PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 9 February 2012

(Extract from book 1)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

Premier and Minister for the Arts	The Hon. E. N. Baillieu, MP
Deputy Premier, Minister for Police and Emergency Services, Minister for Bushfire Response, and Minister for Regional and Rural Development	The Hon. P. J. Ryan, MP
Treasurer	The Hon. K. A. Wells, MP
Minister for Innovation, Services and Small Business, and Minister for Tourism and Major Events	The Hon. Louise Asher, MP
Attorney-General and Minister for Finance	The Hon. R. W. Clark, MP
Minister for Employment and Industrial Relations, and Minister for Manufacturing, Exports and Trade	The Hon. R. A. G. Dalla-Riva, MLC
Minister for Health and Minister for Ageing	The Hon. D. M. Davis, MLC
Minister for Sport and Recreation, and Minister for Veterans' Affairs	The Hon. H. F. Delahunty, MP
Minister for Education	The Hon. M. F. Dixon, MP
Minister for Planning	The Hon. M. J. Guy, MLC
Minister for Higher Education and Skills, and Minister responsible for the Teaching Profession	The Hon. P. R. Hall, MLC
Minister for Multicultural Affairs and Citizenship	The Hon. N. Kotsiras, MP
Minister for Housing, and Minister for Children and Early Childhood Development	The Hon. W. A. Lovell, MLC
Minister for Corrections, Minister for Crime Prevention and Minister responsible for the establishment of an anti-corruption commission	The Hon. A. J. McIntosh, MP
Minister for Public Transport and Minister for Roads	The Hon. T. W. Mulder, MP
Minister for Ports, Minister for Major Projects, Minister for Regional Cities and Minister for Racing	The Hon. D. V. Napthine, MP
Minister for Gaming, Minister for Consumer Affairs, and Minister for Energy and Resources	The Hon. M. A. O'Brien, MP
Minister for Local Government and Minister for Aboriginal Affairs	The Hon. E. J. Powell, MP
Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry	The Hon. G. K. Rich-Phillips, MLC
Minister for Environment and Climate Change, and Minister for Youth Affairs	The Hon. R. Smith, MP
Minister for Agriculture and Food Security, and Minister for Water	The Hon. P. L. Walsh, MP
Minister for Mental Health, Minister for Women's Affairs and Minister for Community Services	The Hon. M. L. N. Wooldridge, MP
Cabinet Secretary	Mr D. J. Hodgett, MP

Legislative Council committees

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

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

Legislative Council standing committees

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

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

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

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

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

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

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

 # Participating member

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Mr M. VINEY

Acting Presidents: Ms Crozier, Mr Eideh, Mr Elasmar, Mr Finn, Mr O'Brien, Ms Pennicuik, Mr Ramsay, Mr Tarlamis

Leader of the Government:
The Hon. D. M. DAVIS

Deputy Leader of the Government:
The Hon. W. A. LOVELL

Leader of the Opposition:
Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

Leader of The Nationals:
The Hon. P. R. HALL

Deputy Leader of The Nationals:
Mr D. DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Hon. Bruce Norman	Eastern Metropolitan	LP	Leane, Mr Shaun Leo	Eastern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lenders, Mr John	Southern Metropolitan	ALP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Davis, Hon. David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Hon. Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

CONTENTS

THURSDAY, 9 FEBRUARY 2012

Thursday, 9 February 2012

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

PAPERS

Laid on table by Clerk:

Land Acquisition and Compensation Act 1986 — Minister's certificate of 7 February 2012 pursuant to section 7(4) of the Act.

State Electricity Commission of Victoria, Report 2010–11 and its subsidiary bodies.

Water Act 1989 — Upper Ovens River Water Supply Protection Area Water Management Plan 2012.

BUSINESS OF THE HOUSE

Adjournment

Hon. D. M. DAVIS (Minister for Health) — I move:

That the Council, at its rising, adjourn until Tuesday, 28 February 2012.

Motion agreed to.

LEGAL AND SOCIAL ISSUES REFERENCES COMMITTEE

Reporting date

Mr VINEY (Eastern Victoria) — By leave, I move:

That the resolution of the Council of 10 February 2011 requiring the Legal and Social Issues References Committee to inquire into and report within 12 months on organ donation in Victoria be amended so as to now require the committee to present its final report by 30 March 2012.

Motion agreed to.

MEMBERS STATEMENTS

Manufacturing: government performance

Mr SOMYUREK (South Eastern Metropolitan) — The summer holidays have been a depressing period of time for hundreds of Victorian manufacturing workers and their families. Last month Toyota announced the loss of 350 jobs and yesterday Alcoa announced a review into its Point Henry aluminium facility which could lead to the loss of a further 600-plus jobs. These job losses so early in the year are another indication that big corporations are losing confidence in Victoria under a Baillieu-led government. Last year major manufacturers such as National Foods, Bosch, Ford, CSR Viridian, Heinz, SPC Ardmona and BlueScope Steel all lost confidence in the leadership of the state and announced significant job losses.

During the past 12 months this government has ignored the needs of manufacturers in this state despite persistent calls to prioritise this area of our economy. It has sent a clear message that it does not care about the manufacturing sector, and the result is that Victorian workers are losing their jobs. With these potential job losses at Alcoa, the total full-time job losses in manufacturing over the past 12 months in Victoria has passed 15 000, and the figure is rising. The government's inaction in manufacturing means companies like Alcoa, as well as their workers, are now paying the price for government inaction and losing their jobs. The belated and flimsy manufacturing document this government released under the cover of Christmas last year shows how little it cares about and understands the manufacturing sector.

Australia Day: South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — The importance of volunteerism is deeply embedded in the Australian culture and psyche, and our community, state and nation seek ways to recognise and celebrate iconic individual contributions. Today I rise to recognise and congratulate the following Australia Day Citizen of the Year Award winners for their outstanding achievements.

In the city of Casey I would like to congratulate Therese Howell, an advocate for amputees and supporter of Limbs 4 Life who received the chief honour in the city of Casey. Bette Clydesdale was Casey's senior citizen of the year. She is an energetic and committed member of the Casey community who created a fantastic *Where I Live* DVD, which highlights the many wonderful features of Cranbourne.

In the city of Kingston I would like to congratulate a wonderful woman, Mrs Thelma Mansfield, on being named Kingston's citizen of the year. Thelma has devoted her life to working with and for the community and needs to be congratulated on her selflessness.

In the city of Greater Dandenong the community recognised Joe Rechichi for his many years of dedication to the Springvale community and his work

with the Springvale Benevolent Society for the past 24 years.

In the city of Frankston the community recognised Gwen Dearsley for her dedication to aged care in the community. Gwen's contributions to the Frankston community include an enormous amount of voluntary work.

In addition I would like to congratulate the following individuals on their accomplishments in the community: Thomas Niazmand, Casey's young citizen of the year; Juan Carlos Loyola, OAM, Casey's sportsperson of the year; Brenda Chessum, who is the Casey non-resident of the year; Victor Victor, the Dandenong young achiever of the year; John Crichton, Dandenong non-resident of the year; Carma Keast, Dandenong good neighbour of the year; Brian Lowe, Kingston outstanding citizen of the year; Jack Styles, Kingston young citizen of the year; and Kimberly Pellosis, who is the City of Frankston's young citizen of the year. I congratulate all those people and the organisations who have worked with them to make stronger their dreams of a better community, which offers many benefits to the rest of us.

Police: government performance

Mr EIDEH (Western Metropolitan) — I have a great deal of respect for the men and women who serve as police officers in our state. As former Premier John Brumby stated on many occasions, we have the finest police in the nation if not the world — and having travelled far and wide, I honestly believe this to be true. But we have a crisis in this state with at least four police members leaving each and every week, and this Minister for Police and Emergency Services and this government appear incapable of reversing the flow. The minister is yet to be fully and publicly investigated for his own office's involvement in the career extermination of former Chief Commissioner of Police Simon Overland. Members of the government, including the now police minister, when in opposition attacked the Labor government for installing speed cameras, yet they have not only increased the number of speed cameras in their first year of office but are looking at installing even more.

No wonder honest, hardworking police officers are feeling as if they are being used by a government yet to create an agenda. No wonder so many are resigning, not only at great cost to the budget bottom line but also because of the loss of a much-valued community resource and the damage to the great Victoria Police.

Australia Day: Shire of Macedon Ranges

Mrs PETROVICH (Northern Victoria) — I took pleasure in attending the Shire of Macedon Ranges Australia Day awards at Kyneton town hall on 26 January. Janet Hawkins, who is from my home town of Woodend, was named citizen of the year in recognition of her involvement with the Woodend and District Heritage Society. Janet said that it was a humbling experience to receive the award and that she has enjoyed her role at the heritage society. Andrew Beard, a 23-year-old also from Woodend, received the young citizen of the year award for his contributions at home and his dedication to his younger brother, Dillon. When their mother passed away in 2008, Andrew became the full-time carer for his brother, who was then only 13. He returned to live in the family home at Woodend and commutes daily to Melbourne to study for a masters in economics at Melbourne University. We are very proud of him. Community achievement awards were given to Jean Dixon, Eane Whitton, Felicity Morley, Clare McKinnon, Bradley Chivell and Vanessa Meredith.

The Gisborne Time Market was named the community event of the year. I congratulate Phyllis and Ian Boyd, as well as Graeme Millar. It is a great place to visit on the first Sunday of each month from 9.00 a.m. to 2.00 p.m. It has over 240 stalls and is a great promotion of Gisborne and its produce.

Hanging Rock: harvest picnic

Mrs PETROVICH — I would also like to advise members of an annual event, the Age Harvest Picnic at Hanging Rock, on Sunday, 26 February, and let them know that they can save money by buying their tickets early. We hope everyone will join us to enjoy live music and children's activities — including an animal farm — and to meet many small food and wine producers from all around Victoria. I am proud of the harvest picnic and the way it showcases the produce of central Victoria. It is a whole day of entertainment.

Riad Asmar

Mr ELASMAR (Northern Metropolitan) — I rise to speak about a special event that I attended on Sunday, 29 January. Along with Darebin City Council mayor, Cr Steven Tsitas, the Consul General of Lebanon, Henri Castoun, and his wife, Lea, and Australian-Lebanese community leaders, I was present at a book launch and reading of poetry written and presented by my brother, Professor Riad Asmar, a well-known Lebanese author and the poet laureate of Lebanon.

More than 200 people were in attendance at the book launch, and we were treated to poetry readings that were powerful and eloquent. In particular a new poem about Australia was read and translated into English so that the non-Arabic-speaking audience could enjoy the beautiful prose.

Professor Riad Asmar is the president of the Australian Lebanese Cultural League and has also published works in English. I commend the league and everyone who helped to make this a successful and enjoyable occasion.

Rob Hulls

Ms PENNICUIK (Southern Metropolitan) — On 27 January Rob Justin Hulls announced his retirement from the Victorian Parliament. I take this opportunity on behalf of my colleagues to wish him well in his retirement. We know that before Rob Hulls was the member for Niddrie, from 1996 to 2012, he was the federal member for Kennedy in Queensland, from 1990 to 1993 — sandwiched in between the senior and junior Bob Katters.

Rob Hulls is known as a champion of social justice. He will be remembered for the establishment of the Charter of Human Rights and Responsibilities. I know that signed copies of the charter fetch good prices at auction. He also established the Koori courts and worked hard in the area of domestic violence. Last year Rob had a health scare. I think everybody who works in the Parliament as an MP understands that you have to look after your health and your family above all.

The Greens and Rob Hulls did not always see eye to eye on everything; however, in the time we have been here we have supported most of the things he has put forward. I can remember one particular occasion when I was talking to him — I think it was before the debate on the Equal Opportunity Amendment Bill 2007 in May of that year — and he ended our conversation by saying to me, 'Do your best'. I think we all do that in this place. On behalf of the Greens, I would like to take the opportunity today to wish him well in his retirement.

DonateLife Week

Ms DARVENIZA (Northern Victoria) — DonateLife Week is being held between 19 and 26 February. The goal of DonateLife Week is to encourage all Australians to talk about organ and tissue donation and to discuss their wishes with their families and those closest to them. Surveys indicate that over 70 per cent of Australians are willing to become organ donors but 40 per cent of people who place themselves on the organ donor register do not discuss their wishes with their families and then families do not consent to the donation at the time of death. There are currently 2000 people on the organ donor waiting list in Australia, hoping for a suitable donor to become available. Sadly, less than half of these people will receive the organs they require.

One organ donor can save or dramatically improve the lives of up to 10 people. I am encouraging people to consider donating their organs and to discuss their wishes with their families so that at the time of their death their wishes are known and the donation will receive the consent of family members and can be carried out.

Bob Goulding

Ms DARVENIZA — On another matter, I want to take this opportunity to congratulate Bob Goulding, a 92-year-old Benalla resident who recently received an award for 70 years of volunteer service to the Country Fire Authority. Bob has been a member of the CFA for 72 years, and I congratulate him on this remarkable achievement.

Employment: government performance

Ms TIERNEY (Western Victoria) — Over the past 15 months the people of Victoria have come to know the Baillieu government as a government that is very idle, that is big on reviews but that holds little interest in actually getting things done. This might be understandable for the first six months when trying to get a new government in order; however, after 15 months of dithering and total inaction an increasing number of Victorians are losing the one thing most important to supporting themselves and their families — they are losing their jobs.

Since the Baillieu government came to power the number of Victorians out of work has increased by 9000. Under the Baillieu government's watch Victoria now has the highest youth unemployment rate in mainland Australia at 21.1 per cent. In the month of December Victoria lost 2000 full-time jobs, whilst across the rest of Australia 26 400 new full-time jobs were created. The state of Victoria was for many years the envy of other states because the Bracks and Brumby governments were active and worked hard to attract investment and create jobs. In 2010 alone 100 000 new jobs were created in Victoria. In 2009 Victoria created 92 per cent of all new full-time jobs in Australia. However, after 15 months of the Baillieu government Victorians are now losing their jobs while the

government fails to create new ones. Victorians are losing jobs because this government is a do-nothing government. It is lazy, and it is dithering. The situation is simply that the government is not interested and not capable of protecting or creating jobs for Victorians.

PLANNING AND ENVIRONMENT AMENDMENT (SCHOOLS) BILL 2011

Second reading

Debate resumed from 8 December 2011; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on the Planning and Environment Amendment (Schools) Bill 2011, which on one level you would think is a simple bill, but unfortunately it is not as simple as it ought to be. The bill purports to be the government's attempt to honour an election commitment to remove the requirement for non-government schools to pay the growth areas infrastructure contribution (GAIC) on land that those schools currently own in growth areas — or at least that was the election commitment.

The growth areas infrastructure contribution is used to provide for infrastructure for urban development in growth areas, and as such it is an important contribution. Having said that, one of the government's election commitments was that it would remove the requirement for non-government schools on land those schools currently own in growth areas. That was this government's election commitment.

Unfortunately the government has not honoured that commitment in this bill, because the bill does not remove a GAIC liability from land currently owned in growth areas. Instead the bill is prospective and will apply once it receives royal assent. The bill will then prospectively remove liabilities from GAIC for non-government schools for land purchased after the legislation comes into effect. What is not unusual is the inability of the Minister for Planning to follow through matters and get processes and outcomes right. Opposition members have sought to ensure that the government honours its commitment, so I foreshadow that we will be moving amendments, which I want to circulate now.

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

Mr TEE — That amendment essentially allows the government to honour its commitment to provide an exemption from GAIC for land currently owned by non-government schools. As needs to happen, the suggested amendments provide that the bill take effect from 1 July last year. The reason for doing so is that 1 July last year was the date that the GAIC obligations took effect.

The amendments allow the government an opportunity — if its members support the amendments — to honour its election commitment. I would have thought those opposite would jump at the opportunity to support what is a very simple amendment that does no more than allow the government to honour its election commitment. I would have thought there would be no reason why those opposite would not support what is a very simple and clear way forward which allows the government to get out of the mess it has created because of the way it has drafted the bill.

The other concern opposition members have about the bill and the way it operates is the fact that the exemption from GAIC liabilities applies only to a subdivision that is 'solely to provide a lot for a school or a proposed school', as provided for in new section 201RF(ba). That means that in order to claim the exemption the subdivision can only be for the provision of a school. Of course the issue that arises is: what if the subdivision is a subdivision for housing, a subdivision of shops and a subdivision for a school?

In that case the exemption on that reading does not apply, and of course most subdivisions are not simply a one-off subdivision but are subdivisions that cover a range of assets, a range of houses, a range of shops — essentially they build a community. Subdivisions are not a one-off arrangement for particular schools, so the opposition is concerned about the impact of the bureaucracy being created by requiring a separate subdivision for the school, in terms of cost and delay, and therefore the flow-on impact in terms of housing affordability. If you are going to have to have a series of subdivisions — one for the community, one for the housing and one for the shops and the parks — and a separate process for the school, then, as I said, that is a recipe for bureaucratic red tape. It is a recipe for increased costs, not just for the school, and it is a recipe for delay in terms of developing housing and getting those communities set up. So we are concerned about that drafting as well and about the impact that will have not just for non-government schools but in terms of costs across the board.

We will not oppose the bill in the sense that it attempts in some small degree to honour the government's election commitment, but we are very concerned about the government's breach of its election commitment to

the Victorian people. We are concerned about the government and indeed about the minister's ability to get on top of his portfolio and to get even the most basic issues right. We have seen a series of crises across the board — an inattention to detail, an inability to get on top of the portfolio, and, here again today, writ large, is one small but important example of the failure of this minister to implement even the easiest of election commitments. I note that the minister has come in, and I do welcome the minister. It is important, and I am sure he will have an opportunity to respond to these concerns.

As I said, we have made it easy for the minister by providing a very simple amendment which will remedy what I assume is an oversight rather than a deliberate attempt to remove what was promised to non-government schools as part of the government's election commitment. I am giving the government the benefit of the doubt; I am assuming it is an oversight rather than a deliberate attempt to take away a right that the minister promised non-government schools. As I said, the minister will have an opportunity to put on the record why this omission occurred, and I hope he takes up that opportunity. We will obviously be taking this bill into the committee stage to deal with the proposed amendments, but we will also have some further questions and will take those up there. With those remarks, we will not oppose the bill.

Mr BARBER (Northern Metropolitan) — The government's proposal here, as can be seen in the explanatory memorandum, is:

> Subdividing land solely to provide a site for a government school is already an 'excluded event' under section 201RF(b) of the Planning and Environment Act 1987, but no similar provision applies for a non-government school. The bill removes that anomaly by inserting an exclusion that applies to all schools.

Whether this is an anomaly is debatable, but it seems that, having built this procedure into its original legislation — which received the support of all parties in this Parliament — the Labor Party is now willing to reverse its position and simply adopt the proposition that non-government schools should be exempt from this tax.

The growth areas infrastructure contribution (GAIC) is of course an essential revenue source to provide infrastructure in growth areas. Under the Building New Communities Fund — the repository for GAIC taxes — the money raised is to be allocated specifically to growth areas for a number of purposes. They include transport infrastructure, including for walking and cycling; community infrastructure, including health facilities, education facilities, regional libraries, neighbourhood houses and major recreation facilities; environmental infrastructure, including regional open-space trails and creek protection; economic infrastructure, including providing access to information and technology infrastructure; and the acquisition of land and other infrastructure necessary for the establishment of infrastructure.

Under the Growth Areas Public Transport Fund we find that money can be allocated to public transport infrastructure for capital works, the acquisition of land and recurrent costs — that is, operating costs — relating to new public transport for the first five years of that new service having been established. That is the essential infrastructure that is required to create a new community, and unfortunately it is our view that the GAIC tax is wholly inadequate to even begin providing that level of basic infrastructure that any other part of Melbourne would expect.

The GAIC tax in Victoria works out at about $6000 or so per house. Former Minister Madden confirmed that at the time when he introduced his first bill. Compare that to New South Wales, where they collect around $25 000 per house for the establishment of new infrastructure, and to some of the cost estimates of establishing new suburbs of up to $100 000 more per house. What might look like cheap housing to the purchaser at the time of purchase very quickly becomes very expensive housing once governments are called upon to provide infrastructure and once the people move into those houses and find that their local cost of living consists of running two, three or four cars and travelling great distances to meet their daily needs of work, entertainment, study, shopping and so forth. Urban sprawl is by far and away the most unaffordable housing model that we could adopt here in Victoria, yet both the Labor and Liberal parties are fully committed to it and fully committed to subsidising it to the tune of a massive tens, if not hundreds, of thousands of dollars per dwelling.

To understand that you only have to open up today's *Age*, and on page 5 you see the Point Cook Action Group rallying under the headline '5800 more people, still no facilities':

> Traffic gridlock, crowded schools and poor infrastructure are causing a backlash against government plans to speed up land releases in Melbourne's fastest growing suburbs.
>
> The Baillieu government's efforts to make housing more affordable by accelerating plans for new estates were happening without accompanying, basic infrastructure, residents say.

And of course what I say is that the Baillieu government's attempt to make housing more affordable by sprawling the city will be completely self-defeating. The minister responsible for this bill understands this very well, because he and I share an electorate, and our electorate does not go just to the urban fringe; it goes all the way beyond the urban fringe to areas that have not even been developed yet.

Back in what seems like the good old days, when Mr Guy and I were running for Parliament, we put considerable effort into the campaign for the South Morang rail extension, a small rail extension which is not just 10 years overdue, as this article suggests, but is in fact decades overdue. It was 1999 when Labor first promised to deliver the rail extension, but the idea and the need for it have been there ever since that particular area of Melbourne was developed. It almost feels like an established suburb now, but it still has no rail line.

Every day developers are extending further to the north. As the *Age* article notes, the government has spent considerable amounts making Plenty Road wider to fit all the cars that are travelling along the road every morning, yet we still do not have a bus that runs the length of Plenty Road. As noted, the growth areas infrastructure contribution could be used to provide the operating costs of buses in new areas as well as any capital works.

The simple proposition put forward by the Liberal Party — and it would not exactly bowl anybody over — is that it wants to take money that was meant to be spent on public schools and hand it over to private schools. That is all this bill does. It is not surprising the Liberal Party would put that forward, but it is surprising that the Labor Party would not only endorse that but actually ask for it to go further, and it will be no surprise to anybody that the Greens will be opposing this bill. Public schools and community facilities are essential infrastructure that goes to meeting the needs of those homes, factories, retail outlets and other operations, such as private schools. They rely on that infrastructure and therefore should be taxed for the provision of that infrastructure.

We can see what is happening with the Baillieu government, not completely through its own fault but certainly as a matter of timing: it has to slash and burn its budget to try to keep it in surplus. It is sacking people, taxing age pensioners in public housing, taxing car registrations and boosting public transport revenue, and at the same time we know the available pool of funds, particularly capital funds and funds that will be used to service those growth areas, is shrinking rapidly. Pulling dividends out of state authorities is another one of the government's measures, and that has been debated this week.

There are new taxes on everybody, a smaller available spend and fewer debt reduction measures that the government plans to introduce, and in the midst of that there is a tax break for private schools. I do not understand it. The Greens will oppose this bill and will be interested when we go into committee to ask the government a little bit more about some of the dollar figures that apply.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to make a contribution on the Planning and Environment Amendment (Schools) Bill 2011, which will deliver on another important commitment the government made prior to the 2010 election. Members of the house, particularly those on the other side, need to be reminded that this bill is being introduced only as a result of the election of the coalition government.

To pick up the point made by Mr Tee when discussing his proposed amendment, I would like to say two things briefly. Firstly, we have had no notice of the proposed amendment, which would normally be something that would require consideration. In this instance the amendment is so misconceived that it can be dealt with off the bat. It is so misconceived that the opposition through its planning spokesman, Mr Tee, has said it should apply retrospectively, notwithstanding that the former government never brought in the exemption.

What the opposition has misunderstood is that there are no examples, we are advised, of schools that will be affected by any implementation of the bill after royal assent post its passage today. There is no school that falls into the category of affected schools that Mr Tee is seeking to exempt. This is yet another misconceived amendment, and therefore it can be dealt with off the bat.

We will not make policy on the run. What we will do is take considered policies to the next election, as we took them to the last election, and then implement them in a very industrious way. I commend the Minister for Planning on bringing both the GAIC (growth areas infrastructure contribution) bills into this house.

The second thing I remind the opposition of in relation to the GAIC bills is the significant amendments that were made in 2011 when the coalition effectively permitted landowners to defer up to 100 per cent liability of the GAIC tax as well as put in in-kind agreements. That will make substantial improvements and bring in important incentives that are necessary to

foster land development, particularly as we enter more challenging economic times, to enable Victoria to continue to power ahead.

This takes me to my second criticism of the propositions put by the Greens, because I think this shows the philosophical differences between our side of politics and, shall we say, the far left or wherever their tax mentality comes from. I must also compliment those very hardworking and industrious campaigners from the Taxed Out group for the campaign they waged against this ill-conceived tax by the previous government.

I will pick up on some of the language used by Mr Barber. He said that this bill will effectively take money that would have been spent on public schools and put it in the hands of private schools. That is a fundamental misconception of what a tax is. It is a tax that takes the money out of the hands of private citizens and spends it in a way that is hopefully sound and in accordance with good government policies. Regretfully, during both the last term of the previous Labor government and the present term of the Gillard federal government taxes have not been spent well by Labor, and they have been spent a lot worse by the Greens.

To believe there is an entitlement to this money and somehow by extending an exemption from tax we are taking money out of taxpayers hands is totally misconceived. What we are doing is preventing the government from taxing potential school sites in growth areas up to about $1 million per school site, on my advice. We are preventing that from occurring so that we can have private enterprise step in and assist with the provision of this essential infrastructure in these growth areas. That is what schools have been doing throughout my electorate of Western Victoria Region. It has been the case over the course of history. Both government and non-government schools have provided that essential infrastructure, very often as towns and communities are establishing themselves. As a product of Catholic schools not only in this country but also overseas I commend the private sector in relation to the provision of school buildings.

Fundamentally what this government is doing and what the Minister for Planning has brought to this house via this bill is a very fair exemption that will provide sufficient incentives for non-government schools to also provide essential infrastructure. The great irony in the previous government's failed policy in relation to the growth areas infrastructure contribution tax is that it was a tax, as it applied to non-government schools, on infrastructure itself. Schools are an essential part of the community. They are part of the infrastructure. Taxing schools, particularly those for which we need to provide private incentives so that we do not have to call upon the taxpayer for funds, is not fair. With this bill, private schools can come in and provide that very important infrastructure in a way that is compatible with the various values of the communities they are serving, and that is exactly what government should be enabling. In relation to Mr Tee's suggested amendments, we will oppose them for the reasons that I have stated.

The second point I would like to pick up on in relation to Mr Barber's contribution is the notion of urban sprawl. That is something that the coalition, particularly The Nationals, whom I represent, have always been concerned about. This government and its planning minister are delivering, for the first time, a detailed plan to deal with infrastructure growth in outer urban areas, growth areas and, importantly, in regional areas. The Regional Growth Fund will allow, for the first time, the infrastructure deficits in those regional areas where people have not been able to call upon support in the past to be addressed in a way that has been lacking due to the previous government's failure to plan for growth.

Turning to the bill, it is a very short bill that delivers on the commitment to extend the current exemption to non-government schools. There are presently three events that trigger a GAIC liability. They are: the issue of a statement of compliance relating to a plan of subdivision of land, the making of a building permit application to carry out building work on land and the occurrence of a dutiable transaction relating to land. A dutiable transaction includes a transfer of land and land-rich transactions. The exclusions will not exempt a school from paying the GAIC liability that has already been triggered; however, where the liability has been deferred the school provider will be able to proceed to develop the land for a school without having to pay the deferred GAIC.

One of the other important aspects of the bill is that it adds to the list of exemptions, so subdivision or building work for a school that does not trigger liability are two excluded GAIC events — that is, the subdivision of land relating solely to providing a lot for a school, or a building permit application to carry out building work relating to a school.

I commend the parliamentary library for an excellent research paper on the bill, including important stakeholder feedback. I refer to page 17 of that report, where it says:

> Independent Schools Victoria is reportedly positive about the proposed GAIC exemption for non-government schools. Chief executive officer Michelle Green said that the

> exemption of non-government schools from paying the GAIC would 'mean that fees will not be unfairly inflated for parents moving to new areas'. She also stated that, 'More often than not, independent schools are the first to be established in growth areas, ahead of government schools' …

which is the point I had made earlier and which is the important philosophical difference between us and the Greens.

Mr Barber — I'm sure it will continue under your government.

Mr O'BRIEN — It will certainly continue a lot better under our government than under your failed Brown-Gillard coalition alliance, or whatever you call it, in the federal sphere. We wish that a speedy end. That will be one of the greatest achievements of all Australians. A failed experiment of putting people who stand on the outside looking in on the inside looking out will not happen again for some time in this country's history, we hope.

Turning back to the bill, in addition the Catholic Education Office has welcomed the move, stating:

> Catholic school communities will welcome this decision by the government as it will mean more dollars going into Catholic schools and therefore more resources and improved learning opportunities for our students.

I have another brief testimonial from the Catholic Education Office, which is a press release put out by the office, dated 7 February, which says:

> The decision by the Victorian government to scrap the growth areas infrastructure contribution (GAIC) will save Catholic education millions of dollars …
>
> …
>
> 'The GAIC was an unnecessary impost on Catholic schools,' said Mr Elder. 'Catholic school parents were facing the possibility of increased school fees at a time when the Australian government —

the Brown-Gillard government —

> is reviewing funding to all school sectors.
>
> Catholic school communities will welcome the decision which should never have applied to not-for-profit organisations like Catholic schools in the first place.
>
> Catholic schools have long educated students from a variety of cultural and socioeconomic backgrounds, particularly the poor and marginalised. Student learning should not be compromised by unnecessary imposts and taxes.'

I know there are a number of other speakers on the list who have also had this exemption applauded by their local communities, and I know that in growth areas in my electorate, particularly in Melton and Wyndham, this will be well received. With those few words, I commend the minister on his excellent work and the administration of his portfolio. We oppose the misconceived and flimsy amendment by the opposition and commend the bill to the house.

Mr SCHEFFER (Eastern Victoria) — The Planning and Environment Amendment (Schools) Bill 2011 aims to ensure that schools will not be liable to pay the growth areas infrastructure contribution (GAIC). Mr Tee has already indicated that the opposition will not be opposing the bill. We note that the measures it contains were an election commitment and that the policy basis for the amendments is sound. Mr Tee has pointed out that the provisions of the bill are prospective and therefore they will take effect after the commencement of the legislation. His suggested amendments go to ensure that schools do not incur any liability at all, even prior to the date of commencement of the provisions of the bill, or of the act at that point.

The government's argument for introducing this legislation is that any requirement for a school to pay a growth areas infrastructure contribution should be applied equally whether the school is a state school or a private school. The coalition holds that a private school should be able to subdivide land it owns for school purposes without incurring a liability under the GAIC scheme.

The government has been clear that the land itself is not permanently removed from any future potential liability, because it could turn out that in the end the subdivided land is used for non-school purposes. In effect the legislation exempts private schools from having to pay the contribution when the purpose of the subdivision is for educational uses in order to make educational provision for those citizens who feel the need to educate their children privately rather than in Victoria's excellent public education system.

The second-reading speech indicates that the Planning and Environment Act 1987 exempts liability to pay the growth areas infrastructure contribution where the land is to be used for a religious, charitable or educational purpose. I commend the bill to the house. As I said, the opposition will not be opposing this bill.

Mrs PEULICH (South Eastern Metropolitan) — That was quick; I was not expecting to be called up so quickly.

It is my very great pleasure to make a brief contribution to the debate on the Planning and Environment Amendment (Schools) Bill 2011. The government has been a strong supporter of choice in education. That

parents' choice of the school at which their child is to be educated should be facilitated is a basic tenet and belief of the Liberal Party and the coalition. We believe it is good for education, both in the government and non-government sectors, because it provides a mixed economy and a choice. It means that the two sectors in a sense compete to provide the very best quality education in order to attract enrolments. I think that is always a healthy thing for education in both sectors.

We also believe that as parents are taxpayers, taxpayers deserve some level of support, so we believe that non-government schools deserve support as well; the Greens and the Labor Party have a contrary view. We also believe it makes good economic sense to continue supporting non-government schools, because the cost to the public purse of educating a child in a non-government school is far less than it is to educate a child in a public school. If we had to accommodate all students of compulsory school age in the government sector, we would not be able to afford the quality of education and facilities that we currently provide. Parents who want to pay extra for certain things in the non-government school sector, and can afford to do so, can.

Many parents make a significant sacrifice of various priorities in their lives to afford to send their child to a non-government school. They have every right to do that, because those schools value certain things. Whether it is a values-based education, whether it is a faith-based education or whatever, the coalition believes that choice is healthy on moral and economic as well as educational grounds. The former Labor government, of course, did not hold that view, and the Greens certainly do not believe in funding non-government schools. They may be trying to recast themselves, muddy the water a little, but they believe that any dollar spent on a non-government school is a misplaced dollar, and those arguments do not stack up on any grounds.

We believe treating schools equally under the growth areas infrastructure contribution (GAIC) scheme is an important and consistent part of the education policy that we took to the last election. Under the current arrangements schools in the two sectors are not treated equally. A subdivision to create a lot for a government school does not trigger a GAIC, but the same type of subdivision for a non-government school does.

This legislation, which is long overdue, is necessary to ensure that no GAIC is triggered when land is purchased or developed for a school, whether the school is government or non-government. In the growth corridors, where there is always a struggle to provide communities with the services and infrastructure they need, the important services provided by the non-government sector should be welcomed because they are valued by families and communities. No better example exists than that in education, and many non-government schools plan well ahead and are in many instances first on the ground. The legislation will result in their not having to pay, say, on average a $2 million GAIC bill to the state government, so they will be able to bring forward those services sooner and keep their fees to families lower.

As the Parliamentary Secretary for Education, I commend the Minister for Planning and the Minister for Education for bringing this bill forward and honouring yet another Liberal-Nationals coalition government election promise to remove the requirement for non-government schools to pay GAIC on land they currently own in growth areas. It will also be a significant support for those communities that I represent.

I would like to close by referring to the stakeholder comment on the bill which has already been alluded to by Mr O'Brien. Independent Schools Victoria is very positive about the proposed GAIC exemption for non-government schools. The CEO, Michelle Green, said:

> Fees will not be unfairly inflated for parents moving to new areas.

She also stated that:

> More often than not, independent schools are the first to be established in growth areas, ahead of government schools.

My good friend, former member of Parliament Stephen Elder, who is head of the Catholic Education Office, also welcomed the legislation stating:

> Catholic school communities will welcome this decision by the government as it will mean more dollars going into Catholic schools and therefore more resources and improved learning opportunities for our students.

It is about strengthening education provisions in both the government and the non-government sector and providing choice to parents. It makes good economic sense, makes good education sense and honours another election pledge. With those few words, I commend the bill to the house.

Mrs KRONBERG (Eastern Metropolitan) — I am pleased to rise and support the bill and commend the work of the Minister for Planning, the Honourable Matthew Guy, and the input from the Minister for Education. This bill is timely and it is important. It gives us the opportunity to provide equity, fairness and

choices to families and households in Melbourne's growth areas. During the course of my committee work in this Parliament I have had the opportunity to visit all Melbourne's growth areas and to drill down and concentrate on the needs of those areas.

This is an important means of relieving a cost burden should an independent school, a Catholic school or any other form of religious school choose to seed develop — and quite often they are ahead of the wave. I pick up the point that Mrs Peulich made. Quite often the independent schools are at the leading edge of new development, especially in our growth corridors and those defined growth areas. It has never been more important to provide incentive and the flow-on choice to people living in those areas, and the sense of community that flows from being involved in another school community.

I am also informed that alleviating the growth areas infrastructure contribution (GAIC) burden on non-government, independent and religious schools will result in an estimated saving of between $1 million and $2 million for each school. That dimension of impost has really left me aghast, and I am thinking of how important it is that this bill is before the house so that we can alleviate that burden. That it is another shining example of the Baillieu government implementing its election promises. It underpins the integrity and the purpose of this government in providing the optimal conditions for Victorians to flourish in this state.

The five growth areas directly affected are Casey, Cardinia, Hume, Melton and Caroline Springs, Whittlesea and Wyndham, as well as other areas that are starting to put down their roots and establish communities in Melbourne's growth corridors. This is an uplifting and pleasing opportunity to prove that our party believes in offering choice to individuals and to families by alleviating a burden, which is estimated at between $1 million and $2 million, on schools which are looking to be ahead of the development curve and which are supplying essential infrastructure and community engagement in those growth corridor areas.

