PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 10 March 2016

(Extract from book 4)

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HANSARD150

1866–2016

Following a select committee investigation, Victorian Hansard was conceived when the following amended motion was passed by the Legislative Assembly on 23 June 1865:

> That in the opinion of this house, provision should be made to secure a more accurate report of the debates in Parliament, in the form of *Hansard.*

The sessional volume for the first sitting period of the Fifth Parliament, from 12 February to 10 April 1866, contains the following preface dated 11 April:

> As a preface to the first volume of "Parliamentary Debates" (new series), it is not inappropriate to state that prior to the Fifth Parliament of Victoria the newspapers of the day virtually supplied the only records of the debates of the Legislature.
>
> With the commencement of the Fifth Parliament, however, an independent report was furnished by a special staff of reporters, and issued in weekly parts.
>
> This volume contains the complete reports of the proceedings of both Houses during the past session.

In 2016 the Hansard Unit of the Department of Parliamentary Services continues the work begun 150 years ago of providing an accurate and complete report of the proceedings of both houses of the Victorian Parliament.

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

Premier	The Hon. D. M. Andrews, MP
Deputy Premier and Minister for Education	The Hon. J. A. Merlino, MP
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Employment	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Industry, and Minister for Energy and Resources	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. M. P. Foley, MP
Minister for Emergency Services, and Minister for Consumer Affairs, Gaming and Liquor Regulation	The Hon. J. F. Garrett, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Training and Skills	The Hon. S. R. Herbert, MLC
Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
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 — #Ms Dunn, 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, #Ms Hartland, Mr Melhem, Mr Mulino, Mr O'Donohue, Ms Patten, Mrs Peulich, #Mr Rich-Phillips, Ms Springle and Ms Symes.

participating members

Legislative Council select committees

Port of Melbourne Select Committee — Mr Barber, Mr Drum, Mr Mulino, Mr Ondarchie, Mr Purcell, Mr Rich-Phillips, Ms Shing and Ms Tierney.

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 Bourman, Mr Elasmar and Mr Melhem. (*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*): Ms Bath and Mr Dalla-Riva. (*Assembly*): Ms Blandthorn, Mr J. Bull, Mr Dimopoulos, 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:
The Hon. G. JENNINGS

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

CONTENTS

THURSDAY, 10 MARCH 2016

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

26 FEBRUARY TO 10 MARCH 2016

Thursday, 10 March 2016

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.34 a.m. and read the prayer.

JOINT SITTING OF PARLIAMENT

Senate vacancy
Victorian Health Promotion Foundation
Victorian Responsible Gambling Foundation

The PRESIDENT — Order! In respect of a joint sitting held last night with the Legislative Assembly to transact three matters that needed the concurrence of both houses, I have to report that the house met with the Legislative Assembly yesterday:

(1) to choose a person to hold the seat in the Senate rendered vacant by the resignation of Senator the Honourable Michael Ronaldson and that Mr James Paterson was chosen to hold the vacant place in the Senate;

(2) to elect three members to the Victorian Health Promotion Foundation, and I would advise that Ms Natalie Suleyman, MP, the Honourable Wendy Lovell, MLC, and Ms Colleen Hartland, MLC, were elected to the foundation for a three-year term commencing immediately; and

(3) to elect three members to the board of the Victorian Responsible Gambling Foundation and that Ms Maree Edwards, MP, Mr Graham Watt, MP, and Mr Tim McCurdy, MP, were elected to the board for the term specified in section 11 of the Victorian Responsible Gambling Foundation Act 2011.

PETITIONS

Following petitions presented to house:

Elevated rail proposal

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that elevating the Frankston line at Cheltenham, Edithvale, Bonbeach, Carrum, Seaford and Frankston would devastate the amenity of our bayside suburbs and divide communities.

The petitioners highlight to the Legislative Council that the sky rail will:

cause a significant loss of amenity and be detrimental to the livability of our suburbs;

cause outrageous visual bulk, be a blight on our landscape, and will overlook and overshadow backyards, homes and businesses;

create greater noise and disturbance as a result of 24-hour freight movements;

be a potential hotspot and attraction for crime and graffiti.

The petitioners therefore request that Daniel Andrews and Labor immediately rule out a sky rail design for Cheltenham, Edithvale, Bonbeach, Carrum, Seaford and Frankston and ensure that local level crossings be undergrounded like at Springvale.

By Mrs PEULICH (South Eastern Metropolitan) (798 signatures).

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

Maroondah planning scheme

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that:

(a) the Ruskin Park area has had significantly more multi-unit developments and planning applications than the rest of Maroondah over the past couple of years, leading to widespread concerns from residents;

(b) such developments are fundamentally changing the neighbourhood character and livability of this area due to inappropriate house densities and designs plus the loss of tree canopies and green open space;

(c) such rapid development is happening at a time when Maroondah City Council is developing a new housing strategy which may make such developments incompatible with future strategic plans; and

(d) Maroondah City Council recently wrote to the Honourable Richard Wynne, Minister for Planning, requesting a moratorium on developments other than dual occupancy in the Ruskin Park area until the Maroondah housing strategy is completed and implemented.

The petitioners therefore request that the Legislative Council of Victoria calls on the Honourable Richard Wynne to use his power as Minister for Planning to direct that the Maroondah planning scheme be temporarily amended to limit new planning applications in the specified Ruskin Park area to no more than dual occupancy until the new Maroondah housing strategy is implemented.

By Mr LEANE (Eastern Metropolitan) (273 signatures).

Laid on table.

PAPERS

Laid on table by Clerk:

Subordinate Legislation Act 1994 — Legislative Instrument and related documents under section 16B in respect of Victoria Racing Club Act 2006 — Victoria Racing Club Amendment Regulations 2016, dated 25 February 2016.

BUSINESS OF THE HOUSE

Adjournment

Mr JENNINGS (Special Minister of State) — I move:

That the Council, at its rising, adjourn until 2.00 p.m. on Tuesday, 22 March.

Motion agreed to.

MINISTERS STATEMENTS

Child protection

Ms MIKAKOS (Minister for Families and Children) — I rise today to inform the house about a substantial investment I have made to support vulnerable families whose children are at risk of being placed in out-of-home care. I recently announced $2 million to boost family preservation packages to give at-risk families the support and programs they need to address concerns about the exposure of children to the risk of abuse or neglect. These packages will support the reunification of children with their parents. They will also be used to keep families together. Supports will be able to be used to access counselling or practical in-home help for parents. The packages are a further extension of our policy to intervene early so that we can help families earlier when problems arise. We are committed to reforming our child protection and family services system so that where it is possible children and families can safely stay together.

This latest funding builds on the very successful targeted care packages I announced last year that provide flexible funding solutions so that children and young people can be moved out of residential care and into home-based care. In March I provided $43 million targeting primary school-age children, Aboriginal children and children with disabilities living in residential care, and as at the end of January this year there were already 90 children and young people who had transitioned out of residential care into home-based care. Then in October I provided an additional $19 million to prevent young people from entering residential care in the first place. So what I have been doing as minister is working to give families the tools and supports that they need to stay together where this is possible and where it is safe for children to do so.

MEMBERS STATEMENTS

Climate change

Mr BARBER (Northern Metropolitan) — One of my most vivid memories of moving to Melbourne when I was a youngster was the cold and the wet. In fact Mum used to say that in Melbourne it would rain for six months of the year and then drip off the trees for another three. But yesterday I saw MPs coming in here bleary eyed after a stinking hot night. We did not just smash the record for a March warm night; in fact we exceeded the hottest night ever by a full 0.8 degrees. So unfortunately it seems that even the most dramatic models of global warming are starting to be exceeded, and that makes it an imperative that we stop Victoria's growth in emissions and in fact reduce them.

Honourable members interjecting.

The PRESIDENT — Order! Can we reset the clock for Mr Barber for a full contribution.

Mr BARBER — Thank you, President. That means that ministers in this place responsible for action on global warming — that is, in fact, every minister in this place — need to have the answers ready when questioned by members in this place. It is not enough to duck or disassemble or simply come back with an angry rant and no answer. It is not just the Greens but most Victorians who are now asking this government what its plan is to fight global warming.

Here is a challenge: take the subsidies that the government is currently offering for fossil fuels and offer them instead for measures that expand renewable energy. Stop putting investment dollars into projects that run off fossil fuels — and I am talking about not just energy but the transport system as well — and take that same investment and put it into building us a zero-emissions system that will serve Victoria into the future for our energy, transport, land use, day-to-day living and economic needs.

Port Fairy Folk Festival

Mr PURCELL (Western Victoria) — It gives me great pleasure today to rise to speak about an incredible festival in my home town of Port Fairy this weekend. The Port Fairy Folk Festival will be celebrating its 40th anniversary this weekend. For the first four years it arrived in town literally on the back of a truck and was held in the botanic gardens in January. After that it went to the March long weekend and has been held in that

period ever since. The township of Port Fairy has about 2500 people, but this weekend the numbers will swell to between 20 000 and 30 000.

Since 1977 there have been over 2000 acts and over 8000 performers during that weekend. Some of the events that have appeared at the festival recently include The Waifs, Shane Howard, Danny Spooner, John Williamson, Mary Black, Mike Brady, Frankie J. Holden, Wilbur Wilde, Sinead O'Connor and Christine Anu, just to name a few.

This year the co-founder of the festival, Jamie McKew, who is in his 38th year as festival director, will be retiring, and I congratulate Jamie and thank him and the committee on behalf of everyone who attends that festival. It is great to see many of the members in here down at that festival, and I urge those who have not been to come in future years — because unfortunately this year all tickets have sold out.

Sally Goldner

Mr LEANE (Eastern Metropolitan) — Today I want to congratulate a resident of Manningham, Sally Goldner. She was inducted into the 2016 Victorian Honour Roll of Women in recognition of her work removing barriers of disadvantage and discrimination. She joins 550 outstanding women who have been inducted onto this roll, which began in 2001.

A long-time advocate for lesbian, gay, transgender and intersex communities, Ms Goldner has dedicated her career to making Victoria one of the best places to identify as an LGBTI person. She has worked for more than two decades to advocate for the rights and needs of the LGBTI community in Victoria and around Australia. She co-founded Transgender Victoria in the late 1990s and has worked tirelessly to achieve justice and quality health and community service provision for trans and gender diverse people. She should be congratulated, and we are all delighted she has been given this honour.

Elevated rail proposal

Mr DAVIS (Southern Metropolitan) — Today the news becomes public that sky rail will not be just two lines but possibly four. The government needs to come clean on its slippery and outrageous approach. It has hidden this from the community. The community deserves to hear the truth about what the government intends to do with its sky rail between Caulfield and Dandenong.

Everyone supports removal of level crossings, but the government should remove the level crossings in the way it promised before the election, and that is to put the rail under the road. It should do this in the way it promised because that is the best solution. It is the way the coalition removed level crossings in its time in government, and it is the way that governments over a longer period have removed level crossings because it is the best outcome. The government architect made it clear in its report that in fact the best outcomes are achieved in that way.

It is simply cruel and mean to communities to deceive them in the way that the current government is. It is cruel and it is mean not to be honest about the fact that there is going to be under this government's plan four lines. Think of the width of four lines of sky rail — it will be almost as wide as the viaduct between Flinders Street and Spencer Street. It is a huge imposition — a nasty, ugly sky rail that nobody voted for.

Defence white paper

Mr SOMYUREK (South Eastern Metropolitan) — I call on the commonwealth government to provide fair opportunities to Victoria's defence industries arising from the commonwealth government's defence white paper. The commonwealth claims that it intends to invest heavily in defence manufacturing, research and development, science and all manner of naval ship building, but the stated opportunities seem to be concentrated in South Australia. This would seem to overlook and be detrimental to Victoria's defence science, research, design, technological integration and advanced manufacturing capacity.

In my electorate and in other parts of Melbourne and regional Victoria there are companies and science or research bodies that have been waiting to expand their defence industry roles arising from defence white paper projects. I have heard no commitment thus far to this key area of advanced manufacturing in Victoria and to the highly skilled workers of this state. I remind the house that Victoria has a defence industry base of science, technology, a skilled workforce and manufacturing capacity superior to any other part of this nation. To see that you only have to think of the Anzac frigate program, which our industry delivered both on time and on budget.

It was the Howard government that ripped away the air warfare destroyer (AWD) project from Victoria and sent it to South Australia, despite that state's lack of experience and resources to undertake such a surface combatant project. Delays and cost overruns for the AWD construction and systems integration in South Australia are a more than adequate demonstration that the government's decision was the wrong one. South

Australia builds and maintains submarines and has learnt hard lessons from the past to build better subs in the future. Victoria builds world-class surface combatants and develops and integrates the equipment and technologies — —

The PRESIDENT — Order! I thank Mr Somyurek.

Calabria Club

Mr ONDARCHIE (Northern Metropolitan) — President, buongiorno. I rise today to congratulate the Calabria Club on its celebration of 600 years from the birth of San Francesco di Paola. I commend president Sam Sposato, secretary Vince Daniele and the whole committee on the great job that they do in celebrating all the great things about Italy. Italian migrants introduced Victoria to exoticisms like pizza, pasta and espresso coffee. The Calabria Club is one of the highlights of Melbourne's impressive multicultural community. It reflects the vibrant spirit of our Italian community, a community that has openly and proudly shared its culture, traditions and hospitality with the rest of the state for decades.

I would like to pay tribute to the valuable contribution migrants from all over the world, including our Italian community, have made to progress, prosperity, culture and lifestyle here in Victoria. Victorian and Italian people share an enduring friendship forged on the goldfields and strengthened by decades of migration. The Italian community works hard to maintain its cultural heritage while at the same time embracing all the opportunities Victoria has to offer. We thank our Italian community not only for the coffee but also for helping to make Melbourne such a vibrant and culturally diverse city to live in. Community clubs bring us together in friendship and promote a deeper understanding of the different cultural traditions in Victoria. It is our collective responsibility to foster diversity and cultural understanding.

I congratulate all members of the Calabria Club for the great work that they do and for their enhancement of Victoria's lifestyle. Viva Italia! Viva Calabria!

Loch Sport wastewater management

Ms SHING (Eastern Victoria) — I rise this morning to congratulate the community of Loch Sport, which has participated in a community consultation which has finally resulted in 2700 sites across the area being sewered for the first time. This will enable excellent development and renovations et cetera in the area to continue and make this place an even better location for holiday communities and those who live in the community year round. It was great to attend with the Minister for Environment, Climate Change and Water, Lisa Neville, for the purposes of celebrating this important milestone.

Rural Health Awards

Ms SHING — I also acknowledge the important work going on in rural health and regional health. I was pleased to represent the Minister for Health, Jill Hennessey, at the 2016 Victoria Rural Health Awards last Friday, 4 March. I congratulate all winners and nominees, and in particular those from Gippsland, who continue to provide excellent healthcare services to families and communities right through our areas, irrespective of how regional and distant they may be.

Desalination plant

Ms SHING — I also pay tribute to the staff who keep the desalination plant going, who have facilitated the maintenance and upkeep of this vital piece of infrastructure. It was a great pleasure to attend the plant with the Minister for Environment, Climate Change and Water, Lisa Neville, to see just what is going on to ensure the most sustainable and efficient methodology for desalinating water which will then go into the 50 billion litre order which has been placed to provide water security throughout the grid and the broader areas of regional and metropolitan Melbourne.

Doug Higgins

Mr MORRIS (Western Victoria) — I would like to begin by acknowledging Doug Higgins, who has after 21 years of service as the president of the Sebastopol RSL taken leave from that position. He has certainly served in that position with distinction. Mr Higgins served for over 20 years in the Royal Australian Navy, achieving the rank of warrant officer. In 2009 Doug received a Medal of the Order of Australia for services to veterans. Mr Higgins is a stalwart of the Ballarat community, and I wish to record my thanks for all that he has done for our community, especially for returned service personnel, and to wish him well in his new role as treasurer of the Sebastopol RSL.

Regional public transport

Mr MORRIS — Regional transport in Victoria is an absolute shambles. The Minister for Public Transport has failed regional commuters for the last eight months — and continues to do so — ever since the rollout of Labor's failed timetable in June last year. Commuters continue to contact my office about the unacceptable state of regional transport, in particular

the V/Line service. They are sick and tired of being ignored by local members Sharon Knight and Geoff Howard, the members for Wendouree and Buninyong in the other place, who continue to refuse to return phone calls and emails. I would like to record the fact that I will continue to advocate for regional commuters, unlike the members for Buninyong and Wendouree.

Youth Politics Camp

Ms SYMES (Northern Victoria) — On Saturday I met some really inspiring young people from north-eastern Victoria who were taking part in the Youth Politics Camp 2016. This was held over the week at Howmans Gap Alpine Centre and focused on fun and learning about the Australian political system. The initiative was a joint project organised by the Alpine, Benalla, Indigo, Wangaratta and Wodonga councils. Young people from across the region partook in discussions and debate about community issues that were important to them. I was honoured to be invited to speak to the group about my experience growing up in the region that they live in and my journey into politics.

I was impressed by the interest of these passionate young people in issues including climate change, student poverty, gender equality, transport, training and job opportunities, particularly in country Victoria. These young people were certainly interested in getting involved in the state political system and wanting to have their voices heard, so I am really looking forward to ongoing dialogue with them and other young people from across my electorate. I congratulate the organisers, in particular the youth development coordinators in the councils. They are doing a fantastic job of engagement, creating fantastic opportunities for young people in their areas. Hopefully this will be an ongoing annual event.

Defence white paper

Mrs PEULICH (South Eastern Metropolitan) — I wish to congratulate Malcolm Turnbull on the defence white paper. In particular I wish to point out that 70 per cent of any defence budget relates to maintenance needs. This, as well as the prospect of the defence budget increasing to 2 per cent of gross domestic product over the coming years, is a terrific opportunity for Victorian and Australian businesses to capitalise on.

Cultural Diversity Week

Mrs PEULICH — I would also like to draw to the attention of the house that 12–20 March is Cultural Diversity Week, which coincides with the United Nations International Day for the Elimination of Racial Discrimination on 21 March. There are hundreds of events around Victoria, with a couple of premiere events, including the Premier's gala dinner this coming weekend, as well as Victoria's Multicultural Festival on 20 March at Federation Square. Federation Square is the absolute heart of Melbourne, often beating to the rhythm of multicultural music and dance. This is a result of the vision of Jeff Kennett, and that vision for Melbourne has been realised.

I would, however, like to express disappointment that it is now March and the multicultural grants, which are the basis for pulling together many of these functions and festivals, have not yet been announced for the January–June period of this year. There are many groups that are uncertain about their future and that do not know whether the money is coming or not. I urge the government to make those announcements as soon as possible.

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

Second reading

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

Mr ONDARCHIE (Northern Metropolitan) *(By leave)* — I rise to speak on this very important piece of legislation, perhaps the most important legislation this house has seen in some time. This legislation has been afforded appropriate scrutiny and, as somebody said to me yesterday, perhaps the most scrutiny they have ever seen in their time in this Parliament. It was part of an extensive inquiry by a select committee. I commend that committee for its work, particularly the work of the chair, the Honourable Gordon Rich-Phillips, and the deputy chair, Mr Daniel Mulino, as they worked collaboratively with the rest of the committee — Mr Greg Barber, Mr Damian Drum, Mr James Purcell, Ms Harriet Shing, Ms Gayle Tierney and me — to build a strong evidence base for where we are at today. This is our democracy in action, democracy that nations around the world try to achieve, and we have got to see that through this Parliament on this very important day.

Treasurer Tim Pallas was reported as saying in the press that 'it was a good result for Victoria', and indeed it is a good result for Victoria because of the great work of the Matthew Guy coalition to deliver a great outcome for Victoria. What is interesting is that we may have been at this stage a little earlier had the

government chosen to elect Mr Jennings as its chief negotiator. I have to commend Mr Jennings in both my indirect and more recent direct relationship with him on this matter and the good work he has done in achieving a constructive and collaborative dialogue that moves us forward, as opposed to that of the state Treasurer.

The Treasurer did a lot of chest beating and made a number of flaccid threats to the people of Victoria: his rock-hard deadline and his challenge that if we did not put this through the Parliament by his time line, he would use the State Owned Enterprises Act 1992 just to force it through anyway. The Treasurer then said, as he stamped his foot, that if it did not go his way, he would arrange to call an early election, and the Victorian people said, 'Bring it on. If you want an early election, bring it on now; we've got lots to talk about'. He has had no credibility on this matter. In fact the investing community see him somewhat as a joke. He has made idle threats to this Parliament and the people of Victoria, and they amounted to nothing. I fail to understand, through the passage of this bill, how Mr Pallas's tenure can remain. Had the government chosen to put Mr Jennings in charge in the first place, maybe we would have been at this point at an earlier time.

There are a number of issues that led a great deal of this discussion between the Matthew Guy coalition and Mr Jennings. Some of those include the regulatory regimes around the legislation, the compensation and the associated period of compensation, and the competitive neutrality order, which I understand will be tabled in this place in August this year, which will give us an opportunity to further examine if the government has been true to its word and has stuck to the things it committed to. Having had some discussions with Mr Jennings, I am confident we will get to that stage. There have been some issues around port rail, around what is colloquially known as the last mile and whether that rail will be in place, and we will talk more about that in the committee stage.

Of course, just as important is making sure there were appropriate dollars for regional and rural Victoria. This legislation started off with a measly amount of money, a bit of tokenism for regional Victoria, with the government saying, 'We're going to give you this loose pocket change to make you happy'. Well, the Matthew Guy coalition in extensive negotiations with the government has arrived at an outcome that will see at least 10 per cent of the sale proceeds going to regional and rural Victoria. Let us face it, our agribusiness and our regional and rural Victorians contribute significantly to the transactions that occur through the port of Melbourne. Why then should they not benefit from this?

There are two particular aspects of the outcome reached between the government and the opposition to which I wish to refer — namely, the limitation on compensation and the requirements for competitive neutrality.

The amendments to be moved by the government in relation to compensation are intended to give effect to the outcome agreed with the opposition that the only circumstances in which the port of Melbourne operator can become entitled to receive compensation that is in any way linked to the establishment of another international container port or the handling of international containers at another port in Victoria is if international containers are in fact handled at another port in Victoria within 15 years of the first lease or licence to a private sector port of Melbourne operator and if the compensation is based on the number of containers handled at the other port within that period in relation to the current capacity of the port of Melbourne or any improved increase in that capacity. Furthermore, any such compensation is to be capped in the way specified in the amendments — broadly at a level equal to 15 per cent of the relevant revenue of the port of Melbourne operator.

The amendments to be moved by the government in relation to competitive neutrality are intended to give bidders for the port of Melbourne some assurance against unfair competition by providing that an operator of another international container port in Victoria cannot take advantage of specified forms of public sector assistance in order to price its key services below the lower of its true cost price or the price which the port of Melbourne operator charges for comparable services. This is to be achieved in part by provisions and principles set out in the amendments and in part by the competitive neutrality order to be made by the Governor in Council after the legislation is passed.

It is intended that the regulatory regimes imposed by or under the legislation on the port of Melbourne operator and on any future international container port operator will be equivalent, and in particular it is intended that the legislation and the competitive neutrality order made under the bill will not impose on a future international container port operator a regulatory regime that is more onerous in content or in compliance requirements than the regulatory regime that is imposed on the port of Melbourne operator.

In relation to the competitive neutrality order and various other orders, the government has agreed that it will lay each proposed order before this house by a date

in mid-August this year and that it will provide to the house, if the house so wishes, an opportunity by way of a take-note motion to scrutinise and hold the government to account for the terms of each proposed order well before the order is finalised and made. I thank Mr Jennings for his agreement to do that.

The government and the opposition intend that the placing on the record of statements on these matters on behalf of the opposition, as I am doing now, and by the government, as the Special Minister of State will do in his remarks in closing the second-reading debate, will give bidders for the port of Melbourne lease a clear understanding of the Parliament's intentions regarding these aspects of the regulatory framework that will apply to the port of Melbourne and any future international container port in Victoria.

The state opposition again acknowledges the work of Mr Jennings and his collaborative approach, his calm approach and his methodical and logical approach in negotiating these outcomes. We look forward to further scrutiny and discussion about this in the committee stage.

Mr JENNINGS (Special Minister of State) — I thank Mr Ondarchie for his contribution, and I thank the house for its perseverance and preparedness to deal with this matter over a protracted period of time over the last few months, which saw very extensive consideration by a select committee of the chamber, an extensive second-reading debate and then protracted conversations, considerations and communications that have taken place between the government and the opposition in particular, which have been occasionally reported to the house and occasionally reported to other members of the chamber in briefing sessions that have occurred over the past few months.

I am very mindful that, if there are many ways to skin a cat, in terms of making sure that this piece of legislation is passed the government now has an extensive cat skin collection available to it and to future generations in relation to the way in which we have finally arrived at the passage of this legislation today. I have a quite an extensive personal collection that I have around my house of the ways in which we have exercised our minds to actually arrive at this conclusion. As I have reported to the house previously, the government and the opposition in particular have done a lot of extensive work that has led to 41 amendments being available for the consideration of the house today, so 41 of those skins remain for the consideration of the Council today. That is a metaphor, just in case Ms Pennicuik actually is worried. No animals have been harmed in the preparation of this legislation!

I think it is appropriate for me in my summation to share the amendments, so I would appreciate it if they could be circulated for the benefit of the chamber to enable us to proceed to the committee stage shortly after my taking the opportunity to outline the nature of those amendments. In addition to the draft amendments that are going to be circulated in my name now, I have a running sheet that I would also appreciate being distributed simultaneously; that may be difficult to achieve in terms of the handling of the documents.

Government amendments circulated by Mr JENNINGS (Special Minister of State) pursuant to standing orders.

Mr JENNINGS — We have a running sheet to actually cross-reference the major recommendations that have come out of the select committee's considerations with the amendments. That is a ready reckoner, if you will, for the chamber to reconcile what significant issues have been raised by the select committee and how the government has responded to those and, by agreement, reached a conclusion with the opposition that will hopefully result in a successful completion of the committee stage with the support of other members of the chamber in the near future.

I will run through the highlights rather than the complete list of amendments that we will explore in the committee stage. The highlights are indicated by the abbreviated checklist that I have circulated simultaneously with the proposed amendments. In relation to the key recommendations coming out of the select committee, the first recommendation that I want to respond to is that the limits of the lease be contained to 50 years and 30 days. Thirty days is important for the government and the people of Victoria to make sure that the term conditions actually do not fall foul of tax treatments that may be subsequent to a term less than 50 years and 30 days. Thirty days is actually useful to us, so we have circulated amendments to clause 11 consistent with that commitment and that undertaking, and they will be available for the committee's consideration shortly.

The second recommendation I want to draw attention to is that the government progress the port rail shuttle project. The government does recognise that clearly there needs to be additional investment made to ensure the appropriate rail connectivity in and out of the port, and the movement of container traffic now and into the future should be supported by investment in additional rail capacity and capability. The government in this current piece of legislation will move amendment 28 of the bill to include a new part 6C of the Port Management Act 1995, which requires a rail access

strategy to be developed within three years and then for that to be implemented within five years, on the assumption that the government accepts the plan and releases the appropriate level of funding support. Funding that has been kept in contingency to deal with this matter will be made available for that purpose.

The next related issue is in fact a broader transport plan that deals with connectivity in and out of the port in particular, and the government similarly draws the attention of the chamber to the provisions within new part 6C, which provides for that rail access strategy.

The amendment to clause 89 of the bill relates to the recommendation coming out of the select committee that the objectives of the Port Management Act be amended to provide for fair and reasonable prices of services and the undertakings that would be required to ensure that stakeholders of the port and port users would be able to access provisions that provided for fair and reasonable treatment. Clause 89 of the bill will be amended to reflect that fair and reasonable concept to be included in the provisions of what will be the act.

On a similar and related issue under item 5 of the circulated table, the bill will be amended to provide mechanisms for complaints regarding pricing to be directed to the Essential Services Commission, and these amendments will amend clause 92 of the bill to include a new division 2C in the Port Management Act 1995 to provide for such a responsibility to be bestowed upon the commission.

On a similar and related matter, there is a recommendation listed under item 6 that the bill be amended to provide regulatory oversight of port of Melbourne rents. The government has allowed for a review to be undertaken by the Essential Services Commission under new section 53 of the Port Management Act and for it to conduct inquiries into the potential misuse of market power by the port of Melbourne operator in the process of rent setting. The amendments circulated in my name will give effect to that review.

The issues that I have identified in this table under item 7 include the exclusion of the enabling provision for the port growth regime, and there is a subsequent recommendation in relation to the competition clause, clause 69 of the bill — so items 7 and 8 are connected. The government has agreed to omit clause 69, and thereby preserve the full application of the Competition and Consumer Act 2010, which is a commonwealth act, and the Competition Code. As Mr Ondarchie has already indicated in his contribution, there will be limits set in terms of the circumstances and the time frame under which any compensation arrangement may be paid to the leaseholder in terms of limiting those to 15 years from the date of the lease being entered into, and it will be triggered by the diversion of any international containers to a second port that may occur within that period of time.

I am pleased to see that we have been joined by Mr Rich-Phillips today. Mr Rich-Phillips has played a very important role in getting us here, both in terms of chairing the select committee and in terms of the negotiations that have taken place over the last couple of months. I was informed that he was not going to be with us today, so I am very pleased that he is with us. We hope he is in good order, because he has played a very, very constructive and important role in getting us to this position today. I am very pleased to see him.

On the matters that Mr Ondarchie ran through, not only is there a 15-year limit on compensation but there is a 15 per cent limit of the revenue for the leaseholder that would have been associated with the diversion of containers within that period of time. The government is of the view that that provision will be very restrictive in the amount of compensation that may be ever paid, because it is not actually guaranteeing that it will ever be paid. Nonetheless, we have arrived at an agreed understanding between the government and the opposition about that matter, and we may tease that out subsequently, although I think the provision speaks for itself.

In relation to the issue identified in item 9 — that clause 83 of the bill be amended to place limits on the availability of an up-front lump sum payment of the port licence fee being contained within the original tendering arrangements — clause 83 will be amended through amendment 12 to limit that up-front payment to 15 years. The government previously made undertakings and continues to make undertakings that in fact the servicing fee of port services will be funded and would have always been funded, but this has provided some additional comfort to the opposition that the port licence fee beyond 15 years will be an annual payment.

Item 10 in this running sheet — that commitments be made to provide for 10 per cent of the net transaction proceeds to be shared across Victoria in terms of benefits to regional infrastructure projects — has been provided for in an amendment to clause 15, which will see on a progressive basis in a four-year funding cycle a minimum of 10 per cent of payments made from the Victorian Transport Fund, which will be the fund that receives the proceeds of the lease transaction, going to regional infrastructure projects every four years.

In other key amendments — again Mr Ondarchie has referred to the competitive neutrality pricing principles being added — clause 92 will be amended to apply those principles to provide commercially competitive neutrality and an equal playing field between the port of Melbourne and a second state-sponsored port to ensure that the pricing requirements are no more onerous on a state-sponsored second port than the obligations imposed under the pricing order on the port of Melbourne operator. They are intended to facilitate fairer competition between the port of Melbourne and any state-sponsored second port.

I know that the opposition has already foreshadowed an obligation of the government in terms of requiring any pricing orders that have been established under that provision to be tabled in the chamber. The government proposes to table those in the Parliament in the week of 16 August to demonstrate that there will be an equal playing field between the port of Melbourne and a second container port in Victoria if and when it is developed and operating. The government is very happy for that to be tabled well and truly before the conclusion of the transaction and for the Parliament to have confidence that the competitive neutrality pricing principles order, and indeed the least cost capacity expansion principles order, will be tabled in the chamber in August. We would be expecting that they will be totally consistent with what is now intended to be embedded in the legislation following the passage of these amendments. The Parliament will have ample opportunity to ensure that it is confident that those orders in their final form are consistent, as the act describes.

With those undertakings and the outline of that range of amendments I can assure the chamber that I will be as happy as anyone in the state of Victoria to proceed to the committee stage of the bill and hopefully expedite it in the name of the people of Victoria to deliver on the election commitment that the government made to lease the port to use the proceeds to remove the 50 most dangerous level crossings in Victoria and to get on with that important undertaking as part of its major investment in infrastructure. Now we have added, hopefully, to the capacity of the fund to extend to supporting infrastructure more broadly across Victoria. Certainly the intention of the government is to acquit its election obligation. We thank the people for that mandate. We are very determined to get on with it, and hopefully at the end of the committee stage and the third-reading stage we will with some degree of confidence get on with the ability to achieve that outcome.

House divided on motion:

Ayes, 33

Bath, Ms	Morris, Mr
Bourman, Mr	Mulino, Mr
Crozier, Ms	O'Donohue, Mr
Dalidakis, Mr	Ondarchie, Mr
Dalla-Riva, Mr	Patten, Ms
Davis, Mr	Peulich, Mrs
Drum, Mr	Pulford, Ms
Eideh, Mr	Purcell, Mr
Elasmar, Mr	Ramsay, Mr
Finn, Mr (*Teller*)	Rich-Phillips, Mr
Fitzherbert, Ms	Shing, Ms (*Teller*)
Herbert, Mr	Somyurek, Mr
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Lovell, Ms	Wooldridge, Ms
Melhem, Mr	Young, Mr
Mikakos, Ms	

Noes, 7

Atkinson, Mr	Hartland, Ms
Barber, Mr	Pennicuik, Ms
Carling-Jenkins, Dr (*Teller*)	Springle, Ms (*Teller*)
Dunn, Ms	

Motion agreed to.

Read second time.

Committed.

Committee

Mr JENNINGS (Special Minister of State) — Deputy President, I advise the committee that Mr Mulino will join me at the table.

Clause 1

Mr BARBER (Northern Metropolitan) — Deputy President, because I had already made my contribution to the second-reading debate on the bill before events started to unfold — we are in fact dealing with, in front of us, a radically transformed bill and a radically transformed transaction — I hope I can be given a little bit of latitude in my comments on clause 1. At the time I spoke we were dealing with a completely different bill, and I do not get a second opportunity to speak during a second-reading debate.

Whereas 100 years ago Labor would have been all about busting private monopolies, now we are coming here to create another one and, in the process, sell off basically the second-last significant public strategic economic asset. After this, there is only really one thing left to sell, and that is the water boards.

While I do appreciate that the amendments, as they were then, were prepared and circulated to the chamber

at the end of the last sitting week — that has certainly been valuable for crossbenchers to understand the negotiations that were going on between the Labor and Liberal parties, and I appreciate that the government took that step to get those on the table — it is only this morning, in fact not even an hour ago, that new amendments have been circulated. In between my member's statement and this debate starting I was able to be given a copy that had some yellow highlighter scribbled on it to indicate the amendments to the amendments.

It is certainly not going to be my intention to drag this process out or attempt some sort of epic filibuster. We all understand what is at stake here. Due to a select committee inquiry, the many, many interested parties and stakeholders had the chance to have their say. The committee's report has been referred to; it is available for us to read. It simply remains to discover, through this process, which of the committee's recommendations have in fact been implemented — the government says pretty much all of them have — and how that is going to work. I do not intend to delay the process overly, but I do intend to question the government about the amendments to the amendments, the ones that just appeared this morning.

The Liberal Party members were very complimentary about how much they have enjoyed working with the Labor Party — or at least one member of the government — to flog off Victoria's last major strategic economic asset. That was very generous of the Liberal Party to note how well the Lib-Lab alliance is working in Victoria. People say that they hate it when they see Labor and Liberal and other parties carping at each other and opposing everything — with kneejerk reactions — that one party puts up and that the other side then automatically tries to tear down. Well, from my perspective it looks a lot scarier when they get together in an alliance, let me tell you. That is when the public ought to really be worried, when they see Labor and Liberal working together.

Ms Shing — Have you had a chat to your federal counterparts recently?

Mr BARBER — Well, you know, there are all sorts of alliances, but one thing we can rely on is Labor to implement the Liberal Party's policy, whatever form of relationship they might actually have. I thank Ms Shing for that interjection. I do appreciate being given the opportunity to make that aside.

Having made that rather provocative statement, I just want to assure the Leader of the Government I am going to work constructively with him to elucidate the changes. He did in his summing up actually talk about each amendment and what each amendment was intended to do, but I just want to spend a little bit of time talking about the amendments to the amendments as we go. The government has also provided us with a table. It is a kind of guide to each inquiry recommendation and the resulting proposed amendment. I am going to have to work back from that a little bit to work out which question I ask at each clause, so I appreciate the forbearance if it takes me a few minutes to formulate my questions and be clear about which amendments we are addressing at each time.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I want to place on the record that the coalition will support the package of amendments that the Leader of the Government has outlined this morning. This follows an extensive negotiation process basically since the select committee reported to the Parliament last December. That select committee was established by this house in recognition that there were a number of concerns in the community as to how the transaction had been originally envisaged. Accordingly, the select committee inquired into the transaction and made a number of recommendations to this house, including as its first recommendation the passage of this bill with certain amendments.

Following the tabling of that committee report the coalition outlined its position reflecting many of those recommendations from the select committee, a number of which Mr Ondarchie, I understand, referred to in his earlier comments. The coalition's position on this transaction, or on the lease of the port of Melbourne, has always been to support the leasing of the port of Melbourne. It is an activity which was in fact commenced by the coalition in the previous government, and the coalition's concerns with the bill before the house as it had been drafted and the transaction as it was envisaged last year — and as was borne out through the evidence to the select committee — were that the transaction as it had developed did not adequately balance the need for the government to understandably maximise its revenue up-front from this transaction with the long-term interests of the state in terms of the operational efficiency of that important piece of logistics infrastructure — that is, the port of Melbourne.

It was in that context that the coalition considered the report from the select committee and undertook negotiations with the government over the last three months seeking to strike a better balance between maximising revenue to the government from the sale and protecting the state's long-term interests. It is our

view that through the negotiations which have taken place, led in large part on the government side by the Leader of the Government in this place, a better position has been arrived at and that the amendments the Leader of the Government will move formally today do substantially advance the transaction in terms of striking a better balance for the long-term interests of the state.

That is not to say that the coalition believes the transaction is perfect, and there are some elements that we still have concerns about, which I expect Mr Ondarchie will elaborate on further in his contribution, with respect to the port rail shuttle and with respect to controls over rents. But on the whole the amendments the Leader of the Government will formally move do advance this transaction and do ensure that it is a transaction which better reflects the long-term interests of the state. Accordingly, the coalition will support those amendments when they are moved and ultimately will not oppose the passage of the bill on the third reading.

Mr ONDARCHIE (Northern Metropolitan) — I start my contribution on clause 1 of the bill by, in his presence, acknowledging the significant work of the Honourable Gordon Rich-Phillips in his leadership of the parliamentary select committee and then, on behalf of the Liberal-Nationals coalition, in working closely with the government, and in particular Mr Jennings, to arrive at an outcome which we, with some hope, look to conclude today. But more importantly for the house's attention, Mr Rich-Phillips is not of great health at the moment, but he has made a significant sacrifice to be in here today to ensure its passage, and I commend him for that.

Ms Shing — Hear, hear! Can you pick up the interjections that also acknowledge that we are with you on that one?

Mr ONDARCHIE — I do acknowledge the interjection of Ms Shing, who stands proudly by the observation that Mr Rich-Phillips is here in the chamber today.

Ms Shing — We are grateful for Mr Rich-Phillips's ongoing contribution.

Mr ONDARCHIE — Just short of a physical embrace, certainly he has got the best wishes of Ms Shing today.

The Liberal-Nationals coalition will support the amendments to the Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Bill 2015 and will not oppose the passage of the amended bill. The Liberal-Nationals have spent months ensuring the best deal possible for businesses, agricultural producers and consumers — both of today and future generations — and for Victorians who are not even born yet.

Importantly the proposed amended bill does not preclude the development of a second container port for Victoria, with the adaptation of a reasonable compensation regime capped to the first 15 years. Further, at the insistence of the Liberal-Nationals, up to $700 million will be spent on improving transport infrastructure in rural and regional areas, instead of the government's original plan of spending all of the proceeds of the sale in Melbourne. The process engaged by the upper house inquiry last year brought many critical issues to the attention of the Parliament. It is this evidence that has guided the Liberal-Nationals position, and, as such, this evidence has produced what is now a workable, reasonable outcome.

