

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT

FIRST SESSION

TUESDAY, 15 OCTOBER 2019

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

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Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Suburban Development	The Hon. M Kairouz, MP
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Minister for Water and Minister for Police and Emergency Services.	The Hon. LM Neville, MP
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Minister for Roads, Minister for Road Safety and the TAC, and Minister for Fishing and Boating	The Hon. JL Pulford, MLC
Assistant Treasurer and Minister for Veterans.	The Hon. RD Scott, MP
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Cabinet Secretary	Ms M Thomas, MP

Legislative Council committees

Economy and Infrastructure Standing Committee

Mr Barton, Mr Elasmarr, Mr Finn, Mr Gepp, Mrs McArthur, Mr Quilty and Ms Terpstra.
Participating members: Ms Bath, Dr Cumming, Mr Davis, Mr Limbrick, Mr Meddick, Mr Ondarchie, Mr Rich-Phillips and Ms Wooldridge.

Environment and Planning Standing Committee

Mr Atkinson, Ms Bath, Mr Bourman, Mr Hayes, Mr Limbrick, Mr Meddick, Mr Melhem, Dr Ratnam, Ms Taylor and Ms Terpstra.
Participating members: Ms Crozier, Dr Cumming, Mr Davis, Mrs McArthur and Mr Quilty.

Legal and Social Issues Standing Committee

Ms Garrett, Dr Kieu, Ms Lovell, Ms Maxwell, Mr Ondarchie, Ms Patten, Dr Ratnam and Ms Vaghela.
Participating members: Mr Barton, Ms Bath, Ms Crozier, Dr Cumming, Mr Erdogan, Mr Grimley, Mr Limbrick, Mr O'Donohue and Mr Quilty.

Privileges Committee

Mr Atkinson, Mr Bourman, Ms Crozier, Mr Elasmarr, Mr Grimley, Mr Jennings, Mr Rich-Phillips, Ms Shing and Ms Tierney.

Procedure Committee

The President, the Deputy President, Ms Crozier, Mr Davis, Mr Grimley, Dr Kieu, Ms Patten, Ms Pulford and Ms Symes.

Joint committees

Dispute Resolution Committee

Council: Mr Bourman, Mr Davis, Mr Jennings, Ms Symes and Ms Wooldridge.
Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula, Mr R Smith, Mr Walsh and Mr Wells.

Electoral Matters Committee

Council: Mr Atkinson, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell and Mr Quilty.
Assembly: Ms Blandthorn, Ms Hall, Dr Read and Ms Spence.

House Committee

Council: The President (*ex officio*), Mr Bourman, Mr Davis, Ms Lovell, Ms Pulford and Ms Stitt.
Assembly: The Speaker (*ex officio*), Mr T Bull, Ms Crugnale, Ms Edwards, Mr Fregon, Ms Sandell and Ms Staley.

Integrity and Oversight Committee

Council: Mr Grimley and Ms Shing.
Assembly: Mr Halse, Mr McGhie, Mr Rowswell, Mr Taylor and Mr Wells.

Public Accounts and Estimates Committee

Council: Ms Stitt.
Assembly: Ms Blandthorn, Mr Hibbins, Mr Maas, Mr D O'Brien, Ms Richards, Mr Richardson, Mr Riordan and Ms Vallence.

Scrutiny of Acts and Regulations Committee

Council: Mr Gepp, Mrs McArthur, Ms Patten and Ms Taylor.
Assembly: Mr Burgess, Ms Connolly and Ms Kilkenny.

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

Council: Clerk of the Parliaments and Clerk of the Legislative Council: Mr A Young

Parliamentary Services: Secretary: Mr P Lochert

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FIFTY-NINTH PARLIAMENT—FIRST SESSION

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Deputy President

The Hon. WA LOVELL

Acting Presidents

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The Hon. GW JENNINGS

Deputy Leader of the Government

The Hon. J SYMES

Leader of the Opposition

The Hon. DM DAVIS

Deputy Leader of the Opposition

Ms G CROZIER

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Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Maxwell, Ms Tania Maree	Northern Victoria	DHJP
Barton, Mr Rodney Brian	Eastern Metropolitan	TMP	Meddick, Mr Andy	Western Victoria	AJP
Bath, Ms Melina Gaye	Eastern Victoria	Nats	Melhem, Mr Cesar	Western Metropolitan	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Cumming, Dr Catherine Rebecca	Western Metropolitan	Ind	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip ¹	Southern Metropolitan	ALP	Patten, Ms Fiona Heather	Northern Metropolitan	FPRP
Davis, Mr David McLean	Southern Metropolitan	LP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Elasmarr, Mr Nazih	Northern Metropolitan	ALP	Quilty, Mr Timothy	Northern Victoria	LDP
Erdogan, Mr Enver ²	Southern Metropolitan	ALP	Ratnam, Dr Samantha Shantini	Northern Metropolitan	Greens
Finn, Mr Bernard Thomas C	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Garrett, Ms Jane Furneaux	Eastern Victoria	ALP	Shing, Ms Harriet	Eastern Victoria	ALP
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Grimley, Mr Stuart James	Western Victoria	DHJP	Stitt, Ms Ingrid	Western Metropolitan	ALP
Hayes, Mr Clifford	Southern Metropolitan	SA	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Taylor, Ms Nina	Southern Metropolitan	ALP
Kieu, Dr Tien Dung	South Eastern Metropolitan	ALP	Terpstra, Ms Sonja	Eastern Metropolitan	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Limbrick, Mr David	South Eastern Metropolitan	LDP	Vaghela, Ms Kaushaliya Virjibhai	Western Metropolitan	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
McArthur, Mrs Beverley	Western Victoria	LP			

¹ Resigned 17 June 2019

² Appointed 15 August 2019

Party abbreviations

AJP—Animal Justice Party; ALP—Labor Party; DHJP—Derryn Hinch's Justice Party;

FPRP—Fiona Patten's Reason Party; Greens—Australian Greens; Ind—Independent;

LDP—Liberal Democratic Party; LP—Liberal Party; Nats—The Nationals; SA—Sustainable Australia;

SFFP—Shooters, Fishers and Farmers Party; TMP—Transport Matters Party

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Tuesday, 15 October 2019

The PRESIDENT (Hon. SL Leane) took the chair at 12.05 pm and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT (12:05): On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the First People of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria past, present and emerging and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament.

Bills

CHILDREN LEGISLATION AMENDMENT BILL 2019

LEGAL PROFESSION UNIFORM LAW APPLICATION AMENDMENT BILL 2019

MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL 2019

OWNER DRIVERS AND FORESTRY CONTRACTORS AMENDMENT BILL 2019

Royal assent

The PRESIDENT (12:06): I have a message from the Governor, dated 17 September:

The Governor informs the Legislative Council that she has, on this day, given the Royal Assent to the undermentioned Act of the present Session presented to her by the Clerk of the Parliaments:

30/2019 Children Legislation Amendment Act 2019

31/2019 Legal Profession Uniform Law Application Amendment Act 2019

32/2019 Mineral Resources (Sustainable Development) Amendment Act 2019

33/2019 Owner Drivers and Forestry Contractors Amendment Act 2019

Announcements

MEMBER SERVICES OFFICE

The PRESIDENT (12:07): Just before we go to question time, I alert members that Parliamentary Services have opened a member services office in the north library. That is there to better assist members on Department of Parliamentary Services issues. Barry Cull will be the main person to man that, but there will be other DPS staff there. This will be on sitting days. We have always had great access to our clerks and the papers office and others on sitting days. We want to have better access to DPS and they want to have better access to us on sitting days, so if any members have any issues with their office, staff, IT, car or other things, please go and see Barry. He is happy to help. If it does not fall within his expertise, he will pass it on and get you a response.

Questions without notice and ministers statements

HEALTH SERVICES CYBERSECURITY

Ms CROZIER (Southern Metropolitan) (12:08): My question is to the Minister for Health. Minister, the Victorian Auditor-General's Office warned the government in May of the high vulnerability of Victorian hospitals to cyber attacks. A rural hospital board member told ABC *Statewide* that it was a failure of your government to provide sufficient funding to address cybersecurity upgrades. Barwon Health and surrounding health services are still feeling the enormous impacts, including that staff are having to use their own personal emails and phones to communicate. So I ask: will you give an assurance that no patient has been put at risk as a result of the cyber attacks and the ongoing crisis which the cyber attacks have caused?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:08): I thank the member for her question. Cyber attacks sadly are a reality in our modern world, and no individual is exempt from the risk. We all need to remain vigilant and constantly update our cyber defences. I would be amazed if there was a single member in this chamber who has not had their cyber defences tested, whether it be through a phishing email or a remote attack on their website.

Cybersecurity is an ever-changing landscape, and the Andrews Labor government has worked very closely with federal agencies to ensure that all our public sector agencies, including our hospitals, are protected. Over the past five years our government has invested in excess of \$46 million to strengthen health service IT capability, replacing aged and at-risk technology and health services, the majority of which has been spent in direct cybersecurity investments. This has included \$13 million in this year's state budget for the latest digital infrastructure and cybersecurity, and in fact every health service has benefited from this funding, including Barwon Health service.

What I can advise the house is that on Monday, 30 September, we became aware that a cyber attack impacted a number of regional hospitals and health services in Gippsland and the south-west of Victoria, and what has been confirmed since that time is that the cyber attack began with a phishing email sent to an employee. What happened is a very innocent looking email was sent to an employee who clicked on an attachment and the virus was downloaded to the hospital's computer network, providing cybercriminals with unauthorised access. But what I can also advise the house is that during that same week we had hospitals in the United States and in Canada, across North America, being subject to the same ransomware incident, resulting in their hospitals closing services aside from emergency cases.

So in this case I want to commend our health services, who have worked incredibly hard to ensure continuity of care for their patients, and I thank them very much for the work that they did in reacting swiftly to manage this attack, which has resulted in a small number of patient disruptions to essential health service delivery. The advice that I have is that there has been no evidence that patient data has been stolen; there has been no evidence that staff data has been stolen. The aim of this sort of cyber attack is to extract payment from organisations rather than to steal data, and I can make it very clear that no ransom has been paid or will ever be paid to cybercriminals.

Ms CROZIER (Southern Metropolitan) (12:12): Minister, will the systems that have been affected by these cyber attacks be fully operational before Christmas?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:12): Well, what I can advise the member, if she has been listening, is that there has been outstanding work by the health services staff to react swiftly to manage these attacks, supported by my department and supported also by the cyber team from the Department of Premier and Cabinet as well as by federal agencies. They have managed to put in place a range of measures to ensure that the impact on patients has been minimal. Importantly only 41 elective surgeries have been rescheduled, all at the University Hospital in Geelong, none at any other regional hospital. A number of systems have already been able to come back online. As you would expect, appropriate care has been taken to ensure that systems are properly cleaned before they come back online and to ensure minimal impact on services going forward.

COMMERCIAL PASSENGER VEHICLE INDUSTRY

Mr BARTON (Eastern Metropolitan) (12:13): My question today is for Minister Pulford, representing the Minister for Public Transport. I ask the minister to confirm that those people who sit on the current Commercial Passenger Vehicles Victoria public register are actually working in the industry and have had proper police and medical checks. The regulator has failed in its renewal systems and is only now these past few weeks starting to send out invoices for renewals, two years after the reforms. In the meantime, drivers have continued to drive and have stayed on the register, so there is potential for many of them to have lapsed in their medical and police check requirements. I

believe, given the regulator's mismanagement of its financial and accreditation obligations, that we now have a very misleading public register of drivers. I should know because I am still on it. I ask the minister: can the regulator assure the public that those who are on the public register should be?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:14): I thank Mr Barton for his question and his great interest in this issue and this area of regulation. I will seek a response from Minister Horne for Mr Barton.

Mr BARTON (Eastern Metropolitan) (12:14): Thank you, Minister. Since the regulator has failed in its obligations to maintain the public register, it begs the question whether booking service providers are being audited to meet the licence conditions which require them to run regular police checks on drivers to ensure that there are no changes to their police status to operate as a commercial passenger vehicle driver and that there is no risk to the public. I ask the minister: has the regulator been conducting regular auditing of the booking service providers to ensure all 100 000-plus drivers are complying with their Victorian police check requirements?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:15): I thank Mr Barton for his supplementary question. I will also seek a response from Minister Horne.

MINISTERS STATEMENTS: PREGNANCY AND INFANT LOSS REMEMBRANCE DAY

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:15): I rise to inform the house that today, 15 October, is internationally recognised as Pregnancy and Infant Loss Remembrance Day. Tonight we will be hosting Victoria's first statewide remembrance service, bringing together bereaved families from across the state to honour and acknowledge the babies whose lives have been lost to miscarriage, stillbirth or newborn death. The death of a baby or child is an incredibly difficult topic for many people, which means it is often a silent and unspoken grief for many parents. But we know that recognition of the loss of a baby or child is a crucial step in acknowledging bereavement and can start the conversations needed to reduce stigma and help people get the support they may need.

Sadly pregnancy and infant loss affects hundreds of thousands of people around the world. In Australia an estimated one in four pregnancies ends in miscarriage each year, with more than 3000 babies dying each year from stillbirth, newborn death, sudden infant death syndrome and other causes. Such a loss can deeply impact many in the community: parents, siblings, grandparents, other extended family and close friends. Organisations like the Spiritual Health Association, Sands and Red Nose do incredible work to offer bereaved families the care and support that they need in their toughest moments, but we are always looking to do more. We have increased the number of cuddle cots available around the state to give more families that precious time to spend with their baby, and earlier this year for the very first time we set a target to reduce stillbirths in Victoria by 20 per cent by 2022.

I have every confidence that through this work we will be making a real difference for pregnant women, their babies and their families. I invite families and I invite members tonight to join with all of us in lighting a candle at 7.00 pm in remembrance.

CITYLINK TOLLS

Mr FINN (Western Metropolitan) (12:17): My question without notice is directed to the Minister for Roads. Minister, toll charges on existing CityLink roads have increased by 4.25 per cent this financial year, and it is only October. The implementation of this is your responsibility under the Melbourne City Link Act 1995, which has seen toll increases on the Tullamarine Freeway, Bolte Bridge, Monash Freeway and Burnley and Domain tunnels. Minister, isn't it a fact that families and small businesses are being slugged now with these toll increases for a road, the West Gate Tunnel, that is not yet built?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:17): I thank Mr Finn for his question and his interest in the tolling arrangements that exist on a number of roads across our network. On the specific matter of the financing arrangements for the West Gate Tunnel Project, I will seek some advice and some supporting answers to my general comments from Minister Allan, who is the minister responsible for the delivery of that project. But what I would indicate to Mr Finn is that for a number of decades now in Victoria we have had arrangements in place where users do contribute to the building of significant transport infrastructure projects. Indeed the Kennett government was the government that first introduced this type of user-pays arrangement in the 1990s, and we do have a number of other roads that have been financed using a similar model. So I thank Mr Finn for his question on the very specific detail that he sought about the arrangements for the West Gate Tunnel. I will seek a written response from Minister Allan.

Mr FINN (Western Metropolitan) (12:19): It is worth pointing out to the minister of course that this is the first time that tolls have been applied to roads to build another one. This is a first for the Andrews government, but I commend her on her handballing skills, certainly better than that of Greater Western Sydney a few weeks ago at the G. Minister, given that the toll hike is impacting on families and small businesses now, what modelling, if any, does the government have on the impact of these toll surges on the cost of living for families?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:19): Certainly when the West Gate Tunnel opens there will be an additional route for people coming from the western suburbs of Melbourne, coming from Geelong and coming from Ballarat and many other places. This will be a matter of choice for individual road users around—

Mr Finn interjected.

Ms PULFORD: Would you like to hear the answer?

Mr Finn interjected.

The PRESIDENT: Order! The minister is answering the question.

Ms PULFORD: Well, on each of our toll roads across the network there are alternative routes for people who choose to not pay the tolls, and that has been an arrangement in place for, as I said, decades. I will seek a written response from the responsible minister for this project for Mr Finn.

ELECTRICITY SUPPLY

Mr LIMBRICK (South Eastern Metropolitan) (12:20): My question is for the Minister representing the Minister for Energy, Environment and Climate Change. Given the large growth in intermittent renewables being added to the electricity network in Victoria, there is also required to be backup for the times when these renewables are not producing. Although our coal power stations still provide the bulk of our electricity supply, they cannot easily ramp up and down their output to cope with these network additions, so capacity needs to be added in the form of batteries, pumped hydro or, more typically, gas peaking plants. What actions is the government taking to ensure that Victoria's electricity network will be able to cope with these fluctuations in the approaching summer?

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (12:21): I thank Mr Limbrick for his question. I appreciate his concern to make sure the Victorian government has taken action to ensure that there are appropriate energy supplies over summer and that all contingencies are accounted for in terms of what will be required to keep Victorian households and industry ticking over in those circumstances where summer leads to increases in energy demand during very, very hot days and a sequence of hot days which leads to those demand pressures, because for the vast majority of days in

the Victorian calendar there is absolutely clear air between the amount of supply and the demand for energy supplies.

Victoria works with the Australian Energy Market Operator, which is the manager of the national electricity industry sector in terms of the distribution network and the regulator of supply. Indeed the government meets with them regularly through the minister and other parts of government to ensure that we do account for those demand pressures. The mix that Mr Limbrick has described in his question is exactly the range of investments that have been made and will continue to be made to actually make sure that we have reliable security of supply. Just in the last few days I participated in conversation with my colleagues across government about the focus on this summer. In terms of the individual investments, I will rely on my colleague to provide you with the answer, but you already know—in the preamble to your question—the range of investments that have been required and are already undertaken in Victoria. My colleague will fill in the details of that, and probably, without anticipating, I imagine that this might be a feature of a discussion we will have later in the week in relation to the renewable energy bill that will be before the Parliament on Thursday.

Mr LIMBRICK (South Eastern Metropolitan) (12:23): I thank the minister for his answer. I would not want to breach the anticipation rule, so I would not ask a question about that. I have done that once already. Another issue with the large-scale rollout of renewables is that the large amount of materials required for their construction, combined with the short life spans, results in very large amounts of waste. It would be expected that in a few years we will be facing a very large and continuous waste stream from decommissioned renewables infrastructure. Griffith University estimated that solar panel waste could reach 1.5 million tonnes by 2050, and we are already seeing other countries having difficulty in disposing of non-recyclable wind turbine components such as blades, which are made from fossil fuels. I am not aware of any solar panel recycling facilities in Victoria, and I understand that panels are simply being stockpiled in e-waste storage facilities. What actions is the government taking to ensure that this waste stream will be able to be managed in the future?

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (12:24): I thank Mr Limbrick for his question. Whilst he has not breached the anticipation rule—because he is 48 hours in advance—he has provided for me in terms of my being able to get an answer in 48 hours, so I appreciate that, because that is probably the time frame in which he will ask me a series of questions along those lines. Probably you would like some degree of satisfaction beyond what I will be able to provide you today, so I will talk to my colleague. I will gear up and be prepared. I thank you for your question.

MINISTERS STATEMENTS: INTERNATIONAL DAY OF RURAL WOMEN

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:25): Happy International Day of Rural Women. I had the pleasure this morning to have a country cuppa with some of our most inspiring and trailblazing women from across regional Victoria, including many who are the backbone of our agricultural sector. Six-hundred women are gathering at over 30 events across the state, taking time out to make connections, share ideas and strengthen an already impressive network of country women. Until 1994 no Australian woman could list their legal status as ‘farmer’, but those who come from the land know they have always been much more than farmers’ wives.

We discussed how we can best support rural women to lead and succeed, given that they remain under-represented in leadership roles. But of course this is changing, and it is thanks to many of the women that I met today. More and more women are being elected to local councils. Regional MPs are now more likely than not to be women; 55 per cent of regional MPs are women, compared to just 41 per cent overall.

I am also proud to be part of a government committed to gender equality and taking real action towards empowering regional women. We have invested in programs and organisations in country Victoria to

create better and more respectful futures for women and girls. It is why we have the Rural Women's Network, with women from country Victoria building their leadership skills and having a seat at the table with government so we can deliver better outcomes for them and generations of women to come.

That is why, thanks to our awesome Minister for Women, we are delivering Australia's first gender equality bill, which will make organisations plan and report on gender equality in the workplace and consider how their services affect women. It is a way to support rural women to take on leadership roles and programs and to be sure services better meet the needs of rural communities. So today, on international rural women's day, we want to acknowledge Victoria's regional and rural women for the mighty contribution that they make every day to Victorian life. We know that you never ever ask for recognition, but today and every day we say thank you.

I COOK FOODS

Ms CROZIER (Southern Metropolitan) (12:27): My question is to the Minister for Health. Minister, on Thursday, 3 October, 96 charges against I Cook Foods were dropped. As you are aware, in February the business was shut down by health officials who claimed it was linked to a listeria-related death. In May of this year Victoria's chief health officer, Dr Brett Sutton, said that the investigation identified, and I quote:

... some failures of process and some failures of the state of the kitchen.

As all 96 charges have now been dismissed, has an internal investigation by the Department of Health and Human Services been undertaken, given this monumental failure of your department's processes, which shut down a legitimate business, costing them \$26 million and the loss of 41 jobs? A yes or no will suffice.

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:28): Well, in fact, if the member was aware of the statement that my department issued after that action was taken by Dandenong council, the department made very clear that it stands by the action that it took in protecting vulnerable Victorians. Let us not forget that the investigation followed the death of an 86-year-old woman from listeriosis and there was in fact evidence that the source of the listeria was linked to this food manufacturer. I am advised that the testing of the food samples produced by the premises at I Cook Foods was positive for not one but four strains of listeria. I am advised that the deceased patient's sample contained a strain of listeria monocytogenes highly genetically related to that found on the premises of I Cook Foods.

The chief health officer acted quickly by issuing a closure order under the Food Act 1984, which was served on the food manufacturer in the early hours of 22 February. The aim of this order was to stop any further production of food and to prevent potentially contaminated food products from being distributed to vulnerable Victorians in hospitals, in aged-care facilities and via Meals on Wheels services. My department has worked very closely with I Cook to ensure proper safety measures were in place before the order was lifted, and there have been no further human cases of listeriosis linked to this investigation.

So the department makes no apology for taking the action that it took to keep patients and vulnerable Victorians safe from the threat of deadly infectious diseases, as you would expect. That is the role of the department—to ensure that vulnerable Victorians can be protected under the powers of the Food Act and that the chief health officer can act accordingly. Vulnerable Victorians who are served food in our hospitals and in our aged-care facilities need to be protected.

So the council is able to make its decision as to whether it wants to proceed with a prosecution, quite independently, as you would expect, of the department. That is a decision for them. But there has been some, as I understand it, discussion by the food manufacturer about taking this matter further. That is a matter for them. But the clear advice that I have got is that there were in fact clear links from the deceased patient's sample to the food premises.

Ms CROZIER (Southern Metropolitan) (12:30): Well, from that answer, which she did not answer, I take it that there is no internal review.

Ms Mikakos interjected.

Ms CROZIER: No, you did not say. The question I asked was—

Ms Mikakos interjected.

Ms CROZIER: President, if I could ask my supplementary without the minister interrupting me—

Ms Mikakos interjected.

The PRESIDENT: Order!

Ms CROZIER: Thank you, President. Again, as I said, the minister failed to answer whether an internal review is taking place. So I ask the minister: given there are claims that health officials planted evidence which led to the closure of the business, why hasn't the department and your government taken on the responsibility of fixing this injustice and ordering an immediate review?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:31): I make it very clear that there has been absolutely no suggestion that anyone from my department has planted evidence. I categorically reject the implication that you have made in that supplementary question, because that is the inference you have just made in your supplementary question.

Ms Crozier: On a point of order, President, the minister is verballing me. I did not say 'from her department'; I said 'health officials'. Could she please correct the record. And I would ask again could she come back to answering the question.

The PRESIDENT: There is no point of order.

Ms MIKAKOS: What we have got here is the member quite deliberately seeking to cast aspersions. I absolutely reject that there is any link or any suggestion whatsoever that anyone from my department was involved in planting evidence or fabricating evidence. In fact, as I have already explained in response to the substantive question, the advice that I have is that the department's evidence was gathered independently of that of the council. It is up to the council what they have decided to do in terms of the prosecution. If people want to complain about the council's conduct, then they are entitled to put those complaints— *(Time expired)*

WESTERN METROPOLITAN REGION MENTAL HEALTH SERVICES

Dr CUMMING (Western Metropolitan) (12:33): My question is for the Minister for Mental Health in the other place. What action is the minister taking to meet the mental health crisis within my community of Western Metropolitan Region? Mental health outcomes in Victoria are incredibly disheartening. According to the department of health, the incidence of 'high' and 'very high' psychological distress attributed to people across most of the west is the highest in the state. The areas of Hume and Brimbank recorded the highest in the state overall. While I look forward to the potential positive changes following the mental health royal commission, how is the minister addressing the immediate crisis within Western Metropolitan Region?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:34): I thank the member for her advocacy on behalf of constituents in her electorate, specifically going to the issue of their mental health needs. What we know is the case and what we have heard from the mental health royal commission is, sadly, the preponderance of mental health issues in our society. This is exactly why the Premier announced that we would establish this royal commission—to get to the heart of what is causing these issues and how we can better respond to them. It is not just from an acute health response in terms of the health services that I have responsibility for and the acute

mental health services that Minister Foley as the portfolio minister has responsibility for, but also looking to early intervention and prevention strategies so we can address these issues over time.

I have no doubt that there would be many of us in this chamber who know families who have lost loved ones to suicide. It is an absolute tragedy, particularly where we see young people taking their lives, as well as many others in our community. This is why I—and I am sure the member does too—have a great deal of compassion for people experiencing mental health issues in whatever way it might manifest, and for some people it manifests through drug and alcohol addiction. It is appropriate that we extend a hand of friendship and support to those individuals in their time of crisis and encourage them to seek the support they need. It troubles me greatly that there are some in this house in fact who seek to bring shame upon people who have experienced mental health issues or seek to shame individuals who have experienced drug addiction. We should always extend a hand of support and friendship to colleagues, regardless of their political persuasion, who might similarly experience these issues.

I will be seeking some further advice from the relevant minister, Minister Foley, in response to the member's question, because whilst I can provide her with information around funding more broadly, I am sure she is very interested in the mental health support specifically for her own electorate. I will seek to provide a written response to the member directly on that issue.

Dr CUMMING (Western Metropolitan) (12:36): I thank the minister for her response and look forward to a comprehensive one from the Minister for Mental Health. As mentioned, Brimbank and Hume are regions with the highest levels of recorded psychological distress. However, as far back as 2008 the department of health noted people from Brimbank also recorded the lowest uptake of professional help. I ask the minister: what work has been done to understand why this occurs and what response has been developed to ensure that the needs of these vulnerable members of my community are met?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:37): I thank the member for her supplementary question. I will add that to the substantive question in seeking to provide the member with specific detail around the needs of her own local community, but I can provide the member with the advice that in this year's budget there has been a \$173 million boost to mental health and alcohol and other drug initiatives. I will seek to provide advice to the member through Minister Foley as the responsible minister about specific initiatives and support that benefit her constituents.

MINISTERS STATEMENTS: ROAD MAINTENANCE

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:38): I recently joined the Premier and the member for Essendon, Danny Pearson, at Woodland Street in Strathmore to announce the commencement of road maintenance season. It is going to be a bumper season off the back of some very fine road maintenance weather and a massive \$870 million government investment into smoother and safer roads.

Mr Davis: Don't you do it all year?

Ms PULFORD: It is actually quite seasonal work.

Mr Davis: Is it?

Ms PULFORD: It is, yes. It is much more effective when the weather is right.

Mr Davis interjected.

Ms PULFORD: There is some element of that that is year-round, but overwhelmingly the maintenance program is rolled out between October and May.

Mr Davis interjected.

Ms PULFORD: Thank you for the Dorothy Dixier. I thought we had got rid of those, Mr Davis. We are upgrading more than 1800 kilometres of road and repairing 150 000 potholes and will trim more than 30 000 kilometres of roadside vegetation right across Victoria. Most of this work is occurring in regional Victoria. Fifteen hundred kilometres of regional roads will be repaired, rebuilt and resurfaced, including key roads such as the Princes Highway in Gippsland, the Hume Highway near Winton and the Robinvale-Sea Lake Road at Manangatang.

The blitz is also creating jobs—lots of them. On any given night during this blitz about 100 workers will be fixing roads across Melbourne, while there will be 1100 construction jobs created in the regions as part of this work. Most importantly, these are good, well-paying jobs. At the blitz announcement I met a couple of Mernda gentlemen, the Silman brothers, whose crew were carrying out the roadworks. Their business is going gangbusters. They have more than doubled the size of their crew in the last nine months, thanks in large part to the work they are carrying out in partnership with our government. From fixing potholes, to the biggest projects the state has ever seen, we are building a better transport network for all Victorians.

TRANSPORT ACCIDENT COMMISSION

Mr RICH-PHILLIPS (South Eastern Metropolitan) (12:40): My question is to the Minister for Road Safety and the TAC. This week, the middle of October, the road toll in Victoria has exceeded the toll for the whole of 2018, and Victoria Police have now forecast that that will increase by a further 50 fatalities by the end of the year. In May of this year you agreed to the taking of \$2.9 billion in dividends from the Transport Accident Commission (TAC) over the next four years. What impact does that have on the capacity to roll out new road safety initiatives?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:40): I thank Mr Rich-Phillips for his question and indeed his comments about that horrific milestone that we passed in the last few days, where now a greater number of people have lost their lives on Victoria's roads in 2019 than did in 2018—in the entire year—and we have had a number of further deaths on Sunday that have again added to that horrible number. We do talk about these things and they are reported often as numbers, but each and every one of these represents a family that is shattered and a set of Christmas preparations—at this time of year people are thinking about these things—where everyone involved, be it in a workplace, in a social group or in a family, is going about their business with great grief and incredible sorrow. It is also important to make the observation that there are an even greater number of people whose lives are changed dramatically by injuries on our roads as well, and so too are those people's lives changed forever by road trauma. So we all need to do better.

The community, the government, the police and we all need to redouble our efforts to make our roads safer and to make them more forgiving when people make simple mistakes—you know, we are all human; people make simple mistakes—to have in place the right regime around rules and penalties, to have the right campaigns, to talk to the right people around the community about behaviours and to have appropriate speeds that are safe for people.

Our government has been making a \$1.4 billion investment, the *Towards Zero* action plan. It includes some very significant infrastructure projects. The first 20 of the safety barrier projects have now largely been completed. Seventeen of them are absolutely completed, with the construction crews packed up and moved on, there are three where there are some works that are continuing and the next 16 of those projects will be commencing soon. So the infrastructure upgrades are important, the advertising campaigns are important and the investment that is made is a very, very important part of what we do. And then we have other things that do not have the same sort of price tag as some of these initiatives—like the hundreds of intersections that are being upgraded—where there are rules and campaigns—*(Time expired)*

Mr RICH-PHILLIPS (South Eastern Metropolitan) (12:43): I thank the minister for her response. She spoke about road fatalities, she spoke about catastrophic injury and she also spoke about drivers making simple mistakes. She did not get to the nub of the question, which was the impact of removing \$2.9 billion in capacity from the Transport Accident Commission. I would like to put that in a specific context. While the minister spoke about simple mistakes on the road, Victoria Police have highlighted the prevalence of illicit drugs in drivers who are involved in fatalities, which of course do not fall in the category of 'simple mistakes'. Given that is such a problem on the roads now and given the removal of \$2.9 billion in dividends from the TAC, why has the government not increased the level of roadside drug testing, given Victoria Police have identified it as such an issue?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:44): My apologies, I misread the clock. My answer to Mr Rich-Phillips's first question is that there will be no consequence as a result of the dividend being taken. The investments will be maintained at the current level. No-one's premium will be increased as a response to this, and governments of all persuasions have in 28 of 30 years, I believe, taken a dividend from the TAC, so there is nothing particularly unusual about that.

On the question of drug testing, we certainly provide Victoria Police with the resources to drug test. As Assistant Commissioner Leane has said in the media on many occasions, but as recently as today, this is an area of great importance to the police and a high focus for them. It is an area where there are not simple mistakes made but where people are taking unacceptable risks with their own wellbeing and that of others in the community, and we will continue to provide police with the powers and the resources they need to crack down on drug driving.

CLIMATE CHANGE

Dr RATNAM (Northern Metropolitan) (12:46): My question is to the Minister for Resources. Minister, currently the government is supporting numerous fossil fuel resource projects across Victoria, including but not limited to extending coal licences for dirty coal-fired power stations, the Western Port gas import hub, a coal-to-hydrogen project and exploring for onshore gas. My question, Minister, is: will you acknowledge that these coal and gas projects will continue to contribute to climate change, leading to rising temperatures and extreme weather events and contributing to mass extinctions?

Members interjecting.

The PRESIDENT: Order! I note that it is asking the minister for an opinion, but I will let the minister respond.

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:47): Thank you, President, and I thank Dr Ratnam for her question and commentary. As the Minister for Resources, yes, it is my responsibility to approve exploration and mining licences in relation to our resources. There have been some gas releases offshore. But I think the nub of your question is probably better answered by the Minister for Energy, Environment and Climate Change, because this government's investment and commitment to tackling climate change are unprecedented, and we do not shy away from that commitment. In relation to making sure that the industry and homes can continue to be powered, we have to ensure that we have got energy resources being provided to ensure that communities can continue to function. So whilst we are exploring for gas, we are investing in our renewables sector and we hope to reduce our reliance on those other forms of energy production.