I think it is probably worthwhile relating my experience on a visit to the city of Playford in South Australia. This gives us the opportunity to look at a model where a splendid campus has been developed around a wetlands area. On a hill we see a shining example of a campus which combines a government secondary school and a Catholic college. This government is alleviating the anomaly whereby government schools would have had to pay a burdensome GAIC, which would have been left in place should the former Labor government have been re-elected. That inequity would have prevailed and would have probably negated the opportunity to think creatively about how government and non-government schools can have a combined campus and share areas of focus, a locus and important resources such as sporting fields and wetlands. In the case of the Playford schools the wetlands provide an immediate extension to science, biology and environmental studies for both school communities. It is a brilliant and shining example, and I am quite excited about the possibilities that can flow from alleviating the obligation on non-government schools to pay the GAIC.

It is always good to have stakeholder comment available, and I refer to the research brief that the splendid parliamentary library research staff have prepared for us. It tells us that Independent Schools Victoria is reportedly positive about the proposed GAIC exemption for non-government schools. It reports that chief executive officer Michelle Green said the exemption of non-government schools from paying the GAIC would 'mean that fees will not be unfairly inflated for parents moving to new areas'. The brief also reports that she also stated that, 'More often than not, independent schools are the first to be established in growth areas, ahead of government schools'. We know that, and I applaud Ms Green for being so clear in her support of this legislation and underscoring the very important principles of fairness, choice and encouragement of non-government schools, which are normally ahead of the curve.

Referring once again to the research brief, it would be remiss of me not to also include the additional supportive comments from the Catholic Education Office, which has welcomed the move stating:

> Catholic school communities will welcome this decision by the government as it will mean more dollars going into Catholic schools and therefore more resources and improved learning opportunities for our students.

I remind parties who are uncomfortable with government support for non-government schools, such as the Labor Party and the Greens, that parents sending their children to independent, non-government, Catholic and generally religious schools are also taxpayers. As taxpayers they are funding government schools, and in addition to being taxpayers picking up the cost of the entitlement for their children to attend government schools, they choose to pay an extra fee. We welcome this legislation and commend it to the house.

Mr ELSBURY (Western Metropolitan) — I am pleased to be standing here today in support of the

Planning and Environment Amendment (Schools) Bill 2011. Land subdivided for a government school is excluded from the GAIC (growth areas infrastructure contribution) under section 201RF(b) of the Planning and Environment Act 1987. This bill inserts definitions into section 201R of part 9B of the Planning and Environment Act 1987 and recognises an 'excluded subdivision' through an amendment to section 201RF to provide land free from the growth areas infrastructure contribution requirements for the purposes of building a school.

Section 45 of the Duties Act 2000 recognises that land purchased for religious, charitable or educational purposes is exempt from duties being paid upon that transaction, and this is also recognised in section 201TB of the Planning and Environment Act 1987, meaning that such organisations are exempt from the GAIC at purchase. However, the current legislation does not apply in relation to building work for schools, and the amendments made by this bill will develop an exclusion.

The crux of the bill is that it seeks to define construction under section 201R of the Planning and Environment Act 1987 and in the same section bring the meaning of 'school' into line with section 1.1.3 of the Education and Training Reform Act 2006. Amendments to section 201RF(b) and 20IRG(1)(c) of the Planning and Environment Act exclude subdivision of land and building work respectively. The construction of schools by the non-government sector is important in providing communities with choice in education. By and large, the majority of these non-government schools undertake a faith-based approach to learning which allows parents to impart to their children the values which will hopefully be taken with these young people throughout their lives. As we have heard from other speakers, this includes not only Catholic but also many Protestant schools. We also have Islamic schools, and I know of quite a few right across the western suburbs that will benefit from such an amendment.

Again, in many instances this education is provided with low fees to make the educational opportunity affordable; however, I know of friends who have benefited from a non-government school education as the result of parents taking on second jobs or doing massive amounts of overtime to ensure that their children are given the best education. As a parent who will this year be carefully considering the benefits of the schools in my neighbourhood, I am glad to know that I have both state and non-government school options. I hope that with the further growth of our cities and communities non-government schools will continue to be established. As Mr Barber articulated in his contribution, the GAIC is used for community infrastructure. By removing the GAIC from schools that are being established we are recognising that school themselves are community infrastructure.

Non-government schools are already required to provide adequate off-street parking facilities and on-site pick-up and drop-off areas. They also provide school buses for their students and their greater community, they encourage cycling, and car pooling is common. Gymnasiums are rented out to community sports groups and schools encourage participation in sport through their own sporting teams. Even the classrooms are sometimes utilised for cooking classes, community group meetings and gatherings of all different types. Sports fields are enjoyed for cricket, football of various codes and even for that high-impact activity of kite flying. Schools in general provide much-needed green space and, outside of recess and lunch and during drop-off and pick-up times, are quiet neighbours for many people across the state.

I fully support the bill as it will continue to drive the government's direction of providing people with choice in education for their children. It will continue to allow low-fee non-government schools to exist, and it will provide greater education opportunities for the children and the future of the state.

Ms CROZIER (Southern Metropolitan) — It is with pleasure that I rise to make a short contribution on the Planning and Environment Amendment (Schools) Bill 2011 as this is another very important election commitment being delivered by the Baillieu government. My colleague Mr O'Brien pointed out that the growth areas infrastructure contribution (GAIC) bill was debated in the Parliament last year. It implemented the Baillieu government's commitment to defer any growth areas infrastructure contribution, otherwise known as GAIC liability, until some form of development occurs. That indicates a substantial improvement to the processes, as Mr O'Brien outlined very succinctly in his contribution.

Essentially the GAIC scheme means that any person or organisation that subdivides, purchases or undertakes work on land within Melbourne's growth areas is required to make a one-off payment to the state. Through that mechanism the payment is then directed to contribute to ongoing infrastructure in the areas that are being developed within that designated growth area. This bill adds to the first aspect of the initial bill I mentioned by amending the Planning and Environment Act 1987. It removes the requirement for

non-government schools to pay what is effectively a tax on land they own which is located within a growth area.

The GAIC issue has been well documented and well debated. As members are well aware, the previous government made a number of announcements during the course of its term in relation to growth areas and planning projections. In it doing so, there was much confusion and indeed much anxiety from members of the community, in particular about the lack of certainty for industry and land-holders directly affected by the GAIC. In this respect whether they are a government or a non-government school, they are effectively deemed to be land-holders. The confusion and anxiety caused by the previous government's planning policies in relation to a number of planning decisions remains for some communities.

Mr Tee's contribution was extraordinary. He spoke for 10 minutes, but he really said absolutely nothing except criticise the current Minister for Planning, who stands in direct contrast to the former planning minister. I noted some of Mr Tee's comments about the minister's inability to follow through processes and get things done. That is quite extraordinary when compared to what this state had to put up with in relation to the former planning minister and the mess we inherited. As I said, in contrast, the current planning minister has listened to community concerns, understood those concerns and acted upon them. In fact in the lead-up to the 2010 election the minister made it very clear what the policy was about, and he has delivered on it.

The bill will ensure that a person or organisation is not required to pay a growth areas infrastructure contribution with respect to the subdivision of land or purchasing land for a school or in the carrying out of building work by a school whether that school be a government or non-government school. Effectively it removes the discrimination between non-government and government primary and secondary schools in relation to paying the GAIC. The non-government school sector, which includes Catholic and independent schools, educates approximately one-third of all Victorian students. It is a vital and important component of our overall education system.

Education is a fundamental responsibility of any state government, and this government certainly supports all aspects of our education system whether it be the government or the non-government sector. One of the things that our side of politics makes no apology for is its support for the right of parents to choose an education for their children. That is in direct contrast to those opposite and in particular to the Greens.

Mr Barber interjected.

Ms CROZIER — We make no apology, Mr Barber. Non-government schools provide that choice. Not all non-government schools are so-called elite private schools. Families who send their children to non-government schools come from a variety of socioeconomic backgrounds, and in his contribution Mr Elsbury explained the variety of non-government schools in his area, which includes the western areas of Melbourne. As other members have said, it is well known that Catholic schools have long educated students from a variety of socioeconomic backgrounds, including those from the poor and marginalised areas of our communities. Non-government schools enable parents to have alternatives in their children's education. It gives them the choice of an education facility which they feel is the most suitable for their children and their personal circumstances. As I said, the Greens philosophical approach to this matter is in stark contrast to ours, and we make no apology for supporting the choices that parents may wish to have.

Governments should support and not penalise such initiatives for the non-government school sector, which this tax would almost certainly have done. Like all other entities, schools are facing increasing costs. That is why this announcement was so widely welcomed by both the independent and Catholic school sector. The non-government school sector recognises that had this impost been applied it would have further disadvantaged the school community, the parents and, importantly, the children attending those schools. Clearly that impost would have compromised student learning across the school sector. Instead those resources can be otherwise directed within individual schools, which in turn will lead to improved learning opportunities for children. I am sure the Greens will embrace that initiative.

In conclusion, the bill provides a common-sense approach to removing the discrimination between government and non-government schools and further alleviates the unnecessary burden that such a tax would have on so many school communities. It is yet another example of the minister being on top of his portfolio and listening to the community and the Baillieu government delivering on its election commitments. I commend the bill to the house.

Mr FINN (Western Metropolitan) — It gives me a great deal of pleasure to support the Planning and Environment Amendment (Schools) Bill 2011. It gives me a particular degree of pleasure because, along with Mr Elsbury, I represent the fastest growing areas not just of Victoria but indeed of Australia. The cities of

Wyndham and Melton are in a bit of a race to see which is growing fastest; the no. 1 and no. 2 spots swap around quite frequently.

Out our way in the western suburbs we see enormous growth on a daily basis. It is quite extraordinary to see the development of suburbs such as Point Cook. When I was first elected — to this place, anyway — in 2006 Point Cook did not exist as a suburb as such. Now it is a thriving metropolis with a wonderful town centre and much to recommend it to the people who live there. Look at places like Caroline Springs, which is going ahead in leaps and bounds, and that area between Melton and Caroline Springs, which is a fairly substantial area that I am told will become almost entirely residential over the next 15 years or so.

Given the sort of growth we have in Melbourne's west at the moment, the need for infrastructure is obviously strong. I point out to the people of Point Cook in particular that this government is acutely aware that they were let down very badly by the previous government, and we are not going to allow that to happen under our watch. We are aware that roads in particular are very bad in the west, especially around the area of Point Cook and Sanctuary Lakes. When you have thousands and thousands of people moving into an area, it is vital that you provide transport and roads to allow them to live the sort of lifestyle they are entitled to expect.

Unfortunately the previous Labor government did not do that. It took all the taxes, all the stamp duty, but did not return it to people who bought homes, particularly in those areas that Labor has always arrogantly described as its own. We found at the last election — and I think we will find this even more at the next election — that that is changing at a rapid rate in the outlying areas that members opposite would probably not be aware of. Members opposite would not be aware of these outlying areas in the west, places like Point Cook, places around Caroline Springs and a number of suburbs that are growing at a very rapid rate. This government is acutely aware of the need for infrastructure, and the bill, along with other actions taken by the Minister for Planning, Mr Guy — an outstanding minister, I might say — will provide that infrastructure not only for the people who are moving in but also for those who have been there for some time.

The bill is very much part of providing equity in education and taxation, because we now have a situation that allows state schools to not pay the growth areas infrastructure contribution (GAIC) but non-government schools, such as Catholic schools and other religious schools, must pay the GAIC. The bill removes that inequality, and that is important. It is another step in sorting out what was a total debacle under the previous government with regard to not only the GAIC legislation but the entire GAIC situation. Members on this side will never forget attending public meetings — I attended a number around the west — packed with people in deep distress about what the Labor government was attempting to do to them with the GAIC. I am sure those people got a great deal of satisfaction from the result of the last election. The new government is sorting this out, and the bill is another step down the path of doing that. I commend Minister Guy once again on the work he is doing. He will go down in history as one of the truly great planning ministers Victoria has seen.

I have always regarded education as an extraordinarily important part of life. Education is about providing young people with what they need to live their lives, preparing them to go out and do what they need to do in order to be happy, to be productive and to be important members of the community. Education is extraordinarily important. The bill facilitates a fair go for non-government schools and choice for parents. Non-government schools are a crucially important part of the education system. I have to declare an interest here; I attended a Catholic school for most of my education, and my eldest daughter is now attending a Catholic school as well, not an elite — —

Mr Leane interjected.

Mr FINN — I wonder whether Mr Leane went to a Catholic school, or whether he went to school at all! That is the question you have to ask occasionally.

When members opposite talk about private schools and private education, they like to talk about the King's School in Sydney and other schools of great wealth and prominence, but I have to point out that private schools are patronised overwhelmingly by children whose parents are working flat out to keep them there. We often see mothers taking a job just to provide education or fathers taking a second job to get their children into the local Catholic school or another private school. The enormous sacrifice that these parents make is something that we should admire greatly. These parents could have a new car, a holiday or a new television, but they sacrifice that to provide for their children and give them the best education possible.

This bill is helping those parents and their children. This is something of which we as a government should be extremely proud. Those of us on this side of the house have always been supportive of choice in

education; that is not something I can say of those opposite. As we know, for a long time the Labor Party — and indeed the Greens — have opposed private education, and in particular Catholic schools.

The Opposition Whip, Mr Leane, might like to release his members from their obligation to vote for this bill and allow those who are opposed to private education to vote against it. It is only a fair and reasonable thing to do. Let us go back to former Labor Premier Joan Kirner and the Council for Defence of Government Schools, which wanted to close down Catholic schools all those years ago. Nothing much has changed in the minds of a good number of these people. Let us be fair; I admire conscience. I am prepared to stand up and allow people to act according to their conscience. Perhaps Mr Leane can allow the Labor members opposite to vote against this bill on the basis that a fair number of them want the Catholic schools closed down.

This bill is extraordinarily important. It is about this government keeping an election promise. It is about supporting choice in education. I support this bill 100 per cent.

Mrs PETROVICH (Northern Victoria) — I am very pleased to speak on this bill. It is the culmination of a very long and arduous process that we engaged in when in opposition. We worked very hard with groups which were going to be disenfranchised by the former government's proposal for a GAIC (growth areas infrastructure contribution) tax. For two and a half years a group called Taxed Out and other people who worked alongside them — developers and building industry representatives — fought for a fairer GAIC tax. They argued that the GAIC should be paid only at the end of the development process in order to reduce developer holding costs. That was something we went to the election with and something I am proud to say we have delivered for the people of Victoria.

The former Labor government tinkered around the edges of the GAIC. The now minister, Matthew Guy, fought very hard in opposition to ensure that there was some equity in this conversation. We would have ended up in a very much worse position had that not been the case. I personally tabled a petition with over 4500 signatures, and many others did the same thing. I think the people of Victoria have been vindicated in their struggle.

It is very important to note that this bill implements a government election commitment. It removes the requirement for non-government schools to pay a growth areas infrastructure contribution on land they currently own in growth areas. The bill implements the government's commitment to ensure a non-discriminatory approach to government and non-government school providers. That is in very stark contrast to the views of those who are now in opposition. We do not discriminate between the two. We recognise and embrace the variance in and difference of opportunity for our children and the role the schools play in educating our young people. The bill also amends the act to include the making of an application for a building permit to carry out building work for the purpose of a school or ancillary buildings as an excluded event. That is part of streamlining and getting out of the road of people in order to move things forward.

The GAIC issue has an interesting history. The former Labor government originally chose to target a very small group of Victorian families with a $2 billion tax. I remind the house that the original growth areas infrastructure contribution model was aimed at 100 per cent of landowners, and there was a tax of $95 000 per hectare on the first sale of land, payable by the vendor. This was devised by the Labor government and imposed on the people of Victoria. As I have said on many occasions, the previous government was prepared to get both its hands on people's hard-earnt assets. This was a terrifying experience for my constituents. Many people had been through the recession we had to have and lost many of their vital assets, and they were then confronted with the possibility of being put in a similar position by this onerous tax.

The previous Labor government's consultation around this issue was nothing short of appalling. Mr Guy, the now Premier, Mr Baillieu, and I attended many public meetings where people expressed their dismay. This was after they received a letter post-Black Saturday that said this tax was going to be implemented. Very little excuse was offered for the lack of consultation on this issue. It was just all going to roll ahead. I think it was an indicator of the style of the previous government, its modus operandi and how it treated Victorians. It was nothing short of shameful.

The Victorian coalition has listened to our community and industry concerns. The up-front GAIC model and its approach are, thank goodness, long gone. With those few words, I commend the bill to the house.

House divided on motion:

Ayes, 35

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

Noes, 3

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

Motion agreed to.

Committed.

Committee

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Mr Tee is proposing amendments to clause 2 which, if accepted, would have financial implications. As amendments of this type are outside the Legislative Council's constitutional power, these proposals must be considered as suggested amendments. If any of the suggested amendments are agreed to by the committee, clause 2 will stand postponed and the committee will report progress, whereupon a message will be sent to the Assembly seeking its consideration of the suggested amendments. Once the Assembly has responded by sending a message to the Council, the committee will then resume its consideration of the bill.

Clause 1

Mr BARBER (Northern Metropolitan) — I have a couple of general questions. I request the minister confirm some of the facts put forward by government speakers during the second reading. Government speakers confirmed there is a backlog and a lag of provision of government schools in growth areas. They stated that generally speaking the non-government schools got in and were developed first, therefore there would be new communities where there is no choice; the non-government schools have established themselves, but the government schools are lagging. I have a couple of queries about this pattern of development. Can the minister confirm the figure that was put forward by government speakers that the tax that now will not be paid under this bill by non-government schools could equate to $1 million to $2 million per school?

Hon. M. J. GUY (Minister for Planning) — It would depend on an individual basis. It would depend on the school site, the precinct structure plan and the size of the school site. It would depend on a number of factors, so I do not think I can give Mr Barber an exact figure, except to say that some of the mooted bills that some of the independent schools would face are in that realm.

Mr BARBER (Northern Metropolitan) — I thank the minister; that is quite sufficient. Can the minister tell me what is the backlog or deficit of the provision of government schools in growth areas? How many government schools are we waiting on to be built?

Hon. M. J. GUY (Minister for Planning) — I do not have the answer to that. That would be a matter for the Minister for Education in terms of the rollout of government schools in growth areas in the future, suffice it to say that in the precinct structure plan future schools, both independent and government, are identified. As Minister for Planning my role is to bring forward those precinct structure plans in the knowledge that those facilities will be able to be built and that land can be put aside for those facilities into the future. With a whole-of-government approach the Minister for Education and the Department of Education and Early Childhood Development will then bring those schools forward when they believe the population demand is there or the methodology they use to determine when schools should be established says the schools should be commenced.

Mr BARBER (Northern Metropolitan) — So the B minister is saying that, having allocated the land for the school in the precinct structure plan, that is the end of his responsibility and it then becomes the responsibility of the Minister for Education as to the timing of when that school actually gets built. I understand that. I think it is a fairly narrow view of the role of the Minister for Planning, but as a matter of administrative responsibility I accept that that is the case.

The minister has confirmed that the GAIC (growth areas infrastructure contribution) money that would have been collected from these schools would be approximately $1 to $2 million per school, and, like all GAIC collections, that money would have gone into two dedicated funds — that is, the Growth Areas Public Transport Fund and the Building New Communities Fund, which itself provides money that can be used to build those schools, the ones that Mr Guy has said the Minister for Education is working on. Can the minister

tell me how much GAIC has been collected, how much is anticipated to be collected, how much is in those funds and whether any money has been spent from those funds?

Hon. M. J. GUY (Minister for Planning) — I am advised that for the year 2011–12 it is estimated that $36.2 million will be collected from GAIC revenues. In 2012–13 that figure will be $42 million.

Clause agreed to.

Clause 2

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Mr Tee's suggested amendment 1 is a test for his suggested amendments 2 and 3, which have the effect of making the legislation retrospective, which could have the effect of requiring funds from the Consolidated Fund. I call on Mr Tee to move his suggested amendment 1.

Mr TEE (Eastern Metropolitan) — Thank you, Acting President, but before doing so I would like to take the opportunity to ask the minister a couple of questions in relation to clause 2. I think there was some confusion during the second-reading debate, but I ask the minister whether he can confirm that the election commitment to remove the requirement for GAIC on land currently owned in growth areas is not provided for in the bill and that this bill does not include any provision in relation to GAIC charges that have already been imposed on land to be developed for a school.

Hon. M. J. GUY (Minister for Planning) — Mr Tee may be confused, but I do not think there is any confusion. It is very clear on two fronts. If a GAIC has been paid, this bill is not retrospective; the government will consider it in the future. If a GAIC has been deferred or has not been paid, that bill — that is, the money — will not need to be collected.

Mr TEE (Eastern Metropolitan) — Just to be clear, the minister's answer is that the current requirement for non-government schools to pay GAIC on land that they currently own in growth areas is not covered by this bill?

Hon. M. J. GUY (Minister for Planning) — Just to be clear, yet again, if a GAIC event has been triggered and has been deferred, the bill will not need to be paid. If the GAIC has been paid, then that is a separate matter which the government will consider in the future. You do not have a bill in limbo: it is either paid or not paid. If it is paid, it will be considered in future. If it is in limbo or has not been triggered, it will not need to be paid.

Mr TEE (Eastern Metropolitan) — Considering into the future the issue of bills that have been paid rather than bills that have been deferred, I ask the minister what the government plans to do in relation to those paid bills.

Hon. M. J. GUY (Minister for Planning) — That issue will require a discussion with the State Revenue Office (SRO) about whether there is a mechanism for a refund. That is yet to be considered by the government, and we will have to work through that in the future. Our belief is that to solve this issue now bringing this bill forward is worthwhile. It will relieve the schools of GAIC payments whether they have been deferred or would be triggered in the future. We believe it is important to act now rather than delay any future GAIC events being triggered by bills that have already been paid.

Mr TEE (Eastern Metropolitan) — I apologise to the minister for going back, but he has indicated that because of this bill, GAIC liabilities that have been deferred — that is, where there is already a GAIC liability but the payment has been deferred — will be removed by this bill should it become law. I am just not clear and wonder whether he could explain how that sits with the second-reading speech, which says that the bill does not include any provisions relating to GAIC charges that have already been imposed on land to be developed for a school.

Hon. M. J. GUY (Minister for Planning) — I advise that it is 'imposed', meaning 'paid'.

Mr BARBER (Northern Metropolitan) — Can I ask the minister, then, how many GAIC events would fall into the two categories — that is, those that have been triggered and deferred — which will not have to be paid under the bill, versus the proposal of Mr Tee?

Hon. M. J. GUY (Minister for Planning) — That is a good question by Mr Barber. No school has yet triggered a GAIC event. As such, the retrospectivity of the bill back to 2010 is not necessary, because no school has triggered a GAIC event.

Mr BARBER (Northern Metropolitan) — Therefore no schools have deferred it.

Mr TEE (Eastern Metropolitan) — Thank you, Minister; can we be clear about that, because at the departmental briefing it was indicated to me that there were a number, though a small number, of schools that would be captured.

Hon. M. J. GUY (Minister for Planning) — Again just to confirm, the State Revenue Office has confirmed that no school has triggered a GAIC event. There may be indirect triggers through a developer triggering the

GAIC event, but that will not be the liability of the school.

Mr TEE (Eastern Metropolitan) — Does the minister have an estimate? I am assuming that the developers will pass on the GAIC costs to that school, so do we have a number?

Hon. M. J. GUY (Minister for Planning) — Just to be clear, if the GAIC has been paid, it would sit within the first instance of what we discussed, wherein the government would consider that in the future. If it has been deferred or has not been paid, then obviously this bill, should it pass, will deal with that matter. If the GAIC has been paid, it is not covered by this bill.

Mr TEE (Eastern Metropolitan) — I move:

That it be a suggestion to the Assembly that they make the following amendment in the bill:

1. Clause 2, page 1, line 9, before "This" insert "(1)".

It is clear from the second-reading speech that the bill does not contain any provision relating to GAIC charges that have already been imposed, and the government says that this matter will be addressed after further consideration. There is a question about this bill not delivering on the government's election commitment, which was to remove the requirement for non-government schools to pay GAIC on land they currently own in growth areas. What the government says in the second-reading speech is consistent with that — that is, this issue will be addressed after further consideration.

What my amendment does is bring forward that further consideration by providing clarity and certainty. It asserts that any exemption which is provided for by this bill applies from 1 July 2011, the date on which the obligation came into effect. My amendment makes it very clear, simple and consistent that there never was a GAIC liability. It ensures that the bill is consistent with the government's election commitment and also ensures a degree of comfort and security. It provides a framework in which the issue the government refers to in the second-reading speech — that the matter will be addressed after further consideration — is dealt with. For that reason I put the suggested amendment, and I urge those opposite to support it.

Hon. M. J. GUY (Minister for Planning) — Let the government be very clear about this: the Labor Party is saying this amendment, should it pass, will assist the developers who have paid GAIC for schools in their precinct structure plans. The Labor Party's amendment may seek to assist a developer who has not yet passed on a GAIC event, but it will not help those schools. As we have said very clearly, no school has yet triggered a GAIC event, so making this bill retrospective, which is what the Labor Party wants to do, will achieve nothing. Let me say that very clearly: making this bill retrospective will achieve nothing. It may help a developer, but it will not help a school. The government has a very clear policy that it is putting in place, and that is that those schools which are included in new precinct structure plans will not pay the GAIC. This is a policy which we took to the last election, were elected on and are implementing.

Had there not been a change of government, every single one of these schools would have a GAIC event triggered and would be paying, as I said to Mr Barber, an estimate of $1 million to $2 million in GAIC. Should this bill pass, none of them will pay that GAIC. Mr Barber has raised some points on which he and I have an ideological difference regarding whether that should be the case, but we clearly believe as a government that none of those schools should have the GAIC event triggered. The Labor Party's amendment will not achieve anything. It will not mean that a single school will need to receive any refund, because no school has triggered a GAIC event. Developers have triggered GAIC events, and I find it quite remarkable that in coming to the chamber with this amendment the opposition is actually seeking to assist the development industry, instead of voting for this bill as it stands and assisting independent schools.

Committee divided on suggested amendment:

Ayes, 15

Broad, Ms	Pakula, Mr (*Teller*)
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Mikakos, Ms (*Teller*)	

Noes, 23

Atkinson, Mr	Koch, Mr
Barber, Mr (*Teller*)	Kronberg, Mrs
Coote, Mrs	Lovell, Ms
Crozier, Ms	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Pennicuik, Ms
Elsbury, Mr	Petrovich, Mrs
Finn, Mr (*Teller*)	Peulich, Mrs
Guy, Mr	Ramsay, Mr
Hall, Mr	Rich-Phillips, Mr
Hartland, Ms	

Pair

Viney, Mr	Dalla-Riva, Mr

Suggested amendment negatived.

Clause agreed to.

Clause 3

Mr BARBER (Northern Metropolitan) — For the definition of 'school' the minister has chosen to use the definition section of the Education and Training Reform Act 2006 rather than the table of uses from the planning scheme. I have a question about how the bill will operate in relation to that definition. Firstly, the definition from the Education and Training Reform Act 2006 states:

> ***school*** means a place at or from which education is provided to children of compulsory school age during normal school hours, but does not include —
>
> (a) a place at which registered home-schooling takes place;
>
> (b) a University;
>
> (c) a TAFE institute —

or any other place exempted by ministerial regulation. Can the minister confirm that this exemption from tax would apply to a for-profit school?

Hon. M. J. GUY (Minister for Planning) — By definition, some independent schools are obviously set up to make a profit so they are able to operate. So, yes, it would apply to an independent school that is operating for a profit, and I do not know many which operate deliberately at a loss.

Mr BARBER (Northern Metropolitan) — I was happy with the minister's answer until he referred to the last bit. A not-for-profit school is set up under a structure that does not allow payments back to its shareholders; whereas a for-profit school is able to not only make a profit — that is, make a surplus — but also then take those profits and give them back to the owners. Yes, a for-profit school is in the non-government category, but it has a different structure to a not-for-profit school. There are some for-profit schools operating in Victoria, including mooted opportunities for schools to run at a profit for their private investors. I want to ensure that we are clear that that is captured under the minister's definition.

Hon. M. J. GUY (Minister for Planning) — The answer is yes, it is.

Clause agreed to.

Clause 4

Mr BARBER (Northern Metropolitan) — That definition of 'school' will be applied to clause 4, which inserts new section 201RF(ba). It provides that a subdivision will be exempt where:

> (ba) the purpose of the subdivision is solely to provide a lot for a school or a proposed school.

How do we determine that purpose at the time of the subdivision?

Hon. M. J. GUY (Minister for Planning) — I am advised that would be a determination through the SRO.

Mr BARBER (Northern Metropolitan) — What evidence will the SRO use to prove that the purpose of the subdivision is for a future school?

Hon. M. J. GUY (Minister for Planning) — This is not rocket science; it is fairly clear as to whether an educational facility is being built or whether someone is building a basketball court, a nightclub, an aged-care facility or something completely different. In a development application, the land that has been deemed for development and the zoning that has been put forward through the precinct structure plan (PSP) will identify what is to be built on that site. The development application will contain the details of what will occur going forward, and that is what will be assessed.

Mr BARBER (Northern Metropolitan) — It might be clear under a later clause which deals with the building works that are proposed to be built. There are two ways to trigger the GAIC: one is through subdivision and one, as the minister knows, is from the issue of a building permit. Yes, under clause 5, at the time a building permit is issued it will be clear what the land will be used for, but at the point when a subdivision is being applied for is it not true — bouncing off the minister's answer — that the only way we can know what the subdivision is for is by looking at the land use controls that are in the minister's precinct structure plan?

Hon. M. J. GUY (Minister for Planning) — If the land use controls do not match what has been applied for, then the development will be subject to a GAIC.

Mr BARBER (Northern Metropolitan) — While the bill states that the definition of 'school' comes from the Education and Training Reform Act 2006, to establish that the purpose of a subdivision is for a school we will need to look at the land use controls and the precinct structure plan. If that area is referred to in the PSP as a zone for a school — which in this case will be a non-government school — then it is clear what the purpose is. But it could be that, later down the track, that school proposal does not get up and so the developer seeks a change to the land use zoning. That land zoning change will not trigger the subdivision

requirement because the subdivision was already done with a particular purpose in mind. That purpose then does not bear fruit and it will only be at the point of building works for the new use that a developer sells the land, or perhaps even the school itself has not been able to get enough money together and so it sells the land to someone else, that the GAIC will be triggered. Is that correct?

Hon. M. J. GUY (Minister for Planning) — That is correct. The key point is that a GAIC will be triggered for that land so the GAIC liability will be triggered for that land. The stage, as the member says correctly, is later but it will still be triggered for that land should anything come onto it.

Mr BARBER (Northern Metropolitan) — So a developer, or a school for that matter, could sit on a piece of land that has been subdivided for the purposes of a school, effectively speculate on that land and never trigger the GAIC and then down the track seek a land use zoning change which if they were then to build a factory, shopping centre or whatever, would trigger GAIC. Is that correct?

Hon. M. J. GUY (Minister for Planning) — The first point I make is that that is a hypothetical. The second point is that if someone, on Mr Barber's hypothetical, was to purchase the land that Mr Barber states could be on-sold — mind you, there would have to be a rezoning and that would go through a local process in itself — then I would imagine that the person purchasing that land would be well aware that GAIC would be triggered for it and thus the purchase price would be greatly reduced as a result of the outstanding GAIC liability that would be attached to that parcel of land.

Mr BARBER (Northern Metropolitan) — Yes, thank you. We are in agreement. I will turn now to the mechanics of the bill — this is not hypothetical, this is actually the mechanics of how the bill works — and go back to the purpose. The definition that I read out stated that a school is 'a place from which education is provided to children of compulsory school age'. This bill says 'solely to provide a lot for a school'. In other words, is it correct that that lot must be used solely for running a school and not simply that the dominant purpose of that lot is for a school? If it was a planning scheme table of uses definition, there would be an argument about what is the dominant use, but the construction of this bill seems to say that it will be the sole use.

Hon. M. J. GUY (Minister for Planning) — The sole use will be for educational facilities, yes.

Mr BARBER (Northern Metropolitan) — So an ancillary use that might be permitted under the planning scheme, such as a place of worship or anything else imaginable that a school might like to co-locate with its school, will not actually be permitted — —

Mrs Peulich — It is part of the curriculum.

Mr BARBER — No. I am talking about another type of use that under the planning scheme would be considered to be a different use. That will actually not be allowed because this bill says that the site must be used solely for the purposes of education and a school.

Hon. M. J. GUY (Minister for Planning) — As per the definition of the act that you mentioned earlier.

Mr BARBER (Northern Metropolitan) — Right. So a school would be advised to subdivide only that piece of land on which the school itself will sit and if it wants to co-locate a place of worship or use the land for something else, it would need to be on a separate subdivision. Otherwise it will end up paying GAIC on both bits because it will not meet the definition.

Hon. M. J. GUY (Minister for Planning) — No, firstly, it will depend on the interpretation of the act Mr Barber mentioned earlier and, secondly, on the nature of the school — whether it is a religious school, for example — and whether that is part of the education facility of the school.

Mr BARBER (Northern Metropolitan) — I am not worried about the interpretation of the definition from the Education Act 1958; that definition is very clear — a school is a place where kids of compulsory school age are taught. That is fine with me. But the minister has inserted the word 'solely' into this bill to describe the site. That seems to imply that if anything but a school is being built on the same site, it will not qualify and therefore the developer will have to pay GAIC. I am talking about ancillary uses that under a planning definition might be seen as ancillary or separate uses, but if they are on the same subdivided parcel of land as the school, they will prevent the school from seeking the exemption.

Hon. M. J. GUY (Minister for Planning) — Yes. As I outlined earlier, if a religious facility — which is, I take it, what Mr Barber is taking aim at — is part of the school's educational facility, then that will be captured under this bill.

Mr BARBER (Northern Metropolitan) — I am not taking aim at anything. I well understand that there are places of worship associated with religiously based schools, so I am not taking aim at anything. What I am

saying is that a place of worship is clearly not a school under the definition to which the minister referred. Is that the minister's contention — that if going to church is part of the curriculum, it is therefore part of providing a school?

Hon. M. J. GUY (Minister for Planning) — I do not want to get into a debate on this, but I put to Mr Barber that playing basketball is not necessarily associated with all levels of a school's educational curriculum, yet you would think that the parcel of land on which a basketball court attached to a school is built would also be considered exempt from the GAIC. This would also be the case for a swimming pool, for example, or a netball or tennis court or indeed a football oval — they are not always strictly considered part of an educational facility. But they will be captured if they are part of the school facility, as would, in this instance, a place of worship should it be located at a Catholic school or an independent Christian school. It will be captured as part of the school facility that is being built.

Mr BARBER (Northern Metropolitan) — I hope the minister is right and that the State Revenue Office manages to interpret the definition in the Education Act 1958 in the application of the Planning and Environment Act 1987 in the exact way that he says it will. Of course schools in these areas could adopt a whole range of activities, including some for-profit sideline activities and so forth in the parcel of land that they hold. It is no surprise to anybody that people seeking to establish a school in a growth area often buy a large parcel of land and from time to time subdivide various bits off and offer a range of activities that may not be on offer anywhere else in that growth area.

Skipping on to clause 5 briefly — I do not want to go on to clause 5, I have got no questions for clause 5 — I will just note that exact same definition will apply when it comes to building works. If building works for a particular facility, a place of worship or anything else we can imagine, were to fail the same test, then they would trigger GAIC across the whole parcel.

Mr TEE (Eastern Metropolitan) — On the issue of the purpose of the subdivision, if the purpose of the subdivision is to provide a lot for a school but also for housing or shops as part of a broad subdivision, will the GAIC exemption apply?

Hon. M. J. GUY (Minister for Planning) — It will only apply to the school part of the facility. If there are shops or, as Mr Barber says correctly, other land that is sold off for future residential development, they will trigger the GAIC and that will be a GAIC-able property.

Mr TEE (Eastern Metropolitan) — Just to be clear: the word 'solely' here relates to the block of land that is provided for the school; it does not relate to the subdivision — in other words, in the case of a subdivision which is a broader subdivision which covers housing, shops and a school, that GAIC exemption will still apply to that portion which relates to the school?