The Liberal-Nationals acknowledge and thank all of those who contributed to the upper house parliamentary inquiry, and of course, as I said earlier in my second-reading summing up, we commend the members of the committee on their work as well.

I want to summarise the key amendments that have been secured by the Liberal-Nationals coalition. The first one is around the lease term. The original lease was for 70 years — the 50-plus-20-year original lease Ms Shing and I continually debated through the committee inquiry when the government went out to the marketplace with a 70-year lease, 50 plus 20 — and we know now that thanks to the insistence of the Matthew Guy Liberal-Nationals coalition the term of that port lease is limited to 50 years and 30 days, not the 70 years that was originally proposed by the government.

In terms of compensation, Matthew Guy and the Liberal-Nationals coalition team have ensured that the compensation be strictly limited to 15 years from the commencement of the lease, not the full lease term. The compensation during that 15-year period is to be capped at 15 per cent of revenues. The compensation during the 15-year period only applies to the existing asset unless an expansion is approved by the ports minister or the Essential Services Commission. A competitive neutrality regime will be established for the term of the lease.

In terms of the lease proceeds, Matthew Guy's coalition team has been able to secure on behalf of Victorians that at least 10 per cent of the net proceeds of the lease will be quarantined for investment in rural and regional transport infrastructure. In terms of our negotiations —

the Matthew Guy coalition team's negotiations — around environmental monitoring, there is a commitment we pushed for to establish a Port Phillip Bay environmental monitoring function.

The rents at the port have been an issue, and through continual lobbying by the Liberal-Nationals coalition team led by Matthew Guy and others there is to be an accelerated review of market power in relation to leases and subleases at the port of Melbourne by the Essential Services Commission. The port licence fee has been capped at 15 years — not 50 years, as originally proposed by the government. We did — the Matthew Guy Liberal-Nationals coalition team did — ensure that exemptions from federal competition laws have been removed so that the port of Melbourne leaseholder is subject to those competition laws. Additionally we have ensured that contractual restrictions on vertical integration by a port of Melbourne operator do exist. In terms of price regulation, the price of prescribed services are to be fair and reasonable, and users of prescribed services are able to make complaints to the Essential Services Commission. This was again something that was negotiated and secured by the Liberal-Nationals coalition team.

In port rail — something that is very important to those who live around the port, particularly those involved with the Maribyrnong Truck Action Group and the people in Port Melbourne and the inner suburbs like Yarraville, Maribyrnong et cetera — there is a requirement of the port of Melbourne operator to provide a port rail plan to government within three years and then five years thereafter. All of these things have been secured for the benefit of Victorians here now and after by the Matthew Guy coalition team.

As a result of that, the daily press has been commenting on the work that the coalition team has been able to do on behalf of all Victorians as opposed to the very radical bit of bill that was introduced by the government, which we have successfully had amended. Rick Wallace from the *Australian* said on 26 February in relation to the port of Melbourne bill that:

> Victorian Treasurer Tim Pallas proclaimed himself relieved after the government appeared to have struck a deal to pass a bill allowing the port of Melbourne to be leased …

Mr Wallace said:

> The apparent breakthrough came after the government caved in to the opposition's final demand in limiting compensation to the operator in the event a second state-run port was built to 15 years.

That is the *Australian* acknowledging the work of the Matthew Guy coalition team to secure a better deal for Victorians.

On 25 February in the *Age* in Melbourne Josh Gordon said:

> In a significant development, Labor has agreed to dramatically water down a controversial clause exposing the state to a compensation payment to the future owner if a rival port is built that undercuts its business.

He went on to say:

> But in a late concession on Thursday the government appeared to capitulate to a key coalition demand that the compensation regime only apply for 15 years from the day the port is sold, ensuring it will expire in about 2031.

That is another example of where the press has recognised the work of Matthew Guy's coalition team to support all Victorians and to be the alternative government in presenting appropriate amendments for the future of Victoria.

In the *Herald Sun* of 26 February Alex White, James Campbell and Matt Johnston said in the article headlined '$6 billion port lease cave-in':

> The Andrews government was last night forced into a humiliating cave-in over the $6 billion lease of the port of Melbourne.
>
> …
>
> The climbdown came after Treasurer Tim Pallas had earlier warned that Thursday was the 'rock-hard deadline' for the proposed law to pass.

But it is not just the press making comments. There are people who made submissions to the port of Melbourne lease inquiry who talked about things the coalition has been able to achieve for the people of Victoria. Dr Ron Ben-David, chairman of the Essential Services Commission, said:

> What I would say, though, is from a regulatory perspective, we would welcome a second competing port, because competition always makes the life of the regulator easier.

Rod Sims, chairman of the Australian Competition and Consumer Commission, said:

> We believe that competition, or the credible threat of competition, will drive better investment outcomes …
>
> …
>
> … clearly we would prefer to have no compensation regime; there is in doubt about that.

Rod Nairn, the CEO of Shipping Australia, said:

> … Australian ports are quite expensive, and if you look at the difference between Australia and New Zealand, the one striking difference is that there is proper, open competition between ports that are relatively closely spaced …

Robert Coode, executive president of the Australian Peak Shippers Association, said in evidence that:

> The development of a second port in Victorian waters appears to have been pushed into the background. We see this as a dangerous notion because when the time comes — and it will — for a second deepwater port, the boat will have sailed …

That is another example of where the coalition has listened to the evidence presented to the very important select committee inquiry and taken that evidence base forward to negotiate suitable outcomes for the people of Victoria. Had we left it the way the government proposed, it would have been a significant penalty to the people of Victoria. Right now not just the press but those in the industry would be commending Matthew Guy's coalition team for the work it has done. Peter Tuohey, president of the Victorian Farmers Federation, said in evidence:

> As I said, you have got a 10 to 15-year time frame before a port will be built — certainly time for the current operators of the port to lock in their customers and look after themselves. We totally oppose that compensation —

for a second container port, he said. Now we have negotiated on behalf of the people of Victoria an outcome that we think is fair and reasonable to provide ongoing benefits, investment, jobs and trade opportunities for Victoria going forward.

In summary on clause 1, I just pick up the opinion piece on 29 February in the *Australian Financial Review* by Matthew Stevens, where he said:

> However you cut it though, the amendments confirmed by the government at briefings with the coalition last Friday … announced total victory for the state opposition. It was the government's refusal to indulge changes now made black and white that forced the pre-Christmas suspension of the legislative process and the government's promise to make good on threats to proceed with the sale without legislative reinforcement.

What is clear today is that this bill will see, with some hope, passage through this house, but the delivery of good legislation and good outcomes — the delivery of investment opportunities, trade opportunities and, more importantly, jobs for Victorians and future Victorians — has been done by the great work of the Matthew Guy coalition team.

Clause agreed to; clauses 2 to 6 agreed to.

Clause 7

Mr BARBER (Northern Metropolitan) — In relation to clause 7, this is one of the set of clauses where the money from the port privatisation is allocated to infrastructure projects. During the committee of inquiry I repeatedly asked the sale proponents, and for that matter Treasury, what the economic benefit to Victoria was from the sale of the port of Melbourne. I do not think there was a single witness who was ready to elucidate how a privately run port would be better run and therefore provide a better economic outcome than a public port. I asked people, 'Will it be operational efficiencies? Will it be the allocation of investment capital? Do you believe the current port is gold plating its infrastructure? Do you believe the current port, in public hands, is underinvesting?'. There was practically nothing put up by any witness that suggested that they had a specific criticism of the current port operator that allowed them to then ask for an improvement.

Mr Mulino — The ACCC said private ports operate better.

Mr BARBER — It is good that Mr Mulino is at the table, because he is helping me out. The Australian Competition and Consumer Commission, and for that matter the Victorian Chamber of Commerce and Industry, asserted that private is simply better than public. But I asked all those witnesses to put forward a specific instance of something that the current operators are not doing that it ought to be doing or that it cannot do — that only a private operator can do — and no-one came up with anything. There was not a single piece of evidence put forward. It was the first question I put to the first witness group, which was Treasury, and they were actually quite open and frank about it. To paraphrase, they said, 'It's not about that. It's about getting some money which we can then invest in infrastructure and that that infrastructure investment might provide an economic benefit to the state'.

Mr Mulino, who is sitting there in some kind of role to assist the government, is shaking his head. If he wants to pull out the transcript and show me where I am wrong, he should feel free to do so. But as far as I took it from both Treasury and anybody else who cared to engage with the question, the answer to my question was that we will get some money from the port sale and we will invest that in other infrastructure and that that infrastructure investment is the thing that will improve the economic wellbeing of Victoria.

Since this clause is about where the money will be spent, I just have a couple of questions for the

government on that. I am not seeing in this clause in the bill, in the amendments that have been put forward or in the amended amendments that have been provided this morning where infrastructure has a specific definition. So my question is: what is the definition of infrastructure? In other words, what is the range of things that the port sale proceeds could be spent on?

Mr JENNINGS (Special Minister of State) — I will answer that question in a minute, but I just want to actually go back to the preamble and some of the arguments and suggestions that Mr Barber made in his contribution. I think both in his comments on clause 1 and just again now he has an ongoing theme. I do not know whether it is ideologically based, either basically to reassure himself of his own ideological position or to spear me in relation to what he perceives to be mine, but what I can say wholeheartedly to the chamber is the government has been of the view that in fact there have been great results and returns to the people of Victoria from the development of the port of Melbourne and that in fact this has not been driven by a concern about the quality of the provision of services now and into the future that have been able to be managed by a public asset. Indeed the government continues to this very day to have great confidence in what has been achieved there and what is the potential of the port of Melbourne, and that potential in some ways could have been reached by the ongoing public sector arrangements that have underpinned it in the past continuing into the future.

However, there are a number of elements in terms of what has actually transpired in relation to exposing the port to competitive practices and private sector activity. Most of the competitive tension within the port of Melbourne was actually generated by previous decisions that were made to open up stevedoring activity and a competitive environment within those that lease from the port of Melbourne currently. That has been the case in the past and will continue to be the case in the future. Indeed in relation to the competitive tension and commercial competitive tension within the port, it could have occurred with or without the transfer of the lease from the current leaseholder to a private leaseholder into the future.

Mr Barber — We agree on that.

Mr JENNINGS — Absolutely. So the issue is ultimately driven by whether there are any additional benefits that may be derived through some commercial or innovative practices that may be led by a non-government authority in relation to the leaseholder. That is something that will be able to be proven and tested over time. Whether in fact it is more agile than the current arrangements, that is something that we may see. Certainly that is the logic that underpins not only the government's and the Treasury's contention but also the ACCC and others in relation to their commentary. So that is the issue.

I am not running away from the fact — and this is the reason my ideology sits quite comfortably with my position within the government — that the government's interest has been looking at a way in which it can generate a better public outcome, in the government's terms, by leading to a step change of investment in infrastructure, in terms of what has not been achieved for the past 100 years, by changing the profile of the transport system in Melbourne, and indeed Victoria.

In relation to the level crossing program that the government took to the election, this will underpin not only greater improvements to the public transport system but also create better amenity for neighbourhoods. That is an issue that the government asserts, in terms of road traffic being improved, but also, very importantly, public transport will receive significant benefits by running at a greater level than has ever been achieved in Victoria before because of the disconnection in the smooth running of the public transport network due to the disruption that level crossings cause to both public transport users and to traffic users.

When it is augmented by the Melbourne Metro rail proposal, we will see a quantum leap in the performance of public transport in decades to come. That has been the overriding priority of this government — to make sure that we can acquit that very significant infrastructure program. That has been the way in which we wanted to hypothecate the funds from the lease transaction. In terms of a state return of this extraordinary asset, in financial terms it has actually been very narrow. The port licence fee and other fees that return to the state of Victoria do not, on an annual basis, return a great revenue compared to the asset base of the port of Melbourne. However, with the productive capacity and infrastructure that could be generated from this transaction, we will have a step change in the availability of the finances available to the state of Victoria to achieve that outcome.

Mr Barber interjected.

Mr JENNINGS — I have answered the question; 50 level crossings is a very significant undertaking. To be able to walk up, to be able to build on that to then add to the significant investment where we will also find our way to an envelope to support the Melbourne

Metropolitan rail redevelopment, will require a significant amount of money to achieve both those projects far beyond the capacity of what we would anticipate to be the proceeds from this transaction. But it is certainly enough to do the 50 level crossings by design.

The additional infrastructure we are talking about will be associated with transport projects primarily across the state, but not exclusively, and other projects that would add to the productive capacity of Victoria and may support community development across Victoria. That has been the additional element which has been included in the amendments that I will be moving shortly.

Mr BARBER (Northern Metropolitan) — I am not sure why the Leader of the Government stood up to contend with what I said, because he has ended up simply confirming it. The minister at the table cannot name a port operational efficiency that will occur under a private owner that cannot occur under a public owner. He referred to a quantum leap in public transport operations — —

Mr Jennings — I referred to the issue that you ignore.

Mr BARBER — Let us tease it out a little bit more then; I have time. This is what I am paid to do. There may be a quantum leap in public transport operations, but the minister cannot assure me that there is going to be a quantum leap in port operations, and that would have been the first question that anybody asked when they approached the port, which after all is a very strategic asset for our economic future, particularly in relation to our export industries, not the least of which is food, commodities and manufacturing for food products. So in fact it is simply down to the minister's faith in the invisible hand of the market and the once-every-five-year intervention of the ESC through this amazing building block method that has worked so well in relation to electricity poles and wires that we are now going to impose it on the even more complex area of our export facility.

But my question was quite specific, and it was about the definition of infrastructure in the bill. Clause 15(1) says:

> There must be paid out of the Victorian Transport Fund —
>
> (a) amounts authorised by the Treasurer to fund the cost of all or any part of the development of —
>
> (i) the Level Crossing Removal Program; and
>
> (ii) infrastructure projects for or in relation to public transport, roads, rail, the movement of freight, ports or other infrastructure …

So first of all, the level crossing removal program is not actually defined in the bill. Mr Jennings says it is the 50 level crossings — the ones they sort of picked out of a hat when they were in opposition — but that term, level crossing removal program, is not defined. It does not say there are 50, and it does not say which ones they are. In fact the earlier line says that it could be all or any part — that is, the proceeds might go to part of the government's 50 program or it might go to all. But it might also go to part, which means the other part could be funded somewhere else.

Clause 15 also talks about the funding of 'infrastructure projects', which are described as transport projects, or 'other infrastructure' — and other infrastructure could mean pretty much anything the government wants it to. We know every parrot in the pet shop is out there talking about infrastructure every day of the week, but they are often talking about a lot of different things. They could be talking about energy infrastructure or they could be talking about community infrastructure. If they wanted to, they could talk about libraries, footpaths and swimming pools.

We are establishing a great big fund here in the same way previous governments have established large regional funds — large pools of money from which they can draw — and as we know over time the money that gets drawn down from those funds tends to be for the things that, let us just say, have high political paybacks. It is not always incredibly clear that they have the best rate of return, particularly when you are comparing apples and oranges. The government is probably going to get up in a minute and say, 'Well, we've got Infrastructure Victoria; we're going to do all that', but I just wanted to give the government a chance to say whether clause 7 ensures that all of the money from this will go to the government's list of 50 crossings, which has been the commentary up until now. The problem is clause 7 does not in fact ensure that that happens.

Clause agreed to; clauses 8 and 9 agreed to.

Clause 10

Mr BARBER (Northern Metropolitan) — Clause 10 is an area where there have been amendments to the amendments — that is, there have been some changes in what has been provided to me and other MPs this morning. Could the minister briefly outline what has changed in this section since the amendment was circulated during the last sitting week?

Mr JENNINGS (Special Minister of State) — Mr Mulino has already contributed to my wellbeing. We have been able to reconcile Mr Barber's reading and consideration of the committee already. Mr Barber is actually looking at the running sheet of the draft amendments. He has actually been looking at the numbering in the left-hand column rather than the clause notes. Under what he described as clause 7, he has actually been talking about issues that are raised in clause 15, because '7' relates to the number of the amendment and clause 15 is listed under amendment 7. So I am certain Mr Barber is not interested in a question on clause 10 of the bill, because clause 10 of the bill is 'Extraterritorial operation of act', and there are no amendments to that clause.

Mr BARBER (Northern Metropolitan) — The government is correct, and this is the difficulty I am labouring under, having just received a new set of amendments. It is in fact amendment 10 which inserts new clauses. There have been some changes to that provision rather than to clause 10 — that is right.

Mr Jennings — So I ask the member to hold his fire until clause 59.

Mr BARBER — Correct. The information I gave to the clerks just before was erroneous. It is actually amendments 10, 24 and 28 that I am interested in, rather than those clauses.

Clause agreed to.

Clause 11

Mr JENNINGS (Special Minister of State) — I move:

1. Clause 11, lines 24 to 32, omit all words and expressions on these lines and insert—

"( ) For the purposes of subsection (1)(b) and (c), the specified period is—

(a) 50 years; or

(b) if the Premier makes an order under subsection (3), the period determined under that order.".

2. Clause 11, page 11, line 2, omit "(2)(a)" and insert "(2)(b)".

3. Clause 11, page 11, lines 8 and 9, omit all words and expressions on these lines.

4. Clause 11, page 11, line 12, omit "(6)" and insert "(5)".

Amendments 2, 3 and 4 relate to the consequence of the change set out in amendment 1, and that gives effect to limiting the terms of the lease to 50 years, plus the 30 days that we have informed the house is a saving provision in relation to tax treatments that apply beyond 50 years.

Mr ONDARCHIE (Northern Metropolitan) — The Treasurer went to the marketplace with a 70-year lease term — 50 plus 20. The committee found in its evidence that a 50-year lease was appropriate; there was overwhelming evidence around that, albeit that government members on the committee kept reminding us it was a 50 plus 20 scenario. What was the thinking of the Treasurer in taking a 70-year lease out to the marketplace before the evidence was received by the marketplace that said 50 is more appropriate?

Mr JENNINGS (Special Minister of State) — I do not necessarily want to spend a lot of time arguing the relative merits of the view of the committee and the evidence that it took as distinct from the soundings that the government and its advisers had taken in relation to the preparation of the original bill. I can indicate to the chamber that there was certainly a difference of opinion about the desirability of the lease term.

In terms of the government's original prescription of the bill, we did nominate this as the minimum period and then allowed for a potential of a continuation of time beyond that for up to 20 years. That was provided for to see what the interest in the marketplace was and what the consequences would be on the basis of the tenders that came in to underpin the transaction and the government's perception about the value to the state of Victoria from either maintaining 50 years or adding to it. I would have thought that would have been ultimately tested by the market — not through contributions made to the committee, but ultimately through the market itself.

Now the committee has determined it should be limited to 50. The government has agreed it should be 50. The amendments that I have moved actually accept that. This is not an issue that is contested between us at this point in time.

Amendments agreed to; amended clause agreed to; clauses 12 to 14 agreed to.

Clause 15

Mr JENNINGS (Special Minister of State) — I move:

5. Clause 15, line 12, after "infrastructure" insert "(including regional infrastructure)".

6. Clause 15, after line 12 insert—

"(iii) rail infrastructure projects for improving rail access, including any rail infrastructure project for improving access identified as an option in a Rail Access Strategy prepared under Part 6C of the **Port Management Act 1995**; and".

7. Clause 15, after line 17 insert—

"( ) The amounts authorised by the Treasurer to be paid out of the Victorian Transport Fund to fund the cost of all or any part of the development of regional infrastructure projects must equate to, in aggregate, at least 10% of the net transaction proceeds.

( ) In addition, the amounts authorised by the Treasurer to be paid out of the Victorian Transport Fund under subsection (1)(a) must, in any relevant period, include amounts to fund the cost of all or any part of the development of regional infrastructure projects that equate to, in aggregate, at least 10% of the amounts so authorised.

( ) However, subsection (3) ceases to apply when amounts authorised by the Treasurer to be paid out of the Victorian Transport Fund to fund the cost of all or any part of the development of regional infrastructure projects equate to, in aggregate, 10% of the net transaction proceeds.".

8. Clause 15, line 26, omit "deliver." and insert "deliver;".

9. Clause 15, after line 26 insert—

"***net transaction proceeds*** means the transaction proceeds paid into the Victorian Transport Fund under section 12(3) less any deductions made from the transaction proceeds under section 12(4);

regional, in relation to infrastructure, means a geographic area of Victoria that is within a municipal district of a Council or an alpine resort within the meaning of the **Alpine Resorts Act 1983** that is defined as ***rural or regional Victoria*** under the **Regional Development Victoria Act 2002**;

relevant period means any of the following—

(a) the period of 4 years commencing on 1 July after the first lease or licence of land comprising port assets is granted to a private sector entity under section 11;

(b) each 4 years commencing on each subsequent 1 July.".

The effect of these amendments is to ensure that within the Victorian Transport Fund, which is being created to receive the proceeds of the lease transaction to provide for the government's initial intention with the 50 level crossings and any other additional capacity that may come from that fund, there is now a specified regional infrastructure investment profile of 10 per cent of the aggregate proceeds of that fund to be measured on a four-year cycle, in relation to drawdowns from that fund, to provide for regional infrastructure.

The question that Mr Barber asked me before was if it is primarily transport or logistics infrastructure; not exclusively so, it is actually interested in the productive capability of Victoria to support community development across regional Victoria and will be accountable in accordance with the provisions of this amendment so that there is a heightened degree of transparency about the allocation of those funds.

Mr BARBER (Northern Metropolitan) — If I can just ask the government to explain: is this the amendment that was tabled at the end of last sitting week, is this an amendment to an amendment or is this a new amendment?

Mr JENNINGS (Special Minister of State) — This is an amendment that was tabled in relation to the 10 per cent provision. So the substance of the issue was flagged in the chamber last sitting week. The additional element that occurs within it is the way in which the accountability for that 10 per cent will be acquitted, on a forward estimates basis of a four-year assessment of the infrastructure projects that will come for regional Victoria, so there is some confidence that the Parliament can have that that will be accounted for over a four-year period. That is the element that is new.

Mr BARBER (Northern Metropolitan) — I thank the government for that. Now, did I also understand along the way there that the investment in infrastructure can also occur in private infrastructure — that would mean privately owned?

Mr JENNINGS (Special Minister of State) — It is not the intention of the government for it to be put to private uses. The intention is for public uses.

Mr BARBER (Northern Metropolitan) — Yes, but is it prohibited to invest public money into privately owned infrastructure — not for private use, but publicly used privately owned infrastructure? Is that permitted within the terms of what has just been put forward here?

Mr JENNINGS (Special Minister of State) — It is not permitted within the public policy settings of the government.

Mr BARBER (Northern Metropolitan) — Well, lots of infrastructure is privately owned. There are privately owned toll roads that people drive on; there are privately owned water treatment plants that provide water that is for public use. In an earlier clause we

already established that infrastructure in this bill means either the level crossings program or public transport infrastructure or other infrastructure. And if there is an additional third category which is 'other infrastructure', that can mean a lot of things. Listening to that earlier clause, and the one that the government just described, it would be possible for other infrastructure to encapsulate privately owned ski chairlifts in the alpine resort under the definitions and the clauses that I have just heard.

Mr JENNINGS (Special Minister of State) — Only in the conspiratorial narrative that you are creating, not in the government's intention.

Mr BARBER (Northern Metropolitan) — I am uninterested in the government's intention, because this is legislation that is going to roll out for many years to come. I am interested in the black letter of the law. I must have read 1000 times in the media that we are selling the port to remove level crossings.

Mr Jennings — We are not selling the port.

Mr BARBER — We are privatising the port, and even the government, when it spoke up before, did not say private would run it better; it was simply a financing question. This has always been a financing question.

Mr Jennings — The electorate understood that.

Mr BARBER — Blimey, now you are really going out there. The electorate understood that this was not about a better port; this was simply a way to get $5 billion, $6 billion, $7 billion or $8 billion. Well, if it was a financing question, that should have been the discussion up-front, and I agree it was simply about a way of getting some more money. When the possible poor competitive outcomes for the port and for exporters were raised, the government has been going back and retrofitting and tacking on and reconsidering and adding belts and braces, and seatbelts and airbags, to try to make sure that a monopolist cannot be too monopolistic. It is to the credit of the opposition that from the position of the opposition it at least understood that and started working its way through the issues. That is the beauty of select committees and public debate. But if there is something in this legislation that would prohibit the money from the port being used for privately owned ski chairlifts in the alpine resorts, can the government please simply stand up and say, 'No, that could never happen under this law'.

Mr JENNINGS (Special Minister of State) — I have already said it is not going to happen.

Mr DRUM (Northern Victoria) — I have been interested in the terminology of what the money can also be spent on in relation to the money that gets paid into the transport fund. The 10 per cent that goes into rural and regional Victoria, is that money also to be solely used for transport purposes? And is there a definition surrounding which transport infrastructure that money can be used for?

Mr JENNINGS (Special Minister of State) — It may well be that Mr Drum was just assuming that this was a bit of a side play between Mr Barber and me, but I have already indicated to the committee that in fact it could be used for broader purposes to support the productive capacity of regional economies throughout Victoria. Whilst it is primarily based upon transport and logistics issues, it will not necessarily be exclusively that. It is about community development across regional Victoria, and the government does not want to limit it. Apart from the limits that Mr Barber has extracted from me, we are actually trying to ensure that it is used for public benefit across the breadth of Victoria and will be accountable on the basis of the projects that are funded in a very transparent way.

Mr DRUM (Northern Victoria) — I have been looking through the bill and also the amendments, but predominantly the bill. I cannot see any reference at all to the $200 million that was promised by the Premier in August last year. Is that mentioned in the bill anywhere?

Mr JENNINGS (Special Minister of State) — No, it is not.

Mr DRUM (Northern Victoria) — So is it the government's intention to scrap the $200 million that was promised to farmers for agricultural education, for water infrastructure, when the Premier promised a biosecurity boost, a boost to exports and a straight-out boost to Victorian farmers? The Premier made those promises. Has that now been scrapped?

Mr JENNINGS (Special Minister of State) — Nothing has been scrapped.

Mr DRUM (Northern Victoria) — So there will still be a $200 million agricultural fund. That fund will still be separate and still be made available to the Victorian Farmers Federation (VFF) for those purposes, as was previously promised?

Mr JENNINGS (Special Minister of State) — There may or may not be any reason for it to be separately funded. It was indicated at the time of the announcement by the government of that commitment that the $200 million was predicated on the proceeds of

the transaction. That was highlighted on the day it was announced. I would assume that it is included in that funding envelope. But this is a minimum 10 per cent allocation that is to be accounted for, and that is how it should be understood.

Mr DRUM (Northern Victoria) — No. I do not believe that is how it is understood. My understanding has always been that the coalition fought for a 10 per cent transport fund for rural and regional Victoria, and I understood the coalition had achieved that. I was not of the belief that a promise that was made by the Premier in August last year was all of a sudden going to be rolled into a promise for agriculture, which included water infrastructure, biosecurity, education in the agricultural sector and direct investment in farming. I did not realise the government was going to roll that $200 million promise back into a transport infrastructure fund that has nothing to do with one or the other. We are talking about a farming promise, an agricultural promise, and we are talking about a deal that has been done for transport in rural and regional Victoria — roads or rail. The minister is now saying that they are one and the same thing.

Mr JENNINGS (Special Minister of State) — All I can say to Mr Drum, regardless of what he has just put to me, is that what this amendment says is that the purposes the fund will be put to are regional infrastructure projects, which 'must equate to, in aggregate, at least 10 per cent of the net transaction proceeds'. That is what I have said. In terms of the $200 million, unless there is a very, very adverse outcome from this transaction, it is going to be covered.

Mr DRUM (Northern Victoria) — Saying it is going to be covered does not make it clear it will be covered. In the bill itself the government can simply make money available out of the transport fund to the Department of Treasury and Finance; it is the very last clause. If the government says it is covered, that means that the government simply writes a $200 million cheque, hands it over to the VFF and maintains its promise from 2 August 2015. The minister's words here are not saying that it is covered, because the government is going to slip it out of the 10 per cent — it will slip it out of the $700 million that has been promised for transport infrastructure. We need a very clear definition here. Is the $200 million coming out of the 10 per cent?

Mr JENNINGS (Special Minister of State) — It is coming out of at least 10 per cent of the proceeds. Mr Drum has jumped to a conclusion about what the value of the transaction will be. The government does not know what the value of the transaction is going to be. We have actually said whatever that value is, whatever is put into the fund, 10 per cent of it at least will be spent on regional infrastructure.

Mr DRUM (Northern Victoria) — Excuse me for taking up the Premier's words here. He insisted that the value of the sale will be well above $6 billion. I am quoting the Premier's words back to the minister. I am saying well above $6 billion; 10 per cent of that is somewhere well above $600 million, so I am saying $650 million to $700 million. The minister is very clearly saying now that the $200 million fund that the government did the deal on with Peter Tuohey and the VFF — all that money, all those promises — has gone now. Whatever is going to be paid out of the 10 per cent is now going to cover the previously promised agricultural fund. That is what the minister is saying very clearly. There is no fund as was initially promised, and it is not going to be separate from the 10 per cent that is in the legislation.

Mr JENNINGS (Special Minister of State) — I said from the very first time I started answering Mr Drum's question that the $200 million will be covered. It will be well and truly covered within the at least 10 per cent of the transaction. Those commitments are going to be maintained. His proposition to me just now is that those commitments have been forgotten. They have not been forgotten. What Mr Drum is having difficulty with is finding that they could be within the envelope of the at least 10 per cent of the proceeds that will go into the fund.

Mr DRUM (Northern Victoria) — Is there any limitation now on how much money out of the 10 per cent is going to be spent on education? Is there any limitation on how much is going to be spent on biosecurity? Is there any limitation on how much of the 10 per cent can be spent on water infrastructure? Is there any limitation on how much of the 10 per cent can be spent on boosting exports? Is there any allocation of these funds that can be spent on road, rail or other transport projects? Has the government got any criteria or any guidelines as to how this money is going to be spent in rural and regional Victoria?

Mr JENNINGS (Special Minister of State) — Yes. It is what I have outlined.

Mr DRUM (Northern Victoria) — The minister has not outlined anything. There is the previous promise from the middle of the last year, and he is saying that it is going to be rolled up into a fund that we thought was 10 per cent, approximately $650 million to $700 million, for transport infrastructure. Now most of us have a reasonably strong view and a reasonably clear

vision about what transport infrastructure actually means. The minister is now saying that it includes all of the government's previous promises, which were a whole raft of agricultural projects, but now there are no limitations with this. It is just a jumbled botch of previous promises and newfound commitments that have been given — 'We're just going to jumble it all up and hopefully it will work itself out'.

Mr JENNINGS (Special Minister of State) — I am not quite sure whether in fact Mr Drum has now become an advocate, whether he would prefer the pre-existing commitments not to have been made and those projects not to be completed, or whether he is happy for them to be completed.

Mr Barber — He prefers promises to be kept.

Mr JENNINGS — They are going to be kept. I have said they are going to be kept.

Mr Drum — No, they are not, Minister.

Mr JENNINGS — I have said they are going to be kept.

Mr DRUM (Northern Victoria) — The minister is effectively saying promises are going to be kept, but quite clearly in his language he is saying that a $200 million promise to the agricultural sector is going to be broken or the 10 per cent that he has negotiated with the opposition is in fact 10 per cent less $200 million. He has to have it one way or the other, but he cannot have it both ways. He is offering this deal, 10 per cent, less $200 million, which was previously promised in the agricultural fund. That is effectively what he is offering.

Mr JENNINGS (Special Minister of State) — I am here in the spirit of keeping us together. The government and the opposition, the coalition, have agreed with this set of words. If Mr Drum has a difficulty with them, he has a difficulty with them.

Mr DRUM (Northern Victoria) — I just want the minister to agree and make it clear that what he is offering here with this package is 10 per cent of the proceeds going into a rural and regional transport infrastructure package, minus the $200 million that was previously promised in the agricultural fund.

Mr JENNINGS (Special Minister of State) — I refute that construction because that is not the construction in the amendment and it is not the construction in the history of the commitments that have been made previously. They are seen as a continuum. What the government has committed to do through these amendments is to allocate at least 10 per cent of the proceeds of the lease transaction, put them into the fund and then distribute them to regional infrastructure projects, which can include the ones that I am not quite sure whether Mr Drum is advocating on behalf of or wants to get rid of. The government is going to continue to commit to them. I am trying to be as clear as I possibly can: if Mr Drum is uncomfortable with the amendment, he is uncomfortable with the amendment, but the amendment has been agreed on between the government and the coalition in the form that I have put to the chamber.

Mr BARBER (Northern Metropolitan) — If I can be of assistance to the house, particularly in relation to the history, on 2 August 2015 the government released a press release headed '$200M fund to support farmers from paddock to port'. I think members will probably remember the announcement. That was one where Ms Shing got to feed a poddy calf. It was possibly the first time she has got to feed a poddy calf. It was possibly the first time she had met a poddy calf. The press release says the Andrews government:

> … will establish a new $200 million Agriculture Infrastructure and Jobs Fund to drive economic growth, create jobs —

blah, blah, blah.

Further down it mentions 'Peter Tuohey', 'a farm in Bunyip', 'established following the successful passage', and then it says:

> The new $200 million fund will support investment in agricultural infrastructure and supply chains to boost productivity, increase exports and reduce costs so our farmers, businesses and industries can stay competitive.

And this is the key bit:

> It 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.

My earlier questions were about the scope of the fund and the words 'or other infrastructure' and what that might encompass. I never got a really clear answer about what 'infrastructure' means, but if the commitments in this press release are delivered as the government says they will be, then the bill must, one would hope, provide provision for the money to be spent on things such as irrigation, energy projects, solar panels, wind farms, pumped hydro schemes, skills development programs — maybe it is an injection into the TAFE budget; I do not know — and market access campaigns, which I think could encompass almost anything one could imagine.

I think Mr Drum is quite appropriately asking whether the 2 August 2015 promises encompassing a whole range of activities are actually coming in under the definition of the bill, which is that section containing the words 'or other infrastructure'.

Mr JENNINGS (Special Minister of State) — I have said on at least five occasions that the answer is yes.

Mr RAMSAY (Western Victoria) — My question is also in relation to clause 15, and at the outset I would like to congratulate the Liberals and The Nationals on the work they have done to provide a significant amount of money from the sale of the lease to regional Victoria through the 10 per cent allocation of specific funding. The grey area for me is that only this week Mr Walsh and Mr Guy in the Legislative Assembly issued press releases saying that the 10 per cent would be specifically for transport infrastructure projects.

The view that I had was that, given that regional Victoria provides significant export activities through the port and there are significant deficiencies in getting that product to the port, the investments would be to enhance transport infrastructure right across regional Victoria. That was the view indicated by Peter Walsh and Matthew Guy through their press releases this week, yet this amendment clearly indicates a much broader investment-specific fund through the Victorian Transport Fund of regional infrastructure projects.

I think Mr Drum made a valid point. Certainly in the initial discussion with the Victorian Farmers Federation and other stakeholders the government indicated a potential $200 million designated fund through the sale of the lease to regional infrastructure projects that were very broad and very wideranging, and in fact they encompassed and overrode a number of other programs already in place, like the Regional Jobs and Infrastructure Fund that Minister Pulford is in charge of. The government also has the $200 million sale of Rural Finance sitting around in one of those little groupings not to be used yet, and it has only partly funded the Murray-Darling Basin rail project.

My concern now is that this amendment is so broad that the minister might actually be using that money to fund programs and projects that should be done under a number of other programs that already have money parked in them. It is the minister's own fault. He has muddied the waters, I suspect, in that the amendment is broad ranging. However, I understand the coalition and the government have come to an agreement on this amendment so there is not much we can do about it, but I am saying, from my understanding of discussions this week, it was specifically for transport infrastructure, and that was certainly what our leadership was indicating in its press releases.

Mr JENNINGS (Special Minister of State) — Through this exercise I have tried to be as self-deprecating as possible, so I will assume responsibility for this. However, I remind the member of a couple of things. One is that the phrase in the amendments that have been agreed to between the government and the coalition says 'at least 10 per cent' of the fund will be used for this purpose, which is a broad purpose. And it is not the intention of the government to penny pinch regional Victoria. It is not the intention of the government to desert other programmatic responsibilities and outcomes for people who live in regional Victoria. That is not the intention.

The thing that may be a bit of a rude awakening in the chamber this morning may be related to how specific people might have believed this amendment was going to be, whether in fact it was additional to the $200 million commitment that has been made previously or whether it had the potential to be inclusive of it. But this is not because the government has changed the formula that has been in existence since the last sitting week. It has not changed the formula; it has not changed it. There has been no sleight of hand in relation to what was on the table two weeks ago and what is on the table this week. The only difference that has taken place is the accountability mechanism of the time frame by which the funds would be used and the way in which it would be accounted for.

Mr ONDARCHIE (Northern Metropolitan) — I commend the Matthew Guy coalition team on being able to secure this up to $700 million funding for regional Victoria, and I want to ask about the sorts of projects that will qualify. Would an upgrade to the Bendigo railway station for the Minister for Public Transport's private waiting room qualify as a project under this fund?

Mr JENNINGS (Special Minister of State) — Can I assist the member in having a new press release on these matters in the running — the answer is no.

Mr O'DONOHUE (Eastern Victoria) — I hope this is an appropriate time to ask this question. Consistent with the question of compensation and money for country Victoria, I just want to take the minister to the issue I alerted him to earlier, and that is the $110 million that was set aside in the 2013–14 budget for the Port of Hastings Development Authority to undertake future planning for the development of the

port of Hastings, which obviously has been very much a factor in the negotiations and the discussions that have taken place between the government and the opposition to come to where we are today. I would just like some information from the minister, if possible. How much of that $110 million had been spent at the change of government; what has happened to the money that was not spent; and what has happened to the work that had taken place between that appropriation and the change of government, and the change of policy that flowed from the current government?

Mr JENNINGS (Special Minister of State) — I thank Mr O'Donohue for his question and the fact that he did give me a heads-up this morning that he had an interest in asking this question. I have been advised that from 15 May last year the Port of Hastings Development Authority was to curtail its activities. Whilst it has not been formally wound up, it has contained its activities since that period of time. There is some ongoing allocation of funds in terms of just ticking over its base responsibilities. The operating expenses of its limited functions are $3.08 million in this financial year and $2.43 million in the next financial year. Of the $110 million, $42 million had been spent at the change of government in relation to the analysis and planning studies for the second container port at Hastings, so that leaves as a consequence somewhere of the order of $67 million that has been returned to consolidated revenue.

What that means is that at some point in time the Auditor-General will probably issue a report to say that $42 million has been wasted because it is actually a sunk analysis, but that analysis, if it exists, has value. It continues to exist as a piece of preparation policy planning consideration of the port of Hastings, so I assume that $42 million still has some intellectual property associated with it and that there is some value in the work that has been undertaken. That has not been lost. The $67 million has been returned to consolidated revenue, and there are some small operating expenses going on. The government reiterates that when Infrastructure Victoria makes an assessment of the appropriate location for a second container port in Victoria into the future, and the need for such a container port, I assume that that intellectual property will be very useful to it in making that appropriate adequate assessment.

Mr O'DONOHUE (Eastern Victoria) — Just one follow-up question from that, and if the minister does not have the information now, I would appreciate it if he could take it on notice and provide it at a subsequent time. I heard local reports that as a result of that money being returned to consolidated revenue — the $67 million that the minister referred to — the number of people employed by the Port of Hastings Development Authority was significantly reduced following that decision. Is the minister able to provide any figures as to the number of people employed by the Port of Hastings Development Authority, either at the change of government or at that 15 May date that he referred to when that decision was formally taken, and how many are there now?

Mr JENNINGS (Special Minister of State) — Well, it is a remarkable stroke of good luck that I am actually able to answer that question now. I am aware that the profile of the organisation was reduced from 30 to 14 — so 14 people continue there — and the cost of redundancy provisions for the people who left the employ of the authority was $2.645 million.

Mr ONDARCHIE (Northern Metropolitan) — My question goes to the appropriateness of projects. The government has suggested, or there has been some debate, that it may look to reverse the north–south pipeline in Victoria. Would that project qualify under this infrastructure fund?

Mr JENNINGS (Special Minister of State) — I do not believe that that would be the case. I do not believe that that would be the intention of the government in terms of using this resource for that purpose. So it falls into the realm of a hypothetical, in the nature of a number of Mr Barber's questions. It is not the government's intention to use it for that purpose.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister for his answer. Would the duplication of the Gippsland line between Bunyip and Longwarry qualify under this project?

