Legislation should not be treated lightly in relation to that aspect of it. Careful examination needs to be undertaken to ensure that substantive rights are not affected by the operation of retrospective legislation. I believe that has been done, and that is supported by the statement of compatibility.

In closing, I note that under new section 276A(7) the bill preserves the discretion of the court to exclude evidence or stay criminal proceedings and that it does not affect the rights of parties in any proceeding where a court has ruled on a matter of validity of an

authorisation or a court process. That is my contribution on this bill.

While supporting this bill, I would like to take the opportunity to say how disappointed I am with the Minister for Police, particularly in regard to his reluctance to visit Colac and see the Colac police station, which has been in disrepair for a number of years. Certain commitments have been made to build a new police station in Colac, but the current response from the minister is that he is too busy to make that journey along the Princes Highway west, which I must say has just been beautifully duplicated. Funding for that was provided by the previous state and current federal governments for both the Waurn Ponds to Winchelsea leg and the Winchelsea to Colac leg, which is now in the planning phase. It would be a great opportunity for the Minister for Police to make the journey along the coalition-funded duplicated highway, visit the Colac police station to see for himself firsthand the derelict state and debilitation of the current assets of the police station and note for himself that it requires an urgent and significant investment to upgrade the police station so that those officers can work in an appropriate workplace.

I take the opportunity to flag that I am extremely disappointed in the Minister for Environment, Climate Change and Water, who is the member for Bellarine in the Assembly. Before the election she made commitments to man three police stations on the Bellarine Peninsula for 16 hours a day — —

Ms Patten — On a point of order, Acting President, on relevance to the bill when moving to issues about a new road and the Colac police station. I am concerned that that is not relevant to this bill.

Mr RAMSAY — On the point of order, Acting President, if Ms Patten had been in the chamber during Ms Pennicuik's contribution, she would have noted that Ms Pennicuik strayed considerably from the bill, as other contributors to the debate have done. I was merely pointing out that while the opposition is happy to support this bill, unfortunately the minister's jurisdiction in other matters has not been as well implemented. I will just identify a couple of key areas, if Ms Patten would be so kind as to allow me to finish.

The ACTING PRESIDENT (**Ms Dunn**) — Order! I thank Mr Ramsay for his clarity in relation to that. I advise Ms Patten that there is no point of order in relation to this, but I would remind the member that he should stick to the matter at hand, which is the Victoria Police Amendment (Validation) Bill 2015.

Mr RAMSAY — I thank Ms Patten for her guidance, and I can assure her that anytime she would like to make a contribution in this chamber when I am here I will make sure that she is relevant to the bill at hand and certainly I will offer my guidance to her if necessary to make sure that she does not stray.

In summary, it gives me pleasure to support this bill. It is important that we do so today so authorisation can be legally provided, particularly for those 660 breath testing cases that are before us at the moment in relation to that period where validation was not appropriate. I look forward to a speedy passage of the bill.

Ms SHING (Eastern Victoria) — It is with great pleasure that I rise to speak in relation to the Victoria Police Amendment (Validation) Bill 2015, and I note at the outset there have been a number of contributions made by my colleagues on the other side of the house this afternoon, one of which, by Mr O'Donohue, I would like to address. He referred to an issue that had arisen in the Warrnambool *Standard* and an article which has been published today. It is in fact an article with the headline 'Two-up a gamble says coalition' by Alex Sinnott and Andrew Thomson. It refers to a visit that Mr O'Donohue paid to the south-west coast region with former Premier Denis Napthine in which they toured a facility and then later took aim at a decision by the chief commissioner to address the allocation of police resources.

Mr Ramsay — On a point of order, Acting President, could you answer me, given your previous ruling, what relevance Ms Shing's contribution has to this particular bill at this stage?

Ms SHING — On the point of order, Acting President, I note that I am responding to a position put on the record earlier this afternoon by Mr O'Donohue when he referred specifically to the two-up changes and to the way in which police resources are allocated. He has also referred on numerous occasions to various regional police stations, and in fact this was something which he took aim at the government on in speaking to this particular bill. So as a result of Mr O'Donohue speaking to this bill and raising those issues — whether Mr Ramsay may think them to be relevant or not — the government has a right to respond to those concerns, as indeed do I as a speaker.

The ACTING PRESIDENT (**Ms Dunn**) — Order! I thank Ms Shing and Mr Ramsay. There is no point of order, and I think that given Ms Shing's contribution is in the very early stages it remains to be seen whether she will stray from the bill and the matter at hand.

Ms SHING — I would hope that I can be as pithy as possible in putting to bed Mr O'Donohue's contribution by noting that a senior constable on the ground said that his role as a one-member police station officer was to police his community, and in fact the chief commissioner's instructions now give him clear and concise guidelines as to how he should achieve that goal safely. They have formalised the need for ongoing safety risk assessments, which is something we have been doing for a long time. Then the senior constable went on to say that the public has no need to be concerned because if anyone rings the police for assistance, Victoria Police will attend. I think that those quotes from the senior constable directly, following on from the chief commissioner's directive about the way in which operational resources should be deployed, put the issue of scaremongering by those opposite — who would seek to claim all the territory on law and order — well and truly to bed.

With that in mind, I would like to indulge Mr Ramsay and his earlier attempt at a point of order by moving to the substance of the bill itself. I thank those who have been listening so earnestly in making sure that they are apprised of any concerns about relevance and who may share their views across the house as necessary. It is pleasing to note that those opposite, and indeed Ms Pennicuik in her contribution today, have indicated they do not oppose the passage of this bill. Whilst we may have various views on all sorts of law and order matters, in essence we are together in the intent of this bill and what it seeks to achieve.

In providing the necessary remedial action to address an administrative oversight that was identified in relation to the Chief Commissioner of Police's instrument of delegation, we do have cause to make retrospective legislation to mitigate the risk, as identified by earlier speakers from all over the house, that enforcement actions conducted in reliance upon evidence obtained pursuant to invalid authorisations will be adversely affected. In essence what this says is that fruit that has fallen from the poison tree ought not itself be considered poison for the purposes of a prosecution — there were a lot of 'p's in that sentence, but I thought it necessary.

In terms of the government's commitment to decreasing the road toll and deterring dangerous driving, it was in fact reasonable, necessary and proportionate to enact this retrospective legislation to uphold the validity of legitimate enforcement action against perpetrators who put community safety at risk through drink-driving and drug driving. This is an area of policy priority for governments of all complexions. The importance of making sure that we have adequate deterrents in place, that we have tough sanctions and that we have a robust system of identification, prosecution and punishment of offenders is paramount.

We have a soaring road toll; we had decreases which have in essence been lost, and the toll is starting to creep up again as we head toward the second half of the year. We have increasing numbers of issues affecting the way in which people behave behind the wheel. In order to stay rigorous in our assessment of wrongdoing and to prosecute offences fully, it is important to make sure that offences such as the 660 authorisations upon which these offences were based do not result in matters slipping through the cracks.

In making sure that this retrospective legislation operates to achieve the desired purpose it has been crucial to make sure that we allow for these 660 matters, or indeed for any other matters based upon an authorisation that was not otherwise properly enacted, to be rectified. Due to the oversight that has been referred to by earlier speakers, the chief commissioner did not delegate his power to issue the authorisations after 1 July 2014. The deputy commissioners continued after this period, as we know, to issue authorisations to police officers under the mistaken belief that they still had the legislative power to do so.

Following the identification of this particular error during an internal review in March this year the acting chief commissioner signed instruments of delegation on 5 March and 12 March giving the appropriate power of delegation to all deputy commissioners and the assistant commissioner for road policing command to issue future authorisations. As I understand it, this was acted on as promptly as was reasonably possible. New authorisations were also made concerning each and every single one of the 660 affected authorisations that had been identified as invalid. These actions undertaken at the beginning of March this year fixed the problem going forward.

However, they did not address the shortfall in the period between 1 July 2014 and 5 March 2015, as it applied to road safety and marine authorisations, and 1 July 2014 and 12 March 2015 for rail safety authorisations. On that basis it was necessary through this retrospective development of the bill that is now before the house to mitigate the risk that reliance upon evidence obtained pursuant to these authorisations might be adversely affected. In essence, we are looking at an amendment to the Victoria Police Act 2013. It enables a retrospective validation for the purported authorisations made by the deputy commissioner during those times I have already referred to. Those

purported authorisations in effect will now be validated. There will be a retrospective validation of purported certificates of authority for that period, also again to make good on the defect that had been identified for that period.

It will also make sure that the validity of any act or thing done in reliance upon those authorisations that we now understand to have been invalid will be rectified; enable prosecutions for offences of any one of those 660 authorisations to be admitted; and ensure that a court that retains the discretion to exclude evidence in criminal proceedings or stay a criminal proceeding in the interests of justice is not in fact limited by any questioning of the way in which that authorisation was initially granted. It will also ensure that the bill will not affect the rights of parties in any proceeding in which a court has already made a ruling on the validity of an authorisation or admissibility of evidence obtained by a person operating under an invalid authorisation.

In essence, this bill puts us in the position in which we would have been but for these invalid authorisations having been issued in the period referred to already. It in effect makes good on the invalidities that have been identified for that period. Certificates of evidence will also be retrospectively validated. That means we will have specific categories of authorisations tailored in the way in which certificates of evidence are drafted.

The bill does not fetter any discretion of the courts. That is an important thing to remember in this. Evidence can still be excluded in a criminal proceeding where there is a stay, in the interests of justice, or where that might interfere with existing rulings of the court made prior to the passage of this bill. That is an important distinction to make in the course of making sure that the courts are in a position to discharge their own obligations under statute and at common law. This will then ensure that criminal proceedings and process are not unduly interfered with and that in essence we are minimising the risk of constitutional challenge.

These clauses are in effect modelled on the Evidence (Miscellaneous Provisions) Amendment (Affidavits) Act 2012, and again those provisions remedied a much more serious error concerning unsworn affidavits, so it is not as though we do not have precedent for this. It is not as though it is not an appropriate, sensible and proportionate response. To that end I commend the bill to the house.

Ms FITZHERBERT (Southern Metropolitan) — The longstanding practice of breathalysing drivers is an important part of keeping our road toll as low as possible, and it has wide acceptance in the community. People are used to it, they understand how it works and they see the results that it has on the still extremely concerning figures on deaths while driving. The bill before the house, which I am pleased to support and which I believe is widely supported in this place, can be best described as an administrative correction.

It amends the Victoria Police Act 2013 to retrospectively enable authorisations for the operation of breath testing equipment and the performance of driver drug testing procedures by police members in relation to a number of tests which were discovered as the result of an audit to have been erroneously given by the deputy commissioner of Victoria Police instead of by the Chief Commissioner of Police. It inserts validating provisions into the Victoria Police Act 2013 to address this point.

Other speakers have addressed why this has been necessary. I will go over that very briefly. Under the old Police Regulation Act 1958 deputy commissioners exercised, as I understand it, identical powers to the chief commissioner, but when the new Victoria Police Act 2013 commenced, deputy commissioners no longer had the same powers, and hence the problem has occurred. New delegations of express authority by the chief commissioner were supposed to have been made as at 1 July 2014, but this was not done.

Mr Ramsay spoke earlier about the fact that this legislation is retrospective. It is always important to consider whether it is appropriate to have retrospective legislation. I think generally the answer is we should not, but this case is an important exception. It is appropriate in this instance for a couple of reasons. The first reason is, as I mentioned earlier, the breath testing regime we have in this state is longstanding, it is well understood and it is seen as having a very important purpose. In this instance the retrospective legislation is about addressing procedural defect; it does not go to the issue of substantive rights. It is simply addressing the issue of whether authorisations that were given were valid.

It is worth considering what would happen if this change were not made, and 660 invalid authorisations are at the heart of why we are speaking on the bill today. It was discovered on audit that 1400 drug and alcohol tests had been undertaken without the officers concerned being validly authorised, and of these tests over 1100 were positive and have led to driver charges and enforcement processes. There are good public policy reasons for taking this course, and it is clearly in the public good.

Law and order is a very important issue for members on this side of the house. While the opposition supports the bill, I believe it is important to note that the current government has done relatively little in this area in terms of bringing legislation to the Parliament. I note in particular the repeal of the move-on laws, which was disgraceful, and we have discussed that on a previous occasion. If there is something we can do to make our community safer, to make people and families safer, we should do it. I urge the government not to delay any scope to reduce family violence while it is considering what its public safety agenda is going to be and while it is waiting for the results of the Royal Commission into Family Violence. In conclusion, I record my support for the bill and urge its passage through the chamber.

Ms PATTEN (Northern Metropolitan) — I hope I can stay on message and possibly be slightly more pithy than Ms Shing's very interesting contribution. I support the Victoria Police Amendment (Validation) Bill 2015. Despite being retrospective legislation, which is never a preferred option, the bill addresses an oversight that although problematic was without ill intent. Given the good faith that informed the deputy commissioners' delegation to officers to conduct their duties, it is quite appropriate to introduce such retrospective legislation.

Clause 1 of the bill says the purpose of the bill is to address defects in relation to authorisations to operate breath analysing instruments and to carry out drug impairment assessments. That is not what these tests do — they do not test impairment. They test for the presence of a drug, and that is why many countries around the world do not use this test, because it is not a test of impairment, it is a test for the presence of a drug. This was found in a drug driving case last October in New South Wales where the magistrate, David Heilpern, commented that the mere presence of drug traces was sufficient for the driver to be found guilty but agreed that it was a matter of illegality, not a matter of unsafe driving. This case was about a person who had had a puff of cannabis 14 hours prior to being tested. In further testing the defendant was found to have a presence of tetrahydrocannabinol in their blood levels and was therefore charged with a drug driving crime. There was no indication that his driving was impaired. This is an issue that we will need to address in the future.

We also need to look at the deterrent effect of these tests. A number of concerns have been raised around this, including the complete lack of evidence that these tests have led to a reduction in drug driving crashes. Evidence from just last year included a report entitled *Reviews of the Effectiveness of Random Drug Testing in Australia — the Absence of Crash-Based Evaluations*. The report from the Centre for Automotive Safety Research was presented at its conference last year in Queensland. There are many indications that these assessments do not test for impairment; they just test for the presence of the drug. I do not think this is really what our society wants to do. It does not help us in our so-called war on drugs.

While I support the bill and appreciate that its retrospectivity does protect against what was a parliamentary oversight, it is important that we do not stop questioning the problematic testing regimes that this bill is about. We need to discontinue the conflating of drug use with impairment. As long as we do not do that, we cannot progress understanding illicit substances and their effect on driving impairment.

Ms CROZIER (Southern Metropolitan) — I am pleased to rise this afternoon to speak briefly on the bill. As other members have said, the opposition is supporting the piece of legislation brought into the house. The community rightly expects a certain degree of certainty around policing and the way police undertake various activities. As other members have highlighted in their contributions, the bill is retrospective legislation due to a loophole that was found. The bill will amend the Victoria Police Act 2013 to, as I said, retrospectively validate prior authorisations for the operation of breath testing equipment and the performance of driver drug testing procedures by police members, the need for which was found through an auditing process.

There is no doubt that Victoria Police members have community safety at the foremost of their minds, particularly through road traffic control measures. From my experience in a previous life as a nurse, I have seen too many people maimed, disabled and indeed killed through alcohol-related driving incidents. The bill is a common-sense approach to fix a loophole in the principal act so people cannot be let off the hook. There were 660 invalid authorisations made to police officers under the legislation, which resulted in the invalidity of around 1400 drug and alcohol tests that had been undertaken. We are speaking about a significant number of tests here, and that is why it is important to get this legislation right. It is important the community has confidence in our police force undertaking the roles it needs to do.

I commend the work of the former Minister for Crime Prevention, Edward O'Donohue, who is in the chamber at the moment. He has an ongoing commitment to crime prevention. In terms of what the coalition did during its four years in office, it looked very seriously

at various issues around policing and crime prevention. Without straying too much from the debate — unlike others — it is important to point out and put on the record the number of police that the coalition budgeted for: 1900 additional people became members of Victoria Police, making our community safer, and over 900 protective service officers (PSOs) were put on patrol across our rail networks. Only last week I heard of an incident where PSOs were able to make our community safer by detaining somebody on the rail network who had committed a crime. The coalition has a very strong record on law and order issues, and it is proud of that. We want to support the bill before the house to ensure that that community safety element is maintained, and this piece of legislation certainly does that.

My perspective is informed by the area I have responsibility for, which is family violence. Ms Fitzherbert made mention of police numbers. We know from the hearings of the Royal Commission into Family Violence about the enormous demand across our agencies and in terms of reporting to police. We need to ensure that police have the necessary backup and support to undertake their role in this very important area. As Ms Fitzherbert quite rightly pointed out, and as I have been saying, if the government has concerns in this area, it should not wait until the conclusion of the royal commission, it should act now. It is very important that women and children who are subject to family violence have confidence in our police. I heard Ms Shing's contribution on the bill, in which she mentioned the two-up policy. Some rural and regional areas of Victoria, which I know well, have one-man police stations. If they close down, where are these women going to go? How are they going to report a crime that has been or is about to be perpetrated against them?

We as a community rightly expect our police force to be strong in this area of community safety — on traffic infringements and drug and alcohol testing. We need to be absolutely vigilant in this area. As other members have said, this bill will rectify an issue that has been identified and close a loophole, enabling appropriate testing to be undertaken. I conclude my contribution by saying, as other members have done, that I support this bill.

Mr HERBERT (Minister for Training and Skills) — A fair bit has been said on the Victoria Police Amendment (Validation) Bill 2015. I thank all members who have spoken. It has been a good debate, and most of the issues have been aired very well.

Ms Shing — And relevantly.

Mr HERBERT — Issues have been aired relevantly, which is a great thing. There are a whole heap of minor amendments made by the bill, but the main thing is to clear up an error in the earlier bill to ensure that there is retrospective action validating the authorisation of testing by a deputy commissioner. It will make sure that people who have done the wrong thing do not get away with it. I do not intend to speak at length on the bill as the matters have been well aired and there is a lot of business before the house this week. I will finish by commending the bill to the house.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

JUDICIAL ENTITLEMENTS BILL 2015

Second reading

Debate resumed from 11 June; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to make some remarks on the Judicial Entitlements Bill 2015. I note at the outset that the coalition will not be opposing this bill. Indeed it largely mirrors a bill introduced in the previous Parliament by the former Attorney-General, Robert Clark, the member for Box Hill in the other place — the Judicial Entitlements Bill 2014. This is a continuing trend with respect to the judicial bills we are seeing in the Parliament this year. They tend to be bills that were initiated by the former Attorney-General, and this is another in that category.