Hon. M. J. GUY (Minister for Planning) — No. The school portion would not pay the GAIC. The subdivision, if you are talking about a subdivision within a precinct structure plan — and note that this would be determined by a precinct structure plan — and the areas that would be set aside for an educational purpose would not have the GAIC triggered, but in the precinct structure plan the areas that may be owned by the same owner but have a different intention, which is either commercial, residential or even light industrial, will be subject to a GAIC-able event. In addition, as Mr Barber has pointed out, should the educational purpose of the land set aside change in the future by the time of the building works, that would trigger a GAIC event and that land would then become GAIC-able.

Mr BARBER (Northern Metropolitan) — The minister thinks it is all incredibly clear. The minister has already said that you will consult the planning scheme as part of your determination as to the intended use. The minister would be well aware that there are grey areas in terms of a table of uses and that if a large church or a mosque were to be collocated on schoolgrounds but used on the weekend by a large congregation, that would trigger a whole range of planning provisions and it could be determined that the new use on that title would be a place of worship. If that were to be the case, I think there would be some grey area as to whether that would trigger GAIC for the whole site. So I think a school moving down that track would be well advised to consider whether it might want to subdivide first and take that use off on its own parcel so that it does not risk, if you like, triggering GAIC for the entire site.

Hon. M. J. GUY (Minister for Planning) — I simply say that I am sure that Independent Schools Victoria will take the advice of the Australian Greens and should pass it on to their members, but the house should be under no illusion. This bill is very clear: where classrooms are being built and a school facility is in existence, those areas will now not pay the GAIC.

Mr BARBER (Northern Metropolitan) — Good advice on planning is hard to come by, as the minister knows, so let us allow everybody's contributions to stand.

Clause agreed to; clauses 5 and 6 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

Business interrupted pursuant to standing orders.

ABSENCE OF MINISTERS

Hon. D. M. DAVIS (Minister for Health) — I wish to formally advise the house that Mr Rich-Phillips is at a ministerial council meeting, and I thank the opposition for the pairing. I also indicate that Mr Dalla-Riva is ill.

QUESTIONS WITHOUT NOTICE

Minister for Planning: legal costs

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister for Planning. I refer to reports in the *Age* of 20 January that Ventnor property owner Carley Nicholls has issued legal proceedings against the minister, and I ask: are the minister's legal bills in the defence of that action being covered by the Victorian Managed Insurance Authority or a cabinet indemnity or both?

Hon. M. J. GUY (Minister for Planning) — This matter is the subject of legal discussion, although it is in the very early stages. I will take that question on notice and give Mr Pakula a proper answer in writing.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister for agreeing to take the question on notice. My supplementary question therefore would be: in doing so, and in the provision of the minister's response, if the answer to my question is yes, could the minister inform the house in that response of the basis upon which it has been decided that he be indemnified in that way, if he is being indemnified in that way?

Hon. M. J. GUY (Minister for Planning) — It is a hypothetical question, but I will give Mr Pakula a proper answer in an on-notice reply.

Nurses: enterprise bargaining

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Health, Mr David Davis, and I ask: will the minister update the house on the current EBA (enterprise bargaining agreement) negotiations for the ANF (Australian Nursing Federation) union and its threats to order the mass resignation of nursing staff in Victoria's hospitals?

Hon. D. M. DAVIS (Minister for Health) — I thank Ms Crozier for her question, and I note her role as a nurse over many years and her understanding of the nursing profession. Whilst I am not going to provide detailed updates — for example, of the machinery of conciliation or other negotiations that may occur — I can give the house a general update on the EBA negotiations with the ANF union.

It is clear that the ANF union has begun the process of ordering a number of its members to resign en masse. I indicate to the house that the government has a number of contingencies in place and has prudently worked with the Victorian Hospitals Industrial Association (VHIA) and the 86 Victorian health services to ensure that appropriate measures are in place so that patients in Victorian hospitals are safe. The ANF union, for example, has several times been subject to negative rulings by tribunals at Fair Work Australia, which have indicated the ANF's earlier actions did put patients at risk. The ANF union's preparedness to put patients at risk is absolutely clear, and the government and the VHIA had to act swiftly to deal with those matters prior to Christmas.

Hon. M. P. Pakula interjected.

Hon. D. M. DAVIS — I did act swiftly with the VHIA and the 86 health services, Mr Pakula. I note that in 2007 when Mr Pakula's leader, the member for Mulgrave in the Assembly, was the Minister for Health, he was prepared to act swiftly to end the bans that were put on by the ANF union. In that sense I am at one with him. I did not want to see Victorian patients put at risk. I note that to this day he has never been prepared to say that the bans and the bed closures ordered by the ANF union prior to Christmas were wrong and would put patients at risk.

I make the point here that the government, the VHIA and health services have prudently made provision. We believe there is every capacity within Australia — indeed within Victoria — to ensure that the safety of patients is guaranteed. I equally make the point that given the propensity of the ANF union to make orders and directions that will put patients at risk, I do not take

the threat idly. For that reason we have taken prudent actions.

Whether in fact thousands of nurses resign is a different point. The ANF has indicated that thousands will resign en masse. I hope that is not the case, and I believe that the overwhelming majority of nurses will put the interests of their patients first and put patient safety first, will focus on doing the right thing by their patients and not resign en masse. I do not believe that most nurses will resign en masse. I do not put it beyond the ANF to further order nurses, who are ANF members, to resign. The ANF union is prepared to make those orders, but I believe that most nurses will not respond to those directions and those orders from the union to resign and thereby put their patients at risk.

Central City Standing Advisory Committee: replacement

Mr TEE (Eastern Metropolitan) — My question is for the Minister for Planning. The Central City Standing Advisory Committee, which had two representatives from the City of Melbourne and two representatives from the government, considered all developments over 25 000 square metres. It gave the City of Melbourne a formal opportunity to help shape Melbourne's built form. The minister scrapped the committee in late 2010 and told the *Melbourne Leader*:

> The coalition has committed to establishing a better system and we are working to do this as soon as practicable.

Has the minister replaced the Central City Standing Advisory Committee?

Hon. M. J. GUY (Minister for Planning) — No, at this stage I have not.

Supplementary question

Mr TEE (Eastern Metropolitan) — The concern of course is that without a formal consultation mechanism the council is locked out. Essentially it is in the minister's sole discretion to determine the future shape of Melbourne. My supplementary question is: the minister said he would replace it as soon as practicable. It has been more than 12 months. Why has he not replaced it?

Hon. M. J. GUY (Minister for Planning) — My department and the Melbourne City Council are working very well together. I think if Mr Tee were to ask the council, it would tell him that its relationship with the government and the department is very good, that consultation on all projects that are what are called CCSAC projects, or Central City Standing Advisory Committee processes, is working well. Consultation always occurs with the City of Melbourne and we ensure that the City of Melbourne is a part of that process. We make sure that the points of view of the City of Melbourne are taken into everything that is being considered.

The CCSAC process, I felt, had not descended into a good working order. I think that was the consensus of all the people on it. In fact the city council was quite supportive of our determination to find a different process. It is not going to be easy; it is not going to be a straightforward, overnight affair.

Mr Lenders interjected.

Hon. M. J. GUY — I will tell Mr Lenders what is decisive. Being decisive is making a decision to take it back under my control, which I have done as the minister, and getting on with approving projects through the city of Melbourne area that will bring jobs and prosperity to the city of Melbourne area as opposed to the delay and dithering that was the hallmark of him and his government.

Planning: land supply

Mrs PEULICH (South Eastern Metropolitan) — My question is also directed to the Minister for Planning, and I ask: can the minister inform the house of what action the Baillieu government has taken to address housing affordability and housing supply issues, and what are the flow-on impacts of any decisions on regional job growth?

Hon. M. J. GUY (Minister for Planning) — I thank Mrs Peulich for a fantastic question and the great concern she has for housing affordability, not just in Melbourne but right across Victoria. I inform the chamber that it is with much pleasure that I have brought forward and approved the Officer precinct structure plan after seven years of delay from the previous government. The Officer precinct structure plan will be absolutely fantastic for Melbourne's south-eastern suburbs — 648 hectares, working with the council, 10 000 homes for 30 000 people and a $184 million local developer contribution plan that will see local roads and local infrastructure built as part of that precinct structure plan area.

It will not be done in the absence of infrastructure. Adjacent roads will be upgraded, four new government primary schools will be built, two new secondary schools and two specialist schools will be built, there will be a major town centre with a new council office in Officer, a local town centre, five convenience retail

centres and 18 local parks. Some private schools may feature, and of course they will no longer pay the growth areas infrastructure contribution.

It is this government that is getting on with the business of bringing forward land supply to assist with the supply constraints that we inherited from the previous government. It should be noted that in 2009, the year in which Melbourne registered its largest ever population growth on record in one hit — over 90 000 people — only 2000 or so blocks of land were brought on by the previous government. This government is committed to bringing forward nearly 50 000 blocks of land by the end of March this year. It is right. It will address supply issues, and it will address affordability issues.

But we do not just stop at Melbourne. This government is looking at all of Victoria and, as Mr Drum aptly and properly identified yesterday, we have brought forward a great amount of new land in the Latrobe Valley. I have great pleasure in informing the house that recently I brought forward 228 more hectares in the Latrobe Valley. Mr Lenders would know the Latrobe Valley well, as I, with my own family, do.

The valley is a great place to live, and it has a bright future in front of it. Places like Traralgon, Churchill, Moe, Morwell, Newborough — towns which can grow and can sustain growth — we are bringing forward now. In just 14 months nearly 800 hectares of land and nearly 6500 blocks of land will see the Latrobe Valley position itself well as an area to live, as an area to invest in and for business to invest in the valley with confidence in the future. This is in stark contrast to a party that wants to slap on a carbon tax and destroy the valley and rip 20 000 jobs out of the Latrobe Valley, which is what the Labor Party wants to do.

The Baillieu government believes in jobs. We are acting to bring forward land to create jobs both in Melbourne's south-eastern suburbs and in Melbourne's regional areas. This is in stark contrast to the do-nothing Labor Party that did nothing on regional land supply, that stalled precinct structure plan growth in Officer — a Labor Party that would go back to its old ways with its old, clapped-out frontbench still there. This party is acting. The previous government sat on its hands. We believe that the Latrobe Valley's best days lie ahead of it, and we believe that Officer's best days lie ahead of it.

Public sector: job losses

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Health, who is also the Minister for Ageing. Are Department of Health staff who are involved in cases of disease outbreak and other major health situations in Victoria's aged-care facilities and in the wider community considered to be front-line service staff?

Hon. D. M. DAVIS (Minister for Health) — The government has made it clear that front-line service staff are the ones who will be protected in the decision to have a sustainable public service. Each and every category will be looked at very closely indeed. I will certainly take on board any suggestions that are made by Ms Mikakos, but I want to be quite clear that those who are involved in front-line services will not in any way be involved in the sustainable public service reforms that will ensure a sustainable basis for our Victorian public sector. The key thing here is that public health initiatives that protect a community from diseases are front-line service activities that will ensure that public health standards are protected in this state.

We obviously face in Victoria the threat of specific disease outbreak at certain times. If I can perhaps give an example of such a threat, during the flood process earlier last year there was a significant challenge for our public sector people who were involved in public health protection, so public health protection is certainly an area of that type. But what I will say is that the changes will be voluntary over two years. There is some lapsing of fixed-term positions. The 3600 will be made up of those categories: voluntary redundancies and the lapsing of fixed-term positions.

The government is, as I have said, aware of the economic circumstances and is focused on a prudent and sustainable budgetary approach, and I am quite clear that front-line services will not be in any way impaired.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I am very pleased that the minister is looking forward to my suggestions; I certainly believe that public health services should be protected. My supplementary question is: given the Premier's statement that front-line services will not be affected by the 3600 public servants who are to be offered voluntary departure packages, can the Minister for Health guarantee that no staff positions in his department relating to controlling infectious diseases will be left vacant?

The PRESIDENT — Order! Does the minister want clarification on that?

Hon. D. M. DAVIS (Minister for Health) — No, I will respond, thank you. What I can say is there will be no diminution in the effort to ensure health protection is

provided and public health services are provided in a safe and secure way. For those who are undertaking key public health service arrangements, we will certainly ensure that those front-line services are protected.

Health: private insurance

Mrs COOTE (Southern Metropolitan) — My question is for the Minister for Health, who is also the Minister for Ageing. Can the minister inform the house of the government's position on the commonwealth's proposed private health insurance changes and their impact on the Victorian health system and Victorian families?

Hon. D. M. DAVIS (Minister for Health) — I thank Mrs Coote for her question. I think she, like me and many others, are concerned at the commonwealth's proposals concerning private health insurance and the means testing of the private health insurance rebate. The Victorian system — and indeed the national health system — is a finely balanced system. It is a system that has both a very important public component and a private component. That component is supported in part by the private health insurance rebate, which is a measure of fairness for those who are contributing more to their health insurance and the overall health system in Victoria. Those are very significant points that need to be borne in mind as we consider the commonwealth government's proposals to means-test the private health insurance rebate. We need to protect our balanced system and ensure that fairness is a part of the system.

What would happen if the means testing is passed is that a number of Victorians, perhaps many thousands, would step out of their private health insurance, and the fairness would be disturbed. That is also an important point to bear in mind. But if thousands, perhaps tens of thousands, of Victorians were to drop or reduce their level of cover, both hospital and ancillary, there would be a significant impact on the public health system — and the Victorian public hospital system. I would be concerned to see a large number of people dropping out of private health insurance. That would necessarily put greater pressure on the public health system, emergency departments, elective surgery lists and so forth. If the commonwealth proposal is passed by the federal Parliament, there will be greater pressure on the Victorian public health system.

I note that the private health industry released a report by Deloitte back in April 2011 based on research. What it shows very clearly is that if private health insurance premiums were to rise, there would be a significant number of people forced to downgrade their cover and necessarily thousands of people falling back into the public health system. I am concerned about the impact of the proposed changes at the federal level. The commonwealth government has agreed to a number of changes that have occurred across the system, including a maintenance of approach via the arrangement — —

Mr Barber interjected.

Hon. D. M. DAVIS — I may well do that and make my points known there, but it is a very important point to put on the public record, Mr Barber. People who take out private health insurance have a rebate to help them. There is a fairness in the system. They are contributing more to the overall health system in Australia, and there is some support for and recognition of their greater contribution. The pressure is also taken off the public hospital system. If that system, that fairness and balance, were disturbed, there would potentially be a flood of patients back to the public health system, putting greater pressure on it, and the government would be concerned.

Ambulance services: Kinglake

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. I was hoping the minister might be able to share with the chamber why it is that two years after the Labor government provided $1.25 million for the redevelopment of an ambulance station at Kinglake the site remains vacant. Can he explain to us why that is the case and what has been the progress in delivering on this commitment, as it is now two years since the allocation was made?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question, and I am pleased to tell him that tomorrow I will make an announcement at the station. I am informed that there are signs on the site now and that process has gone forward very strongly. Things will occur quite quickly from here. I can indicate to the member that this is a very important ambulance station, and I look forward to — —

Hon. M. P. Pakula — Are you inviting the shadow minister?

Hon. D. M. DAVIS — No, I am not. He can come another time. I will invite him to some openings, but this is one we intended to make by ourselves, and I appreciate the opportunity to pre-announce it.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — President, you will appreciate that I am very happy to have facilitated the announcement. Though I might not be invited to the event the minister is holding in

Kinglake tomorrow, could he have the good grace to invite the local member to attend that event?

Hon. D. M. DAVIS (Minister for Health) — Yes.

Teachers: social media guidelines

Mr O'BRIEN (Western Victoria) — My question is to the Minister responsible for the Teaching Profession, who is also the Minister for Higher Education and Skills. Could the minister advise the house on what assistance has been provided to teachers on matters dealing with the use of social media?

Hon. P. R. HALL (Minister responsible for the Teaching Profession) — I thank my colleague Mr O'Brien for his question, which is timely. I want to advise the house that last week new social media guidelines for use by teachers in Victorian government schools were published on the department's website. This is a very important document because while we realise that online activity and the use of all forms of social media can be very valuable in terms of communication and education tools, we need to be careful in the use of those tools. Any online activity needs to reflect the expectations and standards of school communities, parents and employers.

Sites such as Facebook and YouTube, as I said, can be good sources of educational material and instruction, but again one needs to be careful in the way one uses them. Teachers can also use sites like Facebook. We know that the growth of some of that social media provides opportunity but also presents risks. These guidelines, using a lot of case examples, provide teachers with some sort of guidance as to what sort of material they might appropriately refer to, use and themselves post on those social media sites. It is the same with other forms of social media like Twitter.

I welcome these particular social media guidelines. I am pleased that their publication has received a positive response from all those within the education sector, because it is a medium which some of those in the teaching force, and some of us generally, may not have had a lot of experience with, and before embarking on using those technologies to assist in their very important responsibility of educating in Victorian schools, one needs to understand the risks associated with the use of those materials. In that regard these new social media guidelines will be of great assistance to all teachers.

Planning: Fraser Street, Sunshine

Ms HARTLAND (Western Metropolitan) — My question today is for the Minister for Planning. At Fraser Street in Sunshine there is an existing park on Kororoit Creek which is zoned as public open space and which is heavily used by the community, particularly by the many young families in the area. Melbourne Water wants the Brimbank council to rezone the land from open space to residential 1 so that it can sell it off. This is a contradiction of the government's election promise to protect existing parks and open space from development. The government's 2010 election policy document titled *Victorian Liberal-Nationals Coalition Plan for Planning* states on page 2:

> … we will recognise the importance of maintaining our urban open space and stop Labor's sacrifice of urban parks for quick development.

Those assurances are also made on pages 11 and 22. Is it the intention of the government to break an election commitment and sacrifice this public park for quick development through applying to have this park rezoned from public open space to residential 1 for sale to developers?

Hon. M. J. GUY (Minister for Planning) — I thank Ms Hartland for that question. There are obviously a number of issues associated with land owned by Melbourne Water as opposed — —

Mr Barber — Are you going to flog it off or aren't you?

Hon. M. J. GUY — Hang on, Mr Barber, I am trying to answer your colleague's question. There are obviously a number of issues associated with Melbourne Water's disposal of any land that may exist. I am happy to get some details. I know this issue has come across my desk, and if Ms Hartland wants to examine it for herself, we can sit down and get a full briefing about Melbourne Water's intention for the land — what it wants to do with it. As I understand it, no rezoning has come to me for that site, certainly to residential 1, but I am happy to explore the matter further with Ms Hartland.

Supplementary question

Ms HARTLAND (Western Metropolitan) — Would the minister also be prepared to have two or three members of the local community come along to that briefing and talk to him about the value of this site?

Hon. M. J. GUY (Minister for Planning) — I will just say straight out that Melbourne Water is not within my purview of government, as Ms Hartland would understand, but I am happy to have a conversation with her and others about that site. If it is important, I am

happy to invite Mr Finn and Mr Elsbury as well. Indeed I would even invite some other members who might be interested in having a conversation about public open space and this government's commitment to public open space but, more to the point, the future of the site that is in question.

Vocational education and training: providers

Mr FINN (Western Metropolitan) — My question is directed to the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession. Can the minister update the house on any investigations into unacceptable practices by registered training organisations delivering government-funded training?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I welcome Mr Finn's ongoing interest in this matter, because he did ask me about some dodgy providers in December last year and I promised to keep the house informed on this particularly important matter. So it is today that I welcome the opportunity to advise the house that, with respect to this issue about quality of training being provided in Victoria, it is going to be a focus of mine, my office and department to ensure that the $1.2 billion of public money being spent on training, and the not insignificant contributions of individuals to their training, delivers for them a quality training product and that funding is not being used to line the pockets of unethical providers.

In respect of this attack on improving the quality of training, I can advise the house that at this stage it is taking in three areas. The first of those is improving the standards required of those seeking a contract to deliver government-subsidised training. Last year there were 609 providers registered with Skills Victoria to deliver government-supported training. The figure at this stage this year is 473, and while there are a few applications still outstanding, I do not expect that figure to rise beyond 500. In fact 100 applicants have failed to reach the new standards set by Skills Victoria, and 56 of those 100 are organisations that had contracts in 2011. The bar has been set higher in an effort to ensure that we have quality providers with the right intentions operating and getting support for government funding.

The department is going to show a greater degree of vigilance and apply that vigilance to pursuing reports of misuse and abuse of training opportunities. In that regard there are currently nine organisations under investigation where payments have either been withheld or suspended while those investigations and independent audits are completed. I can tell the house that some of these are not insignificant providers either; one has in excess of $10 million in claims on government funding for 2011.

I also want to advise the house that yesterday the Victorian Registration and Qualifications Authority took action against a training company that goes by the name of Vocational Training Group Pty Ltd. That organisation was deregistered by the VRQA following an extensive inquiry into its operations. The VRQA found that that provider had not been able to demonstrate a viable financial model and did not have in place all of the necessary staff, training and assessment materials required to meet its regulatory obligations. The organisation was under external administration and that matter has not been resolved satisfactorily.

By the three instances I cite here this afternoon I hope to emphasise to the people of this Parliament and more broadly to those in the training sector that quality is a key focus of this government in 2012, and where instances of abuse or misuse of public funding take place the action will be strong and immediate.

QUEEN ELIZABETH II: DIAMOND JUBILEE

Hon. D. M. DAVIS (Minister for Health) — By leave, I move:

> That the following resolution be agreed to by the house:
>
> To Her Majesty Queen Elizabeth II
>
> Most Gracious Sovereign
>
> We, the President and members of the Legislative Council, in Parliament assembled, express to Your Majesty our warm congratulations at this time of celebration of the diamond jubilee of your accession to the throne.
>
> We express our respect and high regard for the dedication you have shown in the service of the commonwealth of Australia, and in particular the state of Victoria, and for the consistently high sense of duty you have displayed throughout Your Majesty's reign.

I think all of us in this chamber who have lived through the last 60 years or less basically have memories of only one sovereign — —

Hon. M. P. Pakula — Or more!

Hon. D. M. DAVIS — Or less. Indeed those in this chamber who have lived for more than 60 years — or prior to coming to this chamber, perhaps — will also, I think, have memory of one sovereign, and that is essentially my point.

This milestone — the 60th anniversary this week of the accession of Her Majesty Queen Elizabeth II to the throne — is a significant one in terms of the commonwealth, Australia, Victoria and world history and politics. Only two of Australia's monarchs have reached their diamond jubilee — the current Queen and Queen Victoria, after whom our state is named. The key point is that she has provided enormous stability, commitment and service and is a great example not only to Australians and Victorians but more broadly across the commonwealth and the world.

Her history as an individual is important in that her sense of duty comes through very strongly. Many look to her as an exemplar for that. We know she saw the abdication of her uncle and that she has seen world war. She came to the throne in 1952 after the death of her father, George VI. From that day she has committed herself to public service, and for 60 years she has done so in quite a remarkable way.

She has presided over and ably assisted in the management of the important process of decolonisation following the Second World War and up to the present day. The British Empire, as it was, and now the Commonwealth of Nations, went through a significant process whereby many of the countries that had been part of the old empire were able to gain their independence and chart their own course. The Queen understood, on advice, the importance of managing that process in a way that was dignified and positive and which retained the strengths and commitments that were part of the commonwealth — the commitments to tolerance, to the rule of law and to a shared heritage, in many cases, in terms of law and traditions. These traditions have stood many parts of the commonwealth in good stead.

When you look around this building you see pictures of Queen Elizabeth presiding over the opening of Parliament in 1954. People in the 1950s and 1960s clearly felt affection and fondness for her. I know members of my family had great affection for and commitment to the Queen and what she stood for.

Sixty years is such a long period. The Queen has seen so many prime ministers, premiers and other political figures come and go, and she has gained an enormous understanding of the political process through that period. She is a person who has lived to the highest standards. Many of us aspire to do likewise and see her as having provided a welcome figurehead to Australia's population over such a long period — wise, thoughtful, generous and committed to supporting all parts of the commonwealth.

I want to mark the special diamond anniversary, thank the Queen for the manner in which she has performed and graced her role and thank His Royal Highness the Duke of Edinburgh for his constant support of the Queen. As I have said to this chamber, the length of her relationship with this state was exemplified by the recent visit to Melbourne and the opening of the new Royal Children's Hospital. She was at the opening of the original Royal Children's Hospital on Royal Parade and then, more recently, was at the opening of the new and magnificent building we all saw.

I am proud to move this motion. The example provided by Her Majesty is extraordinary, and I think even republicans recognise the remarkable nature of Her Majesty and her contribution.

Mr LENDERS (Southern Metropolitan) — Sixty years ago I would have been the leader of her loyal opposition; now I am the leader of her official opposition. I rise to support the motion moved by Mr David Davis.

It is worth reflecting on 60 years of Queen Elizabeth's role as head of state. Sixty years ago she was Queen Elizabeth II by the grace of God, Queen of the United Kingdom of Great Britain and Northern Ireland and of her other realms, dominions and territories; today she is Queen of Australia, and also head of state of 15 other commonwealth nations. It is appropriate that this Parliament should acknowledge a head of state who has served for 60 years. I do not think anyone in this Parliament would question that Queen Elizabeth II has done a good job — an amazing job, many would say — in her 60 years as head of state. The only equivalents in the modern era I could find during my search yesterday were Emperor Hirohito and Queen Victoria, who were heads of state for more than 60 years.

It is a good thing that the Legislative Council and the Legislative Assembly are acknowledging this occasion, because other than an exhibition at the Art Gallery of Ballarat, this is literally the only official recognition of the diamond jubilee in Victoria. The Governor is not recognising it, and nor is the government. It is interesting that it is this house that is recognising the anniversary of 60 years of our head of state, because this motion, the Assembly's motion and the exhibition at the Ballarat art gallery are the sole Victorian recognitions of this occasion in the year 2012.

I would also like to reflect on how Queen Elizabeth has moved with the times. I referred to her title 60 years ago. Her title is far simpler now. As a head of state she has a Twitter account through Buckingham Palace, and her family has one through Clarence House. I note that

the language used by the government here, very loyal 1950s language, is quite different to the language used by the Queen herself on her Twitter account and her Buckingham Palace Facebook account. That is a tad more modern than the language we are using here. I think that is a sign of how the royal family and the Queen in particular have moved to keep up with the times over those 60 years.

I will say one final thing. As a leader of an official opposition in a state in one of the 16 countries of which Queen Elizabeth is head of state, I am probably expecting a bit much to think that the Queen, even with her adoption of technology, at what is now 12.30 a.m. London time would be following us on the website. I do not think she is. But if she is, I would like to extend to her from her official opposition in Victoria congratulations on 60 years of good service as head of state. We thank her for it. She has played an exemplary role.

Mr BARBER (Northern Metropolitan) — I am sure that the vast majority of Victorians will concur with the sentiments expressed in this motion, and we are very glad to support it. The British royal family is an important and fascinating part of our cultural history in Australia. The role its members will play in our future constitutional arrangements is a debate for another day.

Not having been around for quite as many of those 60 years as Mr David Davis, although almost, it seems to me that fascination with Her Majesty Queen Elizabeth is higher today than it has ever been before. Personally I have always been much more fascinated by Queen Victoria, and a statue of her looks over me every day when I come into the building. From the amount of commentary, books, movies, personal profiles and so forth I can see that most people are fascinated with the Queen as a person and her role. It seems everyone agrees that she takes care of that role most diligently. Whether or not the Baillieu government is considering commissioning such a statue for Queen's Hall at some time I do not know; perhaps we will hear about that soon. But for today the best we can do is simply affirm the support of the Greens for this motion, which I am sure all members will want to support most warmly.

Hon. P. R. HALL (Minister for Higher Education and Skills) — On behalf of my Nationals colleagues I too join the government, the opposition and the Greens in supporting this motion. I offer my acknowledgement and congratulations to Queen Elizabeth II, who this year, as has been said, celebrates her diamond jubilee, commemorating the 60th anniversary of her accession to the throne. Her accession preceded my birth, just, so 1952 is a year special to us both.

Queen Elizabeth's service to the commonwealth nations has been exemplary, and her visits to Australia over that period of time have been special moments for the Australian public. We enjoyed and were delighted by her visit to Victoria just last year. It was a very significant event. If you were to describe her personality and the way in which she has responded to her role of monarch, you would say her reign has been one of quiet, dignified yet effective authority. She has provided a calm voice of reason during recent years when there have been several tumultuous world events. The messages from Her Majesty on those occasions have provided some very good guidance, support and encouragement to those impacted by some of those tumultuous events.

I think it is important to record that while in this country we have experienced and will continue to experience some very vigorous debates and some polarised views have been expressed about whether we should be a constitutional monarchy or a republic, what does have almost universal acceptance is the regard and respect we all share for how Queen Elizabeth II has acted in her role as monarch. We all respect the way she has conducted herself in that office over the 60 years that she has been our Queen. Sixty years in that position is a remarkable achievement, and it is one which it is appropriate that we acknowledge today. We thank her and her family for the tireless support that she has given to those nations of which she is Queen.

Mr FINN (Western Metropolitan) — It gives me enormous pleasure to rise in this house to support the motion moved by Mr David Davis and in particular to speak on behalf of the people in Melbourne's west who so greatly admire Her Majesty Queen Elizabeth II. It is safe to say that if there is one individual who has dominated the world stage for most of the last century and so far in this 21st-century, it is Her Majesty. To hold the position of monarch for 60 years is an extraordinary achievement in itself. We would all agree with that. But it is the manner in which Her Majesty has conducted her duties that shines for all of us to see. She has been and she is a lady of grace but also a lady of very great strength and belief. She has led by example during troubled times.

Who could ever forget the difficulties that she faced when terrorism struck her own family some years ago and her beloved uncle was murdered by the Irish Republican Army? She maintained her dignity in her grief and again showed the world what a wonderful

person she is, and what a wonderful example she sets for us to follow.

It would be safe to say that no tribute to Her Majesty in this diamond jubilee year would be complete without mentioning her life partner, Prince Philip, the Duke of Edinburgh. Through thick and thin, through good and bad, the Duke has stood with the Queen, and it has to be said — —

An honourable member — For richer or poorer.

Mr FINN — I am not sure about that. There has not been a lot of poorer, it has to be said. Those of us who have watched Prince Philip closely know that his humour has given many of us much joy over many years, and I believe his contribution to Her Majesty's rule should not and indeed cannot be underestimated.

Her Majesty has shown a great affection for Victoria over many years. She has been here on a number of occasions. Her first visit predated my birth, but it was an occasion for an outstanding outpouring of love for her from the people of Victoria. It is interesting that during Her Majesty's most recent visit, which we hope will not be her last, that affection was returned by the bucketload. People came from everywhere to see Her Majesty and show they have respect, admiration and indeed love for her. During the aftermath of the Black Saturday bushfires three years ago she showed just how much genuine and real concern she has for the people of Victoria, and I am sure that has been noted.

I mentioned earlier that Her Majesty is the monarch; she is not the head of state. According to the constitution of Australia, the head of state is the Governor-General. The point has to be made that whilst the Queen has been an outstanding monarch, she is not our head of state. Nonetheless, the Queen has shown enormous strength and a tremendous capacity to unite people, and she has given us the stability that only a constitutional monarchy can give Australia at any given time. I believe she is a great example of commitment and service not just to Victoria and Australia but to the Commonwealth of Nations. It is amazing to think that she has been living in a fishbowl for pretty much all her life. I am not sure I could handle having that sort of pressure too well at all. For Her Majesty to do that is a credit to her. There is no doubt about that at all.

From the time when she unexpectedly came to the throne in 1952, Her Majesty has shown us all that she takes her responsibilities very seriously indeed, and she still does so at an age when most of us would have long since retired — some of us quite permanently. She is still committed to her role as monarch and takes it very seriously indeed. It is very hard to find anybody in this house or in the general community with a bad word about her. She has done and is continuing to do an outstanding job. Long may she reign over us.

Mrs KRONBERG (Eastern Metropolitan) — This year marks the diamond jubilee — the 60th anniversary — of the accession to the throne of our gracious Queen, Her Majesty Queen Elizabeth II. Recent commentary on the occasion of Her Majesty's 60th anniversary, whilst celebratory, also points to the fact that this is also a sad time for the Queen, because it marks the anniversary of the death of her father, King George VI. One of my earliest recollections is being a four-year-old child and the scene that the death of King George VI created in my family's kitchen. It played out in this way: my mother, with her head bowed, solemnly sewed black grosgrain ribbons over the coloured trim of my father's Freemason ceremonial apron. That image is burnt in my mind.

As a loyal subject of Her Majesty, it is with great pleasure that I take this opportunity to salute her on this momentous occasion. As a member of the Victorian Parliament I stand in this place and look at the very throne and the setting in which she opened the Parliament on the occasion of her royal tour.

Queen Elizabeth II was born on 21 April 1926 and is the constitutional monarch of 16 of 54 sovereign states within the Commonwealth of Nations. She remains the head of the Commonwealth. Queen Elizabeth is the Queen of 15 other realms, with Australia still proudly benefiting from having her as the Queen of Australia and the stability that historically a constitutional monarchy brings to society. Queen Elizabeth was born in London, and her father acceded to the throne as King George VI in 1936 upon the abdication of his brother Edward VIII. The young Princess Elizabeth undertook public duties during the Second World War and served in the Auxiliary Territorial Service. I still recall the pomp and spectacle of the Queen's coronation in 1953. A slightly built young woman took on the weight of the world when her heavy crown was placed on her head. Our Queen continues to inspire us as she continues to serve as a gracious, majestic and hardworking figure of peerless performance and exemplary conduct.

The reign of our Queen, now having reached 60 years, is the second-longest reign of a British monarch. The Queen's great-great-grandmother, Queen Victoria, after whom this Parliament and this very state are named, is the only British monarch to have reigned longer — a reign of 63 years.

Our Queen's milestone silver and golden jubilees were celebrated in 1977 and 2002 respectively. How lucky we are as Australians that Her Majesty has been unchanging in her commitment to service and loyalty whilst the Crown itself has evolved with the changes and advances of modern society. Long may our Queen, Her Majesty Queen Elizabeth II, reign over us and experience good health.

The PRESIDENT — I would like to add a few remarks to the debate on this motion. I congratulate the members who have contributed to the debate for the remarks they have made. I am sure that the sentiments expressed — as Mr Lenders, Mr Davis and Mr Barber indicated — are certainly shared by all members of the chamber, irrespective of whether or not they are monarchist or republican in their political views for the future. There is a significant recognition by all people in every walk of life in Australia of the extraordinary work of this particular monarch.

It is interesting that the two longest serving monarchs have both been women, being Queen Victoria and Queen Elizabeth II. Whilst historically women have found it very difficult to ascend to the throne because of a gender qualification on who can be monarch, certainly once they have got there they have made the best of the time they have had and have had very long reigns. In both cases the achievements during their time as monarchs have been quite exceptional.

It is also interesting that Queen Victoria presided at a time when the colonialism of Great Britain saw the empire expand quite dramatically, whereas Queen Elizabeth has reigned during a period of significant transition for the colonies from colonial days to sovereign nationhood. In making that transition the Queen has shown a great deal of dignity and has been very important to that process.

Indeed one of the hallmarks of her reign was her visit last year to Ireland. It was a visit which was much anticipated but which also caused much trepidation, because the relationship between the people of Ireland and the people of Great Britain — and particularly in respect of the monarchy's role in the historical pattern of the relationship between those two countries — had been at the very least problematic. With extraordinary dignity, with extraordinary command of the sensitivities of the relationship and with a commitment to reconciling those peoples, the Queen went to Ireland and won over many people, notwithstanding the depth of feeling that has characterised many of the issues in Ireland over so many years.

The Queen has been a remarkable person in terms of her work ethic and workload, the causes that she has championed and the sheer busyness, if you like, of her schedule. As has been indicated by a number of members, she has been well supported throughout her time as monarch by Prince Philip and by other members of the royal family.

Two weeks ago I attended a British Chamber of Commerce function at which the Duke of Kent was the speaker, and he talked on science and innovation. It was interesting to note that he had gone from being 7th in line to the throne, when Queen Elizabeth took the throne, to 28th in line today following the various births within the royal family.

As Mr Finn said, the Queen has lived a life in a fish bowl, but she has shown a great deal of leadership in her approach to her role as monarch. That is one of the things that has characterised her reign, and that was evident in the visit to Ireland last year. In recent years the compassion she has shown so many people, particularly at moments of tragedy, has touched us here in Victoria and throughout Australia. In Victoria's case, the Queen has been with us in prayers, in thought and in encouragement, through fires, floods and other tragedies.

