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PROTECTING VICTORIA'S VULNERABLE CHILDREN INQUIRY

THE HON P.D. CUMMINS, Chair

WARRNAMBOOL

9.06 AM, FRIDAY, 15 JULY 2011

MR CUMMINS: Good morning, ladies and gentlemen, we're very pleased to be in this beautiful city and region. I hope you are pleased that we did bring you down some good weather from Melbourne, a most unexpected thing. We acknowledge with profound respect the traditional custodians of the land upon which we meet, Guditj Mirring people and their elders past and present, and I hope future and any other elders who may be present. Indeed, late yesterday we had the honour of meeting a number of local Aboriginal persons and that was most helpful to us.

10 As you know the Inquiry into protecting Victoria's vulnerable children was established by government at the start of this year, announced by the Premier on 31 January and the Inquiry is constituted by the panel and the secretary and I'm the Chair of the Panel, Phillip Cummins. Also on the Panel is Prof Dorothy Scott, a person of high repute in the area and Mr Bill Scales, formerly the head of Premier and Cabinet and chancellor of Swinburne University.

20 The Inquiry is directed at one specific thing, although over a very broad field, and that is to seek to provide solutions for the future so that the outcome of the Inquiry is an improved system of child protection in Victoria. It's a broad and large brief but it is very specific in that it is an outcomes based Inquiry and it's a future-looking Inquiry. For that reason, ladies and gentlemen, we don't investigate individual cases as, for example, the Ombudsman or the Child Safety Commissioner might. We don't investigate individual organisations but rather we look at the system of child protection as a whole.

25 Of course, we are informed by what has occurred in the past and what is occurring in the present and we can be informed by individual cases insofar as that shows the system going well or the system not going well. But the essence of our Inquiry is that it is a systems-oriented Inquiry and forward looking.

30 There was some criticism in the media - and I think a perfectly valid point - when we were established that, "Here is another Inquiry, will it gather dust on the shelves?" That's a pre-electronic image, ladies and gentlemen, but the electronic equivalent being that it will be a well-meaning Inquiry which will not produce any results.

35 We truly hope that that is not so. We're optimistic that because government has established the Inquiry, has briefed us to look at the system as a whole and has briefed us to produce solutions for the future, positive outcomes for the future, we are confident that the Inquiry will produce results and certainly that is our purpose.

45 As you appreciate, ladies and gentlemen, this is a Public Sitting which means that anything that is stated here may be fully reported in the media and the media is always most welcome at our Public Sitings. It's not a court of law, ladies and gentlemen. I was, for more than 20 years, a Supreme Court judge

and when I sat in court hearing a trial, as indeed many years ago I used to sit in the old court just behind us here, various protections applied in court of law, including one couldn't be proceeded against for defamation in giving evidence in a court hearing. In a Public Sitting, which this is, those protections do not
5 apply. The ordinary principles and laws of defamation applies. I'm quite sure none of that applies to you, ladies and gentlemen, but in fairness to anyone at a Public Sitting I always say that so people realise it's not a court of law, it's a true Public Sitting just as it would be if you were speaking directly to the media or directly to the public in an open-air meeting.

10 The other specific and relevant legal criterion is this, ladies and gentlemen: under the *Children Youth and Families Act* it is prohibited to identify a person who is or has been in the past the subject of Children's Court process. That's not only a child that's involved or a family that's involved but even a witness
15 who gives evidence. So that's a quite specific provision in the *Children Youth and Families Act* designed protectively, that's its purpose. But it does apply to all public matters, including this Public Sitting that one must not identify individual persons who are the subject of Children's Court process.

20 What is very important, ladies and gentlemen, is that we do have the benefit of submissions from the public. That can include persons who are highly specialised and qualified, it can include persons who are affected by the process, it can include general members of the public who have an interest in the process. All contributions are welcome, ladies and gentlemen. We're due
25 to make the report to government in November. We have been sitting in Victoria in the Melbourne Town Hall, would you believe, so you can't get much closer to the centre of the city - corner of Swanston and Collins Streets - to Warrnambool, Mildura, Bairnsdale and other regional cities. So we have sought to be comprehensive in including all of Victoria. It's very important to
30 us, and I've said this to the minister, that we hear the voices of the regions and that is very significant in our consideration.