The bill itself is a sensible set of amendments to the way in which entitlements for the judiciary are administered and structured in Victoria. One of the key principles articulated in the second-reading speech of the current Attorney-General — which was also reflected in the second-reading speech for the 2014 bill — is that judicial independence is critical and fundamental to the rule of law. At the state or national level, judicial independence is one of the key underpinnings of our system of justice. It ensures that the community can have confidence in the way our courts operate and that they operate independently of the executive government and free of undue influence from third parties or bias.

One of the ways in which we can ensure that our judiciary acts independently and properly on matters is to ensure that its members are appropriately remunerated. It is a fact that most of the judiciary in this state, particularly in the senior courts, is drawn from the ranks of senior barristers. Many senior barristers in private practice are very substantially remunerated.

If we are to attract from the ranks of the bar into the judiciary suitably qualified and experienced people of the standing we want in our judiciary, it is important that we ensure that the judiciary is remunerated at an appropriate level. This ensures that they act independently and are not inclined to seek remuneration outside their role in the judiciary and of course that we can attract the best and brightest from practice at the bar into the judiciary. The need for appropriate levels of remuneration and entitlements for the judiciary is very well established as part of ensuring the independence of our judiciary.

One of the other factors that is important with respect to the independence of the judiciary and the way in which we respect the judiciary's independence of the Parliament and of the executive government is the judiciary's adherence to the principle of not involving itself in political matters. In the Saturday newspapers the week before last I was surprised to see a story running on the front page of the *Herald Sun* purporting to reflect comments from the President of the Court of Appeal, Justice Maxwell, expressing his views and indeed purporting to put the views of the Chief Justice of the Supreme Court on a matter which was divisive and highly political. Given the way in which we as a Parliament respect the independence of the judiciary and expect the executive government to respect the independence of the judiciary, and given that we want the Victorian community to have confidence in the independence of the Victorian judiciary, I thought it was unfortunate at best that that article appeared purporting to reflect the comments of Justice Maxwell, who in turn, according to the article, purported to reflect the views of the Chief Justice of the Supreme Court. The Parliament does what it can to ensure and respect the independence of the judiciary, and the judiciary can help itself in that regard by not involving itself in political debate.

The bill before the house gives effect to a suite of reforms that were proposed by the former Attorney-General, the member for Box Hill in the Assembly, recognising the need for the judiciary to be remunerated appropriately. This legislation brings together provisions related to the entitlements and conditions of service for a range of members of various jurisdictions here in Victoria. The act will reflect — and it will be the first time just one piece of legislation does this — the current provisions with respect to officers' conditions of service and entitlements which are currently in the Judicial Remuneration Tribunal Act 1995, the Judicial Salaries Act 2004, the Constitution Act 1975, the Supreme Court Act 1986, the County Court Act 1958, the Magistrates' Court Act 1989, the Coroners Act 2008 and the Children, Youth and Families Act 2005. Currently in Victoria, as I say, a range of acts contain provisions with respect to the conditions of service of judicial officers, and the bill before the house will bring those provisions together under a single piece of legislation. That is an appropriate reform, and it goes a long way to clarify, certainly for the community, the way in which judicial officers are remunerated in this state.

It is interesting to note the way in which salaries for judicial officers are paid. The bill brings those provisions together in the one location, as I said, for the first time. It reflects that the salaries of Victorian judges are tied to the salary of a Federal Court judge. That is currently $412 550, and there are percentage variations for salaries of judges of a trial division — and the salaries of judges of the Supreme Court are equal to those — and then there are percentage variations for the chief justice, the President of the Court of Appeal and other judges and magistrates in the other jurisdictions. The base for judicial salaries in Victoria is, as I said, tied directly to that for judicial salaries in the Federal Court, which is set by the commonwealth Remuneration Tribunal. This bill preserves those relativities between the Federal Court and the Victorian courts and of course the relativities that currently exist between the different jurisdictions and different office levels within jurisdictions here in Victoria.

The bill also establishes the Judicial Entitlements Panel, which will have the capacity to undertake its own-motion reviews on matters relating to conditions of service for judicial officers. In undertaking those reviews the panel will make recommendations to the Attorney-General, who will respond in due course to those recommendations. It is important to note that in undertaking own-motion reviews the panel will not be able to undertake reviews related to the salary levels of judicial officers. That is something that can only be initiated at the request of the Attorney-General. Again, that preserves the relationship between commonwealth and state court salaries — the Federal Court tie — and the existing Victorian salary structure. However, the legislation does provide the capacity for the panel to consider other conditions of service issues related to Victorian judges.

This bill is uncontroversial. The coalition believes it is an appropriate reform that was initiated by the former Attorney-General, Robert Clark, during the previous Parliament. It goes a long way towards clarifying and consolidating the structure with respect to judicial entitlements. It preserves the current structure with respect to salaries, ensuring that our judicial officers are paid an appropriate salary to reflect the importance of their role and ensure their independence, and it is a bill we wish a speedy passage.

Ms PENNICUIK (Southern Metropolitan) — The Greens will support the Judicial Entitlements Bill 2015. The main purpose of the bill is to modernise the processes and structures for determining the salaries, allowances and conditions of service for judicial officers in Victoria in a manner that ensures and preserves judicial independence. I agree with Mr Rich-Phillips, who said that the independence of the judiciary from the Parliament and the executive is a very important tenet of the state of Victoria, other states, the commonwealth and of course other jurisdictions around the world.

The bill will not change the current mechanisms for determining judicial salaries and conditions of employment. The salary of a judge of the trial division of the Supreme Court, for example, will continue to be linked to that of a Federal Court judge, and other Victorian judicial salaries will continue to be paid as a percentage of the salary of a Supreme Court judge. Mr Rich-Phillips went through the amounts of those salaries, and I will not repeat them. Salary increases will continue to take effect from the day after the date on which a determination of the commonwealth Remuneration Tribunal could have been disallowed by the commonwealth Parliament or the date such a determination comes into effect if it is a later date.

As stated in the second-reading speech for the bill, the current legislative provisions that relate to judicial salaries and the conditions of employment for judicial officers are contained in eight different pieces of legislation, including the Judicial Remuneration Tribunal Act 1995, the Judicial Salaries Act 2004, the Constitution Act 1975 and the various courts acts. Putting all of this together into a single bill certainly does make sense, and it will clarify the processes with regard to the setting of salaries and conditions.

The bill creates what will be called the Judicial Entitlements Panel to replace the Judicial Remuneration Tribunal. This panel will have similar jurisdiction, structure and processes to its predecessor. The panel will make own-motion recommendations to the Attorney-General in relation to the conditions of service for judicial officers, including allowances and leave entitlements. It will not be able to make recommendations in relation to salaries, pensions or superannuation arrangements.

The bill requires the panel to make its first own-motion report to the Attorney-General as soon as practicable and within nine months of establishment. Thereafter the panel must make its own-motion report to the Attorney-General at least every four years. The second-reading speech points out that there has not been any report or recommendation from the existing panel for three years. This is why the bill requires the new panel to make its first own-motion report very soon after its establishment. The panel's own-motion report must be tabled in Parliament within 10 days of the Attorney-General receiving it, and then the Attorney-General must provide a statement to Parliament as to whether the own-motion recommendation of the panel is accepted, varied or not accepted.

Division 2 in part 4 of the bill indicates that the Attorney-General may also seek an advisory opinion from the panel on a range of matters such as the length of the term of appointment of judicial registrars or the retirement age of judicial officers.

Under the bill the Attorney-General must establish and maintain an electronic register containing all documents relating to judicial entitlements, thereby creating more transparency in this area.

The amendments the bill makes to the Constitution Act and the courts acts clarify that in addition to salary and allowances judicial officers are entitled to conditions of service. The amendments clarify that in circumstances where there is prior service in certain pensionable services, such as the Director of Public Prosecutions, this will be recognised for the purpose of determining the sabbatical or long service leave entitlements of those appointed to judicial office.

Those are the main provisions of the bill before us, and the Greens will be supporting them. I do not want to steal Ms Patten's thunder, but I know she will be talking about the curious name change from the Judicial Remuneration Tribunal to the Judicial Entitlements Panel. I point out that the name change diverges from the commonwealth Remuneration Tribunal, to which Victorian judicial salaries and terms and conditions of employment will be tied.

While we are on the subject of the judiciary, I would like to take the opportunity to raise the issue of the need for a judicial commission for Victoria. We still do not

have such a commission, unlike New South Wales, which has had one since 1987. We think the government should engage in public consultation about the establishment of such a commission. It could be modelled on the New South Wales commission or any other commission with a model that is appropriate for Victoria. We note that the Judicial Commission of New South Wales has a judicial education and training function similar to that of the Judicial College of Victoria. It is very important that there be public consultation with regard to this issue. I have raised before in the Parliament the need to look at the establishment of such a commission in Victoria.

I would like to wind up by saying that the Greens acknowledge the dedication and commitment of our judicial officers in meeting high standards, but I also point out that a judicial commission would provide an important mechanism independent from the judiciary for investigating why a judicial officer may be failing to meet the high standards of the judiciary in relation to a particular case, for whatever reason — it may be due to illness or any other reason. This could increase public confidence in the judiciary and in the judicial process by assisting judicial officers to carry out their functions. With those few words, I indicate again that the Greens will support the legislation.

Ms SYMES (Northern Victoria) — I rise to make a contribution to the debate on the Judicial Entitlements Bill 2015. This bill supports judicial independence by creating a modern statutory framework for determining the salary, allowances and conditions of service for judicial officers. The bill continues the theme of what the Andrews Labor government has committed itself to — that is, streamlining the administrative arms and operations of government to deliver efficiency and better outcomes for all Australians.

If members review the *Hansard* from the other place, and indeed the contribution of Mr Rich-Phillips of just a moment ago, they will see that members of the former government have claimed that this bill is similar to something they proposed last year. I have lost count of the number of times members of the former government have claimed, 'We were going to do that!' in relation to bills brought to the house by this government. We have heard many times from those opposite in their contributions that once upon a time they were planning on doing this and that they would have gotten around to passing a bill like that, but at least we can be assured that opposition members, when making such claims, will take a sensible approach to the bill Labor has delivered for debate and to be voted on to become law.

As a former student of the law and someone with many professional and personal contacts across the field, I am well aware of the calibre and dedication of those who commit themselves to the judiciary. They are highly skilled, talented individuals who are driven for the most part by a vocation rather than the dollar figure on the bottom of a contract. A calling to community service, a passion for the law and a dedication to the delivery of justice have been described to me by many of those serving in these positions when I have spoken to them about their reasons for entering this profession.

Like all aspects of the judiciary, independence is a fundamental element of the rule of law. This should, and indeed must, apply to remuneration. Currently the provisions relating to judicial salaries and entitlements are scattered across eight different pieces of legislation. They are the Judicial Remuneration Tribunal Act 1995, the Judicial Salaries Act 2004, the Constitution Act 1975 and the court acts — namely, the Supreme Court Act 1986, the County Court Act 1958, the Magistrates' Court Act 1989, the Coroners Act 2008 and the Children, Youth and Families Act 2005. This is messy, cumbersome and ineffectual. The successful passage of this bill will consolidate these acts into a single piece of legislation. It is simply common sense, and in effect it will provide a more practical, workable and effective process that will ensure that yet another aspect of our judicial system is functioning at its optimum.

The bill does not change the mechanisms for determining judicial salaries, but it does repeal the Judicial Remuneration Tribunal Act 1995 and the Judicial Salaries Act 2004. There will be no change to the current mechanism for determining judicial salaries. The salary of a judge of the trial division of the Supreme Court will continue to be linked to that of a Federal Court judge, and other Victorian judicial salaries will continue to be paid as a percentage of the salary of a Supreme Court judge.

The bill creates the Judicial Entitlements Panel to replace the Judicial Remuneration Tribunal. This is a reform that once again addresses a vacuum in government policy that has existed since February 2011 when the capacity to review judicial entitlements was brought to a grinding halt by the fact that the Judicial Remuneration Tribunal ceased to have any members. The new panel will have similar jurisdiction, structure and processes to its predecessor, and it will make own-motion recommendations to the Attorney-General in relation to the conditions of service of judicial officers, including allowances and leave entitlements.

Given the absence of any action on this front since 2011, this bill will require the panel to make its first

own-motion report to the Attorney-General as soon as practicable and within nine months of establishment. Thereafter the panel must make an own-motion report to the Attorney-General at least once every four years.

As the government is committed to openness and accountability, the panel's report of an own-motion recommendation must be tabled in Parliament within 10 sitting days of the Attorney-General receiving it. In turn, the Attorney-General will be required to provide a statement to Parliament as to whether an own-motion recommendation of the panel will be accepted, varied or not accepted. If the Attorney-General intends to vary or not accept an own-motion recommendation, he must provide a statement giving reasons. This will guarantee that any own-motion recommendation will be fully considered and dealt with in a timely, open and transparent manner.

The panel remit is intended to be broad and will not be restricted to the conditions of service, about which the panel can make own-motion recommendations. For example, the Attorney-General could request an advisory opinion about the length of the term of appointment of judicial registrars or the retirement age of judicial officers.

I believe the most effective governments listen more than they talk, and this is why I am so pleased that this bill has been developed after broad and extensive consultation, including with the chief justice, the chief judge, the Chief Magistrate, the President of the Victorian Civil and Administrative Tribunal as well as the President of the Children's Court of Victoria and the State Coroner.

This legislation is another example of how we as a government are walking with Victorians, listening to them, taking on board their views, availing ourselves of their expertise and ideas and delivering what they want and need to make their working and personal lives better and easier. This bill delivers improvement of process and therefore the efficiency of operations, and it provides for transparency and accountability. I commend the Judicial Entitlements Bill 2015 to the house.

Ms FITZHERBERT (Southern Metropolitan) — I am pleased to rise to add to the debate on the Judicial Entitlements Bill 2015. As previous speakers have said, it consolidates several statutes into one place. These concern the determination and application of provisions relating to judicial entitlements. The way these are determined and applied needs to be consistent with the independence of our judiciary. This bill is largely similar to the Judicial Entitlements Bill 2014, and its subtle differences do not give those on this side of the house reason not to support it. I note the contribution of the member for Box Hill in the other place in formulating the original bill, which is the bedrock of what is before us today.

The bill takes provisions about salaries and entitlements that are currently in a range of different pieces of legislation and puts them into one piece of legislation, albeit one that does not include a provision about pensions. The bill does not have the effect of changing existing mechanisms to determine judicial salaries. The salary of a judge of the trial division of the Supreme Court will still be linked to that of a Federal Court judge. Other Victorian judicial salaries will still be paid as a percentage of the salary of a Supreme Court judge.

The bill creates a Judicial Entitlements Panel to replace the Judicial Remuneration Tribunal. This panel will have a similar jurisdiction, structure and process to that of the Judicial Remuneration Tribunal it will replace. I note the Judicial Entitlements Panel, which is provided for in clauses 15 and 16 of the bill, is able to make own-motion recommendations to the Attorney-General. It can provide advisory options to the Attorney-General regarding the entitlements of judicial officers and give advisory opinions to the Attorney-General regarding any matter relating to the terms and conditions of office.

This bill also amends a number of other pieces of legislation that relate to judicial entitlements, most notably the Constitution Act 1975 and the court acts that relate to judicial entitlements. In summary, this means amendments to the Supreme Court Act 1986, the Coroners Act 2008, the Magistrates' Court Act 1989 and the Victorian Civil and Administrative Tribunal Act 1998. For example, the provisions of the Constitution Act 1975 and the court acts that authorise payments from the Consolidated Fund by special appropriation will be amended.

I understand that the purpose of bringing together various provisions in different pieces of legislation about judicial entitlements into one piece of legislation is to simply achieve greater clarity, and that is always a good thing. There are differences in this bill compared with the structure of parts 7 to 11 of the 2014 bill. We believe these provisions do not provide any substantive changes to the intent and proposed operation of the 2014 bill. This bill maintains the independence of our judiciary. It is intended to make the provision and interpretation of our judges' entitlements clearer and simpler. It does not change the current way we calculate those entitlements.

The bill before us today reveals the input of the member for Box Hill in the Assembly, the former Attorney-General, and is largely unchanged from the bill he was responsible for in the previous government. I support the bill and will be voting in favour of it along with those of us on this side of the house.

Ms PATTEN (Northern Metropolitan) — I would like to speak on the Judicial Entitlements Bill 2015. I appreciate that this bill brings together a number of different pieces of legislation. It also provides greater transparency in looking at the remuneration and salaries of our judges and other judicial staff. It streamlines some of those areas, and it maintains the independence of the judiciary, which is so fundamental to our separations of power.

However, I am surprised that in 2015 we are calling this an entitlements bill, that we are combining a judicial salaries act and a judicial remuneration tribunal act to create a judicial entitlements act. I do not think judges feel they are entitled or privileged in any way. They work very hard and do their job as best they can. In today's terms, and certainly considering recent activities in Canberra, the word 'entitled' is seen as a very pejorative term. Our judiciary is one of the cornerstones of a sound justice system, and our judges should not be considered as being high above everyone whom they serve and neither should we, as members of Parliament. Calling their remunerations or allowances 'entitlements', I think, gives a very incorrect narrative. We only have to look at what has been going on over the last few weeks to understand the community's concern about our sense of entitlement — for example, taking helicopters to Geelong, the use of limousines or $90 000 overseas trips. Our community is quite concerned about the notion that we feel we have an entitlement.

The definition of 'entitlement' is:

> the fact of having a right to something …
>
> the amount to which a person has a right …
>
> the belief that one is inherently deserving of privileges or special treatment.

I do not think that is the way our judicial staff feel and I do not think it is the way our judges feel. I do not think our community feels it is the right term for the remuneration and allowances that we provide to our judiciary. I believe in 2015, when the purpose of this bill is to streamline the salaries and remuneration of our judiciary, we should have kept it as salaries and remuneration. Why did we give it a pejorative title of 'entitlement'. Entitlement is not what judges feel they are receiving, and I do not believe that the community wants to use it as a term for the salaries and allowances that MPs receive, our federal counterparts receive or our judges receive.