Dr RATNAM (Northern Metropolitan) (12:48): Thank you, Minister, for your response. To the point that you believe it is better answered by the minister for climate change, I am encouraging and urging you as a minister in the government that surely there is a lens on climate change and the environment that is put on every decision you make, particularly when we are talking about resources and fossil fuel resources. Last week the IMF reported that climate change poses a threat of extinction,

including for humanity. The world's scientists made it clear last year and again at the recent climate conference that to have any chance of limiting global warming to the Paris agreement goal of 1.5 degrees, the world would need to cut coal use by about two-thirds by 2030. Minister, will you acknowledge these projects are incompatible with a safe future for Victorians, and how do you justify propping up a dying industry with the decisions you are making every day?

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:49): That was more of a preaching speech without substance than it was a supplementary question. I think I adequately addressed the points that you were trying to make in the chamber today through my substantive answer. I am more than happy to provide you with a detailed run-down of all the projects in the renewables space, and I can assure you that as the Minister for Agriculture, Minister for Regional Development and Minister for Resources I have an eye to climate change and ensure that we are working to the targets that we have said that we are going to meet.

MINISTERS STATEMENTS: MONASH SMALL BUSINESS

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (12:49): I am pleased to update the house on a recent visit I made to the City of Monash with my good friend Mr Matt Fregon, a former small business owner himself and now the member for Mount Waverley, to celebrate the achievements of graduates of the City of Monash's masterclass event series. The masterclass series takes small business owners and provides instruction in how to best manage and grow a successful small business. The lessons provided have been tailored to address the demands of local small businesses and have covered some vitally important topics, including how to best plan for growth and how to navigate the growing digital economy.

This initiative has proudly been supported by the Victorian government. Graduates of this class will now be able to take their learnings back to their businesses, which will help them go from strength to strength, providing greater employment opportunities for people living in their communities. This government is committed to small business, whether they be located in Monash or Melton, Brunswick or Ballarat. It is this commitment which has seen the small business sector in Victoria grow from strength to strength, with Victoria recording the highest growth in the small business sector in all of Australia, at 4.8 per cent. That translates to 27 000 more small businesses created in the state of Victoria last year.

WRITTEN RESPONSES

The PRESIDENT (12:51): In regard to today's answers to questions, can I thank the Leader of the Government, who is going to get written responses from the Minister for Energy, Environment and Climate Change for both of Mr Limbrick's questions today. Also Minister Mikakos is going to get written responses for both of Dr Cumming's questions from the Minister for Mental Health, and also Minister Pulford will get answers to questions from Mr Barton—both his questions—from the Minister for Public Transport. Regarding the question from Mr Finn, I thank Minister Pulford for offering to get some more advice from the Minister for Transport Infrastructure, but I would ask her to supply Mr Finn with a written response herself according to the standing orders.

Ms Pulford: On a point of order, President, both those questions need a response from Minister Allan.

The PRESIDENT: Yes, I respect that, Minister. I just think that there was a component of Mr Finn's question that did ask around your responsibility. It may be a short response.

Questions on notice

ANSWERS

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (12:52): There are 87 written responses to questions on notice: 326, 392, 396, 427–8, 506, 581, 606–9, 623–4, 633, 636–7, 662–6, 674–87, 691–2, 696, 698, 701, 705–6, 708–9, 715–17, 721, 728, 744–6, 749, 753–6, 760–74, 776–84, 814–15, 817–20.

Constituency questions

SOUTHERN METROPOLITAN REGION

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:53): My constituency question is for the Minister for Roads, and it relates to a pedestrian crossing at the intersection of Warrigal and Highbury roads. This crossing does not make the proper sounds as is required. Roger Harder from Warrigal Road, Burwood, has contacted my office. I note that the absence of local MPs in the lower house has meant many people have been contacting my office with these sorts of genuine constituency issues that they wish to deal with. So my question is: will the Minister for Roads, through VicRoads or other mechanisms, ensure that the proper crossing arrangements are put in place and that proper sounds when the green light is go are actually in operation on the corner of Warrigal and Highbury roads?

EASTERN METROPOLITAN REGION

Mr BARTON (Eastern Metropolitan) (12:54): My constituency question is addressed to the Minister for Public Transport, Melissa Horne. Orbital SmartBus services in Melbourne have been hugely successful, moving approximately 13 million passengers every year. The ability for passengers to have live and updated information about the next bus service is what makes SmartBuses so appealing. For many residents in the suburbs, education, health facilities and other services are currently unreachable by public transport. The City of Manningham in particular lacks the essential connections to these facilities. University students suffer a lengthy and multi-bus trip to reach Monash, Deakin or La Trobe. A SmartBus along the proposed Suburban Rail Loop would not only connect Melbournians sooner but also provide a perfect opportunity to show the potential benefits and demand for the loop services. Following the advice of a famous musician, if you like it you should put a bus on it, the question is: will the minister put a SmartBus service on the proposed Suburban Rail Loop, and if not, how will the increasing orbital demand of suburban Melbournians be met?

EASTERN VICTORIA REGION

Mr O'DONOHUE (Eastern Victoria) (12:55): Mornington Peninsula is a beautiful part of regional Victoria, supporting hundreds of amazing and diverse small businesses. Unfortunately, the Mornington Peninsula is designated as part of metropolitan Melbourne even though many parts of the Mornington Peninsula are 70, 80 or more kilometres from the Melbourne GPO. As a result of this designation as part of metropolitan Melbourne, Mornington Peninsula businesses pay the same payroll tax rate as metropolitan businesses while businesses across the bay in Geelong, the Bellarine, Ballarat and many places closer to Melbourne—parts of Murrindindi and other municipalities—pay the discounted, or lower rate, of payroll tax. So my question for the Treasurer is: will he review this inequity that sees Mornington Peninsula businesses discriminated against and forced to pay higher payroll tax, which just drives business away from this part of regional Victoria?

NORTHERN METROPOLITAN REGION

Ms PATTEN (Northern Metropolitan) (12:56): My constituency question today is for the Minister for Police and Emergency Services. Recently I met with Peta Ferguson from North Melbourne. She has an acquired brain injury and is absolutely brilliant as an advocate through her work with Brain

Injury Matters, which is a self-advocacy resource unit. Brain Injury Matters aims to empower people living with an acquired brain injury by providing peer support to alleviate the isolation and marginalisation experienced by people with an ABI. Peta and her colleagues are of the view that there should be more training for police, prison officers and PSOs on ABI awareness—and I agree, given the prison stats on ABI. My question is: what training programs does the government currently have in place that cover ABI awareness for police, prison officers and PSOs?

The PRESIDENT: In regard to your electorate?

Ms PATTEN: Yes, this is a Northern Metropolitan organisation.

The PRESIDENT: Thank you.

WESTERN VICTORIA REGION

Mrs McARTHUR (Western Victoria) (12:57): My constituency question is for the Minister for Transport Infrastructure, and it concerns the export of rail jobs to China and the potential closure of the Ballarat railyards operated by Alstom. Alstom currently employs 70 workers in Ballarat but is expecting to launch an exit plan within the next few months if the state government does not extend its contract beyond next April. Alstom pays workers between train construction jobs to carry out works that benefit the community. Alstom is highly regarded by its workforce. Alstom's closure would be extremely detrimental to the local Ballarat economy. My question to the minister is: does the government intend to extend its contract with Alstom for the construction of Victorian trains, and can the minister assure workers that she and the Premier will come to Ballarat to meet with the company and its workers?

WESTERN VICTORIA REGION

Mr MEDDICK (Western Victoria) (12:58): My constituency question is for the Minister for Energy, Environment and Climate Change and comes from Jason, a wildlife rescuer from Torquay. In a move condemned by environmental, animal protection and wildlife groups, the government recently released their *Victorian Kangaroo Harvest Management Plan* and put it into immediate effect. Much of this shooting will occur in my electorate of western Victoria. This plan is a continuation of a trial for which the government's own report found serious malpractice, including shooters suspected of providing money to landholders. It also found 1 million kangaroos had died since the trial began and that shooters were motivated by profit to kill more animals. Kangaroos that Jason has rescued after being struck by traffic or orphaned by shooters are rehabilitated by a network of carers. How will the minister ensure that animals like this are not killed?

NORTHERN METROPOLITAN REGION

Mr ONDARCHIE (Northern Metropolitan) (12:59): My question today is for the Minister for Public Transport, and it concerns the tram 86 route in Northern Metropolitan Region. As the minister is aware, there has been significant record growth in the north, but the tram 86 route still ends at RMIT University in Bundoora. I have spoken about the tramline in the past and recently called on the Minister for Police and Emergency Services and the government to take actions to employ the promised protective services officers to protect passenger safety on the tram 86 route. Residents have also contacted my office and asked when the tramline will be extended further north along Plenty Road into South Morang. I understand that the government has completed a feasibility study into this planned tram extension. My question, therefore, to the minister is: will you release to me the feasibility study into extending the 86 tramline to South Morang so I can inform my constituents, who are very keen to see this tramline extended?

NORTHERN VICTORIA REGION

Ms LOVELL (Northern Victoria) (13:00): My constituency question is for the Minister for Transport Infrastructure, and it concerns the leaked business case for the Shepparton rail corridor upgrade. The leaked cabinet-in-confidence document shows that there is a massive \$282.5 million unbudgeted black hole in the upgrade project, proving that the minister and the member for Shepparton have been misleading the Shepparton electorate with their statements that budget allocations in the 2018–19 budget will deliver nine daily return services between Shepparton and Melbourne by 2021. The business case clearly states on page 9 that there is a further \$282.5 million required before the promised nine services a day can be delivered. With a \$282.5 million black hole in the funding of the Shepparton rail corridor upgrade now exposed, will the minister ensure this funding is provided in the December budget update in order to deliver the nine daily return services to Melbourne that she has promised to the Shepparton community?

WESTERN METROPOLITAN REGION

Mr FINN (Western Metropolitan) (13:01): My constituency question is to the Minister for Roads. Travelling down the Tullamarine Freeway as often as I do, I cannot help but notice the proliferation of graffiti on walls and other infrastructure along that freeway. As the Tullamarine Freeway is very much the gateway to Victoria for many thousands of overseas and interstate visitors every year, this graffiti is an ugly welcome to Melbourne. It should be remembered that we only get one chance to make a good first impression. I am sure locals do not appreciate the eyesores either. Minister, what are you doing to ensure graffiti on the Tullamarine Freeway is removed in a speedy time frame?

SOUTHERN METROPOLITAN REGION

Ms CROZIER (Southern Metropolitan) (13:01): My constituency question is to the Minister for Child Protection, Minister Donnellan, and it is in relation to an issue that was raised by a constituent of mine who met with me last week around the ongoing operation of Open Place. The Royal Commission into Institutional Responses to Child Sexual Abuse and indeed the inquiry into child abuse that I had the privilege to chair heard from many victims who were in orphanages and their many accounts about the criminal abuse that occurred. Open Place has been set up for some time to provide support and advocacy on behalf of them. Over 4000 forgotten Australians are on its books. It provides a network of counsellors and counselling across Victoria and other avenues to support these people. So the question I ask, and the question that is raised with me, is: can the minister confirm that Berry Street, which has been supporting Open Place, will no longer be providing that service beyond June 2020 and that the Department of Health and Human Services will seek a new provider to provide the one-stop shop that Berry Street currently does?

EASTERN METROPOLITAN REGION

Mr ATKINSON (Eastern Metropolitan) (13:03): My constituency question is to the Treasurer. I note that the government intends to undertake significant land sales to prop up its budget. I am aware that in Morack Road, Vermont, there is surplus land that has been in the ownership or under the control, effectively, of VicRoads and related road agencies over a period of many years. I am aware that there has been a subdivision suggested for that particular land—a residential subdivision—and I am concerned that the Vermont high school which abuts that land needs further open space, further land, to support its educational activities. So I am seeking an assurance from the minister that in fact any sale of land that might be proposed for that site would allow for additional land to be given to the Vermont high school.

SOUTH EASTERN METROPOLITAN REGION

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:04): My constituency question is for the Minister for Roads regarding the Young Street improvement project in Frankston. VicRoads has commenced remediation works on its previously botched project. As traders and residents in

Frankston know, over the last three years the government has been so-called upgrading Young Street in Frankston, which resulted in bus lanes being constructed which are too narrow, bus parking bays being constructed which are too small and access for emergency services vehicles being blocked. This has now required remediation works, which is putting commuters and traders in Young Street through yet more disruption and pain, like what they experienced through the original project, which led to businesses being shut down and jobs being lost. So my question to the minister is: will she ensure that compensation is made available to those businesses which are once again being affected as a consequence of this botched project?

NORTHERN VICTORIA REGION

Ms MAXWELL (Northern Victoria) (13:05): My constituency question is to the Minister for Corrections. It follows events at the Dhurringile Prison in late August, when authorities were apparently unaware that a prisoner had escaped until a member of the local community phoned them—a local community, I might add, that is increasingly frustrated at what they see as a contrast between inadequate security inside the prison and the over-vigilance of guards outside the facility in monitoring the movements of private citizens on nearby roads. In that context, I ask the minister if and when the government will seek to implement less intrusive and aggressive means of monitoring movements of private citizens around the jail, including potentially by issuing the guards with the numberplate details of local residents so that they are not continually hassled and treated with suspicion when driving in and out of the area.

Rulings by the Chair

ADJOURNMENT MATTERS

The PRESIDENT (13:06): Before we go to the second readings, I want to acquit some outstanding issues. I will go with the adjournment debate first, from the last sitting. I want to make a ruling in relation to an adjournment debate matter raised by Mr Finn on Wednesday, 11 September. The matter sought action from the Minister for Health relating to funding of the HealthWest primary care partnership in Footscray. This was one of four separate adjournment matters raised on the same day, all related to primary care partnership funding or possible cuts to funding. In response, the minister advised the house she would acquit all four matters with one response. The minister did so by advising the house there were no cuts to funding. Standing order 4.13(2) states that:

A minister may only dispose of the matter by giving a response at the time if they are the minister to whom the matter was directed.

The minister has met this requirement on this occasion. There are numerous rulings by past presidents that a minister may respond to an adjournment in a manner they deem appropriate and that the President is not in a position to advise the minister on how to respond to an adjournment matter. The minister advised the house she would dispense with all four matters, including Mr Finn's. As such, I am not in a position to direct the minister to respond differently.

QUESTIONS ON NOTICE

The PRESIDENT (13:07): In regard to requests for reinstatement of some questions on notice, I have received two written requests from Ms Wooldridge seeking reinstatement of questions on notice. Having reviewed the responses, I order that questions on notice 124, 231, 579 and 584 be reinstated in full; that question on notice 424, part (2), be reinstated; that question on notice 426, parts (a), (c) and (d) be reinstated; and that question on notice 704, parts (3) and (4), be reinstated. In relation to question on notice 429, parts (1) and (2); 703; and 704, parts (1) and (2), I am of the opinion that the minister answered these questions in full.

PARLIAMENT HOUSE SECURITY

The PRESIDENT (13:08): There is just one more outstanding matter. Members will no doubt be aware there was an incident on Spring Street outside Parliament House on 12 September. Victoria Police and Parliament security managed the incident without harm to any persons or property. I believe that they potentially saved the life of the person in question, so I want to commend our security and VicPol on that. During the incident an email was sent out to certain employees of the Parliament, and other employees of the Parliament, including MPs, did not receive that same email. I do not think it is good practice for me to speak publicly about security processes in this house, but in saying that, the issue has been taken up and there have been discussions at a high level around how we approach a similar event in the future.

Bills**DANGEROUS GOODS AMENDMENT (PENALTY REFORM) BILL 2019***Introduction and first reading*

The PRESIDENT (13:09): I have a message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Dangerous Goods Act 1985** to increase the penalties of various offences in that Act so that the penalties better reflect the serious nature of those offences and to create a new offence for reckless conduct in respect of dangerous goods that endangers persons and for other purposes'.

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:10): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms MIKAKOS: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:10): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**), I make this Statement of Compatibility with respect to the Dangerous Goods Amendment (Penalty Reform) Bill 2019 (**Bill**).

In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends the *Dangerous Goods Act 1985* (**Act**) to:

- Increase the penalties of various offences in the Act so that the penalties better reflect the serious nature of those offences; and
- Create a new offence for conduct in respect of dangerous goods that endangers persons.

While the increased penalties do not, in and of themselves, engage human rights, some of the existing offence provisions to which they attach do. Given that those offence provisions have not been previously discussed in a Statement of Compatibility, I will consider their compatibility with relevant human rights, as well as that

of the new offence provision, now. Having regard to the nature of the offence provisions, I consider that the only relevant human right is the right to the presumption of innocence.

Human rights issues

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The right in section 25(1) is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding such that the accused is required to prove matters to establish, or raise evidence to suggest, that they are not guilty of an offence.

'Reasonable excuse' and 'lawful excuse' exceptions

The Bill increases the penalty for an existing offence provision that contains a 'reasonable excuse' exception. In addition, the Bill inserts a new offence provision that contains a 'lawful excuse' exception. The 'reasonable excuse' and 'lawful excuse' exceptions place an evidential burden on the accused in requiring them to raise evidence of either a reasonable or lawful excuse; however, in my opinion, neither provision limits the right to be presumed innocent.

Section 17K(3) of the Act provides that an owner or person in possession or control of dangerous goods must not, without reasonable excuse, refuse or fail to comply with a direction issued by an inspector, when the inspector has a reasonable belief that danger to any person or property exists or may arise in respect of dangerous goods that are damaged or spilled. The amendments in the Bill bring the penalty in s 17K(3) in line with the penalty in s 18A(2), which similarly provides for the offence of refusing or failing to comply with a direction of an inspector where the inspector reasonably believes the direction to be necessary because of an immediate risk to the safety of any person or damage to any property arising out of the presence of dangerous goods.

Further, the Bill introduces s 31D, which provides that a person must not, without lawful excuse, recklessly engage in the manufacture, storage, transport, transfer, sale or use of dangerous goods that places, or may place, another person in danger of death. Due to the severity of consequences that may ensue in the event of non-compliance, the new offence provision carries a penalty of 3,800 penalty units or 10 years' imprisonment for an individual or 40,000 penalty units for a body corporate.

Although the 'reasonable excuse' exception in s 17K(3) and 'lawful excuse' exception in new s 31D place an evidential burden on the accused, in doing so, these offences do not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable or lawful excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution to prove the essential elements of the offence. I do not consider that an evidential onus of this kind limits the right to be presumed innocent, and courts in other jurisdictions have taken this approach.

Therefore, in my opinion, s 17K(3) as amended by the Bill and new s 31D are compatible with the right to be presumed innocent.

'Lawful authority or excuse'

The Bill increases the penalty attaching to existing s 31(2) of the Act, which provides that a person must not, without lawful authority or excuse, do anything in or near a licensed premises which causes or is likely to cause an accident involving dangerous goods. The provision expressly states that the burden of proving the existence of lawful authority or excuse is on the accused. This defence shifts the burden of proof onto an accused to prove certain matters in order to avoid liability.

The right to be presumed innocent is an important right that has long been recognised under the common law. However, the courts have held that it may be subject to limits, particularly where, as here, an exception is enacted to enable a defendant to escape liability. While the imposition of a legal burden on the accused will limit their right to the presumption of innocence, I consider that the limit in s 31(2) is reasonably justified under section 7(2) of the Charter. The matters required to be proven will be within the unique knowledge of the accused, who is best placed to lead this evidence. Conversely, it would be difficult for the prosecution to prove these matters in the negative. If the accused has lawful authority or excuse, it should be relatively simple and straightforward to prove in court.

Further, the limit on the right to be presumed innocent is imposed only in respect of the available exception. The prosecution will still first have to establish the elements of the particular offence. Although an evidential onus would be less restrictive than a legal onus, it would not be appropriate in light of the strong public interest in ensuring that people do not engage in conduct that may result in accidents involving dangerous goods. Given the importance of maintaining compliance with these provisions and creating a deterrent effect for future conduct, it is necessary for accused persons to demonstrate to a civil standard that they have a lawful excuse or authority, as the case may be, to escape liability.

Accordingly, despite containing a reverse onus, I consider s 31(2) of the Act to be compatible with the right to be presumed innocent.

The Hon. Gayle Tierney MP
Minister for Training and Skills
Minister for Higher Education

Second reading

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:10): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms MIKAKOS: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Andrews Labour Government is delivering on its commitment to strengthening the regime for dangerous goods in Victoria with the introduction of a new reckless conduct offence and increases to penalties for existing offences in the *Dangerous Goods Act 1985*.

These reforms follow the recent discovery of a number of sites across outer Melbourne that were storing dangerous goods in contravention of the requirements under the *Dangerous Goods Act 1985*. There have been two significant industrial fires involving dangerous goods over the last year causing widespread community concern. To reflect the significant health and safety risks associated with these events, the Bill creates a new offence for a person who recklessly engages in conduct relating to dangerous goods that places, or may place, a person in danger of death.

The Bill also increases the financial and imprisonment penalties of various offences in the *Dangerous Goods Act 1985* so that the penalties better reflect the serious nature of the offending conduct.

The recent industrial fires and discovery of sites housing dangerous goods in contravention of the Dangerous Goods Act have highlighted that the current offences in the Act are not a sufficient deterrent for illegal activity and non-compliant behaviour.

I now turn to the provisions of the Bill before Parliament.

New indictable offence under the Dangerous Goods Act 1985

The Bill introduces a new offence in the *Dangerous Goods Act 1985* of recklessly engaging in conduct relating to the manufacture, storage, transport, transfer, sale or use of dangerous goods that places, or may place, a person in danger of death. This offence carries a penalty of up to 10 years imprisonment for individuals, and body corporates will face fines of up to 40,000 penalty units (approximately \$6.608 million).

This offence will have the highest penalties available under the *Dangerous Goods Act 1985*, and will recognise the seriousness of the offending conduct.

The offence is modelled on section 22 of the *Crimes Act 1958*. Including such an offence in the Dangerous Goods Act allows investigations to be carried out by WorkSafe inspectors, who have specialist knowledge and expertise in this area.

Increase to penalties under the DG Act

The Bill provides for an increase in the maximum penalties specified for certain offences under the *Dangerous Goods Act 1985*, increasing the maximum financial penalty from 1000 penalty units (approximately \$165,220) to 1800 penalty units (approximately \$297,396) for individuals and more than doubling the fines available for body corporates, from 5000 penalty units (approximately \$826,100) to 20,000 penalty units (approximately \$3.304 million).

These increases relate to individuals and body corporate who are found guilty of contravening specified provisions of the Dangerous Goods Act, in circumstances where the offender knew or ought reasonably to have known that the conduct would endanger the safety or health of another person, property or the environment.

The Bill also increases the current penalties for a range of other offences, including:

- Failing to comply with a direction issued by an inspector to dispose of or render harmless dangerous goods or to stop the use, or use the goods under specified conditions, of premises or magazines considered to be dangerous
- Failure to take reasonable precautions to prevent tampering, theft, fire, explosion or damage
- Abandoning, discarding, or neglecting to dispose of dangerous goods safely
- Persons who do anything in or near any licensed premises which causes or is likely to cause an accident involving dangerous goods
- Failure to comply with requirements on goods too dangerous to be transported.

Financial penalties for individuals and body corporates in respect to the above offences will more than double. These increases bring the penalties with similar offences in the *Occupational Health and Safety Act 2004* and better reflect the serious nature of the offending conduct.

The stronger regulation of dangerous goods is a priority for the Andrews Labor Government, and these penalty increases are an important step towards strengthening the broader dangerous goods framework.

I commend the Bill to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:11): I move:

That debate on this bill be adjourned until the next day of meeting.

Motion agreed to and debate adjourned until next day of meeting.

RAIL SAFETY LEGISLATION AMENDMENT (NATIONAL SERVICES DELIVERY AND RELATED REFORMS) BILL 2019

Introduction and first reading

The PRESIDENT (13:11): I have a further message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Rail Safety National Law Application Act 2013**, the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**, the **Transport Integration Act 2010** and the **Transport (Compliance and Miscellaneous) Act 1983**, to repeal the **Rail Safety (Local Operations) Act 2006** and to make consequential amendments to other Acts and for other purposes'.

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:12): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms MIKAKOS: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:12): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the 'Charter'), I make this Statement of Compatibility with respect to the Rail Safety Legislation Amendment (National Services Delivery and Related Reforms) Bill 2019.

In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The main purposes of the bill are to amend the *Rail Safety National Law Application Act 2013* (the **Principal Act**) to provide for the safety of all rail infrastructure and rolling stock operations carried out in Victoria and for all rail safety work carried out in Victoria to be regulated under the Rail Safety National Law (Victoria) (**National Law**), and to provide for the Office of the National Rail Safety Regulator (**Regulator**) to be the sole regulator of those operating in rail safety work. The bill also repeals the *Rail Safety (Local Operations) Act 2006* (**Local Operations Act**) and, as a consequence, re-enacts the provisions in that Act for the drug and alcohol testing of rail safety workers in the Principal Act.

Human Rights Issues

Right to the presumption of innocence

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that they are not guilty of an offence.

Legal burdens

Section 48D, inserted into the Principal Act by clause 17 of the bill, has the effect of requiring rail safety workers to prove certain matters to show that they are not guilty of an offence. In particular:

- Under subsections (1)–(3), if a certain concentration of drugs or alcohol is detected in a sample taken from a rail safety worker, or if it is shown that a certain drug was in the body of the rail safety worker, within 3 hours of certain alleged offences occurring, then, until the contrary is proved, it is presumed that drug or that concentration of drugs or alcohol was present at the time of the alleged offence.
- Under subsections (4) and (5), for the purposes of certain offences, it is presumed that the concentration of alcohol or drug present in a breath test, a blood test, or an oral fluid sample was not due solely to the consumption of that drug or alcohol by the worker after having carried out rail safety work, unless the contrary is proved by the worker ‘on the balance of probabilities by sworn evidence given by the worker which is corroborated by the material evidence of another person.’

These provisions therefore require that the accused must establish on the balance of probabilities that the relevant drug, or the relevant concentration of alcohol or drug, was not present at the time of the alleged offence, or that the concentration of drugs or alcohol was due solely to the consumption of those substances after having carried out rail safety work. As they impose a legal burden of proof on the accused, these provisions limit the presumption of innocence.

The question of whether a reverse onus of this nature constitutes a reasonable limitation on the presumption of innocence depends on all the circumstances of the case, including: the seriousness of the offence; the punishment which may flow from a conviction; the nature and extent of the matters required to be proved by the accused; and the significance of those matters relative to the matters required to be proved by the prosecution.

In this case, the reverse onus only affects persons who are working as rail safety workers in a regulated industry—the provisions do not apply to the general public. The relevant offences are regulatory offences involving a maximum penalty of a \$10,000 fine. The offences are therefore of a less serious nature than criminal offences involving imprisonment. The reverse onus only arises where a breath, blood, or oral fluid test has demonstrated the presence of a certain drug or a certain concentration of drugs or alcohol. In such circumstances, the matters to be proved by the accused are matters that fall particularly within the knowledge of the accused - that is, whether the accused was affected by drugs or alcohol at the time of the alleged offence, or whether the relevant consumption of drugs or alcohol occurred after the accused was no longer engaged in rail safety work. It would be unduly difficult and onerous for the state to investigate and prove these matters. Imposing a burden of proof on the accused in these circumstances therefore ensures that these offences can be prosecuted effectively and that they operate as a deterrent to the unlawful carrying out of rail safety work. Further, imposing an evidential onus (which would merely require the accused to show some evidence to displace the relevant presumptions) would not be effective, as it could be too easily discharged by the defendant.

As such, in my view, these provisions are demonstrably justifiable on the basis that they are necessary for the important purpose of providing that rail safety work is conducted appropriately, and protecting the community from the risk of unsafe rail operations. I therefore consider that these provisions are compatible with the Charter.

Evidentiary burdens

The bill also contains a number of provisions imposing an ‘evidentiary burden’ on the accused—that is, a requirement that the accused point to some evidence to displace a presumption:

- New section 48K provides that if it is proved that a rail safety worker was carrying out rail safety work, that one or more drugs were present in their body, that their behaviour was consistent with that of a person who has used or consumed certain drugs, and that the behaviour usually associated with use or consumption of those drugs would result in the person being unable to carry out rail safety work properly, then in the absence of evidence to the contrary, this is proof that the rail safety worker carried out rail safety work while impaired by a drug.
- New section 48N provides that a document purporting to be a print-out produced by a breath analysing instrument and purporting to be signed by the person who operated the instrument is admissible in evidence and, in the absence of evidence to the contrary, is proof of the facts and matters contained in it.
- New section 48P provides that in certain proceedings, the statement of a police officer that they were authorised by the Chief Commissioner of Police to carry out an assessment for drug impairment on a particular date, or a certificate purporting to be signed by the Chief Commissioner stating that a police officer is authorised to do so, is admissible in evidence and, in the absence of evidence to the contrary, is proof of the authority of the police officer. New section 48W(2) makes similar provision with regard to evidence that a police officer was authorised to take an oral fluid sample under new section 48R.
- New section 48ZB provides that various matters relating to blood tests can be certified and taken as proof of the facts and matters contained in the certification in the absence of evidence to the contrary. For example, an approved analyst may sign a certificate containing the prescribed particulars as to the concentration of drugs or alcohol in a particular blood sample, and that certificate, in the absence of evidence to the contrary, is proof of the facts and matters contained within it.
- New section 48ZC makes similar provision in relation to oral fluid samples.
- New section 48ZD makes provision for certification of evidence in relation to breath tests. However, the provision differs from sections 48ZB and 48ZC in that a certificate purporting to be a certificate containing the prescribed particulars produced by a breath analysing instrument of the concentration of alcohol indicated to be present in the breath of the person and signed by the person who operated the instrument is ‘conclusive proof’ of the facts and matters contained within it and various other matters, unless the accused gives notice that they require the person giving the certificate to be called as a witness, or that the accused person intends to adduce evidence in rebuttal of any such fact or matter.

In my view, although these provisions require an accused to adduce certain evidence, they do not limit the right to be presumed innocent. The prosecution must still prove the essential elements of the relevance offences; an accused need not prove any matters in order to escape liability. Therefore, the right is not limited and the provisions are compatible with the Charter.

Defences

In addition to the above provisions, the bill requires rail safety workers to prove or ‘satisfy the court’ of certain matters in order to establish a defence against certain offences, as follows:

- New subsections 48H(3) and (4) provide that it is a defence against charges relating to furnishing a breath sample or blood sample showing more than the prescribed concentration of alcohol if the person proves that the breath analysing instrument used on that occasion was not in proper working order or properly operated, or that the result of the blood analysis was not a correct result.
- Under new s 48S(5), a worker must not be convicted or found guilty of refusing to provide a sample required under s 48R if the worker satisfies the court that there was some reason of a substantial character for the refusal, other than a desire to avoid providing information which might be used against the worker. New section 48M(9) makes similar provision with regard to refusing to furnish a breath sample.

The matters that the defence must prove or show under these provisions are not essential elements of the offence. As such, in my view, the burden of establishing the offence is not transferred to the accused by these provisions, and the right to the presumption of innocence is not limited. Further, a requirement to prove or satisfy the court of these matters is necessary to avoid such defences being raised in circumstances where

there is no real basis for them (in relation to new subsections 48H(3) and (4)), or where the matters raised are purely within the knowledge of the accused (in relation to new subsections 48S(5) and 48M(9)).

Right to a fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The right to a fair hearing is engaged by new sections 48ZB and 48ZC. Under these provisions, an accused who has been served with a copy of a certificate stating certain facts or matters relating to blood samples and oral fluid samples may, with the leave of the court, require the person who has given the certificate (or another relevant person) to attend at all subsequent proceedings for cross-examination. However, the leave of the court can only be given if certain conditions are met (for example, where there is a reasonable possibility that the sample was not that of the accused, or was contaminated, or where the attendance of the person would materially assist the court to ascertain relevant facts).

These provisions facilitate the effective prosecution of rail safety offences involving the use of drugs and alcohol. In my view, they do not impose any unreasonable requirements on the accused or any inappropriate restrictions on the ability of the accused to challenge the evidence of the prosecution. As such, the right to a fair hearing is not limited.

The right to a fair hearing may also be engaged by new sections 48M(13), 48V(6), 48X(6), and 48ZA(7). These sections provide that no action lies against a registered medical practitioner or approved health professional in respect of anything properly and necessarily done in the course of taking a blood sample or being furnished with a urine sample which they believed on reasonable grounds was allowed to be taken under the relevant provisions of the Principal Act.

This immunity from legal action may be relevant to the fair hearing right as a person affected by the actions of medical practitioners and health professionals in the relevant circumstances will be unable to bring an action against them. In other jurisdictions, it has been found that a broad statutory immunity from liability which imposes a bar to access to the courts for persons seeking redress against those who enjoy the immunity may breach the fair hearing right.