Mr JENNINGS (Special Minister of State) — Beyond what I have ruled out in my answers to Mr Barber and Mr Ondarchie, I do not anticipate ruling out any public infrastructure that may be of benefit to regional communities across Victoria.

Mr DRUM (Northern Victoria) — Again, quite simply, in the Premier's own words, water infrastructure projects are very much in the mix, so how can the minister, when the government talks about these projects in regional Victoria, so readily rule them out? If the Premier is saying that water infrastructure projects are in and we have water and agriculture ministers talking about these projects like reversing the north–south pipeline, how can the minister so readily sit there and just rule that project out?

Mr JENNINGS (Special Minister of State) — Do I take it that Mr Drum is inviting me to rule it in?

Mr DRUM (Northern Victoria) — No. I suppose what I am asking for is some acknowledgement from the government that it has no idea what the plans are for this fund. Now that it has included the agricultural fund in the transport and accident fund, I suppose it is our view that it has taken a relatively narrow fund that everybody was quite comfortable with and thrown a scattergun approach to the criteria under which various individuals and various organisations are now going to be able to access this fund. I suppose Mr Ondarchie and I are trying to highlight to the minister the ridiculous nature of what we now have in front of us and the fact that there are effectively no guidelines for where this fund is likely to take us.

Mr JENNINGS (Special Minister of State) — The thing that I find a bit surprising in the contribution of Mr Drum is that he is implying that in fact he does not see any value in supporting regional communities in this way. The implication of his repetitive questions relates to removing those opportunities rather than maintaining them.

Mr DRUM (Northern Victoria) — I take offence to that ridiculous answer. Being among the major proponents and advocates for a previous fund like the Regional Growth Fund, Mr Jennings and I both know that these funds for regional areas only work when there are very strict guidelines around what projects can be in and what projects have to be ruled out. They can only work when there are very strict guidelines. They only work when they are well-orchestrated projects.

With any of these specific funds for regional Victoria, or for anyone else for that matter, once you start fraying the guidelines about what is in and what is out, you have a ridiculous fund that every minister will be trying to get his or her hands on for their own particular portfolio, and the fund will effectively be useless. The minister knows that very well. That is the point I am trying to push to him now. He has thrown in water, education, biosecurity, and now the government has thrown in energy. The minister has just lifted the whole basket of criteria, and now he is effectively saying that everything is in, everything is out.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Elevated rail proposal

Mr DAVIS (Southern Metropolitan) — My question is to the Leader of the Government. I refer to revelations in the *Age* today and an admission also in his written response to my 25 February question on sky rail that 'the design allows for a third and fourth track to be constructed in the future', and I ask: given it is a fact that the government contemplates building third and fourth lines, will he stop deceiving community members by showing the government's 3D promotional video with just two lines?

Mr JENNINGS (Special Minister of State) — I thank Mr Davis for his question at one level, but I do not thank him for actually saying that I have deceived the Victorian community. I do not believe that I have ever purposefully deceived the Victorian community. Certainly that is not my intention, and I do not believe that is the effect of what I said.

I have indicated that the project that has been developed by the government is accurately represented in the communications for advices that we are sharing with the community. We have not shied away from the potential for there to be additional lines developed into the future, but they are not currently within the scope of the project that the government is currently undertaking. As to the way in which the government seeks to communicate these matters with affected neighbourhoods and householders, I have great confidence that these issues will be appropriately dealt with through those lines of communication.

Supplementary question

Mr DAVIS (Southern Metropolitan) — I am disappointed that the minister is not providing that information, but I ask further: given the incomplete information on the Level Crossing Removal Authority website, can the minister point me to a single document that outlines Labor's Caulfield–Dandenong sky rail plan project in full? A single document — just show me a single document.

Mr JENNINGS (Special Minister of State) — I have not checked the website, but I would believe that in fact it is comprehensive, so I am happy to have a look at it. But I think if the member actually has a concern about the way in which this matter should be communicated, I am happy to make representations to my colleague in the other place to encourage her to have a look at the way in which these can effectively be communicated. But I would believe that in fact the information is accurate and appropriate in relation to the project that has been undertaken by the government.

Elevated rail proposal

Mr DAVIS (Southern Metropolitan) — My question is again to the Leader of the Government. The Premier said on radio that an impediment to a

rail-under-road grade separation at Grange Road, Carnegie, is that the Longford gas pipeline would prevent this. He said, 'You would need to move the whole gas line across, and that takes a lot of time and frankly the cost of that would be very, very significant'.

I ask the minister: was the Labor Party aware of the Longford gas pipeline at Carnegie, installed by Henry Bolte, prior to the 2014 election and, if so, why did it not bring the Victorian people into its confidence about the proposed sky rail prior to the election?

Mr JENNINGS (Special Minister of State) — I thank Mr Davis for his question. One thing I do know is that Henry Bolte's government was a bit of an advocate for putting things underground. In fact there are many benefits that the community has derived from the underground investments that were made by that government, including the significant investment in the Melbourne underground rail network. He did actually appreciate major infrastructure. Not all Liberal governments have been mindful of infrastructure projects of great worth to the people of Victoria; his was one that was mindful of that.

How mindful the incoming government was of the logistical impact of that gas pipeline in relation to the level crossing program I am not 100 per cent certain, but I do know that it was a matter of active consideration during the project design and implementation of government policy once it came to office, and certainly it has been an issue that it has been particularly — —

Mr Davis — It is hardly a revelation that there is a gas pipeline.

Mr JENNINGS — Not for the first time today I am being asked a whole series of questions which would imply a different outcome from what the questioner has put to me. In fact I think some people on Mr Davis's side of the chamber may actually be saying that it is easy to go under — that it would have been easier for this whole rail development to go under. This is a very tangible demonstration of the fact that that is not the case.

Supplementary question

Mr DAVIS (Southern Metropolitan) — I am not sure that is a satisfactory answer, but nonetheless — —

Mr Jennings — Kick me out for six months.

Mr DAVIS — The community might do that. Can the minister also confirm that the very same Longford gas pipeline runs just beneath the surface along Girdwood Avenue, Carnegie, where the Level Crossing Removal Authority wants to put 20-metre deep foundations for sky rail?

Mr JENNINGS (Special Minister of State) — I would tend to think that this is a question that may be a useful question on notice, because I would not immediately have to hand where the foundations may be.

Mrs Peulich — Being a social worker.

Mr JENNINGS — Thank you for your generosity of spirit. The way in which the footprints of individual pylons intersect with the alignment of gas pipes is not something that I am intimately involved with on a daily basis, although I am sure the project managers will be mindful of it and have an engineering solution to it.

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

Mernda rail extension

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Leader of the Government. The current Mernda rail Social Pinpoint map provides an opportunity for local residents to click and drag a marker onto the map and make a comment that is personally relevant to the project and their residential address. Amazingly, 84 households that all border the reservation for Mernda rail have exactly the same pro-sky rail comment, written at the same time, with a pink heart marker placed on top of each resident's house, stating:

> Sky rail. Protect the trees, the wildlife and don't divide the community with an ugly trench.

I ask: can the minister assure the house that this comment was not improperly placed on 84 households that border the reservation by a ministerial office computer, a Victorian Labor electorate office computer or a computer from the Level Crossing Removal Authority?

Mr JENNINGS (Special Minister of State) — I think that there is no simple answer for me to give the member in relation to this question. In fact I know that in terms of internet connection, big data and privacy provisions in the state of Victoria there are some aspects of privacy and data protection legislation that I am responsible for.

I certainly can confirm to the people of Victoria I do not have the capacity to be able to instantly monitor the traffic from computers across Victoria, so that information is not immediately available to me — and I

hope it never is in terms of my responsibilities. But I certainly believe that it would be appropriate for those issues to be examined.

The worst case outcome of this is that there may be some misrepresentation of the fulsomeness of community support. That is the worst case contrivance about the events that Ms Wooldridge has referred to, but I think in terms of public confidence it would be wise for us to make sure that we are certain that it is householders themselves who are making these assessments and these contributions. I will ask my colleague to appropriately examine the reliability of what has been reported.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for his response. The Level Crossing Removal Authority and Social Pinpoint web host do store the internet protocol (IP) address for all comments. I ask that the minister's investigation include looking at the IP address of the computer which made these comments, ensuring that it is captured and comparing those IP addresses to see if they are the same IP address or not, so that we are able to know that it did not come from something like Minister Allan's office or other pro-sky rail areas, and I ask that the minister report back to the house on the outcome of the investigation.

The PRESIDENT — Order! I will give Ms Wooldridge an opportunity to rephrase. She has actually called for an action, not posed a question.

Ms WOOLDRIDGE — In his investigation and in his reporting back to this house, can the minister assure the house that it will include a comparison of the IP addresses so that we can all have confidence in the outcome regarding where these comments came from and whether they were from the same address?

Mr JENNINGS (Special Minister of State) — President, I appreciate your request of Ms Wooldridge to turn it into a question, because in fact she has asserted that I will formally undertake an investigation into these matters. I actually have to take advice about what my capacity is, if any, to undertake that investigation, apart from using my best endeavours to do so. It may well be that I am constrained by privacy or data protection issues that prevent me from actually undertaking this assessment, but I do not know off the top of my head what those restrictions may be. I will need to take advice about the appropriate way in which these matters are investigated. I was offering to the chamber in the spirit of goodwill that in fact I would undertake, to my best endeavours, to find out and provide the house with some confidence about the reliability of what ends up on this website.

StartCon

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Yesterday in an answer to my question to the minister regarding his failed attempt to attract StartCon to Melbourne, through this chamber he advised the people of Victoria that, and I quote:

> Zero taxpayer funds have been spent at any stage in relation to StartCon …

Can the minister advise who paid for his flights to and from Sydney, local transfers, any accommodation and any meals and incidental expenses for his grand announcement on the steps of Sydney town hall that he had personally secured the conference in Melbourne in 2016?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — In fact I reviewed the *Hansard* transcript just this morning in relation to yesterday's question by Mr Ondarchie. Let me just say that *Hansard* will not be kind to him with this reflection, because in fact the question that I responded to was: had any Victorian taxpayer money been spent in getting StartCon to Victoria when in fact it was not coming to Victoria? That was the question that Mr Ondarchie posed to me, which is why I said no money had been provided to StartCon at any stage. So in fact the question that Mr Ondarchie is putting to me today is in fact a very different question to that which I answered yesterday. I stand by my answer yesterday.

Zero funds have been spent on StartCon because StartCon as at this stage is not arriving in Victoria in 2016 for the very, very pertinent reasons I outlined yesterday, which are that this government believes in supporting the start-up ecosystem. We believe that in supporting the start-up ecosystem, having a conference in 2016 in Randwick is more important than standing on principle and not having a conference at all. We believe on this side of the chamber that, given that we were not able to progress with the contracts at a pace that I would have liked, we wanted to support the start-up community so that it had somewhere to go for StartCon rather than nowhere to go. But again Mr Ondarchie has proved that he would rather be a Liberal first rather than a Victorian first, Mr Ondarchie has proved that he would rather play small-minded politics than big picture politics and Mr Ondarchie has proved why he is in opposition and not on this side of the chamber.

Of course in relation to going up to Sydney I have a ministerial travel budget that I was able to access. Let me make this very clear, because this is a very important point: at no stage were funds from LaunchVic used to do anything other than support trying to get that conference to Melbourne. There were zero dollars spent on StartCon because StartCon is not in Melbourne. In relation to my travel, of course the ministerial travel budget allows me to undertake that type of travel. And do you know what? That is not part of the LaunchVic funds, and that is not money that was spent on StartCon. Mr Ondarchie should probably try to think about these questions for longer than 30 seconds.

Mr Ondarchie — On a point of order, President, the state opposition is willing to grant leave to the minister to offer him the opportunity to give us a personal explanation for why he misled the house yesterday, because he said:

> Zero taxpayer funds have been spent at any stage in relation to StartCon …

He has just told us that money came out of his ministerial budget — taxpayer funds. We are offering him leave to make a personal explanation to the house if he wishes to do so, because he has misled the house.

The PRESIDENT — Order! I do not regard that there is a point of order there. I think that the minister in his substantive answer today actually clarified the two positions: his understanding of the question put to him yesterday and the answer that he provided in respect of that question as put. He has gone on today to explain his expenses in terms of travelling up to Sydney for that announcement, and I am not to know that he actually also did not transact other business on behalf of the Victorian government while he was there. The point is that he has made a distinction in those two matters and clarified it with his answer to the question. I do not believe that there is any need for him to make a further personal explanation. The matter is covered, and I do not believe that that is a point of order as such.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — To quote the minister from yesterday so he is clear on what the *Hansard* says — not his version of the *Hansard*:

> Zero taxpayer funds have been spent at any stage in relation to StartCon …

Given that zero taxpayer funds have been spent at any stage in relation to StartCon, according to what the minister told the house yesterday, did any political advisers or departmental officers also attend this announcement and did they also pay their own way?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for his question. Again, *Hansard* is not going to be kind to him, because he very specifically asked me about the $1 million. By the way, the Victorian government has never, ever admitted to what the funds are, because we on this side of the chamber do not acknowledge what we spend to attract events and conferences into Victoria, so Mr Ondarchie's level of excitement unfortunately does not match his level of research. In fact again, as I have reflected, we have a travel budget provided for ministerial travel, which we access.

Honourable members interjecting.

Mr DALIDAKIS — Whether I take staff or not is not a matter for you. I will never talk about my staff. I am the public figure, not my staff, and you are a grub.

The PRESIDENT — Order! That last comment was totally unparliamentary. I call for a withdrawal.

Mr DALIDAKIS — I withdraw.

Ordered that answers be considered next day on motion of Mr ONDARCHIE (Northern Metropolitan).

Ministerial travel

Ms FITZHERBERT (Southern Metropolitan) — My question is also to the Minister for Small Business, Innovation and Trade. Since his election in December 2014 and his subsequent appointment as Minister for Small Business, Innovation and Trade, how many ministerial or parliamentary international trips has he taken and when were they?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for her question. In terms of parliamentary trips, I have not undertaken any parliamentary trips. In terms of ministerial trips, my recollection is that I have undertaken five trips as minister for trade or minister for innovation in relation to the portfolio.

Supplementary question

Ms FITZHERBERT (Southern Metropolitan) — I thank the minister for his answer. So far he has travelled to at least England, Dubai, Greece, the United States, Singapore and interstate in Australia. Can the minister guarantee that, as per the Members of Parliament (Register of Interests) Act 1978 and the ministerial gifts register, he has declared every gift he has received, including but not limited to flights, upgrades, accommodation and hospitality?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Yes.

Strathmore Secondary College

Ms HARTLAND (Western Metropolitan) — My question is for the Special Minister of State. In 2012 the Standing Council on Environment and Water commissioned a report entitled *Australian Child Health and Air Pollution Study*. It confirms the negative impacts of traffic pollution on children's lungs in relation to asthma and other respiratory conditions. As the minister will know, as part of the CityLink-Tulla expansion the government intends to build a new bridge to connect the Pascoe Vale Road exit, which will come within 5 metres of classrooms at Strathmore Secondary College. The government has also refused to commit to a 24-hour truck curfew on local streets in the inner west, such as in Yarraville and Seddon, when the western distributor is built, despite these trucks running past several schools, kindergartens and childcare centres. So my question is: does the government have any real concern about these children's respiratory health?

Mr JENNINGS (Special Minister of State) — I thank Ms Hartland for her concern about the wellbeing of children in the western metropolitan communities of Melbourne. I take it that it is not a rhetorical question. I assume that she does actually recognise that of course the government does have regard for all our citizens, including children. We want to make sure that they are kept in good care and good health. That continues to be the government's desire for all children in Victoria, including those who live in the communities that she has referred to.

I am not certain whether in fact her question to me is in relation to my role representing the Premier or representing any minister from the other place in relation to health support services or whether it is to do with the implementation of transport infrastructure projects. In terms of trying to provide the member with some confidence about the way in which I respond to what is the substantive issue behind her question about our care for the children in those communities, maybe in a supplementary question she may give me some guidance about which aspect of public administration she wants me to then delve into in relation to responding to the question.

Supplementary question

Ms HARTLAND (Western Metropolitan) — I thank the minister for that answer. One of the problems is that obviously this is an issue that goes across a number of departments such as health, infrastructure, roads and major projects, and I am looking for a whole-of-government approach to the issue of children's respiratory conditions. Considering that with Strathmore Secondary College it is a project that is actually being built as we speak and it will be 5 metres from these young people's classrooms, very little notice seems to have been taken of the local school, so maybe we can focus particularly on Strathmore at this stage. Will the government actually put a halt to this project until the issue of teenagers' respiratory health can actually be dealt with?

Mr JENNINGS (Special Minister of State) — President, you would appreciate that this is a very difficult question for me to answer because of my not having immediate knowledge about what the health status of young people's respiratory health is in the western suburbs without relying on advice, so I will seek out some advice. I will also seek out what remedies and support may be available, primarily through the health portfolio, but I will be mindful of the overlay of the rollout of government infrastructure projects. Primarily, I will look in the first instance at health and wellbeing, which is at the heart of Ms Hartland's question.

Timber industry

Ms DUNN (Eastern Metropolitan) — My question is to the Minister for Agriculture. Can the minister advise: of the 21 000 people that she says are employed in the timber industry, noting that the Greens dispute that figure in terms of being employed in the native forest industry, how many of those people are suitably qualified to conduct targeted pre-logging fauna surveys?

Ms PULFORD (Minister for Agriculture) — I will take that question on notice. I am not familiar with the qualifications of each and every person working in the native timber industry in Victoria. I will ask them and get back to Ms Dunn.

Supplementary question

Ms DUNN (Eastern Metropolitan) — I thank the minister for her follow-up on that. In terms of a supplementary, I am wondering: what is the minister's view on what would comprise suitable qualifications to undertake those surveys?

Ms PULFORD (Minister for Agriculture) — I think Ms Dunn is asking for an opinion here.

The PRESIDENT — Order! It was phrased in a such a way that I can understand why the minister

would question that. But whilst it was phrased that way, I think Ms Dunn was actually seeking detail of the qualifications that might be expected, so I do not think that she was looking for an opinion; otherwise I would have intervened.

Ms PULFORD — I thank Ms Dunn for her interest in the qualifications of people employed in native timber harvesting. Again, I will take this question on notice. I have never been involved personally in the direct employment of somebody in this work, and so the nature of the qualifications that are expected of people working in this industry are not something that I am immediately familiar with.

Duck season

Mr YOUNG (Northern Victoria) — My question today is to the Minister for Agriculture. I have been touring around northern Victoria quite a lot over the last few weeks doing bird scouting and surveying of wetlands in anticipation of the upcoming duck season. There are many state game reserves that received a visit, not just those which have water but also those which are dry or do not fill often or at all. At many of the entrances to these state game reserves are signs to warn people of baiting programs that are occurring in the reserve. This baiting is most often for foxes, but dogs and rabbits are occasionally targeted. I ask: will these baits be removed from all state game reserves before the opening weekend of the 2016 duck season so as to not pose a threat to hunting dogs?

Ms PULFORD (Minister for Agriculture) — I thank Mr Young for his question and his interest in the arrangements in the lead-up to the opening of duck hunting season, which members would know is just around the corner, and this will be the last question time before the season commences.

There is a baiting program undertaken by the Department of Environment, Land, Water and Planning, and this is an important part of the government's strategy to work with private landholders to manage pests and their significant impact on our agricultural industries and indeed our rural communities. On the question of baiting specifically in state game reserves, I understand Mr Young's interest in this and the potential risk that is posed to dogs that hunters take with them. I will also, President, on this occasion take the opportunity to provide a detailed answer to Mr Young. I am conscious that there will not be an opportunity to report this to the Parliament before the opening of the season, so I will do this by the end of the day.

Supplementary question

Mr YOUNG (Northern Victoria) — I very much appreciate the timing of that response. Given that baiting programs are operating in state game reserves, it is obvious that there are problems with pest species within them, and I see these programs as an acknowledgement of this. Currently though the hunting of many of these pest species is illegal in state game reserves, an area of land specifically designated for hunting. When will the government allow hunting of pest species in state game reserves to offset the money spent on other pest management programs?

The PRESIDENT — Order! I will allow the question to stand, but I have to say that I think it goes quite a bit beyond the original question in terms of the subject matter. I do not really regard it as a supplementary question as such, but I will allow the minister to make comment on it.

Ms PULFORD (Minister for Agriculture) — I thank Mr Young for his further question and his interest in the opportunities that can be made available to members of Victoria's hunting community in supporting pest control. I think that there are some really great opportunities for us to explore further for hunters to support the work of government and private landholders in pest management, and that is something that I am certainly keen to work with our hunting community on and indeed my colleague the Minister for Environment, Climate Change and Water, Ms Neville. I know this is a matter in which the Shooters and Fishers Party representatives in the Parliament have a great interest, but I do think that there have been some great wins for the community that suggest to us that there is an opportunity to do more in this area.

Government payment process

Dr CARLING-JENKINS (Western Metropolitan) — My question is for Mr Jennings, the minister representing the Minister for Finance, and concerns the government payment processes, particularly to small and medium businesses. As the minister would be well aware, these businesses rely on regular and timely payments of invoices to ensure regular cash flow, so many businesses were encouraged when prior to the 2014 state election the ALP issued a statement titled *Labor's Plan for Small Business*, from which I quote:

> A Labor government will also conduct a full review of government payment processes for invoices from small and medium —

or we could say 'smedium' —

> enterprises to make sure all agencies and departments are implementing best practice and making payments as efficiently as possible.

I have been looking for this review, and I have been in touch, for example, with Business Victoria, which is unaware of such a review taking place. Can the minister update the house on when we can expect this review to take place and what the terms of reference are for it?

Mr JENNINGS (Special Minister of State) — I thank Ms Carling-Jenkins for her question. I agree with her: 'smedium' businesses in Victoria are very important, whether they be small or medium.

Anybody who employs anyone in Victoria is very important to us, so the member is quite right to remind us that the incoming government did make commitments to make sure that it is a good purchaser of goods and services and that it actually pays its accounts in a timely and appropriate fashion, which is consistent with other policies, such as the industry participation program and other programs that we have in Victoria, including those that might support enterprises which support workers with disabilities. There are a range of opportunities in which we see the need for us to be engaging with Victorian enterprise in an appropriate way.

The member quite correctly identified that my colleague the Minister for Finance is responsible for this area. This is an issue that I have discussed with him and other cabinet colleagues on a number of occasions — the importance of us being a timely and appropriate payer of our accounts. I know that he is giving active consideration to these matters, but in terms of the specifics, in terms of the review timetable and the way in which that may be evident to the Victorian community and industry, I will take some advice from him and provide that to the member.

Supplementary question

Dr CARLING-JENKINS (Western Metropolitan) — I thank the minister for his answer and for undertaking that the Minister for Finance will get back to me regarding the developing of this review. I wonder if the minister could in addition provide details around the consultation process of this review?

Mr JENNINGS (Special Minister of State) — I certainly hope that the mechanism that is adopted by my colleague and the people who support him engages the relevant sectors and the relevant businesses. I am certain that he will account for that in the material he provides us both.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have answers to the following questions on notice: 4735–8, 4740–8, 4773, 4776–7, 4810–11, 4851, 4909, 4911, 4925–6, 4932–3.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of today's questions, on Mr Davis's supplementary question to Mr Jennings about the foundations for the elevated rail and the potential impact on the gas pipeline, I seek a written response on that matter, which the minister indicated that he would be prepared to investigate at any rate. That is two days.

In regard to Ms Wooldridge's question to Mr Jennings on the origin of comments posted in the consultation process for the Mernda railway line, Minister Jennings has also undertaken to examine that matter. I seek a further written response in that regard, again within two days.

In respect of Ms Hartland's question to Mr Jennings, the minister again offered to seek further information on the potential respiratory impact of the proposed roadworks. I understand that will involve the Minister for Health, and therefore it is two days.

On Ms Dunn's substantive and supplementary questions to Ms Pulford in respect of fauna studies and how many staff were qualified to undertake them and the actual qualifications required, Ms Pulford has indicated she is happy to explore that matter further and provide a written response. That would be one day.

In respect of the substantive question from Mr Young to Minister Pulford on bait removal, the minister has indicated that an answer should be available later this day. I am not seeking any written response on the supplementary question, because, as I said, I believe it was outside the scope of the substantive question. The minister gave some explanation and whether or not the member is satisfied with it is another matter, but from my point of view it really did not qualify as a supplementary question.

In regard to Dr Carling-Jenkins's question to Mr Jennings on the review of payments to small

business, the minister has undertaken to provide a written response on that. Again, because it is for the Minister for Finance, it will be two days. I am seeking the written response primarily in regard to the substantive question; the supplementary stands for itself.

I also point out to the house that in respect of a question put to Mr Dalidakis yesterday in regard to premises in Frankston, a member sought advice from Mr Dalidakis as to whether or not he had received reports on allegations that the premises were selling some drug materials. I have been advised by the legal team for that business that in fact the matter is sub judice. Charges have been laid but are yet to be tested in court. Whilst I asked the minister for a response to that question last night — and I would still be happy to have that response — I advise the house that we need to be careful about this matter because it is apparently sub judice.

CONSTITUENCY QUESTIONS

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My constituency question is for the Minister for Environment, Climate Change and Water, and it is in relation to the decision to close Rivermouth Road along the silt jetties beside the Mitchell River. The president of the Hill End and Willow Grove Angling Club, Mr John Gooding, recently contacted me about the closure of the last 2 kilometres of the road along the silt jetties in order to conduct environmental protective works. I understand the work being undertaken by Parks Victoria is proposed to address erosion and other environmental concerns. However, it will deny access to the elderly and disabled who frequently use the jetty for fishing and recreation. Mr Gooding says the jetty is extremely popular for fishing, and its removal goes against the government's promotion of recreational fishing. I ask the minister to reconsider her decision to close the last 2 kilometres of Rivermouth Road and look at alternative options to address erosion. I believe the closure also means that emergency services vehicles are no longer able to access that area in case of boating accidents.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I take this opportunity to welcome a former member of the house, Mr David Koch, who is in the gallery today.

CONSTITUENCY QUESTIONS

Questions resumed.

South Eastern Metropolitan Region

Ms SPRINGLE (South Eastern Metropolitan) — My constituency question is to the Minister for Education. The government recently closed the former Maralinga Primary School site in Keysborough and declared it surplus to requirements. The site is situated in an area where locals face a significant walking distance to get to primary schools and have limited public transport options. This was why Maralinga Primary School was opened in the first place. The claim is that Keysborough residents do not need this school, but there has been no mention of Noble Park residents. If you live in Jacana Street, Noble Park, for example, you now have a 20-minute walk to any local primary school. We know the government will need to build up to 220 new schools in Victoria within the next decade to meet demand. In the next 15 years the number of children in this former school's catchment alone, which includes significantly isolated parts of Noble Park, is expected to increase by over 100 students, and that is not accounting for increases in urban density. Given this imminent growth, should the government not be keeping this much-needed school open?

The PRESIDENT — Order! Ms Springle, that is not a question. I ask that she rephrase the question at the end — not the rest of it, just the question.

Ms SPRINGLE — Will the government keep this much-needed school open?

Northern Metropolitan Region

Mr ELASMAR (Northern Metropolitan) — My constituency question is to the Minister for Industry and Minister for Energy and Resources, and it relates to industry in the northern suburbs. Car manufacturer Ford's decision to stop making cars in Australia by the end of 2017 will undoubtedly impact thousands of jobs. This, coupled with Toyota and Holden's decision to also end manufacturing in Australia, will hit industry in the northern suburbs hard in addition to significantly impacting jobs. Being a traditional site of heavy manufacturing and a hub for industry for much of Victoria's history, something must be done to alleviate

the situation of workers in my electorate of Northern Metropolitan Region. Can the minister update me on the plans and work that the Andrews Labor government is doing to help develop industry in the Northern Metropolitan Region and how that is helping to provide Victorian families with real jobs and real opportunities?

The PRESIDENT — Order! I will have a look at that one.

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Public Transport in the other place. I was recently contacted by a constituent who lives on St Kilda Road about the Boer War memorial which is at the end of Albert Road. She had noticed signs that had gone up that said that it would be moved as part of the Melbourne Metro rail development of the Domain station and there was a number that she could call. When she called and spoke to someone she was very alarmed to be told that it would be moved but there was no decision made on whether it would be returned at all. I have looked at maps that are available, which are quite simple, that seem to indicate that one of the station openings will be through the little pocket of land where the Boer War memorial is sited at the moment. My question is: can the minister confirm that the memorial will be removed, and where it will end up, and when?

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My constituency question is for the Acting Minister for Police, Robin Scott, in the other place. We have just celebrated International Women's Day, and yet we are providing lip-service rather than actual protection for women and staff seeking to access health services at their place of work. The East Melbourne Clinic is within my electorate, and people there are still facing the same harassment that they did last year. They want to know why, as do the many constituents living nearby. We understand the need for clarity, legal confidence and training. Safe access zones will almost certainly be subject to testing in court, and this should be acknowledged and welcomed. But that is not an excuse for allowing another minute of harassment to occur because of Lent or any other potential public relations issue. Can the minister explain for the clinic why the police are not enforcing these laws?

Eastern Victoria Region

Ms SHING (Eastern Victoria) — The question that I have today is directed to the Minister for Environment, Climate Change and Water in the other place, Ms Lisa Neville. I raise the question in the context of a recent order placed for 50 billion litres of water from the desalination plant to be worked into the Melbourne grid to alleviate regional and rural water pressures and stresses, to shore up water security now and into the future and to operate alongside the reintroduction of Target 155, the incredibly successful program which was abolished for no reason other than petty political folly by the now opposition. I ask the minister to provide an assurance that the communities in South Gippsland will in fact receive benefit as a consequence of the order being placed from the desalination plant, including but not limited to further water security that can be examined for the Korumburra and Lance Creek areas insofar as the Melbourne grid is concerned?

Southern Metropolitan Region

Ms CROZIER (Southern Metropolitan) — My constituency question is for the Minister for Public Transport, who is responsible for the removal of level crossings. The level crossing removal works at North Road, Ormond, over the past few months have had several road closures to enable works to be undertaken. Obviously with such a project you would expect some degree of disruption to the surrounding areas. During the course of this particular project I have spoken with and met a number of traders who have also been very understanding of the disruption that a project of this size would cause. However, what they have been particularly frustrated about is the timing of information becoming available. Information coming just weeks before closures of roads during the January period has had a massive impact on some businesses, which will never be able to recoup those losses. Transactions, consumers using the shopping strip and generation of new business activity have been significantly down on previous years. At the same time wages, rents and other business costs need to be paid.

The disruptions are still ongoing. Only today I heard from a constituent who is a local trader saying a road closure had occurred, making access to his business extremely difficult. Will the minister ensure that for the duration of this project proper notification of major disruptions is given so that those local traders, who are already doing it tough with loss of income, have the ability to plan for any future disruption?

Eastern Metropolitan Region

Mr LEANE (Eastern Metropolitan) — My constituency question is to the Minister for Sport, Mr Eren. Before I ask the question, I congratulate him

on the fact that the Community Sports Infrastructure Fund has supported a couple of clubs in the Eastern Metropolitan Region to build female changing rooms, particularly at Donvale Reserve and Larpent Reserve, in Glen Waverley. The question I ask the minister, which relates to demand from many constituents who are keen on more involvement of women in sport, is if he could let all members know when there are future possibilities for funding to assist in the availability of more female facilities.

The PRESIDENT — Order! Can the member just give me the question?

Mr LEANE — No. I can scoop it out again.

The PRESIDENT — Order! I have been pursuing an arrangement that will enable me to go to a Department of Foreign Affairs and Trade lunch with a visiting delegation from Korea, so I did not listen as intently as I might have to the stickler's contribution. He is fortunate.

Eastern Victoria Region

Mr BOURMAN (Eastern Victoria) — My question is for the Minister for Finance in the other place. Some time ago I visited the Maryvale paper mill on a tour, and subsequent to that I think I raised a matter on the adjournment debate regarding the government's use of recycled paper from that mill. The question I ask is: will the minister give us an update on when and if we are going to take any action on using recycled paper from that mill?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My question is to the Minister for Emergency Services, the Honourable Jane Garrett, and I ask this question on behalf of Warrnambool Legacy. The question is: why would the Country Fire Authority (CFA) bill Mrs Margaret Sanders, an 80-year-old widow of a World War II veteran, a sum of $150 000 to place two Hazmat trucks close to the site of an explosion near Derrinallum near her property? The army disposal unit and St John's Ambulance were there, but they made no financial claim against the family. This poor woman is shifting from an aged-care facility to the farm. She is the only person on the farm, yet the CFA has seen fit to bill her $150 000. She has since paid this amount, but unfortunately has found herself now in significant financial hardship. So I am asking the minister to direct the CFA to repay those funds in full back to Mrs Sanders.

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My constituency question is to the Minister for Roads and Road Safety in relation to the CityLink-Tullamarine expansion and the proposal to place a new bridge within 5 metres of classrooms at Strathmore Secondary College. When construction works occur within metres of classrooms there are bound to be significant noise impacts, vibration, dust impacts and other pollutants from trucks, digging, impacting, cranes, equipment, workers and much more. We know how difficult it is to keep children concentrating, let alone with massive distractions, so this is likely to be detrimental to their learning. There are also the obvious respiratory risks associated with the construction dust, as well as the stress impacts of noise, pollution and chaos overhanging the school. Can the minister outline the support that will be provided to the school to protect teachers and students from these construction impacts, including whether students will need to be relocated and whether the school will need to close?

The PRESIDENT — Order! On the basis that I do not want to return to the committee stage before lunch, with the agreement of the house I am going to allow a couple of extra constituency questions.

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My constituency question is for the Minister for Health, and it regards the affordability of necessary expenses associated with hospitalisation at Goulburn Valley Health. My office was recently contacted by a constituent who spent some time in Goulburn Valley Health and expressed significant concerns about the exorbitant cost of parking and costs at the cafeteria facilities.

This is especially concerning in a community with a low socio-economic demographic, where low-income families may not be able to afford to eat or park when visiting and staying at the hospital and may therefore be forced to leave their loved ones for an extended period of time. Unlike many metropolitan hospitals, there are no affordable eating or parking options close to Goulburn Valley Health. The government has a duty of care to ensure that these necessary costs associated with hospitalisation are affordable to all. My question to the minister is: how will she ensure affordability of costs like parking and food at Goulburn Valley Health and all hospitals within the Northern Victoria Region?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My constituency question today relates to the government's planned sky rail on the Caulfield to Dandenong line, which goes through part of my electorate in the Oakleigh, Murrumbeena, Carnegie and Hughesdale area. The government has a 3D model which it shows to some people, but not others, and which is not in the public domain. I note that as shown in the *Age* today Mr Meysztowicz — I may get the pronunciation wrong, but he is a man I have met and spoken to — has gone to the trouble of creating his own model from dimensions that were provided to him. He was not able to photograph the model presented by the Level Crossing Removal Authority. I have also looked at the site, and it is clear that there is an inadequate project description on the site. What I am asking the Minister for Public Transport to do is to release a full, detailed project description of Labor's hideous sky rail and to make sure that the community can respond to that as part of the consultation process to that through the project description document.

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Roads and Road Safety, and I refer the minister to the tragic road crash in Truganina this morning that resulted in the deaths of two people and that left three children without parents. The coexistence of cars and trucks on roads built long ago and not up to carrying heavy traffic is a major problem in the west and would appear to have contributed to today's tragedy. I speak from personal experience when I speak of the dangers of the car-truck mix on roads in the western suburbs. Will the minister reassure road users in my electorate that he has plans to make them safer by upgrading roads in Melbourne's west that so desperately need those upgrades?

Northern Victoria Region

Mr YOUNG (Northern Victoria) — My constituency question is for the Minister for Environment, Climate Change and Water in the other place. Recently, the government has made the decision to place an order for water from the controversial desalination plant. Later this year Melbourne's water supply will be boosted by 50 gigalitres of water. I am not one who wants to get caught up in the political argy-bargy about turning it on or not; I only want to see good outcomes for my electorate if it is turned on.

The government has boasted that Barwon Water intends to access 6 gigalitres of water from the Thompson Reservoir Yarra catchment and that there will be no additional cost to customers as a result of switching on that pipeline or the desalination plant. It is all good and well to be looking after Melbourne and Geelong, but there are towns with households and businesses all over northern Victoria also suffering from lack of water or water security, especially our farmers and irrigators. I understand that the minister's attention has been drawn to this fact and solutions are being assessed, so I ask: if the residents of northern Victoria ever do get access to water from the desalination plant, will they be footing the bill for infrastructure work to get it there?

Sitting suspended 1.00 p.m. until 2.04 p.m.

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

Committee

Resumed; further discussion of clause 15 and Mr JENNINGS amendments:

5. Clause 15, line 12, after "infrastructure" insert "(including regional infrastructure)".

6. Clause 15, after line 12 insert —

"(iii) rail infrastructure projects for improving rail access, including any rail infrastructure project for improving access identified as an option in a Rail Access Strategy prepared under Part 6C of the **Port Management Act 1995**; and".

7. Clause 15, after line 17 insert —

"( ) The amounts authorised by the Treasurer to be paid out of the Victorian Transport Fund to fund the cost of all or any part of the development of regional infrastructure projects must equate to, in aggregate, at least 10% of the net transaction proceeds.

( ) In addition, the amounts authorised by the Treasurer to be paid out of the Victorian Transport Fund under subsection (1)(a) must, in any relevant period, include amounts to fund the cost of all or any part of the development of regional infrastructure projects that equate to, in aggregate, at least 10% of the amounts so authorised.

( ) However, subsection (3) ceases to apply when amounts authorised by the Treasurer to be paid out of the Victorian Transport Fund to fund the cost of all or any part of the development of regional infrastructure projects equate to, in aggregate, 10% of the net transaction proceeds.".

8. Clause 15, line 26, omit "deliver." and insert "deliver;".

9. Clause 15, after line 26 insert —

"***net transaction proceeds*** means the transaction proceeds paid into the Victorian Transport Fund under section 12(3) less any deductions made from the transaction proceeds under section 12(4);

regional, in relation to infrastructure, means a geographic area of Victoria that is within a municipal district of a Council or an alpine resort within the meaning of the **Alpine Resorts Act 1983** that is defined as ***rural or regional Victoria*** under the **Regional Development Victoria Act 2002**;

relevant period means any of the following —

(a) the period of 4 years commencing on 1 July after the first lease or licence of land comprising port assets is granted to a private sector entity under section 11;

(b) each 4 years commencing on each subsequent 1 July.".

The DEPUTY PRESIDENT — Order! The minister to respond to a question from Mr Drum.

Mr JENNINGS (Special Minister of State) — I would like us to get off on a positive footing if we can by my confirming to Mr Drum that it is not the government's intention to make anything other than regional infrastructure a priority of this fund and to make it available in a transparent fashion. It will not be at the expense of any other programs or undertakings that the government will be making, and it is not designed to have the potential to erode other programmatic responses from other parts of government. Is there a recognition that it would be useful for us to have guidelines so that everyone has confidence looking forward about the way in which these funds will be acquitted over time? Let us volunteer that we will make sure that there are some guidelines established that are well and truly understood so the community can have some confidence going forward. Everything else that I put on the public record I maintain, but let me offer that as kicking us off after the lunch break

Mr DRUM (Northern Victoria) — Going on the minister's brief answer, can the infrastructure fund be used for training purposes?

Mr JENNINGS (Special Minister of State) — What we have got to then is that we are going back over the issues that we previously discussed rather than necessarily going forward. Going back, there were a range of activities that the government committed to doing last year, subject to the proceeds of the transaction of the lease of the port of Melbourne. Under normal circumstances you may have expected some of those activities, without necessarily the caveat of them being provided for in the proceeds of the sale, to be undertaken by different programs across government and form part of recurrent expenditure within those departments. I would envisage that would continue to be the case and that the increased budget capacity that has been derived from the transaction would assist that occurring and will continue to assist that occurring in the future.

If Mr Drum is telegraphing a significant point to the committee, to me or to the government that his interest is in trying to ensure that it is physical infrastructure that is created, I say not all infrastructure necessarily has to be physical. In fact during question time today I was asked questions about intellectual property and data use, so infrastructure can in some ways not be physically obvious but most often is. It is certainly the intention of the government that this fund be used for those purposes.

