

COMMENT & DEBATE

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Stop banging our heads against a brick wall

Consumers deserve a unified system for building disputes.

WERE the complaints procedure for building disputes in this state an actual building, it would have two sets of blueprints, be erected in fits and starts, and, if ever completed, would be structurally unsound and physically uninhabitable. The mechanism for complaining about domestic building work is indeed flimsy and confusing in construction, and any hope of resolution appears to be more on the side of the builder than the consumer.

As *The Age* reports today, a Richmond couple, Sharon and Steven Harrison, have been locked in a dispute with their

building surveyor for more than a year over claims of defective renovation work to their home. At the end of last month, after the complaint was dropped by the Building Commission 10 months after it was made, the Harrisons met their local member of state parliament, who also happens to be the Premier, Ted Baillieu. After a call to the commission from Mr Baillieu, the decision has been reversed; a second investigation is to be launched.

It could be said that the Harrisons are indeed fortunate. The reality, though, is that they have already spent more than \$100,000 and much time fighting two builders and two building surveyors while their uninhabitable shell of a house has not been worked on since October last year. They are living with their three-year-old daughter in rented accommodation.

This case is but one of a

growing number of similar conflicts that could be more easily rectified were it not for the cumbersome and protracted protection system peculiar to Victoria. Unlike other states, which have a single authority to deal with domestic building disputes, this one has two separate government agencies, Consumer Affairs Victoria and the Building Commission, which together run Building Advice and Conciliation Victoria. Alas, far from being the "one-stop shop" it proclaims itself to be, BACV is more of a labyrinthine marketplace with many blind alleys to confuse or deter the dissatisfied home owner.

The favoured method of resolution — an on-site conciliation between builder and home owner, adjudicated by an independent umpire — has increased dramatically over the past two years: the Building Commission handled 738 con-

ciliations in 2010-11, compared with 309 in 2009-10; Consumer Affairs Victoria's on-site conciliations have "almost doubled", according to a spokeswoman. While both organisations claim high success rates, the true, and far higher, number of disputes remains unknown, as neither agency keeps figures on how many complaints fail to reach conciliation. Even if they do, the voluntary nature of the process means builders or property owners cannot be compelled to attend — quite often leading to further legal action via VCAT. Even then, the tribunal's rulings are not enforceable, and only the Supreme Court can deliver a legally binding ruling.

The inadequacies of the state's dispute resolution system is compounded by so-called "phoenix builders" — small builders who deliberately declare themselves insolvent to avoid disputes, only to arise

from the ashes under a new name. The mandatory builders warranty insurance, payable under such circumstances, has been widely criticised as ineffective: in the 12 months to June, only three home owners made successful insurance claims against their builders.

Clearly, as the case studies and figures revealed by this newspaper today show, there is ample reason for consumers to lack faith in the existing protection system against standard building works. In addition to the problems created by having two separate agencies to deal with complaints, another, just as significant, fault lies with the inadequacies of a process that lacks proper coercive and prosecutory powers and places too much onus on the consumer to resolve. The state government should put this particularly dishevelled house in order without delay.

Leaking like the Keystone cops

IF PREMIER Ted Baillieu had hoped to dispel growing suspicions about interference in Victoria Police command by members of his government, his remarks yesterday are likely to do the opposite. Mr Baillieu and Police Minister Peter Ryan both declined to comment on this newspaper's revelation that parliamentary secretary for police Bill Tilley had leaked to the *Sunday Herald Sun* information from a confidential email written by former deputy commissioner Sir Ken Jones. Mr Baillieu even suggested that reporters should ask each other about the leak, since they were more likely to know about it than he. As a flippant remark, this would be silly enough. But Baillieu surely understands that the leak is not, as he described it yesterday, of "precious little consequence". Even if he knew nothing of Mr Tilley's actions at the time, Victorians are owed an explanation now.

Sir Ken's email was addressed to his wife, and explained a meeting with Mr Baillieu's chief of staff, Michael Kapel, in which he raised concerns about the direction of Victoria Police. There was mutual misunderstanding: Sir Ken believed that the government had sought his views, but Mr Kapel believed that the initiative came from Sir Ken. When Sir Ken realised this, he gave Mr Tilley a copy of the email to his wife, to make clear that he had acted in good faith. He did not expect it to be made public, but Mr Tilley gave excerpts of the email to the *Sunday Herald Sun*.

Victorians deserve to know why Mr Tilley chose to commit this breach of confidence, and why a former adviser to Mr Ryan, Tristan Weston, leaked — also without Sir Ken's knowledge — information he had obtained from Sir Ken and other police about a Victoria Police internal investigation. If

Mr Baillieu and Mr Ryan remain silent, they will fuel suspicions that the government hoped to use Sir Ken's reported comments to bring down former chief commissioner Simon Overland, an appointee of the former Labor government.