While I support this bill for its streamlining of a whole range of other pieces of legislation, I really question why we are using the term 'entitlement', particularly after three weeks of what could only be described as an entitlement debacle in our federal Parliament. To further the sense that our judiciary or even ourselves as members of Parliament have some form of entitlement sends an incorrect message, certainly in terms of the allowances and salaries which judges work very hard to earn and which are well deserved. Including the word 'entitlement' in the bill's title sends the message that judges are somehow privileged. While I support this bill I seriously question why in 2015 we are still calling salaries and allowances 'entitlements'.

Ms SHING (Eastern Victoria) — At the outset I confirm my earlier comment that I will be very pithy and that I do not intend my contribution on the Judicial Entitlements Bill 2015 to go beyond a few minutes.

I would like to take issue with a number of the things that Ms Patten said about the use of the word 'entitlement'. In doing so, I do not intend to dwell on the point, but I do intend to make clear my view that where wages are paid in exchange for the discharge of duties or obligations that arise under a contract of employment, or in the case of a judicial officer or judge, an appointment, it is not my view that the word 'entitlement' is in and of itself a problem.

I see that there is a fundamental difference between on the one hand the access to the conditions of an employment arrangement or an appointment and on the other hand the abuse of a system that allows for reimbursement or recompense in certain circumstances, where individuals choose on a frolic of their own to go to the very boundaries of what may or may not be acceptable as far as accessing funds, presumably justified on the basis of official purposes. In this sense the word 'entitlement' in and of itself is intended to convey the recompense provided as salary, as allowance or as other remuneration to people in the discharge of a judicial obligation or otherwise as officers of the court.

In that sense I commend the work of those who work within the judicial system in Victoria. They are bound by enormously stringent codes of conduct. Their work ethic is prodigious, and they make an enormously positive contribution to the development of the common-law canon and indeed to the administration of justice in the state of Victoria. With that being said, I

note that the parties who have contributed to debate this afternoon have all indicated that they do not oppose the bill in the form in which it is before the house. It streamlines and modernises the hitherto separate and disparate acts under which the remuneration allowances and salaries structure has previously operated.

I note that we do intend to bring the provisions together under a single act and to make sure that the quantum of salary entitlements is moved to the entitlements act itself, so the framework for the determination of salaries and also non-salary entitlements is preserved. The bill will update that framework and address legislative gaps, and also remove redundant provisions.

In that context I note that entitlements as they apply under employment and appointment arrangements might include periods of paid absence from the workplace, as far as sick leave, carers leave and bereavement leave are concerned, and also periods where people under an appointment situation are not required to attend for work and do not necessarily have access to an annual leave arrangement but are in fact allowed to take a break. These are entitlements in the sense that they accrue in the course of the discharge of the work in that working relationship. To say that they do not accrue as entitlements undermines the way in which work and recognition of value for work is described under the modern workplace relations system.

The key features of the bill are relatively self-explanatory. They provide the framework to determine entitlements in the course of the introduction of new requirements and provisions in a number of different instruments, and they clarify the circumstances in which entitlements can be paid out upon resignation, retirement or death as well as validating specific past practices in relation to leave entitlements. They also deal with inconsistencies and gaps in the provisions governing when service in prior office counts as service for the purposes of accruing entitlements as a judicial officer. With those brief comments — and I note that this is almost a record for me — I commend the bill to the house.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Congratulations to Ms Shing for finding brevity in this afternoon's contribution. I call on the minister to sum up.

Mr HERBERT (Minister for Training and Skills) — It has been a succinct debate in many ways, but it has been a relevant one, and I thank all contributors for their comments and for sticking with the legislation in front of us. The Judicial Entitlements Bill 2015 basically does two things. Firstly, it creates a modern statutory framework for determining salaries, allowances and conditions of service of judicial officers. In that case it cleans up a number of acts. Currently there are about eight different pieces of legislation that the salaries, allowances and conditions of service are scattered through, and the bill brings them all together into a clean, concise, one-act piece. That in itself is always good governance — to consolidate bits and pieces of legislation that are all over the place into a stand-alone piece of legislation.

The amendments will not make any difference to the salaries of the Victorian judiciary. Under the bill, the salary of a Supreme Court judge will continue to be linked to that of a Federal Court judge, and other Victorian judicial salaries will continue to be set as a percentage of the salary of a Supreme Court judge. Those percentages are clearly outlined in the table at the end of clause 5 of the bill. That in itself is a straightforward matter. The bill also cleans up the issue of how entitlements are determined. Clause 15 establishes the Judicial Entitlements Panel, which will replace the Judicial Remuneration Tribunal. It is a straightforward point. Given that remuneration is linked to that of Federal Court judges, there is a straight schedule and no need for the tribunal. However, it establishes an independent entitlements panel to look at these issues of entitlement — a whole range of things from sick leave to car allowances to long service leave.

It will not be able to have its own motions in terms of salary, which is straightforward. There is no own-motion component. Any recommendations will go to the Attorney-General, who will have to accept them, and they will be tabled in Parliament, which should have the ultimate right in terms of determining these matters.

The bill has the broad support of the Parliament. However, I would like to comment on Ms Patten's contribution. It was a fair contribution. In the current setting of the day 'entitlements' could be seen to be an emotive word in terms of the headlines in the last few weeks, and I do recognise her point in terms of the use of the word; however, in this case it should be taken in context. The bill uses the word 'entitlements', which is meant to capture a broad range of subject matter in the bill, rather than it representing entitlements we might have in a stratified society, where rich people have some entitlements and poor people do not, in the broad sense — or that politicians do and other ordinary people do not. The matter has to be considered in the context of the definition on page 3 of the bill, which defines entitlements as conditions of service, salary, pensions and superannuation.

Most people would not necessarily see things such as sick leave, travel allowance, the use of a car, superannuation or long service leave as entitlements or allowances in the same way as they may view the controversy we have seen recently. They are really conditions of employment that most people have. Those conditions are encompassed in the bill in the definition of 'entitlement'. We can all have different views, but the government's view is that, given the provisions in the bill and the fact that remuneration is linked to the federal judiciary, the word 'entitlement' is an appropriate one. But I take the point that Ms Patten made. With that comment, we have broad agreement on the bill, and I commend it to the house.

Motion agreed to.

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

Third reading

The PRESIDENT — Order! I am of the opinion that this bill requires to be passed by an absolute majority of the house. As there is not an absolute majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

PLANNING AND ENVIRONMENT AMENDMENT (RECOGNISING OBJECTORS) BILL 2015

Second reading

Debate resumed from 11 June; motion of Ms PULFORD (Minister for Agriculture).

Mr DAVIS (Southern Metropolitan) — I am pleased to rise to make a contribution to the debate on the Planning and Environment Amendment (Recognising Objectors) Bill 2015. The government claims that this bill follows its election commitment to give greater say to local communities and it seeks to weight the number of objectors as a consideration. What the bill actually does is amend the Planning and Environment Act 1987 to provide for the Victorian Civil and Administrative Tribunal (VCAT) and responsible authorities — and in most cases for 'responsible authorities' read 'local municipalities' — to have regard to the number of objectors to permit applications when considering a proposed amendment or use that may have a significant social effect. I think the words 'significant social effect' are the pertinent ones.

I indicate at the start that opposition members will not be opposing the bill, but we do not believe the bill achieves what the government set out to achieve. We do not believe the bill actually achieves what the government claims it achieves. We do not believe it will lead to an outcome that will see the government achieve its election commitment. It does provide some symbolic cover for the government in taking a step towards its election commitment, but it does not actually achieve the outcomes the community desires.

The new requirement needs to be considered in the light of a series of planning decisions, and it is interesting to note that there are probably three cases that are of immediate significance: the *Stonnington City Council v. Lend Lease (Apartments) Armadale Pty Ltd* [2013] VSC 505, a VCAT case; the McDonald's Tecoma case; and the Khyats Hotel, Brighton, case. The Stonnington case is mentioned, as members will see, in the explanatory memorandum for the bill. The point I would make is that while the government points to these cases and points to the changes in the bill as making some difference, it was very clear in the evidence we received at the Standing Committee on the Environment and Planning subcommittee hearing in the committee's inquiry into the bill that that is not the case.

Take, for example, the Tecoma case. It is very clear that unless there is a substantive planning argument, you cannot just have a mass of objectors line up and automatically expect that they will make a difference to the case. Each of the objections needs to be on planning grounds and relate to significant social effect. In a sense the bill makes no effective difference to what could be achieved now. VCAT or a responsible authority would look at the planning arguments that are advanced, would look at significant social effect, but the question of whether additional members proves significant social effect is a salient one. Having 1000 people sign something does not prove significant social effect within the meaning of the Planning and Environment Act.

To look at the Tecoma case before I take the next step, in that case people were unhappy with a McDonald's restaurant being put in a particular location in Tecoma. In that case it is very clear that McDonald's was operating within the planning law, so this bill would not provide a capacity to argue significant social effect within the meaning of the Planning and Environment Act or within the meaning of case law within the Planning and Environment Act. There could be 10 000 objectors who sign a petition, there could be 10 000 objectors who come to court, but if they are not making an argument that is pertinent to the Planning and Environment Act and the meaning of significant social effect, their objections will count for absolutely nothing. It is clear — and it was clear from evidence given to the environment and planning committee — that in the Tecoma case it would not have changed the result one jot. The Deputy Premier made big noise about this bill in the Assembly seat of Monbulk, but the truth of the matter is that it would not have changed the outcome in the Tecoma case one jot.

Let me explain to the house what this bill actually will do. It will fuel community objections and it will give false hope to communities and genuine community groups that often have legitimate points to make, because if their points are not made in the way that is required by the Planning and Environment Act, they will count for nothing. The bill will give false hope. I asked representatives of one of the community groups whether this bill was in effect a hoax and they agreed that it was in effect a hoax. It is a false-hope bill, a bill that will mislead communities into believing that if there are more objections, it will make a difference. It will make a difference only if each of the objections fits within the meaning of significant social effect. I think it will lead to disharmony in communities, with no actual practical effect in the outcomes of planning applications and objections to planning applications.

I think it will do more than that: it will actually fuel legalism. I should say that there will be some winners — that is, members of a certain group around planning law will do better out of this change. Members of the community will not do better, developers will not do better and those in the property industry will not do better. There will be more costs in a cumbersome system made less responsive and more sclerotic. None of the benefits will be for communities. There will be more legalism and more costs in what is in effect a hoax on local communities. The bill does not deliver for communities but brings false hope to them.

Would the bill have changed the Stonnington case? No. Would it have changed the Tecoma case? No. Those key cases are a good test of whether this bill will make any difference to communities. It will make some difference, but it will give false hope to communities. It will lead to more legalism and more costs, but it will not actually help with desired community outcomes. I think that eventually the community will see that this bill is a hoax.

The opposition will not oppose the bill because the government claims that it is part of its pre-election commitment and its election mandate. I quote from a submission from Joanna Stanley, a community member:

> Overall the bill is potentially a negligible step in giving more voice to community members. As it stands the bill will not benefit the community in a noticeable way …

That is a damning indictment of the government.

In passing I reflect on the work of the Environment and Planning Legislation Committee. I think the steps we took with the inquiry into the bill were worthwhile and that the model worked well. Committee members were able to get significant evidence from the department and from the Property Council of Australia. I thank the property council for its contribution, and I include in that the number of planning lawyers who were there with the property council and the Urban Development Institute of Australia (Victoria), two organisations whose members appeared together. Members of the subcommittee were able to closely question those people to achieve a deeper understanding of the law. The lawyers provided erudite and grounded advice.

I also thank the members of Planning Backlash for the advice provided. I refer to Ann Reid from the Malvern East Group, Joanna Stanley from the Brunswick Residents Network and Mary Drost, who gave input to me and I know to others. I also thank those who put in submissions.

The Victorian Farmers Federation also made submissions and pointed to some of the concerns in country Victoria that this bill could fuel unreasonable objections to the right to farm. At the moment we are seeing objections to the right to farm, and that is a significant point for our agricultural industries. The economic significance of our agricultural industries cannot be overstated. The Victorian Farmers Federation pointed to intensive farming and the need to have proper systems in place to enable proper planning to be undertaken for intensive farming practices. It is clear that in providing for those farming practices proper structural planning and zoning ahead of time will provide the right signals to not only those wishing to undertake that farming but also those who would want to locate around it.

It is interesting to reflect on the Blackmore case at the moment in Murrindindi shire, where there is a challenge to intensive agriculture. This is a significant balancing act. I see the Minister for Agriculture is looking over at me as I speak about this particular case. It is clear that good forward planning is needed to achieve outcomes that the community desires. Our agricultural industries are absolutely critical to our economy. Our export economy needs those agricultural industries, and those involved in them need to be provided with a high level of certainty. The previous Minister for Planning, now the Leader of the Opposition in the other place, provided the highest level of right-to-farm security in any state in Australia. It is important to note that and have it on the record.

It is important that councils look at this matter very carefully and very closely. I know that in Murrindindi shire Cindy McLeish, the local member for Eildon in the other place, is very active in supporting farmers and in lobbying not only local council members but also members of this chamber and the other chamber to get through the points that we need to protect our farmers and ensure that our industries are able to get the right outcome. There does need to be a balance to make sure that local communities living around intensive farming have proper buffers and other arrangements in place, and environmental practices need to be of the highest standard. That in no way diminishes the need to have that security for intensive farming practices to enable intensive farming groups to get on and do the work we need them to do in job creation and economic wealth generation and in leading our export performance, as is so often the case.

I note a decision made recently by a deputy president of the Victorian Civil and Administrative Tribunal (VCAT) relating to right-to-farm matters. On reading it, that decision appeared to me to be a very quirky one, as it changes the balance in what appears to me to be a novel way. Instead of a farm being a place where the practices are primarily agriculture and that being the determinant and the fact that fodder is fed to the animals and the volume of fodder being the likely decision-maker, we move to this new definition relating to nutrition. It is not clearly defined, and it seems to me to be quite hard to define. Does it refer to vitamins and does it refer to the total intake of nutrition? Is it a volumetric measure of nutrition, is it a measure that relates to all the micronutrients or is it a measure of nutrition that relates to the share of those different nutrient strains that are critical for intensive agriculture? Whichever it is, this does appear to be a new development and a new quirky and novel step that has been taken.

The Minister for Planning will have to work through this decision very swiftly and come to a conclusion that will see certainty provided to those undertaking farming, including intensive farming, and also certainty and predictability provided to those who are living on and around those farming properties. We need clear outcomes here. In a sense the VCAT decision has thrown a new and quirky addition into the frame. That will require close attention from the Minister for Planning to find a solution.

An honourable member interjected.

Mr DAVIS — No. It is fundamentally a set of planning decisions, but that is the point here.

I note also the evidence provided to the subcommittee by the Planning Institute of Australia, particularly by James Larmour-Reid, the Victorian president of the institute. I want to acknowledge that he sat through all the submissions that were made at the hearing and that he made an erudite submission of his own on behalf of the planning institute. That was useful to and educative for the committee and consequently, through its report, the Parliament.

In conclusion I want to point to one serious concern, and I note that at least one submission relates directly to this, and that is the submission of the Islamic Council of Victoria. I want to be clear: I do believe communities have a right to have a say about planning in their local communities, and I strongly believe that, having been on every side of that equation and having been an objector on occasions in previous times myself. I understand the need for communities to have a say and be able to put their community views. This needs to be done responsibly. The Islamic Council of Victoria's submission points to some risks, and there are no doubt risks that the quantitative focus of the amendments will lead some to the conclusion that more submissions equates to a better outcome.

That is not always the case, especially if the submissions are saying something that is not in the community interest, something that is divisive in the community, something that is focused on one community group — perhaps from some in our Islamic community and proposals that they may be putting forward. That could be a concern for community harmony. To some extent the false hope — the hoax-like aspect of this bill — may have a negative aspect that leads to a conclusion that is not in the interests of social harmony in our community. I am thankful for the submission by the Islamic Council to the committee, and I pay respect to the points that it made.

In conclusion, this bill is regarded by the government as a step towards satisfying its election commitment. I do not believe it does achieve that; I do not believe this bill achieves what it claims to achieve. It is not our intention to stand in the way of it, but I want to have my concerns, and the opposition's concerns, recorded clearly. We believe this bill will lead to more division in the community, not better outcomes for communities. It will give false hope, and we believe there is a potential negative in terms of additional costs and additional associated legalism.

It is not a good bill. Let us be quite clear here. I have been around planning and these areas for a long time, and I have seen many bills come through this Parliament and have spoken on many of them, but rarely do I see a bill put forward by a new government that actually achieves the trifecta of having developers and builders and community groups all pointing to its deficiencies, all pointing to the fact that it fails to achieve the government's outcome. If the government thinks this is best practice in legislation, it is very misguided.

Ms DUNN (Eastern Metropolitan) — I rise to speak on the Planning and Environment Amendment (Recognising Objectors) Bill 2015. This is a bill that promises but does not deliver. To deliver the community's voice in land use planning would require more than a couple of puzzling 'must', 'may' and 'where appropriate' phrases wrapped around 'significant social effect'. The absence of the community's voice in the planning scheme reflects the fundamental nature of the scheme as an impenetrably complex, inconsistent and inaccessible set of rules that are subject to ministerial veto. Instead of half window-dressing the planning scheme with unenforceable provisions in the name of giving the community a voice, how about delivering real planning reform?

Victorian communities are crying out for planning reform that supports stable and sustainable zoning for the enhanced livability of Victorian cities and towns. The Greens have a vision for a sustainable, livable future where urban sprawl gives way to target densities for activity centres that also reflect the history and character of an area.

Much clearer definitions of land use categories are needed, as is a planning scheme that explicitly and consistently places environmental sustainability and community needs ahead of the narrow commercial interests of developers. Banning land developer donations to political parties would be a great injection of integrity into planning. The skyline is filling up with towers full of tiny apartments with little natural light and amenity, and developers continue to cash in. Planning reform is needed to clip the wings of the all-powerful Minister for Planning to surrender some power back to local councils and communities. This would reduce the planning minister's ability to mash politics into planning without transparency or accountability. The planning minister has unique power in Victoria to control all planning decisions. This unchecked power is bad for democracy, bad for community engagement in local communities and bad for consistency.