This is a very different monarchy today, 60 years on — it is a very different world today to that of 60 years ago — to the world and the monarchy that she inherited in 1952. We have been privileged to have her visit Australia on a number of occasions and to visit this Parliament. It is most appropriate that on this occasion the house passes unanimously this tribute to Her Majesty on her 60 years as sovereign.

Motion agreed to, honourable members showing unanimous agreement by standing in their places.

Hon. D. M. DAVIS (Minister for Health) — By leave, I move:

> That the following address to the Governor be agreed to by this house:
>
> We, the members of the Parliament of Victoria, in Parliament assembled, respectfully request that you will be pleased to communicate the accompanying resolution to Her Majesty the Queen.

Motion agreed to.

Sitting suspended 1.05 p.m. until 2.07 p.m.

CITY OF GREATER GEELONG AMENDMENT BILL 2011

Second reading

Debate resumed from 7 February; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr BARBER (Northern Metropolitan) — This bill and the promises that the government has made alongside it will prove to be a bit of an illusion to the people of Geelong, and I will explain why I think that is the case. The government has gone as far as suggesting in a press release that the bill represents direct democracy for the people of Geelong. Direct democracy is where citizens get to vote on each individual item that is put before them, representative democracy is the opposite of that, and what the government is offering here is just a plain old version of representative democracy dressed up as something else. The government is implying that this will create a whole new style of democracy in Geelong, whereas in fact people may be disappointed when they find out the morning after the election that the new mayor they have elected is simply another councillor among a dozen others and has no more say or any special powers or anything that distinguishes them from an ordinary councillor.

This of course is the system we have here in the City of Melbourne, in that inner municipality, and you can see that phenomenon here on display. Robert Doyle was elected Lord Mayor of Melbourne on a number of policies, but those policies have never been implemented because he was the only guy who supported them. Mr Doyle said that there would be no more junkets but pretty quickly he was off to Vladivostok to inaugurate a park bench because he knew that as one councillor he could not set the council's policy on travel. Mr Doyle ran for Lord Mayor and was elected on a platform of putting cars back into Swanston Street but I do not think he could find another councillor to even second the motion, and in fact the council as a whole determined that it would take cars out of Swanson Street. Mr Doyle did have a third policy which he took to the election but I have forgotten what that was. I am pretty sure that is because that policy did not get up either.

For those in the know it was exactly the same with John So, Mr Doyle's predecessor. In fact some of Mr So's policy propositions did not even last until voting day before he had to recant them, such as his idea — his thought bubble — to deputise council officers to arrest drug dealers.

What the government is setting up here is sort of a fake version of a presidential contest or perhaps a fake US-style mayoral contest. In the United States the mayor runs everything in the city. Robert Doyle even tried to convince us that he was the guy who ordered the police into the City Square to remove the Occupy Melbourne protesters. I have news for Mr Doyle and for the people of Geelong — he is not Rudy Giuliani and he does not run the police force or do any of those things, but he continues the illusion that he has something beyond his one vote on the floor of council.

What we will see in Geelong, as we saw here in Melbourne, is a huge media focus on the election of one man, and it will be someone who is either a millionaire or who is backed by millionaires, because that is what it takes to mount one of these campaigns. Yet at the end of the day he has no more power than that of an ordinary councillor; he is simply a symbolic figurehead.

When it comes to the vote and when it comes to the crunch, that person has just one vote. It is for the government to explain how this measure is going to live up to the rhetoric of its media releases. Most people will have seen more of the media releases, publicity and fanfare the government has been trumpeting about this than they will have seen of the actual legislation. Personality-driven politics is infecting our political system. We saw it with the federal Kevin07 campaign where people thought it was a presidential race and that they were voting for Kevin Rudd. How shocked were they when Kevin was taken away summarily and replaced with another person.

That is the nature of our Westminster democracy. If the Prime Minister or the mayor turns out to be no good, you do not have to suffer under them for another four years: the councillors, your representatives in your representative democracy, can actually do something about it without it becoming an ongoing problem. Americans would say that their system is the greatest in the world, but ours is different in that way, and I think our system is more stable and a truer configuration of representative governance. I am also a big fan of local councils. I have been on one, and I have seen a lot of them around the country. In a previous occupation I worked with many different councils in all of the Australian states on action on the environment and climate change, so I think I am reasonably qualified to talk about local government and what it can do for you.

In the City of Melbourne citizens will be electing both the mayor and the deputy mayor on the one ticket with one vote. That is usually accompanied by a supporting councillor ticket which is at large across the whole of the City of Melbourne municipality. Often you find the

Lord Mayor brings a couple of councillors with him and has something close to a majority, although not a full majority. That will not apply in Geelong at all. It would be virtually impossible for the person running for mayor to also run candidates in all the local council wards and lock up control of the council. While there may be some excitement associated with a first-time contest where every citizen gets to elect the mayor, people will find that the council will still function very much in the same way. This frisson of excitement that the government has brought forward with this bill will evaporate.

The Greens believe that there is only one improvement that can really be made to our representative democracy, and that is proportional representation. We do not believe in winner-takes-all contests. We think when a particular political force needs to compromise on its agenda and sometimes has to negotiate on some of its excesses it is better overall for the population. In the federal polls I have seen most Australians have agreed, by the way. Few Australians would like to see a government that controls both houses. As we know, the coalition government has that control in Victoria, by tiny voting margins in each house. Some MPs in this house slid over the line, and in the lower house 127 votes in the seat of Bentleigh gave the government its working majority.

In a system that values stability, compromise and consensus it is not great to have a government in a winner-takes-all situation. It often leads to people needing to throw out that government at the following election, whereas in more proportional systems we find that the government's majority can be reduced sequentially over a series of elections, forcing it to compromise and pull in a bigger part of the voting base and its representatives in order to get its measures passed. That allows the public to put the brake on a government over time. Under winner-takes-all systems voters tend to just throw a government out when they do not like it, losing the baby with the bathwater and without always getting something better in return if another government comes in and thinks it has a mandate to make radical changes.

For that reason the Greens support proportional representation. It is a newly introduced form of voting for Victorian local councils. I was elected to local council, but not under a proportional representation system. We proposed proportional representation for the City of Yarra. Now the majority of councils in Victoria have some sort of multimember ward system. Perhaps not every ward has one, but many councils have multimember wards with members elected under the proportional representation system. As each round of reviews has come around the number has increased. The measure in this bill is going in the other direction. The single-member contest for the mayor of the City of Greater Geelong may see someone who cannot even get a majority and who only after preferences scrapes over the line with 50 per cent plus 1 vote scoop the pool.

The Greens will always advocate for proportional representation systems. Two-thirds of the world's democracies use proportional representation. Here in Australia we tend to look more to the United States of America and the United Kingdom, which do not use it. However, our mother Parliament in the United Kingdom is moving in that direction, albeit slowly. For that reason alone the Greens will not support locking in a measure in legislation that is designed to entrench the unsatisfactory winner-takes-all system, especially when that mayor will then be treated as an ordinary councillor. While they may have the status and title — for which, no doubt, many of the candidates will be competing — the ordinary bread-and-butter work of the council as a whole will be done by the individual councillors working diligently for their electorates. For that reason the Greens will oppose the bill.

Mr KOCH (Western Victoria) — As a great supporter of local government, Geelong and western Victoria, it is a privilege to speak on the City of Greater Geelong Amendment Bill 2011.

Mr Lenders interjected.

Mr KOCH — Roll on! I congratulate the Premier and the Minister for Local Government for pursuing this commitment at the last election. Now having my electorate office in the Geelong electorate, although not living within the boundaries of the city of Greater Geelong, I appreciate the importance to the Geelong community of having a directly elected mayor. Over a long period of time the majority of Geelong ratepayers have sought this opportunity, and to that end my former colleague John Vogels, in his role as shadow Minister for Local Government, made a commitment in 2006 that if the coalition gained a majority at the 2006 election, it would implement it at the 2008 local government elections.

It was no surprise that soon after the success of the coalition at the 2010 state election the Minister for Local Government, Jeanette Powell, pursued a commitment to give the Geelong community the opportunity of electing its own mayor directly. The minister has also assured the Geelong community that a further 12 councillors will be elected to single member wards. It should also be noted that those candidates

who are unsuccessful in being elected to the position of mayor will not be able to contest other ward councillor positions.

The Geelong community has long supported the principle of participating in a direct election of its mayor, not dissimilar to the Melbourne City Council albeit under a different dedicated act. To that end the Geelong daily newspaper, the *Geelong Advertiser*, has on two separate occasions run surveys on this proposal. The results in both surveys were overwhelmingly in favour of a direct mayoral election. On Saturday, 20 February 2011, 73.9 per cent voted in favour of this proposal and on Saturday, 7 March 2011, that percentage rose to 78.5 per cent. These survey results clearly demonstrate the city's mood.

The results were not surprising, as many of Geelong's leaders, along with now opposition members John Eren, the member for Lara in the Assembly, Lisa Neville, the member for Bellarine in the Assembly, and the former member for South Barwon in the Assembly, Michael Crutchfield, and many Geelong ratepayers see the merit in having the mayor they want instead of the ongoing political plotting that has taken place in the past for this position.

Even the current mayor, Cr John Mitchell, who did not warm to the proposal when it was first mooted, now recognises the associated benefits after being elected by his councillor colleagues to the mayoral position over the last four consecutive years. He recognises the advantages to his community of having a mayor directly elected by the people as something that will advantage this great city.

The only MP to doubt the benefits of this legislation is the member for Geelong in the Assembly, Ian Trezise. This is a bit surprising because it has been on his watch as the local member for Geelong that this city, which offers so many attributes, has not benefited from the 12 political islands or wards, as they are better known, over recent years. The former Labor government did not recognise or give the council the opportunities in planning or the support necessary to take this city to greater heights.

Mr Trezise's only beef is that the cost of any sort of campaign to contest the directly elected mayorship will be out of reach of all but the extremely wealthy. To that I say: what nonsense. It is a cry from the dark past of his factional colleagues, who, although he refuses to join them, would tout this as a negative in the full knowledge that Geelong will only slip further behind the challenges that confront a city of its size. I, like many, scratch my head in amazement at this thinking. One only has to look at the last mayoral elections to see what took place in the City of Melbourne. This argument just does not stand up as the successful Lord Mayor at that election was well outgunned financially by candidates who did not garner the necessary support at the ballot box. It is a silly argument that has little validity and was also not expressed during the community consultation period.

I have to say that I was a little bit surprised that our colleague from the Greens, Mr Barber, is also of this thinking, strongly believing that this will be a very expensive campaign able to be afforded only by the few or by backers who may represent those few candidates. I do not think his thinking is either what I would term as progressive or supportive of what is being put before the chamber here today.

Unlike the former government, the Baillieu government was adamant an open and transparent consultation process would take place. At the direction of the Minister for Local Government, the Parliamentary Secretary for Local Government, David Morris, undertook a long and successful process by releasing a discussion paper, holding a public meeting at city hall, setting up eight listening posts at various sites within the municipality and providing an early morning opportunity for comment by commuters at the Geelong railway station, which had positive results.

Several major stakeholder meetings also took place and were attended by the Municipal Association of Victoria, the Victorian Local Governance Association, the Greater Geelong City Council, the Committee for Geelong and others to encourage public submissions, of which 65 were received. This was an excellent process through which many people made a great contribution and also indicated that at the first election in 2012 the direct election of the mayor only was preferred instead of both the mayor and deputy mayor. The minister accepted this position and indicated this may be reviewed at a later stage.

It must be acknowledged that Geelong is just one of Australia's 12 second tier cities, along with the likes of Toowoomba in Queensland and Wollongong in New South Wales, but it remains the only one without a directly elected mayor. It should also be noted that Geelong has come of age, and its community has sought this initiative so that the city gains the recognition and support for growth and development from both the state and federal governments along with industry leaders and entrepreneurs. Geelong has much to offer, be it in industry, transport, aviation, tourism, city and coastal lifestyles and employment opportunities, both in Geelong itself and also in

Melbourne, with living affordability and transport linkages in close proximity to our capital city.

This is good legislation. It is a good model that answers the calls of the Geelong community. There has been a rigorous consultation process with industry stakeholders, local government bodies and the Geelong community via a public meeting, listening posts and public submissions. It is recognised that a robust and effective local government body that is not plagued by factional bodies and politics is essential in gaining better opportunities, growth and development for this city.

This is an outcome that will give Geelong the strength and support, both at state and federal levels, in growth, development and employment, and it will be watched by other local government bodies in Victoria who have voiced their approval of such legislation. No longer can Victoria stand by as other interstate second tier cities gain advantages to which cities like Geelong should have equal or greater entitlement. Like so many other Victorians, especially residents of Geelong, I look forward to this year's October local government elections that will see Geelong become the first of our second tier cities to directly elect its mayor.

The challenges confronting rural and regional communities may well be unrelenting in the coming months and years. I think we are all seeing that before us to some extent now. The stability, compromise and real initiative of local government in both small and large municipalities is going to be paramount if we are to succeed, and Geelong is certainly no exception from that point of view. The opportunity will not be lost on Geelong come October, and I look forward to the outcome of those elections. In saying that, I commend the bill to the house and acknowledge the opposition's support.

Ms TIERNEY (Western Victoria) — I rise to make a contribution to the debate on the City of Greater Geelong Amendment Bill 2011, and I do so not only as a member who proudly represents Western Victoria Region but also as a ratepayer in the City of Greater Geelong. In the first instance I will take this opportunity to raise some general issues. I will then go into some of the specifics of what has occurred in Geelong in recent times. There are three major issues that have been raised with me, which were also mentioned in the other chamber.

The first of course is the issue of the cost involved in running for mayor, in terms of postage, printing and advertising, and the genuine concern that a considerable slice of the community will just not be able to afford to nominate and run a campaign. I have heard what Mr Koch and others have said about that, but I do not think this issue can be pooh-poohed or hit back across the table tennis court. It really is an issue that goes to the heart of the shape of our democracy and people's access to it. It is of enormous concern also because this tier of government is the tier which is closest to the community, and we should ensure in every possible way that every member of the community can access it and indeed nominate and run for public office. I raise that concern, and I will not walk away from that issue.

The second issue I wanted to raise is the issue of an elected mayor versus a deputy mayor who is elected by his elected councillors. I am concerned about this situation possibly leading to dislocation and instability where a mayor and a deputy mayor disagree on issues or indeed disagree with each other on most things. Related to that is the possibility of a generally elected mayor of a council on which there is a group of councillors who are the majority and who do not support the mayor who has been elected. Again, I think this will potentially lead to instability and gridlock on issues, and I think it could divert the council from pursuing the legitimate concerns of the people of Geelong.

They are the three main points that have been put to me time and again, and I really look forward to the review that it has been stipulated will occur in 2014 on how those sorts of issues will be teased out and dealt with, because I think they are legitimate issues.

I will say a couple of other things in the wider context of this bill. The first is that if this government was serious about the concept of an elected mayor or mayors, whether in Geelong or in a wider context, I think it could have done a much better job of bringing on board key stakeholders, whether in the Geelong community or the wider context. I do not think the government has done a good enough job of bringing on board key stakeholders like the MAV (Municipal Association of Victoria). I think that is a shame and a missed opportunity. I think that in a lot of ways the government has essentially wanted to impose a model that it has had in mind instead of working cooperatively with key stakeholders, and I can only think that maybe it was concerned that the stakeholders might have wanted to have a genuine discussion and tease out all the issues related to this concept, and that that is why the government essentially chose not to bring people on board and to work in partnership with them. You only have to read the MAV submission to the exercise that was conducted — submission 54 — which says:

> The MAV is of the view that any proposal for significant change to the electoral structure of the City of Greater Geelong needs to be accompanied with a clear and detailed discussion of the benefits and any disbenefits on democracy and governance, and the additional cost to the community and council …

I simply say in this chamber today that this did not happen. It simply has not occurred. I also should mention that yes, there have been direct discussions with the City of Greater Geelong on numerous occasions, but the council sent a letter to the Minister for Local Government in May and still has not received answers to a range of key questions contained in that correspondence. That is quite disappointing.

I am aware too that the Liberal Party took the issue of a directly elected mayor to the 2006 and 2010 elections. That resonates in my mind as I deal with this issue. But I think it would be a failure on my behalf if I did not provide some of the overarching political context for this — that is, the local context for this issue in Geelong. I acknowledge that some organisations have always been key advocates for a directly elected mayor in Geelong — for example, the Committee for Geelong, which has lobbied all political parties vigorously for a very long time. I do not have an issue with this at all; that is their right, and they have been effective in prosecuting their claim.

The *Geelong Advertiser* has also run a campaign in the newspaper for a directly elected mayor, which it is entitled to do, and I have no issue with that. However, I do take issue with the way the government has dealt with this proposal and how it has conducted itself throughout the process. I know very few voters at the last state election understood the Liberal Party to have a commitment to a directly elected mayor in Geelong. It was not an election issue in the wider community, because there were other more serious issues in that election. I know it was not a vote changer in Geelong — the seats of Lara, Geelong and Bellarine were retained by Labor — and I cannot remember anyone in South Barwon believing the directly elected mayor concept was an election issue.

When we went to the polls in the Geelong area, issues that were at the forefront of people's minds were things like a second hospital for Geelong, community safety, police numbers, transport, a library and heritage centre, the education spend, a Torquay secondary school, roads funding, sporting and recreational facilities, the protection of the environment, the provision of child care and a new emergency services centre, just to name a few. The directly elected mayor issue did not figure at all. I think it was a sleeper. I think even the Liberal Party was well and truly asleep at the wheel on this one; that was, of course, until some institutional proponents came knocking at its doors wanting the concept to be delivered. What occurred then was panic. How could this new system be implemented and imposed on the electorate whilst drawing a veil of consultation over the process? I say 'imposed' because on page 2 of the government's own document, which is titled 'Directly elected mayor for Greater Geelong — consultation submission', it says:

> The government has decided that the residents and ratepayers of Greater Geelong should have the opportunity to directly elect their mayor.

I could talk in great detail about the process and provide a critique of it in terms of consultation, but I do not think it would serve any purpose at this point in time. I will say, firstly, that I believe the consultation submission pro forma was innately biased. Secondly, I think the consultation process was lacking in terms of how it was done. It may have ticked all the boxes for a bureaucrat who was sitting behind a desk in Melbourne. It may have been a tool that government MPs could use in this debate to indicate that certain things were talked about by certain people at certain times. But essentially there was not a serious or genuine consultation process in my view, and I think a lot of the people in Geelong knew this. That is why there was a relatively low participation rate in the consultation process.

Sixty-five submissions were received. The house needs to understand that of those submissions only 29 explicitly supported the proposition of a directly elected mayor. That is right; 44.6 per cent of the population who engaged in the process indicated a preference for a directly elected mayor. That figure is not made up; it is described on page 2 of the government's document titled 'Direct election of the mayor of Greater Geelong — consultation summary'.

Essentially what we have here today is an example of how not to go about creating good public policy or good legislation. I can understand that political parties talk to different organisations and individuals and make election promises. It goes to the heart of how we go about our business. But it beggars belief when an issue such as this, which goes to the heart of how local government operates, is dealt with without vigorous debate on the pros and cons, without the pros and cons being properly pointed out and where partnerships have not been formed in the lead-up to the initiation of good policy and inclusive implementation processes. What we have been left with is a whole range of questions that remain unanswered by individuals, and the City of Greater Geelong is still waiting for answers to and clarification of a lot of issues. The net result of this is a spatial vortex. We are being asked to watch this space.

From an opposition perspective, I can say we will be watching this space.

I agree with the shadow Minister for Local Government, Richard Wynne, the member for Richmond in the other place, who said in his contribution that this is a wait-and-see proposition. The ratepayers of Geelong deserve better than a wait-and-see proposition. They deserved a better process leading up to this bill, and they deserve — —

The ACTING PRESIDENT (**Mr O'Brien**) — Time!

Mr RAMSAY (Western Victoria) — It gives me great pleasure to rise to speak in the debate on the City of Greater Geelong Amendment Bill 2011. In doing so, firstly, I would like to acknowledge my parliamentary colleague David Koch, who lives and breathes Geelong, and commend him on his great representation of the residents of the city of Greater Geelong. This is in direct contrast to Ms Tierney, who lives in Preston but purports to advocate for the communities of — —

Ms Tierney — On a point of order, Acting President, I have raised this issue in the house before: I do not live where Mr Ramsay indicates I live. I live in the city of Greater Geelong. I live in St Leonards, and I have two properties in the city of Greater Geelong.

The ACTING PRESIDENT (**Mr O'Brien**) — Order! There is no point of order.

Mr RAMSAY — As I was saying, I look forward to the opportunity to continue to work with my colleague David Koch, who represents the Geelong region with gusto and, as I was also saying, this is in contrast to the previous speaker. I am a little confused about whether she is supporting the bill or not. She provided a whole lot of negatives, but at the end of the day I suspect she will be sitting over on the same side of the chamber as the government, if there is a division in relation to this bill.

I support this bill for a number of reasons. A very important one is that my family has had a very strong affiliation with Geelong. We have over many generations traded wool, grain and livestock through the Geelong selling centres and participated in a number of leadership roles within the Geelong community. We have also been active in supporting the growth, wealth and potential opportunities for the Geelong community and have actively supported investment within the Geelong region to enable that to happen. I have been a very strong supporter of the Geelong Football Club as well, as has my family over many years.

My daughter got married in the beautiful Geelong Botanic Gardens last Saturday. It is pleasing to see after 10 years of drought that the gardens are now absolutely flourishing. The gardens are a very special part of Geelong, as is where my daughter had her wedding reception on the waterfront. Having mentioned that, it gives me the opportunity to acknowledge the very important contribution that past Premier Jeff Kennett made to revitalising the waterfront, which looks absolutely beautiful at the moment. It also gives me an opportunity to acknowledge a previous sitting member for Geelong, the late Ann Henderson, who contributed to the development of that waterfront. I congratulate, as I said, the previous Kennett government in relation to — —

Ms Tierney — On a point of order, Acting President — —

The ACTING PRESIDENT (**Mr O'Brien**) — Order! I warn the member that it had better be a proper point of order and not an interruption, but I will listen to her on the point of order.

Ms Tierney — On a point of order, Acting President, I ask you to ask the member to bring his contribution back to the matter before the house — the bill.

The ACTING PRESIDENT (**Mr O'Brien**) — Order! There is no point of order. The member is being relevant to the bill.

Mr RAMSAY — What I am doing is providing some background in relation to my family's connections to Geelong and the importance I see in this bill of allowing the Geelong community to have a democratic right to elect a mayor of its choosing. I certainly will move on and speak to that issue, but I thought it was important that I first describe the connections that our family has to Geelong and the importance for me personally of the Geelong community's views being listened to and the Baillieu government's response to those views. That is the essence of the bill that is before the chamber now.

The other important reason for supporting this bill is that this is a commitment to the Geelong community made back in 2006, reconfirmed in 2010 and now being delivered as a key Baillieu government election commitment.

Geelong is the second largest city in the state and the largest regional city. It has a very active consortium of leadership groups, including the Committee for Geelong, City of Greater Geelong councillors and even sitting members of Parliament on all sides. Ms Tierney

and the community leaders have all, over time, called for a local government structure that would allow the mayor to have the ability to drive a vision and a strategy for a city that will prosper without the hindrance of political interference and a lack of decision making and with the expertise to deliver the projects and job opportunities vital for growing a regional city. Sadly we have seen many local councils, particularly in the Western Victoria Region which I represent, where that is not the case.

The Geelong community has demonstrated quite clearly over the years that it wants the democratic right to elect its mayor. It is only now that we have a government that has the courage to give the Geelong community that right. With it comes a democratic endorsement to speak on behalf of the Geelong community and advocate for the city's interests without fear or favour.

An important step in the formation of this bill was the extensive consultation the government undertook both in submissions and surveys. I commend the Parliamentary Secretary for Local Government, David Morris, who is the member for Mornington in the Assembly, on his thoroughness and commitment to making sure all key stakeholders were consulted. The model for this bill reflects the work that Mr Morris and his committee undertook.

At the next local government election in October 2012, after this bill is passed, the mayor of Greater Geelong will be directly elected to represent the Greater Geelong community. Through the ballot papers voters will vote twice: once for the mayoral position and again for the ward councillor candidate in their ward. I believe this process frees up the mayoral responsibilities as against the ward responsibilities and for the first time gives the Geelong community a real opportunity to judge the merits of the mayoral candidates on leadership, vision, aptitude and the desire for the good of Greater Geelong, rather than the perception of bias in favour of any particular ward.

It is fair to say that a directly elected mayor may disadvantage those who do not have the resources to fund a mayoral candidate campaign, but my view is that the people of Geelong, given the opportunity, will not be bedazzled by glitz and glamour and will support those candidates who stand as passionate, committed leaders and have the prosperity of Geelong as their core motivation.

The success of this model will be reviewed in 2014 and compared to the City of Melbourne model. I think the success of this model depends on the mayor having the responsibility for allocating chairs or special committees within council and deciding which councillors act as representatives in other organisations. This allows a partisan team with similar ideals to act in a cohesive and amiable manner whilst providing support to the mayor. I also believe having a mayoral term of four years will provide stability and allow for implementation of the strategies that might otherwise be lost under yearly terms of office.

The deputy mayor is to be elected by the ward councillors. It is less clear if this is consistent with the wishes expressed in the community consultation or a continuation of the ward structure, but a decision was made not to change the ward structure for the next election. The deputy mayoral role is only for 12 months, but obviously he or she can seek re-election. This bill and model, given that the bill amends the City of Greater Geelong Act 1993 and provides a model structure of 12 ward councillors and a directly elected mayor with a total of 13 councillors, are unique to Geelong and do not apply to any other council.

Apart from the importance of delivering on an election commitment, the Baillieu government has given the 220 000 residents of Greater Geelong a say in who they would like to have as their mayor, and the proposed model is a first step in the overall structure. Whether or not time will dictate a consistency with the Local Government Act 1989 or improvements in the structure, this is a good start. I preface that remark by saying that the residents of the city of Greater Geelong now have a responsibility to identify suitable candidates for the mayoral role. The government has done its bit: it has fulfilled its election commitment and provided people in the city of Greater Geelong with an opportunity to vote for a directly elected mayor. It is now the responsibility of the city of Greater Geelong to encourage those they believe are skilled or appropriate to stand as candidates for the position of mayor.

In closing, I raise a couple of other important points. The decision of the City of Greater Geelong ratepayer voters in choosing a mayor in the October election is going to be critical for Geelong in the upcoming years. Only today we have seen how tenuous the manufacturing industry in Geelong is, with the possibility of Alcoa losing 600 direct jobs and over 1800 indirect jobs if a study indicates that the viability of Alcoa in the aluminium-making process cannot be sustained in the Geelong area. We have heard about Ford and about many other manufacturing industries which are critical to the future of Geelong, so the position of mayor will be an extremely important role for Geelong in the coming years.

As I said, we saw the potential that Geelong has to offer in the Kennett years; we now see the potential that can be delivered through the Baillieu years. I look forward to October, when at long last the City of Greater Geelong ratepayers and voters can take the opportunity to vote for a directly elected mayor who will have sole responsibility for driving the future, the vision and the needs of Geelong, a city that will become one of the most endeared regional cities in the world. I commend this bill to the house.

Mr ONDARCHIE (Northern Metropolitan) — I rise today to speak on the City of Greater Geelong Amendment Bill 2011. Other members, particularly those close to Geelong, have already made substantial contributions. I congratulate those members, particularly Mr Koch and Mr Ramsay, for their contributions to debate on this bill today. It is a bill that seeks, under the City of Greater Geelong Act 1993, to reconstitute the City of Greater Geelong council to enable its mayor to be directly elected and to represent the municipal district as a whole and not just one particular ward. I commend coalition members who put a lot of effort into the city of Greater Geelong, particularly Mr Katos, the member for South Barwon in the other place, whom I know is a very strong advocate for that city and is doing a marvellous job down there to represent its people.

This is an election commitment that the Baillieu coalition government made to the people of Geelong to allow them to elect their own mayor. The city of Greater Geelong is about 75 kilometres from Melbourne and is a lovely place to work, to live and to raise a family. It has a really great football club down there as well, perhaps the greatest team of all. When the footy club is doing well, the city of Greater Geelong is doing well. On that note, I congratulate Geelong Football Club president, Colin Carter, and the board; chief executive officer, Brian Cook, and the management team; coach Chris Scott, and Cameron Ling and the playing group for delivering that all-important AFL premiership cup to the city of Greater Geelong. On that note, I wish Joel Selwood and his charges a speedy time into the season.

The bill will amend the City of Greater Geelong Act 1993 to reconstitute the council of the City of Greater Geelong to make sure we have a directly elected mayor down there. It gives legislative effect to a commitment the government made to the people of Geelong. For those who are unsure about how to get to Geelong, my office is in Northcote, which is very near Preston. I travel down to Geelong for the football fairly regularly, and I am very happy to give advice to people who might want to know — other members in the chamber; Ms Tierney, for example — how to get from Preston to Geelong. It is quite an easy journey up High Street from Preston to Geelong.

Ms Tierney — On a point of order, Acting President, this is the third time I have had to raise in this house the subject of where I live. I am sick and tired of it being stated or implied that I live other than where I live. I live in my electorate and I live in the city of Greater Geelong.

Mr ONDARCHIE — On the point of order, Acting President, I did not at any time — and Ms Tierney is free to read the *Hansard* record if she wishes to — suggest in my contribution that Ms Tierney lived in Preston. I said I was happy to advise other members of the house who might be interested in how to get from Preston — for example, Ms Tierney — to Geelong.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! There is no point of order. However, I advise Mr Ondarchie, if he is listening, to keep to the text of the bill and not stray into other areas or make false statements about other members.

Mr ONDARCHIE — This is an important bill because it gives a municipality of such state and regional significance the governance arrangements to help it grow and prosper. There are many members in this house and in the other place who are strong advocates for watching the city of Greater Geelong grow and for helping the people in that community to have a directly elected mayor who has been endorsed as someone to speak on behalf of the community and advocate for the city's interests nationally and internationally without regard to one particular ward.

This is a very important bill. The mayor will be elected for the full four-year term of the council, which will ensure consistent leadership for that council.

The government undertook extensive consultation with the community and key stakeholders including Greater Geelong City Council itself. The coalition has listened. We had a real consultation process. Unlike the sham consultation process we saw initiated by the previous government with the Windsor Hotel redevelopment, this was a true consultation process. We went out and asked the people what they wanted. We set up several events to listen: I think there were eight listening posts around the city of Greater Geelong, and we had public meetings and discussions. I know the member for South Barwon in the other place, Mr Katos, was at those public discussions, listening, conferring, deciding and advocating. Mr Katos did a great job, as did Mr Koch,

Mr O'Brien, Mr Ramsay and other members here to support the development of the city of Greater Geelong.

I am not sure if the opposition understands what public meetings are. This is where we go out and listen to the people, hear what they have to say, confer, amalgamate their judgements and become advocates for them. We do not sit down in a particular office in West Melbourne and make all those decisions for the people of Victoria; we get out and listen. We had many meetings. We listened, we took things on board and now we are delivering. We had extensive consultation processes with the people of Geelong. As I said, we talked with the of Greater Geelong City Council, the Committee for Geelong, the Municipal Association of Victoria, the Victorian Local Governance Association and local government professionals. The consultation outcomes favoured this bill. There were 65 written submissions with 45 indicating their support. In some of the straw polls and from other information we know there was substantial rapport in the city of Greater Geelong.

Taking half a step back, on 4 November 2004 the member for Lara in the other place raised this issue and called for the mayor of the City of Greater Geelong to be popularly elected. It took until 2011 when the Baillieu coalition government arrived in Victoria for that commitment to be delivered. Of course it took a coalition government to deliver it. It is a coalition government that continues to deliver for all Victorians. I am pleased to see that we have introduced this legislation, because once again it demonstrates that the coalition is delivering on its election commitments.

The Geelong community made it perfectly clear to the Parliament of Victoria that it wanted a popularly elected mayor. Mr Koch has talked openly about that in the community and in this place. I commend Mr Koch on his advocacy for his constituents. He is getting out there and listening. There are other members opposite who could take his lead. I also commend the member for Mornington in the other place, who is the Parliamentary Secretary for Local Government, on his initiative and leadership on this very important issue under the stewardship of the Minister for Local Government.

Candidates who decide to run for local government in the city of Greater Geelong will have to nominate whether they are running for the position of mayor or the position of local councillor for a particular ward. Dual nominations will not be allowed. At the next local government elections in October 2012 the mayor of Greater Geelong will be directly elected to represent the entire community. The form of the election will be by preferential voting. The election will be held at the same time as the election of the councillors. Each voter will receive two ballot papers; one for the mayor and one for the council.

Mr Elsbury interjected.

Mr ONDARCHIE — I agree, Mr Elsbury; it is not rocket science, but that is what is going to happen. Limiting nominations to either mayor or councillor recognises that they have distinct models. Councillors will be responsible for their constituents in one particular ward, whereas the mayor will be responsible for the entire city of Greater Geelong. The minister has done a fantastic job in promoting this initiative with great support from members like the member for South Barwon, Mr Katos, who have driven hard because they have listened hard to their constituents. Mr Katos is not driving a far distance down to his electorate; he lives there.

Hon. M. J. Guy — I live in Preston.

Mr ONDARCHIE — Mr Guy lives in Preston, but Mr Katos lives down in Geelong.

After the election the council will be required to elect one of the councillors to be deputy mayor. The term of office of the deputy mayor will be up to 12 months, and a councillor may be selected for successive terms. The deputy mayor will perform the duties of the mayor when the mayor is not available, and if the position of mayor is vacant for a period of time, the deputy mayor will become the acting mayor.

Specific provision is being made for the allowances for the mayor and deputy mayor. These allowances will be set by an order in council and adjusted annually in the same way as allowances for the Lord Mayor and deputy lord mayor of the City of Melbourne. The mayor will be able to decide which councillors will be council representatives on other organisations, except for remunerated positions, which will continue to be appointed by the council. The mayor will be empowered to appoint councillors to chair special committees of the council.

These additional powers of the mayor are generally similar to those of the Lord Mayor of Melbourne, Robert Doyle, except that the Lord Mayor's powers are broader and subject to delegation by the council. The model proposed in the bill for the City of Greater Geelong is slightly different from that of Melbourne City Council. It reflects feedback from the Greater Geelong community, a community whose residents we have been out to see, to whom we have listened and whose views we have heard. We have made promises, and now we are delivering.

After the new model has been in operation for two years the government intends to review its effectiveness in comparison to the Melbourne model. This is about continuous improvement, something this state has not seen for the past 11 years. The Baillieu coalition government is delivering for the state of Victoria, and it continues to improve the lives, wellbeing, health and safety of its constituents.

The review that will be undertaken after the two-year period will also consider whether a model for the direct election of mayors should be available to other councils, and I suspect that as I get out and talk to my councils and communities I will hear similar messages, but we will know after the review in two years time. I suggest to other people who live in their electorates that they get out and talk to their local communities as well.

The bill's provisions aim to enhance leadership and representative democracy in one of the most significant councils in Victoria. We talk about having good and appropriate governance in this state. Many people in the Geelong area have raised concerns about the operation of the council. Members of the public have seen the activities of former councillor David Saunderson and current councillor Cameron Grainger regarding cash for comment and conflict of interest issues. Their reaction demonstrates the concerns the community has had with the operation of the council, and this bill goes a long way to restoring people's faith in their council.

If you want to talk about local government and how to improve it, the name Brimbank comes to mind. It comes to mind when I think about appropriate levels of governance. We have talked about fairness, equality and the risk of political influence at local government level, but the Labor opposition has a very short-term memory. What happened in Brimbank? Interestingly enough, those who have heavily populated the opposition benches this afternoon have failed to talk about the lack of governance in Brimbank.

This bill is another example of the Baillieu coalition government taking appropriate government initiatives in the state of Victoria. The reason why we knew we had to do it was that we went out and asked; we went out and listened. Members who live in their electorates went and spoke to their constituents. I know Mr Katos does not like driving long distances to talk to his constituents. I know Mr Koch does not drive long distances to the city of Greater Geelong because he spends a lot of time there, as does Mr O'Brien. It is called consultation.