However, the immunity only extends to things ‘properly and necessarily done’. As such, it is still possible for a person to seek redress where improper or unnecessary actions have caused harm. The immunity also will not apply if the medical practitioner or health professional acted outside the scope of the legislation. Further, samples may only be taken without the consent of the rail safety worker by the requirement or direction of authorised persons; any person harmed by the taking of a sample could potentially bring an action against the authorised person who made the requirement that the worker furnish the relevant sample. On balance, I therefore consider that even if the right to a fair hearing is engaged, these provisions are compatible with that right.

An additional immunity is provided by new section 48ZB(15), which provides that if a registered medical practitioner or approved health professional is requested to examine or collect a sample of blood for the purposes of s 48ZB, and the rail safety worker has consented to the examination or collection, then no action lies against the medical practitioner or health professional even if it subsequently appears that the worker was incapable by reason of their mental condition of effectively giving consent. While the right to a fair hearing may be engaged by this provision, I consider that it is not limited. In circumstances where a medical practitioner or health professional reasonably believes that a person has validly consented, it is appropriate that they should be able to act upon that consent without fear of legal consequences. This is particularly necessary in circumstances such as these, where questions will often arise relating to whether the accused is impaired by drugs or alcohol.

Right to privacy

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The bill contains provisions that may give rise to interferences with the right to privacy; however, in my view, any such interferences will be neither unlawful nor arbitrary and therefore do not limit this right.

New s 48P sets out the procedure for assessments of drug impairment. Subsection (3) provides that an assessment must be video-recorded if the worker was involved in a ‘notifiable occurrence’ unless the prosecution satisfies the court that a recording has not been made because of exceptional circumstances. This provision engages the right to privacy as a person may have their drug impairment assessment video viewed by the court and other persons. However, in my view, any interference with privacy is neither unlawful nor arbitrary, as requiring video evidence of a drug impairment assessment is reasonably necessary to provide evidence of a relevant impairment, and may also help protect the rights of the accused where there is a dispute

regarding whether they were drug impaired. Further, new section 48Z requires that videos must be destroyed within one month if a charge has been brought but the matter is not proceeded with or is discontinued or otherwise concluded, or within 12 months if the worker is not charged.

Several provisions in the bill also authorise or require information or documents to be disclosed in limited circumstances by or to the Regulator. The provisions include clause 14, which inserts a new Division 7 of Part 4 into the Principal Act, and clause 19, which inserts a new Part 8 into the Principal Act. In my view, any interference with privacy caused by these provisions will be minor in nature and will be neither unlawful nor arbitrary.

Right to freedom of expression

Section 15(2) of the Charter 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. This right is subject to special duties and responsibilities under section 15(3) of the Charter, and may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons, or for the protection of national security, public order, public health or public morality.

New s 48Z provides that it is an offence to use, or cause or permit to be used, a video-recording or related material concerning an assessment of drug impairment that is required to be destroyed under that provision. It is also an offence to use, permit to be used, or otherwise disseminate information derived from such a video or related material. This offence restricts the right to freedom of expression. However, any limitation falls within the internal limitations on the right as it is a lawful restriction that is reasonably necessary to protect the privacy rights of persons subject to drug impairment assessments. I therefore consider that the offence is compatible with the Charter.

Requirements or directions that rail safety workers submit to drug or alcohol tests

Clause 17 of the bill inserts a new Part 4A into the Principal Act, which enables authorised persons to require rail safety workers to submit to breath tests, blood tests, and oral fluid tests in various circumstances. Refusing to submit to such a test may amount to an offence. These provisions engage a number of rights, discussed below.

Right to freedom from forced medical treatment

Section 10(c) of the Charter provides that a person must not be subjected to medical or scientific experimentation or treatment without their full, free and informed consent. 'Medical treatment' in the Charter has been held to have the same meaning as 'medical treatment in the (now repealed) *Medical Treatment Act 1988*, which defined medical treatment to include any 'medical procedure'. This includes a procedure that is based upon the science of the diagnosis, treatment, or prevention of disease or injury, or of the relief of pain, suffering and discomfort.

There is a question about whether drug and alcohol tests (including blood tests, urine tests, oral fluid collection, breath tests and drug impairment assessments) fall within the definition of 'medical procedure' for the purposes of the Charter. While these tests clearly can be used for a medical, diagnostic purpose, the purpose in this situation is regulatory in nature, rather than medical.

Even if these tests do fall within the definition of 'medical treatment', I consider that any limit on the right to freedom from forced medical treatment is reasonable and justifiable on the basis that it occurs in the context of a regulatory regime, and applies only to rail safety workers, not the general public. Further, the tests are carried out for the important purposes of protecting community safety and ensuring that rail safety work is carried out only by competent persons who are not impaired by drugs or alcohol. I therefore consider that these provisions are compatible with the right in section 10(c) of the Charter.

Right to privacy

The right to privacy is engaged by the provisions authorising tests to be carried out on rail safety workers, as the right includes the right to bodily privacy. However, for the reasons set out above, I consider that any interference with privacy is neither unlawful nor arbitrary. I therefore consider that this right is not limited by these provisions.

Right against self-incrimination

Section 25(2)(k) of the Charter provides that a person charged with a criminal offence has the right not to be compelled to testify against themselves or to confess guilt. I have considered whether the drug and alcohol testing provisions in the bill engage this right. However, as the right has been held not to extend to the taking of physical evidence (such as breath tests, fingerprints and DNA samples under compulsion), in my view it is not engaged by these provisions.

Freedom of movement

Section 12 of the Charter provides that every person lawfully within Victoria has the right to freedom of movement. Various provisions within new Part 4A involve minor limitations on this right by enabling authorised persons to require rail safety workers to attend at certain places or remain at certain places for the purposes of alcohol or drug testing. To the extent that the right to freedom of movement is limited by these provisions, I consider the limit to be reasonable and justifiable in the interests of protecting community safety by providing for appropriate drug and alcohol testing of rail safety workers.

Hon. Jaala Pulford MP

Roads

Second reading

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:12): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms MIKAKOS: I move:

That the bill be now read a second time.

Incorporated speech as follows:

Victorians deserve a safe, efficient and reliable rail system that gets them to work and play, facilitates the movement of freight, supports economic development and improves social mobility and inclusiveness.

The Andrews Government is addressing gaps and building capacity in our rail system through the Big Build and is investing in new rolling stock to improve reliability, operational efficiencies and the quality of public transport services.

The Bill will complement the significant investments that are being made by reducing administrative complexity and eliminating fragmentation of regulatory responsibility between Transport Safety Victoria and the Office of the National Rail Safety Regulator. It will eliminate duplication of administrative systems and enable cost savings to be progressively realised. Importantly, it will enable the final stage of regulatory harmonisation benefits to be delivered to the rail industry.

This Bill will complete the national reform of the regulation of rail safety, a process that began in 2011 when the Council of Australian Governments signed an Intergovernmental Agreement to establish a national scheme of rail safety regulation.

This led to the approval of the Rail Safety National Law as an applied laws scheme, hosted by South Australia.

Under the Rail Safety National Law, the Office of the National Rail Safety Regulator (ONRSR) was established in July 2012 to administer rail safety regulation and enforcement across Australia. ONRSR commenced operations on 20 January 2013.

Victoria entered into this single national regulatory scheme for rail safety in May 2014 through the enactment of the Rail Safety National Law Application Act 2013, which applied the national law as the law of Victoria.

At that time there was an underlying concern about moving immediately to a direct delivery model, given the unproven record of the national regulator, and the size and complexity of Melbourne's metropolitan rail systems.

For these reasons the Victorian Application Act provided for rail safety regulation in Victoria to be delivered through a Service Level Agreement between Transport Safety Victoria and ONRSR. New South Wales adopted a similar approach.

Since 2014, ONRSR practices and systems have matured. It has been able to demonstrate itself as an efficient and effective risk-based regulator that gives due regard to state issues and is responsive to State and Territory Government needs and priorities.

Following an independent review of safety risks, organisational risk management systems and ONRSR competencies and capacities the Victorian Government has assurance that ONRSR can take full responsibility for rail safety regulation in Victoria without any risk of a diminution of safety.

The review found that:

- Safety standards in Victoria would be more efficiently regulated using a direct service delivery model by removing the duplication of business systems, equipment and administration by TSV and ONRSR.
- A direct service delivery model may also be more effective as it would provide clearer, single point accountability for the outcomes of rail safety regulation in Victoria, and assist in the development of a single, positive culture within ONRSR.
- ONRSR's current organisational structure is appropriate to manage the transition of the TSV into a direct delivery model and ONRSR's governance and risk frameworks and its corporate business systems are sufficiently mature to ensure that rail safety performance is maintained, and where possible, improved.
- The provisions of the National Law and governance arrangements overseen by the Ministerial Council provide sufficient mechanisms for the Victorian Minister to have no less visibility and control of rail safety regulation in Victoria under a direct delivery model.

The regulation of trams and a proportion of tourist and heritage railways in Victoria continue to be regulated locally under the Rail Safety (Local Operations) Act 2006. The independent review considered whether Victorian trams and local tourist and heritage railways should also be regulated by ONRSR as is the case in other states.

The independent review found that:

- The regulation of trams and local tourist and heritage operations would be more efficiently and effectively delivered under the national scheme.
- Tram operations have significant differences in risk profile and engineering, technical and operational standards than heavy rail systems.
- A competent regulator needs to have sufficient skill and experience to understand these differences for the purposes of assessing an operator's competence and capacity to manage their risks.
- On the assumption that relevant TSV staff will transfer to ONRSR under a direct delivery model, ONRSR would have available to it no less skills, knowledge and expertise than is currently dedicated to regulating tram operations in Victoria.
- ONRSR would bring additional skill and experience to the regulation of trams and Tourist and Heritage operations in Victoria.

The findings of the review have given the Victorian Government assurance that the time is right to complete to transition to national regulation. We expect the national regulator to deliver on its promises and we are confident that it can.

The Bill implements the transfer of all rail safety service delivery and regulatory functions from TSV to ONRSR by repealing provisions in the Rail Safety National Law Application Act 2013 (the Application Act) that require an effective service level agreement to be in place.

The Bill also:

- increases the scope of the Application Act so that it provides for trams and tourist and heritage railways to be regulated by ONRSR;
- removes derogations from the national law relating to data protection and privacy, the operation of the infringements scheme under the national law, differences in definitions and treatment of different facilities (e.g. freight terminals);
- specifies transitional provisions to ensure that there is continuity of regulatory activities when regulatory responsibilities are transferred from TSV to ONRSR and new service delivery responsibilities come into effect;
- repeals the Rail Safety (Local Operations) Act 2006, which currently applies to trams in Victoria and some tourist and heritage rail operators that are not currently regulated under the national scheme;
- makes consequential changes to the Transport (Safety Schemes Compliance and Enforcement) Act 2014 to remove references to Victorian transport safety officers enforcing rail safety laws; and,
- modifies the drug and alcohol provisions currently contained in the Rail Safety (Local Operations) Act 2006 and transfers them to the Application Act.

Finally, in recognition that the transfer of regulatory responsibilities from TSV to ONRSR will bring about significant changes to the level of TSV responsibilities, the Bill makes changes to the *Transport Integration Act 2010* that align the level of influence and control the Minister has over TSV with that which the Minister has over the Commercial Passenger Vehicles Commission and other similar transport sector agencies.

In conclusion, the safety of public transport users is of the utmost importance.

If the system is not safe, or perceived to not be safe, then the use of the rail system will diminish, detracting significantly from the investments that are being made in response to growing transport demands.

The Victorian Government has confidence that the consolidation of rail safety regulatory responsibilities, skills and knowledge will improve the oversight of our railways and bring about improvements to rail safety over time. It will also improve consistency in regulatory practices, and in turn reduce compliance costs for the industry.

I commend the Bill to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:13): I move, on behalf of Mr Davis:

That debate on this bill be adjourned until next day of meeting.

Motion agreed to and debate adjourned until next day of meeting.

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 2019

Introduction and first reading

The PRESIDENT (13:14): I have received the following message from the Legislative Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Catchment and Land Protection Act 1994**, the **Dairy Act 2000**, the **Drugs, Poisons and Controlled Substances Act 1981**, the **Fisheries Act 1995**, the **Game Management Authority Act 2014**, the **Livestock Disease Control Act 1994**, the **Meat Industry Act 1993**, the **Melbourne Market Authority Act 1977**, the **Plant Biosecurity Act 2010**, the **Veterinary Practice Act 1997**, the **Wildlife Act 1975**, and to make miscellaneous and consequential amendments to the **Confiscation Act 1997**, the **Conservation, Forests and Lands Act 1987**, the **Crown Land (Reserves) Act 1978**, the **Environment Protection Act 1970**, the **Firearms Act 1996**, the **Land Act 1958** and to repeal the **Livestock Disease Control Amendment Act 2007**, the **Broiler Chicken Industry Act 1978** and the **Broiler Chicken Industry (Amendment) Act 1991** and for other purposes'.

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:15): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms MIKAKOS: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:15): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the Charter), I make this Statement of Compatibility with respect to the Primary Industries Legislation Amendment Bill 2019.

In my opinion, the Primary Industries Legislation Amendment Bill 2019, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Bill is an omnibus Bill that makes minor amendments to a number of Acts relating to primary industries.

Human Rights Issues

Extension of coverage of the Dairy Act 2000

Clause 5 of the Bill substitutes a new definition of dairy farm and milk into the **Dairy Act 2000**. The effect of this amendment is to extend coverage of the Dairy Act, which currently only regulates the production for sale or profit of cow, goat, sheep or buffalo milk, to apply to the production for sale or profit of all animal milk including camel, horse and donkey milk. Currently, production of milk that does not come under these definitions is regulated under the **Food Act 1984**.

The main effect of this amendment is that certain milk processors who are not currently subject to the Dairy Act will now be subject to the responsibilities and obligations relating to the licensing regime for the dairy industry and the provisions for dairy food safety, including the compliance and enforcement powers of authorised officers under the Dairy Act. This includes being subject to the general powers of authorised officers under Part 5 of the Dairy Act, which are relevant to the following Charter rights:

- of freedom of movement (by way of powers of officers to stop and detain vehicles);
- of privacy (by way of powers of officers to enter dairy premises and conduct searches);
- of property (by way of powers of officers to seize certain items and destroy dairy food); and
- not to be compelled to testify against oneself or confess guilt (by way of the power of officers to require information from persons on dairy premises).

In terms of considering the practical effects on human rights of these amendments, it is important to note that milk processors who will be affected by this expanded coverage of the Dairy Act are already subject to similar compliance and enforcement powers under the **Food Act 1984**. This includes being subject to similar enforcement powers by authorised officers under Part IV of the Food Act, which include powers of entry and inspection, and powers to stop and detain vehicles, seize property, destroy seized food, and require provision of certain information. The purpose of the amendment is to better ensure dairy food safety by ensuring that the appropriate regulator with the necessary expertise is responsible for regulating all milk production and processing in the State and carrying out enforcement measures necessary to ensure public safety of milk products. The amendment will also facilitate camel milk producers to gain export certification as the Commonwealth Government already has an arrangement with Victoria to accept food safety audits undertaken under the Dairy Act for the purposes of export certification.

Accordingly, while this amendment will result in new persons being subject to various powers under the Dairy Act that affect human rights, in my view it will not result in the imposition of any new limitations on human rights due to such persons already being subject to similar regulatory powers under the Food Act.

However, should an alternative view be taken that the enforcement provisions in the Dairy Act are more onerous than the Food Act, it is my view that these existing enforcement powers in the Dairy Act are compatible with the Charter. I note that it is common for Parliament to provide regulatory authorities with broad powers to enter industry premises to monitor compliance with a regulatory scheme on the basis that such powers should not be broader than necessary to allow authorised officers to carry out their duties. The entry and search powers in the Dairy Act are limited to dairy premises or vehicles used to transport dairy food and are limited to being exercised at a reasonable time and for the purpose of the administration of the Dairy Act. The powers are exercisable in relation to persons on dairy premises or in charge of a dairy transportation vehicle, meaning they affect persons who have chosen to participate in a regulated industry and adopt roles to which certain obligations and responsibilities attach. Seizure and disposal of property provisions in the Act are limited to confined circumstances that are clearly set out in the Act, and subject to a number of procedural safeguards regarding dealing with, returning or destroying seized items. Finally, the requirement to answer questions put to a person by an authorised officer is subject to a right to refuse a question on the grounds of self-incrimination.

Amending reverse onus defence in the Fisheries Act 1995

Clause 14 of the Bill amends the defence in section 53(3) of the Act for consistency with broader reforms to complicity provisions in other Victorian legislation that are designed to simplify a complex area of law and remove confusing distinctions and inconsistencies.

Section 53 of the **Fisheries Act 1995** provides for an offence of failing to comply with licence or permit conditions and deems that a holder of a fisheries licence or permit commits the offence if another person fails to comply with a condition on the holder's behalf.

Section 53(2) provides that this deeming provision does not apply if the holder of the licence or permit can prove the following matters:

- that, at the time the offence was committed, there was in force a written agreement in which the person who was acting on behalf of the holder agreed to comply with all relevant conditions and requirements of the Dairy Act and the regulations; and
- that the holder did everything reasonably practicable to ensure that the person would comply with the relevant condition; and
- that the holder did not in any way aid, abet, counsel or procure the person to fail to comply with the relevant condition.

Clause 14 of the Bill substitutes the final element of the defence (i.e. ‘the holder did not in any way aid, abet, counsel, or procure’) with the words ‘the holder did not in any way assist, encourage or direct the person to fail to comply with the condition’.

In my view, this amendment (which changes the terminology in relation to the law of complicity) does not materially alter the existing reverse on an accused to prove the available defence, however, I discuss this offence provision’s overall compatibility with the Charter given the Committee’s interest in such provisions and the fact that this provision has not previously been discussed in a Statement of Compatibility.

Section 53 of the Fisheries Act makes a licence holder liable for the actions of persons who act on the licence holder’s behalf. Section 53(2) provides the licence holder with a defence if he or she can establish certain matters. The section shifts the normal burden of proof on to an accused to prove certain matters in order to avoid liability for the actions of another person. This is relevant to section 25(1) of the Charter that provides that a person who is charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

While the imposition of a legal burden on an accused will limit an accused’s right to the presumption of innocence, I consider that the limit is reasonably justified under s 7(2) of the Charter.

The offence in question applies only to holders of a fishery licence or permit, persons who have voluntarily applied for permission to operate in a specified role within a regulated fisheries industry. The grant of a fishery licence or permit is subject to special responsibilities, obligations and conditions, which are stated clearly in the Fisheries Act, regulations and any specific licence conditions. This includes a holder assuming responsibility for the actions of persons who act on their behalf. This deeming provision is necessary to ensure accountability of holders to the duties and obligations imposed on them by the scheme, which are designed to protect and conserve fisheries resources for the greater public interest.

This responsibility is subject to the exception that a holder will not be held liable for the compliance failures of others if they can prove that they undertook the necessary due diligence (implementing a written agreement to, and doing everything reasonably practicable to, ensure the other person’s compliance with conditions) and were not complicit in the other person’s failure to comply with conditions. Accordingly, in undertaking a role as a licence or permit holder and engaging other persons to act on their behalf, a holder accepts that they will be subject to this responsibility under the scheme and be expected to demonstrate compliance with this responsibility. The matters required to be proven are within the knowledge of the holder, who is best placed to lead this evidence.

Conversely, it would be very difficult for the prosecution to prove these matters in the negative. Due diligence can be practically demonstrated by producing the required written agreement and detailing the reasonable steps taken to ensure compliance with conditions. The third element of the defence requires the accused to prove that they did not assist, encourage or direct the person to fail to comply with the condition. This can be established by reference to the individual circumstances of a case, which, on the balance of probabilities, prove that an accused was not involved in the commission of the offence.

In my view, a less restrictive measure (such as imposing only an evidential onus on an accused to establish the exception) would not be appropriate in light of the strong public interest in ensuring that holders comply with their responsibilities under the scheme, are accountable for the actions of persons acting on their behalf, and, in order to escape liability for any compliance failure of persons acting on their behalf, be expected to demonstrate to a legal standard that they have taken all measures required by the Act to discharge this responsibility.

Powers of entry and inspection and forfeiture or return of things seized or retained in the Fisheries Act 1995

Clause 23 of the Bill will require persons to produce on demand, any fish or fishing equipment in that person’s possession for inspection by an authorised officer. This is relevant to the right to privacy in s 13 of the Charter, which provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered

with. In my view, this amendment does not limit this right, as it does not increase the extent of the existing interference with privacy provided under the Fisheries Act.

An authorised officer or police officer, under s 102 of the Fisheries Act, has the power to enter upon any land, protected water or premises for the purpose of inspecting or searching for any fishing equipment or fish, in order to ascertain whether or not the provisions of the Fisheries Act, the regulations or a fisheries notice are being observed. I note my earlier observation that Parliament commonly provides regulatory authorities with broad powers to monitor compliance with a regulatory scheme on the basis that such powers should not be broader than necessary to allow authorised officers to carry out their duties. This power of search and inspection is considered necessary to enforce the scheme, as it is not possible to determine compliance with fish minimum or maximum size limits or bag limits without officers physically inspecting the fish. The power cannot be exercised to enter and search a dwelling house.

Clause 23 provides for a new tool to facilitate the conduct of these inspections by allowing officers to require a person to produce such items in their possession for inspection. There are occasions, for example, when exercising powers in relation to boats, when it is safer to ask someone to produce fish or equipment for inspection rather than to, for example, board a vessel and search for such items. As officers already have the power to search fishing equipment or fish in this scenario, the power to require persons to produce such items for inspection will not constitute any additional interference with privacy.

I also note for completeness that, by way of section 111(e) of the Fisheries Act, the requirement to produce fish and fishing equipment to an officer is subject to a right to refuse to comply on the grounds of self-incrimination. Accordingly, I am satisfied that clause 23 is compatible with the Charter.

Jaelyn Symes MP
Minister for Agriculture

Second reading

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:16): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms MIKAKOS: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Bill will repeal the *Broiler Chicken Industry Act 1978* and make amendments to a number of acts to improve efficiency workability, administration and enforcement.

Broiler Chicken Industry Act 1978 repeal

The Bill will repeal the *Broiler Chicken Industry Act 1978*. Victoria is the only state whose broiler industry collective bargaining legislation has not been repealed, and the Broiler Industry Negotiation Committee established under the Act has not been in place for over 15 years.

This Act was originally conceived to counter the imbalance in market power between individual broiler farmers and large vertically-integrated processing companies. However, over time, the industry has transitioned to collective bargaining arrangements under authorisation by the Australian Competition and Consumer Commission (ACCC).

The ACCC authorisations allow current and future broiler farmers to collectively bargain with a processor to which they provide services. Most recently, on 16 June 2016, the ACCC granted authorisation for Victorian broiler farmers to collectively bargain with processors for the next 10 years.

Amendments to the Catchment and Land Protection Act 1994

Under provisions of the *Catchment and Land Protection Act 1994*, the relevant Secretary exercises responsibility in relation to a number of the noxious weeds and pest animals. This includes serving land owners with a land management notice where the Secretary is satisfied there has been a failure to comply with relevant provisions of the Act or measures need to be taken by the land owner to meet their obligations. In practice, these powers are delegated to Agriculture Victoria within the Department of Jobs, Precincts and Regions (DJPR).

The Secretary may do anything necessary to carry out a land management notice if the Secretary believes on reasonable grounds that the notice has not been complied with and may then recover expenses necessarily incurred in carrying out this work.

Currently DJPR expends significant time and effort to recover outstanding debt through civil proceedings. These proposed changes will enable costs to be recovered during the sentencing phase of criminal proceedings for offences for non-compliance, resulting in more direct and efficient cost recovery.

Amendments to the Dairy Act 2000

The *Dairy Act 2000* provides for Victoria's specialist dairy regulator, Dairy Food Safety Victoria, to licence and have regulatory oversight for the production and processing of dairy products. Currently the Act only applies to the production and processing of dairy from cows, sheep, goats and buffalo. Regulation of the processing of milk from other animals is undertaken by local governments.

A number of businesses have shown interest in establishing a camel milk industry in Victoria. Camel milk businesses that are already operating are being regulated by local government but have expressed an interest in being regulated by Victoria's specialist dairy regulator.

Amendments to the Dairy Act will bring the regulation of camel milk production under Dairy Food Safety Victoria. This will ensure a more fit-for-purpose regulatory model for these producers and facilitate future access to export markets.

Amendments to the Drugs, Poisons and Controlled Substances Act 1981

Part 4A of the *Drugs, Poisons and Controlled Substances Act 1981* provides an authority scheme for the cultivation and processing of low-THC cannabis (industrial hemp) for non-therapeutic purposes. The authority scheme is administered by DJPR. Industrial hemp is grown in Victoria mainly for the production of fibre and hemp seed.

The Bill introduces a delegation power for the Secretary of the Department to delegate some or all of his or her powers under Part 4A to suitable departmental officials.

The Bill also expands the definition of a serious offence, to include indictable offences involving assault or a serious offence committed in another jurisdiction. This amendment would make persons who have committed such offences ineligible for an authority.

Amendments to the Fisheries Act 1995

Speaker, I now turn to the provisions of the Bill as they relate to *Fisheries Act 1995*.

The Andrews' Government acknowledges the importance of fishing in Victoria and the significant contribution it makes to our economy and jobs. We are committed to careful management of this precious resource and are proud to note that we have invested over \$46 million into fishing under the Government's Target One Million initiative; the largest allocation of funds to fisheries in 30 years. We are committed to getting more people fishing more often by encouraging participation in what is a great pastime and outdoor activity.

This Bill provides an opportunity to amend the Fisheries Act to deal with a number of emerging fisheries issues that are hindering compliance efforts, to provide appropriate sanctions to deter illegal activity, and to make a number of technical amendments to remedy administrative inefficiencies and improve existing processes.

In total, 22 fisheries-related changes are proposed to ensure the Fisheries Act remains an effective and relevant management tool. Key changes I draw your attention to include:

- allowing early surrender of netting entitlements by eligible Port Phillip Bay commercial fishers, which will allow any of the eight commercial fishers who are legally entitled to continue using nets until 2022 to voluntarily cease netting prior to that date, in exchange for early payment of compensation. This will help fast track removal of netting from the bay, consistent with the Target One Million commitment.
- transferring the powers and functions of the fisheries Licensing Appeals Tribunal to VCAT, creating administrative efficiencies and ensuring commercial fishing licence appeals are consistent with other licensing processes throughout the State.
- amending the *Conservation Forests and Lands Act 1987* to enable a tiered system of infringement penalties that better reflect the circumstances of particular offences relevant to undersized fish, breaches of bag limits and noxious aquatic species.

A large number of minor technical and administrative amendments to the Fisheries Act are also being made, including an option to include harvest strategies in fishery management plans. Harvest strategies can be used to set and adjust levels of harvest from a fishery. They help ensure our fisheries are sustainable. They also provide management certainty by defining what happens when a fish stock reaches pre-determined levels.

However, this does not mean recreational fishing will be managed by quotas. Recreational fishing will continue to be managed by tools such as closed seasons, bag and size limits.

Amendments to the Game Management Authority Act 2014

The Bill updates the Act for consistency with recent changes to *Public Administration Act 2004*.

It also makes a number of amendments to clarify and streamline operation of the GMA Board. This includes: explicitly stating that the GMA Deputy Chair can fill the Chair position during a vacancy; clarifying that, following the resignation of a director from the GMA Board, the position may be filled for up to three years, regardless of the remaining term of the departing director's position; and introducing a set of guiding principles to provide the GMA Board with a clear set of objectives and a framework within which decisions should be made that balance a range of competing interests.

The Bill will introduce changes requiring the GMA to act consistently with any agreed governance framework. This modern governance arrangement, that was also embedded into legislation for the new Victorian Fisheries Authority, clarifies accountabilities and reinforces a collaborative approach.

To resolve legal uncertainty as to what enforcement activities officers authorised under the *Game Management Authority Act 2014* can undertake, the Bill amends the definition of 'authorised officer' in the *Conservation, Forests and Lands Act 1987*, *Crown Land (Reserves) Act 1978*, *Land Act 1958* and *Firearms Act 1996*, and 'litter enforcement officer' in the *Environment Protection Act 1970*.

This clearly allows authorised officer to enforce associated offences with hunting when in the field.

Amendments to the Livestock Disease Control Act 1994

This Bill makes a number of amendments to the *Livestock Disease Control Act 1994*. The restriction on spending from the Cattle Compensation Fund and the Sheep and Goat Compensation Fund are being removed to enable the capital in these funds (rather than only the interest earned on capital) to be spent on projects and programmes benefiting the respective industries.

The power of inspectors to issue infringement notices is being extended to the offence of failing to provide specified information when sending samples to laboratories for disease testing and offences relating to vendor declarations. These additional enforcement options for inspectors will assist in earlier disease detection and improved livestock disease traceability.

Minor changes are also proposed to processes relating to the quarantine and treatment of livestock during disease outbreaks. Inspectors will have increased discretion as to the measures imposed on the owners of diseased livestock. This will increase response capability and boost the effectiveness of managing animal disease events.

Amendments to the Melbourne Market Authority Act 1977

Amendments to the *Melbourne Market Authority Act 1977* are proposed to address governance limitations and administrative burdens for the Melbourne Market Authority and reflect the current operating environment.

The definition of 'market land' will be updated to reflect the relocation of the market from West Melbourne to Epping.

Currently the Act requires the Authority to meet on a monthly basis regardless of need and seek my approval for expenditure exceeding \$250,000. These requirements create unnecessary burden on the Authority and DJPR staff and are inconsistent with best practice governance arrangements. Proposed amendments provide greater autonomy to the Melbourne Market Authority Board by allowing it to determine its own meeting frequency and raise the threshold for ministerial approval on expenditure to \$750,000. This figure is consistent with the maximum amount prescribed for other DJPR executives. Various administrative updates are also proposed. These include inserting 'flowers' into the market's title, applying gender-neutral language and removing references to repealed legislation.

Amendments to the Meat Industry Act 1993

The *Meat Industry Act 1993* sets up a licensing system that enables the adoption of national food safety standards for the hygienic production and processing of meat for human consumption and for pet food. The Act does not currently provide for the slaughter and processing of meat to be undertaken in vehicles, even where these activities can be undertaken in compliance with national food safety standards.

Consolidation in the meat processing sector has led to a significant decrease in abattoir numbers across Victoria and has created barriers to small producers gaining access to abattoir services. Small producers are increasingly calling for a regulatory framework that supports the operation of micro or mobile abattoirs to facilitate small-scale processing in accessible locations.

More broadly, mobile businesses are a growing trend but are not supported by the existing legislative framework for the meat industry. Amendments to the *Meat Industry Act 1993* have been made in recognition of the industry development opportunity that mobile operators provide for producers and butchers across Victoria.

Amendments to the *Meat Industry Act 1993* are also being made to support the Government's implementation of the Sustainable Action Hunting Plan. Hunters have been calling for the removal of barriers that prevent the use of game harvest, including the processing of meat for the hunter's personal consumption. These amendments will ensure that the processing of wild deer that is not intended for sale is not captured by the licensing requirements of the Act.

Amendments to the Plant Biosecurity Act 2010

Amendments to the *Plant Biosecurity Act 2010* will provide additional support for the potato and viticulture industries in controlling two insect pests known as grape phylloxera and potato cyst nematode.

The Bill provides for a definition to be revised to specify certain grape products to enable these products to be effectively regulated; a modified definition for an assurance certificate to align with certification offences; and a regulation making power to specify treatments or conditions for the entry of grape and potato host plant material into Victoria. It also provides an inspector to have the option to issue a written direction in a declared control area for pest or disease control and clarifies the general procedure for taking plant samples to reflect current inspection and survey procedures.

Amendments to the Veterinary Practice Act 1997

The *Veterinary Practice Act 1997* is also being amended, improving the functionality of the Veterinary Practitioners' Registration Board of Victoria to hear cases of unprofessional conduct. The amendments provide further discretion to the Board to appoint legal practitioners to sit on a hearing panel and make minor changes to the procedures of hearings conducted by the Board. The maximum penalty for serious professional misconduct is increased to bring it into line with other professional standards bodies and interstate veterinary registration boards, and a provision for the issuing of infringement notices for minor offences is inserted. The changes will result in more effective and efficient functioning of the Board and will support increased community awareness and expectations regarding animal welfare and the veterinary profession.

Amendments to the Wildlife Act 1975

The Bill amends the *Wildlife Act 1975* to include the offence of hunting, taking or destroying game during an open season as a relevant offence in relation to which a controlled operation may be conducted. This will enable the GMA to undertake a key regulatory function.

I commend the Bill to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:16): I move, on behalf of Mr O'Donohue:

That debate on this bill be adjourned until next day of meeting.

Motion agreed to and debate adjourned until next day of meeting.

MARINE AND FISHERIES LEGISLATION AMENDMENT BILL 2019

Introduction and first reading

The PRESIDENT (13:16): I have a message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Fisheries Act 1995**, the **Marine (Drug, Alcohol and Pollution Control) Act 1988**, the **Marine Safety Act 2010** and the **Transport (Safety Schemes Compliance and Enforcement) Act 2014** and for other purposes'.

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:17): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms MIKAKOS: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:17): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the Marine and Fisheries Legislation Amendment Bill 2019.