So, ladies and gentlemen, I am very pleased that you are here and I would be very pleased to invite Helen Wilson - if you would come forward, Helen, thank
35 you very much, from the South-Western Centre Against Sexual Assault. Please take a seat, Helen. Helen, first of all, thank you very much for your written submission which you have sent into the Inquiry which we have all read and considered. Thank you also for your written document from this morning. I'm happy to proceed at whatever is the most convenient way for
40 you. If you would like to read that document or whatever you would like to do we would be pleased.

MS WILSON: Thank you very much for coming to Warrnambool and for this opportunity. I am a fairly brief person so there are four items that I did want to
45 just draw the attention to, if I may.

MR CUMMINS: Yes.

5 MS WILSON: I wanted to draw attention to the numbers of children who are presenting under our sexually abusive behaviour treatment service. We have a small target of five. We finished last year with 21 on the books and this year we had 29. We are finding it difficult to give a comprehensive treatment service to that number of children so I just bring that to everyone's attention.

10 MR CUMMINS: Yes.

15 MS WILSON: I have spoken to our child protection services, who are very good, about the need to remain open for longer than what is sometimes mandated, particularly when they refer to us for a specialised assessment. That is a structured series of interviews for children for whom there are indicators of abuse but they haven't disclosed within a single interview. Part of that process is writing a report back to clarify and concerns that we may have and also again for referrals to our sexually abusive behaviour treatment service, the need to remain open to make sure that referral is effective and that all information is
20 conveyed.

I'm sure in your progress around the state you have seen the multidisciplinary centres which include Child Protection, CASA and the police and this seems to offer a good service, case-managed service to people who are in crisis.

25 MR CUMMINS: They impressed me very much the multidisciplinary centres. Is that your view?

30 MS WILSON: Yes. We would be interested in greater collaboration that they offer down here too.

MR CUMMINS: Yes.

35 MS WILSON: In a small town we often see people regularly but it seems to structure it and formalise that collaboration.

MR CUMMINS: Where is the nearest one to here, Geelong, is it?

40 MS WILSON: Yes, which has had, I understand, some difficulties in being established.

MR CUMMINS: Yes, quite. But it's worth doing.

45 MS WILSON: Yes, a case-managed, collaborative approach gives people access to services they need at the one time.

MR CUMMINS: Yes, I understand that. Any further points you would like to raise?

5 MS WILSON: I guess the last point is just the need for preventative programs.

MR CUMMINS: Yes.

10 MS WILSON: Child sexual abuse is an area where children are abused by people other than their caretakers so it requires a broad range of preventative measures and I guess I've outlined some that I think are relevant: mass
15 marketing campaigns, peer education, monitoring of known sex offenders, research into the effects of access to pornography, community education of alcohol use and misuse and the ease of obtaining alcohol and access to long-term housing.

MR CUMMINS: Those six that you identified all point in the one direction. Well, Helen, prevention is obviously central to this Inquiry.

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MS WILSON: Absolutely.

MR CUMMINS: They're ways forward that you identify. Are there any other preventative measures or strategies that you think we ought to be considering?

25 There are the ones you have identified, there is the methodology through the multidisciplinary centres, there are some practical but obviously important things such as remaining open when you've got sequential inputs and, of course, being able to cope with the actual number which, from what you have said, is quite a marked increase.

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MS WILSON: Yes, that's right. I guess the other point is that the children who present under our sexually abusive behaviour treatment program have in common - they have witnessed extreme family violence, so the importance of early intervention in family violence which has changed in recent years and
35 certainly over my career has changed and I think that is to the good. But also most recently it's their access to pornography and that seems to be pernicious and pervasive.

MR CUMMINS: The whole electronic future is a very big issue, isn't it?

40

MS WILSON: It is.

MR CUMMINS: That happens right across the board but particularly in this area.

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MS WILSON: Yes, and that is an interesting social experiment which concerns me greatly.

5 MR CUMMINS: I think you're not the only one who is concerned about it, Helen. Helen, that is most helpful. The work you do is especially important I think.

MS WILSON: Thank you.

10 MR CUMMINS: I've seen the far end of this in the Supreme Court. I was the principal judge in the criminal division and the senior trial judge and that is the very end of the process that no-one ever wants to see. If we can start addressing it at the start and work through that, it is much more productive.