Building integrity into the planning system and strengthening the community voice should include banning developer donations to political parties; meeting the shortfall in affordable housing by ensuring the correct level of social housing in new developments; making the planning scheme more certain, simple and consistent for local councils and communities to work with; and putting environmental sustainability, real community involvement and accountability at the heart of the planning scheme. Community participation in strategic planning is fundamental to having a planning scheme that meets the needs of local communities and reflects local aspirations. But, sadly, what we see at the moment is the good work of responsible authorities, the local councils — that participatory work with their communities — often being shelved by the minister and the department, who interfere in the aspirations of local communities.

The Greens will not oppose this bill, but we do have significant concerns about it. What we are concerned about is, given that it will be a numbers game and that it reads as a numbers game, whether this will be the basis for campaigns formulated on hate, bigotry and ignorance. We would hate to see this bill drive that in a community, with people believing that it is about the number of objections that you get. Some spurious link to significant social effect will drive that in our community. We do not need that moving forward.

There is a lack of definition in relation to what is proposed here. We see a new term 'where appropriate' inserted should the bill be successful, but we do not know what 'where appropriate' means. There is no definition of that, and it is a mystery to me how we will get consistency around interpreting the Planning and Environment Act 1987 if we have 79 responsible authorities and a tribunal trying to define 'where appropriate' when there is a lack of definition as to what that actually means.

The bill establishes the new category of 'must (where appropriate)' within the Planning and Environment Act. It is our contention that this in fact leads not to clarity but to more confusion in the Planning and Environment Act. It will be difficult for communities to understand what the act seeks to achieve because of the competing policy objectives within the legislation. On the one hand the bill gives additional powers to opponents, but on the other hand it improves the ability of the community to oppose inappropriate developments if they are linked to significant social effects. It is a complete competition in terms of who wins out in that space. I am concerned that the bill will add a competing policy objective, particularly with something as important as community participation in the planning process and the rights of people to object to planning applications in their municipalities.

I am very concerned that it will be a numbers game. Campaigns will be mounted around getting the numbers, whatever the motivation for that campaign may be. What was extraordinary in reading the transcript of the parliamentary committee inquiry was that organisations that you would usually consider to be polar opposites in terms of community advocacy groups around planning and industry groups shared the same views about this bill. Many of them expressed concerns around whether the bill actually does what the government says it sets out to do and that it does not give clarity to objectors and does not give a voice to the number of objectors at all — it just muddies the water.

It is going to be challenging to understand how this bill will be consistently assessed in terms of responsible authorities and the tribunal when weighing up planning applications. I turn to what the Planning and Environment Act says currently and what this bill seeks to change. The act states:

> 60. Before deciding on an application, the responsible authority—
>
> (a) must consider —

any significant social effects it may have. The introduction of a new provision in clause 4 inserts 'must (where appropriate) have regard to the number of objectors' where there may be significant social effects. I am not sure that the addition of another 'must' and a 'may' gives any clarity to the planning scheme or to the community trying to utilise the planning scheme to get the best outcomes for their community.

We need more clarity in the planning scheme, not less. The way to do that is to have a strengthened planning scheme that reflects the needs and aspirations of community, where the community and the council have gone on a shared journey in terms of determining what they want for their communities, their character, where they want development and where they do not want development. That is at the core of good planning, but sadly we do not see that here. Instead we see a lot of interference in relation to the good work that councils do in that regard.

This bill raises many questions and concerns. As I have said, we will not oppose the bill, but we do have concerns. I will certainly be raising those concerns and questions in the committee stage.

Mr ELASMAR (Northern Metropolitan) — I also rise to speak on the Planning and Environment Amendment (Recognising Objectors) Bill 2015. One very important aspect of any true democracy is its ability and willingness to consult and collaborate with people. Planning issues can be very contentious and divisive. There are always people who will object to any development, no matter what. Sometimes these objections are legitimate and sometimes people just do not want change.

We in Victoria have always allowed for the voice of dissidence. For many years there have been mechanisms in place for people to stand up and announce their displeasure and have their day in court. Whether it is at their local council planning meetings or at the Victorian Civil and Administrative Tribunal (VCAT), people enjoy the freedom and the right to protest against proposed new developments, or at least have their say in the decision-making process.

This bill amends the Planning and Environment Act 1987 to guarantee that the extent of community objection to planning proposals is considered. It provides a mechanism for the number of objectors to a planning application to be given proper regard and consideration prior to a final decision being made by the responsible authorities.

The amendments relate to two important provisions in the Planning and Environment Act 1987 — sections 60 and 84B. Section 60(1) codifies pertinent issues that a responsible authority must consider before deciding on a permit application. Section 84B sets out a comparable theme of issues that VCAT must consider. The bill inserts a new requirement in both sections to promote consistent decision-making.

Importantly, the bill makes it clear that the number of objectors may be a relevant fact that ought to be considered in this assessment, including whether the points raised in the objections demonstrate a significant social effect on the community, which is supported by

evidence. Irrespective of circumstance, each case will still be determined on merit. It is insufficient to rely on the simple number of objectors. It is incumbent on any or all objectors to specify and demonstrate adverse implications or ramifications of the approval of a planning permit to the overall amenity of an area undergoing development, or any antisocial effect on the community.

It is important to stress that the bill in no way undermines or seeks to reduce the importance given to the views of a single objector or a small number of objectors. I know the opposition and other parties are not opposing the bill. In conclusion, the bill seeks to codify the requirement for genuine objectors to provide documentary or relevant evidence significant enough to influence or sway the planning authorities into making an appropriate assessment or decision based on sound, reliable reasoning. For all of these reasons I commend the bill to the house.

Mr RAMSAY (Western Victoria) — I am pleased to have the opportunity to speak on the bill. From the outset I would like to endorse the position of Mr Davis, who said the opposition would not oppose the bill. However, in taking that position it does not mean we have to agree with the potential outcome of the bill. As part of my contribution I will raise some concerns with possible outcomes if the chamber sees fit to pass the bill this afternoon.

I thank the Environment and Planning Committee for allowing me to sit in on the inquiry process given that I was only a participating member. This chamber sought fit to refer the bill to the inquiry process in order for the bill to be looked into in some detail and to talk with stakeholders about the possible impact of the bill on investment in the state if it were to pass. Mr Davis mentioned a number of witnesses who appeared before the inquiry, and nearly all of them raised concerns about potential outcomes of the bill in relation to its wont to allow greater community engagement through a greater opportunity for objectors to put their case in relation to social causes.

I would like to spend a little bit of time on evidence from a couple of witnesses to the committee who wanted to raise concerns about their respective industries if the bill were to pass. Mr Davis has already identified a number of cases that the Victorian Civil and Administrative Tribunal (VCAT) has dealt with over time where decisions were not made on the number of objections received but were made on the basis of a range of considerations. Some of those decisions were *Stonnington City Council v. Lend Lease Apartments (Armadale) Pty Ltd*, *McDonald's Pty Ltd v. Yarra Ranges Shire Council*, *Minawood Pty Ltd v. Bayside City Council* and *Rutherford & Ors v. Hume City Council*. All the councils where VCAT was involved had judgements made not so much on the bulk of objections but in relation to circumstances surrounding the outcome of that planning decision. Regardless of how many objections might well have been put forward to VCAT, the decisions were not made on that basis, so this bill, if it passes, would have little effect on those decisions.

As has been stated, the bill was an election commitment made by the Andrews government, but that does not automatically mean it is a good bill. We have already seen election commitments from the government on public holidays, rate capping and other things which stakeholders have indicated have significant detrimental impacts, and discussion on this bill and evidence from witnesses who came before the inquiry have clearly identified that to be the case. An issue about the language of the bill has been identified — I think by a Greens committee member — and that was a consistent message in the transcripts of the inquiry. The report of the inquiry states:

> The committee received evidence that the language in the bill may lead many in the community to believe the number of objections is a way to engage in the planning process and prevent developments they do not support. However, in order to be considered by the responsible authority any objection needs to be relevant to the matter under consideration.

From the outset of the bill I have made the same commentary. The report continues:

> As a result the committee's expectations about how it can engage with the planning system may not be met by this bill.

That is an important message, because my understanding was that this bill was designed to give an indication to the community that they needed to be more engaged in some of the planning regimes within their area but also that the way they can do that is through the greater opportunity to object. The Victorian Farmers Federation (VFF) indicated to us through the inquiry that maybe through a submission process you would get a better outcome than through a bulk of objections, which could be orchestrated by a small minority. Consequently, there was quite a lot of nervousness on the part of many who provided evidence to the inquiry in relation to what real outcomes might be achieved by this bill.

Mr Davis has already indicated that there was considerable concern that the bill might have raised false hope in communities about possible success as a result of their engagement and objections to a planning permit, which may not be the case at all. In fact there

might be a detrimental effect for those wanting to engage in developing and investing in this state if the bill were to go forward, as it could create more costs over time for those wanting to invest. No doubt it would be good for the legal fraternity but not so good for those wanting to develop and grow the state of Victoria.

A particular interest of mine is in relation to the evidence from witnesses from the Victorian Farmers Federation. I was pleased to see that they provided evidence in person to the committee, and they also gave some very good reasoned testimony as to why the bill is bad for agriculture. I would like to refer to their evidence in my contribution. Before I do so, I would like to identify a couple of other issues in relation to the bill. It is worth bearing in mind that the provisions of the bill amend sections 60 and 84B of the Planning and Environment Act 1987 to allow the Victorian Civil and Administrative Tribunal and other responsible authorities to consider the number of objectors to a permit application in considering if a proposed development or use will have a significant social impact. As I said before, in relation to a number of those cases dealt with by VCAT, certainly the weight of objections did not influence VCAT's decision.

Representatives from the Property Council of Australia anticipated that the bill would result in more irrelevant objections being lodged, making the permit process longer and more costly for proponents. Representatives from the Victorian Farmers Federation (VFF) suggested that the bill may lead the community to believe any objection to a planning application will hold merit, even if it does not address the matter being considered. I quote from the testimony of a witness from the VFF to the inquiry:

> Part of my concern about this is that you are actually giving the community false hope so that, despite the fact that they may have no objections with any planning merit, they feel, 'Okay, now we've got hope that we can take this to VCAT on the basis of the number of objections', and create a huge amount of angst for the farmer, themselves and the community generally without any real hope that it is actually going to proceed in their favour, because they do not actually have any planning merit.

Representatives from Planning Backlash also suggested that the bill in its current form may lead people to believe that a greater number of objections will increase the likelihood of proposals being rejected.

The concern I have is in relation to the current planning regimes we have and the right-to-farm issues in terms of agriculture, agribusiness and intensive farming. We have seen many cases where intensive farming has been difficult to establish given the planning regime in relation to not only the right to farm but also residential development close to the farming zones. This bill gives more opportunity for those who do not want to be next to a farm or who have some concern in relation to the impacts of intensive farming to object, to go to VCAT and to seek to overturn a decision purely by weight of numbers or as a small but loud minority. If we allowed that to be the case, it would be very difficult for any developer or anyone wanting to invest in agriculture in an intensive way to get established, because under the provisions of this bill the weight of objections will be taken into consideration in any planning judgement.

The VFF is extremely concerned about this bill and the impact it will have on agriculture, agribusiness and intensive farming. The Property Council of Australia has raised concerns. In fact every single witness who appeared before the inquiry raised concerns about the impact of this bill. Moreover, the outcomes the government is seeking are unlikely to result from the passage of this bill, because of past judgements by VCAT and a lack of clarity in relation to the wording and detail of the bill.

In conclusion, while this bill may seem popular — like the public holidays, rate capping and other election commitments the Andrews government said it would bring before the Parliament, do or die — it will not achieve the outcomes the government is seeking. It gives false hope to the community. While the intention may well be for the community to become more engaged in planning matters, I foresee more costs associated with going through the planning process for developers or those wanting to invest in land and land use. As I see it, the only winners will be the legal fraternity, which will have more scope to create a judicial mess in relation to arguments for and against planning permits, whether through council or through VCAT. While we do not oppose the bill, I am hopeful that the government will see fit to amend it to address some of the concerns that may arise within the community in response to matters that have been raised by members from the crossbenches and the opposition.

Sitting suspended 6.29 p.m. until 8.03 p.m.

Ms SYMES (Northern Victoria) — I am delighted to speak today on the Planning and Environment Amendment (Recognising Objectors) Bill 2015, which provides me with double satisfaction in that it again proves we are a government that honours its promises and keeps its commitments alongside reinforcing the most basic of democratic principles upon which this Parliament and indeed our parties are built — giving a voice to the individual.

Mr Ramsay — It doesn't make it right.

Ms SYMES — It does not make it right to give voices to individuals?

I would like to take a moment to acknowledge the hardworking former shadow Minister for Planning, Mr Brian Tee, a former member for Eastern Metropolitan Region. His commitment to improving planning laws and his development of this election commitment, which is coming to fruition in this bill, cannot be overstated.

Over the years there have been countless cases of individuals and indeed entire communities coming together to fight to preserve what they know to be the intrinsic fabric and features of their places and spaces against propositions that threaten the very same. Over and again, year after year, we have seen winners and losers in the process that is Victorian planning law, and time and again the feedback received from people in communities who have taken on this monolith has revealed the overwhelming sense of disempowerment and disregard which they have experienced.

Whilst this bill will not take away the ultimate outcome of there being winners and losers, it will certainly go a long way to redressing the balance of power and persuasion that at present swings the way of cashed-up corporations and their armies of lawyers. The bill will allow the voices of objectors and the volume of those voices to be factored into the decision-making process of our responsible authorities. No longer will a community of objectors be reliant on the hope and the prayer that one of their own is dating an international singer with a significant social media following to take a wrecking ball to a development proposal. The bill inserts a new decision-making consideration into the Planning and Environment Act 1987 so that both the responsible authority and the Victorian Civil and Administrative Tribunal (VCAT) must have regard to the number of objections to a permit application in consideration of whether a proposal may have a significant social effect.

The significance of this to our regional and rural communities cannot be underestimated. It is often for reasons of social effect and impact that families make the decision to move to rural and regional Victoria in the first place. I have had countless conversations with family members, friends and more recently constituents about their reasons for moving away from the city and back to the country. They wanted a quieter life, they were sick of traffic, they had had enough of noise, they wanted open space around them or they wanted to be away from high-density living. It is only fair that they would want to protect those very things that formed the motivation for their moving to regional Victoria in the first place. This legislation introduces a requirement that decision-makers must now have regard to the number of objectors and whether the proposed use or development may have a significant social effect.

Social effects include changes to the way people live and interact with one another, their culture and their sense of community. A detrimental impact on their sense of community is something many objectors highlight when they object to planning applications. Both the Euroa and Romsey communities will attest to this in relation to their battles against the addition of pokie machines at their local hotels over recent years. Communities in and around Bendigo have had battles relating to broiler farms. Other common objections are the potential effects of a proposal on demand for, access to and use of community facilities; choices in housing; shopping; recreational and leisure activities; community safety; and the needs of particular groups in the community, such as young people or the elderly. The basis for these objections goes back to the very heart of why so many choose to make northern Victoria their home.

This bill provides empowerment and a safeguard to my constituents, and like any good insurance policy, they will not have to give it a thought unless the time comes when they may need to use it. I am proud to be part of the team delivering them that level of protection and cover. In recent years I have watched communities in northern Victoria battle their councils — in battles that proceeded to VCAT — against proposals they believed were detrimental to the wellbeing of those communities. Some were successful, some not, but I know their battle would have been made easier by this legislation.

Meanwhile the bill does not give greater weight to the number of objectors over other planning considerations; instead it establishes the number of objectors as but one of several matters that a local council or VCAT must consider before deciding on an application. The consideration of significant economic or environmental effects of a proposal and relevant strategy plans remains in place.

It is time to let the community talk in full voice and more importantly to ensure that community members are heard and listened to and that their views are taken seriously and into account on matters that will affect them. This represents the premise of democracy and the values that I hold dear, hence I have no fear of giving my constituents a voice — indeed the louder the better. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

The DEPUTY PRESIDENT — Order! I understand there are no amendments. I call on Ms Dunn.

Ms DUNN (Eastern Metropolitan) — My first question relates to clause 3, and I have questions in relation to clause 4.

Clauses 1 and 2 agreed to.

Clause 3

Ms DUNN (Eastern Metropolitan) — My question to the minister relates to the insertion of section 60(1B) after section 60(1A) of the principal act. This new section is contemplated in clause 4, and its insertion relates back to clause 3, which talks about exemptions to the planning scheme. My question is: will there be any contemplation by the Minister for Planning of what exemptions might apply under new section 60(1B), and how will those exemptions might be determined?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The exclusion relates to something that happened in 2012 in relation to VicSmart, which excluded third-party appeal rights, and this continues that exclusion.

Clause agreed to.

Clause 4

Ms DUNN (Eastern Metropolitan) — New section 60(1B) introduces new terms for consideration. It states:

> … the responsible authority must (where appropriate) have regard to the number of objectors …

Can the minister provide a definition of the phrase 'where appropriate'?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The clause is effectively plain English. It allows the ruling judge in the case to use their discretion where appropriate in their judgement.

Ms DUNN (Eastern Metropolitan) — I have a supplementary question: in terms of the responsible authority, how does the judge's perception of plain English and using discretion where appropriate work in practice?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The clause gives discretion to the decision-maker in terms of ruling whether or not the objections are relevant or irrelevant to the case at hand.

Ms DUNN (Eastern Metropolitan) — In terms of the decision-maker assessing whether those objections are relevant or irrelevant in relation to how this clause would operate, is it considered they would use only the planning scheme as the relevant document to determine that relevance or otherwise, or would they also use other incorporated council documents or health and wellbeing plans? I am just wondering what tools the responsible authority would avail itself of in terms of making that judgement call on whether the objection is relevant or irrelevant.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Does Ms Dunn have a specific example that she would like to proffer?

Ms DUNN (Eastern Metropolitan) — Just to elaborate, and drawing on my own experience as a local government councillor, there are a number of different documents that councillors use as part of their decision-making process. In relation to this matter and the incorporation of this clause into the Planning and Environment Act 1987, would it be considered that the planning scheme is the only basis on which to determine that relevance or otherwise or would other incorporated council documents, such as a health and wellbeing plan, be included?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I can tell Ms Dunn that the planning act regulation is the only document that is relevant.