Mr DRUM (Northern Victoria) — I think the longer we go on teasing out what is going to be in this fund and what is going to be out of this fund the more we are going to realise that there are no rules and effectively whatever is going to be the flavour of the day in a given area or a given project is likely to get in or get out. I do not think we have much to gain by flogging a dead horse, because the minister cannot tell us what he simply does not know. What he does not know is where the boundaries are or what the criteria are likely to be around this money. What he can tell us — and I want to revisit this just with a brief summation — is that the $200 million promise to the agricultural sector has now been wound into a 10 per cent negotiation. For the first six months of this government there was no money for regional Victoria. For the last six months there has been 2.5 per cent to 3 per cent on the table with the agricultural fund, and now it has gone to 10 per cent. The agricultural fund has disappeared or has been rolled into the infrastructure fund. My question is: what would be the minister's timeline for these moneys to be made available for suitable projects that are ready to go in regional Victoria, whether they be road, rail or other types of infrastructure?

Mr JENNINGS (Special Minister of State) — In trying to lead me on with a forward-facing question, Mr Drum has, in the preamble to his question, taken us backwards in misrepresenting the nature of government support for regional communities. I just say the way that he described the support of the Victorian government is not accurate in terms of the boundaries of support to regional Victoria.

Let us now focus on the future. There are already a range of projects that have been identified that the government has been interested in supporting and will continue to develop with the Victorian community across regional Victoria. My colleagues, whether they be in the portfolios of regional development, transport or roads, and economic ministers in particular, will be looking at the ways in which we can provide support to infrastructure development into the future.

We are very confident that we will easily be able to acquit this funding allocation. I just remind Mr Drum that regarding the amendments that we are talking about, even if there is a contested view about what is in the scope of infrastructure projects, they will all be accounted for. At the end of the allocations they will all be accounted for. Any drawdown from the fund will be identified, so everyone will be crystal clear about the way in which the proceeds have been used. Then I think the real test of time will be how relevant, viable and appropriate those projects may be, and the community will be able to assess that.

One of the things the government has been keen to do is get this legislation passed, and it was keen to get it passed some time ago, but the transaction happened at maximum value. Something is actually a little bit at odds with the argument that has been put by the opposition today. In many interventions of the opposition its interests have been to reduce the value of the transaction and yet to account for the maximum 10 per cent contribution of it. So on one level it places limits on how much can be derived from the transaction, and at the same time it is trying to maximise the benefit that goes to regional Victoria, which is a subset of it. I think we all have to be a bit honest with ourselves — —

Mr Barber — They want to shrink the pie and carve themselves a bigger slice.

Mr JENNINGS — Yes, Mr Barber. Don't be more provocative than me! That is exactly what has happened.

Mr DRUM (Northern Victoria) — I think maybe some members of Parliament have more than a passing interest in our future. We might even have a hardened interest in our future, unlike some who may be firing some barbs back from the ministerial box. However, Mr Jennings is saying that there are some projects that are effectively already on the table and ready to go. Does he see this fund that has, in effect, been signed off on today picking up projects that the government has already committed to and that are already on the table, as he said?

Mr JENNINGS (Special Minister of State) — What I do not want to do is go down the burrow of any degree of entrapment of naming the projects — —

Mr Drum — They are projects that are already on the table. They are projects that have been committed to.

Mr JENNINGS — Fifty level crossings are clearly on the table. They have clearly been identified. They are clearly the primary purpose of establishing the fund and the primary purpose of doing the transaction in the first place. From the government's perspective I cannot rule out projects that have already been identified because the vast majority of the funds are going to be allocated for that purpose. I have absolute confidence that the government will be able to the acquit this obligation in a way which will ultimately pass the test of satisfaction of the Victorian community and support projects worthy of state financial support to develop public benefit, to increase productivity and freight logistics of this state and to increase the quality of life for people living in regional Victoria. That is what we are going to do.

Mr DRUM (Northern Victoria) — I thank the minister for his answer. I will make it a little bit simpler for him. The government has already committed to a range of projects in regional Victoria that it is going to undertake. When it has the money, it is going to — —

Mr Jennings — A couple of minutes ago you said that had not happened.

Mr DRUM — It has some projects that it has committed to, and it is going to find the money in general budget issues. Is the government going to substitute what was previously already going to be spent in regional Victoria and roll those projects into its 10 per cent fund? Is that its intention? Are we clearly looking at an additional 10 per cent spend into regional Victoria, or are we looking at an opportunity for the government to bundle up all of the infrastructure spend in regional Victoria and say, 'You can fund that out of the 10 per cent you squeezed out of us when we sold the port lease'?

Mr JENNINGS (Special Minister of State) — I am resisting giving a response to the previous government and the way in which it may have had some degree of sleight of hand in the way it undertook its commitments to regional Victoria. I hope the member does not force me to go back and revisit the past. What I am going to commit to is that if projects have been committed to by the government of Victoria in the forward estimates beyond the scope of the level crossing commitments,

those commitments will be adhered to and indeed allocations from the fund will be future allocations. I am confident that we will be able to demonstrate that in a transparent way.

Mr ONDARCHIE (Northern Metropolitan) — I will try to provide some clarity around clause 15 of this bill, and maybe we can assist the minister in some way, because it has become a little opaque in the last hour or so. It is our understanding, given the negotiations the coalition has had with the minister and others, that the funds we are talking about today will be paid through the Victorian Transport Fund (VTF), therefore meeting the criteria of the VTF. I draw the minister's attention to clause 15(1). Today we have had some discussions around other parts of infrastructure, including energy, water and hospitals. Is the minister able to categorically frame for us what projects related to the VTF will be in and things that will not be in?

Mr JENNINGS (Special Minister of State) — I advise Mr Ondarchie that I spent the best part of an hour doing so. I am not going to start this afternoon's session repeating it.

Ms LOVELL (Northern Victoria) — Is it possible that the Shepparton hospital could be funded out of this fund?

Mr JENNINGS (Special Minister of State) — I have already indicated to the chamber in the last few minutes that appropriations under portfolio responsibilities will not be shifted into the fund that would otherwise occur under that portfolio responsibility. I gave that undertaking a few minutes ago.

Ms LOVELL (Northern Victoria) — So I assume that it cannot be funded out of this fund.

Mr JENNINGS (Special Minister of State) — I said it before lunch; I just said it again.

Ms LOVELL (Northern Victoria) — Yes or no?

Mr JENNINGS (Special Minister of State) — The answer is what I have said. If a project such as the Goulburn Valley hospital is funded by the Victorian government, it will be funded through the health budget.

Ms LOVELL (Northern Victoria) — Last October the RACV undertook a survey of 18 000 commuters. In that survey the Shepparton railway station was ranked the worst railway station in Victoria, and the services on the Shepparton, Wangaratta and Wodonga lines were judged the worst. Can the minister give me an assurance that services that have not had significant investment in them and rail lines that have not had significant investment in them will be prioritised ahead of lines like Traralgon, Ballarat, Geelong and Bendigo, which were the recipients of the fast rail project?

Mr JENNINGS (Special Minister of State) — I cannot accept that as a reasonable question for me to answer during the committee stage of this bill. Ultimately the decisions about the acquittal of those projects will be based upon the merit and the need that underpins them, their ability to be delivered and the way in which they will be accounted for over time. It is hopeless for us to spend all of our day speculating about those projects, because I have already indicated on probably 10 occasions to the committee that I am not getting into ruling in or out projects. But I have given increasingly clear scope about the nature of those projects and the way in which the government will satisfy its commitment to this bill. This includes commitments that have been made previously, including those in the package that was announced during the course of last year to support the agricultural community and those that have appeared in the budget.

Mr BARBER (Northern Metropolitan) — Just in terms of commitments that have been made previously, it is important that we understand what is permitted in this fund. I understand that we will eventually know after the fact what the money was spent on, but the Auditor-General of course has in the past reviewed these funds, and one of the questions the Auditor-General will ask is the legal basis on which this is fund established. It is this legislation that establishes the fund, and it is clause 15 that says what the fund can be spent on. It will be necessary for the Auditor-General to compare the legislation to the actual things.

Ms Lovell would like to know about a couple of things, but also at the time of the government's announcement about the $200 million fund, which the government has confirmed is now part of the new legislated fund, some other announcements were made. For example, there was a press release on the same day in which the Minister for Roads and Road Safety, who is also the Minister for Ports, Luke Donnellan, joined the member for Geelong in the Assembly, Christine Couzens, on the Princes Freeway in Lara to review a freight assessment plan VicRoads has undertaken that looks to improve high-productivity freight vehicle access between Geelong and the port of Melbourne. Then it says:

> The new $200 million fund which will be established following the successful passage of the port of Melbourne lease legislation —

which is today —

> through the Parliament will enable key freight routes such as the Princes Freeway to be upgraded to accommodate heavier vehicles and boost productivity.

It then goes on to say they have already fast-tracked money for strengthening 48 bridges. A variation on that press release was about the $200 million fund to support farmers in western Victoria It says:

> Minister for Agriculture Jaala Pulford and member for Buninyong Geoff Howard today joined Windermere farmer Lyle Powell, to discuss the new fund, which will be established following the successful passage —

blah, blah, blah.

> Inspecting the Powell's cattle underpass, Ms Pulford said projects like cattle underpasses would be considered by the new fund, which will support investment in agricultural infrastructure and supply chains to boost productivity …

This other paragraph, which I think adds to the debate, says:

> It will be available for practical projects and programs that wholly benefit the agriculture sector …
>
> Eligible applicants will include farm businesses, industry and agribusiness organisations, asset owners such as water authorities and local government.

So if this press release is to be believed, then that is really confirmation that money from this fund could go not only to private infrastructure used by the public but also to farm businesses and industry, meaning factories or processing plants, and unfortunately my reading of the bill as it stands is that that would be illegal. It would be illegal to provide money to those private businesses through the fund, unless the minister at the table can tell me I am reading it wrongly.

Mr JENNINGS (Special Minister of State) — Mr Barber in his conclusion asked me whether something was legal or not. Because of the length of his contribution and then its conclusion, I want him to reiterate what the question is about legal standing or something.

Mr BARBER (Northern Metropolitan) — The press release from 3 August says the money for the $200 million fund could go to 'farm businesses, industry and agribusiness organisations'. They are described as 'eligible applicants' in the 3 August press release. I want to know: when this bill passes is it still the case they are eligible applicants to receive money from the fund that is set up under clause 15 with the new amendments and so forth that have been changed?

Mr JENNINGS (Special Minister of State) — That is a slightly different question. What is clearly indicated is in fact that the level of investment that was announced in August was primarily driven — there were some additional add-ons that Mr Drum has asked me about and other programs — through access to port logistical infrastructure works, or the productive capacity of getting to port. So that was the organising principle that allowed freight activity and logistical access to the port, and if they are, by design, generated to achieve that outcome, then they would fall within the scope that the government intends, which is consistent with what has previously been announced. Ultimately the argument is about whether it is in the envelope or out of the envelope that is provided for within the at least 10 per cent of the net transaction process.

Mr BARBER (Northern Metropolitan) — But it is not about the government's intentions; it is about what the legislation provides for, and I want to know — referring to the press release of 2 August saying that eligible applicants would include farm businesses, industry and agribusiness organisations — would they still be eligible? Because when I asked about the example of the private ski lift on the alpine resort, the minister said, 'No, that is not the government's intention'; I did not get an answer as to whether it would be authorised by the bill. But now people will want to know — the Victorian Farmers Federation (VFF) will want to know, the coalition will want to know, agribusinesses and farm businesses will want to know — if the vote we take today allocates funds that they would be eligible to apply for, provided they are applying for infrastructure.

Mr JENNINGS (Special Minister of State) — In fact I just answered that question. I did actually say that if in fact they were a project that is linking access from exporters, in that instance, or freight movement to the port and they fall within the scope of the projects that Mr Barber has described, the answer would be yes, and that is because in fact it would be perceived as being to the benefit of the Victorian economy.

Mr BARBER (Northern Metropolitan) — Yes, but this press release also talks about energy projects, and energy projects are not linked to port and freight, so is the original press release still accurate — that energy projects could apply for money from this fund?

Mr JENNINGS (Special Minister of State) — I have indicated that there are a number of specific projects that have been referred to and specific initiatives that the government had identified in that statement of that date.

Mr Drum interjected.

Mr JENNINGS — That is what I just said. I have already confirmed, from the very first question that Mr Drum asked me, which was actually about 10 minutes after Mr Barber asked me, whether in fact there is a broad range of activities that could be supported in terms of regional development across Victorian infrastructure, and my answer from the first question to this question is yes.

Mr RAMSAY (Western Victoria) — I do not wish to prolong this discussion in relation to clause 15. I think it has been well canvassed, and I think the minister has got a response, certainly from the regional MPs in the room, that it is a very broad amendment and that we would be seeking some comfort and confidence and that in fact where the legislation indicates the Treasurer would be authorised to make payments from the Victorian Transport Fund there is some structure put in place to appraise those new projects that have some transport-related infrastructure to them. I understand it is not in this legislation, but certainly from my point of view I would like to get some comfort that there is a structure in place outside the legislation for a critical analysis of new projects coming forward for consideration by the Treasurer, as is in the legislation.

Mr JENNINGS (Special Minister of State) — I am not sure whether Mr Ramsay was in the committee when I came back at 2 o'clock and I said — in the first contribution that I made in response to Mr Drum was — that the government does accept there needs to be some clarity on this issue. I did remind the committee that in fact it is not the government's intention to rob Peter to pay Paul in relation to the transfer of programmatic funds from other portfolios. We understand that there is a need to support the productive capacity of the Victorian regional economy primarily through the prism of transport and logistics and that in fact there is a need for us to demonstrate that there is clarity over the guidelines, and I repeat that to you.

Amendment 5 agreed to.

The DEPUTY PRESIDENT — Order! We now move on to amendment 6. This seeks to insert a new subparagraph (iii) relating to the funding of projects identified in the rail access strategy, and in my view this amendment also tests Mr Jennings's amendment 28.

Amendments 6 to 9 agreed to; amended clause agreed to; clauses 16 to 59 agreed to.

New heading and clauses

The DEPUTY PRESIDENT — Order! We now move to new clauses to follow clause 59. I call on Mr Jennings to move his amendment 10, which seeks to insert a new division to follow clause 59 regarding provisions including compensation payments and lease cost capacity expansion. In my opinion this amendment along with Mr Jennings's later amendment 24 test his amendments 29 to 39. If either this amendment or amendment 24 are not agreed to, redrafting of the affected amendments may be required.

Mr JENNINGS (Special Minister of State) — I move:

10. Insert the following Division heading and clauses to follow clause 59—

"Division 2 — Compensation payments under authorised transaction related agreements or deeds

Subdivision 1 — Preliminary

AA Definitions

In this Division—

anchorage has the same meaning as in the **Port Management Act 1995**;

capacity expansion ***proposal*** means a proposal for a port or terminal capacity expansion;

Commission means the ***Essential*** Services Commission established under the **Essential Services Commission Act 2001**;

Dedicated Channels has the meaning given by section 45 of the **Port Management Act 1995**;

ESC Minister means the ***Minister*** administering Part 2 of the **Essential Services Commission Act 2001**;

existing port or terminal capacity means —

(a) infrastructure at the port of Melbourne, as at the commencement of this section, used to handle international containers; and

(b) infrastructure constructed at the port of Melbourne to handle international containers as part of the development declared in the nomination order under the **Project Development and Construction Management Act 1994**, dated 4 September 2012 and published in the Government Gazette on 7 September 2012;

handling, in relation to a container, includes loading, unloading, transporting or storing;

least cost capacity expansion principles Order means an Order made ***under*** section 72;

Port Growth Regime payment provision has the meaning given by section 61;

Port Growth Regime waiver provision has the meaning given by section 62;

port lessee means a ***lessee*** under a port of Melbourne lease;

port of Melbourne land has the same meaning as in the **Port Management Act 1995**;

port of Melbourne lease has the same meaning as in section 59;

port of Melbourne operator has the same meaning as in the **Port *Management* Act 1995**;

port or terminal capacity expansion means an expansion in the ***capacity*** of infrastructure, or development of new infrastructure, at the port of Melbourne to handle international containers;

Ports Minister means ***the*** Minister administering Part 6B of the **Port Management Act 1995**;

provision of channels has the same meaning as in the **Port Management Act 1995**;

relevant services means any of the following—

(a) the provision of channels (except anchorages) for use by shipping in port of Melbourne waters, including the Shared Channels used by vessels bound either for the port of Melbourne or for the port of Geelong and the Dedicated Channels used by vessels bound for the port of Melbourne;

(b) the provision of berths, buoys or dolphins in connection with the berthing of vessels in the port of Melbourne;

(c) the provision of short-term storage or cargo marshalling facilities in connection with the loading or unloading of vessels at berths, buoys or dolphins in the port of Melbourne;

(d) the provision of access to, or allowing the use of, places or infrastructure (including wharves, slipways, gangways, roads and rail infrastructure) on port of Melbourne land for the provision of services to port users;

Examples

Tanker, wharf and water inspection services, and security services, are kinds of services that are provided to port users on port of Melbourne land.

Shared Channels has the same meaning as in section 45 of the **Port Management Act 1995**;

State sponsored port has the same meaning as in section 49R of the **Port Management Act 1995**;

vessel has the same meaning as in the **Marine Safety Act 2010**.

BB Meaning of Port Growth Regime payment provision

(1) A ***Port Growth Regime payment provision*** is a provision that—

(a) is contained in an agreement or deed connected with an authorised transaction; and

(b) requires a public sector entity to make a payment (including a payment of damages or a lump sum) to an entity specified in subsection (2)—

(i) in relation to, or because of, or calculated by reference to the handling of international containers at a port in Victoria other than the port of Melbourne; or

(ii) in relation to, or because of, or calculated by reference to a factor that is a proxy for the handling of international containers at a port in Victoria other than the port of Melbourne; or

(iii) in relation to the development, or an announcement by the State of the proposed development, of international container facilities at a port in Victoria other than the Port of Melbourne.

Note

A public sector entity includes the State — see section 3.

(2) For the purposes of subsection (1), a specified entity is —

(a) the port of Melbourne operator; or

(b) an associated entity of the port of Melbourne operator; or

(c) any other person but only to the extent that the person receives the payment for the benefit of the port of Melbourne operator or an associated entity of the port of Melbourne operator.

CC Meaning of Port Growth Regime waiver provision

(1) A ***Port Growth Regime waiver provision*** is a provision that—

(a) is contained in an agreement or deed connected with an authorised transaction; and

(b) requires a public sector entity to waive a right to receive a payment, or forgo a payment, that would be otherwise payable to that entity by an entity specified in subsection (2) —

(i) in relation to, or because of, or calculated by reference to the handling of international containers at a port in Victoria other than the port of Melbourne; or

(ii) in relation to, or because of, or calculated by reference to a factor that is a proxy for the handling of international containers at a port in Victoria other than the port of Melbourne; or

(iii) in relation to the development, or an announcement by the State of the proposed development, of international container facilities at a port in Victoria other than the Port of Melbourne.

Note

A public sector entity includes the State — see section 3.

(2) For the purposes of subsection (1), a specified entity is —

(a) the port of Melbourne operator; or

(b) an associated entity of the port of Melbourne operator.

DD Relevant legislation for the purposes of the Essential Services Commission Act 2001

This Division is relevant legislation for the purposes of the **Essential Services Commission Act 2001**.

EE Ministerial guidelines about capacity expansion proposals

(1) The Ports Minister may issue guidelines about the form and content of a capacity expansion proposal.

(2) The guidelines must be published in the Government Gazette and made available for inspection free of charge at the office of the Ports Minister.

Subdivision 2 — Restriction on compensation payments

FF Compensation not payable or capped in certain cases

(1) This section applies despite anything to the contrary in a Port Growth Regime payment provision or Port Growth Regime waiver provision or under any rule of, or principle at, law.

(2) A public sector entity must not make any payment under a Port Growth Regime payment provision, or waive a right to receive a payment, or forgo a payment, that would be otherwise payable to it under a Port Growth Regime waiver provision, in respect of any period unless—

(a) international containers are handled at a port in Victoria other than the port of Melbourne during the period—

(i) commencing on the commencement of this section; and

(ii) ending on the day that is 15 years after the day on which the first lease or licence of land comprising port assets is granted to a private sector entity under section 11; and

(b) the Port Growth Regime payment provision or Port Growth Regime waiver provision is expressed to apply to, or to be in respect of, the handling of international containers at a port in Victoria other than the port of Melbourne during the period referred to in paragraph (a).

(3) In addition but subject to subsection (4), a public sector entity must not make a payment under a Port Growth Regime payment provision, or waive a right to receive a payment, or forgo a payment, that would be otherwise payable to it under a Port Growth Regime waiver provision, other than in respect of—

(a) existing port or terminal capacity; or

(b) a port or terminal capacity expansion the proposal for which has been approved under section 66 or certified under section 68.

(4) A public sector entity must not pay any amount in respect of any payment under a Port Growth Regime payment provision, or waive the right to any amount, or forgo any amount, that would be otherwise payable to it under a Port Growth Regime waiver provision, as permitted under subsection (2) or (3), the values of which, in aggregate, exceed the capped amount.

(5) A public sector entity is not to be regarded as breaching or being in default of, or repudiating or terminating, an agreement or deed connected with an authorised transaction by relying on this section and —

(a) not making a payment under a Port Growth Regime payment provision; or

(b) not waiving the right to any amount, or forgoing any amount, that would be otherwise payable to it under a Port Growth Regime waiver provision.

(6) To avoid doubt, subsection (4) does not affect any obligation a public sector entity has to make a payment of an amount under a Port Growth Regime payment provision, or waive the right to any amount, or forgo any amount, that would be otherwise payable to it under a Port Growth Regime waiver provision, if the value of any amounts in aggregate, are less than or equal to the capped amount.

(7) In this section —

capped amount means —

(a) for the first financial year in respect of which the first payment under a Port Growth Regime payment provision is due, or the first financial year in respect of which the right to the payment of an amount has been waived, or a payment has been forgone, under a Port Growth Regime waiver provision, as permitted under subsection (2) or (3) — the amount equating to 15% of all revenue earned by the port of Melbourne operator by providing relevant services in the financial year immediately preceding that year; and

(b) for each subsequent financial year, the amount determined in accordance with the following formula —

$$A = \frac{B}{C} \times D$$

where —

A is the capped amount for the financial year;

B is the CPI number published for the quarter ending immediately before 1 July of the financial year;

C is the CPI number published for the quarter ending immediately before 1 July of the previous financial year;

D is —

(a) for the first financial year after the financial year to which paragraph (a) applies, the capped amount referred to in that paragraph; and

(b) for each subsequent financial year, the amount determined in accordance with this formula for the previous financial year;

CPI number means the Consumer Price Index (All Groups Index Number weighted average of eight capital cities) published by the Australian Bureau of Statistics (or any other index published in substitution for that index)

Subdivision 3 — Approval of capacity expansion proposals by Minister

GG Approval of material increases in capacity for the handling of international containers at the port of Melbourne

(1) Subject to this section, a port lessee or the port of Melbourne operator (a ***proponent***) may submit a capacity expansion proposal to the Ports Minister.

(2) A capacity expansion proposal that is submitted under subsection (1) must only be for a material port or terminal capacity expansion.

(3) A capacity expansion proposal cannot be submitted under subsection (1) for a port or terminal capacity expansion in respect of which works have commenced.

(4) If there are guidelines in effect under section 64 in respect of the form and content of a capacity expansion proposal, the proponent must submit a capacity expansion proposal under subsection (1) that accords with the guidelines.

(5) On receiving a capacity expansion proposal, the Ports Minister may approve or refuse to approve the proposal.

(6) The Ports Minister must make a decision under subsection (5) within 6 months after receiving the capacity expansion proposal.

(7) The Ports Minister must —

(a) notify, in writing, the proponent of the Minister's decision under subsection (5) and give the proponent the Minister's written reasons for the decision; and

(b) as soon as practicable after that, publish —

(i) notice of the making of a decision under subsection (5) in the Government Gazette and on the Department's Internet site; and

(ii) a decision under subsection (5) (including the reasons for the decision) on the Department's Internet site.

(8) An approval of a capacity expansion proposal under this section is not to be regarded as —

(a) authorising or approving, or not authorising or approving, works for the port or terminal capacity expansion to which the proposal relates; or

(b) requiring any person to commence works for a port or terminal capacity expansion to which the proposal relates.

Subdivision 4— Certification of capacity expansion proposals by Commission

HH Application

This Subdivision applies if the Ports Minister —

(a) refuses to approve a capacity expansion proposal under section 66; or

(b) fails to make a decision under that section within the time required by that section.

II Application for certification

(1) The person who submitted the capacity expansion proposal to the Ports Minister (the ***applicant***) may, within 3 months after the Ports Minister has refused to approve the proposal, apply to the Commission for it to certify the proposal.

(2) An application must attach a copy of the capacity expansion proposal.

(3) If there are guidelines in effect under section 64 in respect of the form and content of a capacity expansion proposal, the capacity expansion proposal that the applicant attaches to the application must accord with the guidelines.

JJ Decision on certification by Commission

(1) Subject to this section, the Commission must not later than 3 months after receiving an application under section 68 decide whether to certify the proposal.

(2) In deciding whether to certify a capacity expansion proposal, the Commission must apply the principles specified in the least cost capacity expansion principles Order.

(3) If the Commission is satisfied that the capacity expansion proposal is the least cost means of expanding the capacity of infrastructure, or developing new infrastructure, to handle international containers at a port in Port Phillip Bay or Western Port Bay, the Commission must certify the proposal.

(4) Section 35(1) to (3) and (5) of the **Essential Services Commission Act 2001** applies to a decision of the Commission under this section as if the decision were a determination to which section 35 applies.

(5) The Commission must also give a copy of its decision to the Ports Minister.

(6) A decision to certify a capacity expansion proposal under this section is not to be regarded as —

(a) authorising or approving, or not authorising or approving, works for the port or terminal capacity expansion to which the proposal relates; or

(b) requiring any person to commence works for a port or terminal capacity expansion to which the proposal relates.

(7) The Commission is not subject to the direction or control of the ESC Minister in respect of any decision it makes under this section.

KK Inquiries for the purposes of decisions on certification

(1) For the purpose of making a decision under section 69, the Commission must conduct and complete an inquiry into the capacity expansion proposal.

(2) Before commencing an inquiry, the Commission must notify the Ports Minister that it will be conducting an inquiry under this section.

(3) Part 4 and section 43 (other than subsections (4)(a) and (6)(b) of that section) of the **Essential Services Commission Act 2001** apply to an inquiry under this section.

LL Draft report to be provided to applicant

The Commission must —

(a) provide a draft of a report on an inquiry under this Subdivision to the applicant; and

(b) give the applicant an opportunity to make a written submission to the Commission on that draft report before the Commission makes its decision under section 69.

Subdivision 5 — Least cost capacity expansion principles Order

MM Least cost capacity expansion principles Order

The Governor in Council, by Order published in the Government Gazette, may specify principles for the purposes of Subdivision 4.

NN When a least cost capacity expansion principles Order takes effect

A least cost capacity expansion principles Order takes effect —

(a) on the day the Order is published in the Government Gazette; or

(b) if a later day is specified in the Order, on that day.

OO Limitation on amending or revoking a least cost capacity expansion principles Order

A least cost capacity expansion principles Order cannot be amended or revoked except in accordance with this Subdivision.

PP Circumstances in which a least cost capacity expansion principles Order may be amended

Subject to section 76, a least cost capacity expansion principles Order may only be amended with the agreement of the port lessee.

QQ Circumstances in which a least cost capacity expansion principles Order may be wholly revoked

A least cost capacity expansion principles Order may be wholly revoked by an Order made under section 72 —

(a) if the port lessee agrees to the revocation; or

(b) after the first lease of land comprising port assets granted to a private sector entity under section 11 ends.".

I will describe the elements that have been added in what would be the new provisions within the bill. They relate to the mechanism by which compensation may be paid to a port leaseholder in circumstances where a future Victorian government makes a decision to establish a second state-sponsored international container port in Victoria. Under those circumstances, if containers are diverted within a 15-year time frame from when the lease is entered into, then compensation provisions may apply.

I foreshadow that the government believes this is an appropriate provision, although it may have very limited effect on the amount of compensation that will ever be paid under this provision because in fact the government is of the view that it is very unlikely that a second international container port will be established in Victoria close to within the 15-year window. Subsequent to a decision of the people of Victoria in the future there may be a change of government policy and government direction, but it is certainly not the intention of the current government for one to be established within that time frame. Nonetheless, this division covers those circumstances.

It describes that the diversion of container traffic from the port of Melbourne to a second container port will be measured by its contribution to the revenue of the operation of the port and places a capped limit of 15 per cent of the revenue that may have been lost to the leaseholder through the consequences of that diversion of container traffic. It establishes the formula by which the appropriate determination will be made to determine the quantity of that compensation. Very importantly from the government's perspective, it is also in the absence of that provision which it had been the government's policy intention to be used in relation to additional port capacity in Victoria. In fact that compensation mechanism had been designed primarily from the government's perspective to provide a cover for a future investment made by the leaseholder to add to the capacity of the port of Melbourne in accordance with the port growth demand needs of container traffic in Victoria.

The government had developed policy settings around a port growth regime modelled on a forward projection of container traffic demand and the ability of the port of Melbourne or in fact state port facilities in Victoria to deal with that demand growth over time and making estimations about the way in which new infrastructure should be added either at the port of Melbourne or alternatively within a second container port. So the provisions within the aspect that I have just amended have been subject to a lot of negotiation and consideration between the parties in the last couple of months, and the government has agreed to a restriction on the time frame applying to compensation, with two key elements being added into the bill that were not previously a feature of it.

One is to provide for competitive neutrality between the operations of the port of Melbourne and a second container port to make sure that there is appropriate accounting for the level of state subsidy or state support for the commercial operations of those ports and to try to guarantee that the financial considerations within each port, if they exist, are on a level playing field to ensure that there is no unfair advantage being derived from the commercial benefit from the state for one port or the other. That is an important consideration that has

been embedded in the competitive neutrality provision amendments that I have just moved.

The third element that these amendments contain is an assessment that the Essential Services Commission will be required to undertake in relation to determining what is the most efficient and least cost to the Victorian economy of future investment for port capacity growth. The government's argument is that in fact the least cost, most efficient future investment to increase the capacity of the port is most likely to occur at the port of Melbourne. It is the belief of the opposition parties that a second container port may derive benefits to the Victorian economy or the Victorian community that may drive it to make a conclusion on policy grounds, if it is in government, to support an alternative proposal.

This bill requires that the Essential Services Commission make an assessment about the value to the Victorian economy of alternative proposals. So whether it be from the port of Melbourne, whether it be through the state or whether it be through another provider that seeks the support of the state to develop a second container port, they will be subjected to the same rigour in relation to the assessment about the most efficient delivery of new infrastructure in Victoria into the future. They are the elements that come into play.

In summary, these amendments are to provide for limits on the amount of compensation that is payable in terms of what the projected growth demand of the port of Melbourne is between now and 15 years from now. If there is a second port established within that time frame, if the containers are diverted from the port of Melbourne during that time, then compensation may be payable on the basis of a 15 per cent maximum cap of the revenue that is lost through the diversion of that container traffic. If and when a second port is established, there will be a competitively neutral pricing regime that applies to both the port of Melbourne and the alternative port. Thirdly, the Essential Services Commission will undertake an assessment about what is of the least cost to the Victorian economy and the most efficient economic infrastructure investment in port development in the years to come. That is mandated by the provisions I have added to the bill.

New heading and clauses agreed to; clauses 60 to 68 agreed to.

Clause 69

The DEPUTY PRESIDENT — Order! With Mr Jennings's amendment 11, he is inviting the committee to vote against clause 69 of the bill, which authorises certain things under the commonwealth Competition and Consumer Act 2010 and the Competition Code. Members are advised that in order to support this amendment they should vote against the question that the clause stand part of the bill.

Mr JENNINGS (Special Minister of State) — Amendment 11 is that clause 69 be omitted. If anybody actually argues the toss on that, I would be very, very surprised.

Clause negatived.

Clauses 70 to 82 agreed to.

Clause 83

Mr JENNINGS (Special Minister of State) — I move:

12. Clause 83, page 66, lines 22 to 24, omit "**upfront licence fee for a period instead of annual licence fees for that period**" and insert "**a one-off upfront licence fee for a period of up to 15 years instead of annual fees for that period**".

13. Clause 83, page 66, lines 26 to 28, omit "a period commencing on or after 1 July 2016 during which the port licence will be in force" and insert "a period of up to 15 years ending on or before 1 July 2032".

14. Clause 83, page 66, line 32, after "period" insert "in which the port licence will be in force".

The net effect of these amendments is that the government has accepted that in the port transaction there will be an ability for the tenderer to include an up-front payment to cover what would otherwise be an annual port licence fee within the tendering arrangements. That is now restricted to a maximum period of 15 years that may be considered to be a one-off payment. In subsequent years it is anticipated that it would be an annual payment.

The government just restates for the public record that regardless of whether it is an annual fee paid through the port licence fee or whether it is an up-front payment, the government's conditions of the contract, the regulatory environment, will ensure that there are sufficient funds to pay for port services, environmental protections and other activity on our waterways that are currently being provided for well and truly within the realm of what the current licence fee is. The government had previously made commitments, and I

reaffirm them today, that in fact they will be accounted for through annual contributions but also specific, in some instances, peak service provisions that are provided by port users.

Amendments agreed to; amended clause agreed to; clauses 84 to 88 agreed to.

The DEPUTY PRESIDENT — Order! Mr Jennings has amendments to clause 89 which are consequential to his substantive amendment 24 to clause 92. It is therefore proposed that the committee postpone consideration of clause 89 in order to first deal with the more substantive amendment to clause 92.

Clause 89 postponed; clauses 90 and 91 agreed to.

The DEPUTY PRESIDENT — Order! Mr Jennings's amendment to the heading of clause 92 is consequential to his substantive amendment 24. It is therefore proposed that the committee postpone dealing with the amendment to the clause heading until after consideration of the substantive amendment to clause 92.

Heading to clause 92 postponed.

Clause 92

The DEPUTY PRESIDENT — Order! I call on the minister to move his amendments.

Mr JENNINGS (Special Minister of State) — Thank you, Deputy President. You are working hard to take us through the provisions of the bill. I am sure you are grateful for the support that you have received from those who are at the table with you. I am eternally grateful to them as well for the preparation of what is a tricky bit that we now have got to in dealing with the sequence of clauses and the policy settings that may be almost in reverse order to the way in which they fall within the scope of the bill. I move:

22. Clause 92, page 89, line 11, after "**regime**" insert "**for port of Melbourne operator**".

23. Clause 92, page 90, line 12, omit 'appropriate.".' and insert "appropriate.".

24. Clause 92, page 90, after line 12 insert—

"Division 2C— Complaints in relation to provision of prescribed services

49Q Person provided prescribed services may complain to ESC in relation to the provision of such services

(1) This section applies if a person who is provided prescribed services considers that the provider of those services has not, in providing the services, complied with the Pricing Order which applies to those services.

(2) The person may complain to the Commission about the non-compliance with the Pricing Order.

(3) On receiving a complaint under subsection (2), the Commission may investigate the complaint.

(4) In investigating the complaint, the Commission may have regard to any matter raised or considered in—

(a) the Commission's most recent final published report; and

(b) any application to the Supreme Court under section 49P.

Note

The Commission must also have regard to the objectives of this Part and the objectives under section 8 of the **Essential Services Commission Act 2001** when investigating a complaint— see section 48A.

(5) The Commission must inform the person of the outcome of its investigation of the person's complaint.

(6) If the Commission considers that the issues raised in the complaint have not been considered or dealt with under a Pricing Order or Division 2A or 2B, the Commission may refer the complaint to the ESC Minister.

Division 2D— Competitive neutrality pricing

Subdivision 1— Preliminary

49R Definitions

In this Division—

accrual building block methodology— see section 49S;

competitively neutral price, for a relevant service, means the price, determined through the application of the competitively neutral pricing principles, that is the lower of—

(a) the price which is likely to enable the recovery of the efficient costs attributable to any State cost contribution and any private cost contribution in providing the relevant service; and

(b) the price at which the port of Melbourne operator provides a service that is economically substitutable for the relevant service, having regard to any material differences between the quality or scope of the relevant service and the

quality or scope of the economically substitutable service;

competitively neutral pricing principles means the principles specified in an Order under section 49ZC;

handling, in relation to a container, includes loading, unloading, transporting or storing;

private cost contribution means the amount of any capital invested by a private sector entity in, or expenses incurred by a private sector entity in operating, a State sponsored port;

private sector entity has the same meaning as in the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**;

relevant service means any of the following services provided at a State sponsored port for the purpose of enabling the handling, at that port, of containers that are being transported from, or are to be transported to, a destination outside of Australia—

(a) the provision of channels used by vessels to access the State sponsored port;

(b) the provision of berths, buoys or dolphins in connection with the berthing of vessels carrying container cargoes in the State sponsored port;

(c) the provision of short term storage or cargo marshalling facilities in connection with the loading or unloading of vessels carrying container cargoes at berths, buoys or dolphins in the State sponsored port;

(d) a service that is prescribed;

State cost contribution means an amount reflecting the net competitive advantage conferred on or given to a State sponsored port operator and includes—

(a) an exemption from a requirement to pay a State tax or charge; and

(b) an exemption under a law of the State; and

(c) an explicit or implicit guarantee of debt executed or otherwise given by the State or by a Minister on behalf of the State; and

(d) a concessional interest rate on a loan given by a public sector entity; and

(e) an exemption from a requirement to account for depreciation expenses; and

(f) an exemption from a requirement to earn a commercial rate of return on assets; and

(g) a matter or thing referred to in section 49T(2);

State sponsored port— see section 49T;

State sponsored port operator means an operator of a State sponsored port.

49S Meaning of *accrual building block methodology*

(1) An ***accrual building block methodology*** is a methodology that—

(a) provides for an allowance to recover—

(i) a return on assets used by a State sponsored port operator to provide relevant services (the ***capital base of a State sponsored port operator***); and

(ii) a return of the capital base of a State sponsored port operator through depreciation; and

(iii) the forecast efficient operating expenditure that would be incurred by a State sponsored port operator acting prudently in the provision of relevant services; and

(b) requires that—

(i) an initial capital base of a State sponsored port operator be established utilising the depreciated optimised replacement cost approach; and

(ii) the value of that capital base be updated on an annual basis by applying a roll forward principle that takes the opening value at the start of a financial year, adds in capital expenditure when incurred or to be incurred and deducts an amount for the return of capital; and

(iii) the value of any assets transferred from a public sector entity to a private sector entity that form part of a private cost contribution for a State sponsored port be included in the capital base of a State sponsored port operator of that port at a value calculated using the depreciated optimised replacement cost approach; and

(c) requires costs incurred by a State sponsored port operator be allocated between different types of relevant

services, and other services (if any), on the basis that—

(i) costs that are directly attributable to a service are to be allocated to that service; and

(ii) costs that are not directly attributable to a service are to be allocated on the basis of the expected revenue share of that service to expected total services revenue; and

(d) provides for the establishment of an aggregate revenue requirement that provides a State sponsored port operator with a reasonable opportunity to recover the allowances referred to in subsection (1)(a); and

(e) requires the aggregate revenue requirement to be used to establish the prices for relevant services that, if paid, would provide a State sponsored port operator a reasonable opportunity to recover its aggregate revenue requirement.

(2) For the purposes of subsection (1)(a)(i), an accrual building block methodology must provide for the recovery of a return on assets to be determined—

(a) by reference to that which would be required by a benchmark efficient entity providing services with a similar degree of risk and

(b) using an appropriate method that distinguishes between the cost of equity and debt so that a weighted average cost of capital can be derived.

(3) An accrual building block methodology must not, for the purposes of subsection (1)(c), allow for the inclusion, in the capital base of a State sponsored port operator, of any value attributable to rail, road or other landside infrastructure at a place that is outside a State sponsored port operated by that operator.

49T Meaning of State sponsored port

(1) A ***State sponsored port*** is a port located in Port Phillip Bay (other than the port of Melbourne) or in Western Port Bay—

(a) the main purpose of which is to handle international containers and at which containers may be handled; and

(b) to which a matter or thing set out in subsection (2) applies.