15 MS WILSON: Yes, of course.

MR CUMMINS: There is, unfortunately, not a lot of productive things in the court, it is often very terrible and punitive but it's not productive in the way that the work you are doing can be productive.

20 MS WILSON: Thank you.

MR CUMMINS: So thank you very much, Helen.

25 MS WILSON: Thank you.

MR CUMMINS: I am pleased to invite Mr Gordon Curran from Take A Break Occasional Child Care. Gordon, welcome. Please take a seat and just settle yourself down as you find convenient. Gordon, thank you very much for your written submission and also the letter of support that you have attached to it which is very clear and appropriately redacted so thank you for doing that. Gordon, what would be a convenient way for you to proceed? Would you like to read your material or read it and comment on it?

35 MR CURRAN: Basically to move through the written material.

MR CUMMINS: That would be good. Yes, thank you.

40 MR CURRAN: Good morning and thank you very much for coming to Warrnambool. We do appreciate you coming down here. My background is that I spent 22 years lecturing out at Deakin University - which was previously Warrnambool Institute of Advanced Education - in child development in the teacher education faculty. I then worked for five years on a Commonwealth program as children's services resource and development officer between
45 Apollo Bay and Hamilton covering quite a patch, mainly dealing with the

integration or inclusion of children with special needs into all forms of child care. Now I'm on the board of Mpower, a local disability service, which runs a program supporting parents who have an intellectual disability to look after their children and also we have an early intervention program for children with disabilities and their families and many other programs there as well.

I've been co-opted by the Uniting Church in a moment of weakness to act as their licensee for a very wonderful occasional care program here in Warrnambool and that's how I've got caught up in the little drama at the moment where occasional care is under attack and I would like to explain that this morning.

MR CUMMINS: Certainly. This is Take A Break?

MR CURRAN: Yes. Have you heard of the dramas?

MR CUMMINS: I haven't. I know that they exist but I don't know all the detail.

MR CURRAN: You will this morning. Many of our most vulnerable children can benefit - and their families - by accessing community based support programs such as Take A Break Occasional Care. When we identify a family in distress and children at risk, the problem for the child protection workers is, "What do I do with the children? What are the options in a country town for assisting the family with placements of children?" That doesn't necessarily always mean out-of-home care for full time. Take A Break occasional care is currently offered to about 9000 children in Victoria in about 230 community based not-for-profit centres. It's jointly funded by both the federal and the state government. It has been running about 10 years, to my knowledge. The federal government has provided 70 per cent of the costs and the state government has supported that with an extra 30 per cent.

The subsidies for each centre vary according to the number of children taken. A small neighbourhood house type centre might receive a subsidy of 4000 which, if they lose that, will mean that they will probably close. Bigger centres, like the one I deal with, receive 15, 16 thousand and bigger still up to 25,000. The bigger the centre, probably the better we are to weather the loss of the subsidy. My real concern is for the smaller centres.

MR CUMMINS: Yes.

MR CURRAN: Unlike long day care which tends to support families who are engaged in full or part-time work, there is often a preference given in long day care applications to working people first, families studying second and families in crisis perhaps third. Occasional care is more open to families who are

perhaps at the other end of the social extreme where work is not always an option for a variety of reasons. We take the children for just five hours per day and there is a limit of 15 hours per week whereas in long day care we can see children coming in at 7.00 in the morning until 5.00 or 6.00 at night because of the work commitments of the parents.

Long day care, in the view of the Commonwealth government, is very much a workplace oriented support program. Take A Break or occasional care is not so work committed, as a consequence the federal government is saying it's not as deserving of funding as might long day care. Warrnambool is well served in child care. We have about six long day care programs, pretty well fully subscribed, and one occasional care Take A Break program that I'm aware of.

Many of our children come from single-parent families, from newly arrived migrant families - we enjoy very much our Sudanese families in the program - and families in particular with no local grandparent support. So that if a mother is on her own or even parents and they need to go somewhere for an appointment or for some other reason and there's no family member they can perhaps leave a child with and know that that child is okay.

A typical centre might take something like 24 children, aged six months to four years, and we would charge a fee of about \$18 for a half day's program. Some of that - a very small amount - is rebateable, I think, about 60 cents. We would employ two or three fully qualified child care workers and we also use volunteers to support that as well. Often older women in the community who have wonderful experience in bringing up their own children and even their grandchildren and who can spend sometimes a little time with the younger mothers who are struggling as a support mechanism as well.