Ms DUNN (Eastern Metropolitan) — Because there is no definition per se and the decision relies on discretion of the decision-maker and an interpretation of plain English, will the minister and his department consider issuing practice and guidance notes for responsible authorities and tribunals in terms of how to interpret these new terms in the planning act?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The simple answer is yes.

Ms DUNN (Eastern Metropolitan) — Turning to the new section that is proposed, I note that in the second-reading speech the Minister for Planning cited examples of social effects and examples of taking account of the number of objections and influences for decision-makers, listing a whole range of different examples in relation to those two areas. I am interested in terms of a case that I was quite heavily involved in, which was that involving the McDonald's application in Tacoma. The responsible authority at that time

received 1100 objections. Many of those objections highlighted the broader issue of health, diabetes, obesity and childhood obesity. Under the new section that is contemplated in the bill, would these matters be relevant for the purposes of 'significant social effect' and 'where appropriate'?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The answer to that question is yes, the number of objectors is likely to be most relevant where the impact assessment requires some understanding of community perception in relation to the application before the tribunal.

Ms DUNN (Eastern Metropolitan) — To clarify, in relation to where objections might raise issues such those I listed — health, diabetes, obesity and childhood obesity — they are not matters specifically in the planning scheme, and they sit outside of the planning scheme at the moment. However, you are saying that they would meet the test of significant social effect?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — No, because the circumstances that the member raises would not be considered relevant planning considerations under the act.

Ms DUNN (Eastern Metropolitan) — In relation to the act, it is quite clear that the new section has regard to the number of objectors. I want to be clear in my mind that it relates only to objectors and not to submitters. There is a process embedded in the act which allows both submissions and objections to a planning application, and if the process does not apply to submitters as well, perhaps the minister could explain the rationale for that.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — They would be considered one and the same thing.

Ms DUNN (Eastern Metropolitan) — To clarify, the act as it currently stands lists the submitters and the objectors to a process separately. Will the fact that they will be considered one and the same be outlined as part of the practice notes for responsible authorities?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — As I am advised, the guidance notes will specifically deal with objectors, but in actuality submitters will be treated the same.

Ms DUNN (Eastern Metropolitan) — I thank the minister for his answer. In relation to the new section and how it applies, I go back to the McDonald's application in Tacoma, which received some commentary during the inquiry. It was always a building and works permit, not a permit for land use. The land use in relation to that matter was never in question and that was not part of the application. In terms of that application and the operation of this new section, would it have been appropriate for the decision-maker to consider the number of objectors, given that the land use was never in question?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again the simple answer to Ms Dunn's question is yes. It was a development application and, as such, there would be a requirement to consider the submissions of objectors, and as such the Victorian Civil and Administrative Tribunal (VCAT) would be required to consider and understand the community's perception and values.

Ms DUNN (Eastern Metropolitan) — I wonder if the minister can explain, because I am failing to draw the comparison. In the section of the explanatory memorandum that relates to clause 4, it cites an example of a permit being required for a development for heritage reasons where the land use is not in question, which I would say has parallels to the McDonald's Tacoma application. The memorandum says it may not be appropriate for the decision-maker to consider the number of objectors in that case. I am wondering how those two examples reconcile, because they seem to have different answers.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — If I have understood Ms Dunn's question correctly, the objection would have to directly relate to the application before the authorities. If it were a development application, it would of course have to be related to that development application in and of itself.

Ms DUNN (Eastern Metropolitan) — I thank the minister for that answer. Certainly I agree that an objection has to directly relate to a development, but going back to the example cited in the explanatory memorandum it is clear that that is for a development for heritage reasons but not for land use, which runs parallel to the Tecoma McDonald's in that it was a building and works permit but not for land use. The explanatory memorandum suggests that:

> … it may not be appropriate for the decision-maker to consider the number of objectors …

That seems contrary to the advice the minister is giving me tonight.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Ultimately it will be up to the decision-maker to determine what they believe is relevant in the consideration of the permit before them — or, effectively, the objectors to the permit that they are considering. Irrespective of whether Ms Dunn or I have an opinion on that matter, it will be the determination of the person deciding on or presiding over the case.

Ms DUNN (Eastern Metropolitan) — I thank the minister for his answer. In relation to the new section being proposed in clause 4, the Planning and Environment Act 1987 is predicated on a triple bottom line assessment of applications, so it looks at social, economic and environmental effects. Can the minister advise the house why the new section only applies to significant social effect and precludes environmental and economic effects, which are also matters for assessment under the Planning and Environment Act 1987?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The reason for that is that objectors would most likely fall under the social category, which is a far less quantifiable decision-making process. That is the reason why there is the discrepancy on those three 'chambers', if I can call them that.

Ms DUNN (Eastern Metropolitan) — I thank the minister. I draw the attention of the house to the Tecoma McDonald's case again, in regard to which there were 1100 objections, many of them on environmental grounds. Given that is the case, would the operation of this new section mean that the council would not be able to invoke this new section having regard to the number, when the lion's share of objections might be pointing to environmental effects?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — My understanding is that there were actually over 1300 objections, but be that as it may, again I bring Ms Dunn back to the fact that it would be in relation to what is considered to be most relevant, where the impact assessment requires some understanding of community perception and values, and that would be the determination of the officer presiding over the case.

Ms DUNN (Eastern Metropolitan) — I thank the minister for his answer. To clarify, there were 1109 objections to Tecoma McDonald's, which consisted of 17 lever arch files full of objections and a further 330 to the tribunal when it went to appeal. In terms of your answer, and drilling into that, if a large number of objectors pointed to environmental matters as a concern for an application, the minister is saying that this new section could be invoked because it could be argued that those environmental matters have significant social effect, even though they are environmental effects?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again I draw Ms Dunn back to my earlier statement that it would be the determination of the officer presiding over the case, where they would be looking at an understanding of the community perception and values in that case.

Ms DUNN (Eastern Metropolitan) — Will the fact that it is around understanding and capturing community values and aspirations and applying this section be made clear in the practice note so that responsible authorities and the tribunal understand that it may go beyond the scope of significant social effect per se?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Just to clarify, is Ms Dunn asking if that will be in the note; is that correct? Yes, that will be in the notes.

Ms DUNN (Eastern Metropolitan) — I have two more questions. In relation to the new section, because it quite specifically refers to the number of objectors as being a key component of it, in the minister's mind how would this operate? What is the number, the critical mass, that sees the new section invoked? Is it based on numbers, percentages, how many pro forma objections or some other measure?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I am happy to tell Ms Dunn that there is no specific number of objectors that will provide evidence of what a significant social effect is, and again I let Ms Dunn know that that will be the determination of the presiding officer, given the circumstances or the issues the presiding officer has to consider.

Ms DUNN (Eastern Metropolitan) — In terms of the new section and looking at the rigour and integrity of the planning scheme in Victoria, how will the consistency of approach in applying the new section be maintained by responsible authorities and the tribunal?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Each case will be judged on its own merits.

Ms DUNN (Eastern Metropolitan) — In terms of a consistency of approach in the operation of the act across the state, is the minister saying that consistency will be maintained on each planning application in the state of Victoria?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I am advised that VCAT do not officially use precedents in their case rulings but are guided by past decisions in making future decisions, thus Ms Dunn's concern about consistency would most likely not be an issue, given that it looks at past cases that have similar characteristics. However, again I stress that it does judge each case on its own merits, at the same time.

Ms DUNN (Eastern Metropolitan) — The second part of that question was around responsible authorities, not the tribunal, and how there will be a consistent approach with responsible authorities.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — VCAT has guideline decisions, which are used by responsible decision-makers in their processes.

Ms DUNN (Eastern Metropolitan) — I thank the minister for his answers. I have no further questions.

Mr DAVIS (Southern Metropolitan) — My questions in part follow some of the commentary around Ms Dunn's questions.

I want to begin by congratulating the minister on his elevation. I have not done that formally in the chamber and I should, so I congratulate the minister.

My points in question go to similar matters around the Tecoma case, which is now well known. There were more than 1000 objections, so let us all agree on that; and there was significant community angst about that.

An honourable member interjected.

Mr DAVIS — Yes, there were more than 1000 objections. The point I want to make is that I am seeking elucidation or clarification from the minister as to how this will operate, because very squarely in the evidence that was received by the Standing Committee on the Environment and Planning in its public hearings — certainly from Ms Wyatt from the department — it was not clear that a very large number of submissions would necessarily make an impact in terms of the outcomes.

For members who want to read that, it is at page 6 of the report. At pages 14 and 15 of the report, we heard from very senior counsel from a number of organisations, who were very experienced in planning law. They made it clear that the outcome of the Tecoma case would not have been changed in the particular circumstances of the proposed legislative changes that are in this bill. That is directly at odds with what the government has said, particularly with what the Deputy Premier has said on a number of occasions when he has been clear, both before the election and since the election, that the approach in this bill would see a change. But the evidence that was provided to the committee — and I direct the minister to page 15, for example, where the number of objections in that case was discussed because, as has been outlined, it was a works permit — would not have changed the outcome in any way whatsoever.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I start by accepting the very gracious welcome and congratulations from Mr Davis, and I thank him for that.

The only thing I can say to Mr Davis is to reiterate what I said to Ms Dunn earlier that, as I explained earlier, the tribunal must also where appropriate have regard to the number of objectors in considering whether a use or development may have a significant social effect, and that will be the decision of the person presiding over the case.

Mr DAVIS (Southern Metropolitan) — I am very familiar with planning law in this regard. I understand that there are individual cases made, and as the minister has outlined, there are leading cases at the Victorian Civil and Administrative Tribunal. The minister probably left out the fact that from time to time the Supreme Court might make decisions that provide very detailed precedents for VCAT. The key point here is that the law is actually very clear. In the Tecoma case it was simply a works permit, and the bill would not have changed the outcome. That is the evidence the witnesses gave on oath at the public hearing of the Environment and Planning Committee, and it is not the same as what the minister is saying now. I am seeking to reconcile the sworn evidence with the minister's commentary.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Davis for his elucidation. I am not sure that I can ever reconcile anything with anything that goes on in his own thoughts, but other than that it is up to the individual officer presiding over the case to consider. The issue with Tecoma in particular was, as members have all discussed, a development application, but nonetheless it is up to the presiding officer to determine whether there

is a relevant number of objectors to the application before them and whether they place a social value or a specific social need in consequence on the community in relation to that application. That is the issue before the committee. If people have testified about whether they think it would have been successful or not, I am not sure that that adds value to the discussion in relation to the legislation before us.

Mr DAVIS (Southern Metropolitan) — I will not pursue this further other than to say that I am quite dissatisfied with the minister's response. It is clear from the evidence of very senior lawyers that the bill would not have changed the outcome, and nothing the minister has said would lead me to conclude differently. The fact is that the Tecoma case would have had precisely the same outcome, and in that case the community would not have been provided with a solution. The Deputy Premier's comments before and after the election are frankly directly misleading of the community.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I cannot allow those characterisations to stand in *Hansard* without my refuting them. I am not a lawyer — and I am thankful for that most days of my life — and I shall not argue with Mr Davis in that context, nor shall I argue against the opinion of people who testified before the committee.

Mr Davis — Sworn evidence.

Mr DALIDAKIS — I will take up the interjection. It does not matter whether evidence is sworn or is not; it is nonetheless still opinion. I have said repeatedly that whether or not an application is a development application, what is relevant here is whether the impact assessment requires some understanding of community perception and values, and that will be taken into consideration by the officer presiding over the case at hand.

Mr DAVIS (Southern Metropolitan) — In the circumstances, it is worth putting into *Hansard* some of the commentary. I direct the attention of members to page 15 of the transcript in the report, where Ms Johns — —

The DEPUTY PRESIDENT — Order! I ask Mr Davis whether this is a question.

Mr DAVIS — No, it is a preparatory point. I am referencing it for the elucidation of Hansard and the chamber. On page 15 of the transcript in the report tabled today it states that the application was about what they could build and the form it was going to take, so the number of objections in relation to the use was irrelevant. There is further evidence there, and I direct the attention of members to that page. What the minister has said today in no way responds to the fair points.

The DEPUTY PRESIDENT — Order! Does the minister have a further response?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — None is needed.

The DEPUTY PRESIDENT — Order! Does Mr Davis have any further questions?

Mr DAVIS (Southern Metropolitan) — I wish to make a separate point.

Mr Ondarchie interjected.

Mr DAVIS — No. I accept that the Deputy Premier's commentary is trumped by what was said by senior lawyers. My point is to pick up some commentary of the minister in response to Ms Dunn in regard to the practice note. I think there was just a tiny bit of confusion there. If this is not the case, I would be happy for the minister to elucidate, but I understand that the practice note will be limited to the heads of power in the act — that is, the practice note cannot advance beyond the legal position that exists in the legislation, including with respect to this objectors clause.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — As I am advised, the practice note is not bound by the legislation. It will be plain English advice for people.

Mr DAVIS (Southern Metropolitan) — That adds to the confusion, because if the practice note can be plain legal advice and not be bound by the legislation, I think we are into new territory. Practice notes are necessarily limited to the powers available under the act.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I am not sure whether Mr Davis and I are on parallel tracks. Best practice is best practice, and so I am not sure whether we are getting stuck on semantics or whether I have genuinely misunderstood Mr Davis's question or he has misunderstood my answer, both of which are conceivable. Nonetheless, best practice will be what is in the note for people to be able to utilise.

Mr DAVIS (Southern Metropolitan) — On topics beyond the act.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — In relation to the legislation.

Mr RAMSAY (Western Victoria) — My question to the minister is also in relation to new subsection 60(1B). There is a reason for this. In the inquiry that has just been conducted a lot of concern was raised about this. Many of the stakeholders have raised concerns about the definition of 'social impact' and how it might be interpreted. I have listened to the responses of the minister to questions asked by the Greens and by Mr Davis. I suspect that the lack of clarity and definition around the language will cause considerable hurt in relation to interpretation, no matter what authority is currently adjudicating on that.

Those who presented at the inquiry raised concerns also about the term 'where appropriate'. The issue is whether it means that objections based on number will determine what is appropriate or the relevance will determine what is appropriate. As Mr Davis has indicated, possibly the only way we will get a legal definition of 'significant social effect', given the bill does not interpret that in its language, will be through either the Supreme Court or some other court ruling, which will create a hindrance to those who want to take action through the wider objection process. I ask the minister whether the practice note he just referred to — or there might be a court determination — will provide some guidance in relation to language and at what time is 'where appropriate' applicable and what is it based on, in relation to that section?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Ramsay for his question. I did have cause to deal with a similar question from Ms Dunn earlier, and my response then was that it will be up to the responsible authority to determine what level of guidance is given to the objectors. So the 'where appropriate' is up to the deciding person in the case — adjudicating, presiding or looking after it. In terms of the issue of 'social effect', it is actually an existing term in the act already.

Mr RAMSAY (Western Victoria) — If that is the case, why then during the inquiry did all the witnesses in fact, bar none, actually raise questions about the definition of what significant social impacts and/or effects would mean in this new bill?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Unfortunately, I am not in a position to tell Mr Ramsay what was or was not in the minds of the people who testified before the inquiry.

Mr ONDARCHIE (Northern Metropolitan) — I welcome the minister to the table. I also want to talk about proposed section 60(1B) in clause 4 of the bill. I draw the minister's attention to the response he gave Ms Dunn a little earlier when she used the example of the number of objectors in a VCAT decision. The minister said that ultimately the decision would rest with the judge. It is my understanding that at VCAT they use tribunal members to decide on these matters. Is it the government's intention to add more judges to VCAT to hear these cases?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I beg the indulgence of the chamber if I have misused a term in providing an earlier answer. I seek Mr Ondarchie's understanding, if that has been the case.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister; I was just clarifying. I did not want us to get ahead of ourselves.

When talking about 'significant social effect', there has been a lack of clarity about what that would be, and the minister has received many questions about that tonight. Perhaps to make it easier, could the minister give the house an example of where a development would have insignificant social effect?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — In light of the preceding question from Mr Ondarchie in which he highlighted that I incorrectly used a term, let me not venture into that ground but rather say again, as I said to Ms Dunn, that each case would be treated on its merits and it would be up to the presiding officer of the case to determine it accordingly.

Mr ONDARCHIE (Northern Metropolitan) — In terms of people who will be affected by these developments, the minister has not provided any clarity on how they may be dealt with. These are citizens who might not have the resources to take this all the way. Before they enter into this, can the minister give them some clarity through this bill on what a 'significant social effect' may be and how they may proceed?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The issue of the significance of the term 'social effect' is that it already exists under the terms of the act, so I am not sure that I can add anything beyond that.

Clause agreed to; clauses 5 and 6 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

PARLIAMENTARY COMMITTEES

Membership

The ACTING PRESIDENT (**Mr Finn**) — Order! The President has received a letter from Mr Philip Dalidakis, MLC, that I will read to the house:

> As you will be aware, I have recently been appointed Minister for Small Business, Innovation and Trade.
>
> Until now I have served on the Electoral Matters Committee, but due to my ministerial appointment, I now tender my resignation from that committee.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — By leave, I move:

That —

(1) Mr Dalidakis be discharged from the Standing Committee on the Economy and Infrastructure;

(2) Ms Tierney be —

(a) discharged from the Standing Committee on the Environment and Planning; and

(b) appointed to the Standing Committee on the Economy and Infrastructure;

(3) Mr Somyurek be appointed to the —

(a) Standing Committee on the Environment and Planning; and

(b) Electoral Matters Committee.

Motion agreed to.

DELIVERING VICTORIAN INFRASTRUCTURE (PORT OF MELBOURNE LEASE TRANSACTION) BILL 2015

Second reading

Debate resumed from 25 June; motion of Ms MIKAKOS (Minister for Families and Children).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this evening to speak on the unfortunately titled Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Bill 2015. The reason I say that the bill is unfortunately titled is that the title of the bill is something that is more likely to have been dreamt up in the Premier's media unit than to have been considered in the cabinet. It is unfortunate because this bill will partially give effect to one of the most significant transactions in Victoria in two decades.

The sale of the port of Melbourne via a lease mechanism as set out in this bill is the most significant single transaction by the state of Victoria in two decades. It is a transaction which will be valued, depending on which commentators you listen to, in the range of $6 billion to $8 billion, and it will have a significant impact on the logistics sector for the state of Victoria for decades to come. So it is a very significant transaction, and it is one to which the Legislative Council needs to give very careful consideration. It is for that reason unfortunate that the government has approached the naming of the bill in the way it has, with a degree of flippancy in what is a very significant matter.