This is a significant initiative, and as the people of Victoria we should take off our hats to the Minister for Local Government and representatives down in Geelong. This is a fantastic initiative. It is another example of the Baillieu coalition government demonstrating leadership for the people of Victoria and the people of the city of Greater Geelong and giving them a chance to have a popularly elected mayor, someone who will stand up well for the local community in which they live. They will not travel long distances. My office is in Northcote, and I do not travel much down to Geelong other than for the football. I wonder if other people do. Having a popularly elected mayor of the City of Greater Geelong will be a magnificent step forward for the people of Geelong.

Mrs Peulich interjected.

Mr ONDARCHIE — As Mrs Peulich correctly interjects, of the people and for the people. The mayor will also live amongst the people — something we all should do. I commend the bill to the house.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak on the City of Greater Geelong Amendment Bill 2011 on behalf of the coalition government, which is delivering this election commitment after an extensive period of consultation with the people of Geelong and with various local government bodies, such as the Victorian Local Governance Association, the Municipal Association of Victoria and other concerned organisations that made submissions.

In that regard I commence my contribution by commending the work of the very able team in the local government ministry of the Baillieu-Ryan coalition government. It is a true coalition ministry, headed by none other than the Honourable Jeanette Powell, the Minister for Local Government and member for Shepparton, ably assisted — particularly in relation to this bill — by the Parliamentary Secretary for Local Government, David Morris, the member for Mornington in the other place. The two of them have done a great job in dealing with a potentially difficult issue.

As was highlighted in the contribution from Mr Barber, there are differences in opinion as to how to deliver a directly elected mayor. However, that coalition policy was taken to the election, and from the submissions received during the consultation process it was clear that the citizens of Greater Geelong favoured a directly elected mayor. There were arguments about the type of model, but the model that has been delivered — a directly elected mayor with a deputy elected by the other councillors — while different from the City of Melbourne model, is appropriate for the City of Greater

Geelong. It will be a great step towards realising the potential Geelong has always had.

It is important to look at the history of Geelong and to understand its past, how it has found itself as a city and where it can see itself in the future. I will not spend too long on this, but it is important to note that Geelong was incorporated before Victoria came into existence. It was incorporated under a New South Wales act in 1849 before being established as a city. The story goes that it was then unfairly treated by Melbourne because it was not depicted as being in as close proximity to the goldfields as it actually was. Some cheeky Melbourne-based cartographers depicted Melbourne as being closer to the goldfields, and that resulted in Melbourne being a much larger metropolis and Geelong being a smaller, well-defined place.

However, that does not mean that Geelong's potential greatness as a city has not been slowly fulfilled. With the election of the coalition government and the delivery of a directly elected mayor, who will offer more than a symbolic role and play an important ceremonial and leadership part in that city, we see a great future for Geelong.

I would like to dispel one of the myths that came from one of the opposition speakers — I think it was Ms Tierney — that the coalition government is not bringing anything to the City of Greater Geelong apart from a directly elected mayor. If you look at some of the policies — both election commitments and subsequent decisions — that have been implemented in the 14 months in which the coalition has been in office, it is clear that we are delivering not just a directly elected mayor but many of the features that a truly international city requires.

The Minister for Planning, Mr Guy, fast-tracked the approval of the land for the Deakin University campus in Waurn Ponds. There has been a feasibility study for relocating the car trade to the port of Geelong to create 1000 jobs. There is $1 million for the planning of a new Grovedale railway station for the underserviced part of Geelong and also to pick up on the lack of infrastructure planning during the 11 years of the previous Labor governments. There is the upgrade to Skilled Stadium, or Simonds Stadium, as it is now known — or as I prefer to call it, Kardinia Park — which will be a premier venue for the premiership side and will enable larger crowds to attend AFL matches and other suitable entertainment events. There is $15 million in funding for the Geelong Library and Heritage Centre, which is a significant delivery. The funding, in combination with federal government grants, was the result of a united push by the councillors of the City of Greater Geelong, the Committee for Geelong and G21, which has been a good part of that as well. This will be a significant development, and it is also important in relation to Geelong's heritage and history, as I have touched on

Mr Ramsay has referred to some families in this debate. My family's only involvement is that we settled in Moriac, in the Geelong area, in the 1840s. Another significant contributor to Geelong is Barwon Health, and for 10 years my brother has been a member of the infectious diseases team at Geelong Hospital, which is part of Barwon Health.

All this combined will enable Geelong to power ahead. As a smaller city than Melbourne, I believe it offers greater potential for accommodating some of the growth that will occur in Victoria without compromising its heritage and amenity or facing the same infrastructure and capacity constraints that for Melbourne may be a legacy of the last 11 years of Labor government planning decisions. The bill provides a great opportunity to continue the furtherance of Geelong.

In relation to issues regarding Geelong, one of the important things the coalition government will not be doing is making things harder for businesses, because Geelong is fundamentally a town of working and manufacturing businesses. We will not be putting an extra strain on the important manufacturers in Geelong with measures like a carbon tax. I need to mention that, because in my view that will be a tax on Victorian businesses and Geelong businesses, and it will not be a tax on importers.

Ms Crozier interjected.

Mr O'BRIEN — Ms Crozier said it is a shameful tax, and I agree. It is a shameful and misguided tax because it will hurt Geelong businesses without reducing carbon emissions. In relation to the growth of Geelong, we look forward to the federal election. Hopefully the federal members for the Geelong area will lose their seats and give them up to coalition members who will deliver back to Geelong a regime free of poor policy commitments such as the carbon tax.

Other coalition achievements in Geelong include the very important $80 million public housing development for the disadvantaged in Norlane. It is a significant development that will bring 320 new homes. We have also provided $650 000 in emergency funding for the Geelong Performing Arts Centre, which will be important for the spiritual side of Geelong. Spirit is a

vital part of the mayoral role, and I commend the current mayor, who gives good speeches and who is very inclusive and a good leader. Cr Mitchell is always including the coalition and acknowledging its achievements.

The new mayor will be decided by the electors, but the role of the mayor is important in unifying and leading the spiritual role of a city. That is why the coalition commitment to the Geelong Performing Arts Centre is an important thing. The performing arts centre building is located opposite the council offices and the heritage centre.

There is the $3 million Avalon rail link. There is also the $2 million planning study into restoring passenger services to the rail route between Geelong and Ballarat. It may one day be reopened, perhaps 150 years late for the mining boom that occurred in the 1850s, but nevertheless it is growth and development that we can plan as part of Geelong being an international city.

There is the cruise ship development opportunity which may be delivered to Geelong, again through the coalition government. It is at the feasibility study and planning stage, but it has great potential for the harbour of Geelong. The importing of cars can also be delivered through Geelong harbour as well as the exporting of manufactured goods. Aluminium production and car production are important. Cars being built in Geelong, provided we do not have a carbon tax for too long, will enable the city to keep powering ahead.

In relation to the operation of the new council under the bill, there will be opportunities for further review and consultation on the number of councillors in the proposed model.

I would like to commend the previous speakers Mr Koch and Mr Ramsay, who do a great job of representing Geelong, as well as the member for South Barwon in the Assembly, who is a former Geelong councillor and also does a great job of representing his important part of Geelong. Living not in Geelong but south of Geelong I am a constituent of his. I do not think it necessarily matters where you live in relation to Geelong as long as you support the city. International tourists and all Victorians will come to recognise what this bill and what the coalition government will deliver for Geelong, which will be a well-planned, harmonious city working towards its potential in the 21st century.

I will pick up one other point that was made by Mr Barber. He talked about issues of potential conflict with mayors and the parallels with parliamentary democracy in terms of representative democracy and proportional representation. Councils are something slightly different to state governments. There is a democratic element in the election, but under present models councils do not have the ministerial accountability that is in the Westminster system. Ministers are the heads of their departments. Councillors serve on committees, which is a very valuable thing, but there are differences in issues. The traditional borough or city corporation is inherently a model that serves for local government.

A directly elected mayor can provide leadership in the situation where the town elects a hardworking citizen, who is often of a non-political background, as opposed to many of us who enter this chamber through our political parties. Sometimes mayors have a political background, but often they are the traditional good local champion. In that regard they can serve their community in a local way and in a symbolic way. A community will have greater ownership of a directly elected mayor. It is for those reasons that this is a good model to bring to other international cities, and it will be a great model to bring to the international city of Greater Geelong. With those few words, and without any further ado, I wish all those standing for council elections in the Geelong area in 2012 the best of luck, and I commend the bill to the house.

Mr ELSBURY (Western Metropolitan) — It is my great pleasure to speak in favour of the City of Greater Geelong Amendment Bill 2011. This bill brings into effect the commitment the coalition made to the people of Geelong at the 2010 election that they would be given the opportunity to directly elect the mayor of their city. According to the City of Greater Geelong website, the municipality is forecast to reach a population of over 225 000 this year, and the population is expected to reach 300 000 in 2031, with a growth rate of 1.58 per cent. This makes Geelong by far the largest of our regional cities, and with its rate of growth it is set to maintain that distinction.

Geelong has a culture all of its own. A port city with its roots in the wool trade, it has developed into an industrially driven community, with Ford, Blue Circle Southern Cement and Shell being major employers. As we have become acutely aware over the last week, much of this industry will be heavily impacted upon by the federal government's poorly thought-out carbon tax. I dread to think what will happen to the manufacturing jobs right across this region when that particular piece of legislation takes full effect later this year.

I will not pretend to live in Geelong, but I do know the passion of the members who represent that area. For a short period of time — 3½ years — I went to Deakin

University's Waurn Ponds campus, and I was also a representative on the student body at the time, the Geelong Association of Students, so I did spend a lot of my university time in Geelong getting to find out just how wonderful that community is.

As I said, Deakin University and the Gordon Institute of TAFE provide the community with a sound base of educational opportunities, and this government has supported the community with funds for the Geelong Performing Arts Centre renovations, $15 million for the Geelong Library precinct redevelopment project and the continuing development at Kardinia Park, which seems to keep growing and growing.

I believe it has been well documented that those on the other side of the chamber continue to bemoan the Kennett government for its perceived lack of interest in the regional areas. However, I remember that during the 1999 election campaign it was the Kennett government that developed a series of policy documents: one for the regional centre of Bendigo; one for the regional centre of Ballarat; and, strangely enough, one for the regional city of Geelong. It seems weird that a government which kept being accused of being Melbourne-centric released a series of policy documents looking at the needs of each of those regional centres, especially Geelong. The argument those on the other side put forward saying that the Kennett government did not care about the regional areas of this state has no foundation in fact.

The passion of people in Geelong needs no more evidence than their strange relationship with their football club, the Cats. From the perspective of someone who neither lives in Geelong nor supports that club, the passion this organisation can arouse in people from all walks of life and from every corner of the city is astounding. We only have to look at the reaction following their premiership win last year and the fact that you can have clock ornaments dressed in Cats regalia to see just how passionate people in Geelong get about their city and about their club.

Given the uniqueness of Victoria's largest regional city, it only makes sense that we give the people of Geelong the ability to determine who their civic leader will be. The mayor being elected for a four-year term by electors from across the city will mean that the holder of that office can concentrate upon the needs of the entire community for the duration of the council's term. The office of mayor is not weighed down by the politics that arise every year in municipalities where the mayor is elected from among peers. That form of election can be a distraction from the duties of the mayor and of councillors. Having said that, Geelong holds the unique position of being a regional city with a substantial population where the method of election of a mayor can work.

For the time being in suburban councils the status quo will remain. The former member for Keilor, Mr George Seitz, would be most dismayed by my comments, given his strong desire to move from being a back-seat driver in the Brimbank City Council. Mr Seitz has put his hat firmly in the ring not only for council but for the mayoralty in particular. Given the mess in which Labor left the Brimbank City Council, I respectfully ask Mr Seitz and Labor's faceless men and juntas to leave that municipality alone.

For the second time this week Labor's contribution to debate has belittled local government. Just yesterday we heard that the opposition planning spokesperson did not trust the City of Hobsons Bay to make decisions on planning issues which impact on its people, its municipality and its communities. What we heard in today's contribution is that, despite the extensive consultation by the government, Labor does not believe the people of Geelong have the ability to make a choice about how they want to elect their mayor.

Under the system we are establishing, after two years the government will review the effectiveness of the system for the direct election of the mayor in Geelong compared to the Melbourne system, and will consider whether other councils could be offered the option of having a directly elected mayor in their municipalities. We are doing a test case, and we are putting down the foundations. We are seeing with two different models of directly elected mayor whether this system can be spread out to other municipalities. Again I hope George Seitz reconsiders putting forward his nomination for that position should we choose to provide people in other municipalities with the option of directly electing their mayor.

In the process of moving Geelong to this model of directly electing a mayor, the government has consulted extensively with the community to see what people's views are. Some of the matters that have been mentioned include a concern that someone could stand for the office of mayor and at the same time stand as a councillor. That concern has been dealt with, and this bill precludes a person from seeking the mayor's post and being able to put themselves forward as a candidate for one of the councillor positions. This provision not only ensures that a person will not win two positions, which would require a supplementary election, but also ensures that the candidates are focused on the position to which they aspire — so that you have someone who is completely focused on the job at hand, a mayor

should go for a mayor's position and a councillor should go for a councillor's position, and never the twain shall meet.

The mayor will be elected by the preferential voting system. Some may have their view on this method of election, but it is a method that will ensure that everyone has a say. The first-past-the-post method of election allows a person with a small percentage of the vote to win, even though the majority of people did not intend them to win. An example of this is that a candidate who receives only 30 per cent of the popular vote could win, because the other three candidates share only 70 per cent of the vote between them. It is my belief that the preferential voting system allows for the least disliked candidate to win. It allows for people who do not get their primary candidate across the line to say, 'This is not my first choice, but I will certainly give this other guy or girl a go'.

The system of electing councillors in 2012 will remain: 12 councillors in 12 single-member wards. With the mayor added, this will make the City of Greater Geelong a municipality of 13 representatives. The Local Government Act 1989 requires that a council comprise not more than 12 councillors. The City of Greater Geelong Amendment Bill 2011 allows for this deviation to occur until the 2016 local government elections, before which a representation review will be undertaken to develop a council comprising 11 councillors and a directly elected mayor.

The powers of the mayor will be expanded from those of a mayor elected by peers for a single-year term who can chair council meetings and represent the council at official functions; the mayor elected by all of the community will hold greater authority in state, national and international-level meetings through their greater representative role. Excluding remunerated positions, the mayor will have the power to appoint councillors to represent the council in other organisations and appoint councillors to chair special committees. Remunerated positions will remain under the management of the council in session. Given the greater role a directly elected mayor will undertake, remuneration will need to match the status of the office. While no specific amount has been nominated, the minister may seek an order in council to specify the mayor's allowances. This is the same as the process that is used for the City of Melbourne.

The model adopted for the City of Greater Geelong reflects community attitudes and feedback. This means that Geelong and Melbourne, although they have directly elected mayors, will have councils that are constituted according to the desires of their communities. With council elections to be held on 27 October, this bill comes before us with time available for those wishing to put themselves forward for the mayoralty to get their affairs in order. This will encourage the best field of candidates to put themselves forward and allow current councillors to consider whether they aspire to the office of mayor.

I should recognise the great work that has been done by the coalition members working across that region. We have the member for South Barwon in the Assembly, Mr Katos, who, as a former councillor of the City of Greater Geelong, would have a great amount of knowledge of the inner workings of that organisation. We also have David O'Brien, Simon Ramsay and David Koch, who are members for Western Victoria Region and all partook in gathering the information that has come together to ensure that the community's needs on this issue have been heard.

I support this bill for the good governance of the City of Greater Geelong and for the benefit of the people who call Geelong their home.

Mrs PEULICH (South Eastern Metropolitan) — I join the chamber to make a few comments on the City of Greater Geelong Amendment Bill 2011. If there is an opportunity to speak about local government, I am usually very keen to do so, because I am a great believer in that tier of government. We have seen that tier being substantially abused in some high-profile examples where people have lost sight of what they are there for. It never ceases to amaze me that so many councillors who serve on local governments have never read the major piece of legislation that governs them — the Local Government Act 1989. They probably do not even know it exists.

In prefacing my comments, I would like to refer briefly to the role of council and then make some specific comments in relation to the bill before the chamber. Section 3D under 'What is the role of a Council?' says:

> (1) A Council is elected to provide leadership for the good governance of the municipal district and the local community.
>
> (2) The role of a Council includes —
>
> (a) acting as a representative government by taking into account the diverse needs of the local community in decision making;
>
> (b) providing leadership by establishing strategic objectives and monitoring their achievement;
>
> (c) maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner;

(d) advocating the interests of the local community to other communities and governments —

and that advocacy is a really important role —

(e) acting as a responsible partner in government by taking into account the needs of other communities;

(f) fostering community cohesion and encouraging active participation in civic life.

I am never more heartened than when I see a government confronting issues head on and coming up with reforms to address them and to make sure that this very important tier of government that has the capacity to impact so directly on individuals and local communities is being addressed and strengthened. I commend the minister on this piece of legislation, which is also to deliver on an election commitment. The City of Greater Geelong Amendment Bill 2011 seeks to amend the City of Greater Geelong Act 1993, and it will reconstitute the council to include the mayor, who will be directly elected for a period of four years.

It is interesting to see suburban mayors come into office. It is a great honour to lead a municipality, but just as they get good at their role, their term comes to an end, and then there is another shift. It takes them six months or so to adjust to no longer being there and six months for the incoming mayor to start getting the hang of the job. I guess this is a really important experiment. We saw the very first case at the City of Melbourne, and I was a part of the first task force that reviewed the operations of the City of Melbourne and came up with a recommendation for the electoral system that we have seen evolve over time. It was interesting to see how those reforms affected the culture, so it will be interesting to see how this experiment pans out. It offers enormous possibilities and a great deal of optimism for a city and a region that has always looked to its iconic identities and community leaders to unite its diverse interests and communities. One must almost become blindly pro-Geelong.

A great example of that was the late Ann Henderson, the former Liberal member for Geelong, with whom I had the great privilege of sharing an office before she became a minister. There was no-one more fiercely one-eyed about Geelong than Ann Henderson. She was a great example and a great advocate for the area, but she has been succeeded by someone who is also a wonderful example of what it is to be pro-Geelong in the current member for South Barwon. It is great to see him moving into that role and doing it so well.

The prospect of having a mayor serve a community for four years and provide the sort of strategic leadership and advocacy this bill will enable is very exciting for Geelong, given the level of consultation that has occurred on the ground, at the grassroots. Whether you have a million-dollar home in St Leonards, adjacent to the yacht club, whether you are a property owner from the city of Greater Geelong — from Preston — or whether you live in the suburban backblocks of Belmont, this bill offers exciting opportunities for the city of Greater Geelong. It is Victoria's second-largest city, and the council is one of the largest in the state. It is clearly an important municipality in this state and a city of regional significance, and the governance arrangements in this bill will allow Geelong to grow and prosper into the future.

The mayor will be elected by the whole Greater Geelong community, and it will be interesting to see who puts up their hands and enters the fray. It is important that the entire community encourages the very best candidate to take Geelong forward — someone who can speak on behalf of the community and advocate for the city's interests nationally and internationally. A mayor of the City of Greater Geelong will be a very important figurehead, and I was heartened to see some of the consultation that was embarked on.

I am looking at a summary of the consultation process to answer some of the criticisms that were made by Ms Tierney, who poured criticism over a genuine, extensive consultation process undertaken by the Parliamentary Secretary for Local Government, the member for Mornington in the Assembly, which gave effect to a widely endorsed election promise and proved that direct election is the community's preferred option. I note that he held a public meeting at the Geelong Performing Arts Centre on 20 April 2011 and conducted a number of listening posts in various locations over a three-day period in the same month. It is very difficult to stack a group at these listening posts — they are a true exercise in democracy.

I note that the parliamentary secretary went to Corio Village shopping centre, the Waurn Ponds shopping centre, twice to the Westfield shopping centre in Geelong's CBD, the Geelong railway station, the Geelong West library, the Ocean Grove shopping village, the Leopold shopping village and the Bellarine Village shopping centre in Newcomb. There were a range of meetings with key stakeholders including the City of Greater Geelong council, the Committee for Geelong and other local government bodies. It was a very sensitive process of consultation with stakeholders from the top to the very grassroots, including those people who are often very difficult to engage and who

often forget to vote as well. Hopefully this will inspire them to have a greater say in their community.

A range of submissions were received. We had over 65 written submissions and some outstanding feedback. I am looking at the summaries, and quite clearly from all the submissions received and the representations that were made, the model proposed in this bill was the strongest option. Out of the 65 submissions, 29 expressed explicit support for direct election, while only 11 expressed explicit opposition — that is, more than three times the number of those who opposed direct election expressed support for that option. A greater number articulated no clear opinion.

In relation to the submitters' views, when they were invited to indicate which model they preferred, the greatest number expressed a preference for direct election of mayors only. Of course we see in this bill that the deputy mayor is to be elected from the cohort of elected councillors, which gives a very good balance between a figure elected by the whole of the city and someone who actually comes through the ranks, and hopefully it will be an effective team. The deputy mayor will obviously take on various responsibilities and represent the mayor when he is not available to attend meetings or events.

I am also looking at other data before me. Was support for the direct election of the mayor expressed in other forms? Overwhelmingly it was, and less than a third of the respondents expressed concerns. In the last paragraph it states that the parliamentary secretary, who attended all of the nine listening posts, also advised that whilst there was a divergence of views on the matter of whether to have a leadership team directly elected or just the mayor, and whilst a number of people made representations seeking not to have a direct election at all, the overwhelming majority of people who attended listening posts were in favour of directly electing just the mayor.

The bill indeed presents the view of the people. The mayor will be elected for the full four-year term of the council to ensure consistent leadership for the council. The extensive consultation to which I have referred included all stakeholders, including the City of Greater Geelong, and the bill provides for and reflects the outcomes of that consultation.

The next local government elections are in October 2012, and the mayor of the City of Greater Geelong will be elected directly. The form of the election will be preferential voting, and the election will be held at the same time as the election of the councillors. Dual nominations will not be allowed, and I think that is a good thing. Limiting nominations to either mayor or councillor recognises the fact that the two roles are quite distinct. At the 2012 elections the electoral structure of the election of ordinary councillors will also remain unchanged — that is, voters will elect 12 councillors to represent 12 single-member wards. However, before the following general election in 2016 an electoral representation review will be undertaken by the Victorian Electoral Commission to recommend an electoral structure that includes no more than 11 ordinary councillors and will realign the City of Greater Geelong with other municipalities, and that is always a positive thing.

As I mentioned before, the council will be required to elect one of the councillors to be the deputy mayor. The mayor of the city will have additional powers appropriate to a leadership position elected by the entire community. He will be empowered to appoint councillors to chair special committees of the council, and I think that is a very good thing. I would like to see the return of that practice across the sector so that councillors develop expertise in particular portfolio areas. It used to be the way that local government operated. We have moved towards a direct election model, and it is now probably time to consider how we can best develop councillor expertise in particular portfolios and how to drill down in greater detail and thereby bridge some of the chasms between council officers and councillors in local government. We will then see some of the positives come out of this model.

The government intends to review the effectiveness of the new model after it has been in operation for two years. That is always positive when doing something new. It will be compared to the experience of the Melbourne model. The review will also consider whether the model for the direct election of the mayor should also be available to other councils. I do not have a view as to how prevalent that practice should be, but I am excited to see how it will work for the City of Greater Geelong. The City of Greater Geelong should be excited about it. There are enormous opportunities for the city to raise its profile, to have a unifying voice, to move forward, to prosper and to grow. With those few words, I commend the bill to the house.

House divided on motion:

Ayes, 31

Atkinson, Mr	Lovell, Ms
Broad, Ms (*Teller*)	Mikakos, Ms
Coote, Mrs	O'Brien, Mr
Crozier, Ms	O'Donohue, Mr
Davis, Mr D.	Ondarchie, Mr
Davis, Mr P.	Pakula, Mr
Drum, Mr (*Teller*)	Petrovich, Mrs
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Elsbury, Mr	Ramsay, Mr
Finn, Mr	Scheffer, Mr
Guy, Mr	Somyurek, Mr
Hall, Mr	Tarlamis, Mr
Koch, Mr	Tee, Mr
Kronberg, Mrs	Tierney, Ms
Leane, Mr	

Noes, 3

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

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr TEE (Eastern Metropolitan) — I have a couple of matters that I want to take up with the minister. There was much discussion in the debate about the review that will occur in two years. One of the concerns that we have — and I know there are provisions dealing with it further on in the bill, but it might just be easy to knock it off while we are dealing with the purpose clause for the sake of convenience — goes to the cost of having an election across such a broad electorate, not only physically but also just in terms of the numbers of the electorate. I am wondering whether or not the review will consider the cost and whether there ought to be limits on expenditure.

Hon. M. J. GUY (Minister for Planning) — I am advised that, as you would expect, there are some additional costs, albeit minor, noting the fact that with a postal vote election there will obviously be postal votes circulated, so the cost would not be considerable.

Mr TEE (Eastern Metropolitan) — I will just rephrase that to be a bit clearer. The concern that has been raised is that it is very expensive to engage in the sort of promotion that you will have as part of a campaign across the city rather than a campaign for a candidate for a ward. There is to be a review. Is this the sort of thing that would be considered as part of that review?

Hon. M. J. GUY (Minister for Planning) — I thank Mr Tee for his question. The review will focus more around the structure. Obviously when you move to a direct election model it changes the nature of the election. Rather than ward by ward, the focus will now be city wide. That is obviously something that would need to be considered by candidates.

Mr TEE (Eastern Metropolitan) — Just to be clear, is the minister saying it will be considered by candidates but not be part of the review? Does that mean the review will be more structural in nature?

Hon. M. J. GUY (Minister for Planning) — People will be able to put in submissions to the review, and the review could obviously consider that issue, yes.

Mr TEE (Eastern Metropolitan) — Will the larger review take into account issues raised by the community?

Hon. M. J. GUY (Minister for Planning) — Yes.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Mr TEE (Eastern Metropolitan) — Clause 4 deals with the fact that you will get a mayor who will be elected. My question is: will the system of election be first past the post or preferential?

Hon. M. J. GUY (Minister for Planning) — Yes, as I expected. It will be a normal preferential system.

Clause agreed to; clauses 5 to 8 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

CARBON TAX: ECONOMIC IMPACT

Hon. M. J. GUY (Minister for Planning) — On behalf of the Honourable D. M. Davis, I move:

That this house:

(1) calls on the commonwealth government to provide full and timely compensation to Victorian health services

and health providers for the significant cost impacts on public and community health services of the commonwealth's carbon tax; and

(2) notes that when other commonwealth taxes such as the goods and services tax were applied health services were exempt, and the same principles should apply to the carbon tax.

As this chamber knows, the commonwealth's proposed carbon tax legislation is one that is going to have a significant impact on Victoria. The nature and impact of the carbon tax, particularly on health services, needs to be properly explained to Victorians. I believe it is of significant importance that Victorians know the full details of the carbon tax and its impacts — —

Mr Barber — They do know the details.

Hon. M. J. GUY — I take Mr Barber up on that interjection and put to him that they do not. I put it to Mr Barber that the decision taken by the Australian Greens, who are running the federal government at this time, is atrocious. It is a decision that has left Victorians and Victorian health services in limbo, in the lurch and, as Mr Davis will go on to say after me, without proper guidance from the federal government. I support Mr Davis's motion and commend it to the house.

Mr BARBER (Northern Metropolitan) — The minister was just thrown a hot potato on a motion that his side clearly was not prepared for, and winging it, he suggested that the government did not know the impacts of the carbon pollution reduction package on hospitals in Victoria, whereas I know for a fact that the electricity bills of those hospitals are well known and understood. They have been published in years gone by. This price on pollution is to be introduced on 1 July, and if it is the contention of the government and Mr Davis, the Minister for Health, that they do not yet actually understand the impact that will have on their electricity bills, then that is something of a worry. Is Mr Davis really suggesting that he does not know what will happen on 1 July in relation to electricity consumption in his hospitals?

Of course this is a tax that we want him to avoid. This is a tax that we will help him to avoid, because we want the government to reduce its electricity consumption wherever that is possible and thereby limit the impact. Mr Davis would know, because of his former shadow portfolios, that the previous government made efforts to reduce electricity consumption across all its departments. Mr Davis would also know that there have been mixed results in that area, with some departments managing to reduce their electricity usage and others not. If Mr Davis is saying his government has no program to further reduce electricity consumption across the public sector, then Mr Davis is behaving somewhat irresponsibly. We know the impact of this carbon price. It will be about 7 per cent on your electricity bills, depending of course on how competitive you think the market for electricity generation is.

An interesting fact that is kind of lost in all this debate is that for the last five years Victoria's electricity consumption has not grown at all. In the first six months of this financial year electricity consumption went down just slightly on the previous comparable period. That is a function of the amount of solar electricity being generated from the very popular rooftop photovoltaic (PV) program — more than 300 megawatts in Victoria. It is a function of the Victorian energy efficiency target scheme, which all parties in this Parliament have supported and which, to the credit of the government, it recently increased. It is also due to the dramatic price rises brought on by a whole range of factors which have nothing to do with the carbon tax — in many cases by the decades of neglect following privatisation — and which are now catching up with us and adding considerably to the costs of the pole and wire companies.

Notably in Victoria, despite the much-lauded retail price competition, in reality it is churn in the retail sector that has led to the biggest increases in prices lately. Putting together the combination of more and more people generating their own electricity, more and more people finding ways to be efficient with electricity use in their homes and the rocketing price of electricity under this failed privatisation model, of which the Kennett government was the architect, it is no wonder we have seen no growth in electricity consumption across Victoria over the last five years or in the first six months of this year.

We have extended the energy efficiency target to the commercial sector, and that includes the hospitals that Mr Davis has responsibility for. We are now allowing into that efficiency target rebate scheme more and more types of technologies and products, so any hospital, any home, any business out there in Victoria is in a very good position to make deep cuts to its energy bills. I am hoping Mr Davis is going to get up in a minute and enlighten us about the electricity consumption of Victoria's hospitals, which is, after all, central to the motion he has moved, about what efforts have been made to reduce that energy consumption and about what forward-looking program he has to reduce that energy consumption — —

Mr Finn — Turn off a few machines, you reckon?

Mr BARBER — To take another example, hospitals generally have emergency backup generators, often running off gas, and, in order to be tested regularly, those generators actually run and in some instances pump electricity back into the grid. A number of hospitals, through arrangements with retailers, are actually electricity generators themselves. If the market rules were fixed to provide better incentives for embedded generation — they currently favour the big, dumb, centralised half dozen coal-fired power stations — then not only Victoria's hospitals but also many other public buildings would be in a position to benefit from those changes to the electricity market.

It is quite an ill-conceived motion that Mr Davis has put forward. At the state level there have really been only two talking points coming out of this state government. One is the impact on hospitals and the other is the impact on small business. Never has the government mentioned, though, that compensation is being given to small businesses through the accelerated write-off of assets under the taxation regime, so that small businesses can benefit. If they purchase energy efficiency equipment, they can write off the full value of that asset in one year and get a tax credit. Rather than being out there trying to scare small businesses into thinking this will be the end of their world, what the government ought to be doing is educating small businesses about the tax credits that will be available to them as compensation.

Mr Davis compares this to the goods and services tax, and of course it is quite clear that that is not the appropriate analogy. The goods and services tax was imposed on the consumption of products — —

Mr Finn interjected.

Mr BARBER — Mr Finn says he is now a convert to the GST — —

Mr Finn interjected.

Mr BARBER — It is a pity that the leadership of Mr Finn's party has not always supported it and supported it consistently, because it has been back and forth on that on a number of occasions — —

Hon. D. M. Davis interjected.

Mr BARBER — I can assist Mr Davis there, because the Greens have gone to every election since 1996 on the proposal for a carbon tax. I remember distinctly organising — —

Hon. D. M. Davis interjected.

Mr BARBER — That is right; thank you. We need to put that on the record as well. Mr Davis points out the emissions trading scheme — —

Mr Finn interjected.

Mr BARBER — Yet another example of the pot calling the kettle black. The purpose of the goods and services tax was to shift the tax base from incomes, and capital gains as well to some extent, over to goods and services along the lines of taxes in many other parts of the world. However, with a carbon pollution tax the intention is somewhat different. It is intended to change the behaviour of those who invest in our electricity supply system and create incentives for investors to supply more of that electricity from renewable sources and less from coal. That is all it does. The wholesale price of electricity is at a record low here in Victoria. It is the lowest it has been for about 10 years, and there are a few reasons for that, which I will address.

First of all, we have an increasing amount of wind power available in the grid. The interconnector between South Australia and Victoria used to run in South Australia's direction, generally pushing coal-fired electrons to it. But with the increasing amount of wind power that is generated over there, we are finding that interconnector is becoming more and more neutral. Certainly I have observed instances where the power is so cheap over there that by coming into Victoria's market it is reducing the price of power. That is one reason the wholesale price is very low.

Another reason is that the peak electricity growth, which was driving the cost of power some years ago, has been brought back under control. Specific measures have been introduced, such as energy efficiency standards for air conditioners, that mean peak demand growth is not rocketing up the way it was. That was again an artefact of the failed Kennett model of privatisation. What happened was we were getting extraordinarily high demand, in some cases for just a few hours or days a year, and new gas-fired power stations had to be built but were then used for only 1 per cent of the time or a few per cent of the time. It was an extraordinarily inefficient way of delivering our electricity power needs.

Thirdly, the combination of wind and hydro, particularly in the last year or so, has meant that that peak demand for electricity can be met by those renewable sources, so that has helped us control the skyrocketing price of power. But the government needs to go much further with that. The Energy Saver Incentive program is quite small; it is really just a small pilot. Tens of thousands of houses across Victoria have

received assistance. As I said, businesses and not-for-profits, including hospitals, will also be eligible to get incentives through it. But the target is still so small that it is being met very easily, so only a small number of houses benefit. We need an economy-wide energy efficiency drive. It will put dollars back into the budgets of homeowners, small businesses, local governments and not-for-profits.

The fact that small businesses run on such small margins indicates the great value of energy efficiency to them, because dollars saved on electricity go straight to the bottom line. If you are running on a small margin, my coming to your small business and saying, 'Here is how you can save $2000 on your electricity bill', would be the equivalent of my walking in and saying, 'I want to buy $40 000 worth of your product', because energy savings go straight to the bottom line. Likewise in the home, an extra $100 or $200 a year in your pay packet attracts tax, but $100 or $200 saved on your bill is $100 or $200 straight into your pocket. It is tax effective in that way. Likewise generating your own electricity on your roof, which this government as one of its earliest acts unfortunately decided to take a knife to.

Riding to the rescue also is the dramatic reduction in the price of solar panels. All experts agree, right up to the level of the International Energy Agency, that the price of solar panels is going to halve and then halve again. The only argument amongst the experts about that is when it will be. This will happen in many countries in the world, but it will not be very long before the electrons generated by PVs are at parity with those generated from coal. We are seeing that is already the case in developing countries, because they are not rolling out a considerable network of poles and wires — they are going straight to renewables distributed across the landscape. I believe that is where we are headed here.

A good friend of mine put a kilowatt of solar panels on his roof some years ago, and it worked out at about $5 a watt. He has added more panels to his roof just in the last few days, and it came in at about $1 a watt. That is a dramatic reduction in the price of PVs happening as we speak. Going back to my original theme that the carbon tax is a tax we want people to avoid, Mr Davis might find that the impact is not what he suggests it will be. I would be very keen to hear from Mr Davis the exact dollar figures that he claims in his motion will amount to 'significant cost impacts in public and community health services'.

Mr Ramsay interjected.

Mr BARBER — By interjection Mr Ramsay brings up Alcoa. I think we should address that. Yesterday the Premier put out a quite misleading press release which suggested that the cost impacts of a carbon tax had something to do with this threat to the smelter. Unfortunately for Mr Baillieu, his lie is exposed, because when you read Alcoa's press release it is absolutely clear and adamant that the carbon tax had no impact on this decision to introduce the review.

Mr Ramsay interjected.

Mr BARBER — It is true that is what Alcoa's press release said, Mr Ramsay. I do not know if Mr Ramsay has read the press release yet; perhaps like everybody else he has just read Mr Baillieu's press release. But because studied ignorance of this issue seems to be the main tool in the kit of the government, I can guarantee members that Mr Ramsay did not read the testimony of Alcoa to the Senate inquiry examining the Labor-Greens carbon pollution reduction package. In that he would have seen, despite the best efforts of his federal Liberal colleagues to verbal Alcoa over the impact on that company, Alcoa was quite clear about the impact — and the impact was small. That is because the Greens were insistent that emissions-intensive, trade-exposed industries should be protected as part of our carbon pollution reduction scheme negotiations.