Long day care will charge in Warrnambool between 65 and 70 dollars a day but again, if the families are using significant hours, they will get a lot of that rebated from the Commonwealth as a part of the workplace support program. Child protection workers, we think, need community based options in planning an at-risk child's support program or care program. If we take away programs like occasional care, it's one less option for the child protection workers to have in their armoury. They can see, I think, many advantages in referring their families to occasional care centres. Not only child protection workers, but also workers like the one I mentioned who is supporting families where parents have an intellectual disability. While they work with the parents, it is helpful to be able to have the children in somewhere like an occasional care program for a morning or an afternoon.

Unemployed and stressed parents, we believe, very much need to be able to take a break from the great pressures of child rearing in their particular families to attend medical appointments and while they're doing those things, they need

to know that their child is receiving a worthwhile and often first early
childhood educational experience. So we see it as a useful resource. Our
workers are alert to the signs of abuse in children and very sadly the recent
coronial inquiry in Ballarat heard that child care workers had warned that the
5 child who subsequently died was showing signs of abuse.

I think it is important that children in at-risk families are seen by community
members outside of those families as a secondary safeguard that all children in
child care, all children in schools need to be monitored for the fact that they are
10 happy, they are safe and they are well and they are not abused, they are not
timid or terrified or anxious as a consequence of some form of abuse and our
child care workers are alert to that.

All that is very good. Here's the crisis: in the 2010 budget the federal
15 government decided to make a massive injection, 230 million I think in
Victoria, into four-year-old kindergarten, 15 hours or so for every child. That
is a wonderful provision. But in doing that they decided to cease funding to
Take A Break occasional care. It was to us like robbing Peter to pay Paul. We
were very excited about the kinder program but that's for when a child reaches
20 four years of age. What happens for the children from six months to four?
Where do they go when they need some support?

The state continued to make up the entire funding and has agreed to do so until
the end of this year. But they're now saying that they will stop the funding
25 altogether from December this year unless the Commonwealth comes back to
the party. The current position of the state minister is that the state's
30 per cent is on the table if the federal government will return their
70 per cent. It's almost like the old health debate - is it a state responsibility or
is it a Commonwealth responsibility? The state is saying that if it's child care
then it's a Commonwealth responsibility. I'm saying that it's more than child
30 care. It's community building, it's child protection oriented, it's abuse
prevention and its educational and all of those aspects of occasional care are
state responsibilities. I just want the two governments to get together and sort
it out and continue to fund these very important centres.

35 Many centres - I think the smaller ones - of the 230 will close in smaller
communities. I'm hopeful that here in Warrnambool we will survive with the
support of other funding. I have attached a letter from a young girl who has
been through occasional care - not a client of child protection by any sense.
40 We just received it a couple of days ago.

MR CUMMINS: I will call her M because we usually use initials. I'll just call
her M.

45 MR CURRAN: Call her M. She is writing off to the members of parliament

saying, "Look, I went through this program, it's great. My family members have gone through it." This little girl was very ill at one stage. There has been illness in that family and the family have used it for various children while they sought medical support for their other children. It's a very nice letter. Can I
5 pause there and see if you have any question or comment on occasional care. I'm mindful of my time.

MR CUMMINS: No, you continue on. I would like to ask you a couple of questions at the end but you complete what you'd like to say.

10 MR CURRAN: Okay. There was just one other matter that I would like to raise and it's not related to this one at all but to legal aid, and it has come to my attention through family circumstances just in the last month. Some of our most vulnerable children are in families that are undergoing separation and
15 divorce and that is not a happy time for anyone. In an instance when a property settlement is involved, such as mortgaged family home, where both parties are, for example, and have always been Centrelink recipients for reasons of incapacity to work, there is no access to legal aid in reaching a property settlement. Legal aid is available for many things in Victoria but not
20 for property settlements.