The port of Melbourne, which is the subject of this piece of legislation, is the most significant container port in Australia. It is recognised as the jewel, if you like, in the network of container ports in Australia. It is the container port that has the largest volume of container traffic in Australia, with around 2.5 million TEU — 20-foot equivalent units, which are the short containers, the 40-foot ones being the long containers. Around 2.5 million of those are handled through the port of Melbourne every year. By comparison, we see about 2.2 million TEU through Botany in Sydney and 1.1 million TEU through the port of Brisbane.

We have here in Melbourne the largest container port by around 10 per cent in terms of container capacity that is handled on an annual basis. This underscores how important the port is, not only to Melbourne and Victoria but also to Australia more generally. It is a port that sees around 3000 ship movements a year and supports around $92 billion worth of two-way trade, so it is a very significant piece of infrastructure when it comes to two-way trade within the Victorian economy. It is for that reason that this port and the transaction that is envisaged by this bill must be given the most careful consideration by this Parliament.

I will just go back a little in history and talk about the policy on ports of the respective major parties in this Parliament. When the coalition was in government during the last term of Parliament we had a very clear policy with respect to port capacity in Victoria. It was the coalition government under the leadership of Denis Napthine, the member for South-West Coast in the Legislative Assembly, initially as Minister for Ports and

subsequently as Premier, that commenced the port expansion project at the port of Melbourne, which was a $1.6 billion project to expand capacity at that port. It was the coalition government that ramped up development of the port of Hastings through the establishment and funding of the former Port of Hastings Development Corporation.

It was the coalition government that recognised the prudence of embarking on a lease transaction with the port of Melbourne. As a coalition government, we had a policy to expand capacity in the port of Melbourne, which is now underway. We recognised that demand for container port facilities in Victoria was growing and additional capacity needed to be provided at a second location. We identified that as the port of Hastings. We also recognised the value of entering into a medium-term lease for the port of Melbourne. This is something that had been identified through the work of the coalition as a lease of around a 40-year term, recognising the objectives of obtaining value for the state in the short term while also protecting the long-term interests of the state and the long-term value of that facility.

Also, in entering into a medium-term lease transaction for the port of Melbourne it was necessary to give consideration to the further expansion of port capacity and port facilities here in Victoria and the fact that the future development of the port of Hastings would be inexorably linked to the development of the port of Melbourne. That was, for a long time, a bipartisan policy in Victoria. The development of the port of Hastings is something that first received consideration in the era of the Bolte government. It was in fact the Bolte government that started purchasing land for the development of the port of Hastings.

As a consequence of that early work by the Bolte government, the state of Victoria is now a substantial landowner in the vicinity of the port of Hastings in preparation for the ultimate development of that container port. That is a position that had bipartisan support here in Victoria over a long period of time. It was supported by, and was advanced substantially by, the last coalition government, but interestingly it was also a position which was previously supported by the last Labor government in Victoria. The Brumby government was a strong advocate for the port of Hastings as Melbourne's second container port.

Ironically it was the current Treasurer — who at that time was the Minister for Roads and Ports in the Brumby government — who indicated that:

> … Hastings is the preferred site for a second container port to supplement the port of Melbourne when it reaches capacity in around 2030.

As ports minister in a previous Labor government Tim Pallas was very clear that the port of Hastings was a necessary part of port infrastructure in Victoria and that at that time it was estimated the port of Melbourne would reach its capacity by 2030. That was a statement made by Mr Pallas in around 2009 when he was in that previous role.

We then saw from the now government a shift away from that bipartisan position of supporting the development of the port of Hastings. As the port of Hastings started to be developed and the preliminary work was being done by the Port of Hastings Development Authority under the auspices of the previous government and led by the then Minister for Ports, David Hodgett, we saw the Labor Party take a different position. It moved away from its position in government of supporting Hastings as a second port to advocating for what it called the Bay West option, a proposal to develop a new container port somewhere within Port Phillip Bay on the western shore. That policy had limited public support — obviously it was run as a big election sweetener in Geelong — and in terms of logistics industry support it had very limited currency among key operators in transport and logistics in this state.

We have now seen the government move away from even that position. The government does not even support its Bay West proposal, which was a firm election commitment. Earlier today we heard Mr Dalidakis, the Minister for Small Business, Innovation and Trade, speak about the government's commitment to delivering its election promises. One of the clear ones it is not delivering is its Bay West port proposal. The government has moved away from its commitment to the port of Hastings. What we now have from the government is a commitment to the port of Melbourne as being Victoria's sole container port.

What is in the bill is not a reflection of a ports policy or a strategy of a government that recognises that there is a growing demand for and a growing use of our existing port facilities and that they will meet their capacity limits in the not-too-distant future — and there is a range of views as to when that will be. There is a need for the government to recognise that the continued operation of a container port at the top of Port Phillip Bay adjacent to the Melbourne CBD is not a long-term prospect and to provide alternatives to that and supplement its capacity. That is not what this bill is about. It is not about providing for long-term port capacity and the long-term needs of the state. It is about

delivering an outcome for Treasury — that is, maximising the revenue through the sale of lease mechanism laid down in the legislation before the house. The approach with the bill is very much about maximising revenue from the sale and not about providing a long-term policy to deliver infrastructure needs for the state.

We should reflect on what we currently have in Victoria with the port of Melbourne. As I said at the outset, it is the largest container port in Australia and the major hub for some $92 billion of two-way trade via our state. The port of Melbourne, in its historical location at the top of Port Phillip Bay adjacent to the Melbourne CBD, is according to a range of views likely to reach capacity within the next two decades. As I said, in 2009 the Brumby government estimated that the port would reach capacity by 2030. Infrastructure Australia has a similar view — that the port of Melbourne will reach capacity by 2031.

Indeed in giving evidence before the Public Accounts and Estimates Committee in May of this year the current Minister for Ports, Mr Donnellan, estimated that the port of Melbourne would reach capacity by 2045, which again is in the near to medium term when you are talking about building new port capacity. We have a previous Labor government estimate, we have an Infrastructure Australia estimate and we have the current minister's estimate that the port of Melbourne will reach capacity within the next two to three decades.

Important in the context of the port reaching capacity is the port's location in Port Phillip Bay, with all the attendant issues of needing to dredge the channel. Indeed the Legislative Council previously held an inquiry into the issue of channel dredging and the direct costs and environmental impacts associated with that. The prospect of continuing to have the state's major container port within Port Phillip Bay, with the need to continually dredge the channel and provide capacity for deeper draft ships in the future, is one that points to the need to be providing options beyond continued expansion at that port of Melbourne site.

The proposal contained in the legislation before the house this evening should be considered in the context of the need for new capacity in the future and the suitability of the port of Melbourne continuing to operate long term on its current site. However, the bill before the house contains a proposal from the government to lease the existing port of Melbourne for a 50 to 70-year time frame, 50 years being the period set down for the lease, with an additional 20 years as an option which can be triggered at the Premier's discretion, so effectively 50 to 70 years is on the table.

We have a mechanism in the bill by way of a compensation structure which will discourage the development of a second port. It is designed to ensure that whoever leases the port under the current mechanism will be able to seek compensation from the government in the event that a second container port is proposed. As a consequence of this focus on a single operator for the port of Melbourne, with no additional port being constructed, we would have a monopoly environment, and the bill does not provide for an adequate regulatory structure around port charges and fees in that future private monopoly environment. Yes, there is limited regulatory oversight in respect of port charges for the first 15 years of the operation of the lease, but there is no regulatory oversight with respect to any other cost regimes around the port of Melbourne, including things such as terminal rents.

This proposal does not address issues surrounding the environmental impact of the port. If the port is to continue long term at its present location and if the growth in demand for port services is to require expansion on the existing site and access by larger ships to the channel and the heads, that is inevitably going to have an environmental impact. The need to address that is not reflected in the legislation as it stands today.

In today's *Australian Financial Review* is an article titled 'DP World wins waterfront fight'. This article refers to recent negotiations between one of the stevedores, DP World, and the Port of Melbourne Corporation around port charges. The crux of the matter is that following a proposal from the Port of Melbourne Corporation to increase port rents for DP World in the order of 800 per cent, a negotiated outcome has been reached. Members of the house should consider why the port of Melbourne was looking to increase rents in the order of 800 per cent in the current environment, with the legislation for this sale transaction coming forward today, but that was ultimately resolved by negotiation with DP World.

In this article in the *Australian Financial Review* today the chair of the Australian Competition and Consumer Commission (ACCC), Rod Sims, is quoted with respect to the outcome of those negotiations. One paragraph states:

> The ACCC plans to keep an eye on future rental agreements to ensure privatised entities don't raise rents. 'It's bad for the economy and it puts people off privatisation', Mr Sims said. 'We should be privatising because the private sector is more efficient, not to try and do artificial things to raise a lot of money'.

Mr Sims went on to say that privatisation should not be about price. The message the chair of the ACCC is

sending with those comments is that in embarking on a transaction like this, the government — it applies to all governments, but in this matter the Victorian government — needs to have regard to the way in which the transaction will deliver a more efficient, more effective piece of infrastructure for the long-term benefit of the state. The message is very clear from the chair of the ACCC. The focus should not be simply on maximising revenue to the state today; it should be about having regard to the long-term benefits to the state which can be achieved and delivered through a privatisation process. That is very much the approach the coalition is taking to this matter and very much the view the coalition has on this piece of legislation.

Digressing to a related matter, on Sunday the Premier announced that the government would contribute $200 million to a so-called farming fund — a fund which, according to the Minister for Agriculture:

> … will be available for practical projects and programs that wholly benefit the agriculture sector including transport, irrigation, and energy projects, as well as skills development programs and market access campaigns.

This is something that was thrown on the table by the government at the last minute. It was thrown on the table by the government with a view to putting pressure on members of the Legislative Council to support the bill that is in the house tonight.

This announcement by the government demonstrates that the government does not understand the fundamental issues with this legislation insofar as the environment and structure that are being put in place for the long-term operation of the port of Melbourne go, because $200 million from what is likely to be a $6 billion or $7 billion in revenue, or 3 per cent or thereabouts of what is going to be delivered, does not address the fundamental issues with this legislation. It does not address a long-term lease of 70 years. To put that in context, if you count back 70 years, that takes us back to the end of the Second World War. This is a very long-term commitment. This announcement does not address the issues of competition at the port. It does not address the issues of establishing a private monopoly, with the attendant need for regulatory oversight of pricing matters. It does not address the long-term environmental issues attached to the extensive expansion of capacity at the port of Melbourne.

This fund has been thrown on the table by the government to encourage members of the Legislative Council to support this legislation. It is arguable, on a reading of the bill, that the fund as articulated by the Minister for Agriculture cannot be delivered under this legislation. The minister has spoken about this fund being far broader in terms of what can be spent than what the legislation before the house provides for. But this completely misses the point. The consideration of the Council needs to be the regime that will deliver the best structure for the port and the best operation and delivery of port facilities for Victoria in the long term, not simply the revenue that can be generated for the government through the immediate lease transaction.

The coalition has a number of concerns about this legislation, including the length of the proposed lease; the way the legislation seeks to prevent, through a compensation mechanism, the provision of competing container port facilities in Victoria for the duration of the lease; the fact that we will have a monopoly private operator without broad regulatory oversight of any pricing regime that it seeks to introduce; and the fact that the long-term environmental issues associated with continuing to expand capacity at the port of Melbourne have not been addressed.

Tomorrow the Legislative Council will have the opportunity to consider the establishment of a select committee to consider the issues I have outlined and the best way the long-term interests of the state can be protected through the lease of the port of Melbourne. The coalition went to the election with, and in government started the process of, a 40-year lease of the port of Melbourne, recognising the need for the current operation to transition from its present location to the Hastings site. Those aspects have not been reflected in the government's approach to this legislation. They are not reflected in government policy on ports. This bill reflects Treasury's approach and seeks to maximise revenue. It does not reflect the long-term needs of port users in this state.

As I say, a select committee would address the issues I have raised this evening and that have been raised in the community. I refer to comments that have been made by organisations such as the Victorian Employers Chamber of Commerce and Industry (VECCI). Yesterday VECCI, which is of course one of the peak bodies for industry in Victoria, issued a statement saying that it generally supports the position outlined in the draft terms of reference for the select committee, notice of which has been given to the Council today. The newly formed logistics coalition, which is made up of a number of corporations that operate at or in association with the port of Melbourne, has also stated that it supports a parliamentary inquiry. A media release dated 3 August reads:

> The coalition believes a parliamentary inquiry may be prudent to allow further time for the consideration, discussion

> and debate of issues with the draft legislation. This includes establishing effective regulation for the term of the proposed lease for future terminal rent increases, along with providing clarity on procedures for the introduction of new port charges and addressing the potential for vertical integration.

It quotes the spokesman for the coalition, Rod Nairn, as having stated:

> Even if short-term rental increase issues are resolved with the Port of Melbourne Corporation —

referring to the DP World matter I spoke about earlier —

> the draft legislation falls short of effective regulation, creating uncertainty and putting at risk future investment and trade volumes through the port.

He continued:

> The logistics industry is overall in favour of privatisation, however the legislation as drafted will fail to deliver outcomes that will improve port efficiency, port services or support the competitiveness of Victoria's supply chain over the long term.

There is support in the community, among port users and business groups, for a parliamentary inquiry into this legislation to ensure that we have a structure in place that meets the long-term needs of the state of Victoria, as well as delivering what the government is seeking in terms of revenue in the short term.

Mr Herbert — So report in September. It's easy. Then you can put it into a time frame for the budget.

Mr RICH-PHILLIPS — I will take up the interjection of the Minister for Training and Skills about reporting. The minister is advocating — —

Honourable members interjecting.

The ACTING PRESIDENT (**Mr Finn**) — Order! We already have a speaker on his feet. It would be appreciated if Mr Barber and the minister would be kind enough to listen to him.

Mr RICH-PHILLIPS — The minister advocates for a report from this inquiry in six or seven weeks time. The minister at the table believes that this inquiry, with terms of reference as outlined this morning which we will consider tomorrow, on issues which relate to a 70-year lease of the port — the single largest transaction in this state in two decades — should be done and dusted in six weeks. That would be a cursory consideration of issues that will affect the transport and logistics industry of this state for seven decades. The minister does not seem to believe that giving appropriate and detailed consideration to that is appropriate. I would say to the minister and to the government — —

Mr Herbert — We're going to play games here.

Mr RICH-PHILLIPS — The minister says the government is going to play games. That is the concern: that the government is going to play games. The motion relating to the select committee nominates a reporting date of no later than 30 November. If the committee reported no later than 30 November, that would allow for the legislation before the house to be dealt with this calendar year, as is the government's want. As members of the chamber would recognise, a reporting date of no later than 30 November allows the committee to report earlier than 30 November. That is of course contingent on the cooperation of the government with the committee's work, if the committee is established, in providing information to the committee and assisting the committee's work in considering the issues that are before it.

Tomorrow the house will consider the establishment of that committee. It is being proposed as a way forward with this legislation to address the issues that have been raised as concerns in the community. Members of the house will have the opportunity to consider that tomorrow. As I said, with a proposal to report by the end of November the opportunity is there for the committee to report earlier if it completes its work earlier. The easiest way for the committee to complete its work earlier is to have the cooperation of the government in the discharge of its responsibilities. That is a matter for debate tomorrow.

I will conclude where I started. The coalition has concerns about this legislation in that it is focused on short-term revenue for the state rather than the long-term interests of port users and logistics and transport in this state. In considering this legislation, our position is that it should not pass until a committee has considered it. It is my proposal that, at the conclusion of the second-reading debate, debate on the bill be adjourned until the committee has completed its work and reported back to the Council.

We believe this is too important to be rushed through tonight or this week. The issues here are serious. They will have enormous ramifications for the state for decades to come. An inquiry of three and a half months maximum — till the end of November — is not unrealistic for something that will affect the state for seven decades. I urge members of the house to support the adjournment of debate on this legislation until the committee has reported and indeed to support the establishment of a committee tomorrow so that these

serious issues can be given the sober consideration they require and we can get the best outcome for the people of Victoria for the next seven decades.

Mr BARBER (Northern Metropolitan) — As members in this chamber well understand, the Greens are opposed to the proposed sale of the port of Melbourne. Much of the information that Mr Rich-Phillips started to bring forward explained rather well why there is no case for selling the port of Melbourne.

First of all, the approach of selling the port to the highest bidder for the largest amount of money possible, while natural for a politician who wants to build up a war chest to get themselves re-elected, is in direct contradiction to the long-term economic interests of this state. Just on the weekend government members came out and announced they thought they were going to get an even higher price than previously estimated. I said, 'That is even worse news for Victoria', because the higher the sale price they obtain for the port the more a private investor is going to need to claw back through either reduced investment or higher fees in the future, and that will be a burden on exporters.

The port regularly returns a dividend to the state of tens of millions of dollars year after year. When we look at the work done by the Productivity Commission and others, however, we see that they say there is no fancy profit being extracted from the public monopoly and that its rates of return are comparable with that of other ports around the Australian coast, so how is it that some private investor believes they are going to come along, pay over the odds and then squeeze more juice out of the orange? If they think they have some efficiencies in the way they are going to operate, what I want to know is why the Port of Melbourne Corporation has not been implementing those efficiencies itself. If we hear from the Port of Melbourne Corporation in Mr Rich-Phillips's proposed inquiry, we will ask Treasury what it is Treasury thinks a private investor can do with this port that has not been done so far, and if there are proposed efficiency measures, we will ask the Port of Melbourne Corporation why it has not implemented them already.

Unfortunately there has been very little debate and scrutiny about this question of the port sale. That is because back during the state election it seemed that the port sale was a done deal. In government the coalition was proposing it, and in opposition Labor had agreed to do it, so it went through the election with minimal scrutiny. I do not recall the now Premier going out there to hoist up any billboards saying, 'Vote for me; I'll flog off a public asset', but apparently he is now claiming some sort of mandate for it. The scrutiny of this question has only just begun.