In my opinion, the Marine and Fisheries Legislation Amendment Bill 2019, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

Gippsland Lakes Fishing Access Licences

Part 2 of the Bill sets out a scheme to cancel the Gippsland Lakes Fishery Access Licence class of fishing licence by 1 April 2021. The scheme affects ten licence-holders, who may elect to surrender their licences early by 1 April 2020. The Bill sets out the process by which licences may be surrendered, will be cancelled and under which affected licence-holders will be provided with a compensation package.

Other fishery access licence holders are not affected by the scheme.

Regulation of pilotage service providers and pilots

The purpose of pilotage services is to support and facilitate the safe passage of ships within the port waters of Victoria. Pilots provide navigation services and, as marine safety workers under the *Marine Safety Act*, have various safety duties.

A person who is not a marine safety worker and who supplies pilotage services to an owner of a vessel is a pilotage services provider. Under the *Marine Safety Act 2010*, pilotage services providers have general safety duties. This includes ensuring, so far as is reasonably practicable, that a pilot provided by the person is medically fit qualified, competent and able to carry out the activity for which the pilot has been provided.

The Safety Director regulates pilotage service providers but does not currently have the power to refuse to register a provider if the Safety Director considers that the applicant is unlikely to be able to comply with the general safety duty. The Bill provides a discretion to the Safety Director to refuse a registration on the grounds that the applicant does not have the competence and capacity to provide pilotage services safely.

Clause 9 of the Bill applies a zero blood alcohol concentration to pilots providing any service, extending the current zero limit that applies when piloting domestic commercial vessels to all vessels (including international vessels and vessels undertaking interstate journeys, for example, to which a maximum concentration of 0.05 grams per 100 millilitres of blood currently applies). The Bill also provides for the cancellation of pilot licences where the pilots are inactive.

Clause 14 of the Bill requires pilotage service providers to report safety incidents to the Safety Director to improve levels of information available to the Safety Director and compliance monitoring and enforcement of marine safety laws.

Marine safety duties

Clause 11 of the Bill amends the *Marine Safety Act* to make it clear that volunteers are not marine safety workers and thus subject to the higher penalty that apply to those workers, compared to recreational boaters.

The *Marine Safety Act* also imposes safety duties on persons who design, manufacture and supply certain marine vessels and safety equipment and persons who maintain, repair or modify vessels and on pilotage service providers. However, transport safety officers do not currently have power to enter premises associated with the design, manufacture or supply of vessels and equipment or the provision of pilotage services for compliance and investigatory purposes. Part 5 of the Bill amends the *Transport (Safety Schemes Compliance and Enforcement) Act 2014* to enable transport safety officers to enter those premises to conduct compliance monitoring and enforcement.

Human rights issues**Cancellation of the Gippsland Lakes Fishery Access Licence class**

Section 20 of the charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public and are formulated precisely.

The cancellation of the Gippsland Lakes Fishery Access Licence class of fishing licence, provided for in Part 2 of the Bill, engages the section 20 right.

Statutory rights are inherently subject to change and, for this reason, are less likely to be found to be proprietary than other rights. This conclusion is even more likely where what is being considered is a statutory licence, where the nature of the right is such that there is no reasonable expectation of its lasting nature. The existing provisions in Division 2 of Part 4 of the *Fisheries Act 1995* make it clear that licences are granted under that Act on the basis that they can be varied or have conditions imposed upon them, and can be suspended or cancelled in accordance with that Division, and are therefore inherently contingent.

However, if the Gippsland Lakes Fishery Access Licences are considered proprietary in nature licence and cancellation therefore results in the deprivation of property, the process for cancelling licences and associated compensation provisions are precisely set out in the Bill and are not arbitrary in nature.

For example, Part 2 of the Bill sets out in clear detail the process by which licences will be cancelled, makes provision for early surrender, and provides for the compensation that a licence holder will be entitled to in each scenario. The provisions for surrender and cancellation, limitation of the State's liability to licence holders except as provided for in the Bill (including the right to compensation calculated in accordance with the Bill) are contained in new Division 6 of the *Fisheries Act*, inserted into that Act by clause 6 of the Bill. The processes by which a person may elect to surrender their licence, information to be provided to the licence holder and calculation of compensation are provided for in new Schedule 5 to that Act, inserted into that Act by clause 7 of the Bill.

The compensation provisions in clause 7 the Bill provide for a sum of \$371,000 (for licence cancellation), \$60,000 (for commercial fishing equipment) and a further amount calculated on the basis of 3 times the average catch value taken by the licence holder over a 5-year survey period indicated in the records held by the Victorian Fisheries Authority to be paid to a licence holder who elects to surrender their licence by 1 April 2020, in which case it is cancelled on that date. A licence holder who elects to continue to hold their licence until it cancelled on 1 April 2021 as a result of the operation of the new provisions is entitled to compensation of 80 per cent of that sum.

Clause 5 of the Bill also amends section 60 of the *Fisheries Act*, which provides for certain licences suspended or cancelled under that Act to be able to be transferred following cancellation. The amendment exempts a licence suspended or cancelled under the scheme established by the Bill from the operation of section 60, thereby ensuring that such a cancelled licence cannot be transferred.

Given that the clauses of the Bill, and the circumstances in which any deprivation of property in relation to the Gippsland Lakes Fishery Access Licence class of fishing licence will occur, are clearly and precisely formulated, in my view there is no impermissible limitation of the property right under section 20 of the charter because any deprivation of property would be in accordance with law. To the extent that the provisions may limit the right to property, they are reasonable and justified.

I also consider that the notice provisions relating to cancellation of licences and the option to surrender a licence early are consistent with the section 24 charter right to a fair hearing. The compensation that a licence holder is entitled to, and the process by which licence holders are given notice of the ability to elect to surrender early, are (as noted) set out in clause 7 the Bill, with associated provisions contained in clause 6. Clause 7 also contains provisions that provides a licence holder who seeks to surrender their licence but makes an invalid election may make another valid election in accordance with the processes contained in the Bill.

New section 153T of the *Fisheries Act*, inserted into the Act by clause 6 of the Bill, also provides for an exception to the offence in section 36(2) of the *Fisheries Act* relating to the possession of commercial fishing equipment, which would otherwise apply on cancellation of a licence. A licence holder is exempt for a period of 12 months from cancellation of their licence in relation to commercial fishing equipment possessed in the course of carrying out activities under their licence if the person has evidence of ownership immediately before that date.

The purpose of the provision is to ensure that licence holders will not commit an offence immediately upon their licence being cancelled. The effect is to provide affected licence holders with a reasonable time to enable them to dispose of property comprising commercial fishing equipment following cancellation of their licence.

The provision engages the section 25(1) charter right to be presumed innocent until proven guilty in accordance with law because, if the prosecution has proved that a former licence holder is in possession of commercial fishing equipment, the former licence holder would need to point to evidence that the exception applies in order to escape liability. The provision places an evidentiary onus on the accused in respect of matters that are particularly within the knowledge of the former licence holder. Once the accused has pointed to evidence of ownership of commercial fishing equipment possessed in the course of carrying out activities under their licence, which will be particularly within the knowledge of the licence holder, the burden of proof shifts back to the prosecution.

I also note that the licence holder is required to have evidence of ownership, which is a more flexible concept than specifically requiring the production of records and is intended to enable licence holders who may have owned equipment for a number of years but who may not, for example, have purchase receipts, to satisfy the requirement. I therefore consider that the likelihood of an innocent person being convicted to be minimal, and that any limitations on charter rights arising from the provisions are reasonable and justified.

Clause 4 of the Bill also amends section 58A of the *Fisheries Act* to extend the exemption in that section to Division 6 of Part 8 of the Act. Section 58A otherwise requires certain licences cancelled under the *Fisheries Act* to be returned to the Victorian Fisheries Authority if licence has been cancelled or suspended under the Act within 14 days after the cancellation or suspension comes into effect. The effect of the exception is to make conduct that would otherwise be an offence lawful, as the provision is primarily aimed at ensuring that licences or permits are returned to the Authority in the circumstances prescribed in section 58, which are not relevant to the licence cancellation scheme in the Bill.

In my view, in clarifying the extent of operation of the section 58A offence, the Bill does not limit the right to be presumed innocent because the Bill relates to the Gippsland Lakes Fishery Access Licence class of fishing licence. In that context, the prosecution would not be able to prove an element of the offence, that a licence to which the offence applies had not been returned. There would be no need for the accused to point to evidence to this effect. However, even if that were the case, it would be an easy matter for a former licence holder to do if it became necessary. I therefore consider that, to the extent that the provisions may limit the right, they are reasonable and justified.

Suspension and cancellation of inactive pilot licences

Clause 12 of the Bill inserts new Part 4.6A into the *Marine Safety Act 2010* to provide for the suspension or cancellation of relevant inactive pilot licences, where a pilot is inactive or no longer intends to be available to act as a pilot. The Safety Director may, by notice in writing to a licence holder, suspend or cancel the licence if satisfied that the licence holder has not acted as a pilot for at least 12 months or does not intend to act as a pilot. Prior to suspending or cancelling a licence, the holder of the licence or permit must be given at least 28 days in which to make a submission about why the licence should not be suspended or cancelled.

As explained above, statutory rights such as those arising from registration or a licence to participate in a regulated industry are inherently subject to change and, for this reason, are less likely to be found to be proprietary rights. In these circumstances, I am of the opinion that the provisions for suspending or cancelling a licence under the Bill may not amount to a deprivation of property. However, if they do limit the section 20 charter property rights, it is clear that such a deprivation would be in accordance with law and I consider that, to the extent that the right may be limited, it is not impermissibly limited and the provisions are reasonable and justified.

I am also satisfied that the process set out in new Part 4.6A is fair and transparent and does not limit the section 24 charter right to a fair hearing.

Insofar as a pilot may be required to provide personal information if the pilot makes a submission explaining why their licence should not be cancelled or suspended, the section 13 charter right to privacy is neither unlawfully or arbitrarily interfered with and the right is not, therefore, impermissibly limited. I am also satisfied that the right not to impart information, which forms part of the right to freedom of expression under s 15 of the charter, is not impermissibly limited. A licence holder may choose whether or not to make a submission to the Safety Director. In any event, the provision is intrinsically connected to its purpose and a pilot will have a reasonable expectation that information will need to be provided to the Safety Director if the pilot does in fact intend to continue to act as a pilot. I consider the provisions are reasonable and justified in the context of the regulatory scheme.

Registration as a pilotage service provider

Insofar as the effect of the provisions in clause 13 of the Bill relating to the registration of a pilotage service provider requiring the Safety Director to grant a registration if satisfied that the applicant has the competence and capacity to carry out pilotage services safely engages the right to privacy in section 13 of the charter (as the applicant will need to provide various information in the applicant's application), the process is again

neither unlawful or arbitrary. An applicant in a regulated safety industry will have a reasonable expectation that such information will need to be provided to the regulator, and no less restrictive means of achieving the objective of the provisions is available. As such I consider that, insofar as the right may be limited, any limitation is reasonable and justified.

Insofar as the provisions may engage the section 15 charter right to freedom of expression, the provision is again intrinsically connected to its purpose and I consider that no less restrictive means are available to achieve the intent of the provisions, which is to regulate pilotage service providers. A person engaged in a highly regulated industry will also have a reasonable expectation that information, including personal information, may need to be provided in appropriate circumstances. I again consider that insofar as the right may be limited, any limitation is reasonable and justified.

Extension of zero blood alcohol concentration for pilots

As explained above, clause 9 of the Bill extends the requirement for a zero blood alcohol level for pilots of all vessels by amending the definition of *prescribed concentration of alcohol* in the *Marine (Drug, Alcohol and Pollution Control) Act 1988*. Section 28 of that Act provides that it is an offence to be the pilot a vessel while more than the prescribed concentration of alcohol is present in the pilot's blood or breath.

While that Act also contains provisions requiring a pilot to undergo breath or blood tests in specified circumstances, no change is made to provisions in respect of testing. If the provisions in the Bill nevertheless engages and may limit the right to privacy in section 13 of the charter, I consider any limitation reasonable and justified to protect the safety of that person and, importantly, the safety of other users of Victoria's waterways. In any event, test carried out under that Act are in accordance with law, are undertaken in specific circumstances and are not arbitrary.

Pilotage service provider incident reporting

Insofar as the provisions in clause 14 of the Bill introducing a new requirement for pilotage service providers to report safety incidents to the safety regulator may involve disclosing personal information and engage the section 13 charter right to privacy, in my view the right to privacy is neither unlawfully or arbitrarily interfered with and that, insofar as the provisions may limit the right, any limitation is reasonable and justified.

Insofar as the provisions may engage the freedom of expression (section 14 of the charter), the provision is intrinsically connected to its purpose and I consider that no less restrictive means are available to achieve the intent of the provisions, which is to improve compliance monitoring and enforcement of marine safety laws. As explained above, a person engaged in a highly regulated industry will also have a reasonable expectation that information, including personal information, may need to be provided in appropriate circumstances. Insofar as the right is limited, I again consider that any limitations are reasonable and justified.

Power to enter marine premises

Clause 17 of the Bill amends the definition of *marine premises* in the *Transport (Safety Schemes Compliance and Enforcement) Act 2014* to include premises associated with the design, manufacture or supply of a recreational vessel or marine safety equipment, and premises owned or occupied by pilotage service providers for the purpose of providing pilotage services.

The effect of the amendment is to extent the application of provisions in that Act enabling transport safety officers to undertake activities for compliance and investigatory purposes to conduct compliance monitoring and enforcement, including entering marine premises without warrant or consent.

Under Division 2 of Part 2 of that Act, a transport safety officer who enters marine premises may exercise a number of investigatory powers, including searching, inspecting and examining the premises, making inquiries at the premises and seizing any thing (including a document) at the premises if the officer reasonably believes the thing is evidence of an offence against the Act or a transport safety or infrastructure law. An officer may also require a person at the marine premises to give the officer reasonable help to exercise certain of the officer's powers. It is an offence not to comply unless the person has a reasonable excuse.

The exercise of powers mean that a person may be required to temporarily remain at a place, for example to provide reasonable help to a transport safety officer. However, the powers are limited to requiring help to enable the officer to exercise specific compliance and enforcement powers for investigative purposes and do not authorise the detention of individuals. Insofar as the powers limit the freedom of movement of individuals (section 12 of the charter), I consider them to be reasonable and justified given the purpose of the transport safety scheme, which (in this case) is to best secure marine safety, so far as is reasonably practicable. Such powers are necessary to monitor compliance with the regulatory scheme, and to detect non-compliance.

I consider that, insofar as the powers interfere with the section 13 charter right to privacy, such interference is in accordance with law and is not arbitrary. The powers are essential to the investigative and compliance functions of Victoria's marine safety regulator. They are exercisable in constrained circumstances, are

directed at important regulatory purposes and are subject to a range of safeguards, including procedural requirements. The powers of entry, and powers on entry, are available in respect of premises used for the specified commercial purposes in which individuals have a limited expectation of privacy, namely premises which transport safety officers reasonably suspect to be marine premises. An officer who enters a place that is not marine premises is required to leave immediately.

The processes under that Act for entry and search under warrant also apply to the extended definition of *marine premises*, but are subject to the safeguards of the warrant process. Any interference with privacy is again in accordance with law and is not arbitrary. I consider that the provisions and any limitations on charter rights are, in each case, reasonable and justified.

Provisions relating to seizure may in certain circumstances amount to deprivation of property. However, I consider they do not impermissibly limit the section 20 property rights and are again reasonable and justified. The circumstances in which property can be seized, secured, forfeited or otherwise interfered with are clearly specified and constrained, including by reference to the reasons for which powers can be exercised and, as noted, a range of safeguards are provided.

In relation to the imposition of an evidentiary onus on the accused with respect to the offence of failing to give an officer reasonable help, which may limit the section 25(1) charter right to be presumed innocent until proven guilty in accordance with law, I consider this is reasonable and justified. The reasonable excuse will be within the knowledge of the accused, and it will be relatively easy for the accused to offer evidence of it. Once the accused has pointed to evidence that a reasonable excuse may exist, the burden of proof passes back to the prosecution.

A transport safety officer also has the power, under section 22 of the 2014 Act, to require production of documents, devices or other things and answers to questions. Section 23 of that Act provides that a person is not excused from answering a question or providing information or a document under Part 2 of the Act on the ground that the answer to the question, or the information or document, may tend to incriminate the person or expose the person to a penalty. The section 25(2) charter minimum guarantees in criminal proceedings include the right to be free from self-incrimination. Evidence obtained compulsorily may offend this right. This is also an important element of the section 24 charter right to a fair hearing.

However, section 23 of the 2014 Act contains a use immunity (which extends to both direct and indirect, or derivative, use) which protects the privilege and ensures that neither the person's answer, nor evidence obtained as a consequence of that answer, can be used against that person in criminal proceedings other than a proceeding arising out of the answer being false or misleading.

Exceptions to these immunities (in section 23(3) of that Act) apply where the information or document that is obtained directly or indirectly as a consequence of the answer is information or a document that is required to be kept under the regulatory scheme, or is contained in such a document. Pre-existing documents and information required to be kept under a regulatory scheme are generally afforded less protection under the privilege against self-incrimination and are documents or information that a person is required to keep and produce as a consequence of their election to participate in a regulated industry. Ensuring they are available and able to be used in criminal proceedings is essential to achieving compliance with the marine safety scheme in Victoria. To the extent that the exceptions may limit the section 24 and 25 charter rights, I consider that they are justified and reasonable.

Hon. Jaala Pulford MP
Fishing and Boating

Second reading

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services)
(13:17): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms MIKAKOS: I move:

That the bill be now read a second time.

Incorporated speech as follows:

We know Victorians love their fishing, with Victoria being home to an estimated 830,000 recreational fishers who contribute around \$2.3 billion to Victoria's social and economic wellbeing each year.

In recognition of this, the Andrews Government, in its first term, committed \$46 million to growing recreational fishing in Victoria under the *Target One Million* program. Following the success of this initiative, the Andrews Government has renewed this plan and committed a further \$35 million towards Phase 2 of the program. This is the largest injection of funds into fisheries on record.

A part of Phase 2, the government has committed to ending commercial netting in Gippsland Lakes with a compulsory buy-out of the remaining licences. This will return the lakes system to recreational fishing and boost local tourism and jobs. It will also facilitate future stock rebuilding for species such as black bream and flathead.

To deliver this initiative, it proposed that the *Fisheries Act 1995* (the Act) be amended to phase-out the ten Gippsland Lakes Fishery Access Licences over a two-year period with all Gippsland Lakes Fishery Access Licences cancelled by 1 April 2021.

This is an important initiative that has substantial benefits. However, the Government acknowledges that commercial fishing has a long history in the Gippsland Lakes, with many of the current licence holders having a direct multi-generational family connection to fishing in the area. The Government also recognises that this decision impacts on people's livelihoods and their families and that commercial fishing for some of the licence holders is more than a just a business or workplace.

To help offset these impacts, the Bill will provide affected licence holders with a fair and clear exit strategy.

The Bill will create a new Division in the Fisheries Act that will apply specifically to the cancellation of the Gippsland Lakes Fishery Access Licence class and will detail the process and timing of cancellation, and the compensation to be provided (and when). Similar legislative amendments were used to achieve the phase-out of commercial netting in Port Phillip and Corio Bays.

The Bill will provide that Gippsland Lakes Fishery Access Licences are to be phased-out over a two-year period, with all affected licences cancelled by 1 April 2021. However, affected licence holders may elect to surrender their licence before then, with the surrender to take effect on 1 April 2020 (i.e. the licence holder ceases fishing on 1 April 2020).

The Bill states that compensation will be offered to licence holders on surrender or cancellation of their licence. Compensation for the surrender of a licence by 1 April 2020 will comprise of:

1. \$371,000 for the licence—which is the market value of the licence as assessed by the Valuer General; and
2. an allowance of \$60,000 for redundant fishing vessel(s) and all commercial fishing equipment (noting that vessels and equipment continue to be the property of the licence holder); and
3. compensation for loss of income, based on three times the average annual catch value taken under each licence over the five-year period between 1 April 2012–31 March 2017. This amount will differ by licence holder as it is based on their individual previous catch history.

The Bill provides that licence holders who wish to continue fishing until 1 April 2021 will be offered cancellation compensation in early 2021. The cancellation package will be calculated in accordance with the same metrics as the surrender package. However, the overall amount offered will be reduced by a factor of 20% to encourage licence holders to exit the fishery early.

The Bill will also establish an exemption from the regulation which prohibits the possession of commercial fishing equipment without a fishing licence, for a 12-month period following the surrender or cancellation of the licences (whichever is sooner). This will provide fishers with time to sell the equipment. Following the amnesty, it will be illegal for individuals to be in possession of commercial fishing equipment without a fishing licence. The Victorian Fisheries Authority will arrange for the collection and disposal of any remaining equipment at the conclusion of the amnesty, at no cost to the fishers.

The commitment will cost around \$8.8 million, depending on when fishers exit the fishery and will recognise individual investment and loss of income to licensees. Rural Finance (RF) will be engaged to administer the compensation payments. This provider has experience in administering previous buy-outs.

The approach balances the need to allow sufficient time for affected fishers and businesses to make decisions about when to exit, with the early realisation of the expected economic benefits of improved recreational fishing.

Commercial bait, eel and mussel fishing will not be impacted by this commitment and will continue to be permitted in the Lakes. Victorian and Commonwealth offshore fisheries that use the Lakes as a port will also remain unaffected, ensuring that prawns and other species sold into the food market continue to be available to consumers.

The Bill will implement a range of measures to improve marine safety laws.

In 2018, the Department of Transport reviewed the regulatory scheme for pilotage service providers and sea pilots. The Department recommended a range of measures to reduce marine safety risks and improve public confidence in the safety of shipping operations by making changes to the operation of the regulatory scheme for pilotage service providers and pilots.

The Bill will amend the *Marine Safety Act 2010* to give the Director, Transport Safety more discretion when considering applications for registration of new pilotage service providers. Applicants for registration will need to demonstrate to the Director, Transport Safety that they have the competence and capacity to provide services safely.

The Bill will also improve the powers of the Director, Transport Safety to regulate inactive sea pilots. The amendments provide power to suspend or cancel a pilot licence if the person has not acted as a pilot for a period of at least 12 months or does not intend to act as a pilot. This amendment will ensure that the skills of a pilot are current, and that inactive pilots be required to go through a refamiliarisation process if intending to resume providing services.

An amendment will introduce a requirement for pilotage service providers to report marine incidents that involve pilots that are employed or engaged by that provider to the Director, Transport Safety. This reporting requirement will complement existing reporting by owners and masters of vessels and improve the level of information available to Transport Safety Victoria to support compliance monitoring and enforcement of marine safety laws.

The Bill will amend marine drug and alcohol laws to ensure that sea pilots are required to have a zero blood-alcohol concentration when providing pilot services on any classification of vessel.

The Bill will amend the definition of marine safety worker to exclude a person who is a volunteer. This will ensure that volunteers involved in undertaking boating activity events that fail to fulfil their duty to take reasonable care will not be subject to much higher penalties to those that apply to recreational boaters. The amendment will make marine safety laws fairer and more consistent with the *Occupational Health and Safety Act 2004* with respect to the treatment of volunteers.

The Bill will provide additional powers to the Director, Transport Safety and Transport Safety Officers to ensure that those officers are able to efficiently and effectively enforce the general safety duties under the *Marine Safety Act 2010*. The Bill will enable those officers to enter the premises associated with the design, manufacture or supply of vessels and equipment and the premises of pilotage service providers for compliance and investigatory purposes.

In conclusion, the Bill will make important changes to Marine and Fisheries Legislation, improving outcomes for recreational fishers and boaters, providing fair compensation to affected licence holders, and improving the safety of shipping operations.

I commend the Bill to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:18): I move, by leave:

That debate on this bill be adjourned until later this day.

Motion agreed to and debate adjourned until later this day.

HEALTH LEGISLATION AMENDMENT AND REPEAL BILL 2019

Introduction and first reading

The PRESIDENT (13:18): I have a message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Health Services Act 1988**, the **Mental Health Act 2014** and the **Tobacco Act 1987**, to repeal the **Access to Medicinal Cannabis Act 2016**, to consequentially amend other Acts as a result of that repeal and for other purposes'.

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:19): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms MIKAKOS: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:19): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006*, (the **Charter**), I make this Statement of Compatibility with respect to the *Health Legislation Amendment and Repeal Bill 2019*.

In my opinion, the *Health Legislation Amendment and Repeal Bill 2019*, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this Statement.

Overview of Bill

The Bill:

- a. repeals the *Access to Medicinal Cannabis Act 2016* which is no longer necessary to facilitate access to medicinal cannabis in Victoria in light of the subsequent Commonwealth legislation and the procedures that have now been established under the Commonwealth scheme;
- b. amends the *Tobacco Act 1987* to prohibit indirect forms of advertising by tobacco manufacturers and e-cigarette manufacturers and to repeal provisions providing exemptions for certain forms of tobacco or e-cigarette advertising;
- c. makes amendments to the *Health Services Act 1988*, the *Mental Health Act 2014* and the *Health Complaints Act 2016* allowing for greater sharing of information between the Secretary to the Department of Health and Human Services, prescribed quality and safety bodies, the Health Complaints Commissioner and the Mental Health Complaints Commissioner and specified health service entities for the purposes of improving health service quality and safety; and
- d. makes miscellaneous amendments to the *Health Services Act 1988*, the *Mental Health Act 2014* and the *Health Complaints Act 2016*:
 - a. substituting the offence provisions in s 111 of the *Health Services Act 1988* to improve the clarity of the offences (Part 3 of the Bill).
 - b. amendments to the *Health Services Act 1988* (Part 4 of the Bill) to:
 - i. ensure the tenure of all board members subject to the *Health Services Act 1988* is consistent, by limiting the tenure of a Health Purchasing Victoria board member to nine years (clause 59);
 - ii. ensure the provisions regarding the Minister's removal of board members are consistent across the *Health Services Act 1988* by aligning the provisions for a public hospital or multi purpose service with those for public health services (clauses 57 and 58);
 - iii. amend the regulation making powers to allow regulations to be made setting out the requirements relating to governance of health services establishments (clause 60);
 - iv. update the Schedules to reflect name changes (clause 61); and
 - v. introduce a new schedule for multi purpose services (clauses 55, 56 and 62).
 - c. amendments to the *Mental Health Act 2014* (Part 6 of the Bill) to:
 - i. enable the Mental Health Complaints Commissioner to share relevant information with the Health Complaints Commissioner, the Australian Health Practitioners Regulatory Authority ('AHPRA') and the administrative offices attached to the department with quality and safety functions (clauses 70, 72);

- ii. amend the circumstances in which information can be disclosed, to remove the requirement of ‘imminent’ threat and allow disclosure for the purpose of preventing or lessening a threat, to align with the Health Complaints Act 2016 and recent amendments to the *Privacy and Data Protection Act 2012* and the *Health Records Act 2001* made by the *Family Violence Protection Amendment (Information Sharing) Act 2017* (clauses 69, 78, 79);
 - iii. allow the Mental Health Complaints Commissioner to make disclosures to AHPRA as the Health Complaints Commissioner can under the *Health Complaints Act 2016* (clauses 72 and 79);
 - iv. enable the more effective operation of the Mental Health Complaints Commissioner’s conciliation function (clauses 73 to 77);
 - v. ensure the Mental Health Complaints Commissioner can accept undertakings from a mental health service provider at any time during the complaints process (clause 73); and
 - vi. allow for greater flexibility in relation to the timing and content of the reports that mental health service providers are required to submit to the Mental Health Complaints Commissioner (clause 80).
- d. amendments to the *Health Complaints Act 2016* to remove the requirement of ‘imminent’ threat and allow disclosure for the purpose of preventing or lessening a threat, to align with the Health Complaints Act 2016 and recent amendments to the *Privacy and Data Protection Act 2012* and the *Health Records Act 2001* made by the *Family Violence Protection Amendment (Information Sharing) Act 2017* (clauses 82 to 84).

Human Rights Issues

Repeal of the Access to Medicinal Cannabis Act 2016

Part 2 of the Bill repeals the *Access to Medicinal Cannabis Act 2016*, including its consequential amendments. Not long after the Act was passed, the Commonwealth introduced its own legislation and subsequently developed its own comprehensive regulatory scheme to provide for access to medicinal cannabis. This meant that the Victorian scheme was never implemented, and can now be repealed. In light of the availability of the Commonwealth scheme and the fact that the Victorian scheme was never implemented, I consider that its repeal does not engage any rights and is therefore compatible with the Charter.

The current Commonwealth scheme authorises the cultivation, manufacturing, importation, supply and use of medicinal cannabis through a number of laws:

- Cultivation is licensed under the *Narcotic Drugs Act 1967 (Cth)*;
- Manufacturing of medicinal cannabis is licensed under the *Narcotic Drugs Act 1967 (Cth)* and, in some cases, also under sections 19–20 of the *Drugs Poisons and Controlled Substances Act 1981 (Vic)*;
- Importation of medicinal cannabis is licensed under the *Customs (Prohibited Imports) Regulations 1956 (Cth)* and, in respect of wholesaling in Victoria, under sections 19–20 of the *Drugs Poisons and Controlled Substances Act 1981 (Vic)*.
- Access to medicinal cannabis (supply and use) is authorised through the *Therapeutic Goods Act 1989*, the Therapeutic Goods Regulations 1990, and associated legislative instruments which currently includes the *Poisons Standard June 2019* made pursuant to section 52D(2)(b) of the *Therapeutic Goods Act 1989*. These contain a range of drugs whose use is either prohibited or permitted based upon which schedule they fall in. Previously, all cannabis was a ‘prohibited substance’. However, medicinal cannabis has been ‘down-scheduled’ so as to authorise its supply and use for medicinal purposes. It is now either:
 - a ‘controlled drug’, which is described as ‘substances which should be available for use but require restriction of manufacture, supply, distribution, possession and use to reduce abuse, misuse and physical or psychological dependence’. This is by reason of being listed in schedule 8 of the Poisons Standard 2019 (see the references to tetrahydrocannabinol (THC) and Cannabis in schedule 8) and concerns products containing the psychoactive ingredient THC; or

- a ‘prescription only medicine’. This is by reason of being listed in schedule 4 (see the references to cannabidiol products in schedule 4) and concerns products containing less than two per cent of the psychoactive ingredient THC.

Outside of therapeutic use, cannabis remains a ‘prohibited substance’ under schedule 9 to the Poisons Standard 2019.

Under the *Drugs Poisons and Controlled Substances Act 1981*, cannabis is a ‘drug of dependence’ pursuant to the definition of that term in section 4 of the Act and the inclusion of Cannabis in column 1 of Part 2 of schedule 11 to the Act and TCH in column 1 of part 3 of schedule 11 to the Act. The Act contains a number of offences with respect to possession, supply etc of a drug of dependence. The Bill amends the offence provisions to remove specific exceptions based upon a person being authorised under the *Access to Medicinal Cannabis Act 2016* (see clauses 21–39 of the Bill). The Bill also amends provisions in the *Crimes Act 1958* relating to the circumstances in which intoxication can be relied upon, so that there is no longer a specific reference to medicinal cannabis products, which are defined in section 2A of the *Crimes Act* by reference to the *Access to Medicinal Cannabis Act 2016*, as a basis for a claim that intoxication was self-induced (see clauses 46 and 47 of the Bill). As explained above, the Victorian regulatory scheme was never implemented. Accordingly the removal of these provisions has no impact upon any person’s rights.

For completeness, although they are not consequences of the Bill, I note that:

1. persons who are prescribed medicinal cannabis under the Commonwealth scheme are and will continue to be able to rely upon any resulting intoxication in the same way as any other prescription drug (see section 36B(2)(c) and section 322T(5)(c) of the *Crimes Act 1958*).
2. persons who possess medicinal cannabis under the Commonwealth regulatory scheme are still subject to the *Drugs Poisons and Controlled Substances Act 1981*, but are and will continue to be able to rely upon the exception or excuse of ‘being authorised by or licensed under this Act or the regulations’, which is contained in the offence provisions. Because of the down-scheduling of medicinal cannabis to a schedule 4 or schedule 8 poison, persons are authorised under the Act (see, for example section 13) and/or the *Drugs Poisons and Controlled Substances Regulations 2017* (see, for example, regulations 7 and 8) to possess medicinal cannabis. Pursuant to section 72 of the *Criminal Procedure Act 2009*, an accused claiming to be authorised to possess medicinal cannabis will be required to present or point to evidence that suggests a reasonable possibility that he or she is so authorised. While this arguably engages the right to be presumed innocent in section 25 of the Charter, I consider the provisions are compatible with that right. Because of the nature of the regulatory scheme, it will be reasonably easy for an accused to present such evidence. The onus is an evidential one only, and the accused cannot be convicted if there is a reasonable doubt as to his or her guilt.

Amendments to the Tobacco Act

Part 5 of the Bill makes amendments to the *Tobacco Act*, the effect of which is to:

1. prohibit indirect forms of advertising by tobacco manufacturers and e-cigarette manufacturers (clause 65); and
2. no longer permit exemptions for certain forms of tobacco or e-cigarette advertising (clause 67).

Insofar as the Bill prohibits tobacco and e-cigarette companies from engaging in advertising, including through sponsorship, the Charter is not engaged at all. Under the Charter, corporations do not have human rights, only human beings have human rights. Similarly, restrictions upon other corporations who might otherwise engage in direct advertising of tobacco or e-cigarette products, or accept sponsorship by tobacco manufacturers and indirectly promote such products, does not engage the Charter. However, the conduct prohibited by the Bill is not limited to that engaged in by corporations, but extends to individuals. Accordingly, the provisions engage the right to freedom of expression in section 15 of the Charter.