(2) The following are matters or things which apply for the purposes of subsection (1)—

(a) the port has been partially or fully constructed or is being operated by—

(i) a public sector entity; or

(ii) a private sector entity using financial support in the form of a grant from a public sector entity;

(b) any equity funding for construction of the port has been or is provided by or on behalf of a public sector entity on materially better terms than would be available to the operator of that port from a private sector entity;

(c) any debt funding for the construction of the port has been or is provided by or on behalf of a public sector entity on materially better terms than would be available to the operator of that port from a private sector entity;

(d) a public sector entity provides financial support or a financial concession in respect of the port that has the effect of materially reducing the cost of capital for or operating costs of the port (including the operating costs of users of the port) and that support or concession or a similar support or concession is not available to the port of Melbourne operator;

(e) a public sector entity provides financial support or a financial concession in respect of the costs of the transport of containers to or from the port that has the effect of materially reducing the operating costs of the transport of containers to or from the port and that support or concession, or a similar support or concession, is not available in respect of the transport of containers to or from the port of Melbourne;

(f) a public sector entity provides financial support or a financial concession to users of or tenants at or prospective users of or tenants at the port such that their cost of being or becoming a user or tenant of the port is materially reduced and that support or concession, or a similar support or concession, is not available to users of or tenants at or prospective users of or tenants at the port of Melbourne.

49U Application

(1) This Division applies on and after the day on which the first lease of land comprising port assets is granted to a private sector entity under section 11 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**.

(2) This Division ceases to apply on the day on which the lease referred to in subsection (1) ends.

Note

The Pricing Order made under Division 2, the ongoing monitoring regime under Division 2A and the transitional enforcement regime under Division 2B apply to the port of Melbourne operator.

Subdivision 2— Competitive neutrality pricing obligations

49V State sponsored port operator must provide services at not less than competitively neutral prices

(1) A State sponsored port operator must not provide a relevant service at a price that is lower than the competitively neutral price for the relevant service.

(2) For the purposes of complying with subsection (1), a State sponsored port operator must apply the competitively neutral pricing principles.

49W State sponsored port operator must publish relevant service prices

A State sponsored port operator must on or before 31 May every year (***the publication date***) —

(a) publish all prices for every relevant service it will provide in the financial year after the publication date; and

(b) give a copy of those prices to the Commission.

49X State sponsored port operator must keep records of relevant service prices

(1) A State sponsored port operator must keep records (including financial and business records) relating to the prices for relevant services the operator provides in accordance with guidelines prepared under subsection (3).

(2) A State sponsored port operator must keep records (including financial and business records) relating to the prices for relevant services the operator provides in a manner that is consistent with guidelines prepared under subsection (3).

(3) The Commission must prepare guidelines for the purposes of subsection (1) and (2).

Subdivision 3— Investigation and enforcement of competitive neutrality pricing obligations

49Y Commission may be requested to inquire into relevant service prices

(1) This section applies if the ESC Minister or the port of Melbourne operator is of the view that a State sponsored port operator is providing, or is likely to provide, a relevant service at a price lower than the competitively neutral price for that service.

(2) The ESC Minister or the port of Melbourne operator may request the Commission to conduct an inquiry into the price for the relevant service.

(3) Before making a request, the ESC Minister must consult with the Minister.

(4) A request must—

(a) be in writing; and

(b) set out the grounds on which the ESC Minister or port of Melbourne operator requests the Commission to investigate the price for the relevant service; and

(c) include any relevant information or evidence in support of the grounds.

49Z Commission may conduct inquiry into relevant service prices

(1) The Commission must, no later than 3 months after receiving a request under section 49Y—

(a) conduct and complete an inquiry into the subject matter of the request; and

(b) prepare a final report on the inquiry.

(2) In the case of a request under section 49Y from the port of Melbourne operator, the Commission may refuse to act under subsection (1) if the Commission is of the view that the request—

(a) is frivolous; or

(b) is vexatious; or

(c) is without substance; or

(d) has been made in bad faith.

(3) Part 4, and sections 42 to 46, of the **Essential Services Commission Act 2001** apply in respect of an inquiry under this section.

(4) A final report on an inquiry under this section must include—

(a) the Commission's findings as to whether the State sponsored port operator has been providing, or is likely to provide, a relevant service at a price lower than the competitively neutral price for that service; and

(b) the Commission's reasons for those findings.

49ZA Commission may determine minimum competitively neutral price for relevant service

(1) This section applies if the Commission in a final report on an inquiry under section 49Z finds that the State sponsored port operator has been providing, or is likely to provide, a relevant service at a price lower than the competitively neutral price for that service.

(2) The Commission may make a determination that specifies the minimum competitively neutral price for the provision of the relevant service.

(3) In addition, a determination must specify a period (not exceeding 5 years from the date the determination takes effect) during which the minimum competitively neutral price will apply to the provision of the relevant service.

(4) Section 35(1) to (3) and (5) of the **Essential Services Commission Act 2001** applies to a determination of the Commission under this section as if the determination under this section were a determination under section 35 of that Act.

49ZB Enforcement of Commission determinations

If the Supreme Court is satisfied, on the application of the ESC Minister or the port of Melbourne operator, that a State sponsored port operator has engaged, is engaging, or is proposing to engage in conduct that constitutes a contravention of a determination under section 49ZA, the Court may make all or any of the following orders —

(a) if the applicant is the ESC Minister—

(i) an order granting an injunction on such terms as the Court thinks appropriate—

(A) restraining the State sponsored port operator from engaging in the conduct; or

(B) if the conduct involves refusing or failing to do something, requiring the provider to do that thing;

(ii) an order directing the State sponsored port operator to pay to the State an amount up to the amount of any financial benefit that the operator has obtained directly or indirectly and that is reasonably attributable to the contravention;

(iii) an order directing the provider to compensate any other person who has suffered loss or damage as a result of the contravention;

(b) if the applicant is the port of Melbourne operator, an order granting an injunction on such terms as the Court thinks appropriate—

(i) restraining the State sponsored port operator from engaging in the conduct; or

(ii) if the conduct involves refusing or failing to do something, requiring the provider to do that thing;

(c) in all cases, any other order that the Court thinks appropriate.

Subdivision 4 — Competitively neutral pricing principles Order

49ZC Competitively neutral pricing principles Order

(1) The Governor in Council, by Order published in the Government Gazette, may specify principles for the purposes of this Division.

(2) An Order under this section—

(a) must set out principles that provide for the determination of a competitively neutral price for the provision of a relevant service through the application of an accrual building block methodology; and

(b) may specify other principles (which may include methodologies or procedures), that are not inconsistent with paragraph (a), for the determination of a competitively neutral price for the provision of a relevant service; and

(c) may include any other matter or thing ancillary to, or not inconsistent with, a matter or thing referred to in paragraph (a) or (b).

49ZD General powers in relation competitively neutral pricing principles Order

An Order under section 49ZC may—

(a) confer functions and powers on, or leave any matter to be decided by, the Commission; and

(b) be of general or limited application; and

(c) differ according to differences in time, place or circumstances.

49ZE When a competitively neutral pricing principles Order takes effect

An Order under section 49ZC takes effect —

(a) on the day the Order is published in the Government Gazette; or

(b) if a later day is specified in the Order, on that day.

49ZF Limitation on amending or revoking a competitively neutral pricing principles Order

An Order under section 49ZC cannot be amended or revoked except in accordance with this Subdivision.

49ZG Circumstances in which a competitively neutral pricing principles Order may be amended

Subject to section 49ZH, an Order under section 49ZC may only be amended with the agreement of the port of Melbourne operator.

49ZH Circumstances in which a competitively neutral pricing principles Order may be wholly revoked

A Order under section 49ZC may be wholly revoked by an Order made under that section—

(a) if the port of Melbourne operator agrees to the revocation; or

(b) after the first lease of land comprising port assets granted to a private sector entity under section 11 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016** ends.".

I will describe for the committee's benefit what the issues at hand relate to. They relate to the ability of the Essential Services Commission to undertake a number of policy outcomes and review mechanisms that have been referred to in the second-reading debate and earlier in the committee stage. The provisions relate to providing prescribed services at the port of Melbourne; rent controls; reviews of market mechanisms and protections against the misuse of market force and market pressure within the port; building reviews that are available to the port users to ensure that pricing mechanisms are appropriate; embedding, very importantly, provisions that relate to competitive neutrality that apply to the operation of the port and an alternative port; and not only undertaking inquiries in relation to the application of the competitively neutral pricing principles order but actually evaluating the relative economic efficiency of investment now and into the future.

They basically are the provisions that allow for what I have described previously in the committee stage — the powers and responsibilities of the Essential Services Commission to undertake that scope of work. They are the matters that are going to be included in clause 92 of the bill.

Mr ONDARCHIE (Northern Metropolitan) — Through the course of the select committee's investigations the Treasurer, at the last minute, did change his spots a little bit on this as things moved along, but there was still a consistent view by those who presented evidence to the select committee that they would see an appropriate degree of rigour around rents. One of the concerns they had is that not having this under strict regulation would be a potential threat to the viability and competitiveness of the stevedores. Why is it that the government has not decided to include the rents in the regulatory regime?

Mr JENNINGS (Special Minister of State) — Mr Ondarchie has referred to, perhaps not in the most glowing terms, the Treasurer's policy development process during the life of the select committee. At least there was a begrudging realisation, not recognition, of the fact that there was some movement in relation to the scrutiny of the Essential Services Commission in the way in which fair dealing, fair and reasonable outcomes, market mechanisms and market force could actually be tested in the port and to provide for certainty over time. Indeed the provisions that by and large formed the basis of probably at least half, if not two-thirds, of the effect of the amendments that I have just outlined — maybe half — were circulated during the life of the select committee. That was recognised. We actually do appreciate that.

I congratulate any member of the public witnessing this committee and staying with the journey up until this point in time on their forbearance, because these are sometimes pretty esoteric issues and concerns that require some degree of either interest in or knowledge of how competition actually works within port arrangements.

I feel it is incumbent upon me to go back to a couple of first principles that relate to the port in terms of where we think competition best sits in terms of port operations across the nation. I know at every turn the opposition and other people have been interested in trying to ensure that competition applies at every level, whether it be in between ports — so in between the port of Melbourne and its current or future competitors, as a total entity of the port — or competition that actually occurs within a port.

In the view of the government most of the competition in relation to port operations actually occurs within the stevedoring operations that apply within the port and, at a national level, in international trade between the major ports across the eastern seaboard. That is the frame that the government has adopted.

Taking that mindset, the government has seen the ability of the stevedores to establish and protect the market forces they operate not only within individual ports across the country but quite often from one port to another. They are, in a sense, market leaders in relation

to pricing structures as distinct from the port entity as a whole.

I have tried to simplify that issue for any layperson, but that is where the difference is in terms of the emphasis between the Victorian government's position and what some people might put as the monopoly, in a sense. We understand that there is only one major container port in Victoria — I am not denying that fact — but it operates within a competitive environment across the nation and has market pressures that apply to it just as there are market pressures that apply to the stevedores within it.

So in terms of the pricing mechanism, to go back to the complete answer to Mr Ondarchie's question, it relates to the drivers of the threshold of appropriate rents that can apply respectively to stevedores and other port users. The government believes that the ESC's scrutiny should be available to determine fair and reasonable dealing to try to prevent any monopoly or market-skewing behaviour that occurs at the port, and we provide for that protection. But the due diligence or the forensic detail that may be required to find the appropriate levels of rents that apply may be fairly onerous for stevedores, who may see a market advantage to themselves to pick and choose their regulatory environment in relation to which jurisdiction they seek to invest or participate in or to use different market pressures. So the government is trying to get a balance to those. We think we have arrived at a reasonable balance. The ACCC has confirmed that the structure of our regulatory environment is an appropriate one and a useful one, and it is supportive of it, and that is where we have landed.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister for his answer. I draw the minister's attention to the committee's report, which talks about the regulation of land rents. In particular it says that:

> As a result, the committee believes that the granting of a lease or sublease should be defined as a prescribed service and brought within the regulatory oversight and price-setting mechanisms.

But it is not just the committee that thought that. I draw the minister's attention to transcripts of evidence provided by, for example, Mr Ian Ross, the general manager of project and risk at DP World Australia, who said:

> Two years ago we would never have contemplated a 767 per cent increase as being plausible, and it has been.

This was as a result of a discussion between the Port of Melbourne Corporation, the government, as I understand it, and DP World, where the first offer was a 760 per cent increase.

Mr Paul Zalai, the director of Freight and Trade Alliance, in evidence said:

> What has really concerned us is we are not just paranoid about this issue of fee increase. The fee increase that we saw from the Port of Melbourne Corporation and the government was alarming, let alone what a third-party leaseholder might do.

Mr Maurice James, managing director of Qube Holdings, said:

> We end up in a process that on the surface sounds very nice — if you cannot agree on the rent, you go to an independent assessor and the independent assessor evaluates the rent. The problem is no-one really can define what market rent is in a port.

The minister touched on that in his response to me just now. What would the minister say to Mr Ross, Mr Zalai and Mr James in light of their concerns about a potential rate shock with rent increases?

Mr JENNINGS (Special Minister of State) — What I would say to Mr Ondarchie is that in some ways I was internally criticising myself for giving such a fulsome answer to his first question when I then realised I would be charged to have subsequent answers which may actually go into the same terrain. Nonetheless that is my failing.

What I would say is a variety of things. One, I would actually rely on my first answer in terms of the various market strengths of the stevedores and the relative market strength of the leaseholders and port operators across the country, and I certainly do not think it is necessarily a one-way street. But nonetheless there should be an eye for the way in which those market forces actually play out, and that is the reason why the government is providing the ESC with the power to have scrutiny over it.

As it is, what we have now landed on in Victoria, we would argue, is beyond the regulatory control that is demonstrated in other jurisdictions; and also in terms of the quality of rigour that applies to these issues into the future, Victoria will be in a stronger position than other ports around the country.

Another issue that I would like to draw to the committee's attention — and I am sure the select committee was aware of it, not that it necessarily featured much in its commentary — is that in terms of talking about land rents as being an indicator of the prime price point and cost structure of getting goods to and from a port they are a relatively modest element of the total shipping costs. So whilst a 700 per cent increase may sound extremely alarming at first blush, when you consider the total freight to port pathway in

terms of these cost structures, it does not take it out of kilter with price structures around the rest of the country. Indeed it is, on balance, quite a minor element of the total cost to the port. I am also reminded by my colleague at the table, Mr Mulino, that the headline number that Mr Ondarchie referred to and which I repeated in my contribution ended up being significantly less than that.

Mr ONDARCHIE (Northern Metropolitan) — Just to clarify, is the minister of the view that a 700 per cent increase or thereabouts, as he referred to just now, is a reasonable price increase in the scheme of things?

Mr JENNINGS (Special Minister of State) — Mr Mulino wants to rise to his feet and say, 'No'.

Amendments agreed to; amended clause agreed to.

Postponed clause 89

Mr JENNINGS (Special Minister of State) — I move:

15. Clause 89, line 10, before "The" insert "(1)".

16. Clause 89, after line 15 insert —

"(b) to protect the interests of users of prescribed services by ensuring that prescribed prices are fair and reasonable whilst having regard to the level of competition in, and efficiency of, the regulated industry; and".

17. Clause 89, line 16, omit "(b)" and insert "(c)".

18. Clause 89, line 22, omit "(c)" and insert "(d)".

19. Clause 89, line 27, omit "ports." and insert "ports; and".

20. Clause 89, after line 27 insert —

"(e) to eliminate resource allocation distortions by prohibiting a State sponsored port operator from providing a relevant service at a price lower than the competitively neutral price for that service.

(2) In this section, ***competitively neutral price, State sponsored port operator*** and ***relevant services*** each have the meaning given to them by section 49R.".

These amendments are for completeness because the policy consideration and the authority of the Essential Services Commission to undertake these works has just been agreed to by our amendments to clause 92. Under clause 89 two provisions allow the ESC to include objectives that fall within the scope of the act when undertaking that work. That is the effect of amendments 15 to 20.

Amendments agreed to; amended clause agreed to.

Postponed heading to clause 92

Mr JENNINGS (Special Minister of State) — I move:

21. Heading to clause 92, omit "**and 2B**" and insert "**to 2D**".

Amendment agreed to; amended heading agreed to; clause 93 agreed to.

New clause

The DEPUTY PRESIDENT — Order! Amendment 25 seeks to insert a new clause with the effect of substituting a new section 53 into the Port Management Act 1995 in relation to the conduct of inquiries. This is also a test for Mr Jennings's amendment 26, which invites the committee to vote against clause 94.

Mr JENNINGS (Special Minister of State) — I move:

25. Insert the following New Clause to follow clause 93—

'RR New section 53 substituted

For section 53 of the **Port Management Act 1995 substitute**—

"53 Conduct of inquiries

(1) The Commission must, not later than 6 months after the end of an inquiry period—

(a) conduct and complete an inquiry into the following matters—

(i) whether a port lessee or the port of Melbourne operator has power in the relevant market that it may exercise in relation to the process for the setting or reviewing of rents or associated payments (however described) payable by a tenant under an applicable lease;

(ii) whether a port lessee or the port of Melbourne operator has exercised that power in a way that has the effect of causing material detriment to the long term interests of Victorian consumers (a ***misuse of market power***); and

(b) if and only if the Commission finds that there has been a misuse of market power, make recommendations to the ESC Minister about whether the provision of access to port of

Melbourne land by means of an applicable lease should be subject to economic regulation, and, if so, the form of the economic regulation.

(2) For the purposes of subsection (1)(b), the form of economic regulation may include a form of price regulation.

(3) Without limiting subsection (1), in conducting an inquiry under this section the Commission must have regard to—

(a) the processes used to establish or review rents or associated payments (however described) payable by a tenant under an applicable lease; and

(b) a port lessee's or the port of Melbourne operator's compliance with any processes for setting and reviewing rents or associated payments (however described) payable by a tenant under an applicable lease required under—

(i) a port of Melbourne lease; or

(ii) any agreement or arrangement entered into by the port lessee or the port of Melbourne operator in connection with a port of Melbourne lease; and

(c) the extent to which any rents or associated payments (however described) paid by a tenant under an applicable lease may be passed through by the tenant to users of services provided by the tenant, to those users' customers, and ultimately to Victorian consumers.

(4) An inquiry under this section must be conducted in accordance with Part 5 of the **Essential Services Commission Act 2001** but section 40 of that Act does not apply in respect of that inquiry.

(5) In this section—

applicable lease means a sublease, or a sublease of a sublease, of leased port of Melbourne land granted by a port lessee (other than to the port of Melbourne operator) or by the port of Melbourne operator;

inquiry period means any of the following —

(a) the period of 3 years commencing on the day on which the first lease of land comprising port assets is granted to a private sector entity under section 11 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**;

(b) the period of 5 years commencing on the day after the day on which the period referred to in paragraph (a) ends;

(c) a period of 5 years commencing on the day after the day on which a previous 5 year period ends;

port lessee means a lessee under a port of Melbourne lease;

port of Melbourne lease has the same meaning as in section 59 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**;

relevant market means the market for access to leased port of Melbourne land by means of an applicable lease.".'.

This amendment relates to the powers that we have agreed to previously, which are to give the Essential Services Commission the authority to undertake inquiries.

New clause agreed to.

Clause 94

The DEPUTY PRESIDENT — Order!
Mr Jennings's amendment 26 is inviting the committee to vote against clause 94 of the bill. This was tested by and is a consequence of his previous amendment 25. Members are advised that in order to support this amendment they should vote against the question that the clause stand part of the bill.

Clause negatived.

Clauses 95 to 108 agreed to.

Clause 109

Mr JENNINGS (Special Minister of State) — I have to fall on my sword and formally move this amendment 27. I move:

27. Clause 109, page 105, line 30, omit "Port" and insert "port".

Amendment agreed to; amended clause agreed to; clauses 110 to 139 agreed to.

New clause

The DEPUTY PRESIDENT — Order! I call on the minister to move his amendment 28, which seeks to insert a new clause to create a new part 6C in the Port Management Act 1995 to provide for the establishment of a port of Melbourne rail access strategy. This is the substantive amendment that was tested by Mr Jennings's amendment 6.

Mr JENNINGS (Special Minister of State) — I move:

28. Insert the following New Clause to follow clause 139—

'SS New Part 6C inserted

After Part 6B of the **Port Management Act 1995** insert—

"Part 6C — Port of Melbourne Rail Access Strategy

91O Definitions

In this Part—

direction means a direction given under section 91U or 91V;

guidelines means guidelines made under section 91T;

Port Development Strategy has the same meaning as in Part 6B;

port rail shuttle— see section 91P;

private sector entity has the same meaning as in the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**;

Rail Access Strategy— see section 91Q.

91P Meaning of *port rail shuttle*

A ***port rail shuttle*** is a rail intermodal facility in, or in the vicinity of, the port of Melbourne that is connected to rail terminals outside the port, the purpose of which is to increase rail freight movements into and out of the port in order—

(a) to provide an alternative to the movement of freight into and out of the port by means of road transport; and

(b) to reduce traffic congestion on roads in and around the port caused by the movement of freight into and out of the port by means of road transport.

91Q Rail Access Strategy

(1) The port of Melbourne operator must prepare a strategy (a Rail Access Strategy) in accordance with this Part.

(2) The port of Melbourne operator must prepare—

(a) the first Rail Access Strategy within 3 years after the first lease of land comprising port assets is granted to a private sector entity under section 11 of the Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016; and

(b) every other Rail Access Strategy at the same time as it prepares a Port Development Strategy under Part 6B.

(3) The port of Melbourne operator must prepare and submit a Rail Access Strategy to the Minister.

(4) A Rail Access Strategy must set out—

(a) options for rail infrastructure projects for improving rail access for the movement of freight into and out of the port of Melbourne; and

(b) a commercial assessment of each identified option that—

(i) in the case of the first Rail Access Strategy prepared under this Part, includes—

(A) projections of trade through the port of Melbourne; and

(B) current and projected transport infrastructure requirements for land and water in the port of Melbourne; and

(ii) in the case of every other Rail Access Strategy prepared under this Part, is consistent with the applicable Port Development Strategy for the port of Melbourne; and

(iii) in all cases, includes any other matter specified in the guidelines; and

(c) the implementation timing for each identified option.

(5) One of the options set out in the first Rail Access Strategy must be the development of a port rail shuttle.

(6) Every rail infrastructure project identified as an option set out in a Rail Access Strategy must be capable of being implemented within 5 years after it has been submitted to the Minister in accordance with this section.

(7) If there are guidelines in effect in respect of the form and content of a Rail Access Strategy, and the method and process for preparation of a Rail Access Strategy, the port of Melbourne operator must prepare and submit a Rail Access Strategy to the Minister in accordance with the guidelines.

91R Rail infrastructure project options in Rail Access Strategy are major infrastructure projects for the purposes of the Infrastructure Victoria Act 2015

A rail infrastructure project identified as an option in a Rail Access Strategy is a major infrastructure project for the purposes of section 44 of the **Infrastructure Victoria Act 2015**.

91S Consultation

(1) In preparing a Rail Access Strategy, the port of Melbourne operator must consult with—

(a) port of Melbourne users; and

(b) owners and tenants of port of Melbourne land; and

(c) licensees at the port of Melbourne; and

(d) persons who wish to design, construct or operate rail infrastructure at the port of Melbourne; and

(e) persons who wish to provide rail freight services at the port of Melbourne; and

(f) relevant government agencies; and

(g) any stakeholders specified in guidelines.

(2) If there are guidelines in effect that set out a process for consultation with the persons and entities listed in subsection (1), the port of Melbourne operator must, in preparing a Rail Access Strategy, consult with those persons and entities in accordance with the guidelines.

91T Guidelines

(1) The Minister may issue guidelines about any one or more of the following matters in relation to a Rail Access Strategy —

(a) the form;

(b) the content;

(c) the method and process for preparation;

(d) processes for consultation;

(e) stakeholders for the purposes of section 91S(1)(g);

(f) publication and availability.

(2) The guidelines must be published in the Government Gazette and made available for inspection free of charge at the office of the Minister.

91U Ministerial directions if port of Melbourne operator fails to prepare and submit a Rail Access Strategy

(1) This section applies if the port of Melbourne operator fails to prepare and submit a Rail Access Strategy in accordance with section 91Q.

(2) The Minister, by written notice given to the port of Melbourne operator, may direct the operator to prepare and submit a Rail Access Strategy to the Minister by the date specified in the direction.

(3) The date specified in a direction under subsection (2) must be at least 3 months after the date of the direction.

(4) The port of Melbourne operator must comply with a direction given to it under subsection (2).

Penalty: 240 penalty units.

91V Ministerial directions if Rail Access Strategy is non-compliant

(1) This section applies if the Minister is of the opinion that a Rail Access Strategy submitted by the port of Melbourne operator—

(a) has not been prepared in accordance with the guidelines, if any; or

(b) does not set out the matters required to be set out under section 91Q.

(2) The Minister, by written notice given to the port of Melbourne operator, may direct the operator to amend and resubmit the Rail Access Strategy to the Minister by the date specified in the direction.

(3) The date specified in a direction under subsection (2) must be at least 3 months after the date of the direction.

(4) The port of Melbourne operator must comply with a direction given to it under subsection (2).

Penalty: 240 penalty units.".'.

As you indicated, Deputy President, this matter has been tested previously. Mr Barber was champing at the bit when we gave the head of power to undertake the work, but he wanted a specific opportunity to talk about the rail access strategy.

These provisions that have now been moved provide for a strategy to be developed within a three-year time frame after the port is leased, and in fact then there is a subsequent expectation that the strategy itself will be reviewed every five years once it has been established. The rail access strategy must set out the options for rail infrastructure projects for improving rail access for the movement of freight into and out of the port of Melbourne.

There are a variety of other specific provisions in relation to how that should be undertaken that outline the way in which the consultation should occur, that ensure the scope and the quality of the infrastructure that is developed so that port users have confidence in it and that establish guidelines and the way in which the strategy is developed. The provisions make sure that there are powers of ministerial direction if the port operator fails to prepare and submit the strategy and if in fact their strategy is not compliant with the expectations established under the bill. In addition to this, there is a requirement or expectation that works be acquitted consistent with what I have outlined to the house previously.

In this part we would be expecting the plan to be implemented within five years of the government's acceptance of the plan, and I remind the chamber that there have been some moneys set aside and contained in the budget forward estimates to underpin an additional $58 million investment to support the infrastructure requirements of the strategy.

Mr BARBER (Northern Metropolitan) — This is a very important clause. The proposed port rail shuttle has been talked about publicly. It has been modelled and designed by at least one private group that is seeking to build and/or operate the port rail shuttle. It has the potential to take thousands of trucks off our freeways every year — hundreds of thousands over a year or more — and in fact in the process declog the city, get trucks out of local streets, improve the supply chain, cut greenhouse gas emissions and remove from our city a great deal of polluting diesel, which according to the World Health Organisation is now a known carcinogen.

The government has suggested that the recommendation of the committee was that it progress the port rail shuttle and that that has been acquitted with these amendments. In fact the committee went a lot further than that. Recommendation 4 of the committee of inquiry, under the heading 'Competitiveness of the port of Melbourne, supply chains and cost effects', is that:

The government:

(a) immediately commit to completing the port rail shuttle project for which funding of $58 million was provided in the 2014–15 budget

(b) immediately reactivate the expressions of interest process to select a party to deliver the port rail shuttle project

(c) ensure that the short-term delivery of the port rail shuttle project is fully reflected in the transaction documents.

Now this amendment does not do that. It does not reactivate, nor will the government reactivate, the expressions of interest process, nor is there an immediate commitment to completing the port rail shuttle project. In fact what it does is give the government and the new private operator, whenever they eventually take over, three years to develop a strategy which must contain elements that are to be delivered within five years, and one of those must be the port rail shuttle — in other words, an eight-year or more time line. It is a plan to have a plan. It is not a commitment to the port rail shuttle. People should be aware of that.

This was a recommendation of the parliamentary inquiry that the coalition itself supported and that has not been delivered in its negotiations with the government. The port rail shuttle has been pushed off into the never-never, and in that time the port will continue to expand, which means we will see a continuous increase in the number of trucks coming into the inner city and, for that matter, operating from

the suburbs — the major logistics centres that the rail shuttle would have serviced — and with broader implications even on the carriage of other commodities and on impacts on country roads as well.

It will be a major disappointment to the Public Transport Users Association, to the Maribyrnong Truck Action Group and to anybody else who understands these things that the coalition did not take the opportunity afforded to it by the holding up of this legislation to get us a rock-solid guarantee that this project will be built and that it will be built soon. It can be built soon.

The committee was given a large amount of information that had been done as a result of previous studies by other groups that have considered building this project themselves and even operating it. There were discussions about the open access regime that would apply to it, but the fact is that I believe some stevedores and certainly some parts of the transport bureaucracy have been trying to put the kybosh on this project for a very long time.

That is why the $58 million that the government informs us is still in the budget has in fact been in the budget for quite a number of years now, and I suspect that, unless the federal government withdraws it, it will probably sit there for another three years or another five years or however long it might take.

Now I do have one particular question of clarification for the government on this. It is one point of clarification on the functioning of this section. Under the earlier amendment to clause 15, which is when I first tried to get involved in this matter, the purposes to which the port proceeds can be put are being expanded using clause 15. What it said there was:

> … rail infrastructure projects for improving rail access, including any rail infrastructure project for improving access identified as an option in a Rail Access Strategy prepared under Part 6C of the **Port Management Act 1995** …

That is the part 6C that we are now inserting. Does this not mean that the new operator of the port can in fact get the money to build rail access to the port from the proceeds of the sale?

In other words, for a project or at least a part of a project that is to the operator's benefit, that allows them to increase the capacity of the port and that would have been normally considered part of their cost base, which would have been established through the other processes of this bill — the building-block approach and all the rest of it — having now paid us the money to buy the port, they can come back to us and say, 'Can I have some of that money back, please? I would now like to build a rail shuttle on my own land, which will be to my own benefit'. So my question of clarification to the minister is just on that one point — that the rail shuttle, or at least the bits that might apply on their land, can in fact be funded out of the proceeds of this and therefore the operator themselves might not have to offer up anything on their side of the bargain to get the port rail shuttle operating.

Mr ONDARCHIE (Northern Metropolitan) — I was not sure if the minister was going to respond to the member at that stage. I draw the minister's attention to the select committee's recommendation vis-a-vis the rail shuttle project, and recommendation 4 is that:

> The government:
>
> (a) immediately commit to completing the port rail shuttle project for which funding of $58 million was provided in the 2014–15 budget —

by the former coalition government in conjunction with the federal government — $58 million to get the process going. Recommendation 4 also says:

> (b) immediately reactivate the expressions of interest process to select a party to deliver the port rail shuttle project
>
> (c) ensure that the short-term delivery of the port rail shuttle project is fully reflected in the transaction documents.

Further I draw the member's attention to the contribution of Narelle Wilson, the vice-president of the Maribyrnong Truck Action Group, MTAG, who said:

> Every day 22 000 trucks use our narrow residential streets and up to 72 per cent of them are container trucks …
>
> They go through countless school and pedestrian crossings, drive metres past our childcare centres and schools, metres from our homes as we try to sleep, metres from cyclists and get stuck in endless traffic congestion.

Additionally, Mr Sam Tarascio, the managing director of Salta Properties, said:

> That means currently there are 5500 trucks that visit the port each day, and if unabated, and with the project growth, this could rise to over 30 000 trucks per day within the initial term of the proposed lease.

Interestingly enough, Richard Bolt, the Secretary of the Department of Economic Development, Jobs, Transport and Resources, said:

> Most of the growth —

in the Port of Melbourne —

> we expect, will be accommodated using road transport because of the nature of the journeys that are being taken by

> containers, so improvement of productivity of road freight use is going to be important.

Yet Mr Stephen Wall, the chief executive officer of the Maribyrnong City Council, when reflecting on road infrastructure, said:

> The proposed West Gate distributor and western distributor will not alleviate truck movements through the north-western side of the municipality.

Now this amendment that the government has in place in front of us, as Mr Barber alluded to, suggests that a plan will be created to complete what is colloquially called the last mile. With respect to Ms Wilson and those who live in those in inner areas — and Ms Crozier has reflected at times about inner suburbs in her electorate that see container trucks going through — the amendment that the government has before the house and before the people of Victoria talks about building a plan. It does not actually talk about building a port rail. Could the minister indicate to this committee when it is expected that the port rail, the last mile, will be completed?

Mr JENNINGS (Special Minister of State) — I thank Mr Ondarchie and Mr Barber for their expressed concern about public transport rail connection into the port of Melbourne and their very principled and very appropriate support of that policy outcome and of infrastructure being derived for all the reasons that they put on the public record. The bill, as amended, does provide for the scoping and the framework by which that investment is anticipated to be made. It sets out limits on the time frame by which it could occur. Now those limits, I accept, may not reach the expectations of the two members who have just spoken today or other members of the community — indeed they may not be necessarily the desired time frame that I might prefer either — but they are time frames that we think allow for the appropriate and timely development at the outset of infrastructure proposals.

One thing that the government is very mindful of is that the pre-existing proposals for rail shuttles, which were a feature of the committee's consideration and subject to some of our public attention, the government has been advised are not necessarily seen to be the most efficient and effective provision of rail access. Certainly the government has been advised that it would be wise to choose other options and investments into the future, and that is the advice that the government has acted upon.

I accept that the challenge of the leaseholder and the government will be to drive the completion of that strategy and infrastructure that is within it at the earliest opportunity that would receive not only widespread support within the port itself, but within the communities that are adjacent to the port and, very importantly, to receive the support of various industry sectors and freight users in particular to make sure that it strikes the right balance and is an effective and efficient design and implementation of public transport rail-based solutions. That is certainly what the government is intending to do. It is not complacent in relation to recognising the significance of this issue. It is not running away from it. It is actually trying to allow for the design of a satisfactory solution that has not yet been designed, in the government's view, and the way in which that should occur.

Mr BARBER (Northern Metropolitan) — It is too late for Mr Ondarchie and coalition MPs to start coming in here and asking questions about the port rail shuttle and when is it going to happen because they were in the box seat. They had the ability to hold up this bill until they achieved the outcome they wanted, which is what the inquiry said — we should reopen the expressions of interest process immediately. That might mean it is eight years until we get any significant investment in rail carrying capacity into the port. That is eight years when Mr Ondarchie will be seeing trucks roaring down Rosanna Road and down High Street, Preston, and out in Mr Finn's electorate in the west and on any freeway that we are on and on any roads down to the south-east if the local roads are choked with trucks in electorates in the areas of Cranbourne and Narre Warren and right through to the inner city as well — from Richmond, Sydney Road in Brunswick and the Tullamarine Freeway. Trucks are going to get worse and worse and worse and worse. As a result of the coalition caving in on this particular recommendation today, it could be another eight years before we see any kind of progress. It is too late to be crying crocodile tears about air pollution from this point onwards. Opposition members had their chance. They blew it. There still has been no satisfactory explanation as to why the coalition wimped out so badly on this most critical issue.

Mr JENNINGS (Special Minister of State) — I issue an invitation to Mr Barber. Mr Barber, come to my funeral, stand up at my funeral, put your hand on your heart and say, 'I was part of an administration that delivered more public transport outcomes to the people of Victoria than the administration that Mr Jennings was part of'. I offer you that opportunity.

Mr Barber — You're on.

Mr JENNINGS — I betcha you will not be able to do it.

Mr RAMSAY (Western Victoria) — I am just wondering if the minister might provide me with some advice about the particular amendment in relation to the operator providing the rail access strategy. Currently, as I understand it, there are a number of private rail tracks around the port that are being used by different companies, particularly from the intermodal and the Horsham line directly to the port. I wonder how they fit in with the strategy that is supposed to be developed by the operator as far as coexistence goes.

Mr JENNINGS (Special Minister of State) — I could take some advice or I could start making it up, but ultimately the answer to Mr Ramsay's question would be that embedded within the strategy will be what is the most efficient access point for various lines across the freight network to arrive at the port and that, by design, if there are effective transport links now into the port, then they should be protected and enhanced. If they are insufficient or they need to be augmented by other investments, that is what we are hoping to achieve as the design outcomes. I could probably find during the course of the afternoon something more specific in relation to any particular line in its current utility and what its potential utility would be, but ultimately it falls within that scope. If it is efficient and effective and it is already in place, then it would be logical in my view for the strategy to account for it.

Mr ONDARCHIE (Northern Metropolitan) — Some of the concerns around this last mile come from transport operators around Victoria, in addition to those living in the inner city, and I reflect on comments I recently received from Kreskas Bros just out of Shepparton in terms of its desire to see the last mile undertaken so it does not have to bring its trucks all the way into the port and can in fact off-load those containers somewhere a bit further out of Melbourne and get that rail access alongside very quickly. In relation to the 10 per cent of money going to regional Victoria, would the minister see that some of that 10 per cent could be used to support that last mile rail link?

Mr JENNINGS (Special Minister of State) — I thank Mr Ondarchie for his invitation to come back to talking about the 10 per cent and I will make some comments about the 10 per cent in a second, because I understand this is an issue of ongoing interest and concern to the opposition. But I just want to go back to a point in getting there and comment on a point that Mr Barber raised some time ago, which is the level of investment that you would expect to come from state sources and the level of investment that would be provided by the private leaseholder and port users. Ultimately the answer to that question is that the state's interest should be to make sure that the state contribution is appropriate in terms of providing public access and infrastructure that supports the Victorian economy as the primary driver of its determination of the level of investment. The connection into the port should actually be a commercial undertaking and a commitment that has been made by the leaseholder. I just think it is very important for us to understand that. We are looking at the appropriate load sharing in terms of the financial contributions that we would make to make this exercise work.

On a final issue, we went around the world on a number of occasions in relation to the allocation out of the fund. I was not necessarily wanting to be exclusive or necessarily tied down, but I give a very clear undertaking that it is the expectation of the Victorian government that the 10 per cent allocation will be very consistent with the criteria that are outlined within the bill, and we would expect the basket of projects that will be supported will be directly connected to transport, logistics or supporting productive access to ports across the Victorian landscape. That is where we think the money will be spent.

Mr DRUM (Northern Victoria) — Just on that, does the minister rule out all those other projects that he ruled in 2 hours ago, when Mr Barber and I dished up 10 different subsets of projects that he ruled in? Now, in the committee stage, the minister's ruling them all out. This is very inconsistent evidence.

The DEPUTY PRESIDENT — Order! Minister, do you wish to respond?

Mr DRUM — Deputy President, if I may, this is a $200 million answer that we are receiving from the minister.

Mr JENNINGS (Special Minister of State) — My last contribution was in the name of making the coalition happy. I am very sorry that I have made it unhappy.

Mr RAMSAY (Western Victoria) — I actually think Mr Jennings has clarified somewhat the intent of the government to provide transport infrastructure, as per the clause in the original bill that the amendment is related to. My understanding is that is what the minister indicated in his last comment.

New clause agreed to; clauses 140 to 152 agreed to.

Clause 153

The DEPUTY PRESIDENT — Order! I call on the minister to move amendments 29 to 36, which seek to insert additional paragraphs to clause 153 regarding the right of appeal under the Essential Services Commission Act 2001. These amendments have been tested by Mr Jennings's substantive amendments 10 and 24.

Mr JENNINGS (Special Minister of State) — Thank you for that summation, Deputy President, because these are consequential amendments that have been totally absorbed within the scope of the policy decisions that we have made previously, as you accurately described. I move:

29. Clause 153, line 26, omit 'decision— ".' and insert "decision; or".

30. Clause 153, after line 26 insert—

'(f) a decision of the Commission under section 69 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**; or

(g) a determination of the Commission under section 49ZA of the **Port Management Act 1995**— ".'.

31. Clause 153, page 136, line 17, omit 'circumstances.".' and insert "circumstances;".

32. Clause 153, page 136, after line 17 insert—

'(f) under subsection (1)(f) is that the decision—

(i) was not made in accordance with the law; or

(ii) is unreasonable having regard to all the relevant circumstances;

(g) under subsection (1)(g) is that the decision—

(i) was not made in accordance with the law; or

(ii) is unreasonable having regard to all the relevant circumstances.".'.