If there was such a plan, it has failed spectacularly. Before his own resignation, Mr Overland asked the Office of Police Integrity to investigate his deputy, whom he suspected of leaking to the media. That request damaged Sir Ken's reputation. Yet now it appears that government figures were leaking information, making the former deputy commissioner seem more a victim, albeit a naive one. The story of his conflict with Mr Overland grows ever murkier. While we await the OPI's report, what is already clear is that the Brumby government made this mess possible by appointing as Mr Overland's deputy a man who had applied for his job.

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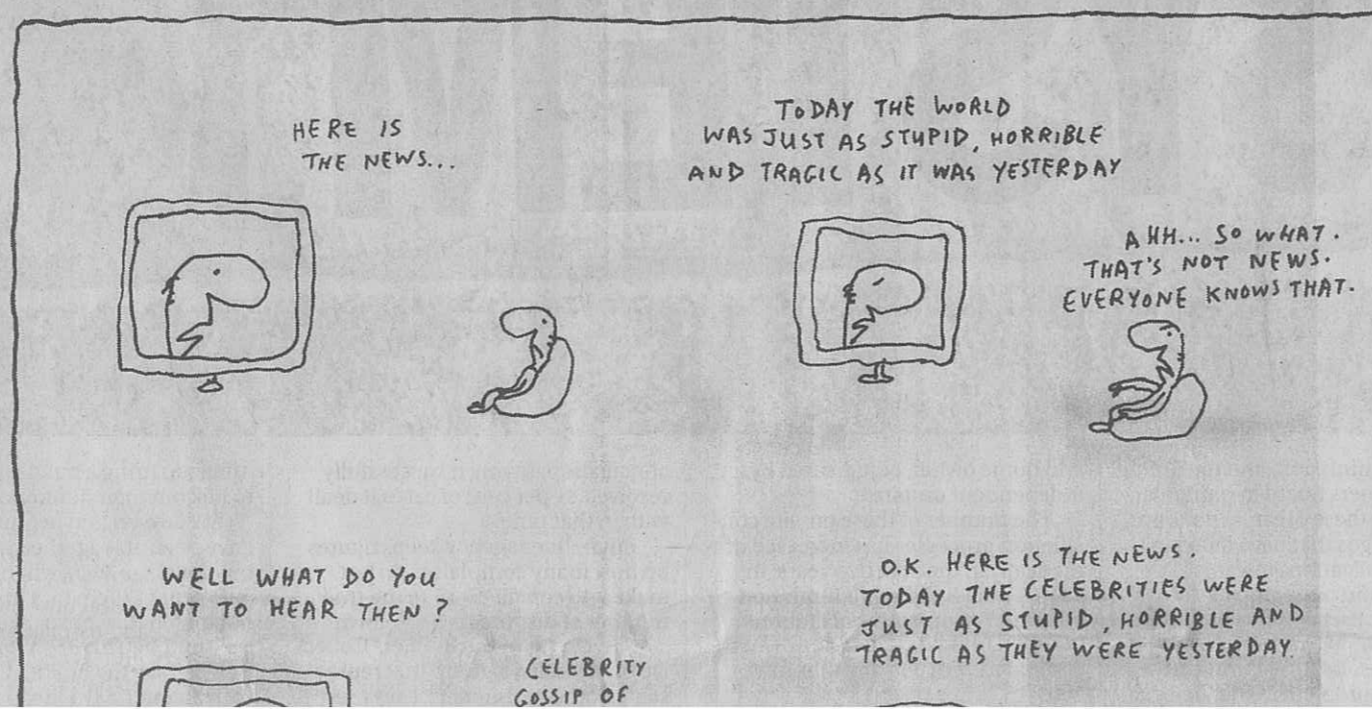
OFFSHORE PROCESSING

Slap in the face to true believers

THE decision of the parliamentary Labor Party to process refugees offshore is a slap in the face to the party's true beliefs, and to the large majority of members who believe in a humane immigration policy. In continuing to compete with the Coalition in developing a tough "border protection" policy, the parliamentary party is ignoring the rights of those fleeing trauma to have their claims for asylum assessed in a humane and fair manner.

For ALP members who grew up in the wake of the disgraceful Tampa affair, we know that Labor can never outdo the Coalition on inhumanity to asylum seekers, and to do so would demean the values of our party and distance the leadership from its members.

With the initiation of carbon pricing legislation, we have seen the good that Labor governments can do. In reversing the decision on offshore processing and in calling for an end to



a set section of road will be to reduce the limit for the entire section to the lowest speed.

Thus motorists would be forced to travel at a speed well below a road's safe limit, all because of a bureaucracy's futile effort to not only manage risk, but eliminate it completely.

Just as drivers have a responsibility to observe speed limits, those who set them must make them sensible, or bring the entire system into contempt.

When the latter happens, the only means of control is through enforcement, rather than having drivers make their own decisions to observe speed limits because they are appropriate for that situation.

Colin James, Toolamba

Work on commuting

CADEL Evans's success will certainly lead to a significant boost in recreational or sports-related

...AND ANOTHER THING



THE high level of support for Kevin Rudd shows that people must have very short memories. As sure as night follows day, this support would soon evaporate should he resume the leadership of the ALP.