Freedom of expression is not an absolute right. In addition to the general limitations provision in section 7(2) of the Charter which applies to all rights, section 15(3) of the Charter expressly recognises that freedom of expression may be limited. Section 15(3) provides that:

Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary—

- (a) to respect the rights and reputation of other persons; or
- (b) for the protection of national security, public order, public health or public morality.

Moreover, it is well recognised that commercial expression, to which the provisions of the Bill are directed, is of less importance than political expression.

In my view, the restrictions upon expression imposed by the provisions of the Bill are reasonably necessary to respect the rights of others, including the rights of children in section 17(2) of the Charter to such protection as is in their best interests and is needed by reason of being a child, and for the protection of public health. They are also reasonable and justified for the purposes of section 7(2) of the Charter.

The public health impacts of smoking tobacco are well documented: smoking tobacco increases the risk of lung cancer, cardiovascular disease, chronic obstructive pulmonary disease and many other illnesses, and evidence suggests that smoking kills almost two in three regular users. The short and long-term health effects of so-called 'smoke-free' products such as e-cigarettes are currently being researched and the full extent of their effects has yet to be determined. They have not been proven to be safe and research increasingly shows that e-cigarettes emit harmful substances. Even the tobacco and e-cigarette companies that manufacture the products are careful not to claim that they are safe, merely that they pose 'potentially reduced risk' (see BAT website regarding their 'Transforming Tobacco ambition': https://www.bat.com/group/sites/UK_9D9KCY.nsf/vwPagesWebLive/DO52ADCY) or that they have 'the potential to present less risk of harm to smokers who switch to those products versus continued smoking' (see Phillip Morris website: <https://www.pmi.com/faq-section/faq/what-are-reduced-risk-products>). Clearly, however, their use is not limited to people who already smoke, and nor is the advertising that promotes their use. Not only are e-cigarettes potentially harmful in themselves, there is the risk that users of e-cigarettes will progress to smoking tobacco. There is growing evidence that use of e-cigarettes may lead to young people taking up smoking.

The Tobacco Act operates to discourage the use of tobacco and e-cigarette products and to prohibit promotion and advertising of these products, companies associated with these types of products and smoking in general. Section 3B of the Tobacco Act provides that a tobacco or e-cigarette advertisement includes any writing, still or moving picture, sign, symbol or other visual image that gives publicity to or otherwise promotes or is intended to promote smoking or the purchase or use of a tobacco product or e-cigarette product. An advertisement that promotes a trade mark, registered design, manufacturer name or words or designs (including designs consisting of a colour or a scheme of colours) that are closely associated with a tobacco product or e-cigarette product is also a tobacco or e-cigarette advertisement under section 3B of the Tobacco Act.

At the time the Tobacco Act was passed, tobacco advertising was prevalent in sponsorship of Victorian and Australian sporting competitions (for example, the Benson & Hedges World Championship of Cricket in 1985; numerous horse races, including the Marlboro Cup run at Caulfield under that name from 1975–1988). Accordingly, the Governor in Council was empowered to authorise advertising exemptions for certain events. Over time, however, regulation of the tobacco industry has shifted towards complete exclusion of tobacco advertising at sporting events. Section 10 of the Tobacco Act still provides for exemptions from the application of provisions restricting tobacco and e-cigarette advertisements or contracts for such advertisements, in accordance with regulations under the Tobacco Act. Regulations were made to allow limited advertisements at specific sporting events, including annually for Grand Prix events (for example, under the Tobacco (Grands Prix Events) Regulations 1999), however the last events for which such regulations were made were the 2006 Australian Grand Prix and the 2006 Australian Motorcycle Grand Prix.

Amendments to advertising restrictions

More recently, however, it appears that tobacco and e-cigarette manufacturers are attempting to avoid the operation of advertising restrictions and continue their association with motor sport by entering into sponsorships that indirectly promote the manufacturer and their products.

For example, British American Tobacco (BAT) has announced "a new global partnership" with the Formula 1 team McLaren using the logo "a better tomorrow". BAT's website states that the partnership 'is focused on accelerating our Transforming Tobacco ambition, at the heart of which is our commitment to providing a portfolio of potentially reduced-risk products' i.e. e-cigarettes and other so-called 'smoke-free' tobacco products.

Philip Morris International (PMI), has created a new logo in association with its 'Mission Winnow' campaign and entered into sponsorship deals under which the logo is carried by Ferrari on cars, and Ducati on motorbikes. PMI has applied for registration of the Mission Winnow logo as a trade mark, including for use with respect to tobacco products. The colour and design of the logos share a number of similarities with and are reminiscent of the Marlboro chevron logo and barcodes that have long been used to promote the Marlboro cigarette brand in motor sports. However, the indirect nature of the advertising meant that the French National Committee for Tobacco Control had to issue legal proceedings against PMI and Ducati to enforce its tobacco advertising laws. The Le Mans High Court upheld the claim, finding that 'the name and the "Mission Winnow" logo constitute some reference, although indirect and implicit, to tobacco, and in particular to the Marlboro brand and its owner, Philip Morris' so as to fall within the advertising prohibitions, and that 'the partnership between Philip Morris and Ducati, under cover of the organization and the "Mission Winnow"

brand, is clearly a sponsorship or patronage operation prohibited by law' (see *Association National Committee for Tobacco Control v S.A. Philip Morris Products & Ors* Le Mans High Court, 15 May 2019).

The attempts by tobacco companies to continue to promote themselves and their products through sponsorship of motor sports has led the World Health Organisation (WHO) to call for all governments to enforce bans on tobacco advertising, promotion and sponsorship at sporting events, including when hosting or receiving broadcasts of Formula 1 and MotoGP events. The WHO has identified that the actions of the tobacco and motor sport companies result in advertisement and promotion of tobacco products and tobacco use to the world at large, including young people. Tobacco product advertising and promotion occurs both in countries that host events and in countries that receive transmissions of these events. The WHO has emphasised that Article 13 of the WHO Framework Convention on Tobacco Control obliges parties to the Convention (which includes Australia) to implement a comprehensive ban (or restrictions) on tobacco advertising, promotion and sponsorship. The definitions of "tobacco advertising and promotion" and "tobacco sponsorship" in the WHO Framework Convention on Tobacco Control are broad and cover activities with the effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.

Victoria's tobacco laws make it a world leader in discouraging smoking, including making it less attractive to young people. While the existing laws have so far prevented campaigns such as Mission Winnow, the proposed amendments will provide clarification and certainty that campaigns which employ indirect marketing are prohibited. The proposed amendments will deter such campaigns and ensure that, unlike France, tobacco advertising laws can be enforced without the need for litigation.

The conduct of the tobacco manufacturers, both in developing these campaigns and in requiring governments to enforce tobacco advertising laws through the courts, demonstrates the need to enact specific provisions to deter and prevent such advertising. The proposed provisions are targeted at such campaigns and, given the way in which tobacco manufacturers have sought to avoid the operation of tobacco laws, there are no less restrictive means reasonably available to achieve the protection of public health purposes of the provisions.

Removal of the power to grant exemptions to the advertising laws

Section 10 of the Tobacco Act provides a mechanism for the making of an exemption through regulations to permit the display of what would otherwise be a tobacco or e-cigarette advertisement under the operation of a sponsorship arrangement for such advertisements. As set out above, tobacco regulation and the operation of major sporting events has now transitioned to the point where exemptions to advertising restrictions are no longer necessary or appropriate. The last such exemptions were made in respect of the 2006 Australian Motorcycle Grand Prix.

I consider that the public health impacts of tobacco and e-cigarette products are such that a blanket restriction, without possibility of exemption, is now appropriate and is a reasonable limitation upon the right to freedom of expression.

Information sharing provisions

The Bill makes a number of amendments that provide for greater information sharing. More particularly, the Bill:

1. Enables disclosure to lessen or prevent a serious risk to the life, health, safety or welfare of a person, or the health, safety or welfare of the public (or similar wording), and remove requirements that such harm be "imminent":
 - in respect of disclosure by the Chief Psychiatrist under section 140(3) of the Mental Health Act 2014 (see clause 69);
 - in relation to information given in a conciliation process under the Mental Health Act (see clause 78). Protections are included to ensure that the information given in a conciliation is not admissible in court proceedings, unless the parties to the conciliation consent;
 - under s 265 of the Mental Health Act 2014 (see clause 79); and
 - in respect of disclosure under sections 150–152 of the Health Complaints Act 2016 (see clauses 82–84).
2. Enables disclosure under section 265 of the Mental Health Act to the Australian Health Practitioner Regulation Agency or any National Board, if relevant to a complaint, investigation or inquiry (see clause 79).
3. Provides for disclosure of information given in a conciliation process under the Mental Health Act where it is made with written consent of the person or where the Commissioner reasonably believes that the disclosure is necessary to lessen or prevent a serious risk to the life, health, safety or welfare of a person, or the health, safety or welfare of the public. Protections are included to ensure that the information given

in a conciliation is not admissible in court proceedings, unless the parties to the conciliation consent (clause 78).

4. Inserts a new Part 6B into the *Health Services Act 1988* which provides for information sharing between the Department of Health and Human Services, quality and safety bodies, health service entities, and special advisers appointed for one or more quality and safety purposes (see clause 85).
5. Displaces certain Health Privacy Principles (HPP) and Information Privacy Principles (IPP), which might otherwise require consent. This is to ensure that the objectives of the information sharing powers in new Part 6B of the *Health Services Act 1988* are not unduly compromised. Specifically, clause 86 provides that nothing in HPPs 1.3 or 1.5 applies to the collection of health information for the purposes of new Part 6B of the *Health Services Act 1988* by the Secretary, a quality and safety body, a health service entity or a special adviser appointed under section 134Z of the *Health Services Act*. More broadly, clause 86 provides that nothing in any HPP applies to the collection, use or disclosure of health information under Part 6B to the extent that it requires the consent of the relevant person. Clause 87 makes similar amendments with respect to the corresponding IPPs in the *Privacy and Data Protection Act 2014*. The effect of clauses 86 and 87 is that, when acting in accordance with new Part 6B, the entity need not collect health or personal information directly from the individual it relates to (HPP1.3, IPP 1.4). It also means that where an entity has collected health or personal information about an individual from someone else, the entity need not take steps to ensure that the individual is aware of matters such as the identity of the entity that has collected the information, the fact that the individual can access the information, the purposes for which it has been collected, and to whom the entity will disclose the information (HPP1.5, IPP 1.5). More broadly, consent is not required for entities to share information or use that information for quality and safety purposes under Part 6B. However, the ability to collect, use or disclose information is expressly limited to that which is necessary to achieve the quality and safety purpose (new section 134ZC, as inserted by clause 85).

These provisions engage the right to privacy in section 13 of the Charter which affirms the right of a person not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

The information includes sensitive personal and health information. However, I consider that any interference with privacy is reasonable and not arbitrary, having regard to:

- the importance of the purposes of the information sharing provisions, namely to lessen or prevent a serious risk to the life, health, safety or welfare of a person (clauses 69, 78, 79, 82–84), to assist in relation to the functions of the Australian Health Practitioner Regulation Agency and the National Boards (clause 79), and to improve the quality of care and protect the safety and wellbeing of patients (clause 85);
- the limits on the purpose for which the information may be collected, used or disclosed, namely:
 - to lessen or prevent a serious risk to the life, health, safety or welfare of a person (clauses 69, 78, 79, 82–84);
 - if relevant to a complaint, investigation or inquiry (clause 79); or
 - for quality and safety purposes (see clause 85 and the meaning of quality safety purpose in new section 134W of the *Health Services Act 1988*);
- the discretionary nature of the provisions, which means that decision makers will still need to have regard to whether it is reasonable to share information in the circumstances (including by reason of their obligations under section 38 of the Charter); and
- the protections as to the use and disclosure of the information. In particular:
 - Persons or bodies to whom information is able to be disclosed will usually be subject to legislative provisions that protect privacy, including the *Health Records Act 2001*, the *Privacy and Data Protection Act 2014* and the *Charter*. This will not necessarily be the case where disclosure is necessary to prevent or lessen a serious risk of harm to a person, but that is a matter that can be taken into account in determining whether to disclose the information to that person.
 - New section 134ZC of the *Health Services Act 1988*, as inserted by clause 85 of the Bill, expressly limits the collection, use and disclosure of confidential information for the purposes of Part 6B to that which is necessary to achieve the quality and safety purpose.

To the extent that the information-sharing provisions displace some of the otherwise applicable consent requirements in the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*, in my view, this is crucial in order to achieve the objectives of the Bill. This approach is consistent with the provisions in the

Family Violence Protection Amendment (Information Sharing) Act 2017 and the Children Legislation Amendment (Information Sharing) Act 2018 which displace IPPs 1.4, 1.5 and 1.10. A requirement that entities obtain consent from relevant individuals would undermine the capacity and willingness of those entities to exchange information in the timely and collaborative manner necessary to achieve the purposes of the Bill. While consent requirements are displaced, there remain important protections against the unreasonable interference with an individual's privacy. In particular, other IPPs and HPPs will continue to apply to the collection, use and disclosure of the information, as will the Charter. Further, the displacement of the IPPs and HPPs is limited to collection, use or disclosure for the purposes of Part 6B and, importantly, new section 134ZC (clause 85) expressly limits collection use or disclosure under Part 6B to that which is necessary to achieve the quality and safety purpose. The consent provisions of the Privacy and Data Protection Act 2014 and Health Records Act 2001 will continue to apply to the collection use or disclosure of health or personal information for other purposes.

Accordingly, I consider that the provisions are compatible with the right to privacy in section 13 of the Charter.

Jenny Mikakos MP
Minister for Health
Minister for Ambulance Services

Second reading

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:19): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms MIKAKOS: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Bill makes a number of important amendments, which include: strengthening existing e-cigarette and tobacco advertising prohibitions; repealing the redundant *Access to Medicinal Cannabis Act 2016*; and allowing for greater information sharing to improve health service quality and safety. It also makes a number of miscellaneous minor amendments.

Tobacco advertising in Victorian sport

I want to start by reiterating that, as with Australia more broadly, Victoria has been a world leader in tobacco control by restricting the advertising of tobacco and e-cigarette products, and by severing the association between the tobacco industry and sport, arts and entertainment. Notably, the *Victorian Tobacco Act 1987* was the first piece of legislation in Australia to ban outdoor tobacco advertising on billboards and shops.

Our progress must not be undermined. The Victorian Government was concerned to hear late last year that the tobacco industry had established new advertising sponsorship partnerships with several motorsport teams for the 2019 Formula 1 Grand Prix and Motorcycle Grand Prix championship season. These new and indirect forms of advertising are designed to circumvent tobacco control laws around the world. Unequivocally, these campaigns serve the commercial interests of the tobacco industry.

The government was pleased that, through collaborative efforts with the Australian Grand Prix Corporation and Formula 1, all tobacco industry advertising was removed for the 2019 Australian Formula 1 Grand Prix.

However, the evolving marketing techniques of the tobacco industry, and their emerging partnerships in sports, mean there is a need to do more.

This Bill represents Victoria's ongoing commitment to reducing tobacco related harm, and preventing any association between the tobacco and e-cigarette industry and Victorian sports, arts and entertainment.

The Bill will strengthen Victoria's existing tobacco and e-cigarette advertising prohibitions to cover new and indirect forms of advertising and marketing by the tobacco and e-cigarette industry.

To reinforce and complement these changes, the Bill will also repeal a redundant mechanism that provides a power for the Governor in Council to exempt certain sporting or arts functions or events from the operation of tobacco advertising prohibitions. This power has not been exercised in Victoria since 2006.

Definition of tobacco or e-cigarette advertisement

As tobacco control legislation has broadened and strengthened over time, so too has the diversification of commercial tactics used by the tobacco and e-cigarette industries.

We must respond to new and evolving tobacco advertising techniques to ensure our legislation remains contemporary and effective.

The Bill will strengthen existing tobacco and e-cigarette prohibitions by extending the definition of a tobacco or e-cigarette advertisement to expressly include words and designs that are closely associated with a manufacturer of tobacco or e-cigarette products.

It will also make it clear that words and designs are closely associated with a manufacturer of tobacco or e-cigarette products where the manufacturer has entered into any contract, agreement or understanding with a person for that person to give publicity to, or otherwise promote or intend to promote, the words or designs.

Repeal of exemptions permitting display of tobacco advertisements

At the time the Tobacco Act was passed, tobacco industry advertising was commonplace in Victorian and Australian sport. Accordingly, the Governor in Council was empowered to authorise advertising exemptions for certain events.

Since this time, the pervasive and harmful impact of smoking and tobacco and e-cigarette advertising has been fully acknowledged. There is a clear understanding and expectation among the community that there is no place in Victorian events for such advertising.

Under the strict stance on tobacco and e-cigarette advertising at public events, the provision for such an exemption is clearly now redundant and will be repealed.

The repeal of this provision will not impact upon current exemptions to display tobacco products in certified specialist tobacconists or e-cigarette products in certified specialist e-cigarette retailing premises.

Repeal of the Access to Medicinal Cannabis Act

I would like to now outline for Parliament the amendments that will repeal the Victorian Access to Medicinal Cannabis Act.

The Access to Medicinal Cannabis Act was an Australian first. At a time when no other Australian jurisdiction had enabled access to medicinal cannabis, Victoria led the nation in establishing a legal access scheme that would—for the first time—allow seriously ill patients to access quality controlled medicinal cannabis products.

The establishment of a Victorian medicinal cannabis scheme was a complex policy initiative given the place of cannabis outside usual drug development pathways and the absence of Commonwealth support.

Victoria's leadership in this area, and the passage of the Access to Medical Cannabis Act, was pivotal in shifting attitudes and was the catalyst for subsequent national policy and legislative changes.

Soon after the Victorian Access to Medicinal Cannabis Act was passed, the Commonwealth government changed its position on medicinal cannabis, and in late 2016 established a comprehensive national regulatory system for patient access, cultivation and manufacture. This included the down-scheduling of medicinal cannabis from a Schedule 9 prohibited substance, to a Schedule 8 controlled drug. Subsequent changes were undertaken to allow the bulk import of medicinal cannabis products and to simplify access processes.

In this changed landscape, the Access to Medicinal Cannabis Act was no longer necessary and implementing it would have resulted in regulatory duplication and increased burden on industry. To avoid this outcome, in January 2018 the government announced that the Victorian standalone scheme, as envisaged in the Access to Medical Cannabis Act, would not be implemented.

Instead, manufacture licensing and patient access in Victoria has been regulated under the *Victorian Drugs, Poisons and Controlled Substances Act 1981*. This is consistent with other scheduled medicines and the approaches adopted in other Australian jurisdictions in the wake of the Commonwealth changes.

The current system allows any doctor to apply to prescribe medicinal cannabis for any patient, with any condition, if they believe it could provide clinical benefit.

As at the end of July 2019, the Victorian Office of Medicinal Cannabis had issued approximately 1,500 permits for doctors to prescribe medicinal cannabis products containing tetrahydrocannabinol, and many additional Victorian patients are accessing cannabidiol medicinal cannabis products that do not require a state level permit. Palliative care patients, hospital in-patients and residents in aged care are also able to access medicinal cannabis without a state level approval. Medicinal cannabis products are being accessed by children and adults with epilepsy and adults with a wide range of conditions including chronic pain, cancer and multiple sclerosis.

To further support access for children with severe intractable epilepsy, the government commenced a compassionate access scheme in March 2017 for 30 children. In January 2018, the government announced that this scheme would be doubled to 60 children with all places now fully subscribed.

The continued existence of the Access to Medicinal Cannabis Act on the statute book, although never used, risks causing substantial confusion amongst the community, patients, health practitioners and industry participants. It also has the potential to be a disincentive to business investment in Victoria and add unnecessary red tape to an already complicated cross-jurisdictional regulatory environment. It is important that we now repeal this Act to clarify the Victorian regulatory framework for medicinal cannabis. As I have already outlined, due to the non-commencement of the Victorian scheme, the repeal of the Access to Medicinal Cannabis Act will result in no change to existing processes for prescribers, patients or industry.

I am delighted that once again, Victoria has led the way and that the Commonwealth government and all other Australian states and territories have now followed suit. This significant change has enabled patients all over Australia to access this potentially life-changing medicine.

What Victorians now need is for the Commonwealth to take the necessary action to make medicinal cannabis more affordable for those who need it. We will continue to advocate to the Commonwealth to list medicinal cannabis on the Pharmaceutical Benefits Scheme, and to ensure processes for access are as streamlined as possible.

Information sharing for quality and safety purposes

The Bill contains a number of provisions that will allow for greater information sharing for quality and safety purposes. It will improve the flow of information in the health system to identify deficiencies in care and focus attention on opportunities for improvement.

Sharing of information across the health system

Health service entities can currently collect, use and disclose de-identified information. There are, however, many cases where information needs to be shared that could potentially identify an individual.

There are a number of legislative provisions that apply to the collection, use and disclosure of identified health and personal information. In almost all instances, the legislation requires that each collection, use or disclosure must be considered on a case-by-case basis to determine if the information can be released. This process is unworkable in the context of sharing for quality and safety purposes—it is complex, takes a considerable amount of time and can prevent sharing altogether.

Reducing the regulatory burden on Victorian health service entities seeking to share information is essential, to enable them to willingly share information within the health system for quality and safety purposes. For smaller hospitals in Victoria, it is difficult for them to undertake an assessment of the information required for quality and safety purposes to ensure compliance with the Health Privacy Principles and the Information Privacy Principles before releasing it to the department or a quality and safety body. Currently, some health service entities decline to share information for fear of breaching the principles.

A person can agree to have identified health or personal information collected, used or disclosed, but seeking this consent is not always practical when the information is required for quality and safety purposes. Importantly, outside of the specific quality and safety purposes, consent remains the appropriate requirement for information sharing.

The Bill does not include a definition of quality and safety. These terms are already found within the *Health Services Act 1988*. They are also common terms used in the National Safety and Quality Health Service Standards and are well understood by people who work in the health system. By not defining these terms, their meaning can continue to keep pace with contemporary understandings and meanings of quality and safety in health care.

The Bill will insert some new and important definitions into the Health Services Act. A health service entity is defined as a number of specified legal entities including public hospitals and public health services. It also includes a prescribed entity that provides health services.

This last category is to capture entities that might need to be prescribed in the future. For example, in the 2019–20 State Budget, the government committed \$135.1 million to upgrade two existing early parenting centres and build seven new centres. The Bill allows for these sorts of entities to be included within this definition in the future.

The Bill does not list specific quality and safety bodies. It is the government's intention that the only prescribed quality and safety bodies will be the department's relevant administrative offices—Safer Care Victoria and the Victorian Agency for Health Information.

Information sharing provisions rely on the term confidential information, which has been broadly defined to include health information, personal information, sensitive information and identifiers—information that can identify individuals.

The Bill allows for the Secretary of the department, specified quality and safety bodies and specified health service entities to collect, use and disclose information that might identify individuals, for specified quality and safety purposes. The Bill defines quality and safety purposes as:

- collecting and analysing information relating to the quality and safety of health service entities
- monitoring and reviewing the quality and safety of health service entities and associated risks
- reporting to the Secretary or to a quality and safety body in relation to the performance of a health service entity or risk to an individual or the community associated with the performance of a health service entity
- incident reporting and performance reporting in relation to health service entities
- incident response, including case review, in relation to health service entities.

The Bill will allow for information to be shared in four particular situations.

Firstly, it will allow the Secretary and quality and safety bodies to collect, use and disclose information for quality and safety purposes with each other. This will enable information to flow between the department and its administrative offices—Safer Care Victoria and the Victorian Agency for Health Information—to perform their respective system manager and oversight roles.

Secondly, the Bill will allow a health service entity to disclose confidential information for a quality and safety purpose to the Secretary or a quality and safety body.

As a result of the Bill, Safer Care Victoria, for example, will be able to provide greater and more effective oversight by accessing complaint and incident data from health service entities. The Bill's clear legislative authority for health service entities to share information with Safer Care Victoria will allow earlier identification and responses to quality and safety issues. The analysis of complaints data provides significant value that would assist with monitoring quality and safety risks and the identification of opportunities for improvement.

Thirdly, the Bill will allow the Secretary or a quality and safety body to appoint a person or body, such as an expert in a particular clinical field, as a special advisor to carry out functions for one or more specified quality and safety purposes in relation to one or more specified health service entities. The appointment may include conditions about the kind of and way in which confidential information can be collected, used or disclosed.

When a special advisor is appointed for a quality and safety purpose, the documentation will specify that they can collect and use confidential information from a health service entity and whoever appointed them. The advisor can disclose confidential information to the government body that appointed them. The Regional Perinatal Mortality Committee operated by the Royal Women's Hospital is an example of an entity that may be appointed as a special advisor to carry out functions for specified quality and safety purposes.

Fourthly, the Bill will allow the Minister to authorise by an instrument that a health service entity can collect, use and disclose confidential information from and to another health service entity for one or more specified quality and safety purposes. The instrument must specify the health service entities to which it applies and the quality and safety purpose. The instrument may include conditions relating to the kind and way in which confidential information may be collected, used or disclosed. It will take effect from the date specified in the instrument and will be published in the Government Gazette as soon as practicable. Consistent with the principle of minimising any intrusion into privacy, an authorisation will not be published if it identifies, or would identify, an individual to whom the confidential information relates.

When information is shared for a quality and safety purpose, the collection, use and disclosure must only be to the extent necessary to achieve that purpose. The amendments do not change the very high bar that in all other circumstances, personal and health information can only be collected, used or disclosed when authorised by law, such as the Health Privacy Principles and the Information Privacy Principles.

In order to facilitate the sharing of information, a provision has been included in the Bill that provides that if an individual uses or discloses confidential information in good faith, and with reasonable care, this will not constitute unprofessional conduct or a breach of professional ethics, and they cannot be sued.

Whilst most of the information being shared is health information, there will be cases where personal information should and needs to be disclosed in order to improve quality and safety and remove avoidable harm. It is not practical nor desirable to separate health information from personal information. Separation would require an onerous case-by-case assessment that would add to an already complex information sharing environment.

In order to be effective, the Bill displaces some provisions relating to the collection, use and disclosure of personal and health information which are set out in the Health Privacy Principles and the Information Privacy Principles, section 346 of the *Mental Health Act 2014* and section 141 of the Health Services Act. All these provisions provide an exception for collection, use and disclosure that is otherwise authorised by law. The Bill provides such a lawful exception. The Bill also displaces the relevant Health Privacy Principles and Information Privacy Principles that deal with collection of information from other parties than the individual to whom the information relates, like the hospital that is treating the individual. These amendments ensure all the legislation is consistent, and any confusion regarding the sharing of information for quality and safety purposes is reduced.

The amendments are designed to facilitate rather than mandate the collection, use and disclosure of information for quality and safety purposes. There is no penalty or recourse if a decision is made to not share information.

Victoria has a devolved governance model for health service entities. While this model has significant benefits, this means that the department is not the direct employer of staff nor does it have a direct relationship with contractors working in the health service entities. It cannot easily access information from health service entities for quality and safety purposes. This creates a barrier in oversight of quality and safety compared to other jurisdictions such as New South Wales, in which NSW Health can easily access information from its health service entities. This has created a significant gap in the department's ability to oversee quality and safety within health service entities. The Bill allows for the effective flow of information into the department and quality and safety bodies. It will allow these system managers to monitor the system and join the dots with an ability to zoom in where and when needed. This will lead to improved treatment outcomes for future patients. This is about detection, risk identification, system learning and continuous improvement.

Sharing of complaints information

The Bill also includes enablers for closer collaboration and enhanced information sharing between the complaints commissioners and the department.

The Bill makes amendments to the Mental Health Act to allow the Mental Health Complaints Commissioner to share relevant information with, and make recommendations to, the Health Complaints Commissioner, the Australian Health Practitioner Regulation Agency and a prescribed person or body. It is envisaged that the prescribed bodies will be Safer Care Victoria and the Victorian Agency for Health Information.

The Bill also allows for information to be disclosed to prevent or lessen a serious risk to life, health or safety. This will create greater alignment with the *Health Complaints Act 2016* and Health Privacy Principle 2.2(h).

Miscellaneous minor amendments

The Bill includes a number of miscellaneous minor amendments to the Health Services Act, Mental Health Act and Health Complaints Act.

A minor amendment will be made to section 111 of the Health Services Act, which makes it an offence for a person to carry on a health service establishment if they, or the premises on which they carry on their establishment, are not registered. The offence has been modernised and rewritten and the elements have been set out to avoid doubt about the scope of the offence and its application. We are making it clear that it applies to individuals as well as organisations. The Bill contains a note that lists the relevant provisions of the Health Services Act so that anyone can check whether a business they are running needs to be registered or not. If their business provides prescribed health services listed in the Health Services (Health Service Establishments) Regulations 2013, then it must be registered.

The other amendments to the Health Services Act will:

- ensure the tenure of all board members subject to the Health Services Act is consistent by limiting the tenure of a Health Purchasing Victoria board member to nine years
- ensure the provisions regarding the Minister's removal of board members are consistent across the Health Services Act by aligning the provisions for public hospitals and multi purpose services with those for public health services
- amend the regulation making powers to allow regulations to be made setting out requirements, guidelines and standards relating to governance of health service establishments
- update the schedules to reflect name changes
- introduce a new schedule for multi purpose services.

The Bill will amend the Mental Health Act to allow the Mental Health Complaints Commissioner to exercise their conciliation function more effectively and accept undertakings from a mental health service provider at any time during the complaints process. The Bill will also provide greater flexibility in relation to the timing

and content of reports that mental health service providers are required to submit to the commissioner in relation to their complaint handling activity.

Conclusion

In conclusion, the Bill will result in important and significant reforms that will strengthen existing e-cigarette and tobacco prohibitions, repeal the Access to Medicinal Cannabis Act, enhance information sharing across the health system for quality and safety purposes, and make miscellaneous minor amendments to health and mental health legislation.

The reforms reflect the Victorian Government's commitment to preventing the re-emergence of the tobacco industry in Australian sport. It also reflects our strong desire to protect the community from exposure to emerging forms of tobacco industry advertising and their commercial interests. The information sharing provisions in the Bill will have positive impacts on quality and safety across the Victorian health system. The reforms will improve outcomes for consumers and their families and ensure our health system continues to improve at every possible opportunity.

I commend the Bill to the house.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:19): On behalf of Ms Crozier, I move:

That debate on this bill be adjourned until next day of meeting.

Motion agreed to and debate adjourned until next day of meeting.

Petitions

Following petitions presented to house:

GEORGES CREEK PAINTBALL FACILITY

Legislative Council Electronic Petition

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the application for a paintball games facility at Georges Creek and request that the decision to reject the application be revised by the Towong Shire Council due to the amount of support from local residents.

The benefits of having this facility in Georges Creek include—

- (1) better mental health and wellbeing;
- (2) increased fitness;
- (3) encouraging teamwork, strategy and problem solving;
- (4) bringing tourism to the area;
- (5) increasing local employment; and
- (6) enabling the applicants to supplement their agricultural income and remain on-farm.

The petitioners therefore request that the Legislative Council call on Towong Shire Council to reconsider the recent paintball games facility at Georges Creek application and work together to allow the applicants to provide a venue that is beneficial to the wider community.

By Mr BOURMAN (Eastern Victoria) (455 signatures).

Laid on table.

GOVERNMENT BANKING

TO THE HONOURABLE THE PRESIDENT AND MEMBERS OF THE LEGISLATIVE COUNCIL ASSEMBLED IN PARLIAMENT

We, the undersigned Citizens of Victoria, call on the Legislative Council of Victoria to note:

1. Community banks have a proud history of supporting local businesses, providing vital and valued access to local banking services where major banks have withdrawn services and providing generous and ongoing grants to deserving local community organisations; and

2. Daniel Andrews and Labor have embarked on an extraordinary and damaging policy to centralise the deposits of all State Government instrumentalities, government schools, public hospitals, cemetery trusts and others at the Sydney-based Westpac Banking Corporation. This will be very damaging to local communities and represent a body blow the central community role of many community banks, both in country Victoria and metropolitan Melbourne.

We therefore call upon the Andrews Labor Government to urgently rethink this retrograde policy and to reverse its plan.

By Mr DAVIS (Southern Metropolitan) (8 signatures).

Laid on table.

SHEPPARTON EDUCATION PLAN

TO THE LEGISLATIVE COUNCIL OF VICTORIA

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the proposed amalgamation of the four public secondary schools in Shepparton and Mooroopna (known as The Shepparton Education Plan) into one sole secondary school (known as The Greater Shepparton College—Interim Name).

The Petitioners therefore request that The Legislative Council call on the government to cease and desist The Shepparton Education Plan so that the four secondary schools remain functioning as single entities. The Petitioners are of the belief this Plan is entirely detrimental to the Shepparton Community and its students and families and do NOT wish to have it supported.

By Ms LOVELL (Northern Victoria) (176 signatures).

Laid on table.

TIMBER INDUSTRY

Legislative Council Electronic Petition

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council that VicForests and the Department of Environment, Land, Water and Planning have not protected enough old-growth forest areas throughout Victoria.