33. Clause 153, page 136, line 33, omit 'made.".' and insert "made; or".

34 Clause 153, page 136, after line 33 insert—

'(e) in the case of an appeal under subsection (1)(f), within 21 working days after the decision is made; or

(f) in the case of an appeal under subsection (1)(g), within 21 working days after the determination is made.".'.

35. Clause 153, page 137, line 12, omit 'determined.".' and insert "determined.".

36. Clause 153, page 137, after line 12 insert—

'(9) If a person lodges an appeal under subsection (1)(f), the decision of the Commission under section 69 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016** continues in effect until the appeal is determined.

(10) If a person lodges an appeal under subsection (1)(g), the determination of the Commission under section 49ZA of the **Port Management Act 1995** continues in effect until the appeal is determined.".'.

Amendments agreed to; amended clause agreed to.

Clause 154

The DEPUTY PRESIDENT — Order! I call on the minister to move amendments 37 to 39, which seek to insert additional paragraphs to clause 154 regarding the appeal panel under the Essential Services Commission Act 2001. All of the amendments are consequential to Mr Jennings's previous amendments 29 to 36 and have been tested by his substantive amendments 10 and 24.

Mr JENNINGS (Special Minister of State) — Thank you, Deputy President, for summarising that the amendments in my name, amendments 37 through to 39, are consequential to policy decisions that the committee has already adopted. I move:

37. Clause 154, page 138, line 15, omit 'panel.".' and insert "panel; and".

38. Clause 154, page 138, after line 15 insert—

'(g) in the case of an appeal under section 55(1)(f), may in granting the appeal—

(i) affirm the decision of the Commission under section 69 of the **Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016**; or

(ii) vary the decision; or

(iii) set aside the decision and remit it to the Commission for amendment of the decision in accordance with the decision and recommendations (if any) of the appeal panel; and

(h) in the case of an appeal under section 55(1)(g), may in granting the appeal—

(i) affirm the determination of the Commission under section 49ZA of the **Port Management Act 1995**; or

(ii) vary the determination; or

(iii) set aside the determination and remit it to the Commission for amendment of the determination in accordance with the decision and recommendations (if any) of the appeal panel.".'.

39. Clause 154, page 138, line 18, omit "or 55(1)(e)" and insert ", 55(1)(e), 55(1)(f) or 55(1)(g)".

Amendments agreed to; amended clause agreed to; clauses 155 to 159 agreed to.

Clause 160

Mr JENNINGS (Special Minister of State) — Again this is a very significant amendment. I move:

40. Clause 160, line 17, omit "160" and insert "177".

Amendment agreed to; amended clause agreed to; clauses 161 to 163 agreed to.

Schedule 1

Mr JENNINGS (Special Minister of State) — I thank you, Deputy President, for the opportunity to move the last amendment in my name, amendment 41. I move:

41. Schedule 1, line 2, omit "Section 162" and insert "Section 179".

In moving what is the ultimate amendment I feel the need to pay a price to the staff in the table office, who have made a request to me in previous sitting weeks in relation to the support they have provided to me in the anticipation of the conclusion of the committee stage of this bill, even though I could never actually hand on heart attest to when that would be. Week after week I felt like Rocky coming in and waiting to go all the rounds. Week after week the staff of the table office were expecting me to go the distance, stand up in the last round, like Rocky, and say 'Adrian!'.

Mr ONDARCHIE (Northern Metropolitan) — I am certainly not Bullwinkle to his Rocky. I just want to indicate that we thank the government for conceding to all the Matthew Guy coalition amendments in this bill for the benefit of future Victorians, and I indicate that we have no further questions.

Amendment agreed to; amended schedule agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Mr JENNINGS (Special Minister of State) — In the spirit of thanking all of those who have contributed greatly to the preparation of this piece of legislation, I wish to thank the people who work for the Minister for Ports, the Treasurer and me; members of the select committee, who worked very diligently on behalf of the community; and people in the table office who have had to prepare the detailed amendments and the flowchart which we have just gone through in the committee stage. There have been many, many Victorians who have worked very hard to achieve this outcome, and I thank each and every one of them.

I have great pleasure in moving:

That the bill be now read a third time.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! The question is:

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

House divided on question:

Ayes, 34

Atkinson, Mr	Mikakos, Ms
Bath, Ms	Morris, Mr
Bourman, Mr	Mulino, Mr
Crozier, Ms	O'Donohue, Mr
Dalidakis, Mr	Ondarchie, Mr
Dalla-Riva, Mr	Patten, Ms
Davis, Mr	Peulich, Mrs
Drum, Mr	Pulford, Ms
Eideh, Mr	Purcell, Mr
Elasmar, Mr	Ramsay, Mr
Finn, Mr	Rich-Phillips, Mr
Fitzherbert, Ms	Shing, Ms
Herbert, Mr	Somyurek, Mr
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Lovell, Ms	Wooldridge, Ms
Melhem, Mr (*Teller*)	Young, Mr (*Teller*)

Noes, 6

Barber, Mr	Hartland, Ms
Carling-Jenkins, Dr	Pennicuik, Ms (*Teller*)
Dunn, Ms (*Teller*)	Springle, Ms

Question agreed to.

Read third time.

CHILDREN LEGISLATION AMENDMENT BILL 2016

Second reading

Debate resumed from 8 March; motion of Ms PULFORD (Minister for Agriculture).

Ms SPRINGLE (South Eastern Metropolitan) — I will pick up where I left off on Tuesday evening. It does not require much imagination to realise that when Gemma's grandmother died, the consequences for Gemma were enormous. Her whole life changed. Luckily though Gemma landed on her feet at her aunt's place. Within a couple of months it was clear that that was the best place for her. Everyone, including the department, was happy for her to stay there. In those circumstances the court had to deal with an application to extend an interim accommodation order under which Gemma was placed in the interim custody of her aunt.

What the magistrate last Monday wanted to do was make an order that was in Gemma's best interests. Indeed that is what the magistrate was required to do under the act, and in the opinion of that magistrate, it was in Gemma's best interests to continue to live with her aunt and to have increased contact with her mother, who was at least engaging with helpful services and showing real improvement. But the magistrate discovered that she could not make the order she wanted to make. The reasons are very technical, but the implication of the case was very clear. Last Monday that magistrate felt she had no option other than to decline to extend any order beyond that day, because of the likelihood that such an order would have been invalid — not because of the drafting errors that the current bill will fix up but because of the specific issues pertaining to a child who is on a suspended family reunification order and a current interim accommodation order.

The implication was that Gemma, an 8-year-old girl who everyone agreed was in need of protection, would wake up on the morning of Tuesday, 1 March, with no protective order at all — and ultimately that is exactly what happened. The department had to apply for a new protection order the very next day. For the whole of the Monday evening 8-year-old Gemma and all the adults in her life — her mother, her father and her aunt — were entirely uncertain about what would happen after the protection orders dropped off and Gemma legally reverted to her parents' care.

Children in the child protection system already face so much stressful uncertainty and instability. The last thing we should be doing in this place is adding to that uncertainty and instability — and yet, with the 2014 amendments, dressed up as 'permanency reforms', that is exactly what we have done.

What this single case shows is that, even aside from the litany of drafting errors that are being corrected by this current bill — drafting errors that should have been picked up at the time that no fewer than 125 of the 128 members in the last Parliament voted in favour of the permanency act, and drafting errors that the current government has had well over a year to pick up — the new legislation that came into effect last week has all kinds of unintended and unforeseen consequences, well beyond the consequences that were foreseeable but which the minister has pretended are not there. Family lawyers are telling me and my office that the uncertainty in this new legislation is so great that it will need a Supreme Court decision — maybe a series of Supreme Court decisions — to clarify what is meant by particular provisions. So much for permanency.

Child protection legislation is not like other legislation. It is not acceptable just to say, 'Whoops, we just didn't foresee that issue' — or 'that ambiguity' or 'that outcome' — 'but look, everything will be sorted out eventually through a combination of legislative amendments and Supreme Court decisions'. No. It is our responsibility, legally under the Convention on the Rights of the Child and ethically as legislators, to ensure that child protection legislation is based on the best evidence, is subjected to the best analysis and the best scrutiny, and will result in the least amount of uncertainty for vulnerable children and families.

The 2014 amendments that removed the powers of the Children's Court were not based on the best evidence. They were not based on the extensive Cummins inquiry that most of the sector was very happy with. They were not subjected to extensive consultation with the sector. It is now clear that they were not even subjected to proper scrutiny by the last Parliament or this one. The outcome of this lack of consultation and this lack of scrutiny is that we now have legislation that is full of holes and full of uncertainties. And it is not just theoretical uncertainty. Many of Victoria's most vulnerable families are being put through weeks, perhaps months, of anxiety because nobody — not lawyers, not department workers, not magistrates — knows just how to apply this bad legislation. Only one thing is clear. Victoria now has child protection legislation that will result in the systematic deprivation and removal of children from their families.

The Victorian Aboriginal Child Care Agency, VACCA, is among many organisations that have gone on the record to express their concern that the 2014

reforms will result in a new stolen generation. Indeed we in Victoria are already removing more Aboriginal children from their parents than were removed under policy and legislation that specifically targeted Aboriginal families until the end of the 1970s. Andrew Jackomos's Taskforce 1000 has unambiguously found that all of the problems that are faced by children in out-of-home care, and residential care in particular, are compounded for Aboriginal children in care because Aboriginal children are so heavily over-represented.

One family lawyer this week has said that she fully expects that a majority of her clients will lose their children permanently within the next 12 months. That is what we have made permanent. If the minister were serious about protecting Victoria's most vulnerable children, she would have listened to the concerns of the sector regarding the so-called permanency reforms, and she would have restored the Children's Court's powers to oversee the department.

Ms SHING (Eastern Victoria) — I rise this afternoon to make a contribution in relation to the Children Legislation Amendment Bill 2016 and note that there have been a number of contributions which have touched on the very broad-ranging scope and contemplation of this bill, despite the fact that its substance remains of a relatively uncontroversial nature.

The bill itself has been designed to provide legislative change that enables better protection of children and young people through an improved functioning of their experiences in the course of interaction with the system of regulation which currently operates, in addition to providing for streamlined sharing of information to the Commission for Children and Young People about adverse events that may relate to children's health, wellbeing or welfare in out-of-home care and also young people in youth justice detention, where that information is in fact relevant to the functions of the commission.

This is an area of policy and of law and of legislative change that requires thoroughness, requires diligence and also requires resourcing. To that end I note that it is worth recognising the very significant efforts that are made by professionals in the public sector and in the social and community services sector in the context of the work that they do to identify and gather information which gives the court the best possible picture of events that relate to children in out-of-home care and events and circumstances and relevant factors as they may influence the work of the commission and the courts more generally.

In addition to the amendments that I have already broadly outlined in my contribution, the bill contains provisions that amend the Children, Youth and Families Act 2005 to facilitate the family division of the Children's Court enacting new rule-making powers that are designed to actually put it on all fours with those that currently exist in the criminal division. Again a harmonisation of the way in which functions are undertaken within the judicial framework is in and of itself important and will enable the court to introduce a system for the electronic lodgement of documents.

We have also got technical and minor amendments, which are always worthwhile areas for improvement in the debating of a bill and the passage of legislation. There are inconsistencies, errors and omissions in the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014, which will have been fully implemented from 1 March. I note that the time-critical nature of the amendments — as they relate to addressing problems in the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014 — relates to those minor technical amendments of a time-sensitive nature and not to other components of the bill. In the course of 2015 there were a small number of omissions, inconsistencies and errors that were identified in relation to the operation of the amendment act itself, and it is entirely, I understand, within the ordinary course of process to take account of those issues and to fix them wherever possible. It is usual that these issues are identified following the passing of substantive legislation.

Consultation has occurred in the context of the development of the bill that is before the house which has enabled stakeholders to consider the options for addressing those issues as identified. These amendments have been brought to the attention of the Parliament as soon as practicable, noting that there is always scope for review, revision and improvement of a system that is continuously facing new challenges, whether that be in the volume of matters that come before the courts or the commission or whether that be in the interaction of the various jurisdictions as they relate to individual clients within the system and/or the families that may be affected.

If it is passed, this bill is expected to come into effect later this month, leaving a period of a number of weeks where arrangements will require a transitional process for children who are subject to protection orders that will in fact transition to family reunification orders from 1 March. Those children who will be most significantly impacted by the delay are those who are subject to an order that will transition to a family reunification order where the order expires before the

proposed amendments in this bill commence — that is, the window between now and when the bill is gazetted. Such a child will by then have been in out-of-home care for two years or more. In this situation the court would not be able to extend the family reunification order. Any potential issues would have been prevented by lodging an application to extend a current order prior to 1 March.

There are two new application mechanisms for two new orders that are being created by this amendment act — namely, a care by secretary order and a long-term care order. In the current situation where a child is subject to an existing protection order and an application is made to the Children's Court for a different order, applications to both extend and revoke the existing order need to be made if the application will not be determined before the existing order expires. This is only because an application to extend will hold the existing order in force until such time as the court makes its decision.

This process can be and often is very confusing and complex for children of families who do not necessarily deal with this part of the system on a regular basis, and it is also — as far as the feedback is concerned — unnecessarily cumbersome and unwieldy in its administration. These proposed amendments will allow for an application to be made for a different order, with the existing order remaining in force until the application is determined by the court. In a sense it is a greater degree of security and certainty as per the arrangements that will continue between an application being made and the ongoing operation of an existing arrangement.

The bill creates the capacity to apply for a care by secretary order or for a long-term care order when a child is subject to a family reunification order that cannot be extended because that child has been in care for a period greater than 24 months. In circumstances such as these it is unworkable to use the current process of applying to extend an order to keep it in force while a different order is being considered.

The bill also clarifies that the Children's Court can make a care by secretary or long-term care order when a child is 17 years old. This might be needed where a child is 17 when a family reunification order can no longer be extended — that is, the child has been in care for more than 24 months — and will enable the Children's Court to make a care by secretary or long-term care order to ensure the child's ongoing protection and care if they cannot safely return to their parent's care between the age of 17 and obtaining the age of majority and adulthood.

The amendment act, as we have heard from previous contributors to this particular debate, was developed under the previous government, and it is not unusual for legislation of this size, scope and complexity to require minor and technical amendments of the nature that are incorporated in this bill. The Andrews Labor government has acted as quickly as practicable to address the identified issues and to ensure the safety of children.

There has been extensive consultation in relation to the amendments contained in the bill. It has been the subject of discussions and consultation with the Children's Court and the Commission for Children and Young People, the new commissioner of which I should also make reference to today. Ms Liana Buchanan takes up her post with a significant depth of experience in relation to the administration of justice and will no doubt be very well positioned to provide the government with frank, fearless and independent advice, recommendations and reports about matters that fall within the scope of her position. Legal stakeholders, including the Law Institute of Victoria, Victoria Legal Aid, the Victorian Bar and key Aboriginal legal services, have also been part of consultation in relation to these proposed amendments.

The bill responds to and is designed to correct what has arisen and become apparent as a longstanding desire of the Commission for Children and Young People to be provided with information about adverse incidents concerning young people subject to youth justice detention. It makes it clear that the secretary of the department is not only authorised but in fact required — it is mandatory for the secretary — to provide information to the Commission for Children and Young People about adverse events concerning children in out-of-home care and young people in youth justice detention. In effect and in practical terms what this does is serve to harmonise, streamline and improve the efficiencies of the information that is provided to the commission to support its roles and functions. The Children's Court has been part of the consultation process, as I indicated earlier in my contribution, and has confirmed that changes to its rule-making powers are indeed appropriate for its purposes.

The minor and technical amendments, which I touched upon earlier in my contribution, to the Children, Youth and Families Act 2005 as amended by this amendment bill do not in fact create or give effect to any policy change. There is no change to intent, and these amendments have been developed in consultation, as I also indicated earlier, with the Children's Court and with legal stakeholders.

There are a number of aspects of the amendment bill that are the subject of ongoing views, positions, concerns and also requests for assistance, but stakeholders will continue and should continue to raise their concerns. They will be thoroughly examined in the course of an independent review, which has been announced by the minister. That review will commence in September 2016, so that is six months after the commencement of the amendment act.

Again this is an area of policy and an area of government responsibility that cannot be overstated in its importance. The system needs to continue to evolve and to evolve sensibly. Duplication should wherever possible be minimised or otherwise removed. The sharing of information, which is one of the components of this particular bill, will in fact equip the children and young persons commission and also the Children's Court with a better capacity to have relevant information — information pertinent to the functions and to the roles and the discharge of those roles — taken into consideration in the work that they undertake for children in out-of-home care and for young people in detention. Legal stakeholders were in fact also satisfied that this bill effectively deals with the technical problems in the legislation.

I note that it is also appropriate to make a comment about the nature of retrospective legislation. It is generally to be avoided, and I think that this is a view that is shared not only around this place but in other jurisdictions. There are, however, exceptions, and the clause in question around retrospective operations is appropriately one of those exceptions. The amendment bill inserts a new schedule 5 in the Children, Youth and Families Act that sets out those transitional provisions. The reference provision is incorrect as it is inconsistent with an earlier provision setting out how orders are to transition. Notably clause 3 of schedule 5 correctly provides that a supervised custody order will transition to a family reunification order. Clause 21 of the bill also amends clause 7(b) of schedule 5 of the act by replacing the incorrect reference to a family preservation order with a family reunification order. The clause has been made retrospective to 1 March to ensure that clause 7(b) operates correctly and is in fact also then consistent with clause 3 of schedule 5.

The purpose of the clauses in the bill that amend the Commission for Children and Young People Act 2012 are to ensure that there is a clearer authorisation for the provision of information to the commission by the Department of Health and Human Services. Again, information about adverse effects is already exchanged; however, it is important that this is done in the most consistent way possible. It is also important that the bill creates a clearer legal basis for the exchange of such information and expands existing practices in a consistent way to include young people in youth justice detention. The positive obligation which is imposed upon the department to provide information about adverse effects of relevance to children in out-of-home care and youth justice detention is also a means by which the commission can properly and fulsomely undertake its role and functions. It will also ensure that the department continues to provide the commission with category 1 incident reports regarding children in out-of-home care and expands this to include the same obligation in relation to young people in youth justice detention. The work in relation to this area of public policy goes on, and with that in mind I commend the bill to the house.

Ms SYMES (Northern Victoria) — The Children Legislation Amendment Bill 2016 — it is a pleasure to make a brief contribution on this bill this afternoon. In the short time I have been a member of this house I have found myself time and time again referencing children as the utmost important priority of this government — indeed that should be the case for any government. I am proud to have had so many opportunities in such a short time to speak on behalf of Victorian young people and their families. It is a testament to the depth of commitment of the Andrews Labor government that it has placed such significance on the wellbeing and welfare of our children and in particular those most vulnerable to falling through the cracks.

The Children Legislation Amendment Bill 2016 has been referred to as correcting minor and technical errors, inconsistencies and omissions resulting from the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014. While it does indeed do those much-needed things, it also significantly and for the first time enshrines a statutory requirement that the Department of Health and Human Services share client information with the Commission for Children and Young People (CCYP) where the information is about adverse events that have impacted on children and young people in out-of-home care.

Too often the horror stories of the abuse and death of vulnerable children we have read about in the newspapers have a theme at their heart — a failure to share information or pass on an insight or observation, or severely overworked and overwhelmed child protection workers drowning in the demands of paperwork and reporting rather than attending to the needs of the kids. Too often vulnerable children have been hidden in plain sight; they are neither seen nor heard in their time of suffering or need. While

communication has occurred in the past through ad hoc or informal arrangements, it has never before been put into the act, and too many times this may have been an attributable factor in a tragedy that should have never been.

The bill, however, goes further. It strengthens the powers of the CCYP by requiring the department to provide information about adverse events that have impacted on children and young people in youth justice detention centres. Another hotbed of avoidable tragedy, the youth justice sector has long been an area that is in need of additional welfare and support. By ensuring the CCYP is kept informed of adverse events detrimental to detainees in the youth justice sector we are introducing another voice, another advocate, another layer of protection to the system, giving these kids a chance to be heard, taken seriously and protected, no matter what their circumstances may be.

The CCYP advocated for the provision of this information. Labor has once again listened to the experts and responded to their requests. In doing so we are increasing the scrutiny on the agencies that care for our disadvantaged and vulnerable young people. We understand unequivocally that be they in out-of-home care or a youth justice facility, vulnerable children and young people need to be cared for appropriately and they, their families, the sector and the wider community deserve the peace of mind that all is being done to keep them from harm and hurt. The fact that we have appointed distinguished lawyer Liana Buchanan as Victoria's new principal commissioner for children and young people, who will be responsible for the scheme, gives me great confidence in the capacity to bring about genuine and fundamental changes for the benefit of Victorian children and their families.

I turn to those technical drafting errors requiring repair which I mentioned earlier. It is a fact that the previous government rushed through big changes to the Children, Youth and Families Act 2005. There was a distinct lack of consultation, and not surprisingly when you bang things out that quickly you miss things and you make mistakes. Calls for an exposure draft were ignored and the resulting errors in the amendment act are numerous. The Victorian Auditor-General's report of March 2014 found that during the coalition's time in office there had been 'a fundamental failure to oversee and ensure the safety of children in residential care'.

I am pleased to say that we are taking our responsibilities seriously, and none more so than our responsibility for vulnerable children and their families — hence this legislation, which in effect fixes many of those drafting errors. Changes to legislation such as this really need to be worked through methodically and extremely carefully and must always involve the experts. To this day we are continuing to find areas of the act that should be and indeed will be tightened and clarified. Children, and especially vulnerable children, will always remain at the top of this government's agenda. It is what we do; it is what Labor governments have always done. We protect the weak and we help them grow strong. We protect the vulnerable and make them safe. We create opportunities and watch people grow. We grow the economy and watch communities thrive.

Our first budget invested a record amount into child protection and family services — a $257 million budget boost, representing a 17 per cent increase on the previous budget. Our strategy to boost early intervention and early years services includes investing $48 million into Child FIRST and family services. We know that providing help at the first signs of trouble can save the individual from potential trauma and harm and it can save society the much bigger cost of providing expensive out-of-home care interventions further down the track. We will always advocate and support early intervention.

For those who cannot live safely with their parents, we believe that foster and kinship care is the next best option. Years of research and extensive consultation with the experts tell us that home-based care is, for most children, the best alternative to being in their family home. We have increased payments to home-based carers for the first time in a decade to reflect their value to us as a community and to support them in the all-important work they do and the support that they provide.

We as a government have certainly not put child protection, vulnerable families and out-of-home care in the too-hard basket. We have brought together all 26 foster care agencies in the state, united behind a single strategy to not only recruit more carers but provide more support to those carers in the system — and hopefully they will stay in the system. For those children and young people for whom residential care is the necessary alternative, we committed to delivering environments that are caring, supportive and safe. This is why we moved in the first 100 days since taking office to provide $16 million to increase staffing levels so that standard residential units would have additional staff overnight.

In addition we introduced spot audits for residential care units for the first time to improve the safety of our young people. We have also allocated $43 million to targeted care packages to support the transition of

children and young people from residential care into home-based care whenever possible. I am heartened that to date around 90 children have already been moved out of residential care and into the preferred home-based care environment. This is an important step for every one of those 90 kids, and as experts tell us, it provides for a more promising outcome in relation to their future prospects, their hopes and their dreams.

We have allocated funding to recruit and hire an additional 110 new child protection workers. In an environment where the challenges and complexities include family violence and drug and alcohol abuse, particularly with the prevalence of ice use across regional communities — it is more important than ever that we have well-trained and skilled child protection workers. They are just so critical if we are to improve outcomes in the lives of vulnerable kids. If we are asking these workers to be at the coalface and to do a job many of us would find too confronting or too tough to stick it out, we must absolutely ensure that they are supported in every way, and that starts with ensuring that staffing levels reflect demand.

Out-of-home care is never a first choice. Keeping families together wherever safely possible is always the preference. But the reality is that this is not always an option, and having a system that works effectively, efficiently and compassionately in the interests of vulnerable children must be the objective we work towards. The protection of children must and under this government will always come first. With that, I commend the bill to the house.

Ms PATTEN (Northern Metropolitan) — I am pleased to rise today to speak on the Children Legislation Amendment Bill 2016. As I understand it, the bill is making some technical amendments to some of the changes that were made in 2014 to the act and to address some of the unintended consequences of those changes. It also requires that the Department of Health and Human Services share client information with the Commission for Children and Young People, where that information is about an adverse event affecting children and young people in out-of-home care or youth justice detention centres. I think this is an excellent process, and I am pleased to see it now being put into legislation.

I was going to support Ms Crozier's amendments that required the commission to report the outcomes of that on a regular basis, but I understand those amendments have now been withdrawn. I, however, do support the ongoing notion that the commission should be required to provide reporting on a regular basis as to the findings and the information that has been passed on to it. While these amendments go some way to addressing that, there is certainly a lot more to be done. I think the unworkability of many of the amendments that were passed in 2014 is absolutely evident and becoming more and more so as each day goes past after the amendments made on 1 March this year. For example, the conversion of custody to secretary orders that run for less than two years now mean that children at age 17 are effectively without an order. They have no order now because it is less than two years.

We have also seen the tragic case of a young girl who was seeing her mother regularly once every two weeks. Now with the changes brought on by the 2014 amendments she is allowed to see her mother once every three months. This is absolutely tragic.

The 2014 changes significantly limited the power of the Children's Court to order that a child be reunified with their parent. Children as young as 2 could be taken away from their parents and have no access to them until they were 18. With no independent authority able to place any conditions on that, the department became judge and juror on this issue.

In a press release of 29 February the Law Institute of Victoria noted that the changes that came into effect on 1 March will have a disproportionate impact on Aboriginal and Torres Strait Islander children. It stated:

> The changes will have a disproportionate impact on Aboriginal and Torres Strait Islander children, noting that as at 30 June 2014 Aboriginal children in Victoria are 12 times more likely than other children to be placed in state care. Other children who will be similarly affected include those with a parent who has a disability, are victims of family violence or experience mental health difficulties.

This means that vulnerable children in vulnerable families will miss out on the oversight and care necessary to support and facilitate family reunification wherever possible.

This bill goes a little way towards addressing these concerns. I understand the government has committed to a six-month review to look at the changes that were implemented just last week. I have concerns about that because six months is an awfully long time for families. If members think of a two-year-old, we are talking about a quarter of their life, so I have serious concerns. I support the Law Institute of Victoria, the Victorian Aboriginal Child Care Agency, the Office of the Public Advocate and Mental Health for the Young and their Families in their call for full oversight and review of the powers of the Children's Court to be reinstated and effective remedies to be provided to improve support for who we know are the most vulnerable children from

some of the most vulnerable families in our community.

It was disappointing — and I appreciate the timing of this — that this bill will not come into effect until the day after royal assent. If we had been able to change those dates, this would have alleviated some of the concerns families may have at the moment. Under the current structure it appears there may be roughly a month wherein families may be unsure as to which order they fall under, whether they fall under the changes that this bill will make or the orders that were enacted on 1 March.

I appreciate that clause 21 of the bill has been made retrospective, but the rest of it has not been made retrospective. I think it would have been very helpful if we had been able to do that with more parts of the bill, because we would have been able to offer immediate correction of issues rather than people having to wait for a month.

I support this bill. It goes some way to addressing and correcting the issues created by the 2014 legislative reforms. I sincerely hope that the minister and the department continue to review the results of the 2014 amendments and ensure they are functioning towards the ultimate purpose that we all have of supporting vulnerable families as effectively as possible.

Ms MIKAKOS (Minister for Families and Children) — I am pleased to make some comments in summing up this debate. I understand that we will be going into committee stage and there will be an opportunity for members to seek further clarification on issues.

Can I say at the outset that I think it is important to understand that today we are making in large part just technical changes to the 2014 legislation. We have had many opportunities to debate the permanency changes, both in 2014 and twice last year. Last May our government introduced a bill to reinstate the powers of the Children's Court to oversee the role of the Department of Health and Human Services. We again debated these issues when the Standing Committee on Legal and Social Issues presented its report to the house. I remind members that the Standing Committee on Legal and Social Issues had overwhelming stakeholder support for the reinstatement of section 276.

What became clear from the upper house committee process was that the previous government did not adequately consult in respect of its 2014 changes. If it had thought of putting out an exposure draft for a change of such a technical and wide-ranging nature, then we may not have needed to rectify so many errors and omissions now. But on becoming aware of these areas we undertook extensive consultation with key stakeholders, and we think that is the right thing to do when changing legislation as important and as complex as the Children, Youth and Families Act 2005.

I also want to make the point that there has been some rather ill-informed and inaccurate public debate around the permanency changes, particularly by people who should know better and who have a good understanding of this legislation. It is unfortunate that some of those views were reinforced by some members during the second-reading debate. I want to make clear today to the house that I take my role as minister extremely seriously and I am absolutely committed to ensuring the best outcomes for children.

To me the voice of the child is very powerful. Just a few weeks ago I met a young man who had been in out-of-home care from the ages of 7 to 14. He is now an adult. He informed me that during that time he bounced through 40 foster care placements and attended 15 different schools. I cannot see how anyone would think that is a good outcome for that young person or any other young person who is in out-of-home care. I do not believe that a childhood spent moving from placement to placement is in the best interests of children. I think stability is in the best interests of children.

This is why the then Labor opposition did not oppose the permanency changes and the 2014 bill. Can I say that at the time, yes, I did express concerns, and the biggest concern that I had was the issue around the removal of the section 276 protection that was previously in the legislation. That is why I made a commitment to address that particular issue, and it was in fact the first bill that I brought to this house as minister.

Can I just say also that was the no. 1 issue identified to me as an issue of concern by various stakeholders, including legal practitioners who I met with at the time and who are now determined to advocate for a complete repeal of the permanency changes. I do think that whilst we can have debates about these issues, it is important that we have them in an informed, rational and reasoned way, and that we stick to the facts.

As I have previously committed to, both here and in other forums, there will be an independent review of the permanency changes, these 2014 changes to the act. This review will be conducted by the commissioner for children and young people and will commence six

months after the changes take effect. My department and I are looking forward to having discussions with the incoming commissioner around the scope of that review once she commences in her role in just a few weeks time. The review will provide independent scrutiny of the changes and ensure that the principal act is ensuring good outcomes for the children and young people it was designed to protect.

The bill we are debating today is much narrower in scope in relation to the permanency changes. It is technical legislation and, as I explained at the outset, is designed to correct drafting areas detected during a consultation process last year, where both my department and other stakeholders, including the Children's Court itself, identified issues. The bill is also in response to a request from the Children's Court to improve the efficiency of its processes and procedures and improve information sharing with the Commission for Children and Young people to increase its scrutiny and oversight of both out-of-home care and youth justice facilities. I am particularly pleased with that change.

We have had a situation in this state where category 1 incident reports, which are the most serious type of incident reports, have been provided to the Commission for Children and Young People on an ad hoc basis in the past. They have not been legislated, and there have not been any formalised arrangements for doing so. What this bill does is require the Secretary of the Department of Health and Human Services to provide category 1 incident reports — and I will come to the issue of the adverse events in a moment — to the Commission for Children and Young People and to formalise these arrangements through having a specific requirement included in the legislation. As I said, it has been ad hoc in relation to out-of-home care, and it will now be legislated.

In addition, in response to a request that was made to me by the previous principal commissioner, Bernie Geary, for the first time we are also going to provide to the Commission for Children and Young People category 1 incident reports relating to young people who are in youth justice facilities. We think it is important that we do provide additional scrutiny and oversight. This will enable the commission to be informed of the most serious events relating to young people in a youth justice centre or a youth residential centre through this legislative change.

I want to explain to the house as well the issue of adverse events and what that is intended to cover. Members may have already commented in their contributions around the lack of a definition of 'adverse events' in the bill. That is because we need to ensure that we are futureproofing the legislation by not using a specific terminology that might change at some point in the future. What is intended in terms of the discussions that have been held by the department and the commission is that it will be the most serious adverse events that will be sent to the commission — that is, category 1 incident reports.

I personally have had discussions with the acting principal commissioner, Frank Vincent, and can I say how privileged we are to have a person of his breadth of experience and with his knowledge of the legal system agreeing to act as acting principal commissioner in the interim. In the discussions that I have had he has personally confirmed to me that he would be concerned if the commission were to be swamped — I think that was the word he used — by receiving more adverse events information. What the commission is interested in is ensuring that it receives the most serious adverse event reports, which are currently the category 1 incident reports.

What is intended and what has been agreed to is that a memorandum of understanding (MOU) will be entered into between the department and the Commission for Children and Young People to make it explicitly clear that the expectation of the commission is that adverse events will effectively mean category 1 incident reports. Whilst we have an acting principal commissioner in place at the moment, the intention is that the new commissioner, who is commencing her role in a few weeks time, will sign off on this MOU, assuming the passage of the bill by the Parliament here today.

Can I also say that I am appreciative of the assistance of the parties today to have this bill debated and passed in this sitting week. I think we all understand the complexity of the technical changes that are involved in terms of the corrections and the omissions that are being addressed through the bill and the need for legal certainty to make sure that the Children's Court can continue to do its important work. I am very appreciative of parties assisting us to expedite the debate and the passage of the bill here today.

I do want to stress that there has been a considerable amount of consultation that has occurred between my department and the Children's Court in particular to ensure that the timing of the passage of this bill will not have an adverse impact on any children that might be affected by the changes that commenced on 1 March. I also wish to express my gratitude to the Children's Court, in particular the president of the court, Amanda Chambers, for her assistance in this matter.

Given the time that I have remaining in this debate, I might go to the issue of the house amendments passed by the Assembly, because I do want to make some points in relation to the amendments that Ms Crozier circulated in the house earlier in the week. Can I firstly express my gratitude to Ms Crozier for not wishing to proceed with those amendments.

Currently we have category 1 incident report numbers published on the Department of Health and Human Services website showing annualised figures broken down by category type. Since I have been minister I have in fact directed my department, in the interests of transparency, to publish additional performance measures on the Department of Health and Human Services website. There are 26 new performance measures that have been published on the departmental website, and this data is broken down by quarter. I will be directing my department to supplement the existing category 1 incident report numbers already published on the Department of Health and Human Services website so that these numbers will be published on a quarterly basis rather than the current annual basis, and this data will be published within one month after the end of each quarter.

Ms Crozier and I have had some discussions about this matter, and what will happen is that the department will take responsibility as the holder of this data to publish this information on its website. Following discussions with Ms Crozier, I will also be seeking to amend the Children, Youth and Families Act 2005 through an appropriate bill at a future point in time to legislate for this requirement. Whilst I am not in a position to give an exact time frame for this, I can give a commitment that my department will publish the data for the first quarter of 2016 in accordance with these proposed time lines — in effect, as I said, within one month after the end of that quarter — and will continue to do so into the future, and that will occur irrespective of the timing of this legislative change that we will be making at a future point in time.

I will conclude my summing up remarks there and commend the bill to the house. Of course I will be happy to take further questions in committee.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms CROZIER (Southern Metropolitan) — I would just like to make a few comments in relation to the minister's summation and acknowledge that I will not proceed with the amendments that I previously circulated earlier in the week, on Tuesday, during the second-reading debate. I want to just place on record my thanks to the minister for the assurance that the data that those amendments would have called for will be available for the first quarter of 2016, and obviously the minister will get that information as soon as it is practicable to make that data available.

We are dealing obviously with some technical issues in relation to this bill, and that has been acknowledged. It is complex legislation. Things can move in this area, and through various drafting elements there has been a need to have those technical corrections occur. I do just want to go back to the minister's summation in relation to the adverse events. The minister said that was for futureproofing legislation if category 1 incident reports change or if that terminology changes. Could the minister just give an outline to the house — I know there is a definition on the current Department of Health and Human Services (DHHS) website about category 1 incidents — in relation to the information that will be going to the commission, that sharing of information, about those most serious adverse category 1 incidents, if you like?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Crozier for her comments and for her question. Can I again say that I am appreciative of the fact that she and other members are assisting us to expedite the passage of the bill this evening.

In relation to the issue of adverse events, I can advise that the use of the term 'adverse events' is designed to futureproof the amendment against any future change in terminology which may result from changes to incident reporting procedures. The amendment is designed to meet the commission's request for category 1 incident reports. As I have explained, the new requirements to provide category 1 incident reports will also be reflected in a memorandum of understanding that will be entered into between the department and the Commission for Children and Young People so it is clearly understood that what we are talking about are the most serious types of adverse events. The current website lists that information, but as I explained, it has done so on an annualised basis, and what we are proposing to do now is publish numbers

for those category 1 incident reports on a quarterly basis into the future.

Essentially the commission itself is concerned that the terminology might be too broad and that it could effectively be swamped with less important administrative issues that might arise in relation to children in out-of-home care or children in the youth justice system. It is very clear that its preference is that it receives the most serious adverse events, which are category 1 incidents.

To try to explain it in as simple terms as I can, the terminology that is being used is 'category 1 incident reports'. Should that terminology change in the future, obviously the department would need to have discussions with the commission so that the memorandum of understanding (MOU) would reflect that, but the commission is very clear that it is interested in having the most serious adverse events information sent to it.

Ms CROZIER (Southern Metropolitan) — I thank the minister for her response. I am just recalling what is on the website in relation to those category 1 incidents, and we are talking about the most serious, such as child deaths or sexual assault. There are a number of other serious ones, and in relation to the commission receiving that information the minister said that it does not want to be swamped. I can understand that it does not want to be investigating every single incident. For instance, would it be only investigating things like child deaths or sexual assault? What other serious, category 1 incidents would it be responsible for?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Crozier for her further question. The longstanding practice of the department has been to provide these category 1 incident reports for children in out-of-home care, as I explained, on an ad hoc basis. So what is understood by a category 1 incident report is an incident that has resulted in a serious outcome for a client, such as a client death, physical or sexual assault, dangerous behaviour, rioting at a youth justice facility or poor quality of care resulting in significant risk of harm. These are the most serious types of issues relating to children in out-of-home care and also in the youth justice system.

Ms CROZIER (Southern Metropolitan) — Does the minister believe that the commission will need additional resources to undertake this work? I know that the minister is trying not to swamp it with additional work, but the minister has said that the commission has been receiving this data on an ad hoc basis, so if it is more consistent or there are plans for it to be more consistent, does the minister think it will require additional resourcing?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Crozier for her question. I am advised that we do not anticipate that this will lead to a significant additional workload on the commission, given that it is already receiving category 1 incident reports for children in out-of-home care. The number of incident reports for young people in the youth justice system is smaller. I am advised that it has not requested any additional resources, but if it was to make such a request, we would consider that.

Ms CROZIER (Southern Metropolitan) — The performance, assurance and compliance (PAC) monthly reports which were undertaken under the previous government provided data regarding the wellbeing and safety of children and young people, including those category 1 incident reports that the minister has just described as well as reported staff-to-client assaults, any child in out-of-home care or residential care missing or absconding and other data relating to child protection work rate turnovers, sick leave and other aspects relating to staff. Does that performance, assurance and compliance report still exist?

Ms MIKAKOS (Minister for Families and Children) — In terms of the question that the member has posed, I cannot see how that is within scope of the bill that we have before us. The bill we have before us relates in large part to the permanency changes and also to a proposed legislative requirement to send category 1 incident reports to the Commission for Children and Young People. Therefore these are questions that the member would need to pursue through some other vehicle.

Ms CROZIER (Southern Metropolitan) — I thank the minister. I know that the reporting of category 1 incidents and other serious incidents was undertaken through that PAC report, so I was wondering if it still existed or where the additional data was — but I will pursue that as the minister suggests at another time. Can I just therefore ask: in relation to the MOU that will be undertaken when the new commissioner comes into her position with the department, will that be made public?

Ms MIKAKOS (Minister for Families and Children) — I am advised that it is unusual for MOUs of this nature to be public documents. It would obviously need to be something that would need to be consented to by both parties. I am obviously not in a position to give commitments on behalf of the commission, but I just make it clear that it is in fact the

preference of the acting principal commissioner that it be the incoming new commissioner, Ms Buchanan, who will be a signatory to the MOU. That is Mr Vincent's preference, so that is not being delayed for any reason other than the fact that Ms Buchanan commences her new role at the start of April.

Ms CROZIER (Southern Metropolitan) — I appreciate that answer. I have concluded my questions for this clause. I thank the minister. I know this has been time critical and that we are trying to get these issues clarified and cleared up this evening so this bill can be passed. I will conclude on that clause.