It is true that we did not give 100 per cent compensation according to each emitter's level of emissions, because if you did that, you would give the biggest compensation to the least efficient, so instead we set a benchmark — an average, if you like — level of emissions. Those who are achieving better than that benchmark are overcompensated, and those who are, as was the case with the Alcoa smelters across Australia, slightly over that benchmark, do not get 100 per cent compensation. In the Alcoa case they got good compensation.

Mr Ramsay interjected.

Mr BARBER — I am not talking about the Australian Aluminium Council; I am talking about Alcoa's testimony under oath to the Senate inquiry, and despite the best efforts of the Liberal members of that committee, they could not verbal Alcoa into saying the thing that Mr Ramsay would like to quote from Alcoa.

It is unfortunate, though, that — and you can read it in the State Electricity Commission of Victoria's annual report, just tabled — the long-running subsidy to Alcoa's two smelters is coming to an end. That whole deal, going back to, I think, about 1982, is always

shrouded in secrecy, but through the SECV's annual report we see that the net present value of our liability to subsidise that smelter has gone from $442 million last year to $252 million this year. You would have to agree that is a significant subsidy just to keep those two smelters going. You could do a lot with $252 million. We are talking big bucks here. The carbon tax, let us face it, is not a very big tax.

Mr Finn — It's big enough.

Mr BARBER — It is highly targeted. It is only collecting about $3 billion in its first year.

Honourable members interjecting.

Mr BARBER — I can see some of my colleagues are champing at the bit, but they raised this motion, and there are 24 minutes on the clock, so I intend to give a thorough exposition. The carbon tax will collect about $3 billion in its first year. Let us say Victoria is about 25 per cent of that, because it probably is. Therefore you have got to remember Mr Baillieu is collecting about $1 billion in taxes just for poker machines every year. I do not see him wanting to hand that over anytime soon. We know the terrible effects of poker machines on families and on people's lives. We know that drives fraud and theft.

We know that often not-for-profits, local government bodies and banks have been victims of fraud associated with poker machines. If I had a choice in how to raise $1 billion worth of revenue, I would much rather raise it through a tax on pollution, still leaving in place the incentive for less polluting sources, than I would through continuing to subsist on the sin and misery caused by poker machines, with some of the most vulnerable people handing over their dollars — dollars they can ill afford that could be spent on health and education — as part of the seemingly endless rivers of gold for pubs and clubs.

Members need to get it into perspective. It is a relatively small amount of revenue being collected, but it is highly targeted at coal-fired and fossil fuel pollution. I would be pretty confident that Mr Davis is not going to step up today and tell us what program he has implemented to reduce energy usage in hospitals so as to net out the effect of the carbon tax, which he could easily do.

We are talking about a 7 per cent increase in the retail price of power, which is dwarfed by the increases that we are going to see, and have seen, from the implementation of the bushfire royal commission recommendations, for example, and the need to make major changes to our power grid from the money that is constantly wasted as retailers send out doorknockers to try to convince you to switch over to their power company when really there is very little benefit on offer.

I have run a local council where we made considerable efforts to reduce our local energy usage, and if you look forward from 2002, when I first joined Yarra City Council, to the current day — —

Mr Finn — You were running the council?

Mr BARBER — The mayor down there is Geoff Barbour, but one of my local papers still gets it wrong as to whether they are talking about him or me. Yarra council has an excellent record over that short period of years in reducing its energy usage by about a quarter across the council's operations — not dissimilar to the sorts of energy used in hospitals, for example. Councils run a diversity of operations. They run buildings, they run lighting, they run hot water, they run swimming pools and they run child-care centres, so if Yarra council can do it in such a short period of time, why can Mr Davis not lead such an efficiency drive through his hospitals?

I suspect we are not going to get an answer to that, and I think the answer will be more rhetorical than factual. When the debate on this motion resumes I will be very keen to hear from Mr Davis on what the dollar impact of the carbon pollution reduction scheme is expected to be on hospitals, what measures have already been used to make energy use more efficient and what future program he is putting in place over this calendar year. This is because I am hopeful that the effect on the hospital sector could be almost negligible but at the same time achieve an environmental outcome that I am sure many of the employees and even the members of the boards of these hospitals would all be wholeheartedly in support of.

Debate adjourned on motion of Hon. D. M. DAVIS (Minister for Health).

Debate adjourned until next day.

PARKS AND CROWN LAND LEGISLATION AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. D. M. Davis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. D. M. Davis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Parks and Crown Land Legislation Amendment Bill 2011 (the bill), as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will:

(a) create Lake Tyers State Park and Gippsland Lakes Reserve (Raymond Island) and add areas to the Alpine, Chiltern-Mount Pilot, French Island, Grampians, Kinglake, Lower Goulburn, Mitchell River, Mornington Peninsula and Warby-Ovens national parks, Gippsland Lakes Coastal Park, Macedon Regional Park and Otway Forest Park;

(b) change the name of St Arnaud Range National Park to Kara Kara National Park;

(c) extend the maximum lease term for the Arthurs Seat chairlift;

(d) extend the period in which firewood can be collected from former logging coupes in Barmah and Gunbower national parks to 30 June 2015;

(e) reclassify Frankston Natural Features Reserve as a nature conservation reserve;

(f) streamline the approvals process for fire prevention works on certain Crown land;

(g) enable regulations to continue to be made for the care, protection, management and use of reservoir parks; and

(h) make other amendments of a minor or technical nature, including repealing spent provisions.

Human rights issues

Section 12 — Freedom of movement

Section 12 of the charter act provides for the right for every person to move freely within Victoria and to enter and leave it and to have the freedom to choose where to live. It includes the freedom from physical barriers and procedural impediments.

Clause 4 of the bill substitutes a new section 32CA in the National Parks Act 1975. Proposed section 32CA will enable the minister to lease land in Arthurs Seat State Park for the purposes of a chairlift and associated visitor facilities at Arthurs Seat for a period of up to 21 years or, in specified circumstances, up to 50 years. The granting of a lease conveys a right to occupy an area to the exclusion of others in accordance with the terms of the lease. This provision may limit the right to freedom of movement within areas over which a lease is granted, but any limitations are justified under section 7(2) of the charter act.

The maximum lease term is being extended in order to encourage and support the private investment needed to construct and operate a new chairlift at Arthurs Seat as a major tourist attraction on the Mornington Peninsula, thereby supporting the local economy. A long-term lease is the only suitable way of providing the required degree of security of tenure for large investments on public land.

Section 20 — Property rights

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

In relation to the new park areas under the National Parks Act 1975, to the extent (if any) that an apiary licence or right, a tour operator licence or a water frontage licence constitutes some form of property right, proposed clauses 9, 10 and 14 of proposed part 3 of schedule one AA to the National Parks Act 1975 (as inserted by clause 15 of the bill) provide that any such licence or right existing immediately before the creation of specified park areas is saved. Proposed clause 12 of that proposed part preserves a lease at Lake Tyers State Park.

In relation to the new reserve areas under the Crown Land (Reserves) Act 1978, proposed clause 8 of the second schedule to that act (as inserted by clause 22 of the bill) provides that, when the reserve areas are created, the land forming the reserve areas is taken to be freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. This provision could be taken to extinguish property rights. However, proposed clause 7 of the second schedule (as inserted by clause 22 of the bill) explicitly states that the interests listed in that section will not be affected by the operation of proposed clause 8 of the second schedule. There are no known interests in the land other than those of the nature listed in clause 7 of the second schedule. Accordingly, there is no known limitation or restriction of the right protected under section 20 of the charter act.

Conclusion

I consider that the bill is compatible with the charter act because, to the extent that a lease may limit the right to freedom of movement under section 12, any limitations are reasonable.

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

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. D. M. DAVIS (Minister for Health).

Hon. D. M. DAVIS (Minister for Health) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Parks and Crown Land Legislation Amendment Bill 2011 (the bill) will amend the National Parks Act 1975, Crown Land (Reserves) Act 1978, Forests Act 1958 and Water Industry Act 1994. In particular:

> the bill will create Lake Tyers State Park and Gippsland Lakes Reserve (Raymond Island), add areas to existing parks, reclassify Frankston Natural Features Reserve as a nature conservation reserve and change the name of St Arnaud Range National Park to Kara Kara National Park;
>
> the bill will also make a range of other amendments, including facilitating investment in a new chairlift at Arthurs Seat, extending the period during which firewood may be collected from sawlog harvesting residue in former logging coupes in Barmah and Gunbower national parks, and improving the workability of the legislation.

New park and reserve areas

The bill will amend the National Parks Act and the Crown Land (Reserves) Act to create new park and reserve areas of approximately 10 000 hectares.

Of particular note is the creation of Lake Tyers State Park under the National Parks Act and Gippsland Lakes Reserve (Raymond Island) under the Crown Land (Reserves) Act. This will implement longstanding recommendations of the former Land Conservation Council as well as an obligation in the Recognition and Settlement Agreement between Gunaikurnai Land and Waters Aboriginal Corporation and the State of Victoria 2010. The agreement settled a native title claim with the Gunaikurnai people and includes an obligation for the state to act expeditiously and do everything it can to create Lake Tyers State Park and Gippsland Lakes Reserve (Raymond Island). The agreement also requires the granting of Aboriginal title over those areas under the Traditional Owner Settlement Act 2010, and for the park and reserve to be jointly managed by the state with the Gunaikurnai people.

Lake Tyers State Park covers approximately 8600 hectares and includes the coastal forests surrounding Lake Tyers, as well as Mount Nowa Nowa and the scenic Boggy Creek gorge immediately north of Nowa Nowa township. The park also includes warm temperate rainforest and significant faunal values. The area, most of which has been managed as a park for many years, offers opportunities for bush camping, picnicking, walking, scenic driving and fishing and provides access to the waters of Lake Tyers, which are not included in the park.

The bill provides for various licences and other authorities to continue in the new park, including apiary licences and rights. It will also enable the minister to grant a reasonable right of access through the park to a person whose freehold land is surrounded by or adjoining the park. The National Parks Act will also be amended to enable recreational hunters to be authorised to carry firearms in the park, subject to conditions. This provision is intended to apply to the camping area at Pettmans Beach, which is used by hunters visiting the adjacent Ewing Morass State Game Reserve at certain times of the year.

The Gippsland Lakes Reserve (Raymond Island) covers 215 hectares and comprises most of the Crown land on the island. It has special cultural significance to the Gunaikurnai people.

The bill will also add nearly 1300 hectares to 12 existing parks: the Alpine, Chiltern-Mount Pilot, French Island, Grampians, Kinglake, Lower Goulburn, Mitchell River, Mornington Peninsula and Warby-Ovens national parks as well as Gippsland Lakes Coastal Park, Macedon Regional Park and Otway Forest Park. There are also small additions to Arthurs Seat State Park which I will come to later.

The park additions include ecological communities underrepresented in the parks and reserves system, as well as former freehold areas located within the parks. Most of the additions were purchased as part of the conservation land purchase program or to offset clearing associated with the construction of strategic fuel breaks on public land elsewhere. However, I would particularly like to highlight the generous donation of nearly 27 hectares for addition to Kinglake National Park by the late Ms Karma Hastwell, who had a long association with the park but who tragically lost her life in the 2009 Black Saturday bushfires.

Kara Kara National Park

The bill will change the name of St Arnaud Range National Park to Kara Kara National Park. This amendment follows considerable community consultation in the course of developing the management plan for the park, and reflects a community desire to have ‘Kara Kara’ recognised in the name of the park to acknowledge its history and Aboriginal heritage. ‘Kara Kara’ was the name of the former shire and the former state park, which was incorporated in the national park in 2002, and means gold in the Dja Dja Wurrung language. The change in name has been endorsed by the Registrar of Geographic Names.

Frankston Nature Conservation Reserve

The Frankston reservoir and surrounding bushland were transferred from the ownership of Melbourne Water to the state in 2008 and reserved under the Crown Land (Reserves) Act as a natural features reserve. The bill will reclassify the area as a nature conservation reserve in response to a desire within the local community to give a higher level of recognition to the area’s significant natural values. Opportunities for recreation activities will be provided consistent with the status of the reserve.

Arthurs Seat chairlift

The chairlift at Arthurs Seat has been a very popular tourism attraction on the Mornington Peninsula for nearly 50 years, drawing visitors to enjoy the magnificent panoramic views across Port Phillip Bay. However, the chairlift ceased operating in 2006 and requires replacement.

The new section 32CA to be inserted in the National Parks Act will encourage and support the private investment needed to construct and operate a new chairlift and associated visitor facilities by providing for a 50-year maximum lease term, instead of the current 20-year term. The provision is similar to the other long-term lease provisions in the National Parks Act

applying to particular areas in Mount Buffalo and Point Nepean national parks.

The bill will also add to the park several areas of airspace where the proposed new chairlift passes over the Arthurs Seat Road, thereby enabling the one leasing provision to apply to the whole of the chairlift operation.

Firewood collection in Barmah and Gunbower national parks

The legislation creating Barmah and Gunbower national parks enabled the collection of firewood from sawlog harvesting residue lying on the ground in specified former logging coupes in the two parks until 30 June 2011, for domestic or camping purposes outside the parks.

The floods and wet conditions in northern Victoria made it virtually impossible to remove the available wood by 30 June 2011, and there is still considerable firewood remaining. In recognition of the importance of domestic firewood to local communities and consistent with the intent of the original legislative provision, the bill will amend the National Parks Act to extend, until 30 June 2015, the period during which firewood may be taken from the specified areas of the two parks. This date takes into account the possibility of future flood events that may further limit access to the former coupes.

The bill does not alter the specified areas where firewood may be collected, nor the requirement that the firewood must only be collected from wood that was felled in timber harvesting operations which predate the creation of the parks. The times and conditions associated with firewood collection will be determined by the Secretary to the Department of Sustainability and Environment.

Streamlining the approvals process for fire prevention and suppression works on certain public land

The Forests Act contains provisions relating to fire prevention and fire suppression in state forest, parks under the National Parks Act and other Crown land declared to be protected public land. One such provision requires the Secretary to the Department of Sustainability and Environment (the secretary), who is responsible for ensuring appropriate measures are taken for fire prevention and suppression on that Crown land, to obtain consent from public land managers prior to carrying out fire prevention and suppression works.

The bill will remove the requirement for prior consent in respect of emergency fire suppression works. In respect of planned fire prevention works, the bill will replace the consent requirement with a requirement for the secretary to consult if the land manager is a body other than the secretary. The bill will also repeal a related but redundant provision in the Crown Land (Reserves) Act.

Application of regulations to reservoir parks

There are 10 reservoir parks totalling nearly 500 hectares associated with water storages around Melbourne and the Tarago and Thomson dams. The Water Industry Act currently enables regulations to be made with respect to the care, protection, management and use of the reservoir parks, but only if a lease is in place which is the same or similar to one which previously existed between Melbourne Water and the Minister for Environment and Climate Change. The lease referred to in the act has expired and Melbourne Water has entered into a new lease with Parks Victoria. The bill will amend the act so that regulations can continue to be made with respect to the reservoir parks covered by the new lease and future leases.

Other amendments

The bill will also update the references to the plans defining Greater Bendigo National Park in section 40 of the National Parks Act, and will repeal several spent provisions in that act and the Crown Land (Reserves) Act.

Conclusion

The bill highlights the government's commitment to protecting and enhancing the state's parks and reserves system. It will add several significant areas to the state's parks and reserve system and will make a series of miscellaneous amendments which respond to various community views, facilitate investment in key tourism infrastructure and improve the workability of the legislation.

I commend the bill to the house.

Debate adjourned for Mr JENNINGS (South Eastern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 16 February.

EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. D. M. Davis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. D. M. Davis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

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

Overview of bill

The bill amends the Country Fire Authority Act 1958 (CFA act), Emergency Management Act 1986, Emergency Services

Telecommunications Authority Act 2004, Forests Act 1958, Metropolitan Fire Brigades Act 1958 (MFB act), Summary Offences Act 1966 and the Victoria State Emergency Service Act 2005 to reflect current arrangements, make technical and consequential amendments, increase certain penalty provisions and modernise outdated provisions.

Human rights issues

The bill engages the following human rights:

freedom of expression

freedom of movement

right to privacy

freedom from forced labour

1. Requirements to provide information

The bill contains the following provisions, which provide for persons to provide information to the Country Fire Authority (CFA) and the Metropolitan Fire and Emergency Services Board Brigade (MFESB) as required:

clauses 10 and 76 provide that a person who receives a notice requiring them to provide details of the circumstances of a false alarm may provide an explanation of the circumstances of the false alarm and any information supporting the explanation;

clauses 39 and 93 require a person who conducts an alarm monitoring service to comply with a notice requiring the person to provide prescribed information; and

clauses 47 and 84 require a person to comply, without delay, with a request for information as to insurance.

Clauses 10 and 76 do not require or oblige the recipient of a notice requiring the provision of information to provide the information requested, whereas clauses 39, 47, 84 and 93 do. Clauses 10 and 76 provide the recipient with an opportunity to provide an explanation, which will then be considered by the CFA or MFESB in determining whether there was a reasonable excuse for the occurrence of the false alarm. This information is then in turn relevant to determining whether a person should be required to pay the prescribed fees and charges for the attendance of the fire brigade in response to the false alarm. Clauses 10 and 76 may therefore be seen as positively engaging the right to a fair hearing (section 24 of the charter act).

Section 15 — Freedom of expression

Clauses 10, 39, 47, 76, 84 and 93 (the information clauses) may engage the right to freedom of expression, which has been interpreted to include a freedom not to give information.

To the extent that the information clauses restrict the right to freedom of expression, the restriction falls within the limitation to this right under s 15(3) of the charter act. In particular, the provision of information connected to the functions and duties of the CFA and MFESB is reasonably necessary for the protection of public order. The information relating to false alarms assists the fire services to recover the costs associated with false alarms, as well as identifying how to reduce false alarms. The information relating to insurance required to be provided assists the fire services to recover the costs associated with suppressing a fire. The information as to alarm monitoring services assists the fire services to identify disruptions to alarms; better understand why disruptions occur; and identify how to reduce disruptions. Overall, the information assists the fire services to respond to fires with appropriate speed and effectiveness and ensure appropriate recovery of the costs associated with suppressing fires.

Section 13 — Right to privacy

Section 13 of the charter act provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. An interference with privacy will not be unlawful if it is permitted by law that is accessible and precise. An interference with privacy will not be arbitrary if the restrictions it imposes are reasonable, just and proportionate to the end sought.

To the extent that the information clauses engage the right to privacy by requiring a person to provide information (e.g. information about their insurance arrangements and/or information about alarms in residences), it is necessary to enable the fire services to recover costs or determine the circumstances surrounding when an alarm service has been disrupted or disconnected. The collection, use and disclosure of such information will be subject to the Information Privacy Act 2000. Accordingly, the collection of such information will not be unlawful or arbitrary.

For the reasons given above, I am satisfied that clauses 10, 39, 47, 76, 84 and 93 are compatible with the freedom of expression and the right to privacy.

2. Diverting traffic and removing persons from premises

Clauses 16 and 35 confer power on the chief officer of the CFA to close roads affected by fire and redirect traffic in the vicinity (the road diversion clauses).

Clauses 16 and 18 confer power on the chief officer and a member of the police force respectively to order a person to withdraw from premises burning or threatened by fire where the person is interfering with the operations of a brigade or is in or on land, building or premises that is burning or threatened by fire. Clauses 16 and 18 also confer power on a member of the police force to remove persons who fail to withdraw (the removal clauses).

Clause 107 confers power on certain members of Victoria Police to declare an area to be an emergency area. Clause 108 confers powers on certain members of Victoria Police to close roads and prohibit a person or vehicle from entering or passing through an emergency area. Clause 109 prohibits a person from failing to obey a prohibition or order given by a member of Victoria Police in relation to the emergency area (the emergency area clauses).

Section 12 — Freedom of movement

The road diversion clauses, the removal clauses and the emergency area clauses engage the right to freedom of movement by limiting or restricting the roads on which a person can travel or the places in which a person can be.

The potential limitations are reasonable pursuant to s 7(2) of the charter act.

The limitation is important to better protect public safety, the security of evacuated premises, the safety of emergency personnel and facilitate an effective response to emergencies. The objective of providing for the removal of persons who interfere with fire brigades is to ensure that fire brigades can protect life or property in extremely difficult conditions.

As fires are unpredictable and can cause significant damage and injury within a short time, the risk of injury or death is extremely high for persons who remain in burning premises. Typically, fire brigades are the best qualified to determine the risk posed, based on an understanding of fire patterns, firefighting capabilities and the structural environment of the premises. The fire brigades may also protect a person's life in circumstances where a person may not fully understand or appreciate the dangers with which they are faced.

By removing persons from a fire scene where such persons interfere with firefighters in the course of their duty, that person is not only removed from an immediate danger, but is also unable to jeopardise the brigade's operations and safety and potentially other persons' safety. Further, directing movement in and around the emergency better enables emergency services to protect the safety and security of persons affected by the emergency.

The limits imposed by these proposed amendments are proportionate to the objectives sought. Persons are directed to withdraw from the fire scene and are not detained against their will. The bill provides for persons to be directed away from the fire scene to a safer location by the safest and shortest route. Persons will generally be able to return to the fire scene once it is safe to do so.

The limitations imposed are directly and rationally connected to their purpose. In my opinion, there are no less restrictive means available to achieve this purpose.

Section 13 — Right to privacy

Where the powers conferred by the removal clauses are used to order a person to withdraw, or remove a person from premises used for residential purposes, the right to privacy and home will be engaged. Similarly, where the emergency area clauses are used to declare an emergency area that includes private residences, the right to privacy and home will be engaged.

Any interference with a person's privacy, family or home will not be unlawful or arbitrary. The removal powers are limited to circumstances where the person is in premises that are burning or threatened by fire or the person is interfering with the operations of a brigade. The powers are necessary to protect public safety by ensuring that the person in respect of whom the powers are exercised is protected from fire and ensuring that the brigade can extinguish the fire, thereby protecting the safety of others. The emergency area clauses are limited to emergencies and in circumstances where it is necessary to exclude persons for public safety reasons, the security of evacuated premises or the safety of, or prevention of any obstruction, hindrance or interference with, persons engaged in emergency activity.

The powers conferred by clauses 16, 18, 35 and 107 to 109 are compatible with the freedom of movement and the right to privacy.

3. Duty to take steps to extinguish a fire

Clauses 21 and 37(2) require an owner, occupier or a person in charge of land, or to whom a direction is given, to take all 'reasonable' steps to extinguish a fire on their property.

Freedom from forced labour

Clauses 21 and 37(2) do not limit the rights protected by s 11 of the charter act as 'forced labour' requires an element of injustice, oppression or avoidable hardship. The duty provided by clauses 21 and 37(2) do not authorise forced labour of this kind. Furthermore, s 11(3)(b) of the charter act provides that forced or compulsory labour does not include work or service required because of an emergency (e.g. a fire) threatening part of the Victorian community.

Right to privacy and home

Where the land is used for residential purposes, any interference with a person's privacy or home under clauses 21 and 37(2) will not be unlawful or arbitrary. The amendment imposes a duty to take 'reasonable' steps, which will vary according to the particular circumstances of each case. The duty is necessary to limit the spread of fires as quickly as possible by, wherever possible, extinguishing or containing the fire to a particular property.

For the reasons given above, I am satisfied that clauses 21 and 37(2) are compatible with the freedom from forced labour and the right to privacy.

4. Prohibition on lighting a fire

Clause 24 confers power to direct a person not to light a fire at a specified place and during a specified period of time. Clauses 27(1) and 29(3) amend the exceptions to sections 39(a) and 40(4) of the CFA act (provisions relating to prohibited actions near fires and total fire bans respectively) by requiring a fixed appliance or fire to be attended by an adult who has the capacity and the means to extinguish the fire. Clause 29(10) prohibits a person who has been granted a permit to light a fire from lighting a fire during a total fire ban without complying with every condition to which the relevant permit is subject.

Right to privacy and home

Where the power conferred by clause 24 is used in respect of land used for residential purposes, any interference with a person's privacy or home under clause 24 will not be unlawful or arbitrary. The power is limited to making directions for the purpose of protecting life, property or the environment. The requirement in clauses 27(1) and 29(3) to have a fixed appliance or fire attended by an adult who has the capacity and the means to extinguish the fire is necessary to ensure that fires permitted on total fire ban days are controlled and do not spread.

On its face, clause 9(10) appears to engage the right to privacy. However, section 40 of the CFA act, which is amended by clause 29(10), provides for permits to be granted for non-residential purposes only, such as for a business, community charitable organisation, statutory corporation, municipal council, industrial operation or trade or for the purposes of public entertainment or religious or cultural purposes. Accordingly, clause 29(10) does not engage the right to privacy.

For the reasons given above, I am satisfied that clauses 24, 27(1) and 29(3) are compatible with the right to privacy.

Cultural rights

Clauses 24 and 29(10) potentially affect the enjoyment of cultural rights involving fire, including, but not limited to, the enjoyment of Aboriginal cultural rights. The potential limitations are reasonable pursuant to s 7(2) of the charter act.

The purpose of the limitation imposed by clause 24 is to protect life, property or environment by preventing the lighting of fires in dangerous conditions. The limitation is reduced by limiting the exercise of the power only for the purpose of protecting life, property or environment. The limitation imposed by clause 29(10) recognises the need to light some fires during total fire bans, but seeks to control strictly those fires in order to protect life, property and environment.

The limitations imposed are directly and rationally connected to their purposes. In my opinion, there are no less restrictive means available to achieve these purposes.

For the reasons given above, I am satisfied that clauses 24 and 29(10) are compatible with cultural rights.

5. Reverse onus provisions

A number of provisions impose or amend an evidential onus upon a defendant in a criminal proceeding, e.g. clauses 23, 24, 26, 27(1), 28, 29, 37, 51, 53, 54, 55, 89, 90, 106 and 109(2). These provisions engage section 25(1) of the charter act, which provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty in accordance with the law.

For example:

clause 24 introduces s 37A(2) into the CFA act, which provides that a person must not, without reasonable excuse, fail to comply with a direction given by the chief officer under s 37A(1);

clause 27(1) amends s 39(a)(i) of the CFA act, which provides that a person shall not leave a fire s/he has lit in the open air unless s/he leaves another person who has the capacity and the means to extinguish the fire in charge of the fire;

clause 53 introduces s 106A into the CFA act, which provides that a person must not, without reasonable excuse, damage or interfere with a fire indicator panel. The prohibition does not apply to an officer or employee of the CFA who is acting in the exercise of any power or in the performance of any duty conferred or imposed under the CFA act; and

clause 23 more than doubles the fine that may be imposed for a breach of s 37 of the CFA act, which prohibits the lighting of a fire in the open air in the country area of Victoria during a fire danger period unless authorised or directed by or pursuant to some other provision of the CFA act. The maximum term of imprisonment is unchanged.

The Criminal Procedure Act 2009 sets out the laws relating to criminal procedure in the Magistrates Court, County Court and Supreme Court. Section 72 of the Criminal Procedure Act 2009 states that, where an act creates an offence and provides any excuse upon which an accused wishes to rely, the accused must present or point to evidence that suggests a reasonable possibility of the existence of facts that will establish the excuse.

The above clauses do not require the defendant to prove the reasonable excuse, but do impose an evidential onus upon a defendant by requiring him/her to put forward evidence which is sufficient to raise the defence.

Courts in other jurisdictions have generally taken the approach that an evidential onus on an accused does not limit the presumption of innocence. Additionally, the clauses that engage the presumption of innocence are based on matters within the knowledge of the relevant defendant and are matters which a defendant would be cognisant of, given that they would be the defendant's reason or excuse for not complying with the requirements of the act. The increased penalties imposed for the offences update the penalties to better align with community expectations and attitudes in relation to fire danger and to reflect the community's concern about the consequences of fire and the public interest in promoting community safety. Consequently, even if these provisions were found to limit the right to be presumed innocent through imposing evidential onuses upon defendants, they would be reasonable and justified under s 7(2) of the charter act.

6. Other limitations on the freedom of expression

A number of clauses arguably engage the right to freedom of expression, e.g. clauses 47, 51, 55, 56, 77, 89, 104 and 105. However, the clauses clearly fall within section 15(3) of the charter act as they are reasonably necessary to protect public order for the following reasons. By way of example:

Clauses 56 and 77 prohibit the provision of a false report of fire where it is known that the report is false. Knowingly giving a false report of fire has potentially significant effects on the community. Often several trucks are called to a reported fire scene. The costs of operating trucks are also significant. Such false alarms may risk the safety of persons and property actually threatened by fire. When fire trucks are unnecessarily engaged by false reports of fire, they are generally precluded from promptly and effectively responding to genuine alarms of fire.

Clauses 55 and 89 prohibit the impersonation of a CFA or MFESB member. False representation that a person is a CFA or MFESB member may appear to give that person access to powers which limit the rights conferred by the charter act and, if misused, can have significant consequences for public safety.

For the reasons given above, I am satisfied that clauses that engage the freedom of expression are compatible with the freedom of expression.

Conclusion

For the reasons given in this statement, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006.

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. D. M. DAVIS (Minister for Health).

Hon. D. M. DAVIS (Minister for Health) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Victoria's resilience has been tested in recent years, with natural disasters such as the 2009 bushfires and the prolonged floods of 2010–11 proving too large for any one emergency services agency to manage alone. We have had the benefit of the interim and final reports of both the 2009 Victorian Bushfires Royal Commission and Review of the 2010–11 Flood Warnings and Response. Together these two inquiries have pointed strongly to the need to reform Victoria's arrangements for mitigating, responding to and recovering from large-scale emergencies. The government has responded to that need by initiating major reform to Victoria's crisis and emergency management arrangements through releasing a green paper 'Towards a More Resilient and Safer Victoria', which sought ideas and feedback to improve the way Victoria responds to emergencies.

The Emergency Services Legislation Amendment Bill 2011 implements a commitment made by the government in the green paper by requiring the Metropolitan Fire and Emergency Services Board (MFESB), the Country Fire Authority (CFA) and the Victoria State Emergency Service (VICSES) to assist in the response to any major emergency occurring within Victoria. This is the first step towards achieving a genuine all-hazards, all-agencies approach to emergency response, particularly for large-scale emergencies.

Since coming into office over a year ago, the government has acted to deliver on its commitment to support Victoria's fire and emergency services so that they are able to continue to protect the people of Victoria to the best of their abilities. In the last year, the government has provided a support package for CFA firefighters, which includes better training opportunities and improved facilities around the state, provided unprecedented funding to VICSES and provided Victoria's emergency services with state-of-the-art communications.

In addition to improved infrastructure and resources, it is vital to ensure that our fire and emergency services are able to act within a legislative framework that allows them to operate effectively and efficiently in an ever-changing risk environment. While the green paper process will most likely involve a wholesale review of the emergency management legislative framework, this bill will amend the emergency services legislation to modernise some outdated provisions, reflect current arrangements, make technical and consequential amendments and increase certain penalty provisions.

The bill will increase certain penalties in the Country Fire Authority Act 1958 (CFA act) and the Metropolitan Fire Brigades Act 1958 (MFB act) so that they are consistent with the Sentencing Act 1991 and serve as a more effective deterrent against the relevant offences.

The bill will also create several offences for actions that prevent the fire services from promptly responding to emergencies, thereby increasing the risks to public safety by delaying rescue attempts. They include the offences of damaging or interfering with, or resetting, fire indicator panels, and of knowingly giving a false report of fire. False reports of fire may risk the safety of persons and property actually threatened by fire, as fire trucks unnecessarily engaged by false alarms are prevented from promptly responding to genuine alarms of fire.

There are an increasing number of incidents where owners and occupiers deliberately and repeatedly reset the fire indicator panel after an alarm of fire. The audible alarm can be silenced in most systems simply by opening the indicator door. Resetting fire indicator panels on an alarm of fire removes information about the source of fire or fault in the fire detection system, thereby delaying the fire services that are required to search the premises to identify the location of the fire or fault.

Throughout the volatile 2009 fire season, approximately 3400 interstate and international personnel, many from New Zealand, Canada and the United States, provided valuable support to local firefighters. The bill extends the existing immunity provisions in the fire services legislation to protect interstate and international firefighters from personal liability as appropriate. In addition, the bill extends the provision regarding any damage to property by CFA or MFESB firefighters being considered as damage by fire for insurance purposes, to damage caused by members of interstate and international fire brigades who are exercising duties under the CFA or MFB acts. To ensure that local, interstate and international firefighting units respond to emergencies together in a coordinated and effective manner, the bill clarifies that interstate and international personnel, including their equipment, present in Victoria for firefighting purposes, are under the authority of the chief officer of the relevant fire service.

The bill empowers the chief officer of the CFA to close to traffic any road affected or likely to be affected by fire and to direct traffic on any road in the vicinity if, in his or her opinion, smoke from a fire impairs visibility on the road to such an extent that the safety of any persons using the road is endangered. The bill will clarify provisions in the CFA act about total fire bans, such as inserting a definition of 'incinerator' and amending the definition of 'fixed appliance' to reflect the variety of products now available on the market for preparing meals using fire, such as mobile and home-installed pizza ovens, spits and barbecues.

The bill will also remove the distinction between urban and rural brigades in the CFA act, which is consistent with the CFA's current approach to brigade administration and its service delivery model. Further, the bill extends the application of the regulation-making power in the CFA act regarding the establishment of an injury compensation scheme to members of forest industry brigades. This recognises the role that forest industry brigades play in suppressing fires beyond plantation estates.

The bill seeks to amend the MFB act to allow the chief officer of the metropolitan fire and emergency service to delegate the power to issue fire prevention notices. This replicates the corresponding amendment made to the CFA act by the Emergency Management Legislation Amendment Act 2011 in accordance with recommendation 54 of the *2009 Victorian*

Bushfires Royal Commission — Final Report. The bill makes other amendments to the MFB act that mirror those available to the CFA, including inserting the offences of obstructing or hindering the fire services, damaging or interfering with their property, driving over a fire hose or interfering with the operations of the fire services with a vehicle. Such offences compromise the ability of the fire services to respond effectively to a fire and place the safety of the firefighters and the public at risk.

The bill will clarify that VICSES is able to engage in fundraising and promotional activities, and will allow VICSES members who are claiming compensation for injury recourse to the Accident Compensation Conciliation Service and medical panels under the Accident Compensation Act 1985, as an alternative to costly and lengthy litigation in the courts.

The bill will amend the Emergency Management Act 1986 to implement several outcomes of the review of the 'Guidelines for the operation of traffic management points during wildfires' undertaken by Victoria Police, in response to recommendation 10.5 of the *2009 Victorian Bushfires Royal Commission — Interim Report* regarding the operation of roadblocks during emergencies. The bill amends the Emergency Management Act to provide senior sergeants, who perform the role of divisional patrol managers, with the power to declare an emergency area on their own authority, if they are of the opinion that it is necessary to exclude persons from the area of the emergency to ensure public safety, the security of evacuated premises or the safety of persons engaged in emergency activity. The bill also increases the emergency area declaration period from 24 to 48 hours to allow for suitable recovery time after an emergency and allows for an extension of the declaration period for up to 48 hours.

The emergency services commissioner determines performance standards for the Emergency Services Telecommunications Authority (ESTA), which provides and manages operational communications for the dispatch of the emergency services. The bill amends the Emergency Services Telecommunications Authority Act 2004 to allow the commissioner to determine generic as well as agency-specific standards for the service performance of ESTA. This will allow ESTA to better manage call taking on a combined, rather than single-agency basis, which is more operationally efficient, requires fewer resources and increases compliance with the standards set by the commissioner.

The Department of Sustainability and Environment (DSE) is responsible for the prevention and suppression of fires on public land and undertakes this through the networked emergency organisation (NEO) partnership model, which includes the Department of Planning and Community Development, Parks Victoria, the Department of Primary Industries, VicForests and Melbourne Water. The bill recognises this model by amending the CFA act to allow persons from those organisations to exercise the powers of the CFA chief officer when directed to do so by the CFA, or if the person believes there is an imminent risk of fire occurring, or a fire is burning in the country area of Victoria.