The petitioners therefore request that the Legislative Council call on the Government to protect old-growth forests from logging and complete the transition of the logging industry into plantations, non-timber sources of fibre and sustainable jobs.

By Dr RATNAM (Northern Metropolitan) (228 signatures).

Laid on table.

Papers

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The Victorian Government Response to the Community Visitors Annual Report 2017–18

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services)
(13:22): I move, by leave:

That there be laid before this house a copy of the government response to the community visitors report 2017–18, October 2019.

Motion agreed to.

Committees

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 12

Mr GEPP (Northern Victoria) (13:22): Pursuant to section 35 of the Parliamentary Committees Act 2003, I lay on the table *Alert Digest* No. 12 of 2019 from the Scrutiny of Acts and Regulations Committee, including appendices. I move:

That the report be published.

Motion agreed to.

Papers

DEPARTMENT OF PREMIER AND CABINET

Advancing the Victorian Treaty Process: Annual Report and Plan 2018–19

The Clerk: Pursuant to section 44(2)(c) of the Advancing the Treaty Process with Aboriginal Victorians Act 2018, I lay on the table a copy of the *Advancing the Victorian Treaty Process: Annual Report and Plan 2018–19*.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

Special Report on Corruption Risks Associated with Procurement in Local Government

The Clerk: Pursuant to section 162(12)(c) of the Independent Broad-based Anti-corruption Commission Act 2011, I lay on the table a copy of the Independent Broad-based Anti-corruption Commission's *Special Report on Corruption Risks Associated with Procurement in Local Government: Operations Dorset, Royston and Others*, September 2019.

OMBUDSMAN

Revisiting Councils and Complaints

The Clerk: Pursuant to section 25AA(4)(c) of the Ombudsman Act 1973, I lay on the table a copy of the Ombudsman's report titled *Revisiting Councils and Complaints*, October 2019.

PAPERS

Tabled by Clerk:

Crown Land (Reserves) Act 1978—

Minister's Order of 2 September 2019 giving approval to the granting of a lease at Gillott Reserve.

Minister's Orders of 4 September 2019 giving approval to the granting of leases at Sandringham Beach Park.

Minister's Order of 25 August 2019 giving approval to the granting of a lease at Tasma Terrace Reserve.

Order of 20 September 2019 giving approval to the granting of a lease at Albert Park.

Duties Act 2000—Treasurer's Reports of—

Exemptions and refunds arising out of corporate consolidations for 2018–19, under section 250DD(5) of the Act.

Exemptions and refunds arising out of corporate reconstructions for 2018–19, under section 250B(4) of the Act.

Foreign Purchaser Additional Duty Exemptions for 1 January 2019 to 30 June 2019, under section 3E(3) of the Act.

Financial Management Act 1994—2018–19 Financial Report for the State of Victoria (incorporating Quarterly Financial Report No. 4) (*Ordered to be published*).

Gambling Regulation Act 2003—Amendment to the Wagering and Betting Licence issued to Tabcorp Wagering (Vic) Pty Ltd on 19 December 2011, under section 4.3A.23(3) of the Act.

Land Tax Act 2005—Treasurer's Report of land tax absentee owner surcharge exemptions for 2018–19, under sections 3B and 3BA of the Act.

Members of Parliament (Standards) Act 1978—Register of Interests—Return submitted by a Member of the Legislative Council—Primary Return, 12 September 2019 (*Ordered to be published*).

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

Alpine Resorts Planning Scheme—Amendment C27.

Banyule Planning Scheme—Amendment C115.

Bass Coast Planning Scheme—Amendment GC149.

Bayside Planning Scheme—Amendment C152.

Boroondara Planning Scheme—Amendment C274 (Part 2).

Brimbank Planning Scheme—Amendment C202.

Cardinia Planning Scheme—Amendments C205 and C237.

East Gippsland Planning Scheme—Amendment C153.

Frankston Planning Scheme—Amendment C124.

Glenelg Planning Scheme—Amendment C90.

Greater Dandenong Planning Scheme—Amendments C202 and C205.

Greater Geelong Planning Scheme—Amendments C359 (Part 2), C376 (Part 2) and C392.

Greater Shepparton Planning Scheme—Amendments C118 and C214.

Hobsons Bay Planning Scheme—Amendment C116 (Part 2).

Hume Planning Scheme—Amendment C225.

Knox Planning Scheme—Amendment C182.

Macedon Ranges Planning Scheme—Amendment C118.

Manningham Planning Scheme—Amendments C109 (Part 1) and C117.

Maribyrnong Planning Scheme—Amendments C124 and C145.

Melbourne Planning Scheme—Amendments C359 and C360.

Moonee Valley Planning Scheme—Amendment C208.

Mornington Peninsula Planning Scheme—Amendments C226 and C254.

Stonnington Planning Scheme—Amendments C276 and C298.

Victoria Planning Provisions—Amendments VC161 and VC164.

Warrnambool Planning Scheme—Amendment C201.

Wellington Planning Scheme—Amendments C107 and C108.

Whittlesea Planning Scheme—Amendment C209.

Statutory Rules under the following Acts of Parliament—

Assisted Reproductive Treatment Act 2008—No. 86.

Births, Deaths and Marriages Registration Act 1996—Nos. 77 and 78.

Child Wellbeing and Safety Act 2005—No. 85.

Coroners Act 2008—No. 76.

Gene Technology Act 2001—No. 91.

Magistrates' Court Act 1989—Nos. 81, 82, 87 and 95.

Metropolitan Fire Brigades Act 1958—No. 92.

Parliamentary Salaries, Allowances and Superannuation Act 1968—Nos. 84 and 94.

Relationships Act 2008—No. 79.

Road Safety Act 1986—Nos. 88 and 93.

Sheriff Act 2009—No. 80.

Subordinate Legislation Act 1994—No. 89.

Supreme Court Act 1986—No. 90.

Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019—No. 83.

Subordinate Legislation Act 1994—Documents under section 15 in respect of Statutory Rule Nos. 71, 72, 76 to 82 to 86, 88 to 90 and 94.

Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019—

Determination No. 1/2019 setting the value of salaries and allowances for Members of Parliament (Victoria), 17 September 2019, under section 17 of the Act.

Guidelines No. 1/2019 for or with respect to the use of work-related parliamentary allowances and the Electorate Office and Communications Budget, 17 September 2019, under section 36 of the Act.

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

Emergency Management Legislation Amendment Act 2018—Part 2—25 September 2019 (*Gazette No. S358, 10 September 2019*).

Justice Legislation Amendment (Police and Other Matters) Act 2019—Remaining Provisions of Part 6—1 October 2019 (*Gazette No. S386, 24 September 2019*).

A proclamation of the Lieutenant-Governor in Council fixing an operative date in respect of the following act:

Water and Catchment Legislation Amendment Act 2019—Whole Act (except Sections 5(2), 5(8), 83, 86, 89 and 96)—9 October 2019 (*Gazette No. S409, 8 October 2019*).

Production of documents

GJK FACILITY SERVICES

The Clerk: I lay on the table a letter from the Attorney-General, dated 11 October 2019, in response to the resolution of the Council of 1 May 2019 relating to GJK Facility Services. The letter notes, in summary, that in the time available the government has not been able to fully assess all the documents falling within the scope of the order. The government has identified 12 documents within the scope of the order, and I lay on the table those documents, together with a schedule.

The letter further states, in part, quote:

On 30 May 2019, I wrote to the Council advising that there are approximately 100,000 pages within scope of the order, and it would take up to four years at an estimated cost of \$1.5 million to prepare the documents for a response to the Council ...

The Government estimates there are approximately 98,000 pages remaining within the scope of the current order and invites the Council to pass the motion originally placed on the Notice Paper by the Honourable David Davis MLC on 6 June 2019.

Business of the house

NOTICES OF MOTION

Notices given.

NOTICES OF INTENTION TO MAKE STATEMENTS

Notices given.

GENERAL BUSINESS

Mr GRIMLEY (Western Victoria) (13:35): I move, by leave:

That precedence be given to the following general business on Wednesday, 16 October 2019:

- (1) order of the day 5, second reading of the Environment Protection Amendment (Refund on Bottles and Cans) Bill 2019;
- (2) order of the day 4, second reading of the Road Safety Amendment (Medicinal Cannabis) Bill 2019;
- (3) the notice of motion given this day by Ms Crozier relating to health funding;
- (4) order of the day 17, resumption of debate on the motion in relation to the *Shepparton Education Plan*;
- (5) order of the day 2, resumption of debate on second reading of the Crimes Amendment (Trespass) Bill 2019;
- (6) the notice of motion given this day by Ms Maxwell in relation to mandatory sentencing for assaults on emergency service workers;
- (7) the notice of motion given this day by Ms Maxwell in relation to the Murray Basin rail project;
- (8) the notice of motion given this day by Mr Bourman, on behalf of the crossbench, in relation to Pregnancy and Infant Loss Remembrance Day; and
- (9) the notice of motion given this day by Ms Maxwell, on behalf of the crossbench, in relation to the International Day of Rural Women.

Motion agreed to.

Members statements**THE GRANGE P-12 COLLEGE**

Ms VAGHELA (Western Metropolitan) (13:37): I had the pleasure of visiting The Grange P-12 College on 8 October with Sarah Connolly, the member for Tarneit. The Grange P-12 College is a finalist for the Outstanding Koorie Education Award. The college has implemented the *Marrung Aboriginal Education Plan*, which was introduced by the Andrews Labor government in 2016 to ensure that Koori Victorians achieve their learning aspirations. Senior Koori students have been mentored to complete Koori school-based traineeships that have led to employment with companies such as Qantas, ANZ bank and Australia Post. Guided by its Koori engagement support officer, the college has forged stronger connections with Koori families. I was very delighted to meet with the Koori students and staff who have made this program a success.

I also had the pleasure of visiting the primary school P-6 campus of The Grange to observe the Hindi classes that are being offered at the school, along with the Consul General of India, Mr Raj Kumar, on 11 October. Hindi is one of the fastest growing languages in Victoria. Building a foundation of different languages among primary students will become a strength of Victoria. I was captivated by the excitement students showed towards formally learning the Hindi language that many of them speak in their homes. I thank The Grange for hosting me on both days and showing me how Victorian education has implemented sweeping cultural changes for the betterment of their students. I also hope that The Grange P-12 College wins a Victorian Education Excellence Award.

PUBLIC TRANSPORT

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (13:38): I want to draw the house's attention to our failing metropolitan public transport system and the poor punctuality performance which has been demonstrated yet again by this system in Melbourne. We know that in 2017 the government signed a new franchise agreement with Metro Trains Melbourne, but the minister has not focused on what is important to commuters, which is safety, reliability and punctuality—and the punctuality data is actually very shocking. In the last 12 months under Labor the metropolitan system has not met its punctuality target in 10 months—so in only two months of the last 12 did they meet these. In the last month, September, 10 of the 16 lines did not meet their targets. On the Frankston line just 83.2 per cent of trains were on time, which is a broad definition, but nonetheless that is a

shocking performance. The Cranbourne line had 84.5 per cent, the Pakenham line had 85.3 per cent—these are shocking performances, and month after month the outcomes are bad. The Werribee line was on 86.6 per cent, and country lines are no better. We have seen V/Line's performance deteriorate badly as well, with so many lines not getting to punctuality, in some cases for up to two years. The government cannot run a proper metropolitan system. They cannot seem to focus on actually getting outcomes for the community, and I think that it is time the minister actually did her job. She gets paid a fortune to do her work and she should do it.

PREGNANCY AND INFANT LOSS REMEMBRANCE DAY

Mr BOURMAN (Eastern Victoria) (13:40): Today is Pregnancy and Infant Loss Remembrance Day. Those who were here in the last term will understand why this is of interest to me. It is a time we take to remember those that have lost their children, whether through SIDS, through stillbirth or through miscarriage too, because miscarriage is at an arbitrary date, really; it is not an easy thing. It is not something that I would want anyone to go through, but it is actually quite prevalent in society. I know of others in this building who have been through similar things. It affects everyone, and I think we should all, at least for this one day a year, remember those whose lives have been irrevocably changed—that was, I think, the term used—by these happenings, and just do whatever we can to help them along.

EDGAR'S MISSION

Mr MEDDICK (Western Victoria) (13:41): I was delighted to go to Edgar's Mission last week on a site visit as part of the inquiry into animal activism. I was joined by several of my colleagues in this chamber. A particularly touching part of the tour was hearing the story of Clarabelle, a cow with something to hide. Before arriving at Edgar's Mission, Clarabelle was a dairy cow. Despite giving birth every year, she never got to stay with her calf. Of course, like all mammals, cows do not just lactate, meaning their babies are often killed so humans can have their milk. Soon after arriving at Edgar's Mission, Clarabelle gave birth in a hidden spot, intentionally keeping her baby's existence a secret from the sanctuary staff so they would not take her calf away. Little did she know this would never happen to her again. Clarabelle and Valentine now live happily ever after at the sanctuary. Edgar's Mission said it so perfectly:

While Clarabelle hid her baby for the most pure, honest and loving of reasons, the dairy industry has long hidden the fate of baby calves for reasons of profit. Like many we grew up with the romantic notion that dairy products were wholesome and good, and indeed they are. If, of course, you are a baby cow.

I want to thank Pam Ahern for hosting us, along with the very lovable vet nurse Ruby and all of the staff for making us feel welcome.

SOMEBODY'S DAUGHTER THEATRE COMPANY

Ms STITT (Western Metropolitan) (13:42): Recently I had the opportunity, together with a number of my parliamentary colleagues, to attend a performance of women prisoners at the Dame Phyllis Frost Centre in Melbourne's west. Somebody's Daughter Theatre Company is a company of artists with a mission to work with those who are the most marginalised in the community to empower them to improve their lives. The company has been operating since 1980 and currently works with women prisoners at both the Dame Phyllis Frost Centre and Tarrengower Prison. The program aims to use the arts to break the negative cycle of abuse and poverty for women in prison and post release by providing pathways back into formal education, training, employment and community as well as by building self-esteem and motivating change behaviour.

The art exhibition displayed approximately 55 works of art produced by 12 artists from the women at the Dame Phyllis Frost Centre and Tarrengower Prison and post-release program participants. To the courageous women at Dame Phyllis Frost Centre involved in the production of *Miss, It Appears We've Hit Some Turbulence*, I say thank you. The performance was funny, moving, confronting and uplifting in equal measure, and it was an absolute privilege to be there.

HONG KONG PROTESTS

Mr O'DONOHUE (Eastern Victoria) (13:44): I want to highlight the Andrews Labor government's failure to provide any public support for those in Hong Kong who are advocating for freedom and democracy against the Chinese Communist Party. At the same time, I would like to highlight and condemn the Andrews government for allowing the Chinese flag to be flown in front of the Box Hill police station in celebration of the 70th anniversary of Communist rule in China. To allow the overt celebration of China's Communist dictatorship in such a divisive manner flies in the face of concerned Victorians, particularly many with Chinese heritage, and not least those students who the Hawke government so correctly allowed to stay in Australia following the Tiananmen massacre. Many Australians of Chinese background have come to this country fleeing the Chinese Communist dictatorship, whose flag the Andrews government flew outside the Box Hill police station.

The Chinese government should honour its commitment to the one-country, two-systems agreement, the basic law, as agreed between Hong Kong and Great Britain, which envisaged a pathway to full democracy. Victorians should remain deeply concerned by reports of the continuing heavy-handed tactics of Hong Kong police, of their using live ammunition on democracy protesters and of serious injuries being inflicted, including on an Indonesian journalist who was shot in the eye by a rubber bullet. Hong Kong is a bastion of freedom under attack by its Communist rulers and needs the support of all like-minded democratic peoples across the world. (*Time expired*)

TOM DUNN

Mr GRIMLEY (Western Victoria) (13:46): I rise today to tell you what Tom Dunn has done. He has travelled 2200 kilometres down the Murray, having never kayaked before. He has run thousands of kilometres, including 200 kilometres in just four days on his last adventure. On this trip, he also had the achievement of wearing one pair of socks the whole time. So far he has raised over \$100 000 for charities, including Aurora, a school for deaf and blind children; the Melbourne Indigenous Transition School; and Deaf Children Australia. He has learned about the importance of a good Spotify playlist when you travel solo for over three months at a time. He has also recently been featured on *This Time Next Year*, where they covered the not-so-glamorous nature of these trips. He has had the highs, the lows and everything in between as a result of him wanting to help others. And he is just 24!

But this is what Tom Dunn wants to have done: he wants to break a world record—to undertake a triathlon from the westernmost point in Australia to the easternmost point. He wants to break his own personal fundraising goal of \$83 000 for this trip, which is self-funded. He will donate this money to Livin, a charity trying to break down the stigma of mental health issues and share their message that 'It ain't weak to speak'. He is a remarkable, inspirational young man, and I wish him all the best for his trip in April next year. Congratulations, Tom Dunn, on all you have done and will continue to do.

COUNTRY FIRE AUTHORITY TATURA BRIGADE

Ms LOVELL (Northern Victoria) (13:47): It gave me great pleasure last weekend to attend the annual Tatura CFA presentation night held at the Tatura fire station to celebrate the wonderful service provided to the Tatura community by dedicated volunteers. Five members of the brigade—Trevor Franklin, Alan Tyson, Darren Rennie, Peter Fiddes and Colin Magnay—were awarded national emergency medals recognising their services during the horrendous Black Saturday bushfires. Alan delivered an emotional speech recalling his experience on that dreadful day. I pay tribute to these fine men and congratulate them all on their awards.

Life memberships and various career service awards were presented to many members throughout the evening. Jeff Alexander received a 45-year service award, which includes life membership of the CFA, and Peter Bevan received a 30-year service award, which also includes life membership of the CFA. Both Greg Maher and Trevor Franklin received life memberships of the Tatura brigade, and I congratulate all four on this wonderful acknowledgement. Other service award winners on the night were Darren Rennie for 15 years service and Hayley, Matthew and Tom Rennie, Giuliano Meola, Phil

Serra and Grady Tyson, who received five-year service awards. There was also acknowledgement of the wonderful work of Sandy Witham from the ladies auxiliary, who received a 25-year service award.

The Tatura CFA epitomises the dedication of our fire brigades all around Victoria and the hard work performed by them. I would like to congratulate all recipients of awards and thank members of the Tatura fire brigade for the work they do to protect our community.

CLIMATE CHANGE

Dr RATNAM (Northern Metropolitan) (13:49): Over the last few weeks the world has seen millions of people pour onto the streets rallying for action on climate change. The young climate strikers have led the way: mobilising and organising their peers to come together, inviting the world to join them in the fight for their future. They were followed last week by Extinction Rebellion, who put their bodies on the line in what they say is their only option when their leaders fail to hear their message in any other way. To all of them, we say thank you. History has taught us that big social change often begins with non-violent protest. From the civil rights movement to protests against apartheid, mass protest has been the key, and we are now faced with undoubtedly the biggest crisis our world has ever faced—because no less than the future of civilisation is at stake. As we begin to debate this week in this place how fast we move towards a renewable energy future, we will hear the same old excuses for why climate action cannot happen sooner. Just know that millions of people will hear and remember your inertia and your excuses.

As the world slides into mass extinction, irreversible climate change and extreme events, the young people of future generations will know your name and know that when you had a chance to protect their future you squandered it, and they will not forgive you if you do. But we also have the chance to renew some faith in our parliaments at a time when people are losing hope. We need to prove them wrong and do what we need to to back much stronger action on climate change, starting with increasing our renewable energy targets this week. It is now up to each and every one of you to do the right thing. History will not forgive you if you do not.

VICTORIAN SENIOR OF THE YEAR AWARDS

Ms BATH (Eastern Victoria) (13:50): I rise today to congratulate two most wonderful members of the Latrobe Valley community who both shared in the 2019 Senior of the Year Awards. Del Matthews has dedicated much of her time and life to the most wonderful rose garden in the Latrobe Valley, specifically in Morwell, and it is a sight to behold when you drive through and stop and smell the roses. Marika Gacs has also continued to work quietly and conscientiously throughout her community. Marika has the most wonderful smile that lights up a room and a heart to match.

GIPPSLAND FLIPPERS

Ms BATH: As the senior citizens continue to excel in our community through their endeavours, I would like to also make special mention of the Gippsland Flippers. This group's brunch swim, which is held on the last Sunday of each month, has participation as the key focus, and there is friendship, fitness and an expansion of social outlets. As part of this year's Seniors Festival, the Gippsland Flippers are inviting people who just want to get in the pool to join them and do a lap from 10 o'clock at Latrobe Leisure centre in Morwell on Sunday the 27th. With a current small membership base, the club hopes to be able to attract many more swimmers to engage, support one another, have fun and enjoy whatever stage of life they are in.

DAM CONSTRUCTION

Mr QUILTY (Northern Victoria) (13:52): In a recent statement Premier Andrews rejected building any new dams in Victoria. The Premier says that dams do not make it rain. I am not surprised that Mr Andrews has no idea how dams work—you do not see many of them in Melbourne. But for the government's benefit, dams exist to store water for later use. They are not supposed to make it rain; they are supposed to help farmers and others make the most of water when it does rain.

Rainfall is inconsistent, and excess water is wasted if it cannot be stored. This government should know all about using dams to save for later. You are replacing Victoria's reliable energy generators with intermittent generation, which needs storage. The only scalable storage solution we have is hydro-electric dams. These dams can not only generate clean energy as baseload and on demand but also use excess power to pump and store water for later use. New dams are essential if this government plans to meet its 50 per cent renewables target.

The Minister for Water has echoed the Premier. She too rejects the building of new dams because she thinks rainfall will decrease. Anyone else would think this is all the more reason to store excess water when it is available. Instead, the minister plans to expand desalination, producing water at \$4000 per megalitre. The New South Wales government is spending a billion dollars on building and upgrading dams. This government is spending \$100 billion on the Suburban Rail Loop for the benefit of Melbourne, but there is not a single cent for projects in regional Victoria. Without new dams, Victoria has no water future and no energy future.

PRIMARY CARE PARTNERSHIPS

Ms CROZIER (Southern Metropolitan) (13:53): I would like to acknowledge the work of the 28 primary care partnerships and the 850-odd health partners that the primary care partnerships work with across Victoria, providing support in the area of preventive health. I think it is somewhat disappointing that only last week the primary care partnerships all received a letter from the department saying that their service agreements will extend to June next year—and I see the minister is in the house. But these primary care partnerships, who do so much work in the community, can see through the government and can see through the disingenuous nature of those stay-of-execution letters that were delivered. I think it is incredibly disappointing for the primary care partnerships, who even the Premier, when he was health minister, said provide—and I quote—‘significant work to help people with chronic illnesses’. He also said that people avoid hospitalisation ‘particularly when people and the health agencies can work together on preventative actions and early intervention’.

They, together with other health workers across the state, are seeing what is happening under this government. Our once-proud mantle of providing a world-class healthcare system is fast slipping under the Andrews Labor government. We have seen the cyber attacks and we have got funding cuts that are impacting the delivery of services across the hospital network, and of course it is Victorian patients and their families who are the ultimate losers because of the decisions of the Andrews Labor government.

EXTREMISM

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (13:55): Australia is home to many migrants who have come to this country to escape political dictatorship and repression, and in fact my parents' own homeland suffered from a fascist dictatorship in the 1970s. This is why I support our democratic institutions, a strong and independent media and the right to peaceful protest. It is concerning to me, however, when I see extremist groups seek to participate in protests, even ones that are on issues that I strongly disagree with.

I was very concerned to see reports that the Proud Boys, who were founded by Gavin McInnis in the United States, who thankfully has been denied an entry visa, participated in Mr Finn's March for the Babies event recently. The FBI have described this group as an extremist group with ties to white nationalism, and apparently its membership is contingent on committing a violent act. So it is abhorrent to me that this extremist group participated in this March for the Babies rally, organised by Mr Finn. I understand that last year the neo-Nazi Lads Society also attended. I call on Mr Finn to ensure that these racist and misogynistic extremist groups no longer attend his event. I note that he did not completely disavow any association with them, and he needs to ensure that these white nationalist groups no longer participate in an event that he has organised.

Business of the house**NOTICES OF MOTION**

Ms STITT (Western Metropolitan) (13:57): I move:

That the consideration of notices of motion, government business, 127 to 140, be postponed until later this day.

Motion agreed to.

Bills**MARINE AND FISHERIES LEGISLATION AMENDMENT BILL 2019***Second reading*

Debate resumed on motion of Ms MIKAKOS:

That the bill be now read a second time.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (13:58): I am pleased to make some remarks this afternoon on the Marine and Fisheries Legislation Amendment Bill 2019, which is an omnibus bill to amend a number of principal acts in relation to fishing and marine transport. In respect of the Fisheries Act 1995 the bill seeks to cancel Gippsland Lakes fishery access licences and to put in place a compensation structure in respect of those licences, and that is the principal part of the bill and where I will spend most of my remarks today.

The bill also amends the Marine (Drug, Alcohol and Pollution Control) Act 1988 to expand the application of the definition of prescribed concentration of alcohol. It amends the Marine Safety Act 2010 to provide that volunteers are not marine safety workers, to provide for the suspension and cancellation of inactive pilot licences and to make further provision in relation to registration of pilotage services providers. I will also have some remarks in relation to that matter and also a couple of questions in committee. The bill amends the Transport (Safety Schemes Compliance and Enforcement) Act 2014 to extend the scope of that act to premises associated with the design, manufacture or supply of recreational vessels for marine safety equipment and pilotage services provider premises.

This bill, though, is primarily about the issue of the Gippsland Lakes and the decision by this government, which was an election commitment, to compulsorily remove or acquire the 10 outstanding licences that remain in respect of Gippsland Lakes fisheries and to put in place a mechanism for compensation around those licences. Now, you can argue that at a time where there are challenges in the Victorian economy, challenges for jobs and challenges particularly in Gippsland—of course we know that parts of Gippsland are heavily affected by drought at the moment—the merits of a government seeking to shut down an industry, any industry at any time, a legal industry, is unusual or questionable. But this was made as a commitment by the Labor Party, that if it was re-elected to government it would seek to, or rather it would, shut down commercial fishing in the Gippsland Lakes.

I note that the approach taken by the coalition prior to the last election was to support a voluntary buyout of licences for those operators who were interested in exiting the industry. There are 10 licences still active. The Labor Party's approach was a compulsory shutdown of the industry, and that is what is now being given effect to through this legislation. My understanding, certainly from members representing the greater Gippsland areas, is that this approach remains a controversial one for those communities, with opinions divided on both sides. What we need to do with this legislation is to ensure that, given this is going ahead, the compensation arrangements that are put in place for those licence-holders are appropriate and reflect the undertakings that were made by the government, and that the expectations of those licence-holders are also met.

It is with some considerable concern, therefore, that the coalition does deal with this bill in the house today. This is a bill which was introduced in the other place on 26 August this year. It was a bill which followed very soon after the government undertook what it claimed was consultation with the affected licence-holders which took place on 9 August this year. As anyone who has been around government processes or parliamentary processes will know, given the bill came to Parliament on 26 August, at the time the government claimed to be undertaking consultation on 9 August this bill would already have been drafted. Drafting instructions the government would have already decided through its cabinet processes, because the way in which government legislation is created is quite extensive. Before a bill gets to Parliament the government must firstly decide its policy position which then forms the basis of a submission to cabinet known as approval in principle. That first stage is where the policy position is taken to cabinet. It sets out what the government intends to do along with a set of drafting instructions which will give effect to the drafting of the bill. That goes through cabinet, and if it is agreed by cabinet, it then goes off to the Office of Parliamentary Counsel for the bill to be drafted. All the supporting documentation that goes around the bill, such as the second-reading speech, such as an explanatory memorandum, such as a statement of compatibility with the charter of human rights, also has to be drafted, and that then comes back to cabinet for a final approval. If cabinet ticks off on the final approval, it subsequently is introduced to the house.

Given this bill was introduced to Parliament on 26 August, at the time the government sat down and claimed to be consulting with those licence-holders in Gippsland on 9 August this bill was already drafted. It would have been virtually complete if not already complete, which just highlights that it was a sham consultation that was undertaken by this government, and the representations that were made to those licence-holders about the issues and concerns that they raised—which were many—was nothing but a hoax, because the government had already approved through cabinet its policy position. It would have had the bill drafted or very close to being finished drafted before it was finally approved by cabinet and came to the house.

So the process the government undertook was a sham. The issues that were raised, I understand, in that consultation process on 9 August included: concerns that were raised about the valuer-general's valuation of the licences, which included the basis of the time frame for the catch history to be used to work out the compensation with the view that compensation should be based on the best three years of catch over the last five years, with that three years to be averaged; concerns raised about the valuation of the payout for equipment that was being used by these licence-holders; issues raised regarding possible incentives for early exit from the scheme rather than penalties being imposed for late exit from fishing activities; advice sought in relation to support services that would be provided; advice sought in relation to retraining opportunities which would be provided; and advice sought in respect to other opportunities within the commercial fishing sector which could be made available to participants in commercial fishing in the Gippsland Lakes.

So all those issues were raised at what the government claimed was a consultation meeting on 9 August, yet in reality it had already decided what its policy position was. Cabinet would have already signed off on it and the bill would have been virtually complete, so it was nothing but a sham. The government went to those licence-holders, who were there in good faith seeking to put forward their position and raise their concerns about the process and about the fact, for example, that the valuation that was being ascribed to the licence, which I understand was \$371 000, was in fact less than the value for the last licence which had been sold on commercial terms. You could expect, given the compulsory nature of the acquisition of the licence—the cancellation of the licence—a valuation that was actually higher than the last market trade, given that had been a market trade by willing participants at \$378 000, and this is a compulsory acquisition. In fact the compensation payment for the licence at \$371 000 is less than the last market trade.

There is also the issue of the basis on which the catch was being assessed for part of the compensation mechanism and whether the volume of fish caught was to be averaged over the last five years, which is what the government has landed on, or whether it was in fact to reflect the best three out of the last

five years—to allow for periods where people were not operating a licence because they may have been sick or injured or unable to work—and use the average of the best three years as the basis for determining the volume that is ascribed to the licences for compensation.

Another issue is related to the price of the catch that was being taken into consideration for compensation and whether the actual price was based on Melbourne market prices, which was the preference of the licence-holders, or whether simply national figures through the Australian Bureau of Agricultural and Resource Economics were to be used.

Another area of contention is the valuation provided by the valuer-general in respect of compensation for equipment. I am advised that most of the equipment—most of the capital that these fishing licence holders have invested—is in relation to their nets rather than their boats, with the investment in nets being in the order of \$300 000 to \$500 000 for each of the fishing licences. The compensation which has been offered—apparently based on the valuer-general's valuations, which have not been released—is in the order of \$60 000, so well short of the invested cost. The government has argued that is okay because the licence-holders retain the equipment and they can onsell it, but the reality of course is that with the industry being shut down by the government there is no-one to sell it to. There is no market for those nets because there will be no industry once this legislation passes. Therefore that compensation should not be \$60 000; it should in fact reflect the value of the capital which has been invested by those licence-holders.

Concerningly, the government has refused to release to the individual licence-holders the valuer-general's assessment of the value of their equipment. I understand nine of the 10 licence-holders had visits by the valuer-general to inspect the equipment and to make a real valuation on an individual business basis, yet the government has declined to provide those valuations to the licence-holders, bizarrely citing grounds of confidential business information. Now, how information relating to the valuation of the licence-holders' own assets can be confidential from that licence-holder beggars belief, but it highlights the way in which this government has gone about this botched process.

So we have a situation now where the industry recognises that the government has made this pre-election commitment to shut it down and that is going to occur whether that is a good thing or not for those licence-holders and whether that is a good thing or not for the fishing industry—or indeed for the Gippsland community. But what we do not have is the clarity and certainty around appropriate compensation from the government taking that position and taking that decision.

We have seen a sham consultation process where, by virtue of the time frame, the decision was clearly already made by the government at the time they purported to undertake consultation, and the legislation was clearly well down the path of being put together, if indeed it had not already been completed by the time the government undertook this consultation.

It is the view of the coalition that the bill should not proceed at this time without that consultation mechanism being re-run and without genuine consultation being undertaken with those licence-holders and that consultation being fed into the legislation before it passes. It is the coalition's intention to move a reasoned amendment to the second-reading motion, and I ask that that be circulated. I move:

That all the words after 'That' be omitted and replaced with the words 'this house refuses to read this bill a second time until the government commits to:

- (1) a genuine consultation process with the Gippsland Lakes fishery access licence holders on the compulsory buyback of their licences; and
- (2) releasing all expert advice, including the valuer-general's assessment on equipment, to individual licence-holders in accordance with section 3A(1)(h) of the Fisheries Act 1995.'

We recognise that this shutdown of the industry is going to occur, and the licence-holders recognise that as well, but it is important that this consultation be undertaken properly, not the sham that has been undertaken by the government to date. On that basis I would urge the house to support the reasoned amendment.

I would just like to touch on one other aspect of the bill, which is unrelated to the Gippsland Lakes buyback, and that is in relation to the amendment to the Marine Safety Act 2010, which makes provisions in respect of the suspension and cancellation of inactive pilot licences, being licences which have been inactive for 12 months. Concerns have been raised by the industry as to why this provision has been inserted in the section of the principal act which deals with disciplinary matters rather than in relation to the establishment and operation of those licences, and indeed on what basis the 12-month period of inactivity is the trigger for the suspension or cancellation of a licence, noting that there are circumstances where people can be on maternity leave and people can be otherwise on leave or ill for extended periods of time. Pilot licence holders can be subject to non-compete clauses in employment contracts, which would see them not operating as pilots for a period of 12 months. There is concern in the industry as to the way the government is seeking to insert that into the principal act and the basis on which the 12-month period has been determined. That is another matter that I will seek to touch on in the committee stage of the bill.