It is an unfortunate bit of timing for the Premier that the port decided to jack up rent for certain of its tenants. My understanding is that because of sales achieved in relation to the proposed expansion of the port's container capacity which went for what some people have seen as a ridiculously high price, the corporation thought it would turn around and fatten itself up for privatisation by applying those same rents to existing port users. This led to proposals for skyrocketing rents which would have put many dollars onto the price of each container and for whole sectors of the economy introduced no doubt tens of millions of dollars of extra cost that would have damaged their export competitiveness.

Apparently, it did not work; we read in this morning's paper that the Port of Melbourne Corporation had to back off and will not be raising rents the way it said it would. Yet another question arises: what has that done to the Treasury estimate of what it will get for this port? Remember that the government put its dollar figure representing what it already expects into this year's budget. Government members are already counting their chickens and working out how to spend the money and promising it to all and sundry. They announced a relatively puny amount for rural infrastructure — and they have belatedly recognised that rural areas need infrastructure as well — but unfortunately they have blackmailed those same communities by saying, 'If the port sale doesn't proceed, you can forget about all these wonderful bits of infrastructure we're promising you'. By the way, four or five different MPs were out on Sunday, Monday and this morning. It is like they have promised this $200 million five times over already.

Meanwhile we have seen a little more commentary about this proposed rent rise issue popping up on Fairfax online in the last hour or so. An article by Jenny Wiggins and Michael Smith has the headline '"Silly move" to push up DP World rent will hurt $6 billion port of Melbourne sale'. Interestingly they sought out some potential buyers for the port and asked them what they think of it all, and those buyers have commented off the record. The article states:

> 'There was an opportunity to get [the rents] up if it was finessed over time rather than just jammed in a single hit … but you have to do it gently', said one institutional investor who is considering a bid for the $6 billion port when it is privatised.

They have now somewhat given the game away — get hold of the port and then just start inexorably jacking up rents rather than trying to do it all in one go. The article continues:

> It was a silly move by the state, they went so hard and put such a ridiculous number on the table.

And it goes on further — —

Mr Herbert interjected.

Mr BARBER — These are potential bidders who have already been crawling all over the Labor Party. Let us face it: they did not wake up one morning and say, 'Let's sell the port'. It was Ralph Willis and the money men on all those superannuation funds crawling all over the Labor Party in opposition saying, 'Come on, you've got to sell this thing. We need another transaction'. The merchant banks and the lawyers would have been beating down the then opposition's door saying, 'You've got to sell something. We need the fees'.

The Labor Party scratched its head and said, 'Privatisation of public assets is a dog; the voters hate it. Let's dream up some sort of way to make this palatable. Oh, well, we'll do level crossings. We will do the 50 worst level crossings'. Or is it 50 of the worst? I have heard the Deputy Premier say that it is the 50 most deadly level crossings. Was it the RACV's list? Was it an independent analysis? Is it related to casualty accidents? Was it throwing darts at a map of marginal seats? Could that have been possible? It did not hit as far as Eastern Victoria Region or Northern Victoria Region members, so I can see the Shooters and Fishers Party in the starting blocks getting ready for their go in this debate, although they probably will not make it before 10 o'clock. The government did not suggest the 50 worst level crossings; it suggested maybe 25 from that list and then started throwing darts at a map of marginal seats. But that is all right; we can analyse that as part of the inquiry as well. I believe it is within — —

Mr Herbert interjected.

Mr BARBER — Perhaps we will get the Department of Economic Development, Jobs, Transport and Resources in as well to talk about the cost-benefit analysis that has been done on the 50 level crossings that were produced by throwing darts at a map of marginal seats. The article continues:

> Lawyers said the deal removed uncertainty over the pricing of the port when it is privatised. 'There was uncertainty over what value they'd realise over the longer term', said Martyn Taylor, a partner at Norton Rose Fulbright.
>
> Infrastructure investors said the agreement also removed the risk that bidders would make unrealistic assumptions —

unfortunately I do not think it will —

> about how much they could generate in rents after the port is privatised, which could push bidding prices up.

And so on and so forth.

> 'Port assets have been developed by the states and the entire east coast hasn't had the returns they should on those assets …

That is an interesting quote from a potential investor. Clearly they think there is an undervalued asset there and they are going to get hold of it. It will be a fixer upper's delight and they will be rolling in cream.

Then there is the other question that Mr Rich-Phillips started to raise, which I do not think the government has answered or will answer, and that is, 'What are the future options here?'. When will the port be at full capacity? Mr Rich-Phillips does not want to narrow it down to something like a 30-year range. It depends on a lot of factors, of course, such as economic growth, trade growth and the Australian dollar.

Mr Dalidakis interjected.

Mr BARBER — If I knew what the Australian dollar was going to be doing over the next 20 years, I would probably be investing in that rather than spending my time here.

There are issues like the growth of China, stuff going out, stuff going in, droughts, tariff barriers and the transpacific partnership. We do not know all those variables. That is why we cannot determine when the rate of growth will cause the capacity of the existing port to fill up. That is not really a problem unless you are privatising the port, because in privatising it you want to offer a monopoly, or at least you want to be able to cut off certain other options, either for expansion on site, nearby or simply to delay those investments to a time when it is really, truly necessary to make them.

We have a diabolical problem now simply because the government is in a rush and it wants to sell the port. An economist will point out the almost impossible moral dilemma for a politician who wants to get the maximum amount of money now against the long-term economic impacts. It is for that reason that if we were to bring this bill to a vote on the second reading, the Greens would oppose it, but I gather some discussion is happening across the table here as to what is an appropriate date when the bill might be deferred to line itself up with the purported inquiries that might be

debated at the time of general business tomorrow. In any case under those circumstances it is appropriate that we do not go too much further into the merits of the bill with a transaction as big, as important and as wideranging as this one. It is essential that the house inform itself before it proceeds any further in this debate, either in the second-reading or committee stage, and therefore it is most appropriate that all members here support a motion that is coming down the line to establish that inquiry and perhaps defer this bill.

The Victorian Farmers Federation (VFF) is out there saying it is in love with the $200 million that the government is going to give it. It is the change down the back of the couch that will get lost during this transaction, but for some reason the VFF is thrilled about it. If the VFF were serious about it, and in fact if the government were serious about it and not simply doing this at the behest of the big money end of town and whatever populist reason they dreamt up, then they would be looking at the whole question of investment of the entire supply chain into the port — all the way from the bits of level crossing out there west of Warrnambool, where containers of dry dairy products are loaded and taken all the way through to the port itself.

As far as I am aware at the moment it is not actually possible to lift a container off a train and directly onto a ship. There are some grain terminals that operate at the port of Melbourne, where trains come all the way into the terminal, and then from the opposite side of the silo the containers are fed onto the ship when the train arrives, but at the moment all the way along that supply chain there are many small barriers — works that need to be done and serious investment that is required, and not only is there no money in our future for those but in fact there is not even a plan for them.

The logistics chain is kind of like a whole bunch of sausages connected to each other. Whatever is the slowest point in that logistics chain in fact determines the speed of the chain all the way along. Rail freight is trying to compete with road freight, and pretty much everybody understands the benefit of shifting more onto rail. The problem is that productivity in the road freight industry grows every year.

Trucks get bigger and faster, and they get their own curfew-free facilities and all the rest of it, but there is little to no productivity improvement in the rail system. Even a few extra tonnes per axle load or a few extra kilometres an hour average travel time makes a huge difference in moving a commodity from Mildura all the way to the wharf front itself, yet those small, incremental gains are not really being made in the rail freight system, so trucks keep winning the arms race every year, with all the costs that we all now understand, particularly those of us who have had some experience in rural areas or who have talked to mayors and councillors whose roads and bridges are falling apart. They will not be getting many bridges for the $200 million that was thrown at them yesterday.

I hope this sale is ultimately scuttled, because it will force the government to go back to the drawing board and say, 'Right, we have a long-term investment need for the entire freight system as it feeds into the port of Melbourne'. It is that investment question and those investment needs that should be our primary consideration, from which other questions such as prices, fees and charges, investments, the length of the term of leases and alternative or supplementary options for port development would all be answered in that context.

I hope those issues start to get a bit of an airing as this committee process unfolds, assuming the government is willing to cooperate and make that process flow smoothly. I guarantee that there will be a large number of people wanting to make submissions to the inquiry and to be heard by it. Anybody who is an exporter or who is interested in regional development, which of course local governments are, have a big stake in this. They have not been given a huge amount of information about the proposal so far.

When I first read the bill it came as a bit of a shock. I was bracing myself for something pretty poor, but it was actually quite shocking the way the government is willing to lock us into these long-term monopolies and cut off other options, at huge expense to the taxpayer over the longer term. It is for that reason that we think the bill needs to be delayed for the period necessary for the house and the Victorian community to inform themselves about what is being proposed.

ADJOURNMENT

Mr HERBERT (Minister for Training and Skills) — I move:

That the house do now adjourn.

V/Line services

Ms LOVELL (Northern Victoria) — I rise to speak on the adjournment tonight. My adjournment matter is to the Minister for Public Transport, and it is in regard to the increased cost incurred by pensioners, seniors and other concession card holders travelling on V/Line services on weekends. The action that I seek from the minister is to at the very least reduce the cost of V/Line

fares for pensioners, seniors and other concession card holders to bring them in line with off-peak weekday costs and provide some equity to pensioners and seniors in regional Victoria in line with the free weekend travel experienced by those in suburban Melbourne.

I recently hosted a community forum on rail services across greater Shepparton with the shadow Minister for Public Transport in the other place. One elderly constituent raised his concern that it costs more for him to travel from Shepparton to Melbourne on the weekend than it does during the week. This constituent frequently visits his family in Melbourne, and with work and school commitments often the most suitable time for him to visit is on the weekend. As a pensioner he is entitled to concession fares for his train travel; however, the cost of a trip from Shepparton to the Southern Cross station is around 44 per cent higher on weekends than during the week, even with a concession card, because all weekend service fares are charged at the peak rate, with no off-peak tickets being available.

The V/Line website is quite hilarious. It defines peak services as services 'where you touch off in Melbourne before 9.00 a.m. weekdays and when you touch on in Melbourne between 16:00 and 18:00 weekdays'. It goes on to say that 'All other services including public holidays and weekends are defined as off-peak'. But on the very next line it says 'Off-peak concession fares are not available on the weekend' and that 'peak concession fares apply'. Not only do pensioners and seniors in regional Victoria miss out on the free travel provided to those in suburban Melbourne but they have to pay more on weekends. What an insult.

This significant additional cost has implications for pensioners who need to attend medical and other appointments, sporting and community events, reunions and other activities in and around Melbourne during the weekend. For those who are unable to drive it is vital that they have affordable and accessible methods of transport. The cost of V/Line travel for pension concession card holders should at the very least be the same on weekends as it is during the week. This would encourage the increased use of trains and allow elderly residents to easily and affordably access family as well other activities and services in Melbourne.

The action I seek from the minister is to at the very least reduce the cost of V/Line fares for pensioners, seniors and other concession card holders to bring them in line with off-peak weekday costs. This would provide some equity to pensioners and seniors in regional Victoria in line with the free weekend travel experienced by those in suburban Melbourne.

Yarra Ranges tech school

Mr MULINO (Eastern Victoria) — My adjournment matter is for the Minister for Education. On Monday, 10 August, I will have the pleasure of leading a stakeholder forum in relation to the establishment of Yarra Ranges tech school.

As part of the Andrews Labor government $125 million Tech Schools initiative, Yarra Ranges students will have a tech school that provides access to advanced technology and new opportunities to develop essential employability skills, providing pathways into further education, training and employment. This will give students at surrounding schools a unique opportunity to access leading-edge technology, innovative learning and discovery.

The tech school, which may be co-located alongside the TAFE and higher education provider at the recently reopened Lilydale campus — another Andrews Labor government commitment — will complement and build on existing education provision in the region and provide enrichment and extension programs for all students. The Yarra Ranges tech school will be operating by 2018, with local schools working in partnership with TAFEs, universities, local government and industry to deliver a range of innovative programs to students.

I ask the minister to come and meet with me and key education, community and industry stakeholders to discuss the future of this project and the next steps in this very exciting initiative.

Ballarat West employment zone

Mr MORRIS (Western Victoria) — My adjournment matter is for the Minister for Employment. Ballarat under the Labor government has seen significant job losses, from businesses closing down to companies cutting employees. This Labor government has been very bad news for anyone who wants to be gainfully employed in our golden city.

There is light at the end of the tunnel — or so we all thought. But with this Labor government dragging its collective feet on a significant development that will create jobs in Ballarat, I am no longer quite so sure. Not unlike the government marking time on whether or not VicRoads will be relocated to Ballarat, it has been silent on the Ballarat West employment zone. The Napthine government understood the importance of the Ballarat West employment zone, or BWEZ, and invested $25.2 million from the 2014 state budget into this project, representing a major boost for investment and

jobs, not only in Ballarat but also more broadly in greater western Victoria. The Ballarat West employment zone has the potential to create 9000 jobs and add $5 billion annually to the local economy. This is critically important for the city of Ballarat, whose population is growing at 2 per cent per annum.

I want to know when this government will get out of the way and stop acting as a roadblock to job creation in Ballarat. I call upon the minister to announce who will be the anchor tenant for the Ballarat West employment zone and get this vitally important project moving.

Bus services

Ms DUNN (Eastern Metropolitan) — My adjournment matter is for the Minister for Public Transport. Victorians rely on safe, reliable and frequent bus services. Buses connect our local communities in flexible ways and deliver many Victorians to shops, schools, work, railway stations and directly home safe every day. It has been brought to my attention that bus patronage data is not available on the Public Transport Victoria website. The publication of Victorian bus patronage data would add great value to public input into the operation of Victoria's bus network. The action I request is for the Minister for Public Transport to require Public Transport Victoria to publish bus patronage data for all bus routes on its website.

CityLife Church school program

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to Mr Merlino in his responsibility as the Minister for Education. Recently it became apparent that a program initiated by the CityLife Church at Fairhills High School has provided some very strange information targeted at young female students. It involves certain misleading and strange information about girls' sexuality which is not based on fact. This was very concerning for parents of students at that school and also the community at large. The action I seek from the minister is that he direct his department to ensure that this program is not applied at any other schools so as not to distress students and parents in other places.

Bellarine Peninsula police resources

Mr RAMSAY (Western Victoria) — The matter I wish to raise with the Minister for Police is in relation to the increasing crime rate on the Bellarine Peninsula and the current police resources provided to cover that area. Despite making an election commitment that she would deliver 16-hour manned police stations at Drysdale, Queenscliff and Point Lonsdale, the member for Bellarine in the Assembly, Lisa Neville, knew she would never be able to deliver on that Labor promise. She reiterated that only recently in the Geelong *Advertiser*, saying that it is in fact police command that allocates police resources to priority areas, not political candidates. Ms Neville's promise was a cruel hoax on the residents of the Bellarine Peninsula.

Notwithstanding the lies told by Labor, the Bellarine Peninsula is facing increasing crime. In fact Drysdale, with its local Neighbourhood Watch committee, is seeking through the local council funding for more CCTV cameras in the main shopping precinct. Barwon Heads and Ocean Grove have seen robberies and associated crime rise by 300 per cent, which is unprecedented in those towns. The expansion of Armstrong Creek and the ongoing social problems in North Geelong and Corio are stretching the resources of police, and there is the two-police patrol requirement.

The action I seek from the minister is for him to work with the Geelong police region to provide the appropriate resourcing to respond to increasing crime around the Bellarine Peninsula and in hot spots in the Geelong region. I respectfully ask that the minister do this in good faith, without the political rhetoric that was provided by the member for Bellarine during the election campaign.

Western suburbs hepatitis services

Mr EIDEH (Western Metropolitan) — My adjournment matter today is for the Minister for Health, the Honourable Jill Hennessy. Recently released 2014–15 Hepatitis Victoria data indicates that there are thousands of people with serious hepatitis infections living within Melbourne's western suburbs. Some of the highest statistics are in the cities of Brimbank and Melton.

It is estimated that more than 4000 people in Brimbank are living with chronic hepatitis B, which is the second highest prevalence of any local government area in Victoria. Melton is ranked seventh highest in terms of sufferers of hepatitis B, with almost 1000 cases in the municipality. However, it also accounts for the third highest rate of hepatitis C in the north-west region. This figure accounts for 3.5 per cent of Victoria's total hepatitis C cases.

These increasing numbers have been identified as being a result of the growing migrant population in my electorate as well as unsafe overseas travel, unprotected sexual intercourse and drug use. In fact 80 per cent of current hepatitis C infections and 90 per cent of new

infections in Victoria have been identified as being a result of unsafe injecting drug use.

According to Hepatitis Victoria, almost 500 000 people in Australia, or 2 per cent of the population, live with chronic viral hepatitis — that is, hepatitis B and hepatitis C. I ask the minister, with the high number of people living with hepatitis B and C in my electorate, what support services are available to my constituents? With these figures steadily increasing, will the government continue to provide funding for more support services for people with hepatitis B and C in the west?

Custody officers

Mr O'DONOHUE (Eastern Victoria) — I raise a matter this evening for the attention of the Minister for Police. As I previously outlined to the house, the Andrews Labor government has had precious little to say and precious little to deliver when it comes to additional police resources in Victoria, notwithstanding the numerous challenges confronting Victoria Police, including strong population growth, the scourges of ice and family violence and the changed operating environment which has led to the introduction of the two-up policy. The Victoria Police Academy is operating at well below its capacity and well below the numbers that were the hallmark of the last term of government.

Prior to the last election the Andrews opposition, now government, took to the community a policy for outsourcing the management of police cells to custody officers. The policy received bipartisan support before the election. The coalition favoured a private sector model, such as the one that operates at the Melbourne Custody Centre, located underneath the Melbourne Magistrates Court. It is now eight months since the election of the Andrews government and three months since the delivery of the budget, and we are yet to see legislation for this policy. I hear various reports around Victoria of confusion and uncertainty about how the proposed custody officer model will be delivered in police stations, and we are yet to see the commencement of the recruitment and training of custody officers.

In a media release about the budget on 5 May, the Minister for Police said:

> Police who could be on the front line catching crooks are currently stuck babysitting people in the local lockup.

That is true. The issue has become more prominent in recent weeks because of the riot at the Metropolitan Remand Centre, which took place, as I understand, because there are hundreds of beds that are currently offline at the centre, which has led to significant additional pressure being placed on correctional facilities around Victoria and more prisoners being held in police cells. I have heard stories from around country Victoria about prisoners being shunted between different police cell locations as they approach the 14-day maximum period.