Ms SPRINGLE (South Eastern Metropolitan) — My first question also pertains to the adverse events that are outlined in the bill. Why has the government opted to require the department to refer the adverse events to the commission instead of or in addition to restoring the Children's Court's powers of oversight over the department that were lost in the permanent care and other matters reforms?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question. I am a little bit unclear as to what powers she is suggesting the commission has lost.

Ms SPRINGLE (South Eastern Metropolitan) — Why is the minister referring the adverse events to the commission as opposed to restoring some of the powers of the Children's Court so that it can deal with those similar issues?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for that clarification. The commission has a legislative role that is very different from the role of the Children's Court. The Commission for Children and Young People, under its legislation, has a function of looking at system improvements. It reviews these incident reports. We have obviously seen the report that came to the Parliament last year that made recommendations around system improvements. So it is a very different role to the role of the court.

The commitment that I made during the 2014 debate was to ensure that we restored the oversight role that the Children's Court previously had in relation to ensuring under section 276 that the court would need to be satisfied that reasonable services had been provided to children and families before making orders. I just fail to understand the point the member is making, given that the court and the commission have very different roles.

I also make the point that the former principal commissioner of the Commission for Children and Young People, Mr Geary, had raised the issue with me personally of obtaining access to category 1 incident reports for the youth justice system, which had not been provided to the commission in the past. That was a request that I indicated to him I was prepared to consider, and that is why we have put that into the bill before us.

Ms SPRINGLE (South Eastern Metropolitan) — I will turn then to the scrutiny of the legislation. I am keen to know who identified the drafting errors in the Children, Youth and Families (Permanent Care and Other Matters) Act 2014. When were they identified? What is the process for identifying drafting errors in legislation, because I am a little bit astounded that we have got to this point and that has not been picked up until quite recently? Does all the legislation go through a process of auditing to ensure that there are no drafting errors, and why were these drafting errors not identified in time to prevent them becoming law?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question. I am advised that errors and omissions were identified by departmental staff and legal stakeholders, including the Children's Court itself. The errors and omissions were identified over a period of time last year, as well as into the early part of this year, which resulted in the house amendments that were required to be made to the bill in the other place.

At my request the department has undertaken a very consultative process with the Children's Court, with members of the law institute who were briefed and with other members of the legal profession to ensure there are no other issues. Of course the parliamentary counsel is responsible for the drafting of legislation upon receiving instructions from government; that is what would have happened in 2014 with the permanency changes that occurred. If other issues arise, given that the legislation has now begun to operate in practice, there will be an opportunity for those matters to be considered as part of the review that I have announced as well. There has been a process whereby issues have arisen.

Can I just make it clear in terms of the timing that we did have a bill, as the member is well aware, relating to section 276 and restoring the powers to the Children's Court last year. My recollection is that bill came to the Parliament in May and then went through a process with an upper house committee inquiry. There were issues identified that required corrections and omissions before, during and after the passage of the bill.

Ms CROZIER (Southern Metropolitan) — In relation to the category 1 incident reports, can the minister inform the house whether she receives those details? Do they come across her desk? Is that correct?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Crozier for her question. As I have explained previously, the scope of the bill is pretty narrowly confined in its nature. I think the question she has posed is outside the scope of this bill. I think there are other opportunities for her to pursue these types of questions, but she might recall that I addressed this point on a previous occasion in the house.

Ms CROZIER (Southern Metropolitan) — I should have continued with my question. I was just wanting an acknowledgement from the minister, because my question really does go to this bill in relation to the commission reviewing the category 1 reports. My question to the minister is: if the minister receives a report on her desk, what is the mechanism for the commission then to receive that category 1 incident report, and how long does it generally take from the time she receives notification of a category 1 to the time the commission would then receive it?

Ms MIKAKOS (Minister for Families and Children) — My understanding is that the divisions of the Department of Health and Human Services send these category 1 incident reports directly to the Commission for Children and Young People. It is not contingent on any process involving me or my ministerial office.

Ms CROZIER (Southern Metropolitan) — I thank the minister for her answer. Just on that point, so I understand, once a category 1 incident report is received by the department, it is immediately sent across to the commission. Is that what the minister is saying?

Ms MIKAKOS (Minister for Families and Children) — I have just advised that the divisions of my department send the category 1 incident reports directly to the commission within the required time periods.

Ms CROZIER (Southern Metropolitan) — Yes, and they are within the time frames that set out the two-day period if it is a category 2 or sooner if it is a category 1, but I am just trying to ascertain whether the minister receives that information at the same time.

Ms MIKAKOS (Minister for Families and Children) — As I just explained to Ms Crozier, questions relating to my role are outside the scope of this bill. They are issues that she could pursue through other vehicles. I have made it very clear that the commission receives them irrespective of any role involving me or my office.

Mr Ondarchie — On a point of order, Deputy President, Ms Crozier has asked the minister at the table, who is in charge of the committee stage, a very direct question that is apposite to this bit of legislation. What the minister has not done is take the opportunity to answer this question. Instead she has baulked around the answer. I ask you to bring her back to directly answer this, otherwise we are going to be here for a very long time tonight.

The PRESIDENT — Order! That is not a point of order. The minister can answer in whatever fashion he or she feels fit. Whether Mr Ondarchie believes she has answered it to his satisfaction is, quite simply, irrelevant.

Ms CROZIER (Southern Metropolitan) — I put to the minister that we are talking about the Children, Youth and Families Act 2005, which she has responsibility for, and we are talking about the Commission for Children and Young People Act 2012, which is where this information is going to go, so this is, I believe, directly relevant to the minister. I am trying to understand that when the department receives those category 1 reports — and she has confirmed, of course, that within the required time frames that information goes directly to the commission — —

Ms Mikakos — Ask Mary what the process is.

Ms CROZIER — No, I am asking you, Minister. This is a new government. I want the minister to tell me, because she is the responsible minister of the government of the day, whether that information comes directly to her within those time frames as well.

Ms MIKAKOS (Minister for Families and Children) — As I have explained to the member, her question is out of the scope of this bill. She may wish to ask these questions through another vehicle. That is a different matter. She would be aware that I have addressed these issues on a previous occasion in the house, so she could go and consult *Hansard* on this particular issue. I make it very clear that debate on clause 1 of a bill is not intended to be used as an opportunity to ask questions about everything that the member would like to ask questions about. Her questions actually need to be pertinent to the bill we have before us.

Ms CROZIER (Southern Metropolitan) — Deputy President, I do not want to debate this matter, and I will seek guidance from you. We are talking about the

Children, Youth and Families Act, we are talking about the Commission for Children and Young People Act and we are talking about the sharing of data of the most serious kind — category 1 incident reports. Given that the minister is responsible for administering these acts and has a direct responsibility for category 1 incident reports, all I am asking is: if the commission is receiving that information when it arrives within the department, does the minister receive the information? I think it is very relevant to what we are talking about.

The DEPUTY PRESIDENT — Order! I cannot direct a minister on how he or she answers a question.

Ms CROZIER (Southern Metropolitan) — I will leave it at that, then.

Mr ONDARCHIE (Northern Metropolitan) — I wish to make a statement on clause 1, and it is apropos of Ms Crozier's line of questioning to the minister. We should acknowledge in this place that this minister has refused to accept responsibility for the requirements of her portfolio today by dodging and weaving the direct question she has been asked. It was a very simple line of questioning: does she or does she not receive these reports in a timely manner?

Ms Mikakos — Do you even know what this bill is about?

Mr ONDARCHIE — Yes, I do. I wonder if you do. The real matter here is whether the minister accepts responsibility for her portfolio or not. Her dodging and weaving today by not answering Ms Crozier's question, by making a judgement call that this is not an appropriate place to ask these questions on behalf of the people of Victoria, suggests to me that this minister is not up to her portfolio.

The DEPUTY PRESIDENT — Order! I take that as a statement, not a question.

Clause agreed to; clauses 2 to 28 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ROOMING HOUSE OPERATORS BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) on motion of Ms Mikakos; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr DALIDAKIS (Minister for Small Business, Innovation and Trade), Ms Mikakos tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the Rooming House Operators Bill 2015.

In my opinion, the Rooming House Operators Bill 2015, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

1. Overview of the bill

This bill aims to improve the operation of rooming houses by implementing a licensing scheme for rooming house operators. It also introduces various other measures aimed at fostering professionalism and holding rooming house operators to account for their conduct and the conduct of persons involved in the management or operation of their rooming houses, as well as protecting the rights of rooming house residents. The bill makes a number of necessary consequential amendments to other acts.

Pursuant to the licensing scheme established by the bill, in order to lawfully operate a rooming house a person will need to be licensed by the Business Licensing Authority (the authority). Only applicants considered to be 'fit and proper' according to prescribed statutory criteria will be eligible to be licensed by the authority, and it will be an offence to operate a rooming house without a licence.

The bill also establishes a register of rooming house operators with certain information to be made publicly available. It provides necessary powers for the director of Consumer Affairs Victoria (CAV) to monitor and enforce compliance with the licensing scheme, and creates a disciplinary regime that can ultimately result in the cancellation of a licence by order of the Victorian Civil and Administrative Tribunal.

2. Human rights issues

Right to privacy and reputation

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) provides that a person has the right not to have his or her reputation unlawfully attacked.

Several clauses of the bill provide the authority with broad powers to access the private information of individuals in order to determine licence and licence renewal applications and regulate licences. Additionally, the bill provides CAV inspectors with powers of entry, search and seizure that may interfere with the privacy of individuals.

Obtaining, using and sharing the personal information of applicants, licence-holders and their associates

Division 2 of part 3 of the bill sets out the application processes for obtaining a rooming house operator licence, as well as for the renewal of a licence. An application for a licence or renewal must be accompanied by prescribed particulars and evidence, including the consent of the applicant to the authority checking or confirming any information provided by the applicant. Division 3 sets out the process by which the authority may conduct inquiries concerning an application to enable it to be satisfied that the applicant is a fit and proper person to be granted a licence or have a licence renewed, including the power to request further information from the director of CAV, a local council and the Chief Commissioner of Police.

Although the right to privacy is relevant to the provisions governing licence and renewal applications, applicants who are seeking to participate in a regulated industry have a diminished expectation of privacy. The information that will be initially sought by the authority is only information that is necessary for or relevant to the determination of the applications, and any subsequent exercise of the information-gathering powers are a direct consequence of their application.

In assessing whether an applicant for a licence or licence renewal is a fit and proper person, the authority must consider certain private information of all 'relevant persons' who include: in the case of a natural person, the applicant or licensee as well as the person who is the manager or proposed manager of a rooming house; and, in the case of a body corporate, the body corporate as well as the manager or proposed manager and an officer of the body corporate. Following the establishment of the licensing regime, as with the applicants who intend to hold a licence or seek licence renewal, persons who involve themselves in a business operating a rooming house by holding a relevant financial interest or power should be aware of the regulations that will now apply to the industry. Further, each relevant person is required to provide consent for the authority to verify their identity. As such, relevant persons are likely to have a relatively limited expectation of privacy regarding the information obtained and reviewed by the authority in assessing applications.

Given that there is a reduced expectation of privacy in this context, and the applicants and relevant persons will have given their consent for their information to be checked or verified, in my opinion there will be no limitation on the right to privacy or reputation where the relevant information is obtained, reviewed and shared within the confines of the relevant provisions.

Ongoing reporting obligations and inquiry powers

During the course of a licence, the bill requires a licensee to notify the authority within 14 days after becoming aware that the licensee, the manager of the rooming house, or, in the case of a body corporate, an officer of the body corporate, has ceased to be fit and proper because they now meet one or more of the renewal disqualification criteria. A licensee must also notify the authority within 14 days where there is a change to the managers of the rooming house or to officers of the body corporate. It will be an offence to fail to comply with either of these notification obligations.

Upon receiving a notification that a new person has become a manager of a rooming house or an officer of a body corporate licensee, the bill provides the authority with inquiry powers that mirror those powers that apply in the context of assessing initial licence and licence renewal applications, to make sure that similar scrutiny applies where there is a change in personnel with management or control of rooming houses.

Following a notification under clause 22, clause 26 enables the authority to determine whether the new manager or officer meets any of the licence disqualification criteria. The authority must notify both the licensee and the director of CAV of its determination, which may lead to CAV applying to VCAT for a disciplinary hearing. The circumstances in which the mandatory reporting obligations and subsequent inquiry powers apply are clearly set out in the bill, and are aimed at ensuring the licensing scheme operates in a responsive and protective manner. The provisions ensure that managers or officers who have been assessed by the authority as fit and proper for the purpose of obtaining a licence, are not later replaced by unfit persons. For the reasons set out above, to the extent that these provisions could be considered to interfere with a person's privacy, the interference would not constitute an unlawful or arbitrary interference.

Register of licensed rooming house operators

Clause 43 requires the licensing registrar to establish and keep a register of licensed rooming house operators that contains certain prescribed particulars. Clause 44 requires that certain information from the register must also be published on the authority's website. The information to be listed on both the register and the website will include not only information relating to current licence-holders but also information in respect of licences that are cancelled or that the authority has refused to renew (including the grounds on which the licence was cancelled or refused to be renewed).

The purposes of the register include recording necessary information to monitor compliance with the licensing scheme and to allow the authority and CAV to fulfil their obligations. The register will also make information about licence-holders, or former licence-holders, available to the public. This serves the important purpose of promoting transparency, which will in turn assist residents (and agencies acting on their behalf) to make informed decisions about appropriate rooming house placements.

Not all of the information disclosed in the register will be of a private nature. Nevertheless, to the extent that the right to privacy is relevant to the information required to be listed on the register, I believe that any interference with that right is lawful and not arbitrary. The particulars which are to be listed on the register and the website are clearly set out in clauses 43 and 44, and their listing is therefore a known condition of any person seeking to be licensed as a rooming house operator. The collection and publication of information on the register is necessary for and tailored to ensuring compliance with the licensing scheme and promoting transparency, and accordingly does not constitute an arbitrary interference with privacy.

Compliance and enforcement powers of inspectors

Part 6 of the bill provides for the powers of CAV inspectors to monitor compliance and investigate potential contraventions of the bill. Clause 46 requires a licensee to keep all documents relating to the business of operating a rooming house and make them available for inspection at all reasonable times. Former licensees whose licences have been cancelled, expired or refused to be renewed in the last three years must also make all documents relating to the former business of operating a rooming house available for inspection in a form and at a place where they can be readily inspected.

Under clauses 47 and 48, licensees, former licensees, officers of body corporate licensees and third parties who have possession, custody or control of documents relating to a licensee's business of operating a rooming house, can be required to produce documents and answer questions relating to the licensee's business of operating a rooming house. The bill also provides for specified public bodies, certain other specified persons or bodies, and authorised deposit-taking institutions to produce information upon request of an inspector for the purpose of monitoring compliance with the bill or regulations. Clause 54 permits an inspector, with the written approval of the director of CAV, to apply to the Magistrates Court for an order requiring a person to answer questions or supply information relating to a licensee's business of operating a rooming house. Following consideration of evidence, if a magistrate is satisfied that such an order is necessary for the purpose of monitoring compliance with the regime, the magistrate may grant an order requiring supply of information and answers.

The bill also provides for the entry, search and seizure powers of CAV inspectors. Inspectors may exercise powers of entry to any premises with the consent of the occupier, or where entry to the premises is open to the public. In the case of premises at which a licensee is conducting a business of operating a rooming house, inspectors may, for the purpose of monitoring compliance and only between the hours of 9.00 a.m. and 5.00 p.m., enter and search those premises without consent and seize items and inspect or make copies of documents. However, this power does not extend to a room in a rooming house that persons reside in, other than a room in which the rooming house operator resides and from which the operator operates the rooming house. For premises that are not those at which a licensee is conducting the business, where an inspector believes on reasonable grounds that there is evidence on those premises of a contravention of the bill or regulations, inspectors may apply to the Magistrates Court for a search warrant.

In my view, while the exercise of these compliance and enforcement powers may interfere with the privacy of an individual in some cases, any such interference will be lawful and not arbitrary. As noted above, the purpose of the inspection powers is to enforce compliance with the bill and relevant licence conditions, to ensure rooming houses are operated in a safe and professional manner, and the rights of rooming house residents are protected. Licensees and others involved in the business of operating the rooming house have a diminished expectation of privacy in the regulatory context, and it is reasonable that they can be required to produce information and permit entry to business premises for compliance purposes. In the case of persons who are not involved in operating the rooming house, inspectors' powers to require third parties to answer questions or provide information are limited to those individuals who have control over relevant documents and information, or bodies that are likely to hold relevant information, and only for the purpose of monitoring compliance. If it becomes necessary for enforcement purposes to require any other third party to answer questions or produce information, the bill only provides inspectors with these powers where a magistrate has first made an order.

Rooming house residents with fixed-term tenancy agreements

Where an existing rooming house operator fails to obtain a licence or have their licence renewed, the bill provides that the rooming house operator will not commit the offences of operating while unlicensed or representing to be a licensee if the operator gives each resident of the rooming house a 120-day notice to vacate under the Residential Tenancies Act 1997 (RT act). This is to ensure that, where an existing rooming house operator is deemed not to be fit and proper to hold or to renew a rooming house operator licence, affected residents will have an opportunity to secure alternative accommodation prior to the rooming house being closed.

The bill also provides that VCAT may, if it considers it appropriate, order that a rooming house operator give residents of a rooming house run by the operator notices to vacate. Such notices can be for a period of up to 120 days. In recognition of these provisions, the bill inserts new sections 268A and 268B into the RT act to expressly provide for rooming house owners (within the meaning of that act) who have entered into tenancy agreements with a resident to give that resident a notice to vacate, where the rooming house owner has been ordered to do so by VCAT under the bill, or where their application for a licence or renewal of a licence is refused. New sections 290A and 290B of the RT act are inserted to provide for rooming house owners to give persons who live in their rooming houses under residency rights notices to vacate in the same circumstances.

The bill also inserts new section 235(3) into the RT act, to enable residents on fixed-term tenancy agreements who have been issued with a notice to vacate under section 268A or 268B to terminate the agreement after giving 28 days notice of intention to vacate, so that they are not penalised by being required to remain in the rooming house or continuing to pay rent for possibly the full notice to vacate period. New subsection 219(2) will clarify that the effect of a notice under section 268A or section 268B, or subsection 235(3), is to terminate any fixed-term tenancy agreement between parties to the agreement.

Because these provisions will enable a fixed-term tenancy agreement to be terminated prior to the end of the agreed term, the amendments to the RT act may have the effect of interfering with a person's right to their home, as protected by section 13(a) of the charter. However, in my opinion, these provisions do not create an unlawful or arbitrary interference with that right.

First, the limited circumstances in which a fixed-term tenancy agreement will be terminated prior to the end of the agreed term are clearly set out in the provisions and are appropriately circumscribed. Any interference with a resident's home that occurs will therefore be permitted by law. Further, the provisions are not arbitrary as they are for legitimate purposes that are relevant to and necessary for the proper operation of the licensing regime. The provisions seek to balance the competing objectives of respecting individual residents'

existing rights to occupy their rooms in a rooming house, and the broader protection of the rights of rooming house residents collectively through the introduction of an effective and robust licensing scheme. If unsuitable rooming house operators were able to avoid being forced to cease operation for the duration of existing fixed-term tenancy agreements, this would potentially place vulnerable residents at risk and undermine the proper functioning of the licensing regime.

For the same reasons, to the extent that these provisions which have the capacity to alter contractual arrangements between two parties may constitute a deprivation of property, the clauses of the bill clearly and precisely formulate the circumstances in which the deprivation of property will occur. As such, in my view there is no limitation of the property right that is protected by section 20 of the charter, because any deprivation of property would be in accordance with law.

Therefore, the provisions in the bill that enable the termination of fixed-term tenancy agreements are compatible with the charter.

Right to property

A number of provisions in the bill provide for the seizure of documents and things and may therefore interfere with the right to property. Section 20 of the charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

Search and seizure powers of inspectors

The bill provides that CAV inspectors may, for the purpose of monitoring compliance, enter any premises with consent and examine and seize anything found on the premises believed to be connected with a contravention of the bill or regulations, provided the occupier consents to the seizure. The bill also provides, in the case of premises at which a licensee is conducting a business of operating a rooming house, that an inspector may enter and seize or secure against interference anything believed to be connected with a contravention of the bill or regulations. In addition, seizure of items may occur in accordance with a search warrant issued by a magistrate where there are reasonable grounds to believe that there is a thing connected with the contravention of the bill or regulations on any premises.

In each provision that permits inspectors to seize or take items or documents, the powers of inspectors are strictly confined. For instance, before items are seized with consent, inspectors must first inform the occupier that they may refuse to give consent and that anything that is seized may be used in evidence. Where a magistrate issues a search warrant, only things named or described in the warrant, or things that are of a kind which could have been included in the search warrant, are permitted to be seized, and the rules in the Magistrates' Court Act 1989 that govern the use of search warrants will apply. Entry and seizure without consent or warrant is only permitted in the case of premises at which a licensee is conducting a business of operating a rooming house, and the powers of inspectors are appropriately circumscribed to only permit seizure of, or secure against interference, material necessary to investigate breaches of the bill.

Embargo notices

Where a search warrant authorises the seizure of a thing that cannot, or cannot readily, be physically removed, clause 63 of the bill provides for an inspector to issue an embargo notice prohibiting a person from selling, leasing, transferring, moving, disposing of or otherwise dealing with the thing or any part of the thing. Performing a prohibited act in relation to a thing, where a person knows that an embargo notice relates to the thing, is an offence. Further, the bill renders any sale, lease, transfer or other dealing with a thing in contravention of clause 63 void.

The bill enables an inspector, for the purpose of monitoring compliance with an embargo notice, to apply to the Magistrates Court for an order requiring the owner of the thing, or the owner of the premises where it is kept, to answer questions or produce documents, or any other order incidental to or necessary for monitoring compliance with the embargo notice or clause 63. An inspector may also, with the written approval of the director of CAV, apply to a magistrate for the issuing of a search warrant permitting entry to where the embargoed thing is kept, for the purposes of monitoring compliance with an embargo notice.

To the extent that the restriction on selling, leasing, transferring, moving, disposing of or otherwise dealing with the thing that is subject to an embargo notice constitutes a deprivation of property, any such deprivation is for the purposes of ensuring that enforcement action under the bill is not frustrated due to disposal of evidence. These restrictions can only occur in clearly circumscribed circumstances, and monitoring of compliance with embargo notices is subject to the supervision of the Magistrates Court. Any such deprivation will therefore be lawful and will not limit section 20 of the charter.

Requirements for retention and return of seized documents or things

Clause 66 of the bill imposes a number of requirements that inspectors must comply with where they have retained possession of a document or item in accordance with any of the seizure or retention powers conferred by the bill. These requirements will ensure that a person is provided with a certified copy of any documents seized or taken from them, and that inspectors take reasonable steps to return documents or things to the person from whom it was seized either if the reason for their seizure no longer exists, or in any event return them within three months unless an extension is granted by a magistrate.

In my opinion, for the reasons outlined above, any interference with property occasioned by the bill is in accordance with law and is therefore compatible with the charter.

Right not to be punished more than once

Section 26 of the charter provides that a person has the right not to be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

Clauses 17 and 18 of the bill set out the disqualification criteria for rooming house operator licence applications and renewal applications. According to these criteria, an applicant is disqualified from being eligible for a licence in circumstances including where a relevant person has

previously been convicted or found guilty of certain specified offences.

The right in section 26 of the charter has been interpreted as applying only to punishments of a criminal nature and does not preclude the imposition of civil consequences for the same conduct.

I do not consider that the consequences under these clauses are punitive so as to engage section 26. Their purpose is not to punish the convicted person, but to protect rooming house residents and the integrity of the licensing regime by ensuring that only appropriate persons are able to hold licences. Disqualification is based solely upon the fact of a conviction or finding of guilt for particular kinds of offences, rather than a consideration of the individual offending of the relevant person. However, the kind of offending which is caught is either the standard criteria employed across a number of occupational licensing schemes regulated by the authority (modified slightly to encompass a larger number of offences to reflect the vulnerability of many rooming house residents) and other laws that impose specific obligations on persons who operate rooming houses. These provisions are therefore targeted at, and consistent with, the purpose of establishing the licensing scheme, namely to professionalise the rooming house sector by ensuring that no unfit persons are granted licences and to protect the rights of rooming house residents.

Accordingly, I am of the opinion that the disqualification criteria are compatible with the right in section 26 of the charter.

Clause 33 provides for VCAT to take disciplinary action against a licensee. Such action can be taken where VCAT is satisfied that a relevant person has contravened the bill or regulations, including where a person has been convicted or found guilty of an offence. Where an action under clause 33 follows a conviction for an offence under another provision, a question arises as to whether a disciplinary action constitutes double punishment for the purposes of the right in section 26 of the charter.

The actions that may be taken by VCAT under clause 33 are of a regulatory nature and are for the purpose of protecting the integrity of the licensing scheme and the rights of rooming house residents by ensuring there is appropriate accountability, rather than being aimed at punishing the licensee. VCAT's powers under the bill are supervisory and protective in nature and any such disciplinary action under the bill does not amount to a finding of criminal guilt. Further, even if some of the actions that may be taken against a licensee under clause 33 amount to a sanction, those sanctions are not of a criminal nature and the right in section 26 of the charter does not preclude imposition of civil consequences for the same conduct.

I therefore consider that clause 33 does not engage section 26 of the charter.

Presumption of innocence — reverse onus

The right in s 25(1) of the charter is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

Clause 68(2) of the bill makes it an offence for the occupier of a premises where an inspector is exercising a right of entry for compliance enforcement purposes, or an agent or employee of the occupier, to, without reasonable excuse, refuse to comply with a requirement of the inspector. These requirements include giving oral or written information to the inspector, producing documents to the inspector, and giving reasonable assistance to the inspector.

By creating a 'reasonable excuse' exception, the offence in clause 68 may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as to a reasonable excuse. However, in doing so, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution who must prove the essential elements of the offence. I do not consider that an evidential onus such as this provision limits the right to be presumed innocent, and courts in other jurisdictions have taken this approach.

For these reasons, in my opinion, clause 68 does not limit the right to be presumed innocent.

Right to protection against self-incrimination

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt. This right is at least as broad as the common-law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid.

The right in section 25(2)(k) of the charter is relevant to clause 72, which applies to the enforcement powers of CAV inspectors provided by part 6 of the bill.

Clause 72 provides that it is a reasonable excuse for a person to refuse or fail to give information or do any other thing that the person is required to do under part 6, if the giving of the information or the doing of the thing would tend to incriminate the person. However, this protection does not apply to the production of a document that the person is required to produce under part 6, and is therefore a limited abrogation of the privilege against self-incrimination.

The privilege against self-incrimination generally covers the compulsion of documents or things which might incriminate a person. However, the application of the privilege to pre-existing documents is considerably weaker than that accorded to oral testimony or documents that are required to be brought into existence to comply with a request for information. I note that some jurisdictions have regarded an order to hand over existing documents as not constituting self-incrimination.

The primary purpose of the abrogation of the privilege in relation to documents is to facilitate compliance with the scheme by assisting inspectors to access information and evidence that is difficult or impossible to ascertain by alternative evidentiary means. Taking into account the protective purpose of the bill, there is significant public interest in ensuring that rooming houses are being operated in compliance with the provisions of the bill and the regulations.

There is no accompanying 'use immunity' that restricts the use of the produced documents to particular proceedings. However, any limitation on the right in section 25(2)(k) that is occasioned by the limited abrogation of the privilege in

respect of produced documents is directly related to its purpose. The documents that an inspector can require to be produced are those connected with a licensee's business of operating a rooming house, and for the purpose of monitoring compliance with the bill or regulations. Importantly, the requirement to produce a document to an inspector does not extend to having to explain or account for the information contained in that document. If such an explanation would tend to incriminate, the privilege would still be available.

Further, clause 46 of the bill creates an obligation for licensees to keep all documents relating to the business available for inspection, and for former licensees to make documents relating to the former business available for inspection. The duty to provide those documents is consistent with the reasonable expectations of persons who operate a business within a regulated scheme. Moreover, it is necessary for the regulator to have access to documents to ensure the effective administration of the regulatory scheme.

There are no less restrictive means available to achieve the purpose of enabling inspectors to have access to relevant documents. To excuse the production of such documents where a contravention is suspected would allow persons to circumvent the record-keeping obligations in the bill and significantly impede authorised officers' ability to investigate and enforce compliance with the scheme. Any limitation on the right against self-incrimination is therefore appropriately tailored and the least restrictive means to achieve the regulatory purpose.

For the above reasons, I consider that to the extent that clause 72 may impose a limitation on the right against self-incrimination, that limitation is reasonable and justified under section 7(2) of the charter.

Right to a fair hearing

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Clause 33 of the bill provides for disciplinary powers of VCAT where there are grounds for taking action against a licensee, including the power to impose on a licensee who has contravened the bill or regulations a financial penalty of up to $10 000. Where VCAT has ordered a licensee to pay a penalty, and the licensee fails to pay the penalty within a prescribed time limit, subclause 33(4) provides that VCAT may cancel the licence without giving the licensee an opportunity to be heard.

The right to a fair hearing under section 24(1) of the charter is therefore relevant; however, in all of the circumstances, I am of the opinion that this clause does not limit the right to a fair hearing.

First, the licensee will have previously had an opportunity to be heard during the disciplinary proceeding and to make submissions on the appropriate sanction. Further, when determining to impose a penalty payment, VCAT must specify in the order by which date the penalty must be paid, and the possibility of cancellation in the event of non-payment is clearly set out in the provision. The bill therefore ensures the licensee has clear and effective notice of both when the penalty must be paid, and the consequences of non-payment. Finally, subclause 33(4) does not operate to automatically cancel a licence in the event of non-payment of a penalty. VCAT, which is itself bound by the rules of natural justice, will retain discretion to determine whether or not to cancel a licence. These safeguards ensure there will be no unfairness in the operation of the provision, notwithstanding the absence of a further hearing.

I therefore consider that this clause does not limit the right to a fair hearing.

Equality

Section 8(3) of the charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

Clauses 17(1)(d) and 18(1)(b)(iii) of the bill disqualify a person from obtaining or renewing a licence on the grounds that they are a represented person within the meaning of the Guardianship and Administration Act 1986 (guardianship act). A represented person is a person subject to a guardianship or administration order under the guardianship act. Persons subject to such orders are persons with disabilities who are unable to make reasonable judgements about certain matters.

In my view, these disqualification criteria do not limit the right to equality. A represented person is disqualified under clauses 17 and 18 of the bill because of his or her inability to make reasonable judgements about certain matters, rather than because of his or her disability. The provisions recognise the fact that a represented person cannot carry out the functions required of a rooming house operator licence-holder.

Accordingly, clauses 17 and 18 do not discriminate against represented persons.

Protection of families and children

In recent years, there has been a significant growth in the number of people who would previously have rented privately residing in rooming houses, including families. By creating a regime to foster professionalism and accountability in the operation of rooming houses, the bill may promote the right in section 17 of the charter. Section 17 provides that families are entitled to be protected by society and the state, and that every child has the right to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

The bill also protects residents of rooming houses, including families, where disciplinary action is taken against licensees. For example, in the event that VCAT orders the cancellation of a licence, clause 34 allows VCAT to make orders necessary to protect residents of the rooming house. These powers will enable VCAT to ameliorate the effect on residents of a licence being cancelled and the rooming house either being closed or a different licensee being installed to operate the rooming house.

Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms MIKAKOS (Minister for Families and Children).

Ms MIKAKOS (Minister for Families and Children) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In 2014, the now Premier made an election commitment to, if elected, legislate a 'fit and proper person' test for rooming house operators, to be administered by the Business Licensing Authority.

This bill delivers on that commitment.

I would like, first, to provide some context for the bill.

Members may not be aware that currently there are no laws regulating who can and cannot operate a rooming house.

This means that, provided that a person has the legal capacity to either lease or buy residential premises, he or she is able to operate a rooming house from that premises, subject to its being registered with the relevant local council and meeting assorted other legal requirements.

In 2009, the Brumby government established the Rooming House Standards Taskforce as part of its stated 'strategy to take action on those predatory operators of intentionally substandard rooming houses who prey on some of the most vulnerable members of our community'.

The task force was asked to report on solutions for problems associated with poor quality rooming house accommodation and services.

In its September 2009 report to government, the task force expressed serious concern about the manner in which some rooming houses were being operated.

It had found evidence of some rooming house operators: overcrowding rooms, in breach of public health laws; undertaking illegal building works, to facilitate the housing of larger numbers of residents; profiteering (i.e. seeking excessive rents) and engaging in other poor management practices; and not maintaining premises in adequate repair, resulting in squalid conditions.

The task force made 32 recommendations on ways to improve rooming house accommodation and services in Victoria.

A key recommendation was for rooming house operators to be registered by the state, as a means of driving improved professionalism and reducing exploitative practices in the rooming house sector.

This bill will address that recommendation, and similar recommendations made to government by parties as diverse as a Victorian coroner, and housing and social advocacy organisations.

I turn now to the features of the bill.

In essence, the bill establishes a licensing scheme for rooming house operators under which only 'fit and proper persons' will be eligible to be licensed, or have existing licences renewed.

It will be an offence, attracting significant penalties, to operate without a licence.

The term 'rooming house operator' is defined in the bill to be a natural person who, or a body corporate that, conducts the business of operating a rooming house, whether or not the rooming house operator owns the property on which the rooming house is located.

As I foreshadowed, the Business Licensing Authority will be responsible for determining licence and licence renewal applications, and the scheme will be enforced by the director of Consumer Affairs Victoria.

The question of whether an applicant is a 'fit and proper person' under the bill — and therefore eligible to be licensed — will be determined by reference to a set number of objective criteria, known respectively as the 'licence disqualification criteria' and 'renewal disqualification criteria'.

Importantly, an applicant for a licence or licence renewal will not be a fit and proper person if it, or any person it engages to manage a rooming house on its behalf, or any of its officers (if the applicant is a body corporate) meets any of the licence disqualification criteria or renewal disqualification criteria, as the case may be.

I would now like to consider in greater detail the licence and renewal disqualification criteria.

Consistent with other occupational licensing schemes administered by the authority, the criteria will ensure that persons who have convictions for certain serious offences, for example, offences involving drugs, violence or dishonesty, are not eligible to be licensed, where those convictions were recorded in the 10 years preceding an application for a licence.

Convictions for other serious offences, including sexual and child pornography offences, will also preclude a person from obtaining a licence, in recognition of the heightened vulnerability of many rooming house residents.

Importantly, the criteria also address what has become a key problem in the rooming house sector, namely: the continued refusal of some rooming house operators to comply with their legal obligations.

Where a court has found that there has been a contravention of specific rooming house-related laws within the preceding five years, a rooming house operator will not be eligible to be licensed. Where this has occurred during the course of a licence, a licensee will not be eligible to have their licence renewed.

This aspect of the licence and renewal disqualification criteria is designed to send a signal that continued recalcitrance on the part of some operators in this sector to meet clear legal requirements will no longer be tolerated.

Once a person or entity is licensed under the bill, that person or entity will have an ongoing obligation to notify the authority when a person becomes, or ceases to be, an officer of the entity or a manager of a rooming house it operates.

When the authority is notified that a new manager or officer has been installed by a licensee, the authority will undertake enquiries to determine whether that person meets any of the licence disqualification criteria, and notify the director of Consumer Affairs Victoria of the results of those enquiries.

Significant penalties will apply to a failure to notify the authority of any such changes, as well as to the failure to remove a new officer, or ensure that a new manager ceases to take part in the management of a rooming house, in circumstances where the authority has determined that the new officer or manager meets the disqualification criteria.

To assist the director of Consumer Affairs Victoria to enforce compliance with the licensing scheme, the bill includes a suite of enforcement powers. Search powers have been provided, although care has been taken to ensure that these powers will be exercised consistently with the rights of rooming house residents.

The bill provides wide grounds on which the director of Consumer Affairs Victoria may instigate proceedings at the Victorian Civil and Administrative Tribunal to take disciplinary action against a licensee.

In most circumstances, the tribunal will have the discretion to make whatever disciplinary order it considers appropriate in respect of a licensee.

However, the tribunal will be required to cancel a licence where it is established that a relevant person in relation to a licence (that is, the licensee itself or one of its officers or managers) meets a licence disqualification criteria or renewal disqualification criteria, as the case may be.

A person whose application for a licence or renewal of a licence is refused will be able to apply to the tribunal for a review of that decision. However, an application for review may be made only on the grounds that there has been an error of fact in relation to whether the licence or renewal disqualification criteria have been met.

Where a licensed rooming house operator's application to renew a licence fails, the director will be able to apply to the tribunal for 'protective orders' for the benefit of residents of their rooming house.

Such orders can also be made if the tribunal cancels a licence during a disciplinary hearing under the bill.

The bill recognises that, where an existing rooming house operator's application for a licence is refused, or where a licensed operator's renewal application fails, there is a need to provide for an orderly process by which residents of the operator's rooming house can vacate the premises.

Accordingly, the bill enables an operator in these circumstances to serve notices to vacate on residents of their rooming house. Residents will be given 120 days to vacate, and during this time, an operator cannot be prosecuted for operating a rooming house without a licence. The tribunal will have similar powers to order an operator to give residents notices to vacate.

In some cases, rooming house residents who are given notices to vacate by an operator will have entered into fixed-term tenancy agreements with that operator. In these circumstances, the effect of the notice to vacate will be to terminate the residents' fixed-term tenancy agreements. A resident on a fixed-term tenancy agreement who is given such a notice will not be obliged to remain in the rooming house for the notice's duration, as they will have the power to give the operator their own notice of intention to vacate in 28 days.

Although this is a departure from the normal legal position that a fixed-term tenancy agreement can only be terminated before its expiry date in specific circumstances, it is necessary to preserve the integrity of the licensing scheme established by the bill, which is designed to ensure that persons who cannot obtain or renew a licence do not continue to operate rooming houses.

The bill also provides for the establishment of a register of licensed rooming house operators, and enables the names of those persons to be published on the internet. This is designed to make the people who operate rooming houses transparent. It should be noted, however, that operators will be able to apply, where exceptional circumstances exist, to have their details suppressed from public view.

The transition of existing rooming house operators from an unregulated to a licensed environment is dealt with through transitional provisions giving existing rooming house operators a period of 120 days — from the date the bill commences — in which to apply for a licence.

Existing rooming house operators will be provided with ample time to understand the new scheme, before it comes into operation, to enable them to determine whether they wish to exit the sector or reorganise their affairs to ensure they are eligible to be granted a licence.

The bill provides that licences will be granted for an initial period of three years. If a licensee wishes to continue operating legally, the licensee must apply for renewal of the licence. A renewal may be granted for between three and five years, at the authority's discretion.

Licences will be personal to a licensee, which means they cannot be transferred to another person.

Importantly, a licence will not be linked to any particular premises which a licensee has registered with local government. A licensee may operate multiple rooming houses under the one licence.

Accordingly, in order to operate legally rooming house operators will be required to register their premises with local government as well as obtain a licence under this bill, issued by the authority.

This bill is an important step towards improving community confidence that persons who operate rooming houses meet minimum standards of personal and financial probity.

For rooming house residents, it is my sincere hope that this bill will improve your experience of living in a rooming house in the state of Victoria.

I commend the bill to the house.

I wish to make a statement in respect of amendments that were made in the other place. The bill was passed

in the Legislative Assembly on 10 March 2016 with amendments. The principal purpose of the amendments is to clarify the interaction of the bill with the termination provisions in part 6 of the Residential Tenancies Act 1997.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 17 March.

NATIONAL ELECTRICITY (VICTORIA) FURTHER AMENDMENT BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Ms PULFORD (Minister for Agriculture) on motion of Ms Mikakos; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms PULFORD (Minister for Agriculture), Ms Mikakos tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the National Electricity (Victoria) Further Amendment Bill 2015.

In my opinion, the National Electricity (Victoria) Further Amendment Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill will amend the National Electricity (Victoria) Act 2015 (the act) to apply the framework set out in chapter 5A of the National Electricity Rules. That chapter governs the process by which electricity distributors connect small customers to the electricity grid. The bill also inserts a regulation making power into the act, including the power to make Victoria-specific provisions for the connection of distribution units and the undergrounding, relocation, modification or removal of electricity distribution systems.