The bill will also amend the Forests Act 1958 to protect DSE firefighters, its NEO partners and interstate and international firefighters from personal liability as appropriate when carrying out firefighting, planned burning operations or other fire management activities under the Forests Act. This will support the government's long-term target for planned burning on public land and ensure that Victoria can extend consistent protection from liability to all firefighters in Victoria.

Recommendation 66 of the recently released final report of the *Review of the 2010–11 Flood Warnings and Response* recommends 'the state undertake major reform of Victoria's emergency management arrangements to bring about an effective "all-hazards, all-agencies" approach' (page 149). The government is committed to delivering a modern all-hazards, all-agencies emergency management framework and is dedicated to supporting our emergency services to help protect Victorians. This bill represents a small but significant step in that reform process.

I commend the bill to the house.

Debate adjourned on motion of Ms TIERNEY (Western Victoria).

Debate adjourned until Thursday, 16 February.

PORT MANAGEMENT AMENDMENT (PORT OF MELBOURNE CORPORATION LICENCE FEE) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. D. M. Davis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. D. M. Davis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Port Management Amendment (Port of Melbourne Corporation Licence Fee) Bill 2011.

In my opinion, the Port Management Amendment (Port of Melbourne Corporation Licence Fee) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill imposes an annual licence fee on the Port of Melbourne Corporation which will raise revenue that can be used for key infrastructure projects.

Victoria's ports have a key role in delivering an integrated and sustainable transport system in Victoria. The freight industry and the port of Melbourne are critical to the Victorian economy and are currently experiencing record

growth. The port of Melbourne is Victoria's largest port and Australia's largest container port, accounting for approximately 36 per cent of Australia's container trade in 2011. Container trade makes up approximately 72 per cent of all trade through the port. The port of Melbourne is expected to experience significant growth in freight activity over the next 10 to 20 years. The movement of containers through the port is expected to quadruple from the current 2.2 million containers a year to around 8 million containers by 2030.

The bill does not seek to affect any person's existing rights, privileges, obligations or liabilities. As a result, the bill does not engage any human rights protected by the charter act.

Human rights issues

1. Human rights protected by the charter relevant to the bill

The bill does not engage any rights under the charter act.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not engage any rights under the charter act, it is not necessary to consider the application of section 7(2).

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006 because it does not raise any human rights issues.

The Hon. Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. D. M. DAVIS (Minister for Health).

Hon. D. M. DAVIS (Minister for Health) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill removes a looming regulatory burden on the port of Melbourne and the trucking industry by scrapping the previous government's onerous and unworkable freight infrastructure charge (FIC).

The bill replaces the previously proposed charge — which effectively would have imposed a new tax on trucks entering and leaving the port of Melbourne — with a simpler, fairer and more efficient port licence fee.

The freight industry and the port of Melbourne are critical to the Victorian economy. Both are currently experiencing record growth.

In recent times we have seen significant growth in trade through the port of Melbourne. During 2010–11 there were 3376 ship visits and 2.39 million TEU (20-foot equivalent units) handled. This is a 7 per cent increase on the previous year. In August 2011 trade through the port increased by 8 per cent compared to August 2010. In October 2011 trade grew by 7.3 per cent over October 2010 which set a new Australian record of 241 478 TEU being handled in a single month.

The port of Melbourne is Australia's largest container port, accounting for approximately 36 per cent of national container trade in 2011. Annual movement of containers through the port of Melbourne is predicted to quadruple from 2.2 million currently to 8 million by 2030.

The bill requires that the Port of Melbourne Corporation (PoMC) pay an annual port licence fee to the state.

The fee is set at a starting rate of $75 million in 2012–13 and will be increased annually by the consumer price index.

Total revenue raised by the fee to support delivery of the government's objectives over the first three years will be similar to the estimated revenue from the abolished freight infrastructure charge, but it will be collected without the massive regulatory burden that would have been imposed on the port and the trucking industry.

The tolling system required to collect the FIC would have cost more than $100 million to set up and run — an amount well in excess of projected revenue in the first year. It was an ill-considered proposal with shades of myki for trucks.

By contrast the port licence fee will be relatively cheap to implement and efficient to administer.

Unlike the FIC, the port licence fee is an internal financial arrangement between government and one of its agencies and will not be imposed solely and unfairly on the trucking industry.

The FIC presented a real threat to Victoria's competitive advantage in the freight sector along with the livelihoods of smaller, family-run truck operators. It would have significantly disadvantaged exporters and transport operators in rural and regional Victoria.

At the same time there was little evidence to suggest that the FIC would increase the efficiency of freight movements in and around the port of Melbourne.

By abolishing the FIC and replacing it with the more equitable and efficient port licence fee, the bill minimises impacts on the wider economy and safeguards jobs across the state.

Any new or additional charges which result from the imposition of the fee are unlikely to have a significant impact on the competitiveness of the port of Melbourne, on port users, or on the cost of living.

Any PoMC arrangements for recovery of the fee will be monitored and assessed by the Essential Services Commission as part of its regular price monitoring regime for commercial ports.

Industry and the community will benefit from the revenue being available for infrastructure projects which improve Victoria's productivity.

The bill is structured as follows:

purpose;

commencement;

relevant definitions;

the fee to be paid by the Port of Melbourne Corporation;

the CPI indexation formula for annual increases of the fee; and

arrangements for payment of the fee.

This bill is consistent with the government's clear vision to fulfil its long-term objectives.

Revenue raised by the port licence fee will make a significant contribution to the government's commitment to deliver on this vision.

I commend the bill to the house.

Debate adjourned on motion of Ms PULFORD (Western Victoria).

Debate adjourned until Thursday, 16 February.

FREEDOM OF INFORMATION AMENDMENT (FREEDOM OF INFORMATION COMMISSIONER) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. D. M. Davis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. D. M. Davis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Freedom of Information Amendment (Freedom of Information Commissioner) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to:

establish a freedom of information commissioner;

improve the operation of the Freedom of Information Act 1982;

amend the Parliamentary Committees Act 2003 to establish an accountability and oversight committee of the Parliament; and

make consequential amendments.

Human rights issues

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

Freedom of expression

Section 15(2) of the charter act provides that every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds. The right to receive and impart information and ideas under section 15(2) of the charter act has been held to create a positive obligation on government to give access to government-held documents (freedom of information) (*XYZ v. Victoria Police (General)* [2010] VCAT 255). This right is however not absolute and is subject to justifiable exceptions for objective, proportionate and reasonable purposes.

Establishment of a freedom of information commissioner

The bill repeals certain provisions of the Freedom of Information Act 1982 (act) relating to the ability of agencies to conduct internal review of decisions, and the ability of the Ombudsman to investigate complaints relating to certain procedural steps undertaken by agencies under the act.

The bill, however, replaces the abovementioned arrangements with a new regime which would be administered by the freedom of information commissioner (commissioner), who would be responsible for conducting reviews of decisions by agencies on requests under the act, and for receiving and handling complaints about an agency's actions taken or failed to be taken in relation to requests under the act.

The creation of this new office promotes the protection of the right to the freedom of expression. As well as conducting reviews and handling complaints, the commissioner has several other functions under the act, including to:

promote understanding and acceptance by agencies of the act and object of the act;

monitor professional standards in relation to the operation and administration of the act by agencies;

provide advice, education and guidance to agencies and the public;

report to Parliament on the operation of the act; and

at the request of the minister, provide advice to the minister in relation to the operation and administration of the act.

By performing his or her functions, the commissioner will better facilitate public access to information and, therefore, the protection of the freedom of expression.

Access to documents of freedom of information commissioner

Clause 5 of the bill removes the following documents of the commissioner from the application of the act:

> documents that disclose information that relates to a review under part VI of the act; and
>
> documents that disclose information that relates to a complaint considered by the commissioner under part VIA of the act.

I am satisfied that the restriction relating to complaints falls within the limitation to this right under section 15(3) of the charter act. In particular, I am satisfied that this restriction is reasonably necessary to respect the rights and reputation of persons who seek review of decisions and make complaints to the commissioner under the act.

To the extent that the clause further limits the right, I am satisfied that the limitation is reasonable pursuant to section 7(2) of the charter. The purpose of the limitations are to:

> enable the commissioner to exercise its powers to receive and consider complaints, and to conduct reviews of decisions by agencies, in an unhindered manner (for example, to be able to request and, in relation to complaints, where necessary, compel the provision of documents); and
>
> to protect any documents that may be provided to the commissioner by agencies for the purposes of a review, or in relation to a complaint, by preventing applicants from attempting to seek access to agencies' documents through the commissioner.

The limitations imposed are directly and rationally connected to these purposes. In my opinion, there are no less restrictive means available to achieve these purposes.

For the reasons given above, I am satisfied that clause 5 of the bill is compatible with the freedom of expression.

Right to privacy

Section 13 of the charter act provides that a person has the right not to have his or her reputation unlawfully attacked.

Clause 28 (new section 63B) of the bill provides that no civil action lies against a person who makes a complaint to the commissioner for anything done in good faith by that person in making the complaint. This would include a civil action in defamation.

To the extent this clause limits the right to privacy, I am satisfied that the limitation is reasonable pursuant to section 7(2) of the charter. The purpose of the limitation is to provide protection to persons who make complaints in good faith to the commissioner. Providing such protection would encourage aggrieved persons to make complaints to the commissioner.

The limitations imposed are directly and rationally connected to these purposes. In my opinion, there are no less restrictive means available to achieve these purposes.

For the reasons given above, I am satisfied that clause 28 of the bill is compatible with the right to privacy and reputation.

Conclusion

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

The Hon. Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister or Manufacturing, Exports and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. D. M. DAVIS (Minister for Health).

Hon. D. M. DAVIS (Minister for Health) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Freedom of Information Amendment (Freedom of Information Commissioner) Bill 2011 will amend the Freedom of Information Act 1982 (FOI act) to establish a freedom of information (FOI) commissioner.

This bill delivers one of the coalition government's key election commitments to establish a FOI commissioner to oversee government agencies' administration of the FOI act and represents the greatest change to Victoria's freedom of information laws since their introduction almost 30 years ago.

This bill fulfils an important part of the coalition government's pledge to improve openness and transparency in Victoria. For the first time, Victorians will be able to seek review of agencies' freedom of information decisions by an independent body if they are dissatisfied with the initial result of a freedom of information application.

The FOI commissioner will be responsible for:

> conducting reviews of agencies' decisions;
>
> handling complaints about the administration of the FOI act;
>
> monitoring agencies' compliance with professional standards; and
>
> reporting to the Parliament on the operation of the FOI act.

A key feature of the legislation is the FOI commissioner's role in educating about the FOI act and promoting better decision making. The FOI commissioner will be responsible for promoting understanding of the FOI act, educating agencies about the FOI act, providing advice to the minister about the operation of the FOI act and educating the public about the role of the FOI commissioner in Victoria's FOI regime.

The FOI commissioner replaces the Ombudsman's current role in relation to FOI under the FOI act and the Ombudsman Act 1973. However, the Ombudsman's jurisdiction in relation to FOI whistleblowers complaints is unchanged.

This bill also gives effect to the coalition government's election commitment to establish a joint committee of the Parliament responsible for oversight of the FOI commissioner — the accountability and oversight committee. This committee will also be responsible for considering matters that relate to Victoria's freedom of information regime more generally. It is intended that this committee will be vested with oversight functions in relation to other integrity bodies in the future.

I now turn to the key aspects of the bill.

Review function

The most significant function of the FOI commissioner will be to conduct reviews of government agencies' decisions to refuse access to documents, which will replace the current internal review process undertaken by agencies. The FOI commissioner will also undertake reviews of decisions to defer provision of access to a document, decisions refusing requests to amend a record and decisions of government agencies' not to waive or reduce the FOI application fee. In these circumstances, applicants will be provided with an independent, free and fair avenue in which to seek a review of agencies' decisions.

The bill confers upon the FOI commissioner a discretion not to accept, or to dismiss at any time, frivolous, vexatious and inappropriate applications for review. These provisions are designed to ensure that the FOI commissioner's resources are not wasted on applications that lack substance or that were made in bad faith. However, where a review is dismissed by the FOI commissioner, applicants will have the right to appeal the agency's decisions directly to VCAT.

The FOI commissioner's review process will involve the applicant and the agency as parties and will be as informal as possible with an emphasis on either agencies reconsidering decisions or the applicants and agencies reaching an agreement. To facilitate this informal process, agencies will be required to assist the FOI commissioner to undertake a review. Agencies and applicants may also make submissions to assist the FOI commissioner. Ultimately, the FOI commissioner will have the power to substitute his or her own decision for an agency's decision.

The Victorian Civil and Administrative Appeals Tribunal (VCAT) will continue to have a fundamental role in conducting merit reviews of agencies' decisions. In particular VCAT will continue to have jurisdiction to hear applications for review of:

decisions about access charges;

decisions not to amend a document containing a person's information;

decisions by agencies to exempt documents as cabinet documents or on the grounds of national security; and

any decisions of a principal officer of an agency or a minister refusing to grant access to a document in accordance with a request.

Applicants and agencies will also have the right to appeal a decision of the FOI commissioner to VCAT, and will be able to appeal decisions by agencies' to refuse to grant access to cabinet or national security documents. It is important that VCAT, with its extensive experience in reviewing FOI decisions, continues to play a role in assessing the merits of contested decisions.

The bill provides that the FOI commissioner's jurisdiction will not include the power to conduct reviews of decisions about documents that are claimed to be exempt as cabinet documents or on the grounds of national security. The bill therefore recognises the overriding public interest in exempting from release cabinet material and documents that may affect national security. Appeal rights to VCAT in respect of these documents are retained.

Where a decision involves documents that are exempt as cabinet or national security documents as well as other documents that are exempt on other grounds, applicants will have the right to apply to VCAT in respect of the cabinet or national security documents and to the FOI commissioner in respect of the balance of the exempt documents. This will ensure that applicants have direct appeal rights to the most appropriate forum to conduct the review.

The bill requires the FOI commissioner to complete a review of an agency's decision within 30 days of them having received the application for review. This will help ensure the timely resolution of FOI requests. If the FOI commissioner does not make a decision within the required time, the commissioner will be taken to have made a decision refusing to grant access to the document. Once the FOI commissioner has made his or her review decision, an applicant or an agency will have 60 days to appeal the decision to VCAT. This will allow sufficient time for the applicant or agency to consider whether to appeal the FOI commissioner's decision.

The review provisions in the bill allow a person or a business to appeal to VCAT a decision of the FOI commissioner to release that person's personal information or that business's commercial information on grounds that it would be an unreasonable disclosure of that person's affairs or the disclosure could cause an unreasonable disadvantage to that business's commercial position. This is an important mechanism to ensure that the interests of third parties are protected.

As part of the FOI commissioner's review function, the bill allows the FOI commissioner to refer matters to other authorities if the FOI commissioner considers it appropriate to do so and provided that another authority has jurisdiction to receive that matter. These provisions will help ensure that Victoria's integrity system operates seamlessly.

This bill does not alter the health services commissioner's role under the current FOI act.

Complaints function

In addition to the review function, the FOI commissioner will receive, conciliate and make recommendations in relation to complaints about agencies' compliance with the FOI act, including professional standards set by the minister. Further, the bill empowers the FOI commissioner to receive complaints about delays by ministers in processing FOI requests, decisions by ministers to release documents that may affect third parties and decisions by ministers to defer the release of documents. A complaint may be made up to 60 days after an alleged breach of the FOI act.

The FOI commissioner will, in the first instance, attempt to resolve complaints informally. In the event this proves unsuccessful, the commissioner is then required to use their

best endeavours to conciliate a complaint. If there is no reasonable likelihood of the complaint being conciliated, the FOI commissioner will be able to formally handle a complaint and, if appropriate, make recommendations to the agency. Both the applicant and the agency or minister will have the opportunity to make oral or written submissions to the FOI commissioner in the course of an investigation.

If in the course of the FOI commissioner's investigations an agency refuses to voluntarily produce a document, other than a cabinet or national security document, and the FOI commissioner considers that the complaint relates to a wilful or flagrant breach by an agency of its obligations under the FOI act and the FOI commissioner is satisfied that the exercise of this power is necessary and appropriate to do so in the circumstances, the FOI commissioner can compel the production of the document from the agency. This power will be an important tool for the FOI commissioner in investigating more serious breaches under the FOI act.

Professional standards

Under the bill, the responsible minister will be able to set binding professional standards in regulations made under the act. Principal officers of agencies must ensure that any officer or employee complies with the professional standards. Further, complaints can be made to the FOI commissioner in relation to any breaches of the standards by agencies.

Reporting

The FOI commissioner will be required to report annually to the Parliament on the operation of the FOI act during that year. The FOI commissioner's report will include information on a range of matters including the number of requests made to each agency and minister, the number of decisions to refuse access to documents and the number of times that particular exemptions have been relied upon by agencies. This reporting function will allow the Parliament to oversee the administration of the FOI act and will subject agencies' administration of the FOI act to a new level of scrutiny. The Accountability and Oversight Committee will be responsible for examining the FOI commissioner's report.

The FOI commissioner will also be required to report to the committee on any FOI issues arising out of decisions of the Supreme Court or VCAT.

Application of FOI act to the commissioner

The bill ensures that FOI requests cannot be made in respect of the FOI commissioner's review and complaints functions. This will ensure that the FOI commissioner is able to carry out its functions effectively and protect the finality of the FOI commissioner's decisions. However, documents relating to the administrative processes of the office of the FOI commissioner will be subject to the FOI act.

Funding

The government has allocated $7.9 million over four years to the establishment and ongoing operation of the FOI commissioner.

This bill represents a significant transformation of FOI administration in Victoria — the most far reaching since FOI legislation was introduced in 1982. For the first time, Victorians will have access to an independent umpire if they are dissatisfied with the initial result of a freedom of information application. The coalition government is committed to turning the tide on 11 years of secrecy that pervaded under the former government, and to improving transparency and accountability across government agencies.

I commend this bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 16 February.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION AMENDMENT (INVESTIGATIVE FUNCTIONS) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. D. M. Davis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. D. M. Davis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011.

In my opinion, the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to:

(a) amend the Independent Broad-based Anti-corruption Commission Act 2011 (the IBAC act) to provide the Independent Broad-based Anti-corruption Commission (IBAC) with the duties, functions and powers to enable it to:

i. identify, expose and investigate serious corrupt conduct;

ii. identify, expose and investigate police personnel misconduct;

iii. assess police personnel conduct; and

iv. prevent corrupt conduct and police personnel misconduct;

(b) consequentially amend the Parliamentary Committees Act 2003, the Police Regulation Act 1958, the Surveillance Devices Act 1999 and the Telecommunications (Interception) (State Provisions) Act 1988; and

(c) repeal the Police Integrity Act 2008.

Human rights issues

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

2. Consideration of reasonable limitations — section 7(2)

Entry, search and seizure powers

The investigation powers proposed in the bill include two types of entry, search and seizure powers.

The first, set out in division 3 of proposed new part 4 of the bill, is the power of authorised IBAC officers to enter police personnel premises without a search warrant, in order to search for, inspect and seize documents or things at those premises relevant to an investigation.

The second type of entry, search and seizure power, set out in division 4 of proposed new part 4 of the bill, is the power of authorised officers of IBAC to apply for a search warrant in relation to particular premises, or a particular vehicle, vessel or aircraft in a public place.

(a) the nature of the right being limited

Section 13 of the charter includes the right not to have one's privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with the law. The powers of law enforcement and investigative agencies relating to entry, search and seizure generally engage both of these rights.

(b) the importance of the purpose of the limitation

Entry, search and seizure powers, exercised properly and with authorisation, will be crucial to the investigative functions of IBAC. Clause 5 of the bill substitutes a new section 4 to expand the objects of the Independent Broad-based Anti-corruption Act 2011. One of the objects of the amended act will be to provide for the identification, investigation and exposure of serious corrupt conduct and police personnel misconduct. The bill similarly gives IBAC new functions including, at clause 6, to identify, expose and investigate serious corrupt conduct, and to identify, expose and investigate police personnel misconduct.

Without the power to enter premises to gather information or documents relevant to an investigation, IBAC's ability to substantiate complaints or intelligence about police misconduct and public sector corruption would be seriously inhibited.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

The bill places important controls on the exercise of entry, search and seizure powers.

Most importantly, the exercise of the power to enter, search and seize without a warrant is strictly limited to non-residential police personnel premises and any vehicle, vessel or aircraft at those premises, and the degree to which those premises, and the things kept there, can be said to raise an expectation of personal privacy or property is minimal.

To the extent that the bill could enable a person's privacy or property to be interfered with at police personnel premises, there are limitations on the exercise of that power. A power exercised under division 3 of proposed part 4 — relating to entry, search and seizure at police personnel premises without a search warrant — must not be exercised by an authorised officer without express written authority from the IBAC Commissioner. The authorised officer must reasonably believe that there are documents or other things relevant to an investigation on the police personnel premises. The bill prescribes clear processes (at proposed new sections 57–59) for handling a request for a copy of the seized thing, for an application by an interested party to the Supreme Court for its return, and for IBAC's return of the thing where it is required as evidence or where its retention is no longer necessary.

Where IBAC exercises powers of entry, search and seizure at premises other than police personnel premises — which could be private or residential premises — the right to privacy is more directly engaged. However, under the bill, this type of search can only be conducted with a search warrant so as to ensure that any interference with property or privacy is not unlawful or arbitrary.

The search warrant powers in the bill are not dissimilar to the types of powers used generally by law enforcement agencies in investigating the commission of serious crimes, and indeed, proposed new section 60(6) provides that IBAC searches under warrant will generally follow the standard rules with respect to search warrants under the Magistrates' Court Act 1989. While IBAC has a limited law enforcement role itself, corrupt conduct that can be investigated by IBAC must involve conduct which would, if the facts were found proved beyond reasonable doubt at trial, constitute a relevant offence.

An authorised officer of IBAC may apply to a judge of the Supreme Court for a search warrant only with the written authorisation of the IBAC Commissioner, and only where the authorised officer believes on reasonable grounds that it is necessary for the purpose of an investigation. To issue a search warrant, a judge must be satisfied by evidence on oath that there are reasonable grounds for that belief.

Any search warrant issued will allow searching, copying and seizure at any named or described premises — including private premises. However, proposed new sections 61–63 set out specific procedures for the execution of warrants, the copying and giving of receipts, and the return of documents and other things.

The bill also sets out a procedure for circumstances where a privilege is claimed over a document or thing proposed to be inspected, copied or seized under search warrant. In those

cases, proposed new section 66 requires the searcher to consider the claim and allow for the document or thing to be sealed and immediately taken into the custody of the Supreme Court. It will be an offence to open or interfere with a sealed document or thing before delivery to the Supreme Court. The Supreme Court, under new section 69, will consider the claim and where the privilege is established, must order that the document or thing be returned to the claimant.

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

I see no other means by which a broadbased investigative body such as IBAC might be able to achieve its statutory anticorruption functions under the bill.

Given the importance of the investigative function of IBAC, the relative thresholds for police personnel premises (written authority from the IBAC Commissioner and the authorised officer's reasonable belief) and other premises (search warrant issued by the Supreme Court), and the procedural safeguards, I consider these entry, search and seizure powers sufficiently precise and circumscribed to ensure that any incursion on the rights to privacy and property are lawful and not arbitrary.

Defensive equipment and firearms

The proposed new part 5 of the bill establishes procedures for the use of defensive equipment (capsicum spray, body armour, batons and handcuffs or cable ties) and firearms by IBAC officers.

(a) the nature of the right being limited

The right to life under section 9 of the charter is engaged where the practices of government authorities include permitted use of force, such as the use of weapons that can cause injury or death. Rights protecting the security of the person (section 21) and protection from torture and cruel, inhuman or degrading treatment (section 10) are also relevant.

(b) the importance of the purpose of the limitation

The purpose of allowing the use of firearms in certain circumstances is to provide for the protection and safety of sworn IBAC officers in the exercise of their duties.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

The bill permits the use of firearms in restricted circumstances.

Only suitably trained senior IBAC officers may be authorised in writing by IBAC to possess, carry and use firearms or defensive equipment under the proposed part 5.

For investigations into police personnel conduct of a member of the police force, defensive equipment and firearms can only be authorised where IBAC is satisfied it is reasonably necessary to perform the functions of the IBAC and ensure the safety of the senior IBAC officer.

For an investigation into corrupt conduct, defensive equipment and firearms can only be authorised where requesting assistance from the Chief Commissioner of Police may compromise the investigation, and IBAC is satisfied it is reasonably necessary to perform the functions of the IBAC and ensure the safety of the senior IBAC officer.

Other provisions of proposed part 5 similarly place restrictions around the possession, carriage and use of defensive equipment and firearms for training purposes, acquisition, storage and so forth. Understandably, controls on the acquisition, disposal and storage of firearms and storage of ammunition will be prescribed.

The bill will also make it an offence for an IBAC officer to contravene any conditions to which the weapon or firearm authorisation is subject. The use by an IBAC officer of a firearm, as well as the use of force generally, may be characterised as a critical incident and involve compulsory alcohol or drug testing of the officer as detailed below.

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

There are no less restrictive means available to ensure the safety of IBAC officers in circumstances where they are not assisted by the police force. The police force rightly remains the primary armed law enforcement agency in Victoria, and the possession, carriage, use, acquisition, storage and maintenance of defensive equipment and firearms by IBAC officers is strictly controlled under the bill. I therefore consider that the rights to life, security of the person, and protection from torture and cruel, inhuman or degrading treatment are not unreasonably limited.

Alcohol and drug testing of IBAC officers

The proposed new division 1 of proposed part 7 and related regulation-making powers in division 3 establish a regime for testing IBAC officers (other than the Commissioner) for alcohol or drugs of dependence via breath, urine or blood sample. IBAC may direct an IBAC officer to be tested where IBAC reasonably believes that either the test is relevant to the IBAC officer's capacity to perform duties or exercise powers; or where the IBAC officer has been involved in a critical incident. A critical incident is an incident that occurred while the IBAC officer was performing a function or exercising a power under the bill and which either resulted in a death or serious injury; or which involved the discharge of an IBAC officer's firearm, an IBAC officer's use of force, an IBAC officer's use of a motor vehicle (including as a passenger), or the death or serious injury of a person in an IBAC officer's custody.

(a) the nature of the right being limited

A number of rights are engaged by the alcohol and drug-testing provisions.

The provisions will engage the right to liberty and security of the person under section 21 and the right not to be subjected to medical treatment without full, free and informed consent under section 10(3) of the charter. IBAC will be able to direct an IBAC officer to undergo a drug or alcohol test (under proposed new section 91), and will also be able (under proposed new section 93) to direct a medical practitioner to take a blood sample when an IBAC officer is unconscious or otherwise unable to comply with a direction.

By providing for IBAC to direct that an officer be tested, other rights are indirectly engaged — including the right to

freedom of movement. Test results themselves, and the fact of having been required to be tested, may also constitute an officer's personal information and the right to privacy is thus engaged.

On the other hand, drug and alcohol testing of IBAC officers supports a number of rights and expectations of the community in relation to the abuse of power that could follow the misuse of alcohol or drugs by an IBAC officer. For example, section 21 of the charter provides for a right to liberty and security of the person, including rights in relation to arbitrary arrest. Section 9 of the charter provides that every person has the right to life and the right not to be arbitrarily deprived of life. In some jurisdictions, this has been interpreted to include a positive obligation on the state to undertake an effective official investigation into deaths in certain circumstances (such as use of lethal force by a government authority).

(b) the importance of the purpose of the limitation

Alcohol and drug testing will be an important mechanism for IBAC to confirm that its officers are capable of exercising their powers safely and ensure potential misuse of power is investigated thoroughly.

Under new section 91, testing can only be required where IBAC reasonably believes that the test result is relevant to the capacity of the officer to perform his or her role, or has been involved in a critical incident. Both are serious circumstances with the ability to affect public safety significantly.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

The bill avoids as far as possible an unreasonable limitation on the IBAC officer's rights.

Where a sample has been taken while the officer was unable to consent, the officer must later be informed that he or she may refuse to consent to the use of any evidence derived from the sample and if the officer does refuse, the sample and any evidence derived from it must be destroyed (although refusal may constitute grounds for disciplinary action against the officer).

Evidence from a sample that is obtained following a direction by IBAC is inadmissible except in the most directly relevant and serious of proceedings (namely, a proceeding under accident compensation or occupational health and safety legislation; a proceeding connected with a critical incident; a proceeding in which it is relevant to the defence of a person other than the IBAC officer who provided the sample, or a disciplinary action against the IBAC officer relating to the performance of his or her role).

To ensure the privacy of the tested IBAC officer, the bill makes provision for the handling and confidentiality of test results and makes it an offence to disclose the identity of a person who was directed to be tested, other than as permitted by the IBAC act or regulations.

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

Any less restrictive means (such as, for example, further limiting the circumstances under which testing can occur) would be inadequate for ensuring the thorough investigation of critical incidents as well as preventing potential misuse of IBAC officer powers under the influence of alcohol or drugs before they occur.

(f) any other relevant factors

While the rights of IBAC officers must not be unreasonably limited, IBAC officers will hold a special position in the community. IBAC officer powers in relation to undertaking investigations, handling sensitive information and carrying firearms, for example, mean that it is extremely important for community safety and public confidence that IBAC officers be competent to exercise their functions and accountable where drugs or alcohol have affected their ability to carry out their duties.

On balance, I find that the alcohol and drug-testing provisions of the bill, to the extent that they help to protect against the lethal or injurious misuse of IBAC powers, promote the rights to life and personal security. To the extent that IBAC officers' rights are limited under the alcohol and drug testing regime, this is justifiable and reasonable under the charter.

Power to require police to give information and documents and answer questions

The proposed new section 53 of the bill empowers IBAC to direct any member of the police force to give IBAC any relevant information, produce any relevant document, or answer any relevant question for the purposes of an investigation into a possible breach of discipline under section 69 of the Police Regulation Act 1958 involving corrupt conduct or police personnel conduct of a member of the police force. Failure to comply with such a direction will constitute a breach of discipline under the Police Regulation Act 1958, and in that sense, this power to direct police to answer questions and provide information and documents could be characterised as a coercive power.

(a) the nature of the right being limited

Rights engaged in a limited way by this power to compel answers and things include: the right to privacy under section 13 of the charter (in the sense that information provided may be private); the freedom of movement under section 12 (in the sense that a member may need to be present or stay at a place in order to answer the questions or provide the information or things); and the freedom of expression under section 15 (in the sense that a freedom to impart information may perhaps be construed as a freedom not to impart it).

(b) the importance of the purpose of the limitation

The police force plays a crucial role in the Victorian justice system and as such, IBAC investigations involving members of the police force are likely to be among its most important. The state vests members of the police force with significant powers and appropriate discretion as to the exercise of such powers. As such, it is important that members of the police force are held to high standards of accountability in order to maintain public trust and confidence.

Requiring members of the police force to cooperate with an IBAC investigation is not an unreasonable expectation.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

Nevertheless, it is important that these IBAC powers in relation to members of the police force are not without constraints. For this reason, although a member of the police force may be coercively questioned under new section 53(2), new section 53(3) provides that any information, document or answer given or produced as a result is not admissible in evidence before any court or person acting judicially. The exceptions to this are proceedings for perjury or giving false information, a breach of discipline, an offence under the IBAC act for failure to comply with a direction of the IBAC, and review proceedings under the Police Regulation Act 1958.

Any incursions on other freedoms mentioned above (such as privacy, freedom of movement and freedom of expression) are small by comparison, and I believe are reasonable and proportionate.

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

There is no less restrictive means to ensure the cooperation of members of the police force in IBAC investigations.

I conclude that, in light of the direct use immunity over its results, the power to direct police members to give information and documents and answer questions is lawful and not arbitrary.

Complaint from detained person

The proposed new section 37 of the bill provides for a procedure by which a detained person (that is, a person in a prison, police gaol, remand centre, youth residential centre or youth justice centre or other specified mental health, residential or treatment service) can make a complaint to IBAC. New subsections (1)(a) and (1)(b) require a person in charge of the detained person to take all steps to facilitate the making of the complaint, and to forward, immediately and unopened, any letter addressed to IBAC by the detained person. These provisions actively give effect to a detained person's right to humane treatment when deprived of liberty (under section 22 of the charter), as well as a detained person's freedom of expression (under section 15 of the charter).

(a) the nature of the right being limited

However, the bill also provides that if a letter to or from IBAC is suspected of containing contraband (such as drugs or weapons), the letter may be opened by the person in charge, or his or her delegate. In such cases, the detained person's right to privacy under section 13 of the charter — specifically the right not to have one's correspondence unlawfully or arbitrarily interfered with — is engaged.

(b) the importance of the purpose of the limitation

Good management of custodial and other facilities involves minimising the risk of the introduction of contraband, which can threaten the safety of detained persons, staff and visitors to those facilities.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

The bill seeks to safeguard a detained person's right to privacy by providing, at the proposed new section 37(3), that where a detained person's letter to or from IBAC is to be opened on suspicion of contraband, it must be done in the presence of the person who wrote the letter and an officer of IBAC. The bill also makes it an offence to prevent or hinder the forwarding, unopened, of a letter to or from IBAC.

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

There are no less restrictive means to act on a suspicion of enclosed contraband than to open the letter.

Having regard to the seriousness of the security risk involved where there is a suspicion of contraband, and the safeguards in place to ensure that a detained person's correspondence is not unreasonably or secretively interfered with, I consider that the limitation on the right to privacy is reasonable and justified.

Recommendations, actions and reports

The bill proposes a new part 6, which deals with IBAC's role in making recommendations, requesting action by the chief commissioner, advising complainants and other persons, and publishing special and annual reports.

(a) the nature of the right being limited

As mentioned above, section 13 of the charter deals with the right to privacy, including a person's right not to have his or her reputation unlawfully attacked.

The powers, duties and functions set out in the proposed new part 6 all engage the right to privacy because there is a possibility that an individual will be named or identified in the exercise of these powers, duties and functions, and that an individual's reputation may suffer as a result.

(b) the importance of the purpose of the limitation

As Victoria's premier anticorruption body, IBAC should be able to inform the community when it uncovers corruption. Indeed, as mentioned above, clause 6 of the bill expands IBAC's existing education, prevention and advice functions by substituting a new section 9 to provide for identification, exposure and investigation of serious corrupt conduct and police personnel misconduct. The ability to communicate generally with the Victorian community is essential to the performance of all these functions.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

The proposed new section 83 allows IBAC to make recommendations in relation to a matter arising out of an investigation to one or more of the relevant principal officer, the responsible minister and the Premier to implement or act on.

A recommendation may be made in a public report (subject to the controls described below). New section 83(2) also

provides that a recommendation which is not contained in a report must be made in private (although IBAC may still make a public recommendation if it considers there has been a failure to take appropriate action).

IBAC's special and annual reports, which are tabled in Parliament, may include adverse findings about individuals. However, there are a number of very clear protections to ensure that reputations are not unlawfully or arbitrarily damaged as part of IBAC's reporting process.

Particular safeguards are provided in the proposed section 86(6) in relation to special reports by the IBAC. There are restrictions on who can be identified in a report. IBAC must not identify a person in a report who is not the subject of an adverse comment or opinion, unless it is necessary or desirable in the public interest to do so, IBAC is satisfied that there will not be unreasonable damage to the person's reputation, safety or wellbeing and IBAC makes clear that the person is not subject to any adverse comment or opinion. This is the case for both special reports and annual reports. These matters appropriately balance the rights to privacy and reputation protected by the charter.

Under proposed sections 86(8) and 89(8), IBAC is also disallowed from including in a report any information that discloses the identity of a person to whom, or in respect of whom, a direction has been given under proposed division 1 of part 7 of the bill, (which deals with testing of IBAC officers) or division 4A of part IV of the Police Regulation Act 1958 (which deals with testing of members for alcohol and drugs of dependence).

Where IBAC does identify a person, there are safeguards to ensure that a person's reputation is not unfairly called into question. Under new sections 86(3) and 89(3), if IBAC intends to include an adverse comment or opinion about a person in a special or annual report, IBAC must first provide the person a reasonable opportunity to respond to the adverse material and fairly set out each element of the response in its report. Affording an affected person the opportunity to respond to an adverse finding before publication ensures that IBAC will be required to follow proper process and fairly present its findings.