The action I seek from Minister Noonan is for him to provide an update to the house and the Victorian community about when legislation for custody officers will be brought to this place and when Victoria can expect to see custody officers relieving Victoria Police officers of the job of managing prisoners in police cells.

Dairy industry

Mr PURCELL (Western Victoria) — The matter I raise tonight is for the attention of the Minister for Agriculture. Foreign ownership is a problem throughout Victoria. Currently there is a great deal of uncertainty in western Victoria regarding a plan by Linear Capital to create a major new dairy company in Australia. Over the last 12 months the company has been negotiating with more than 70 farmers in western Victoria to purchase their properties for this investment. The details of who is financially backing the plan are sketchy, with unknown information being spread about the source of the capital being from China, possibly Canada or possibly from other regions.

Time lines for this project have blown out substantially, and there is a large amount of anecdotal evidence that uncertainty around the proposal is affecting the cash flows of these communities, with farmers who are involved in the project reducing their spending under these circumstances.

I ask the minister to obtain and provide greater detail on this proposal and to support the western dairy community and agricultural sector during this period of uncertainty before irreversible damage is done to the industry.

Mernda rail extension

Mr ONDARCHIE (Northern Metropolitan) — My adjournment matter is for the Minister for Public Transport. It relates to the confusion, created by the government, my constituents in Melbourne's outer north feel about exactly when the Mernda rail extension will be completed.

In 2014 the member for Yan Yean in the Assembly put out a flyer saying Labor would extend the South Morang rail line to Mernda and that work would start in

the next year. On 5 May this year the Treasurer said that the government had allocated $9 million towards planning and had committed to completing it in its first term. On 6 May the member for Yan Yean said on her Facebook page that it would be completed by 2018. On 15 May Minister Allan said at a Public Accounts and Estimates Committee hearing that it would be commenced within four years. On 18 May the member for Yan Yean said it would be operational by the next election. On 19 May the minister said she wanted construction to start in the government's first term and she hoped to have it finished by 2019. The Deputy Premier, about whom there is lots of opinion at the minute, said it would be finished in the 2018–19 financial year. Minister Allan then said:

> We don't want to waste a moment because we really have to start from scratch.

This is despite the fact that the Labor Party had said prior to the election that it was a fully costed, fully funded project. I fail to understand how it is fully costed and fully funded if the government now claims it has not done the planning.

I asked this by way of a constituency question back in June of this year, and I got a response that did not answer the question. It simply told me about process — what the government is planning to do, and when it is going to get going on it and the fact that the member for Yan Yean will be chairing a task force. That does not answer the question. The people of Melbourne's outer north have been conned about when this going to be done. If we use the South Morang rail extension as an example, it took 13 years from the day the Labor Party promised it to when it was completed under a coalition government. The answer is very simple. I ask the direct question, and I ask the minister by way of adjournment to supply me with the day, the date or even the month when the people of Mernda and the outer north can expect to be using the train from Mernda. It is a simple question, looking for a simple answer.

Defence industry procurement policy

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Minister for Industry, and it is in regard to the ongoing impact of the establishment of the Victorian Defence Procurement Office in Geelong. Geelong has over 300 businesses which supply products and services to domestic and international defence aerospace markets. The state's defence industry is valued at $1.5 billion annually, and the Labor government intends to capitalise on this dynamic and innovative industry sector by making it one of the six sectors it is targeting through the $200 million Future Industries Fund.

In my electorate of Western Victoria Region, $5 million was dedicated to the establishment of the Victorian Defence Procurement Office through the Regional Jobs and Infrastructure Fund. The office is intended to ensure that the skill and capability of Geelong manufacturers are marketed to the world's largest defence manufacturers. It is intended to ensure the growth of the manufacturing industry, particularly in light of the forthcoming Ford plant closure, and it is to create more high-skill, high-wage jobs to replace those that will be lost.

The time to act is now. However, not all tiers of government have the same commitment to Victorian jobs in the defence technology sector, and this is starting to cost jobs, which leads to losses in human capital and industry capability. In fact BAE Systems shipyards has recently announced that a further 80 trade skills jobs will be lost as a result of a lack of workflow. Yet there are four outstanding projects that that shipyard could be well placed to bid for, two of which are recommended in the RAND Corporation's report, *Australia's Naval Shipbuilding Enterprise — Preparing for the 21st Century*. The four projects are as follows: the SEA 5000 Future Frigate, and two replacement ships — SEA 1179 and 1180; federal funding for a fourth air warfare destroyer; specifying Australian industry content for the navy's replenishment ships; and bringing forward the pacific patrol boat contract to early 2016.

The action I seek from the minister is that she provide me with information about how the federal government's prevarication is impacting on the Geelong procurement office, and indeed its impact on the future of the shipyards.

Autism services

Mr FINN (Western Metropolitan) — I raise a matter for the attention of the Minister for Housing, Disability and Ageing. It is important to point out that in the area of autism the first and most important program of all is early intervention. It cannot be stressed too much, and it is extraordinarily important in the life of any child with autism. It is absolutely crucial, and the earlier a child receives early intervention, the better the results will be.

Just a few weeks ago I visited the Olga Tennison Autism Research Centre at La Trobe University. The staff are doing some amazing work there. I came away from that visit with a very big smile on my face, having

seen some of the wonderful work they are doing. One of the programs they are working on is the detection of autism in children as young as six months. That would be an extraordinary achievement, and I am told they are not far away from doing so. Even if they succeed, it only makes a difference if an early intervention program is available.

World's best practice tells us that a child needs at least 20 hours of early intervention per week. Most children in this state do not even get a quarter of that. If they get 2 to 3 hours per week, most think they are doing well. To my way of thinking that is just not good enough, and indeed it is having a significantly detrimental effect on children and ultimately on their families as well. We need more government support for early intervention services for children with autism, and quite frankly we need it now.

These programs are life changing for children and also for the families living with autism, because it is not just the children with autism who are impacted but also their mothers, their fathers and their siblings. Sometimes members of the extended family are impacted by a child's autism as well. I ask the minister whether he will consider what I have had to say about this extremely important matter and provide the sort of support I have asked for as a matter of urgency, because there are many thousands of children throughout the state and many thousands of family members who are desperate for this sort of support.

Huntingdale railway station

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Public Transport, and the issue is the car park at the Huntingdale railway station. The action I am seeking is upgraded and safer parking for commuters at the station. The problems of the two unsealed car parks are very well documented, and I have seen these for myself and seen the frustration and anger among commuters who need to use them each day. At this time of year the two car parks are extremely muddy, and there are deep puddles everywhere. As well as being unpleasant to walk through, it is simply dangerous. With no lines marked, the car park is a crowded free-for-all. Some drivers are reportedly parked in by others for very long periods of time, and getting out can lead to accidents that really do not need to happen.

Unfortunately there was no money allocated in the Andrews government's May budget for fixing this car park, and sadly one of the issues is buck-passing in terms of who is actually responsible. The car park is owned by VicRoads, and it is leased to VicTrack and sublet to Metro Trains Melbourne. I understand that the state government is responsible for paying for commuter car park upgrades and that Public Transport Victoria is responsible for carrying them out.

I was surprised and also amused to receive an email about this issue on 23 July from the mayor of Monash City Council, Paul Klisaris. The odd purpose of his email was to inform me that the council is setting up a committee in relation to the car park and to make it clear that I was not welcome to attend its first meeting, which was set to occur the following week, and nor it seems were any other Liberal MPs welcome at that meeting. I understand that Mr Davis, Ms Crozier and Mrs Peulich also received this extraordinary unsolicited email.

Mrs Peulich — He was withdrawing an invitation that had not been received.

Ms FITZHERBERT — That is right. Part of what it said was:

> The steering committee will be comprised of the three Oakleigh ward councillors, the local state member of Parliament —

being the member for Oakleigh in the Legislative Assembly —

> the local federal member of Parliament and representatives of the Oakleigh Traders Association and the Oakleigh Rotary Club. Its job is to review the provision of parking and parking restrictions within the Oakleigh activity centre, including a review of the proposed Atkinson car park as the most appropriate site for a multi-deck car park, the proposed design and the possibility for the car park to accommodate active frontages incorporating other uses.

As it happens, this meeting did not happen. It was cancelled. Who is to know what action the council now plans, if any?

Mrs Peulich — Must have caucused on that one.

Ms FITZHERBERT — I agree. There is a simple solution to this that does not require a committee. I call on the Minister for Public Transport to, as a matter of urgency, allocate appropriate funds, seal the car park and paint some lines.

Patterson Lakes waterway management

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Environment, Climate Change and Water in relation to a longstanding issue I have been campaigning for since being elected to this chamber.

Mr Finn — Not the dunny again!

Mrs PEULICH — No, not the dunny — the dunny is still under lock and key. The issue is in relation to the Patterson Lakes Quiet Lakes Owners and Residents Association campaign for improved management of the lakes. Progress had been made in this area under the coalition government, and after campaigning on this I was pleased to see Ms Donna Bauer, the former member for Carrum, make significant headway by arranging a number of initiatives to address the concerns of the residents. One of those initiatives was an independent review conducted in September 2012, which was established by the then Minister for Water with Melbourne Water and the Patterson Lakes community to assess the management of the Patterson Lakes waterways, the outcomes of which Melbourne Water agreed to be bound by.

Unfortunately under the Labor government Melbourne Water has stated its intention to ignore the review's recommendations to help prevent blue-green algae blooming in the Quiet Lakes and is refusing to fund the cost of bore water flushing, which amounts to something like $44 000 a year. This is in stark contrast with the commitment of approximately $80 000 a year being made by the City of Kingston as a goodwill gesture towards some of the measures to clean up, improve and better manage the waterways.

Residents feel this is very unjust — particularly Anthony Moffatt, the association's president, with whom I met. In a very short amount of time he has collected something like 500 signatures on a petition. Regrettably the petition is not in a format that enables it to be tabled in the Parliament, but he did say that he would hand it directly to the minister, and I felt that this would be a lost opportunity if I did not draw this issue to the public's attention. I call on the minister to read and acknowledge the petition and to reinstate some of the initiatives that have been called for.

The association's petition reads:

> We, the undersigned residents of Patterson Lakes and surrounding communities, hereby call upon the water minister to compel Melbourne Water to implement the recommendations of the Patterson Lakes independent review (review) and the DesignFlow *Quiet Lakes Water Quality Management Plan* (design flow plan), namely:
>
> > that the recommendations of the DesignFlow *Quiet Lakes Water Quality Management Plan* be implemented, following the completion of an assessment of the bore water trial …

The petitioners also request:

> > that the system of the interconnecting water flows between the three Quiet Lakes be managed, funded and operated by Melbourne Water to deliver the outcomes recommended in this review. These are to be funded by the Melbourne metropolitan waterways and drainage charge funds.

That request is as per recommendation 6, pages x and 74. Lastly, the petition demands:

> > that Melbourne Water should continue with groundwater flushing (based on a minimum of 1.5 millilitres a day) to manage blue-green algae over the summer period.

These measures are necessary in order to prevent the bloom of blue-green algae and to manage the health concerns that would otherwise impact upon the community.

Responses

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — We have had adjournment matters raised tonight by Ms Lovell for the attention of the Minister for Public Transport in relation to a reduction in cost for pensioners, seniors and other concession card holders.

Mr Mulino raised a matter for the attention of the Minister for Education and asked that he meet with stakeholders in relation to the establishment of the Yarra Ranges tech school.

Mr Morris raised a matter for the attention of the Minister for Employment, asking when the anchor tenant in the Ballarat West economic zone would be announced.

Ms Dunn raised a matter for the attention of the Minister for Public Transport concerning the publishing of the patronage data on the bus network.

Mr Leane raised a matter for the attention of the Minister for Education and asked that he direct his department to look at programs run within his department.

Mr Ramsay raised a matter for the attention of the Minister for Police regarding appropriate resourcing of police on the Bellarine Peninsula.

Mr Eideh raised a matter for the attention of the Minister for Health in relation to support services available for hepatitis B and C sufferers in the west and whether they will continue to receive funding.

Mr O'Donohue raised a matter for the attention of the Minister for Police regarding when legislation for custody officers will be brought to this place and when the positions will be established.

Mr Purcell raised a matter for the attention of the Minister for Agriculture in relation to support for the sector and to find out more about a proposal by Linear Capital.

Mr Ondarchie raised a matter for the attention of the Minister for Public Transport in relation to supplying a date for the beginning of the Mernda rail extension.

Ms Tierney raised a matter for the attention of the Minister for Industry and asked that she provide information on how the federal government's stalling on shipyard policy is affecting jobs.

Mr Finn raised a matter for the attention of the Minister for Housing, Disability and Ageing and asked that he consider early intervention support services for infants with autism spectrum disorder.

Ms Fitzherbert raised a matter for the attention of the Minister for Public Transport and asked that she consider the safety of train station car parks at Huntingdale train station.

Mrs Peulich raised a matter for the attention of the Minister for Environment, Climate Change and Water in relation to the management of water quality plans for Patterson Lakes by Melbourne Water.

I also have written responses to 61 adjournment debate matters.

The PRESIDENT — Order! Given there are 61 responses to adjournment matters, we will take those as tabled. The house stands adjourned.

House adjourned 10.32 p.m.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses have been incorporated in the form supplied to Hansard.

Regional network development plan

Question asked by: **Mr Morris**
Directed to: **Minister for Regional Development**
Asked on: **25 June 2015**

RESPONSE:

The Andrews Labor Government is committed to improving public transport services throughout Victoria,and we are currently working to prepare a Network Development Plan (NDP) for regional Victoria. The NDP will assess how regional public transport services should evolve to meet the needs of passengers in the short, medium and long term. The NDP will also plan for capacity on the rail freight network to support regional Victoria's economic competitiveness and prosperity. The plan will be shaped from the ideas of people who live and work in or visit regional Victoria and I'm pleased to say we have received some great input into the plan so far.

I am looking forward to the Public Transport Victoria team visiting the Grampians region to conduct community and stakeholder workshops in places like Ballarat, Maryborough, Ararat, Horsham and Hamilton. The dates, times and locations of these events have been advertised locally and are being promoted extensively to ensure we have as many people in attendance as possible. I can tell you the workshops will be commencing in Ballarat on Monday 20 July followed by Maryborough on 21July, Ararat on 22 July,Horsham on 27 July and Hamilton on 28 July.

But the workshops aren't the only avenue for feedback. Anyone can have their say online between now and September by visiting ptv.vic.gov.au/projects/get-involved/ or by picking up a sur vey at their local V/Line station.

Public holidays

Question asked by: **Mrs Peulich**
Directed to: **Special Minister of State**
Asked on: **25 June 2015**

RESPONSE:

The Regulatory Impact Statement was released on 8 July 2015 and is available on the Department of Economic Development, Jobs, Transport and Resources website.

Leadbeater's possum

Question asked by: **Ms Dunn**
Directed to: **Special Minister of State**
Asked on: **25 June 2015**

RESPONSE:

The timber release plan sits in the portfolio of the Minister for Agriculture. The Minister for Agriculture allocates the area of public land that can be the subject of the timber release plan through an Allocation Order. VicForests identifies harvest areas within the allocated area and develops the timber release plan. All harvesting must comply and be consistent with forest zoning undertaken by the Department of Environment, Land, Water and Planning. Forest zoning, including special protection zones, is used to protect natural attributes such as the Leadbeater's possum and its habitat.

The government continues to implement all of the recommendations made by the Leadbeater's Possum Advisory Group in January 2014, including measures to better identify and protect possum colonies. Forest management zones have recently been updated to protect 87 identified possum colonies within Central Highlands state forests

from timber harvesting impacts. It is intended that any further possum colonies that are identified and verified will be protected in a similar manner.

Over and above the recommendations of the advisory group in April 2015 the Minister for Environment, Climate Change and Water announced additional measures to help secure the long-term survival of the Lead beater's possum in the Central Highlands including:

– fast-tracking targeted surveys to accelerate the identification of new Leadbeater's possum colonies, ensuring new colonies are identified and protected more quickly than originally planned

– VicForests commencing a program of remote camera surveys to look for Leadbeater's Possum colonies in targeted areas planned for harvest that will complement existing measures such as the protection of habitat and retention harvesting in forest outside of the reserve system

– undertaking infrared aerial surveys to identify old trees and map habitat within the Leadbeater's possum range, to capture new information that will lead to better forest management planning and regulation

– involving the community in the protection of colonies, through the purchase and loan of additional survey equipment to complement the surveys in targeted areas planned for harvest.

All timber harvesting operations must comply with the Code of Practice for Timber Production 2014 developed and enforced by the Department of Environment, Land, Water and Planning. The code includes specific rules or prescriptions to protect the Leadbeater's possum.

The Minister for Environment, Climate Change and Water also administers the Floro and Fauna Guarantee Act 1988. Action statements under the Act provide a further means by which specific flora and fauna, including the Leadbeater's possum and/or its habitat may be protected.

These protection measures have been represented in the Management Standards and Procedures for timber harvesting operations in Victoria's State Forests 2014, and are enforceable.

In addition, the Government is supporting a taskforce to provide leadership and reach common ground on future issues facing the timber industry, job protection, economic activity, and the protection of our unique native flora and fauna and threatened species, such as the Leadbeater's possum.

The Government is confident the taskforce will provide a way forward to get a resolution in the Central Highlands and the government will consider any reasonable recommendations or consensus proposals the taskforce makes.

VicForests

Question asked by: **Ms Dunn**
Directed to: **Minister for Agriculture**
Asked on: **25 June 2015**

RESPONSE:

In 2004,the Victorian Government’s Our Forests Our Future statement introduced a transition away from administered sawlog licences to a fully competitive market system in Victoria.

Section 86A of Victoria’s State Owned Enterprises Act 1992 (SOE Act) was introduced as part of this transition to ensure VicForests’ sales processes during this period aligned with Commonwealth trade practice requirements. This provided competition authorisation to VicForests for any act or thing done by VicForests and its directors and officers in connection with the allocation and sale of timber resources,if the relevant act or thing is done with the consent of the Treasurer.

As the Member indicates,Section 86A of the SOE Act sunsets on 1July 2015.

My department has recently prepared advice on this matter and this is under active consideration.