In relation to the principal part of the act we recognise the buyout and the shutdown of the Gippsland Lakes commercial fishing industry is going to occur, but the way in which the government has gone about it and the sham consultation that it has undertaken this year has been disgraceful. I would urge the house to support the reasoned amendment to ensure that proper consultation can be undertaken to ensure that the concerns of those 10 licence-holders can be addressed and those matters resolved before the house proceeds with the legislation that will cancel those 10 licences.

Ms GARRETT (Eastern Victoria) (14:17): What a delight it is to speak today on this legislation, which will directly benefit my constituents in Eastern Victoria and indeed the whole state. Certainly the locals in my seat have been calling for this ban on commercial net fishing, and I am looking forward to that being delivered today. Before I begin I would like to pay tribute to the minister, Jaala Pulford, who is in the chamber today, for her enormous workload on this issue and for her passion in pursuing better boating and fishing rights for all Victorians. I also note the work of her adviser, Ms Heidi Flower, who again has been very passionate about work in this space. Under the Andrews Labor government we have seen many outstanding initiatives to improve boating and fishing for this state. With summer just around the corner, I know my constituents were delighted by the recent announcement of all public boat ramps being free. But this is just one piece of the boating and fishing puzzle, with this government making the largest injection of funds into fisheries on record. Phase 2 of the Target One Million program will receive an additional \$35 million in funding because, to put it very frankly, fishing is really important to Victorians.

The state is home to 830 000 recreational fishers, who contribute around \$2.3 billion to Victoria's social and economic wellbeing. Not only is this about the recreational enjoyment and all the benefits that come, but this is about jobs—jobs in Gippsland, because tourism has been identified as one of the key new areas in which Gippsland is looking to grow its jobs base. I am sure Ms Bath will agree with me. I launched the Gippsland tourism 10-year strategy in beautiful Leongatha, and a key part of that strategy is the Gippsland Lakes: it is attracting people to spend time in that glorious part of Victoria, it is opening up eastern Victoria to a broader range of people who have not perhaps considered spending holidays there because it has been dominated by the other side of the state. But there are very, very savvy operators in Gippsland. The councils are on board and our community is on board to make sure we are driving those jobs in the tourism sector.

I think as we touch on just why fishing is so important to our communities and why this piece of legislation is really going to transform fishing in the Gippsland Lakes, we know from all the research that has been done—and we could certainly use a bit of it in this place, couldn't we, gentlemen?—that fishing can lead to stress relief, social bonding, health benefits, self-fulfilment and most importantly a great thrill. Again, we could do with all of that in this chamber.

Mr Bourman: What about alcohol consumption?

Ms GARRETT: Well, I am sure that a few beers can be had as well, although it is a family-friendly activity, where generations of people are not just heading out on the boats, on the Gippsland Lakes, but throwing off from the pier and enjoying all that that offers. Of course I should put this bit here: you eat your catch in some circumstances.

In eastern Victoria, with which this legislation is primarily concerned—the great Gippsland Lakes—there are some of the best fishing and holiday destinations in all of Victoria. To then free it up, to remove commercial fishing from this part of the state, we are going to see a huge number of people taking advantage of that—not just the locals who love the lifestyle there, but an increasing number of people will be choosing to visit the area, to buy holiday houses in the area, to camp in the area, to day trip in the area—and there are all of the economic benefits that then flow.

The government has made fishing and boating a key priority. With the objective of this bill to end commercial net fishing in the Gippsland Lakes with a compulsory buyout of the remaining licences, it is a continuation of the journey that the government has been on with respect to Port Phillip Bay and Corio Bay. We are seeing in those areas significant marine stocks bouncing back and improved biodiversity of fish systems, and we all agree—well, I would hope we agree, but some of us clearly do not—that the Gippsland Lakes deserves to be on that same journey.

As has been outlined, the bill will phase out the 10 Gippsland Lakes fishery access licences over a two-year period to ensure that we are getting that stock replenished, the biodiversity enhanced and really significant benefits to the environment and to the recreational fishing sector. That is not to say we do not pay tribute to the history of commercial fishing in the area. Clearly the government has recognised the impact this will have on current licence-holders, which is why the compensation scheme is comprehensive, very clearly laid out and happening over a period of time so as not to totally stress people with an immediate impact.

I know there are many people who want to speak on this proposed legislation so I will wind up my remarks there, but I do want to say: this is a huge outcome for the people of my district, a huge outcome for the people who enjoy the Gippsland Lakes and all that it has to offer, a great step forward in stock replenishment and biodiversity improvements, and really importantly, a wonderful outcome for those hundreds of thousands of recreational fishers who have this as their passion—on top of their list of the things they love to do. It is also opening the door for those people who have not yet experienced the joys of fishing but no doubt will be able to when they visit, as they will in droves, this glorious part of Victoria. I commend the legislation to the house.

Mr BARTON (Eastern Metropolitan) (14:24): I would like to congratulate the fishing community of Gippsland Lakes on the magnificent negotiations they have held with the Andrews Labor government and on the very generous financial compensation package for the compulsory acquisition of their commercial fishing licences. It is a very good deal—\$371 000 for the licence, the market value of the licence as assessed by the valuer-general. And of course they are getting compensated because the government is recognizing that a commercial licence is property. It would be remiss of me not to compare how the government declared commercial taxi licences were perhaps not property, even though the High Court of Australia said they were and recently in the Supreme Court of Victoria that was reaffirmed. For the fishos, it does not matter if they paid \$50 000, \$150 000 or even \$350 000; they are all going to get \$371 000 for each and every licence. Why are they getting it? They are getting it because they deserve it—it is property. However, the government determined that the taxi and hire car commercial licences will not be treated the same. Fishos will receive a further allowance of \$60 000 for redundant fishing vessels. They get to keep their tinnies. At no stage did the government consider the taxi industry and offer to pay for the vehicles they put off the road because of the ill-thought-out, poorly managed and badly executed taxi and hire car reforms.

More—there is also compensation for the loss of income based on three times the annual catch value, calculated over a three-year golden harvest period. This is the right thing to do. Where is the compensation for the loss of income for the taxi licence owners and their drivers? They were impacted

then and it continues today. Perhaps the Andrews government should go back to the valuer-general and look at the income for, say, the three years prior to the illegal entry of Uber and compensate those who were so badly affected. Those reforms and the explosion of illegal rideshare more than halved their rates of income to below the living wage.

I say congratulations to the regulator, who has failed us—the commercial passenger vehicle industry. I am constantly asked why this was allowed to happen. When did the Labor government decide to treat thousands of people in the taxi and hire car industries and their families differently to other Victorians? How do we justify this? This bill is an insult and a kick in the guts to an industry that is crippled with debt and is on its knees.

What is known as the commercial passenger vehicle industry is a joke. There are more than 100 000 drivers and over 70 000 cars; up from 8000 only two years ago. Drivers are fighting in the streets over jobs. An alarming increase of young women are being harassed in the streets, and some have been assaulted by unscrupulous people masquerading as legitimate rideshare drivers. This legislation has created an environment that provides opportunities for those predators to act in this way.

I say to all of you: we all have a responsibility here, including me. I have failed because I have not been able to convince this government that this system is not safe and must be addressed. After years of regulations having been developed because of the need to make taxis safer with cameras, GPS tracking and education, we have allowed a foreign rideshare company to set the rules that suit them. They have played this government off a break. Touting is rife; congestion is rising. For those who work in this industry there is no holiday pay, there is no sick pay and no superannuation. I will have a bit more to say about super a little later on. We expect these people to work in a set of conditions that would be unacceptable to the vast majority of Victorians.

I cannot support this compensation package no matter how much it might be deserved. This is a matter of principle for me. The government should have applied the same criteria to the taxi and hire car industry. We showed you how, but you ignored us: market value licence compensation and compensation for loss of income, because that would be the right thing to do. This government has plenty of things to be proud of, but the treatment of the taxi and hire car industry is not one of them. I cannot support this bill when a minority group is being treated so unfairly and another group of Victorians so generously. This is simply unfair. I cannot support this bill.

Ms BATH (Eastern Victoria) (14:29): I rise this afternoon to make some comments in relation to the Marine and Fisheries Legislation Amendment Bill 2019. Before I begin my discussion around the bill in general, it is interesting to note that recreational fishers have very much supported this particular buyout. The recreational fishing industry is certainly one that is flourishing, that has flourished and that has been enjoyed throughout Gippsland for many, many decades. Indeed as a born and bred Gippslander like me, my grandfather used to fly fish on the upper reaches of the Mitta Mitta, the Mitchell, the Nicholson and the like. He also, when he retired to Waratah Bay at the end of his career in the State Electricity Commission, made his own fishing rods and surf-fished. For years and years I never realised that fish actually had bones, because they were delivered to my table, to my plate, in beautiful filleted form, and quite often we had that much fish from Pa that we ate it for breakfast. And what a beautiful quality it was. Victorians deserve to have fish. My concern in relation to some of the buyouts we see is: where else is our fish going to come from now? We talk about quality—quality of life and quality of fish—and my other concern is also in relation to the quality that we are importing from overseas.

In relation to some of the specifics of the bill, this bill makes amendments to the Fisheries Act 1995, and I want to dwell on that in a moment; the Marine (Drug, Alcohol and Pollution Control) Act 1988; the Marine Safety Act 2010; and the Transport (Safety Schemes Compliance and Enforcement) Act 2014.

Indeed much of this bill and my interest in it lies in relation to the Gippsland Lakes buyout of the commercial fishing licences there and those 10 fishers who are greatly affected by this. Ultimately they have seen the writing on the wall. They reluctantly—and I do say reluctantly—understand that the government put to the election that they would buy out these last 10 remaining licences on the Gippsland Lakes, so they knew that this was coming. However, they have conveyed to me via email, via phone call and through other mechanisms as well the fact that the process has been quite flawed, and they feel quite disrespected in relation to this particular bill.

I acknowledge that Mr Gordon Rich-Phillips has just put to this house a reasoned amendment that has come through our Shadow Minister for Fishing and Boating, the Honourable Tim Bull. In relation to that, without dwelling too much on it, it specifically focuses on removing the bill through an amendment so that there can be genuine communication and negotiation in relation to the buybacks. Also, in specifics, in the valuer-general's assessment of the equipment it seems that the valuer-general has been able to, through the government, provide certain information but not on equipment, and that opaque nature is most unpalatable for the licence-holders of the Gippsland Lakes.

Now, it seems to me that this government revels and indeed excels in one thing: saying one thing to various stakeholders, various groups—and I am thinking of the CFA in particular. It says, 'Trust us, we will work with you', and then turns around and does the exact opposite. We have seen that even in the minutes of a Fisheries Victoria meeting that occurred on 9 August this year. The government said, 'We will be partners with you in the process'. The minutes also reflected some of the things that the fishers wanted. They were challenging the valuer-general's value of the licences. They wanted a different scheme, a most reasonable scheme, for the catch history in order to create and make those calculations for payment. They requested that the valuer-general revalue their equipment values and also make transparent that information. They also requested that the government create some incentives for those licensees who wanted to leave the system early rather than remain for those 12 months.

They also looked at what sorts of support services and retraining opportunities were available, and you must overlay that this is a most beautiful area of our state, but it also has its own economic problems. There is a drought in that area, and there are many people on the farms actually looking for second incomes to try to supplement them and stay on the land. It is not a great opportunity for people who have to hang up their nets and go into the employment market, and they asked for retraining opportunities. They also looked at other ways to deal with the compensation packages. These things were minuted by Fisheries Victoria, and there was no mention made that in the legislation pending their issues would not be addressed.

That was on 9 August. Come 27 August we saw the bill introduced in the lower house. As Mr Rich-Phillips has eloquently prosecuted, there are multiple steps that need to occur for legislation to be presented in a complete format in the lower house. That does not take 16 days, and the fishers feel very much that this was well underway and really that the consultation process was lip-service rather than actually being real communication and strategy around the buyout. In fact one of the fishers—and I thank him for communicating with me—Mr Arthur Allen, said, 'As far as negotiation and consultation goes, I feel there was none'. Now, that is his opinion; he may be quite passionate about this. I want to read to you toward the end of my speech some of his other comments.

To the compensation package, I understand the minister said at that meeting, 'Fishermen will have a voice in the legislation'. Well, how could they get that voice with a 16-day delay? We go on to the elements of the bill specifically and the exit package that they have concerns around: whether some paid for the licence; the compensation paid for redundant gear, and by 'gear' it generally means the nets; and the component based on catch history over a five-year period. If we drill down a little bit more, the payment of the licences was determined to be \$371 000. I note from speaking with the licensees that over the past two years there was a willing buyer. A negotiated contract with the willing buyer for the future was \$378 000. There is comparability there. However—and there are many

instances of this—when land is acquired compulsorily, there is often a higher price paid than the going rate. Indeed I know Mr Allen also spoke about a licence, in a different location but still in Gippsland, that was paid out at \$700 000. So their quibble, and rightly so, is about that compensation level. This was made available through the government on the public record. The valuer-general provided that information.

What is quite concerning, though, to the fishers of the Gippsland Lakes is the way the nets have been undervalued. Their equipment as a whole is generally nets and boats. Their boats are in the vicinity of up to \$10 000, and often they will still want to keep those. So it is not seen as a great loss in that respect; they will keep those fishing boats. But the key factor here is that of those 10 fishers—and they had an assessment through the valuer-general; they came out and had a look—many of them feel that their value is between \$250 000 and \$500 000. What are they getting? They are getting \$60 000 in return in this package, and again they are quite concerned that there has been no clarity around this evidence. Indeed Mr Allen went on to say that the valuer-general said, ‘This doesn’t match what I’ve been briefed on’. If the valuer-general is coming out to view fishing licences, to view their stock—their equipment—why is he getting briefed on something already? Also, the government will not provide this information, citing confidential business information. Well, if you are about to close down a business, then I can hardly see that it is confidential. Also, often those individual licensees just want to have an understanding as to how they were valued.

The other comment in relation to the nets is, ‘We’ll give you the \$60 000 and then you can onsell your equipment’. Well, there is no further onsell available, due to the fact that this industry is now closed. In actual fact I think quite often that many of them have asked the government to take them away but provide greater compensation.

The third element of the package looks at the catch history. Again, as the Fisheries Victoria minutes stated, the fishers wanted the Victorian market price to be used, but the government has used Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) prices instead, which is providing a worse result, or a worse level of compensation. They cannot understand why you would not use the Victorian market position, as that is where they are sold at the same time. Indeed the catch history element looks at a five-year catch period multiplied by three. I know the shadow minister, Mr Tim Bull in the other place, my colleague in The Nationals, certainly went in to bat and talked about seeking the best three years over those last five years. That is often just taking into consideration that people run industry, and there can be periods of illness or times when you are not actually working day to day, so taking the best three is certainly a fairer situation. Despite having some assurances that that would be considered, again the bill has come out reverting back to the best five and an average.

In conclusion, I just want to read a couple of comments from Arthur Allen. He is a fifth-generation Gippsland fisherman. He does talk about the best three, rather than what is being undertaken at the moment. He says:

To magnify the pain, the Government has chosen to use ABARES’ estimated pricing, despite Melbourne Seafood Centre (where the fish is actually sold) providing a complete listing of average prices for the past financial year. The differences in prices are quite substantial. Black Bream, for example, our main fish, is almost \$6 per kilo less on the ABARES list than the actual market average.

The government really should be explaining why it has chosen one over the other. He goes on to say:

I ask you to please look carefully at this legislation.

Hence why we have put through this amendment, not just for him but also for the other licence-holders:

Were fair, honest and just values given to the various components, then it would make a substantial difference to affected families. In my own instance, the \$250 000 to \$300 000 that has been removed by sleight of hand, will be the difference between reluctantly retiring—or having to seek work at the age of 63 in an area of nil to very few job prospects.

In conclusion, it is disappointing that the government seems to be high on rhetoric in terms of engagement but low on actual engagement. I take the previous speaker's, Mr Barton's, comments in relation to what happened in the taxi industry, but I do feel that when we stand in this place we should look at each and every piece of legislation as it comes through. I respect the pain that he has suffered in relation to that, but I also think that this house should certainly respect that these good people—as we have seen with a fifth-generation fisherman—are losing their livelihoods, and we should accept the reasoned amendment put forward by the Liberals and Nationals in relation to sorting out and solving this particular bill.

Mr BOURMAN (Eastern Victoria) (14:44): I am rising today in support of this bill. It should come as no surprise, as the first two parts of my party name are about recreational shooting and recreational fishing. There is not really such a thing as recreational farming, but anyway. This is going to be a godsend for the recreational fishers. Recreational fishing is quite a good earner for country areas—and around the city too, because we have got a built-around bay. We will find that there will be more fish for the recreational fishers, which will bring in more recreational fishers, which will bring in more people buying petrol, more people buying ice, more people going to hotels and all that sort of thing. It will be great, so I have no problem with this bill.

But I have been in touch with some of the commercial fishos, and I would say that they are fairly realistic about how this is going to turn out. Their interest is now in the compensation. They feel that they have been hard done by and that there is a whole lot of stuff that they are not going to be able to use for anything else. That has not been included in their compensation package, and they feel that this should be included in their compensation. I agree with them to a large degree, but I also hear Mr Barton's pain. Last Parliament we were—

Mr Barton: I lost my house, mate.

Mr BOURMAN: Yes. Last Parliament we were part of the, I guess, resistance against the initial bill to try and get it fairer, and whilst it was better than it had been, it still was not good. As Mr Barton said, he lost his house. Our whole take on this should be that no-one should be losing their house. The person that contacted me initially said that the difference between what they believed they were owed as compensation and what they are going to get could mean going back to work in another field at 62 years of age. Now, I obviously have no way of verifying that, but there is no reason for it not to be true. Basically I am going to support this bill, but I really urge the government to go back to the table and see what else can be done. Also, I know it is a long way after the event, but I still think there is room to move on the taxi drivers as well.

Ms TAYLOR (Southern Metropolitan) (14:46): I would like to say that our government—and I am proud of this—has been respectful in this process and has understood that there is an intergenerational impact, and that has been factored into this process very carefully. Bearing in mind that less than 1 per cent of total seafood consumed in Victoria is sourced from Gippsland, the buyout will have a limited impact on the consumption of seafood by Victorians. Having said that, we are still mindful of the impact on those commercial fishers; hence the very well constructed and thoughtfully prepared compensation package.

What I am also particularly proud of is that we have stocked 6 million fish across Victoria, delivered significant reforms to boost commercial fishing, increased agricultural production and continued our efforts to promote sustainability and responsibility in fishing because, after all, we know there is nothing more devastating than seeing the extinction of any species, let alone a fish species. We know that it is well documented that black bream have been in serious decline, so our government is doing the right and responsible thing. It is not an easy decision to make. It is a very serious decision, but it is one that has been taken very carefully and thoughtfully and with consultation—in spite of the rather derogatory comments of the opposition, which I think are quite unnecessary and insensitive under these circumstances.

I will touch only briefly on the consultation that has taken place, as I believe other members will speak to this in more detail, but just to be clear the Minister for Fishing and Boating met with Seafood Industry Victoria and the Gippsland Lakes fishery access licence holders in March 2019 to discuss the potential arrangements for the buyout. The Victorian Fisheries Authority provided licence-holders with a fact sheet on the potential arrangements in June 2019 and made several other attempts to meet with industry; however, these offers were declined by SIV and the industry. So I think in this discussion we need to be fair.

It is understandable that people will be upset and will feel impacted by the change. No-one is walking away from that, and that is why there has been such great care taken to make sure that the process is as fair and equitable as possible. If we zone in on some of the other concerns raised, the \$371 000 for the licence is the market value of the licence as assessed by the valuer-general. Now, I am not sure if the opposition are somehow raising questions about the credibility of the valuer-general—I do not know—but what I will say is that the Valuer-General Victoria is the government's authority on statutory valuations. The VGV has extensive experience in valuation issues and sensitive property transactions for sale, purchase, lease and compulsory acquisition. Most importantly, all valuations are conducted in accordance with the ISO 9001:2008 quality management system, because of course we are talking about taxpayers money. Obviously nobody is questioning the fact that there should be compensation under these circumstances, but it has to be done in a manner that is seen as fair and equitable across the Victorian community. Therefore there has to be a quality management system implemented to ensure that the process is right and proper.

The other point that I was going to make when talking about the VGV is that the VGV also provided advice on possible values for fishing gear, including boats, and after considering this advice the government determined that an allowance of \$60 000 should be provided to each licence-holder for redundant fishing vessels and all commercial fishing equipment. When looking at previous buybacks, one can see parity in the amount of compensation offered. It is not out of this world. It is not way off. It is well within parity when looking at comparable buyouts and factoring in the size of the various vessels being utilised by the commercial fishers in the Gippsland region.

Some of the other issues that have been raised have been about being able to source fish elsewhere. Quality fresh fish will continue to be available from a variety of sources—from Victoria's ocean waters, our longline fishery in Port Phillip Bay, Corner Inlet, other states and so on. Cancellation of these licences will have next to no impact on the supply of prawns, calamari, flake, snapper, King George whiting, flathead or scallops in Victoria. It should be noted that the Gippsland Lakes fish supply is only a small portion of seafood consumed in Victorian restaurants. Very few Melbourne restaurants appear to have Gippsland Lakes fish on their menus.

I am not saying that it is not meaningful to those people who have been undertaking these businesses for some time. Of course this is going to be an emotional process. This is a transition process, and no-one is in any way saying it is easy. But having said that, our government has taken into account the various challenges that these persons have to take on board, and hence a proper process has been put in place to ensure that the compensation is delivered appropriately and in a way that is deemed to be respectful to the Victorian community as a whole.

I understand that there are other speakers who wish to speak on this subject, so I will not elongate my discussion today. But I did want to speak to some of the sensitivities that have been raised, factoring in that it is a very important subject but that fundamentally we are doing the right thing when we look at sustainability for recreational fishing and also for fish stocks into the future: no fish, no fishing.

Dr RATNAM (Northern Metropolitan) (14:53): I rise to speak briefly to the Marine and Fisheries Legislation Amendment Bill 2019. The Greens have long taken an interest in the government's buyout of local commercial fisheries. We supported the Port Phillip Bay industry when the government bungled that buyout, and similarly we share concerns about the buyout of the Gippsland Lakes industry.

There are a couple of points to make—firstly, on the closures in the industry. There is genuine puzzlement about the government closing local commercial seafood operations in the interests of recreational fishers. Commercial fisheries are monitored and exist within a framework of sustainability—sometimes not to the extent we would like. However, in contrast there is even less regulation of recreational fishing and its impacts on marine life; in fact we know very little about the sustainability of recreational fishing. This issue has been raised by the Victorian National Parks Association in their recent submission on Victoria’s marine and coastal policy. The association notes that there is no sound estimate of recreational catches and no policies relating to sustainable management of fisheries in the draft policies. In fact some policies that were in the previous Victorian coastal strategy have actually disappeared—policies that should be retained. Furthermore, local sustainable food production will become more important into the future, including continuing to provide good local jobs in regional communities. Closing local commercial seafood operations will necessarily mean more Victorians eating imported seafood.

It is also puzzling that the government is so keen to close this industry but so resistant to transitioning out of industries that are actually hurting the future of Victoria. I am speaking of course about logging native forests and continuing to burn coal, both of which contribute to climate change, leading to increasing temperatures, more extreme weather events and mass extinction—not to mention the impact of logging on Victoria’s water supply.

Secondly, we share the concerns of the opposition about how the government has gone about this process. The lack of consultation with those affected by the decision is of particular concern. We will therefore be supporting the reasoned amendment and encourage the government to go back to the licence-holders, talk with them, address their concerns and provide the relevant information. We support the bill, but we would like to see the government undertake appropriate consultation and then bring the bill back. This can happen quite quickly so the rest of the bill is not unnecessarily held up.

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (14:56): I thank members for their contributions to the debate on this important piece of legislation today, and indeed I thank those who have sought for this reform to occur for so very long.

If I could just take the opportunity to make a few points in response, this is an important election commitment and is a part of our commitments in the fishing and boating portfolio. It is now close to 12 months since the government announced our intention here, and we have worked hard throughout this year to provide certainty to the people who are impacted by this decision. I do not make people’s jobs redundant in any way lightly. We have worked hard to provide a compensation package where the average compensation to licence-holders is in excess of \$800 000 a year, and we have sought to have input from affected licence-holders. I will come back to that in a bit more detail in a moment.

I would take the opportunity, just on a personal note, to credit Linton Barr, a man who was a tremendous advocate for the Gippsland Lakes fishery and indeed the environmental health of the Gippsland Lakes for so very many years. Sadly Linton did not live long enough to see this reform, but perhaps wherever older fishermen go in their next lives he is aware of this and appreciates that this thing that he sought for so long has happened. I have had the opportunity to meet Mr Barr and his wife, Dawn, on a number of occasions. Dawn could not be here today, but I am informed that she is watching the live streaming of the debate. I know this will be an important moment for that family, and I thank them for their advocacy.

I will come back to Gippsland Lakes in a moment, but there is a matter in the legislation on which the Boating Industry Association of Victoria (BIAV) sought some clarification from me, and that is in clause 17 of the bill. It makes amendments to the Transport (Safety Schemes Compliance and Enforcement) Act 2014 to extend the scope of powers of the director of transport safety and transport safety officers in relation to compliance and investigations. I will just take the opportunity to provide

to the house some of the information that I have provided to the BIAV, to provide some reassurance to them about how we intend clause 17 to work.

The Marine Safety Act 2010 sets out a general safety duty for persons who are involved in or who may have control over the safety of recreational boating or marine operations. Sections 26 and 27 of the Marine Safety Act, respectively, impose duties on persons involved with and in relation to the design, manufacture and supply of vessels and marine safety equipment. The duties include ensuring so far as is reasonably practical that any vessels or equipment are safe. As the regulator, it is important that the director, transport safety, and transport safety officers of Transport Safety Victoria have the necessary powers to conduct compliance monitoring and enforcement of marine safety laws to ensure that all persons can enjoy their on-water recreation safely.

I have been advised that there are gaps in the scope of compliance and investigations powers which, if unaddressed, would leave the director of transport safety unable to respond quickly in the event there was an immediate risk to the safety of a person. Specifically in 2017 Transport Safety Victoria became aware of a serious safety issue relating to life jackets and was unable to take immediate action to address the issue. To rectify this the bill amends the definition of marine premises to extend the scope of that definition.

There are limitations on the exercise of those powers though, and this is the point that I was keen to have on the record in the house. The powers are not unfettered and there are limitations on the powers to ensure that such powers are exercised with discretion and appropriately in the circumstances. Firstly, the powers may only be exercised for or in relation to compliance and investigative purposes to ascertain whether the Marine Safety Act has been complied with or whether an offence has been committed under that act.

There are also common-law principles that would apply to the exercise of powers, including reasonable suspicion that the powers be exercised reasonably. There are also statutory restrictions that apply to the exercise of powers. The powers of entry are not exercisable in respect of marine premises that are also residential premises other than with the consent of a person on the premises or with a search warrant. Powers must also be exercised such that as little inconvenience as possible is caused and the officer is not on the premises longer than is reasonably necessary.

Additionally, a prohibition notice may only be issued in limited circumstances and must involve an immediate risk to safety. Such notice should only be issued in such circumstances as a measure to ensure that persons involved in recreational boating are not put in a position of risk. The decision to issue a prohibition notice is also reviewable.

Further, under the Marine Safety Act the director, transport safety, is required to develop a marine enforcement policy. The purpose of this policy is to support and promote maintaining compliance and enforcement of marine safety laws. It is my expectation that the Boating Industry Association of Victoria and other relevant stakeholders will be consulted by the director in the development and/or review of that policy.

The objective of the amendment is to promote marine safety. The amendment ensures that there is a consistent and transparent application of the marine safety framework, particularly in relation to the general safety duties that currently apply to designers, manufacturers and suppliers of recreational vessels and marine safety equipment. I am satisfied that the amendments in the bill are appropriate and consistent with other laws and will be exercised reasonably and with due consideration by enforcement officers.

If I could now return to some of the matters that were raised by members during the course of the second-reading debate, in particular in relation to the buyout of netting in the Gippsland Lakes, it is disappointing that the opposition have sought to defeat this reform at every turn. The procedural motion that is moved today is something that would have the same effect as the defeat of this bill. I

know the opposition do not want anglers to know that, but that is simply the effect of the reasoned amendment. The government will not be supporting the reasoned amendment. The government will be continuing to pursue the delivery of this election commitment to provide adequate compensation to the 10 affected licence-holders and to restore the Gippsland Lakes to their former glory.

On consultation, there have been some extraordinary claims made in this debate around consultation, and I would like to correct the record. There has in fact been consultation and many attempts for further consultation with the licence-holders. The Victorian Fisheries Authority (VFA) CEO wrote to Seafood Industry Victoria (SIV) and licence-holders, offering to meet in Lakes Entrance in the first week of December 2018. That is when attempts to consult licence-holders began. Seafood Industry Victoria and licence-holders declined this opportunity.

The Victorian Fisheries Authority chief executive travelled to Gippsland to meet with licence-holders and Seafood Industry Victoria on 20 February and none of the licence-holders attended the meeting. I met with the Gippsland Lakes licence-holders and Seafood Industry Victoria in Lakes Entrance on 13 March to discuss the proposed licence buyback. On that occasion the licence-holders unanimously agreed to being exclusively represented by Seafood Industry Victoria and asked that all communications go through Seafood Industry Victoria. That is an undertaking I gave at the request of the 10 licence-holders. All 10 were in attendance, and that was their decision and one that I respected.

The Victorian Fisheries Authority and Seafood Industry Victoria met on 3 May and tentatively scheduled a meeting with licence-holders for mid-May in Lakes Entrance. A seafood industry executive officer subsequently advised he would meet with them alone and arranged a further catch-up between licence-holders and the VFA the week commencing 20 May. The VFA wrote to all licence-holders on 21 May noting the meeting and offered to attend organised meetings or meet with people directly. Again no responses were received. The VFA contacted Seafood Industry Victoria on 23 May to discuss the licence-holder meeting outcomes and were advised that SIV would provide a summary the following week. No summary ever turned up.

The VFA, SIV and I met on 11 June, when SIV presented the licence-holder position to my office. The VFA contacted SIV on 2 July to arrange a meeting with licence-holders, with an agreed date of 18 July. On 16 July SIV cancelled the meeting at the request of licence-holders, who did not want to meet. A summary fact sheet was provided to SIV on 16 July outlining the proposed buyout package. SIV declined to distribute this to licence-holders until 29 July.

As members have observed, there was a meeting between the VFA and licence-holders and SIV in Lakes Entrance on 9 August. That meeting was attended and did go ahead, but there have been so many attempts to engage. The people who are affected by this decision have had every opportunity to have their input on questions about three years or five years—the exact same types of questions that we discussed with licence-holders in Port Phillip Bay and Corio Bay, where we were in a position to respond to their desires.

Obviously I understand licence-holders do not like this reform and did not like that reform in Port Phillip and Corio Bay, but we were willing—within a framework where we were determined to deliver on our election commitment—to discuss these things: three years, five years, catch, effort. The total amount of compensation was set, the determination by an independent auditor of the value of the licence again was set, but some of those variables within the package we were open to discussing, and time and time again it was not possible to consult because people did not turn up and people cancelled meetings. So it is a little cheeky that the fig leaf that the coalition are using today to move this procedural motion—which would have the effect of defeating this reform but is so that they can pretend to anglers that they did not oppose this reform—is this palaver about a lack of consultation, when such effort was made time and time and time again to engage.

We were very respectful of the express desire by the licence-holders to deal with them and their issues through Seafood Industry Victoria. I cannot help but wonder if there might not be some people

regretting that decision now, but that is perhaps a bit of speculation on my part. It is a source of some regret to me that, for reasons I will never understand, people who are so profoundly impacted by this reform chose to not seek to influence it in the ways that were available to them to do so. But we are all grown-ups here and these are conscious decisions that people made, no doubt at a point when they were advised by their representative, by the organisation that they pay their membership fees to and an organisation that they very consciously and knowingly nominated to be their sole representative in these discussions.

I thank all members for their interest in this issue. There have been a lot of members who have spoken in this debate. I thank all the people in East Gippsland who have contemplated the economic impact and the benefits that will flow and also for some of the questions that people have raised in the local community about the very personal impact that this will have on licence-holders. We have sought at every turn to deal with these people as respectfully as we possibly can, as we have sought to deliver on this election commitment.

I look forward to taking more questions from members during the committee stage of the Parliament's proceedings this afternoon, but I am not supporting the reasoned amendment. I think that the least we can do for people who are going to be very much impacted by this reform—a reform that they do not like and that they do not support, I understand—is that we provide them with some certainty rather than pretending, under the guise of procedural moves in the house, to do otherwise. I commend the bill to the house.