In addition, an IBAC report (whether annual or special) must not include a finding or opinion that a specified person is guilty of or has committed, is committing or about to commit any criminal or disciplinary offence. IBAC is similarly precluded from including in a report a recommendation or opinion that a specified person should be prosecuted for an offence or disciplinary offence. This is a crucial restraint placed on IBAC, which not only counters the limitation of the right to freedom from reputational attack, but also supports the right to a fair hearing (in that it ensures that a prosecution is not prejudiced) and the presumption of innocence.

Another way in which IBAC may put an individual's reputation at risk is where it chooses or is required to give advice under proposed section 87 to a complainant, relevant principal officer, responsible minister or the Premier about the results of an investigation and any recommendation made by IBAC. In the case of a relevant principal officer, responsible minister or the Premier, IBAC can also provide written notice of the commencement or conduct of an investigation. However, there are important controls on this power. New section 87(4) provides that IBAC must not provide any information if IBAC considers that it would not be in the public interest to do so; would put a person's safety at risk; would cause unreasonable damage to a person's reputation; would place an investigation under the IBAC act or by the police force at risk; would be likely to risk the disclosure of any secret investigative method used by IBAC or members of police personnel; or would otherwise contravene any applicable statutory secrecy or privacy laws.

The duties, functions and powers of IBAC to identify or name persons and report adverse comments about them are all subject to restrictions that balance the individual's reputational rights with the public interest.

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

There are no less restrictive means reasonably available to achieve IBAC's purpose and I therefore consider that incursions on the privacy rights of individuals under this part are not arbitrary and serve the purpose of ensuring that IBAC is accountable to the community, and not unduly unfettered in its ability to expose corruption.

Amendment to the Surveillance Devices Act 1999

The bill amends the Surveillance Devices Act 1999 to permit IBAC to be prescribed as an officer for the purposes of that act.

(a) the nature of the right being limited

The amendments will permit the IBAC to seek to utilise surveillance devices, subject to the safeguards set out in that act, and could be considered to be a limitation on the right to privacy under the charter.

(b) the importance of the purpose of the limitation

Investigation of corruption and misconduct by IBAC is of great significance to the Victorian community, and the use of surveillance is of central importance to achieving the purposes of the bill.

(c) the nature and extent of the limitation and

(d) the relationship between the limitation and its purpose

The Surveillance Devices Act 1999 contains significant safeguards to ensure that the use of surveillance is not improper and occurs in line with established protections and safeguards.

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

There are no less restrictive means to undertake surveillance necessary to properly fulfil the purposes of the act.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. D. M. DAVIS (Minister for Health).

Hon. D. M. DAVIS (Minister for Health) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Last month this Parliament passed historic legislation creating Victoria's first ever anticorruption body with oversight of the entire public sector: the Independent Broad-based Anti-corruption Commission Act 2011. With this bill, the coalition government is providing Victoria's Independent Broad-based Anti-corruption Commission (IBAC) with important investigative functions and powers. This bill sets the framework for IBAC, defining its jurisdiction, providing investigative and complaint-handling powers, and setting recommendation and reporting functions. Importantly, this bill creates two heads of jurisdiction — jurisdiction over corrupt conduct in relation to the public sector, including police; and a separate head of jurisdiction providing for oversight of police conduct generally. As promised, the coalition government has developed legislation to enable IBAC to tackle corrupt conduct, and to ensure the highest possible standards of police conduct in Victoria.

Overview

This bill amends the Independent Broad-based Anti-corruption Commission Act 2011, which was passed by the Victorian Parliament on 23 November 2011. That act sets the foundations for IBAC, establishing its corporate structure and providing it with crucial education and prevention functions.

This bill builds upon that act to implement IBAC's investigative functions and powers. It clearly establishes IBAC's two main jurisdictional areas of responsibility. The first overarching prerogative is to identify, expose and investigate serious corrupt conduct as it relates to the whole public sector. The second important function is for IBAC to have oversight of police conduct, for both members of the police force and other police personnel. This bill delivers on the coalition government's promise to instil oversight of police in a single expert body. In order to achieve this, the bill also makes relevant consequential amendments to the Police Regulation Act 1958 and the Parliamentary Committees Act 2003, and repeals the Police Integrity Act 2008.

To lay the groundwork for IBAC to be able to use special covert investigative techniques, the bill also amends the Surveillance Devices Act 1999 and the Telecommunications (Interception) (State Provisions) Act 1988.

Key definitions and jurisdiction

The bill provides important definitions that clearly articulate IBAC's investigative jurisdiction. Importantly, the bill sets out the definition of corrupt conduct. Corrupt conduct is defined as conduct:

(a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or

(b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or

(c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

(d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or

(e) that could constitute a conspiracy or an attempt to engage in any conduct referred to above.

The conduct must also be conduct that would, if the facts were proved beyond reasonable doubt at a trial, constitute a relevant offence, being an indictable offence against an act; or the following common law offences committed in Victoria:

attempt to pervert the course of justice;

bribery of a public official; or

perverting the course of justice.

The bill defines the terms 'police personnel conduct', 'police personnel conduct complaint' and 'police personnel misconduct'. These terms provide the framework for IBAC's wide-ranging jurisdiction to oversee the conduct of police in Victoria, including members of the police force and other police personnel, who as a collective group are referred to as 'police personnel' in this bill. This bill enables IBAC to assume responsibility for complaints and investigations into police personnel, a role which is currently split between the Ombudsman and the Office of Police Integrity.

Crucially the bill clarifies IBAC's jurisdiction in relation to corrupt conduct through defining 'public body', 'public officer' and 'public sector'. In accordance with the government's policy, IBAC's jurisdiction is broadbased, capturing the wider public sector. This includes ministers, members of Parliament, ministerial advisers, parliamentary officers, all police personnel, the judiciary, local government and a broad range of other public officers and bodies. As promised, for the first time in Victoria's history, virtually the entire public sector will be overseen by a single expert anticorruption body, IBAC.

The exceptions to this broad definition are very limited and are justified on public policy grounds. The government has already passed legislation establishing a Victorian inspectorate to provide thorough and robust oversight of IBAC. Accordingly, the Victorian Inspectorate is excluded from IBAC's jurisdiction, because of the role that organisation has in holding IBAC to account. The Victorian Inspectorate will instead be overseen by the IBAC parliamentary committee, established under the IBAC act 2011. Similarly, the public interest monitors appointed under the recently passed Public Interest Monitor Act 2011 are excluded from IBAC's jurisdiction, as they will have an oversight role relating to applications for covert and coercive warrants sought by IBAC. IBAC itself, and its officers, will be excluded from the jurisdiction because of the clear conflict that would arise if IBAC investigated its own officers.

The key aspects of the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011 are as follows:

General functions

The bill provides IBAC with the important functions of:

identifying, exposing and investigating serious corrupt conduct;

identifying, exposing and investigating police personnel misconduct; and

assessing police personnel conduct.

These functions will provide IBAC with a broad remit over police personnel and the rest of the public sector. The bill also includes an overarching obligation for IBAC not to conduct an investigation unless it is reasonably satisfied that the conduct is serious corrupt conduct. This obligation reflects IBAC's place at the peak of Victoria's integrity system, with a focus on the most concerning public sector integrity issues. Further legislation, to be introduced next year, will provide mechanisms for IBAC to refer matters it receives that do not fit within the definition of corrupt conduct to other, or more appropriate, bodies.

Complaints

As foreshadowed in the coalition's policy, the bill allows any person to make a complaint to IBAC about conduct they believe may be corrupt conduct. Individuals will also be able to make complaints regarding police personnel conduct to IBAC. IBAC may also receive information from any person in relation to its functions, even if that information is not presented as a complaint.

The bill also provides for relevant principal officers of public bodies to notify IBAC of conduct that they believe on reasonable grounds constitutes corrupt conduct. This will ensure that IBAC is able to receive all the information it requires to assess possible corrupt conduct and, if necessary, conduct an investigation, without a formal complaint.

Consistent with current oversight arrangements for members of the police force, the bill requires the Chief Commissioner of Police to notify IBAC of police personnel misconduct complaints and corrupt conduct complaints in relation to police personnel who are not members of the police force. This obligation is consistent with the Police Regulation Act and will ensure that broad oversight of police personnel conduct continues under IBAC.

Investigations

This bill provides IBAC with the ability to conduct an investigation on a complaint, a notification, or of its own motion. Before investigating a corrupt conduct matter, the IBAC must be reasonably satisfied that the conduct is serious corrupt conduct. IBAC has discretion as to whether to investigate a complaint or notification which falls within its corrupt conduct jurisdiction, and may determine that a complaint or notification does not warrant investigation.

The bill contains special procedures for IBAC investigations in relation to the judiciary. This is to ensure that the separation of the powers between the executive, the Parliament and the judiciary, which is fundamental to the proper working of our system of government, remains paramount. These special procedures include requirements that an IBAC investigation into the conduct of judicial officers must be carried out by a sworn IBAC Officer who is also a former judge or former magistrate of a court of a higher level, or the same level but not of the same court as the person being investigated. The bill strikes a balance between independence and accountability by recognising the special independent nature of the judiciary, while still providing a mechanism to investigate the judiciary for this type of conduct.

Investigation powers

The bill provides IBAC with relevant powers to enable it to carry out investigations effectively. IBAC is empowered to require members of the police force to give information, documents and answers. Failure to comply with a direction will be a breach of discipline under the Police Regulation Act.

Authorised IBAC officers will also be able to enter police personnel premises on the reasonable belief that there are documents or other things that are relevant to an IBAC investigation on those premises. If there is a concern that relevant documents may be concealed or destroyed, or their forensic value diminished, authorised IBAC officers will be entitled to seize those documents or things. IBAC will be able to apply to the Supreme Court for a search warrant in relation to other premises, such as government departments, vehicles and so on. These powers deliver on the coalition government's promise to ensure that IBAC has strong powers to enable it to carry out its important investigative functions. They are appropriately balanced with provisions to protect those subject to these powers. This includes procedural safeguards, such as the power to apply to the Supreme Court for return of things seized from police personnel premises under entry and search powers.

Further enhancing IBAC's recourse to strong investigative powers, the bill amends the Surveillance Devices Act to provide that an IBAC officer may apply for or use surveillance devices in accordance with that act for the purposes of covert investigations. In addition, the bill makes legislative amendments to include IBAC within the Telecommunications (Interception) (State Provisions) Act. This is an important step in enabling IBAC to intercept telecommunications for the purposes of investigations. This will require the commonwealth to pass amendments to the relevant commonwealth legislation to authorise IBAC as a body for such purposes.

Outcome of investigations

IBAC is empowered under the bill to make special reports regarding any matter in relation to its duties and functions, including the outcome of an investigation. IBAC will report directly to Parliament, preserving its independence from executive control.

The bill contains appropriate procedural fairness protections for those who may be named or have adverse comments made about them in a report. Where IBAC intends to name a person in a report, but without making any adverse finding, IBAC must first provide the person with the relevant material in relation to which IBAC intends to name that person. The IBAC must not include in a report any information that would identify any person who is not the subject of any adverse comment or opinion unless the IBAC is satisfied it is necessary or desirable in the public interest to do so, and that it will not cause unreasonable damage to the person's reputation, safety or wellbeing. The IBAC must also state in the report that the person is not the subject of any adverse comment or opinion.

Where IBAC intends to include an adverse finding about a person in a report, IBAC must give that person a reasonable opportunity to respond to the adverse material, and fairly set out each element of that response in the report. If IBAC intends to include adverse findings about a public body in a report, IBAC must give the relevant principal officer of that body an opportunity to respond to the adverse material and fairly set out each element of the response in its report.

The bill also enables IBAC to make a private recommendation arising out of an investigation to one or more of the relevant principal officers, or responsible minister or the Premier, as appropriate. Such a recommendation might be to take action to prevent something from happening in the future. IBAC will be able to require a report in response to the recommendation, and if that response is not satisfactory, IBAC will be able to report on that matter in accordance with the reporting provisions.

The government is pleased to be presenting this significant bill vesting IBAC with important investigative functions on the eve of International Anti-Corruption Day to be marked on 9 December 2011. In the words of United Nation's Secretary-General Ban Ki-moon:

> On this International Anti-Corruption Day, let us pledge to do our part by cracking down on corruption, shaming those who practise it and engendering a culture that values ethical behaviour.

The government looks forward to appointing the IBAC's inaugural commissioner in the near future, following a comprehensive executive search process.

With this bill, the coalition government has delivered the investigative framework for IBAC, building on the foundations set in the Independent Broad-based Anti-corruption Commission Act 2011. Further legislation will contain examination and referral powers, and transitional and consequential provisions. Concomitant amendments will be made to the Victorian Inspectorate Act 2011, to ensure that the use of these powers by IBAC is subject to appropriate and robust oversight.

I am delighted to present these reforms, which are a first for Victoria, and provide important investigative powers for Victoria's Independent Broad-based Anti-corruption Commission.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 16 February.

ADJOURNMENT

Hon. D. M. DAVIS (Minister for Health) — I move:

That the house do now adjourn.

Department of Premier and Cabinet: catering

Mr LENDERS (Southern Metropolitan) — I rise to speak on the adjournment tonight, and I am pleased that the Leader of the Government is in the house because the matter I raise is for the attention of the Premier but affects both the Premier and the Leader of the Government. In both question time and the adjournment debate in this place I have drawn the attention of the house to the Thursday before the 2010 state election, when on 774 ABC Melbourne radio, at approximately 8 o'clock in the morning, Mr Davis was commenting on a freedom of information matter about the cost of hospitality for cabinet and cabinet committees. Mr Davis made the comment that because ministers were paid a lot, they should pay for meals themselves — because they were well paid.

I raised that matter with Mr Davis in this place, and he said he did not like being verballed and did not believe me. I suggest he should go back to the ABC Melbourne radio transcript for the Thursday before the election and listen to himself; I am sure he would enjoy that. I raised the matter with him, and he took it on notice, but nothing happened. Then more than six months ago I raised the matter in the adjournment debate for the attention of the Premier, and nothing happened.

The issue I raise again tonight for the Premier is that one of his senior ministers, who was an opposition spokesperson during the election campaign, put on the public record a strong statement that ministers are paid a lot and therefore should pay for their meals at cabinet meetings and at cabinet committee meetings. The action I seek from the Premier tonight is that he clarify whether what Mr Davis said on ABC Melbourne radio on the Thursday before the election, that ministers should pay for their own meals at meetings of cabinet and cabinet committees, is government policy.

I also asked more than six months ago whether the Premier would table the Department of Premier and Cabinet catering contract with examples of whether ministers pay for their meals. The issue is that there is a double standard. If the answer is that it is the normal routine and what has happened in the past, that is fine. But if a senior minister — one so senior that he meets with the Premier and the two leaders of The Nationals every Sunday night to plot the week ahead of cabinet — says it is good enough that ministers should pay, then I would like an answer from the Premier as to whether ministers are paying. The action I seek is that the Premier respond to my adjournment matter of seven months ago and to the question that his leader in this house took on notice and never answered.

Building Commission: consumer protection

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the attention of the Minister for Planning, Mr Guy, who has responsibility for the Building Act 1993 and the Building Commission. It relates to another one of those terrible cases of people who have got into a complete mess with this absolutely diabolical system of building consumer protection that we have here in the state of Victoria. The minister will be very familiar with this because he and I sat on an inquiry into builders warranty insurance and in the process had presentations from the Building Commission about the snakes and ladders you have to go through in order to get consumer protection for what will be the single biggest purchase of your life — that is, the construction of a new house.

In February 2011 Lana and Boris Zaitsen had the Building Commission order work on the construction of their home to stop following their raising concerns about the structural integrity of the building works. That order resulted in their having no claim over the builder to force rectification and completion. Further, the commissioner undertook an agreement with the Zaitsens to ensure rectification within a 12-month period, but that simply has not happened. Amazingly I received an email just yesterday after a person from the Building Commission hit 'Reply all' to one of Mr Zaitsen's emails and informed me — I do not normally get such great access to government departments and authorities — that there would be no further correspondence with these two people.

Mr Lenders interjected.

Mr BARBER — With the departure of the former building commissioner, which I called for knowing that not only this area but many other areas of Building Commission responsibilities had been operating as a complete debacle for a decade, the Minister for Planning has an opportunity to make some changes. Clearly he is going to make some changes to the senior management, but he can also make some changes to the practice by which the Building Commission deals with people in this dreadful situation. I am sure the information that I have here is also available to Mr Guy. I see Mr Vorchheimer getting attention in this as well as being an adviser to the Premier. He seems to have been involved at some point. I am just begging the minister to step in, resolve this problem and, in the process, establish a model and a new standard for the way the Building Commission deals with consumers on what, as I said, is the most important purchase of a lifetime — that of a new home.

Technology: national broadband network

Mr RAMSAY (Western Victoria) — My adjournment speech tonight is directed to the Minister for Technology, the Honourable Gordon Rich-Phillips. In recent weeks I have visited proposed sites for communications towers as part of the federal government's NBN (national broadband network) rollout. One of those is proposed for Macs Road in Buninyong. In this instance the application notice by Castle Crown has been placed on the boundary of the site at the base of a decline in the road that passes the area. The road is used by those who live in the vicinity and is not used by the broader public. As such, few would have seen the application notice.

Unfortunately many people will be impacted if the application is successful. Only a handful of people have been spoken to by the applicants about the proposal despite about 600 homes falling within a 1-kilometre radius of the tower. The application to the Ballarat council is riddled with errors. Applications otherwise tendered to the council in this form would be rejected. Those impacted by the tower feel dudded. They see the NBN process being rolled out by stealth. Indeed the federal Labor member for Ballarat, Catherine King, refuses to acknowledge that the proposal is for an NBN tower. Why the denial and secrecy if this is such a good thing? Other communities are equally anxious about this process of stealth. About 2300 of these towers will run across Victoria.

Unfortunately this resembles all too closely the approach taken by wind farm companies to establish wind farms. Divide and conquer is hardly what is meant by community consultation — or is it? Neither of the words in this phrase bear any resemblance to what appears to be happening in these areas: the community has little input or is ignored altogether, and consultation is either negligible or there is none. Communities are

now being forced to fight for their legitimate rights at the Victorian Civil and Administrative Tribunal. These communities have neither the time nor the finances to carry out this duty, but they are left with little option because of the slimy application process that got them there in the first place. There is a real stench about this.

My request of the minister is that he investigate the role the Victorian government could play to ensure that local rights are not compromised in this shabby NBN process.

Higher education: TAFE funding

Mr EIDEH (Western Metropolitan) — My adjournment matter is for Mr Hall, the Minister for Higher Education and Skills. Does the government believe in TAFE or in skills training? Does it care about the future of this state? The slashing of funds for the Victorian certificate of applied learning and TAFE education suggests strongly that the government is keen to send our state backwards.

Our biggest TAFE colleges, including Kangan Institute and the TAFE divisions of Victoria University, both in my electorate, are facing budget cuts of up to 5 per cent. Courses are being terminated, and jobs are being lost, but worst of all, skills are being thrown out the window by the Baillieu government. Once we lose these specialist skills we will never get them back. But then the Baillieu government is happy to become famous in history for importing anything and everything and not for creating anything positive. Its legacy will be one of loss.

Victoria cannot afford to lose even more skills. I therefore call on Minister Hall and Premier Baillieu to see the damage they are causing to the future of our state and allocate funds for courses and skills training in the coming state budget.

Manufacturing: government initiatives

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Manufacturing, Exports and Trade. It is interesting to note that we as a coalition have a minister for manufacturing, unlike the former Labor government, which had a minister for industry but no minister dedicated to the important manufacturing sector.

Mr Lenders interjected.

Mrs COOTE — Since he is interjecting, let me remind Mr Lenders that manufacturing is really important to the Victorian economy, and it is the single largest full-time employer — —

Mr Lenders interjected.

Mrs COOTE — Mr Lenders may not know that 7.51 per cent of manufacturing is based in Southern Metropolitan Region, which we both represent. Our constituents are employed in the manufacturing sector around Bentleigh East, Moorabbin and Fishermans Bend — which is near my electorate office, in case he would like to visit.

We as a government understand the huge importance of manufacturing, unlike the federal Labor Party. On 2 February the Prime Minister — well, the temporary Prime Minister — dismissed Victorian job losses as mere 'growing pains'. That is how much she cares about her home state. She has done absolutely nothing; she is useless. She does not care at all.

The manufacturing sector faces the challenges of low productivity and the high Australian dollar. Just so members know — and Mr Lenders probably does not know this — I point out that Toyota's head office is in our electorate of Southern Metropolitan Region. Toyota's chief executive, Mr Max Yasuda, had a few things to say about low productivity under Labor's federal industrial relations regime.

In contrast to all of this, our excellent coalition Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva, came out with the Victorian manufacturing strategy to meet these challenges full-on. Unlike Labor's flimsy Victorian industry manufacturing statement brochure, our strategy is comprehensive and tackles the challenges faced by Victorian manufacturing. The government is focusing on individual enterprises through grassroots business engagement. Our manufacturing strategy is shifting away from the previous approach of targeting industry sectors. Instead we will focus on helping individual businesses tackle specific challenges — —

Honourable members interjecting.

The ACTING PRESIDENT (**Ms Crozier**) — Order! Ms Darveniza!

Mrs COOTE — I am running out of time. I therefore ask the Minister for Manufacturing, Exports and Trade, Richard Dalla-Riva, to continue to deliver on the government's manufacturing strategy with an increased emphasis on Southern Metropolitan Region.

Higher education: TAFE funding

Ms MIKAKOS (Northern Metropolitan) — My matter tonight is for the Minister for Higher Education and Skills. I assure the minister that I have not colluded

with Mr Eideh, but I too wish to raise my concerns about the cuts to the Victorian TAFE sector. At a time when we are seeing more and more Victorians out of work, it is appalling that the Baillieu government is cutting funding to the TAFE sector. There are now 9000 more Victorians unemployed than when Premier Ted Baillieu took office — —

Mr Lenders — And there are two more ministers.

Ms MIKAKOS — There are two more ministers, Mr Lenders, but they are clearly not on the job, because as we saw over the last 24 hours the Minister for Youth Affairs has no idea about the extent of youth unemployment in the state. The Premier excused the minister's total ignorance today by claiming that it is impossible for a minister to have encyclopaedic knowledge of the matter, as if it is that difficult for the minister to google the youth unemployment rate and find out for himself the extent of the problem.

Youth unemployment is a huge problem for Victoria, and it is particularly acute in regional areas. The Australian Bureau of Statistics labour force survey data show that the 12-month average figures to December 2011 for the Gippsland region's youth unemployment rate was 27.6 per cent; in Barwon-Western District region the rate was 25.8 per cent; in the Central Highlands-Wimmera region the rate was 35.8 per cent; in the Goulburn-Ovens-Murray region the rate was 29.8 per cent; and in the Loddon Mallee region the rate was 29.5 per cent — —

Mr Lenders interjected.

Ms MIKAKOS — It was 29.5 per cent. This is really alarming.

Mr Lenders interjected.

Ms MIKAKOS — I hope Mr Drum will take note of this issue, but I would not count on him doing so. The fact that the Minister for Youth Affairs had no idea about the extent of the problem is quite alarming, but I call on the Minister for Higher Education and Skills to reverse the cuts to the TAFE sector that he has overseen to date. We need more skilled young people being able to take up jobs in Victoria. I call on the minister to provide more financial support to the Victorian TAFE sector in the coming budget to reverse the trend of increasing youth unemployment.

Abortion: counselling services

Mr FINN (Western Metropolitan) — I have a matter for the attention of the Minister for Mental Health. I draw the minister's attention to an extensive study by US university professor Priscilla Coleman, which was published in the prestigious *British Journal of Psychiatry* late last year. Professor Coleman performed a meta-analysis of 22 studies, which tracked a total of 877 181 women, 163 831 of them post abortively. This was clearly no small study, and the results were truly illuminating. My understanding is that it is the largest study of its kind ever conducted in the world.

The results of this study are disturbing, but as I said, they are quite illuminating. The study found that women with an abortion history experienced an 81 per cent increased risk of mental health problems. It found an increased risk of anxiety disorders of the order of 34 per cent, an increased risk of depression of 37 per cent, an increased risk of alcohol use and abuse of 110 per cent and an increased risk of marijuana use and abuse of 220 per cent. When compared to unintended pregnancies that were delivered, women who had terminations had a 55 per cent increased risk of mental health problems. Alarmingly nearly 10 per cent of all mental health problems were found to be directly attributable to abortion. These figures certainly shocked me, and I think they would shock most people, particularly when we realise that Australian women were included in this study.

Given the results of this survey, it is clear that considerable numbers of women here in Victoria may be suffering at least some mental health problems following abortions, particularly since 2008, because the number of late-term abortions has skyrocketed since that time, following the passing of the Abortion Law Reform Act 2008, which allows abortion in this state up until birth. As a result of that, many women may need assistance. Today I am asking the minister to provide that assistance. I am convinced that post-abortion counselling services are much needed in Victoria, and I ask the minister to facilitate the provision of these services to ease the burden felt by so many women following their abortions.

Rail: Doncaster

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the Minister for Public Transport. It is to do with the commitment from the coalition government to build a heavy rail line to Doncaster and the conflicting messages between the government and the consultants who have been asked to perform the Doncaster rail feasibility study.

When I have asked the minister to recommit to the Doncaster rail line or to confirm that the commitment is real he has said to me that the feasibility study will help

the government get an understanding of what funds will need to be collected to actually build the rail line. However, whenever the people performing the feasibility study have put out literature they have stated on their website that they cannot guarantee that any of the options for the rail line will be feasible.

If the government has committed to build this rail line to Doncaster, as far as I am concerned it is not an option for there to be no options. The action I seek from the minister is that he clear up with the consultants doing the feasibility study this position that there can be no options. If the government has committed to build the rail line to Doncaster, there has to be an option. As I said, this is concerning because it is sending conflicting messages to the people of Doncaster and surrounds, especially the commuters, who took the government's word on its pre-election commitment to build this rail line.

Planning: Point Cook

Mr ELSBURY (Western Metropolitan) — The matter I wish to raise this evening is for the attention of the Minister for Planning, the Honourable Matthew Guy.

Mr Finn — A very good minister.

Mr ELSBURY — He is indeed. My adjournment matter relates to the issues being faced by residents in the Point Cook area. A couple of weeks ago the Point Cook Action Group was formed when its members formally made themselves into an organisation. The group has been around for a little bit longer than that, but the members have now decided to constitute themselves into a proper organisation. This group brings a lot of issues to my attention and to the attention of my colleague Mr Finn concerning the neglect of that region over the last 11 years. The development which occurred in Point Cook on land which up until the Labor government took office was farming land has been explosive. It has rocketed along at a phenomenal rate. This has resulted in a lack of infrastructure for the region because little planning, or no planning so far as I can tell, has occurred as to how to deal with the increased growth in an area which, as I said, was paddocks until 11 years ago.

We also have issues of continued growth in the area. Just recently the Growth Areas Authority began consultations in relation to what is being called the Point Cook West development. Understandably given their history, the people of Point Cook have reacted rather boisterously to the proposal of yet another development on their doorstep. I ask the minister to keep a very watchful eye over the GAA process to ensure that the local community is getting its message across about the infrastructure it needs in order to be comfortable with any continuing development in the region. I also ask the minister to join me in coming out to Point Cook to meet with — —

Mr Finn — I'll go with you.

Mr ELSBURY — Mr Finn has offered to come out as well. I ask the minister to come out with me and Mr Finn to Point Cook to meet with representatives from the Point Cook Action Group to discuss their concerns so that we as a government can truly represent the area of Point Cook, which for far too long has had Labor members sitting in that seat but certainly not representing that community.

Dairy industry: government initiatives

Mr O'BRIEN (Western Victoria) — My adjournment matter is for the Minister for Agriculture and Food Security. I seek information from the minister as to the role of the Department of Primary Industries in supporting our dairy industry. I also invite him to meet with dairy farmers in Western Victoria Region to discuss the upcoming poll on the dairy industry levy — most conveniently at the Sungold Field Days event coming up next week.

As background, I note that the Department of Primary Industries has recently released a report into the export performance of our food and fibre sector over the most recently completed financial year. It shows that export value in this sector increased by $1.3 billion, or 19 per cent, over the previous financial year. Together with manufacturing, our food and fibre producers — our agricultural sector — are the state's most important industry sector. This provides further evidence that rural Victoria makes a vital contribution to the state's economy. Comparing these figures on a state-by-state basis, Victoria certainly punches above its weight, as 28 per cent of Australia's food and fibre production passes through our ports. We are fortunate in Western Victoria Region to have several food and fibre sectors powering ahead. Confidence is up, and rural communities are seeing flow-on benefits in spending and jobs.

I know the minister is well aware of these issues, as he has visited western Victoria many times, including in his time as president of the Victorian Farmers Federation, along with other former presidents Mr Weller, the member for Rodney in the Assembly, and Mr Ramsay, who served well. I am disappointed Mr Ramsay is absent for this particular

contribution, but he is continuing to serve western Victoria well, together with Mr Koch. In that regard, the dairy industry is well known to the coalition to be in a growth phase, and it is an important part of Victoria's agricultural production.

The minister will be well aware that the industry contributes to its own research and development through a levy on producers. Dairy farmers vote on the level of this levy. This is known as the dairy poll, and it is conducted at least every five years. This important process gives farmers a direct say in marketing and promoting their industry. This month Victorian dairy farmers will decide how much they want to invest in their industry through Dairy Australia, which provides science, economics, trade and human nutrition information. There has not been a levy increase since 1997. In that time the consumer price index has risen by 36 per cent. In this vote dairy farmers will weigh the options of either a 10 per cent or a 15 per cent increase in the levy or, alternatively, a zero levy — the second of these options having to be provided by legislation.

In addition to Dairy Australia's work, the Department of Primary Industries contributes to supporting innovation in the dairy industry. In light of this, I call on the minister to update the Parliament on this arrangement and provide information on what measures DPI is currently taking to support the dairy industry. As I said, I also invite him to meet up with dairy farmers directly. They are also concerned about roads and other issues in western Victoria — for instance, the situation with the field days at Allansford. I look forward to the minister's continued strong performance in managing his portfolios.

Responses

Hon. D. M. DAVIS (Minister for Health) — There were 10 adjournment matters raised this evening, and I will go backwards through them.

Mr O'Brien raised a matter for the attention of the Minister for Agriculture and Food Security concerning Victoria's export performance and measures to support the dairy industry. As he correctly points out, Victoria's export performance in terms of food, and dairy products in particular, has been very good — certainly in exports through the ports.

Equally I note the call for the minister to meet with dairy farmers in western Victoria and to update the Parliament on support that is available to the industry. I feel certain that the minister already meets with dairy farmers — indeed, I think I may have been at one of those meetings with him — and I am sure that he will be prepared to do so.

Mr Elsbury brought forward a matter for the attention of Minister for Planning concerning the various groups in Point Cook that provide useful information to both himself and Mr Finn about planning matters and the backlog of issues that need to be dealt with in that region. Mr Elsbury requested that Mr Guy, as planning minister, attend a meeting or visit the area, and I have little doubt that he will be prepared to do so.

Mr Leane raised a matter with me for the attention of the Minister for Public Transport concerning the Doncaster railway line feasibility study. This was an election commitment of the coalition, and I have no doubt it is being prosecuted with great vigour. I also have no doubt that the Minister for Public Transport will take a significant interest, as will a number of other members in the eastern suburbs of Melbourne.

Mr Leane interjected.

Hon. D. M. DAVIS — No, that is being a little unfair. I have to say those members of the coalition in the eastern suburbs are very firm advocates for better transport options in that area. I think it is important to put on the record at this point — —

Mr Lenders — Henry Bolte promised it in 1958.

Hon. D. M. DAVIS — Let me be clear here: it was actually the Labor Party that sold the land reservations. Joan Kirner and her crew sold the land reservations right through Doncaster and Templestowe — —

Mr Barber — It was under Cain.

Hon. D. M. DAVIS — There you are: it was under Cain. It was Labor that sold the land reservations that had been set aside historically to make public transport available through the eastern suburbs. Mr Leane's mates sold it, and I am sure that the Minister for Public Transport, when he replies to Mr Leane in full on the details of these matters that I am not aware of, will be very prepared to remind Mr Leane of that history.

The ACTING PRESIDENT (**Ms Crozier**) — Order!

Hon. D. M. DAVIS — I am aware that Mr Atkinson, the President, knows of the sale of those pieces of land — it was a historic loss of land.

The ACTING PRESIDENT (**Ms Crozier**) — Order! Thank you, Minister, for taking no notice.

Hon. D. M. DAVIS — Acting President, I apologise. I was provoked.

Mr Finn raised a matter for the attention of the Minister for Mental Health concerning a study in *British Journal of Psychiatry* reporting a meta-analysis of the impact of abortion. I have not read the study, so I am unaware of the specifics of it, but I will provide the minister with that material.

Ms Mikakos raised a matter concerning the TAFE sector for the attention of the Minister for Higher Education and Skills — I think he is the correct minister. It is probably important to note that a number of matters were dealt with this week in the early parts of question time, including higher education and TAFE funding, and I understand that the minister strongly refuted a number of the matters and points that were raised. I am not an expert in that area, and I will refer the matter to the relevant minister, Minister Hall.

Mrs Coote raised a matter for the attention of the Minister for Manufacturing, Exports and Trade about manufacturing more generally, including manufacturing strategy. She made the point that the government has brought forward a manufacturing strategy and that it is a good strategy. We have made the point that there had been a much slower result under the previous government. The point Mrs Coote made about the focus of jobs in Southern Metropolitan Region is something that many of us — including the Acting President, the Leader of the Opposition and me — might well agree with Mrs Coote on. We all want to see more jobs, not just Victoria-wide but more jobs focused in manufacturing in Southern Metropolitan Region. I assure Mrs Coote that the government is deeply focused on the task of protecting Victorian jobs, growing Victorian jobs and doing the work to make sure that happens. In the chamber this week I raised a number of issues about the jobs that the health sector is working strongly to produce. I endorse Mrs Coote's focus on manufacturing and will pass that matter on the Minister for Manufacturing, Exports and Trade.

Mr Eideh raised a matter for Mr Hall. To me it sounded extremely similar to the matter raised by Ms Mikakos. I note that those matters have been raised in question time and dealt with at some length by Mr Hall, and I reject directly some of the claims made by Mr Eideh. I will pass the matter on to Mr Hall for his attention.

Mr Ramsay raised a matter for the attention of the Minister for Technology, Mr Rich-Phillips, concerning the NBN (national broadband network) rollout. The NBN rollout may be controversial in certain respects and not in others. We all want better technology, better bandwidth and better speed on our computer connections and the range of other uses that these things point to. Let me say that Minister Rich-Phillips has been a strong advocate for aspects of the NBN. Mr Ramsay raised a matter concerning a tower in Buninyong and the process concerning local consultation, particularly the absence of the local federal member, Catherine King, from that process, and the issues that surrounded the placing of a tower that is linked with the NBN.

I make the point that there is a more general question here about the rollout of commonwealth activities and the rollout out of commonwealth decisions without proper consultation with states and with municipalities and local communities. As a more general point — and this is not even a party-political point I make, given that this crosses several governments — —

Honourable members interjecting.

Hon. D. M. DAVIS — With respect, I think there is a genuine point that Mr Ramsay is making here, and this may be the latest iteration of commonwealth activity on which there has not been proper consultation with a local community.

Mr Barber raised a matter for the Minister for Planning concerning the Building Commission and a series of consumer protection issues. I note the matter he raised about the examination of this by the Standing Committee on Finance and Public Administration in the last Parliament and the inquiry that that committee undertook. I know the complexity of the matters he raised, and I will certainly raise that matter with the Minister for Planning.

Mr Lenders raised a matter for me and, I think, the Premier; he was having a bit both ways, but I am happy to respond on both points. I can indicate as a cabinet minister that we do pay for our meals.

Mr Lenders — Show us the receipt.

Hon. D. M. DAVIS — I am just telling you I do.

Mr Lenders — And I don't believe you. Show us the receipt.

Hon. D. M. DAVIS — I am telling you I do. But I note double standards apply here, and I would suggest that the previous government come clean on whether it paid for its meals, because I do not believe it did.

Mr Lenders — It didn't, and it never claimed it did. You said ministers should pay; that is why we are raising it.

Hon. D. M. DAVIS — We do, but you didn't.

Mr Lenders — We don't believe you.

The ACTING PRESIDENT (**Ms Crozier**) — Order! Thank you, Minister. That is the conclusion of the adjournment debate. The house stands adjourned.

House adjourned 5.21 p.m. until Tuesday, 28 February.