So to instance an example, a separated father might go to a solicitor and say, "Look, we're separating, we're getting divorced. I haven't put a lot of money into the house. It's been really paid for by the children's child endowment,
25 family allowance type money," that's where the mortgage has been paid. "But I want 30,000 out of this house," and the house might be valued at 140 or 150 thousand, a very modest amount. There will be legal fees for him, he has been to a solicitor and he has actually been told, "The legal fees will be between 10 and 15 thousand to sort out your problem." He hasn't got 10 or
30 15 cents in the bank.

The wife in this case with two children might be told by her solicitor to offer him, say, 20,000, not 30 and she too will incur legal fees of 10 to 15 thousand dollars. Her solicitor might say to her, "Well, you need to go and borrow, at
35 15 per cent personal loan interest, \$70,000 to buy him out to give him his share, to pay my solicitor's fees and then you've got the rest for the mortgage still owing on the house." Now, given the slim chance of obtaining such a loan, no hope really at all, unless you're happy to pay 20 or 23 per cent interest to a loan shark. The most likely outcome is that the home will have to be sold
40 and we have a homeless family, a mother and two children with no home because what is left over would not be a sufficient deposit for another home.

So what I'm asking is that in Legal Aid, at least in Victoria, could there not be a means-tested provision when a family home is involved that Legal Aid could
45 be provided to such a young couple. This would do a great deal to protect the

wellbeing of some of the most vulnerable children who are sadly becoming an increasing number in terms of homeless families in this state.

5 MR CUMMINS: Yes. I understand your point about the legal aid and a means-tested provision you have said. There are a number of issues with legal aid and we have actually seen a number of issues which have been brought forward to us. Thank you for bringing that particular one forward which I have noted, so we have to look at that as well. I come back to the question of the financial issue between federal and state governments running through this
10 year.

MR CURRAN: Yes.

15 MR CUMMINS: It's plain from what you have said that long day care and occasional care are directed to different issues.

MR CURRAN: True.

20 MR CUMMINS: That doesn't mean that one is to be preferred over the other, I would have thought.

MR CURRAN: Not at all, no. Both are essential.

25 MR CUMMINS: They address different matters and the fact that one is valuable does not mean that the other one is less valuable. So I understand that point and also I understand your point about the flexibility that occasional care does give to people who need - as your title says - to take a break - - -

30 MR CURRAN: Indeed.

MR CUMMINS: - - - in what that means from pressure and from the unremitting requirements that people find themselves under. With your state and federal issue, I understand your point that you are talking about a lot more than just child care.
35

MR CURRAN: Yes.

40 MR CUMMINS: The way you have covered the things you've got child protection, child abuse prevention, education, community support, all those matters that are really all linked together which arise under your remit in your Take A Break. So it seems that really the point that you're making is there is very relevant child protection potentials in the work that you are doing.

45 MR CURRAN: That's right.

MR CUMMINS: So it's not just a child care operation in its consequences and in what it picks up.

5 MR CURRAN: And they are state matters where child care is essentially a federal matter. But this is more than just child care.

MR CUMMINS: Yes, I follow your analysis which I think you made very clearly, Gordon. So that plainly needs to be resolved before the end of this year.

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MR CURRAN: It does indeed and it's a very modest amount.

MR CUMMINS: Yes. I understand everything you have said. I will take it away with me, Gordon, and work on it.

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MR CURRAN: Good. Thank you very much.

MR CUMMINS: I am most obliged to you. Thank you, Gordon. Ladies and gentlemen, are there any persons who would like to come forward? You are very welcome to come forward if you would like. If you prefer not to, I think we might just conclude the Public Sitting and just have a talk amongst ourselves which I would be very pleased to do.

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MR DU VERGIER: I am happy to come forward.

25

MR CUMMINS: Good on you.

MR DU VERGIER: I've not prepared anything.

30 MR CUMMINS: That is all right. Please come forward.

MR DU VERGIER: Bruce du Vergier is my name. I'm the CEO of an agency called Community Connections Victoria Ltd. We're an independent company that provides a lot of the community based child protection services out-of-home care programs, including resi care, foster care, Child FIRST alliance et cetera.

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MR CUMMINS: Excellent. I'm glad you've come forward, Bruce.

40 MR DU VERGIER: I am very pleased that the Inquiry has come to Warrnambool and we appreciate the focus in our part of the world. I am interested in the opportunities the Inquiry provides for government and the voluntary sector or what's known as the third sector - the voluntary sector - to develop a new relationship from the issues that will be raised through the Inquiry's journey. It's an opportunity to look at the significance of the

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partnership and the need to re-examine some of the intricacies that define the outcomes for children and young people between the shared responsibility of government and the community service sector.