Human rights issues

There are no human rights protected under the charter that are relevant to this bill. I therefore consider that this bill is compatible with the charter.

Jaala Pulford, MLC
Minister for Agriculture
Minister for Regional Development

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms MIKAKOS (Minister for Families and Children).

Ms MIKAKOS (Minister for Families and Children) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Renewable energy has an important role to play in supporting customers to take action to reduce their energy bills. Over recent years we have seen a significant uptake of solar panels at a household, small business and commercial level, with over 245 000 systems now installed across the state with a total generation capacity over 700 megawatts. Consumers and businesses generating their own power locally have benefited from bill reductions from feed-in tariffs for energy exports to the grid, as well as by avoiding paying for grid-supplied power during times their systems are generating power.

The government supports the growth of small-scale renewable energy projects, including rooftop solar panels, community wind farms, small solar farms and waste-to-energy facilities and is committed to reducing barriers to the development of local renewable energy generation.

One of these barriers is the complexity of the current process to connect small-scale renewable energy generation to the electricity grid.

Electricity distributors own and manage the electricity poles and wires which deliver power to homes and businesses across the state. Electricity distributors are required to connect customers, including small-scale renewable energy generation proponents, to the electricity grid. However, the existing arrangements governing the process for connection are overly complex, lack transparency and are not customer friendly.

The bill will help address this issue. The bill will amend the National Electricity (Victoria) Act 2005, to apply in Victoria, a new framework governing the process for connecting small customers, including small-scale renewable energy generation proponents, to the electricity grid.

This framework is set out in chapter 5A of the National Electricity Rules and is a framework which already applies in other States and territories which participate in the national electricity market.

This national electricity connections framework will provide greater clarity regarding the information that must be exchanged between an electricity distributor and customer to enable a connection to occur. Electricity distributors will be required to respond to, and process, requests for connection in a more timely manner. Standard terms and conditions for connection must be published by each electricity distributor and these terms and conditions must be approved by the national energy sector regulator, the Australian Energy Regulator. If a dispute arises between a person wishing to connect to the electricity grid and his or her electricity distributor, that person will be able to access a formal dispute

resolution process. The Australian Energy Regulator will be responsible for monitoring and enforcing electricity distributor compliance with the new framework.

In short, this bill will enable connection to the electricity grid which is more transparent, timely and customer friendly.

Existing aspects of the Victorian framework that are not captured by the national electricity connections framework but are important to retain through measures are also contained in the bill. These are the obligation on electricity distributors to offer to underground, relocate, modify or remove distribution assets if requested to do so, and the obligation to call for competitive tenders to perform construction works associated with new connections. The bill will allow for regulations to be made in relation to these obligations and for the Australian Energy Regulator to also be responsible for enforcement of these regulations.

I commend the bill to the house.

Debate adjourned for Mr DRUM (Northern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 17 March.

VICTORIA POLICE AMENDMENT (MERIT-BASED TRANSFER) BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Mr HERBERT (Minister for Training and Skills) on motion of Ms Mikakos; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Ms Mikakos tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter act'), I make this statement of compatibility with respect to the Victoria Police Amendment (Merit-based Transfer) Bill 2016 (the bill).

In my opinion, the bill, as introduced to the Legislative Council, is compatible with human rights as set out in the charter because no human rights protected by the charter act are relevant to the bill.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms MIKAKOS (Minister for Families and Children).

Ms MIKAKOS (Minister for Families and Children) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill facilitates merit-based transfer of police officers to country general duties positions. This bill provides the legislative instrument to ensure important reforms agreed between Victoria Police and the Police Association as part of the enterprise agreement commence.

Victoria's hardworking general duties police officers are the front line to the justice system. They can be seen across Victoria each day and night working the divisional vans and at police stations across Victoria. General duties officers are our first responders. They protect our community, keep us safe, investigate and prevent crime and uphold the law.

All general duties positions are currently filled via an expression of interest process. In effect, the police officer at the top of the list gets the job.

As part of the 2015 police enterprise bargaining agreement, the chief commissioner and the Police Association agreed that general duties constable and senior constable positions at country locations should be filled via a merit-based selection process. This reform needs to be supported by legislative amendment to the Victoria Police Act 2013, which this bill delivers.

This important service delivery reform will reward performance and, along with other agreed reforms, facilitate a better spread of police expertise across the state.

The bill complements work being done to respond to recent reports into sexual predatory behaviour and sexual discrimination within Victoria Police.

These IBAC and VEOHRC reports identify several factors that enable predatory behaviour by rural police officers and contribute to poor workplace culture, including:

- the inability to attract and retain staff from outside the immediate area;
- the inability to periodically refresh supervisors and managers; and
- the low proportion of female supervisors and managers in rural areas (only 11 per cent).

The bill will allow merit-based transfer for general duties country positions to proceed under the Victoria Police Act 2013. The bill will also remove any barrier to unsuccessful applicants appealing the decision to the Police Registration and Services Board. These transfer and appeal processes are consistent with merit-based processes currently used for sergeant, senior sergeant and inspector positions. The

independent appeal processes promote confidence in Victoria Police merit-based selection processes.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 17 March.

OCCUPATIONAL LICENSING NATIONAL LAW REPEAL BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Special Minister of State) on motion of Ms Mikakos; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr JENNINGS (Special Minister of State), Ms Mikakos tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the Occupational Licensing National Law Repeal Bill 2015 (the bill).

In my opinion, the bill, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill gives effect in Victoria to the decision of the Council of Australian Governments to no longer proceed with the National Occupational Licensing System reform and to disestablish the National Occupational Licensing Authority.

Human rights issues

There are no human rights protected under the charter that are relevant to this bill. I therefore consider that this bill is compatible with the charter.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms MIKAKOS (Minister for Families and Children).

Ms MIKAKOS (Minister for Families and Children) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill gives effect in Victoria to the decision of the Council of Australian Governments to terminate the national occupational licensing reform in favour of jurisdictions minimising licensing impediments to labour mobility. However, this should not be taken as a signal that this government is not committed to sensible and practical reforms to make it easier for Victorian and interstate licensees to move across borders for work and for Victorian businesses to access skilled workers. The government will continue to work with business and other stakeholders to identify and implement such reforms.

The Occupational Licensing National Law Repeal Bill 2015 repeals the Occupational Licensing National Law Act 2010 and dissolves the national entities that have been established under the Occupational Licensing National Law. The bill also provides for the necessary savings and transitional arrangements consequent to that dissolution.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 17 March.

ADJOURNMENT

Ms MIKAKOS (Minister for Families and Children) — I move:

That the house do now adjourn.

Goulburn Valley Health helipad

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Health and Minister for Ambulance Services, and it concerns helipad access and planning controls regarding the helicopter flight path at Goulburn Valley Health (GV Health) in Shepparton. The action I seek from the minister is a commitment of funding for the immediate and full redevelopment of Goulburn Valley Health, including provisions for a new helipad as well as an amendment of planning overlays to include the new planning control for helicopter flight paths.

A helicopter has not landed on the GV Health helipad for many years, due to the unsafe conditions created by the construction of two-storey units beside the hospital and lighting towers in the hospital car park. The government recently initiated changes to planning controls to protect helicopter flight paths for six hospitals, with only one of these being in regional Victoria and none in northern Victoria.

Hospital helicopter flight path protection is a big issue across Victoria, not just in metropolitan Melbourne. These new planning controls must be extended to hospitals in northern Victoria, with the highest priority

given to Goulburn Valley Health. Due to an unusable helipad, GV Health patient transport helicopters currently are forced to land at the Shepparton Airport, with patients then loaded into an ambulance for transportation by road, or patients are unloaded from an ambulance into either a helicopter or fixed-wing air ambulance. The travel distance to the airport is approximately 7.6 kilometres through the Shepparton CBD, at least 12 sets of traffic lights, a rail crossing and a school crossing. This means delays for patients because of wasted travel time and time taken loading patients in and out of the road ambulance and air ambulance.

I am advised that the transfer from the hospital in Graham Street to the airport adds at least half an hour to the total transport time. It is also more likely that because the transfer takes part at the airport Ambulance Victoria will choose to transfer by fixed-wing aircraft rather than a helicopter, which adds additional transfer time at the Melbourne end of the trip, with a further road transfer needed between Essendon Airport and the hospital.

When the Bell 412 helicopter was launched in 2001 the then Labor Minister for Health, John Thwaites, stated that the helicopter transfer would save 90 minutes in travel time between Shepparton and Melbourne. Reduced travel times for patients in a critical condition and reduced handling for patients with spinal injuries are just two reasons why direct transfers from trauma unit to trauma unit by helicopter are imperative. Minister Thwaites said that the 'time-critical service backed up by expert crew can save lives'.

In a review of trauma and emergency services in Victoria undertaken in 1999, helicopter access to regional trauma services such as GV Health was listed as 'essential'. As far back as 2004 talk of a redevelopment of GV Health was used in conjunction with the future of the helipad. Twelve years later it is time for this government to immediately commit funding for a complete redevelopment of GV Health's Shepparton hospital, including a new helipad.

Elevated rail proposal

Mr MULINO (Eastern Victoria) — My adjournment matter is for the Minister for Public Transport. It relates to a matter that I have already raised this week, and hopefully this is a refinement and improvement of that matter. The action I seek is for the Minister for Public Transport to provide an analysis in relation to submissions and statements that have been made by a number of stakeholders in relation to the removal of level crossings along the Caulfield to Dandenong line, in particular those submissions coming from a number of transport bodies, such as the RACV, Bus Association Victoria, Bicycle Network, Victoria Walks and the Public Transport Users Association. I would be interested in an analysis of what reasons underpinned each of those important stakeholders supporting the proposed approach and in particular which benefits will be directly relevant to people living in my electorate, including in Pakenham and possibly also those along the Gippsland line.

Those nine level crossings are outside my electorate, but many people on the Pakenham line travel into the city and will benefit from their removal. I have talked to many people in my electorate about this, and there is a great deal of support for this project, because travel times and reliability for people who travel into the city from my electorate are important issues. I am interested in an analysis from the minister, in terms of both any analysis that she can add from her department but also an analysis that is relevant to the submissions made by those peak bodies in relation to issues such as reliability, which is clearly a relevant aspect of travel; travel time, which may fall in some instances, particularly during peak time; and frequency of travel, which obviously is important in that it gives more options.

This is clearly going to be an issue that this house debates often over the next two years, and I am glad of that. I think the more information that comes out about it, the better it will be. I want to be in a position to provide more information to people in my electorate as to the benefits that will arise for them, and I look forward to the minister's response.

The PRESIDENT — Order! What was the action that Mr Mulino sought?

Mr MULINO — To provide analysis in relation to the benefits for users on trains from my electorate into the city.

The Strand, Williamstown, toilet facilities

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Environment, Climate Change and Water. I do not know if many members of this house get down to Williamstown. I know that Ms Lovell is very fond of Williamstown, being a former resident of Williamstown, and the President indicates he is a regular down there. Indeed it is a magnificent place.

The Strand in Williamstown in fact is one of the more beautiful streets in what is a beautiful city. In fact I had

lunch at a restaurant of the same name last Saturday, and it was superb. Overlooking the bay, it provides the best view of our city possible from anywhere in Melbourne. It is well worth the trip just for that alone.

The fine weather, which we have had up until today, attracts walkers, cyclists and picnicking families, and that is where the problem begins, because when people gather there will be a need from time to time for public conveniences. I have myself from time to time had the need to visit the public conveniences down on The Strand in Williamstown. There is only one set of public conveniences on The Strand, and let me tell you, they are a disgrace. They are an absolute disgrace.

Honourable members interjecting.

Mr FINN — This is to the minister because it is the responsibility of Parks Victoria. The state of these toilets has been not good for a very long time. In fact I am told by some that the appalling state of these toilets goes back to the 1960s.

Mr Ondarchie interjected.

Mr FINN — Yes, indeed they are, Mr Ondarchie. It is time, I think, for the minister to step in and to upgrade the conveniences on The Strand. Just because it is in a safe Labor seat does not mean that it should be ignored.

Mr Ondarchie — A safe seat.

Mr FINN — A safe seat indeed, and it has the same impact on you. I am asking the minister to provide the wherewithal to upgrade the toilets on The Strand in Williamstown and make The Strand a more complete experience for those visiting what is a wonderful part of Melbourne.

Firearms

Mr BOURMAN (Eastern Victoria) — My adjournment matter is for the Acting Minister for Police. As law-abiding firearm owners we have to put up with a lot of regulation of our chosen recreation. Some of the regulations are laughable; they cannot have any basis in reality and are clearly aimed at discouraging participation. Having said that, some regulations are actually reasonable. In my opinion the safe storage of our firearms is one of those regulations. There are standards listed in the Firearms Act 1996 for the various categories of firearms with regard to the construction of their receptacles, though most people exceed those standards and buy a safe that far exceeds the requirements for the category of their firearms licence.

So it is with some consternation that I am seeing police officers not from the media unit making repeated connections between law-abiding firearm owners and criminal activity. The comments smell of attempts by unelected bureaucrats to influence policy. The action I seek is that the minister ask police command to reign in the bureaucrats and keep the policymaking where it belongs — in this place.

Planning buffer zones

Mr RAMSAY (Western Victoria) — My action is for the Minister for Planning, who might want the Minister for Regional Development to assist. An operating quarry at Gheringhap is planning to build a $40 million landfill, recycling and green waste centre near several grazing farms that local families have been running for several generations. The current Victorian planning law allows for a 500-metre buffer zone, and that would actually overarch into these farming properties and take away their rights to farm their land.

I have raised a similar situation in this house before in relation to a poultry farm that also requires a 500-metre buffer zone, and that actually goes outside the ownership of the land where the poultry farm is situated and into neighbouring farms. This actually restricts their ability to do things other than farm on those properties, and subdivision is one of those things because of these buffer zones.

In this particular case there is a proposal for this quarry to be used as landfill, and the requirement for a 500-metre buffer zone actually impacts significantly on the neighbouring properties. My action for the minister is that he look at this case and look at the other cases I have brought to this house before in relation to whether the 500-metre buffer zones are actually appropriate or whether we should move towards buffer zones that are within the boundaries of the properties themselves — whether it is intensive industries like poultry or quarries, tips or other industries that require these buffer zones.

South Australia is a classic case where there are only 200-metre buffer zones, so the industry can be placed within the buffer zone boundary of the land and not affect neighbouring properties. I think this is where the planning minister, the industry codes which put in place these buffer zones and state legislation can come to some agreement where neighbouring properties are not impacted.

I assume the Gheringhap proposal will go to the minister anyway, because it will go to the Victorian Civil and Administrative Tribunal. Then there will be a

planning session and possibly a requirement for the minister to intervene. I think this is a great opportunity for him to look at buffer zones generally across the state, where industries require them, and look at having them contained within their own properties. My action for the minister is that he look at this case, speak to the affected farmers on the neighbouring farms and the proponent or the applicant to see if we can actually devise a code of practice that keeps buffer zones within the property that has the set industry.

Morwell Neighbourhood House

Ms SHING (Eastern Victoria) — The matter I wish to raise is for the attention of the Minister for Families and Children, Ms Mikakos, and it relates to the work undertaken by the Morwell Neighbourhood House, which services the Latrobe Valley with a significant amount of support, assistance, information, guidance and availability for people who are often doing it very tough.

The centre itself is involved in numerous projects under the leadership of Ms Tracie Lund. She has a huge volunteer army and is very busy from dawn till dusk doing all sorts of work which assists in making sure that the community can be advantaged through things as simple as teaching dads how to do their daughter's hair, making sure that people can prepare a good solid meal for their families and being a place to access technology or find friendship in often very difficult socio-economic circumstances. It is also able to collect and administer donations made, for example, through the Gippsland Period Project, which is a fantastic initiative that actually makes sure that homeless women and trans men are able to get a bit more dignity when they may otherwise be doing it exceptionally tough and living on the streets. Often that sort of inconvenience and difficulty is very challenging indeed.

I ask the minister to give positive consideration to increasing the amount of funding and assistance made available to the Morwell Neighbourhood House, particularly in light of not only its current functions but indeed its expanded functions, which have begun to be part of the neighbourhood house's core work, most specifically responding to issues around health and wellbeing following the Hazelwood mine fire. This has become a community hub for information, for seeking guidance and for consultation as far as the further tranches of the inquiry have been concerned. Ms Lund, her colleagues and the volunteers at the Morwell Neighbourhood House have in fact become a go-to point of reference for departments, for agencies at both state and federal level and also for emergency services and other groups to make sure that the community is part and parcel of the implementation of recommendations and the improvement of overall health and wellbeing in and around the Latrobe Valley.

I ask the minister to give positive consideration to increasing the current funding available to the Morwell Neighbourhood House with a view to enabling it not only to continue to meet its existing obligations and its core roles and functions but also to meet those obligations which have arisen as a consequence of its activism in the community, the assistance it provides beyond that core work, the broader development of social and health policy more generally as it relates to community health, and also to continue its fine work as it relates to those in and around the Latrobe Valley who often need assistance, advocacy and support far more than others around Victoria.

Elevated rail proposal

Mr DAVIS (Southern Metropolitan) — My matter for the adjournment debate tonight is for the attention of the Minister for Public Transport in the other place, and it refers to a consultancy that was tendered out by her department or a body associated with it in September 2015 to Mr Ian Woodcock and associates. They have undertaken some purportedly independent work and assessment, but clearly it is important to place on the record that they are hired guns. They are paid by government, and they have come back with a report that reflects the tune that was demanded by the payer.

But let us be clear here: it is also the case that Mr Woodcock appears to have attended a number of the consultations conducted by the Level Crossing Removal Authority (LXRA). Importantly he has a long history with respect to sky rail. His views on sky rail go back at least to 2010 on the assessments that I can make, and probably before. He is a very firm advocate, as he is entitled to be. That is his personal view — he is a sky rail advocate — but nobody should believe for a second that he is an independent person or able to undertake consultation that is fair, balanced or even-handed. Yet it now appears, and the reports that have come to me suggest, that he is attending the LXRA consultations that are being conducted along the Caulfield to Dandenong line. He has been in close proximity with LXRA staff as part of those consultations. His exact role will certainly need some clarification. The truth is that he cannot on the one hand be an independent commentator who has his own views of the advantages of sky rail — many would disagree with him — and a paid, contracted employee on the other. He cannot have it both ways.

It has also come to my attention that he may well have been working with Labor in the lead-up to the 2014 election, so the sky rail views may have a genesis that goes back to before the 2014 election. That may reflect very negatively on the government's promises at the election, when it promised to put the rail under the road. Now it is building dirty big sky rail viaducts with four tracks over a distance and impacting suburbs with noise, visual pollution, graffiti and a series of other serious problems. But my point here is that I want the minister to clarify through a clear public statement his role — whether it is as a hired gun or whether it is some other role — and what his links to Labor were prior to the 2014 state election. The community needs this transparency. We need to know whether he is a paid gun or whether he is an independent commentator.

The PRESIDENT — Order! I will think about that.

Mount Waverley railway station

Mr LEANE (Eastern Metropolitan) — My adjournment matter is also to the Minister for Public Transport. Last week I met at Mount Waverley station the great disability activist Jan Davis, who asked me to meet her to look at the station platform and the lack of tactile tiles on the ground which assist people who are vision impaired with direction and assist them in staying away from incoming and outgoing trains. The action I seek from the minister is for her to ask some Public Transport Victoria representatives to come out with me and possibly a few local activists to look at this particular station and find a way to fast-forward the installation of these tactile tiles at the Mount Waverley station.

I say Mount Waverley station in particular because it is very close to the Mount Waverley shopping centre, which — this is something I learnt when I went out there last week — is a shopping centre people with vision impairment very much enjoy going to because it is a strip shopping centre rather than a big mall and has the tactile tiles all through the footpath. It also has audio push buttons, which assist them to cross the road. There is also a group that meets at a hall on the north side of the station once a month. It involves about 20-plus people with vision impairment meeting and talking about their day-to-day issues.

I think I have called for the action. I look forward to meeting the representatives out at the station and seeing if we can get something moving down there.

Epping Road, Epping

Mr ONDARCHIE (Northern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety, Luke Donnellan. It concerns Epping Road in Epping, which is the subject of significant growth. I have had representation from Joanne Gellel, a volunteer who does a great job as school council president at Epping Views Primary School. I was a school council president for nine years; I know how much work a school council president does. She represents her constituency — the parents — and also the many other people in the Epping area that are worried about the significant growth in Epping and Epping North that occurred under the previous Labor government and the issues associated with the growth in residences and traffic on Epping Road. There is some understanding among residents that the government has finally put together a business case for O'Herns Road and Findon Road, but they are wondering whether it included Epping Road as part of the overall business case.

Ms Gellel wrote to a number of people, including Mr Merlino as Minister for Education, the roads minister himself, the Premier and the members for Yan Yean, Thomastown and Mill Park in the Legislative Assembly, and also to me, on 29 January seeking a response, and to date she has only had one response, and that was from my office — none from the government whatsoever. In frustration she has been writing and writing asking someone to please respond to her. I have had correspondence with her, but she cannot get any reaction from the minister's office or even from the local members for Thomastown, Yan Yean or Mill Park. Frustratingly these people have come into government and are totally ignoring their constituents.

The action I seek is for the minister, Mr Donnellan, to join me in meeting with Ms Gellel and the community of Epping to talk about what this government is going to do — to not just disregard its safe Labor seat of Thomastown but actually provide some services to the people of Epping around Epping Road.

The PRESIDENT — Order! One of the problems is that some of the commentary has been merged into the action. The issue was Epping Road; correct? You want improvements to Epping Road?

Mr ONDARCHIE — I want the minister to come and have a meeting with me and the people — —

The PRESIDENT — Order! About Epping Road?

Mr ONDARCHIE — Correct.

The PRESIDENT — Order! At the end the member talked about services, which is an entirely different matter, and it was very broad and not specific in terms of an action. We will take it that the action sought is a meeting about Epping Road with the member, but we need to be careful about merging our commentary with our action. The reason I have been able to pick up 'Epping Road' is that is where the member started out.

Can I have Mr Davis's view about what his action was?

Mr Davis — My action was a very clear one — —

The PRESIDENT — Order! No, it was not. That is why I am asking.

Mr Davis — No, I have sought very clearly from the minister that she make a public statement to clarify the status of Mr Woodcock — whether he is an independent commentator or a paid departmental consultant who is providing opinions and commentary, apparently independently but in fact — —

The PRESIDENT — Order! That is all right. I do not want a debate; I just wanted to know — —

Mr Davis — I want a clear statement — a public statement — to clarify those matters.

Warrnambool and Port Fairy health services

Mr PURCELL (Western Victoria) — My adjournment matter tonight is for the Premier. I ask the Premier to visit Warrnambool and Port Fairy in south-west Victoria and the healthcare services in Warrnambool and Moyne Health Services in Port Fairy. We are currently working to receive funding for the two major projects at these health services in the south-west — the overdue second stage of the Warrnambool health services expansion and the urgent care facility for Moyne Health Services. The reason I have addressed this to the Premier is that the Premier has not had an opportunity at this stage to visit south-west Victoria, but even more importantly the Premier was in the role of health minister when the first stage of the health services expansion in Warrnambool was funded. The board felt it had been a little bit remiss in that it never invited then Minister Andrews to the official opening and would like to show him around.

South West Healthcare is a large facility with a catchment of about 110 000 people, and it treated over 27 000 emergency department patients last year. It is the designated trauma centre in the south-west, and it employs 1400 people. It has 192 acute beds, 20 mental health beds and 38 aged-care beds. Stage 1 of the expansion, as I said, has been completed. As well as that, the work on the current cancer centre, which is a $30 million project — of which a substantial amount was raised by the local community — will also be completed in August, and it will be good for the Premier to see the work that is being done on that. Moyne Health Services is a public not-for-profit integrated healthcare service that meets community needs. It employs 190 people and has been in existence for 160 years. The work is to improve the urgent care centre in that facility.

Considering the importance of these projects, I ask the Premier to visit these two key health service providers and tour the excellent integrated cancer care centre due for completion in August. I ask the Premier to visit prior to the current budget process being completed.

Road safety

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Roads and Road Safety, and the action I seek from the minister is that he expedite any forthcoming new road safety campaigns from the anticipated road safety action plan. I do so in the long-held tradition of bipartisan support for road safety initiatives in this place. I am extremely concerned, as I am sure all members of the house are, that as of midday today 67 Victorians had lost their lives this year on our roads, compared to 53 for the same period last year. That is a tragic increase of 14 individuals or a 26 per cent increase.

It is being reported today that this is the highest spike in the road toll for 65 years and that 'the state's toll has not risen by more than 20 per cent in a single year since 1950'. I note that Victoria Police assistant commissioner for road traffic policing Doug Fryer was quoted in the *Age* today as saying that he fears that on current trends the road toll could blow out to over 300 this year for the first time since 2008 — around 50 more than in 2015.

I have no doubt that the many agencies within the Victorian government are doing all they can to tackle this significant issue, from the Transport Accident Commission to the Department of Justice and Regulation, Victoria Police and others, but we have a serious issue on our hands. We are coming up to a very busy period on our roads, with a long weekend this weekend and the Easter period now just a few weeks away, which is always a period of risk on our roads. Therefore I seek from the minister that any road safety campaigns, any new initiatives that are in the wings, be expedited so we can as a community tackle this very

serious issue, this very unfortunate and very bad start to the year with regard to the road toll.

Ryan and McNulty Sawmillers

Ms SYMES (Northern Victoria) — My adjournment matter this evening is for the Minister for Regional Development, Jaala Pulford. I am seeking funding from the Regional Jobs and Infrastructure Fund for an important project in my electorate. Ryan and McNulty Sawmillers is a producer of specialty hardwood timber products. The company is a key employer in Benalla, with a workforce of approximately 45 full-time equivalent employees. It is one of the few large employers that Benalla actually has. It has a turnover of about $12.7 million a year, but it also makes generous contributions to the community, whether it be financial assistance for community events or sometimes donating goods in kind for projects, so it is an employer that is really valued by the community.

What it is wanting to do is expand and upgrade its timber processing and manufacturing to increase production capacity and improve overall business competitiveness. Specifically the project it wants to complete involves connecting to natural gas and installing two new gas-fired boilers, an automated timber docking line and a fully automated timber rotating system, and making other manufacturing process improvements to improve sustainability and competitiveness. A project such as this would have direct economic benefits for Benalla. It would create approximately seven new jobs, and of course there would be indirect economic benefits down the supply chain as well. I am very supportive of the project, which would have social and environmental benefits for Benalla. In that sense I ask that the minister look favourably upon a pending application for financial assistance for this project.

Valkstone Primary School

Ms CROZIER (Southern Metropolitan) — My adjournment matter for this evening is for the attention of the Minister for Education. The action I seek is that the minister commit to provide to the school community of Valkstone Primary School and the residents of the Assembly Bentleigh electorate the necessary funding to complete the school redevelopment project that the previous coalition government commenced. As we know, there was a significant shortfall in spending on Victorian schools over 11 years of Labor, especially around maintenance issues in schools right across the state.

I would also like to correct the record regarding an adjournment matter raised by the member for Bentleigh in the Legislative Assembly, where he incorrectly stated that no funding was provided to the school. In fact there is a black hole at Valkstone Primary School, which he claims was left by the previous coalition government. I think this is a ridiculous attempt in trying to portray something that actually did not occur. I would like to just state to the member for Bentleigh and to the minister that the other day I went out with the shadow minister to meet with the principal of Valkstone Primary School and the president of the school council to look over the progress of the stage 1 works and the newly developed master plan, which was provided for in the $3.5 million provided by the coalition government.

At the time of the funding announcement in 2014 the school was rightly excited about this news and the amount it received. During my recent visit it was outlined to both the shadow minister and me what had commenced under that funding, including the now completed master plan. Consequent future works and some subsequent funding will be required to have those works completed.

I know as a member for Southern Metropolitan Region — and I note that Mr Davis is in the house, and he would be very well aware of this — the electorate of Bentleigh has a growing population and thus has ongoing demands on the education facilities available for students and obviously the whole Bentleigh community. So the action I seek is that the Minister for Education commit to providing the necessary funding for Valkstone Primary School in the May 2016 budget to complete this important project, which actually commenced under the coalition government.

Level crossings

Mrs PEULICH (South Eastern Metropolitan) — The matter that I wish to raise is for the attention of the Minister for Public Transport. It concerns a lack of confidence in the process of consultation undertaken by the government and on behalf of the government by the Level Crossing Removal Authority (LXRA) surrounding the level crossing removal undertakings, and in particular as they apply to the Caulfield–Dandenong line, as well as the Frankston line, both of which either go through my electorate or impact dramatically on the electorate.

As we know, most people when they talk about consultation — and I see this as a very deeply flawed exercise by the government — know that a consultation occurs before a decision is taken. A consultation, if it is

going to be genuine and authentic, requires the necessary information to be provided, and the consultation requires feedback or an assurance that feedback is not going to be manipulated, massaged or stacked, and ultimately there is some expectation that the feedback that is provided through this genuine process — which it should be, and it has not been — will be acted upon.

We have heard Mr Davis talk about whether indeed the consultation involves a consultation on the basis of two tracks or four tracks along the Caulfield–Dandenong line. There is certainly a lack of clarity there. I know from the local government briefings that the LXRA is providing three-dimensional representation —

Mr Davis — And not releasing it publicly.

Mrs PEULICH — and not releasing it publicly — involving two tracks. Certainly there has been a whole range of information which has been sought about noise and so forth which has not been released.

But most recently and most disturbingly there have been reports from the level crossing consultations that even things like the yellow stickers that people are required to use to provide feedback on maps are actually being removed and the feedback massaged. The most recent concern that has been raised with me is about some of the information surrounding the Social Pinpoint page run by the LXRA, which in its privacy collections notice at the bottom of the terms and conditions page contains a statement that the LXRA can decline to publish comments of members or groups on the ground that it may unduly affect the outcome of the consultation process — I would have thought that refusal to publish would only occur if it was offensive — and, more importantly, that the LXRA can edit or delete comments made by the public.

Clearly this is causing significant further angst about how genuine those consultations are and indeed a belief that this is being stacked and manipulated and that it is going to be ignored. I call on the minister to restore faith in the consultation process by addressing the points that I have raised and most importantly the Social Pinpoint page on the LXRA website.

The PRESIDENT — Order! I trust that the minister in addressing the adjournment matters tonight will address some of the substantive things rather than a couple of things that crept in, such as 'restore faith', which is not seeking an action from the minister really. But I understand the member particularly wants to have the website reviewed to make sure that it is legitimate consultation.

In the case of Mr Davis's matter, why I sought clarification from him was that there was a significant editorial around the matter that he raised, but he is seeking clarification of the status of that consultancy and, I guess, an assurance of the integrity of that consultancy.

Responses

Mr HERBERT (Minister for Training and Skills) — Maybe I will have brevity as opposed to longevity on some of these, President. I will refer the following matters to the relevant ministers.

Ms Lovell raised a matter for the Minister for Health regarding Goulburn Valley Health helipad.

Mr Mulino raised a matter for the Acting Minister for Public Transport seeking analysis of key stakeholder advice on the level crossing program.

Mr Finn raised a matter for the Minister for Environment, Climate Change and Water for funding for public convenience upgrades on The Strand, Williamstown.

Mr Bourman raised a matter for the Minister for Police regarding, I guess, overzealous enforcement of some firearms regulations.

Mr Ramsay raised a matter for the Minister for Planning regarding the appropriateness of the 500-metre buffer zones, particularly on smaller properties.

Ms Shing raised a matter for the Minister for Families and Children seeking additional funding for the very worthy Morwell Neighbourhood House.

Mr Davis raised a matter for the Minister for Public Transport regarding clarification of the status of a 2015 consultancy to Ian Woodcock and associates.

Mr Leane raised a matter for the Minister for Public Transport requesting that Public Transport Victoria come to meet with him and others to discuss installing tactile tiles at the Mount Waverley station for vision-impaired people.

Mr Ondarchie raised a matter for the Minister for Roads and Road Safety requesting that he meet and discuss Epping Road issues.

Mr Purcell raised a matter for the Premier, with a request for him to visit healthcare services in Warrnambool and Port Fairy to discuss their needs.

Mr O'Donohue raised a matter for the Minister for Roads and Road Safety seeking further action on the road safety action plan and new road safety initiatives.

Ms Symes raised a matter for the Minister for Regional Development requesting her to look favourably in regard to rural infrastructure funding for a project in Benalla.

Ms Crozier raised a matter for the Minister for Education seeking funds for capital works at Valkstone Primary School in Bentleigh.

Mrs Peulich raised a matter for the Minister for Public Transport regarding consultancy issues and a website review on the level crossing project.

Mrs Peulich — Consultation.

Mr HERBERT — I will refer all those to the relevant ministers.

The PRESIDENT — Order! Mrs Peulich's matter was about the consultation process and the integrity of the consultation process. But at any rate, I think that will be reflected in *Hansard*.

Mr HERBERT — I have written responses to adjournment debate matters raised by Mr Eideh on 9 February, Mr Drum on 10 February and Ms Lovell on 11 February.

RULINGS BY THE CHAIR

Questions on notice

The PRESIDENT — Order! I indicate that Ms Dunn has referred to me a series of questions on notice that she put to the Minister for Public Transport. They are questions 1227, 1228, 1229, 1230, 1231 and 1232, all of them seeking information. I have looked at the questions and the answers, and in fact the answer to all of the questions is a standard answer, and the standard answer does not apply to any one of the questions that was asked, so I will seek to reinstate all of those questions as numbered.

On that basis, the house stands adjourned.

House adjourned 6.17 p.m. until Tuesday, 22 March.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses have been incorporated in the form provided to Hansard and received in the period shown.

26 February to 10 March 2016

Safe Schools program

Question asked by: **Dr Carling-Jenkins**
Directed to: **Minister for Training and Skills**
Asked on: **24 February 2016**

RESPONSE TO SUBSTANTIVE QUESTION:

Thank you for your question regarding the Safe Schools Coalition (the Coalition).

All Victorian students have the right to learn in safe and inclusive schools, where they feel supported to achieve their educational potential. Everyone deserves to live in a safe environment free from bullying and discrimination regardless of race, background, religious beliefs or sexual identity.

The Safe Schools Coalition offers valuable training to teachers on how to create environments free of homophobia and transphobia and responds to requests, usually from parents, seeking advice and support for students transitioning or affirming their gender identity.

In 2015, the Victorian Government increased its funding to Safe Schools Coalition Victoria by $1.04 million so that the Coalition can expand its important support to all of our government secondary schools. To date, 250 government, independent and Catholic schools in Victoria have signed up to become members.

Parent engagement is encouraged and supported by the Coalition and in Victoria 16 per cent of member schools have joined Safe Schools Coalition as a direct result of parents' requests.

Parents can view the Coalition's resources on their website and will see the range of services and age-appropriate resources available to support school communities being safe and inclusive places for all.

A number of special schools have become Coalition members and have worked with Safe Schools in tailoring their services and resources to suit the needs of their students. The Coalition has also supported students with disabilities in mainstream schools.

The Coalition encourages involvement of parents in all aspects of their work and member schools do this as well.

Consultation with parents and their engagement in the health and wellbeing of all students in our schools is strongly supported. Schools are required to be mindful of the suitability and age appropriateness of all resources used in their schools and will continue to do so.

RESPONSE TO SUPPLEMENTARY QUESTION:

We provided $1.04 million in the last State Budget to expand Safe Schools Coalition Victoria's services into every Victorian government secondary school to prevent and reduce homophobia and transphobia in schools.

Schools. can decide which program resources they use, depending on the needs of the school community, to make their schools safer and more inclusive for all students.

Thomson River fishway

Question asked by: **Mr Bourman**
Directed to: **Minister for Environment, Climate Change and Water**
Asked on: **24 February 2016**

RESPONSE:

The purpose of the project is to provide a substantial improvement to the health of the river systems and biodiversity of Gippsland and Gippsland Lakes.

I am advised that some migratory fish do not migrate through lengthy enclosed spaces, devoid of light such as the Horseshoe Bend tunnel. Currently, the endangered Australian Grayling and six other species of native migratory fish will not swim through the Horseshoe Bend tunnel.

A low-flow fishway will allow fish to swim around Horseshoe Bend, while reconnecting Victoria's Alpine Region with the Gippsland Lakes. The construction of a low flow fishway will provide access to approximately 85kms of habitat in the upper reaches of the Thomson/Aberfeldy River. The financial cost to restore degraded lower reaches of the Thomson River to provide the same amount/quality of fish habitat significantly outweighs the cost of the fishway construction.

The West Gippsland Catchment Management Authority (WGCMA) has consulted extensively with DELWP and Parks Victoria on the project design and implementation

WGCMA has consulted with Victorian Government Planning representatives and determined that an EES Referral was not required under the Environment Effects Act 1978.

The WGCMA has determined that the project does not meet the criteria for referral, including but not limited to the project clearing less that 10ha native vegetation, is not in an approved Forest Management Plan area, or of high conservation significance.

More information on this project is available on the WGCMA website:
http://www.wgcma.vic.gov.au/our-region/projects/thomson-river-fishway/thomson-river- fishway-questions.

Port of Melbourne lease

Question asked by: **Mr Ondarchie**
Directed to: **Special Minister of State**
Asked on: **25 February 2016**

RESPONSE:

I confirm that if the State Owned Enterprises Act 1992 (the Act) were to be used to enable the lease of the Port of Melbourne, no amendments would be required to existing legislation.

The Government has obtained advice on relevant legal and financial matters concerning this approach to leasing the Port of Melbourne.

Elevated rail proposal

Question asked by: **Mr Davis**
Directed to: **Special Minister of State**
Asked on: **25 February 2016**

RESPONSE:

The design allows for a third and fourth track to be constructed in the future. The gap in the structure has been put in place to ensure that the spaces under the structure receive natural light and rain. This ensures that trees and vegetation can ·grow and helps ensure that the space underneath (including the pedestrian and cycling path) is more

inviting. It has not been put in place to accommodate the third and fourth track. The design future-proofs for the addition of a third and fourth track which will be subject to a separate planning, design and consultation process.

All-terrain vehicle safety

Question asked by: **Mr Young**
Directed to: **Special Minister of State**
Asked on: **25 February 2016**

RESPONSE:

The Government does not intend to change Victorian legislation to make it mandatory to fit rollover protection on ATVs (quad bikes).

Victorian occupational health and safety (OHS) laws require employers to eliminate or control risks in the workplace. To address serious injuries and deaths resulting from quad bike use in workplaces, WorkSafe will revise its quad bike safety strategy to recognise rollover protection as an acceptable risk control. WorkSafe will undertake a communications campaign to advise employers of the new strategy start date, and help them to understand their health and safety duties.

The Government will continue to consult with stakeholders on quad bike safety and how best to support farmers and other businesses using ATVs.

Melbourne Youth Justice Centre

Question asked by: **Ms Crozier**
Directed to: **Minister for Families and Children**
Asked on: **8 March 2016**

RESPONSE:

On Sunday 6 March 2016 young people gained access to an education horticulture shed where they took tools and caused some property damage. Victoria Police were notified but were not required to intervene, and the incident was resolved by youth justice staff within about an hour. All tools were recovered.

In managing this incident an operational decision was made to call a lockdown of the Precinct at 1.41pm. The all-clear was called at 4.30pm, with three accommodation units remaining in lock down through to the regular evening lockdown at 8.00pm.

All lockdowns were managed in accordance with the Children, Youth and Families Act 2005.

Duck season

Question asked by: **Mr Young**
Directed to: **Minister for Agriculture**
Asked on: **10 March 2016**

RESPONSE:

Baiting in some State Game Reserves occurs for biodiversity conservation purposes throughout the year. Management of foxes (using 1080) in State Game Reserves helps to protect vulnerable native species, including game duck and qual populations, from predation by foxes.

I am advised that where baits have been used they are physically removed before the duck season starts.

There is one exception, being Ewing Morass State Game Reserve, in which baiting has occurred year round for 5 years on a permanent basis as part of the Department of Environment, Land, Water and Planning's landscape-scale Southern Ark baiting project. Appropriate signage is in place and, to date, neither the Department of Economic

Development, Jobs, Transport and Resources or the Department of Environment, Land, Water and Planning have been approached by concerned hunters in far east Gippsland.