5 I am just quoting something here from England Lord Beveridge who set up the welfare state in England post the Second World War wrote a number of key documents in relation to a similar issue in England. Do you mind if I just refer to that?

10 MR CUMMINS: No, please proceed.

MR DU VERGIER: Lord Beveridge, in both his ground-breaking report on the welfare state in 1942 and then in his report on Voluntary Action in 1948 was clear about the importance of the role of the charity in the community
15 sector and government.

*Social security must be achieved by cooperation by the state and the individual. The state in organising security should not stifle
20 incentive, opportunity or responsibility in establishing a national minimum, it should leave room and encouragement for voluntary action by each individual to provide more than that minimum for himself and his family.*

That is a piece from his major document around the welfare state. But he also
25 prepared another document for the government of the day around Voluntary Action and I quote from that Voluntary Action document:

*There is a need for political invention to find new ways of fruitful
30 cooperation between public authorities and voluntary organisations.*

Further:

*An active questioning charity, community based sector is one of the
35 guarantors of democracy.*

I find that history and that philosophy something that this Inquiry has the capacity to re-examine and I believe there is often an unholy distance between people like ourselves and people behind me here today at the local level
40 working away in a very strong and sturdy partnership around the application of child protection and a shared focus on creating really strong and creative outcomes for children and young people. But the distance from that particular endeavour to government, to public authorities can sometimes impede the outcomes that we're saying in legislation that we share and the Inquiry has the
45 opportunity, Mr Cummins, to consider that fundamental distance that often

impedes upon good practice at the local level.

5 Even more so in rural and regional Victoria or Australia where you are some distance from many of the collegial and collective support systems that exist in metropolitan settings. At our point here in south-western Victoria or in any particular part of rural Victoria, if not Australia, that distance even makes that partnership that I referred to even more difficult to claim and to understand and to ultimately strengthen the delivery of the outcomes for the kids and young people.

10 We have over 120 children in care at the moment, in foster care and we have over 15 in residential care and many other families are referred to us through our Child FIRST alliance in this part of rural Victoria and, as I think Helen Wilson said earlier, it's an increasing struggle to keep your eye on the partnership between government, the authorities and the community based sector and the physical distance makes that, as I said earlier - and I'm reiterating a point I made earlier - even more challenging.

20 So my concluding remarks, Mr Cummins, are about what I consider to be a remarkable opportunity for the Inquiry to re-examine and create a pathway so that those participants in the delivery of child protection have a greater understanding of their particular role in the evolving partnership and are clear about the responsibilities and the accountabilities, but you leave room for the community organisations and the families and children and the individuals in our society to make way for themselves as well.

30 MR CUMMINS: Bruce, that is very thoughtful. The roles that you have identified clearly are part of the Inquiry's function to look at roles, to look at the interaction of the various entities that are involved in the overall system to see whether they are properly related to each other, whether the functions are clearly articulated and don't overlap or certainly don't contradict or work against the overall aims of the system. But that is an important part of our function and also the transparency of it as well. So what you identified there is very important to the Inquiry.

35 I think your final point is also important, having enough room, making way for proper development and proper articulation so that those - the making way that you said at the end I think is also very important so that we have a proper system which does allow people to grow and develop. You don't want to have a sterile system which just holds everyone back.

MR DU VERGIER: Indeed. Finding that balance is a real challenge.

45 MR CUMMINS: Yes, quite. I said at the start, Bruce, that although it's a one-year Inquiry it has a very big brief. We have got a brief from really the

important minutia of action to the larger conceptual issues which you have addressed and it's all really interconnected in the end, as you have said. I'm glad you came forward with that.

5 MR DU VERGIER: Thank you for the opportunity.

MR CUMMINS: Ladies and gentlemen, is there anyone else who would like to come forward? If not, can I say to you that I am very pleased our three speakers have come forward. I am very pleased that you are all here. I would
10 like us to have a chat now that we're formally finished and I will conclude the formal Public Sitting and I hope you stay and have a talk with us. Thank you, ladies and gentlemen.

INQUIRY CONCLUDED AT 9.46 AM ACCORDINGLY