House divided on amendment:

Ayes, 18

Atkinson, Mr
Barton, Mr
Bath, Ms
Crozier, Ms
Davis, Mr
Finn, Mr (Teller)

Grimley, Mr
Hayes, Mr
Limbrick, Mr
Lovell, Ms
Maxwell, Ms
McArthur, Mrs

O'Donohue, Mr
Ondarchie, Mr
Quilty, Mr
Ratnam, Dr (Teller)
Rich-Phillips, Mr
Wooldridge, Ms

Noes, 22

Bourman, Mr
Cumming, Dr
Elasmar, Mr
Erdogan, Mr
Garrett, Ms
Gepp, Mr (Teller)
Jennings, Mr
Kieu, Dr

Leane, Mr
Meddick, Mr
Melhem, Mr
Mikakos, Ms
Patten, Ms
Pulford, Ms
Shing, Ms

Somyurek, Mr
Stitt, Ms
Symes, Ms
Taylor, Ms
Terpstra, Ms (Teller)
Tierney, Ms
Vaghela, Ms

Amendment negatived.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (15:18)

Mr RICH-PHILLIPS: Minister, I have got a few questions I would just like to cover in clause 1 and will do them all in that clause, if that is agreeable to the committee. The minister referred in her summing up to consultation and various attempts between the department and the licence-holders to have various meetings. I would just like to ask her specifically in relation to the meeting which did take place on 9 August where a number of matters were raised—and I outlined some of those matters

in the second-reading debate: why were the licence-holders not given a response to the issues that were raised at the meeting of 9 August prior to the bill being introduced on 26 August?

Ms PULFORD: There were numerous attempts to engage with Seafood Industry Victoria (SIV) as the licence-holders' representative organisation, at their request, and we found them incredibly difficult to engage with.

Mr RICH-PHILLIPS: Can I just be clear, was that following the meeting that actually did take place? I am keen to understand. The meeting did take place on 9 August, and my understanding is the loop was not subsequently closed on those issues that were raised before the bill came in. I just want to clarify that is the case, that on the issues that were raised at the face-to-face meeting on 9 August there was no subsequent follow-up from the government back to the licence-holders before the legislation was introduced?

Ms PULFORD: It was our intention that it be an iterative process and that we would have ample opportunity through SIV to respond to matters that were raised. A number of matters that were raised I was able to respond to at the time. While I do not have a transcript of that meeting, and it was quite a number of months ago, for instance we were asked if we would help people to remove gear. We were on that occasion able to indicate that we would and that we would do that at no cost. We were able to indicate our intention around Rural Finance administering the scheme and a number of other matters, but it was the first meeting that the licence-holders had attended and so I took the opportunity to describe the process.

I did refer on a number of occasions to the process four years earlier with the buyout in Port Phillip and Corio Bay just to provide some context and by way of illustration that there would be three components; one for gear, one for effort and one for the mechanism by which the licence would be valued and the range of things that we would take into account on an assessment of effort. That was something that would have been nice to have had feedback from, but we found, as I indicated, it was very frustrating. I am not overstating it, and I would not suggest that my upset about how difficult it was to engage with affected licence-holders was anywhere in the league of how upset the licence-holders are with this reform—I am not comparing the two—but it was very disappointing to me that we were not able to have that iterative process around how elements of this would work.

Mr RICH-PHILLIPS: Minister, can I go to some of the specifics of the compensation. It arises from the meeting on 9 August. Part of the compensation is reflecting on the catch that has occurred over the previous five years and putting a price on that catch. The government in the compensation mechanism has determined to use national prices, the Australian Bureau of Agricultural and Resource Economics figures, rather than the preference of the licence-holders, which was Melbourne market prices. Why has the government used the national ABARE figures and not Melbourne market prices, which I understand was the way the government approached the Port Phillip Bay buyout?

Ms PULFORD: Data was provided by industry, data from McLaughlin Consolidated Fishermen Ltd, and industry suggested that this would provide a more accurate valuation of the price paid to licence-holders. But McLaughlin's does have board members who include commercial fishermen elected by shareholders, and to maintain the integrity and independence of the process for determining compensation and also to avoid any real or perceived conflicts of interest, only data and information other than individual catch history that had been obtained from independent agencies was used. So we chose to use an independent agency and in doing so to avoid any perception of or real conflict of interest.

Mr RICH-PHILLIPS: And that was an ABARE evaluation?

Ms PULFORD: Yes.

Mr RICH-PHILLIPS: Thank you, Minister. And that was consistent with the approach you took with Port Phillip Bay?

Ms PULFORD: That is correct.

Mr RICH-PHILLIPS: In relation to the buyout, or the compensation for the equipment, which was mostly and largely the compensation for netting, why was that set at significantly less than the compensation which was provided to the Port Phillip Bay licence-holders for their netting? I understand there is substantially more netting involved for the Gippsland Lakes licence-holders.

Ms PULFORD: The figure is less than the \$75 000 that was offered for Port Phillip Bay. I am advised that the reason for this is the boats are smaller and the gear is different to the larger net fisheries that were in Port Phillip Bay. While we are on gear, though, if I could just make a couple of other comments, Mr Rich-Phillips and Deputy President, the government is not buying back fishing gear and nets. Mr Rich-Phillips alluded to that in his question. Gear like vessels, outboard motors, trailers, fridges, freezers and anchors can all be sold on the market, and we do not intend to buy them back. The main types of fishing equipment used in the Gippsland Lakes fishery are mesh and seine nets. In terms of a market for those, seine nets used in Gippsland can be adapted for use in—

Mr Rich-Phillips: On a point of order, Deputy President, the minister is fairly soft in her delivery, unlike the noise out in the corridor.

The DEPUTY PRESIDENT: I will get someone to deal with the corridor.

Ms PULFORD: Thank you. Let me start that bit again because I know this is a point of interest that has been raised during the debate and before today as well. The amount of compensation for gear in Port Phillip and Corio Bay was \$75 000. The point of difference is that the boats are smaller and the gear is different. Lots of gear still has a market. Vessels, outboard motors, trailers, fridges, freezers, anchors and the like can all be sold, so we do not think it is necessary to buy this gear back.

The type of fishing equipment used in the Gippsland Lakes fishery is mesh and seine nets. There is a market for these. Some of the seine nets used in Gippsland are suitable, I am advised, for use in Western Australia and New South Wales fisheries, and mesh nets can also be adapted for use across a range of fisheries in other jurisdictions such as South Australia, New South Wales, Queensland, the Northern Territory, Western Australia and Tasmania. But I would also make the point, to put that in context, that many fishing nets only last for a reasonably short period of time. They require constant repair and replacement due to use and damage, exposure to the elements and the like. It has been estimated that a full mesh net would typically be replaced on an annual basis, so these are things that do depreciate quickly and lose their value quickly. We believe that \$60 000 per licence-holder is a fair and reasonable offset for gear, particularly when there is a market for gear and when we will assist people to remove gear, if that is their desire, at no cost to the fisher and given the rate at which these particular types of nets depreciate. I understand this is not a point with which the licence-holders are particularly satisfied, but that is the position that we reached and some of the reasons why.

Mr RICH-PHILLIPS: Thank you, Minister. Yes, it is certainly a point of contention as to where the sunk capital is for these licence-holders, and the advice I have received is that it is certainly in the nets rather than the boats and outboard motors. You made the point that outboard motors can be resold, but the advice I have received is that the bulk of the capital is in the nets. There is certainly contention as to whether they can be re-used or resold into other fishing environments, but I note the point you made on that.

Given the government provided information to the licence-holders with respect to the value of the licence, why has the government elected not to provide the valuer-general's valuation of the gear that they are receiving compensation for? When the valuer-general visited or inspected, I believe, nine of the 10 operations to assess the value of that gear, why has the government subsequently decided not to provide those valuations to the licence-holders?

Ms PULFORD: The government has provided a summary to industry, but we have determined not to provide that collective picture to all licence-holders given it contains the individual financial details of a group of separate businesses.

Mr RICH-PHILLIPS: Thank you, Minister, but to be clear I am not asking about providing the valuations to all licence-holders—rather, the valuation that relates to an individual licence-holder to that licence-holder. So why have you not given the valuer-general's assessment of the asset to that asset owner in respect only of their own assets?

Ms PULFORD: I am advised that at no point has that been sought.

Mr RICH-PHILLIPS: Again, Minister, I think that is probably an area of contention, given it has been raised as a substantial matter of concern by the licence-holders to the opposition—the availability or lack of availability of that valuer-general information. But given that, will the government now undertake to provide that information to the individual licence-holders in respect of the valuation of their own assets?

Ms PULFORD: Yes, I can certainly confirm that that has not been sought previously, and I am happy for the Victorian Fisheries Authority (VFA) to have one-on-one discussions with licence-holders about their own individual circumstances.

Mr RICH-PHILLIPS: Minister, just to be clear: that includes providing them with the valuer-general valuation in respect of their own assets?

Ms PULFORD: I confirm that I am happy for the VFA to have those discussions with individuals about the value of their own gear. I think it is also important, though, to make the point that this has to be seen in the context of my earlier comments around markets for gear, around collecting gear and around depreciation of gear. So that assessment of who has what gear and what it is worth has informed the rate that has been set in the legislation.

Mr RICH-PHILLIPS: Thank you, Minister. I guess what was not evident in that answer then was a clear undertaking that fisheries will provide the valuer-general valuation to the individual asset holder. You talked about discussions between the agency and the existing licence-holders, which is fine, but for the avoidance of doubt if you are able to give a clear undertaking that the licence-holders will be given the valuer-general's figures for their own assets, that would be helpful.

Ms PULFORD: Yes, so to confirm: we can ensure that people have that information from the report. The report collates that across all licence-holders, so the report in its entirety relates to the circumstances of 10 different businesses, and I have indicated our reasons for not sharing that, but we are happy to provide individual information and individual circumstances to licence-holders should they wish to pursue that.

Mr RICH-PHILLIPS: Thank you, Minister. Minister, since you answered that question I have been advised that the licence-holders did seek that information, the valuer-general's valuations in respect of their own assets, from fisheries. Are you able to confirm your earlier answer that that was not the case?

Ms PULFORD: I can confirm that the officer at the Victorian Fisheries Authority who has had carriage of this and responsibility as the primary point of contact has never been asked that question. I can also confirm that the advisor who supports my fisheries work in my office has never been asked for that.

Mr RICH-PHILLIPS: Minister, I would like to ask you about another issue that came up at the 9 August meeting, and that was the mechanism by which licence-holders could stay in the industry longer. You struck a proposal where if a licence-holder extends by 12 months their participation in the industry their compensation is reduced by 20 per cent. In respect of the Port Phillip model the reduction was 10 per cent for a 12-month extension. Why the difference with Gippsland Lakes?

Ms PULFORD: This commitment is to deliver this reform over two years; the commitment in Port Phillip Bay was to deliver the reform over eight. If you will recall, the legislation in 2015 reduced it by 10 per cent each year—so different circumstances, a different scale of fishery. Again, I think providing certainty to the people who are in this fishery is important. We had, if my memory serves me correctly, 43 licence-holders in Port Phillip and Corio bays, with eight electing to stay in the fishery as line fishers, two electing to stay for some subsequent years and the rest opting out in year one. These businesses will have a decision to make about which course of action they would prefer—whether they want to stay in the fishery for another year or whether they want to exit in the first year of these sets of arrangements.

I think it is also worth noting that with some of these businesses their Gippsland Lakes access licence represents only part of their business—each of them has quite an individual set of circumstances. Rural Finance will be administering this to provide that support. We have also sought, for completeness, a ruling from the Australian Taxation Office around the tax treatment of the different components of the package as well, a very similar ruling to the ruling that was made, and Corio and Port Phillip bays were two of the components. They are not treated as income and the third is.

Mr RICH-PHILLIPS: Thank you, Minister. Minister, I would like to ask you about the mechanism the government arrived at for the effort component of the package based on the average catch over five years multiplied by three, with the values we have already discussed. It was the view of the licence-holders that that calculation should be based on looking at the three best years out of the last five in order to allow for periods when licence-holders may not be operating, as I indicated in my second-reading speech, when illness et cetera led to them not operating continuously for the five years. I also understand there was an understanding among the licence-holders that it was the model the government would adopt. Why is that not the model that appears in the bill? Why have you gone with the five years rather than the best three out of five?

Ms PULFORD: When I met with the licence-holders in March this was one of the things that I said we were really open to having an ongoing discussion with them about, and I think I have outlined to the house our frustrations about how difficult it was to have that iterative conversation and to discuss that and have that level of input by the affected licence-holders. What I can indicate, though, is that at that meeting in March the licence-holders asked—and they all agreed on this, we were all in the room together—if we could count the time prior to some changes we made around the mouth of the Gippsland Lakes a number of years earlier, and I made that undertaking at the time.

Mr RICH-PHILLIPS: Thanks, Minister. But that led to a continuous five-year period rather than best of over that period, which was the expectation of where this would land.

Ms PULFORD: Well, this is precisely the type of thing it would have been good to have people participating in a discussion with us about. Of course when you are talking about 10 licences—a number that are fished a lot, a number that are not really fished much at all, at least a couple that are not actively fished and then some in between; some in businesses where the entire business model is based on this fishery, others where it is a small part of the business in question—the way you move those things around creates winners and losers within the group of 10 when the total package is the same. So that was something that we were always open to having further discussions with licence-holders about, but their representative organisation's refusal to engage made that very difficult. To change it to three years probably would have been a better situation for some people and a worse situation for others; or to make it five and so on, if you follow. But certainly at that meeting in March when we were asked if we would count the time prior to that earlier reform at the Gippsland Lakes I was able to make that undertaking on the spot.

Mr RICH-PHILLIPS: Thank you, Minister. I would like to move on to a different area of the bill—a different subject, away from the Gippsland Lakes buyout—so I do not know if you want to proceed to that now. I am happy to do it on clause 1.

Ms PULFORD: Do we know if there are any other questions?

Ms PATTEN: Thank you, Minister. I have just got a couple of fairly broad questions. I do not have great opposition to this bill, and I understand there has been declining stock of certainly bream and some of the other fish in the lakes. If I could just seek some clarification: one of the statements that was made in advising us about this bill was about reallocating commercial catchers to recreational fishers. We know with the Port Phillip Bay situation that we have seen some very unscrupulous activity from recreational fishers. We have seen people not respecting bag limits and the like. I am wondering if anything has been put in place in Gippsland. If this is about rebuilding the stock then the last thing we want to do is to keep depleting the stock through recreational fishing. I am wondering whether there are any measures in place to ensure that recreational fishers keep to those limits.

Ms PULFORD: I just wanted to check the timing for the fishery recovery plan. We will be commencing work on that before the end of the year. The objective here is to return the Gippsland Lakes to the great recreational fishing mecca of days of old, with all of the resultant visitor economy activity. My colleague Minister Neville made an announcement two or three weeks ago about some work underway in her own portfolio to restore the habitat. This is going to take time. I think your point is very well made. We need a healthy fishery, and having recreational fishers smashing a new recreational fishery or a soon to be recovered and restored recreational fishery does no good for anyone at all. In my experience our recreational fishers are overwhelmingly a responsible bunch that are very aware of their obligations around bag limits and catch limits and sizes and all of those things. So it is absolutely my expectation that our compliance effort will be effective, and that we will communicate to angling groups in East Gippsland and to others who travel, through all the different channels we have to communicate with people who might be interested in spending time at this fishery, about what the rules are and what the penalties are for breaching them as well.

Ms PATTEN: Thank you, Minister. That is reassuring. Obviously having attended the seafood industry's dinner on Friday night, and like you I love all of my seafood, I am concerned that that local seafood industry is at risk. But I appreciate in Gippsland that these lakes are at significant risk of—well, we need to rebuild them.

This goes to the bait issue that was raised in Port Phillip Bay. The fact is that if we are going to stop bait fishing, then we are at risk of introducing other species. There is a biosecurity risk when we look at introducing bait from other areas. I note that in regard to the Gippsland legislation, I think, just one bait-fisher licence in Gippsland has been maintained. I am seeking some clarification because I have certainly asked you in a number of adjournments last term about why we could not keep bait fishing in Port Phillip Bay but we are keeping it in Gippsland. So I am seeking clarification as to what the difference is between bait licensing in Gippsland and bait licensing in Port Phillip Bay.

Ms PULFORD: I recognise we are probably veering a little close to being out of scope of the bill, but let me just respond to Ms Patten's question as best I can. In terms of local seafood, less than 1 per cent of total seafood consumed in Victoria is sourced from the Gippsland Lakes. The majority of the fish caught in the Gippsland Lakes is currently taken to fresh fish markets in Melbourne. So in terms of local consumption the impact will be very minimal, but quality fresh fish continues to be available from a variety of other sources: the ocean waters, our longline fishery in Port Phillip Bay and Corner Inlet. There are still plenty of opportunities for people to fill their bellies with beautiful seafood.

We have also been exploring opportunities to create new fisheries, with a real interest and a view to being able to have greater opportunities for people around Victoria, and along the coastal areas in particular, to be able to buy something pretty much fresh off the boat, so there is some regulatory reform there. I think there is some good work we could do with the local industry around marketing and with local restaurateurs. I was recently in Port Fairy with a young woman, Bree Fox, who is an aspiring abalone diver. She is about 15 years old and a very impressive young woman, and her dad is teaching her to dive. She is an amazing ambassador for the seafood industry. Her family's business is making use of one of these new licence opportunities, and when we met them and were talking about

this we were actually doing this at a local restaurant in Port Fairy that was immediately benefiting. There is more work to do there, and we really do look forward to that, because there is nothing quite so nice as being by the seaside and being able to have fresh, locally sourced fish.

Your other question was about bait and bait licences. Look, ultimately this is a question of scale. The Port Phillip Bay bait fisher remaining in the bay I believe intends to stay for the duration of the period of that reform, so up to 2022, uses large nets and harvests many tonnes. By point of contrast, in the Gippsland Lakes four active fishers caught just 13.5 tonnes of bait using a limited range of gear. I know that for that licence-holder in Port Phillip Bay that is probably not going to be a satisfactory answer, but there is, I think, a distinction between a very large operation and a much smaller operation. Plus also our election commitment was about the 10 licences.

Ms BATH: Minister, in relation to the meeting on 9 August where commercial fishers met with Fisheries Victoria, there were a number of issues raised, and I think you have, through Mr Rich-Phillips, talked through some of those that I had questions around, but some of them looked at requesting advice on support services that could be available, and the other one of interest was requesting advice on retraining opportunities. Given that some of these fishermen and women are generational in the industry, and one in particular who has contacted me has his son and his son has a family, I am really interested for them to understand what—I guess closing the loop on those points—the government can do to retrain and provide support services in relation to the end of their careers?

Ms PULFORD: That information and advice has been provided. There was a seminar organised and held on 25 September, which I am advised was attended by licence-holders and their families, who were presented with information about the resources and support schemes that exist that they can avail themselves of.

But Ms Bath's point is well made and completely understood. A lot of people working in this industry found themselves in this industry because they were born into it, and some of these licence-holders are multigenerational businesses, as was the case in Port Phillip Bay. This is not something we do lightly. That is why in March I did indicate my desire to have legislation to resolve this and provide certainty to the licence-holders by the conclusion of this calendar year and why we have sought to provide adequate compensation and support them through this journey, because it is tough and it is a big change. It is a big change for anyone for the circumstances of their employment to change, but we want to make sure that people have the support that they need, that they have adequate compensation and that we can be as transparent as we possibly can be in the development of this package for them.

The DEPUTY PRESIDENT: Can I just take the opportunity to tell the house that Port Phillip is not a bay; Port Phillip is Port Phillip. Port Phillip and Corio Bay is the correct terminology because Corio is a bay. Hobsons is a bay, but Port Phillip is Port Phillip. Using the word 'bay' is like saying Sydney Harbour bay or koala bear. Sorry; it is just a technicality, but having been raised in Williamstown, it has been drummed into me. It just grates every time I hear that word 'bay'.

Ms BATH: Thank you, Deputy President. We know that koalas are not bears even though we often like to refer to them as such when we have young children who cuddle koala bears.

Minister, thank you for that response. Just for maybe closure for me, if you will, in relation to some of those services that will be available in the Lakes Entrance area, is that potentially through TAFE courses or funding? I would like to be able to provide an example to those licensees who are being bought out. Could you provide an example?

Ms PULFORD: Yes, certainly. The seminar that was organised by Regional Development Victoria that was held on 25 September was an opportunity for people to be presented with information from TAFE Gippsland; the Australian government employment service, Jobactive; the Latrobe Valley Authority worker transition service—I note we are a long way east in this area that we are talking about; and the Rural Financial Counselling Service. The LVA agreed at that session, I am advised, to

be the case manager for the Gippsland Lakes commercial fishers. People will have some assistance in coordinating and navigating their way through those different organisations.

Licence-holders have also been provided with information about the Rural Financial Counselling Service and what they can do to assist along with information about Centrelink services, Jobs Victoria, the range of things that the Department of Education and Training provide and the Gippsland Jobs Hub. I think, Ms Bath, in your contribution perhaps you commented on some of the mental health issues associated with particularly challenging transitions in work or in life. People have also been provided with information about how they can connect to some of those mental health services should they be feeling particular pressure as a result of this change.

Mr QUILTY: Minister—and I would have made a speech but I missed my speech; I have been running around all day—with the compensation payment, the price on the catch is taxable with the way the payment is being treated as income, the three-year payment. I understand that this compensation payment was largely modelled on the Port Phillip scheme. That was also taxable. So why did the government pick this model where you are going to give money to the people which will then be taxed and given to the federal government? Effectively you are passing money from the Victorian taxpayers to the federal government. I understand it was open to the government to structure the compensation any way it would have liked, so why would it pick a model that made the people pay tax?

Ms PULFORD: When and how people pay tax on income is very much a matter for the federal government, but the model that we have chosen—and we were clear about this in our election commitment—was that there would be recognition of the value of the licence, recognition of the value of the gear and recognition that within the 10 businesses there would be some variance on the loss-of-income component. As I indicated earlier in the committee stage, some of those licences are fished very actively; some of them not so much. I think it is important to recognise the difference between a licence that has been very actively fished or not, and the income component has been identified by the Australian Taxation Office as income-like compensation. Ultimately that is not a decision of our government or indeed any other government but a decision of the Australian Taxation Office.

Mr QUILTY: I guess you have partly answered that. It was always a great frustration to me when I was dealing with people getting compensation from government that was taxable. Very often they were not aware when they were signing up for compensation that it would be taxable. Obviously in this scheme they should have known, but it just seems to me very strange that we would want to structure it that way when we had the option that we could have paid them in a different fashion and there would have been no tax payable.

Ms PULFORD: I am loath to get into a debate about the finer points of tax law with the member, who no doubt knows much more about this than I do, but in relation to this bill I think I have provided the context about why there are the three different components and what they represent. The ATO have issued their draft ruling. That is something that procedurally is confirmed once the compensation is payable, but we have been very upfront with affected licence-holders and their representative organisation around this. The tax ruling on Port Phillip and Corio Bay may have provided a useful insight for licence-holders about what they could expect. Of course each tax ruling is going to be seen for its individual circumstances and judged as it comes when it is finalised, but that part of this would be taxed. I do not know that it would be an enormous shock to the licence-holders.

Mr QUILTY: I will move on to something else. In clause 12 of the bill there are the inactive pilot licences getting removed—cancelled. I guess my question is: why is that necessary? What is the problem that you are trying to resolve there? And not to draw this out—

The DEPUTY PRESIDENT: Mr Quilty, can we just deal with the clauses before that clause? Is there anyone else that has general questions for clause 1 before we get into the specifics of clauses?

Mr QUILTY: If I do not mention clause 12, then can I still make the point? I would like to do it all here rather than as we go through.

The DEPUTY PRESIDENT: Are you happy to do that?

Ms PULFORD: Yes.

The DEPUTY PRESIDENT: Okay.

Mr QUILTY: Why are we removing inactive licences, and why 12 months? Is it going to impact on people who take maternity leave or who are absent for just over 12 months?

Ms PULFORD: Thank you for this question. This is definitely not intended to catch anybody out who might be on maternity leave or another period of extended leave.

There was a review undertaken, a departmental review of the regulatory framework for pilotage in Victoria, and the review made a number of recommendations. The review suggested that there be amendments made to enable Transport Safety Victoria to cancel licences for pilots that are out of service for more than 12 months and that do not take action to maintain their competence. This is something that is reviewable. Pilot licences are perpetual, so there is no requirement for a pilot to surrender the licence if they change their occupation or if they retire, which means the regulator might not have accurate information as to which licensed pilots are actively providing services. So it is really about having a better sense of that. The capability to remove pilots who have been inactive is about providing the regulator with up-to-date information about who is operating in the industry.

I will also just speak briefly to the process, because this is not designed to catch anyone out so much as it is to maintain an accurate book of who is doing this work. The safety director is required to serve notice on the person setting out the action being proposed and the reasons and inviting the person to submit why the action should not be taken. That person then has 28 days to respond. The safety director must then serve an additional notice on the person outlining the safety director's decision. So, for instance, if somebody were on maternity leave, there would be the opportunity for them to make that point. If a person opposes a licence being cancelled, they are able to respond to the safety director, explaining why they should not take that action. If the safety director has taken action to cancel a suspended pilot licence following a show cause process, then that person can have that decision reviewed by the safety director. It is also able to be reviewed by VCAT.

Mr QUILTY: One more: the definition of marine premises is effectively anywhere that a boat is being repaired. It is quite an extensive thing, but from my reading of it, it could pick up anyone doing any repair work on a boat anywhere. We have been advised that that is not the intention of it.

Ms PULFORD: No, it is not. I am not sure if Mr Quilty was in the house when I spoke at the end of the second-reading debate, but I went through the reasons and the intent of this in some detail. Indeed I actually read quite some excerpts of a letter that I have written to the Boating Industry Association of Victoria after they raised the same question. I think there has been some interest in how the right-of-entry provision would be applied. Mr Quilty, if you would like I can read it all again, but if you are happy, I encourage you to just reflect on the comments that I made there. The director will be required to develop a policy. I have asked him to consult with industry and other relevant stakeholders in the development of that policy. This is really intended to have no practical, day-to-day change in the way that it works, but this broader definition was important to overcome a loophole in the coverage of the regulator in the undertaking of their duties around marine safety.

Mr RICH-PHILLIPS: The questions Mr Quilty has asked the minister largely addressed the matters I wanted to raise about clause 12, perhaps with the exception of asking the minister about the basis on which the 12 months of inactivity was determined as an appropriate period of time. Is that based on some international standard or other reason for determining that it be 12 months?

Ms PULFORD: The 12 months was determined through the departmental review process.

Mr RICH-PHILLIPS: Based on?

Ms PULFORD: Let me check.

I have just sought some advice on that. I think the idea was to pick a point in time where somebody had clearly been gone and inactive for quite a while. But if Mr Rich-Phillips is agreeable, I am happy to take that on notice and provide a response to that, if we would like to keep moving. I am in the committee's hands.

Mr RICH-PHILLIPS: Yes, that would be fine. Thanks, Minister. If you are happy to come back to the house tomorrow or something, that would be helpful.

I would just like to finish by going back to a matter we raised earlier on the Gippsland buyout issue, and it goes to the issue of the valuer-general's valuations. You indicated your advice was that they had not been requested by licence-holders. I have since been sent several emails from licence-holders who sought, from a Kate Simpson at the Victorian Fisheries Authority, access to the valuer-general's valuations and several responses back from Ms Simpson indicating that they were not available. I wonder if you can reconcile that with your advice to the house that they had not been requested. Those emails from licence-holders are dated around 5 September. Here is one. There are others, again from 5 September and 2 September. So in the early September period there were a number of emails and responses from Ms Simpson at the Victorian Fisheries Authority, rejecting requests for the valuer-general's valuations.

Ms PULFORD: There is no inconsistency there. I have indicated the reasons why we are not releasing the report in its entirety, and those requests, as I understand, were for the report in its entirety.

Mr RICH-PHILLIPS: Minister, seemingly the licence-holders were seeking information in respect of their own licences—

Ms PULFORD: Well, I am advised that they were not. The advice that I have is that people were not seeking individual information. I have made some undertakings about how we will follow that up today in the house, but our position has been clear on the reasons for not releasing the whole report, and the advice that I have is that requests for people to be given their own information were not received.

Mr RICH-PHILLIPS: Minister, I can read from one of the emails, which was sent on Monday, 9 September, at 9.31 to Ms Simpson from one of the licence-holders, which says, 'Dear Kate':

Let me clarify we do not want this information as we are aware it may contain personal and confidential business information that cannot be publicly released. We are asking on behalf of all licence-holders that we assessed that their personal information only be forwarded to them.

Ms PULFORD: That is different to the advice that I had received, and perhaps this is a fine point of detail about the disaggregation of a report, which I have undertaken to provide—and I have given the reasons why we have not. I note that in that email the licence-holder was not interested in the complete report, and we have undertaken that we will provide that disaggregated information to people. I was not aware of that email.

Mr HAYES: I just want to raise a couple of concerns about the health of the lakes, particularly fish stocks in the lakes. If we are taking commercial fishing out of the lakes, presumably to improve fish numbers in the lakes, have any other measures been thought about, like restricting the amount of recreational fishing in the lakes or considering, say, a moratorium on all fishing in the lakes to allow a period of regeneration, maybe on a yearly basis or during the breeding season or something like that, Minister?

Ms PULFORD: I refer Mr Hayes to my answers to Ms Patten's earlier question around how we manage the recovery of this fishery, and I would also indicate to Mr Hayes that earlier in the committee stage I indicated that the fishery recovery plan work will commence by the end of this year—I think

in December—and that Minister Neville made a recent announcement around improvements to habitat. So we take a holistic view about the recovery of this fishery. This is, I guess, the most impactful, particularly in terms of the impact on the licence-holders, but yes, this will not be the only measure to improve the Gippsland Lakes.

Mr HAYES: Thanks, Minister. Could I ask subsequent to that, through you, Deputy President: will there be any monitoring of fish stocks in the lakes subsequent to this?

Ms PULFORD: Yes, there will be.

Mr HAYES: In regard to the general health of the lakes—which seem to be in a state that is causing a lot of questions, including about the banning of commercial fishing there—what other measures have been taken to improve water quality in the lakes in regard to cleaning up the estuaries, stopping agricultural run-off or anything like that?

Ms PULFORD: That is well beyond the scope of this bill, and it is not within my immediate area of knowledge, as it falls outside of my portfolio responsibilities. I can certainly speak in general terms about the water quality issues, but I would suggest that through the parliamentary or other processes that might be a line of questioning for you to pursue with Minister Neville.

Clause agreed to; clauses 2 to 18 agreed to.

Reported to house without amendment.

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (16:18): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (16:18): I move:

That the bill be now read a third time.

Motion agreed to.

Read third time.

The DEPUTY PRESIDENT: Pursuant to standing order 14.27, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

Business of the house

ORDERS OF THE DAY

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (16:19): I move:

That the consideration of order of the day, government business, 1, be postponed until later this day.

Motion agreed to.

Bills

SUPERANNUATION LEGISLATION AMENDMENT BILL 2019

*Second reading***Debate resumed on motion of Ms PULFORD:**

That the bill be now read a second time.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (16:19): I am pleased to rise to speak on the Superannuation Legislation Amendment Bill 2019 this afternoon, which is an important piece of legislation on an important subject. The bill makes a number of amendments to the Emergency Services Superannuation Scheme, which is of course the suite of state-run superannuation schemes which are administered by the Emergency Services Superannuation Board.

Of course the state of Victoria was one of the original providers of superannuation benefits to its workforce, long before there was universal superannuation across the entire workforce in Australia. In that sense the public sector in this state was something of a pioneer in providing those retirement benefits for public sector workers. Typically when the schemes were introduced those benefits were in the form of defined benefit (DB) entitlements, which varied depending on the nature of the work that the public sector employee was undertaking, whether it was related to emergency services or whether it was general public service.

Some of those schemes in fact dated from 1925. So there is a very long history with the provision of superannuation for the public sector in this state, now managed through the emergency services super board. As the prevalence of superannuation grew in Australia, we saw a number of changes to the way in which superannuation was provided and indeed we have seen a lot of change to the regulatory framework for superannuation. I will come to that in a little bit more detail shortly, but the purpose of this bill this afternoon is to make a number of specific amendments largely with respect to the emergency services super scheme as it applies to emergency services workers.

That is the only cohort within the Victorian public sector who remain on an open defined benefit scheme, being a scheme where the benefits payable to employees in their superannuation are typically related to their final salary as an employee, with the benefit typically being a multiple of the final salary they receive as an employee, as opposed to accumulation scheme super accounts, where typically a percentage of a worker's income is paid into that superannuation account. They then get the benefit of that accrued payment into the account along with investment earnings. So for the accrual members, they have a defined amount paid into the scheme and they get the benefit of investment earnings. For the defined benefit recipients, they get a clear, defined payout, rather than a clearly defined pay-in.

In relation to the emergency services super scheme, which is a defined benefit scheme, the bill makes a number of amendments to the Emergency Services Superannuation Act 1986, which will provide that where a member of the emergency services defined benefit scheme, which is the ongoing DB scheme, have reached their maximum benefit multiple, the employer shall pay contributions to an accumulation account in respect of the employee at 3 per cent in the 2019–20 year, rising to 12 per cent by 2026–27. It provides that a member's superable salary is maintained following a salary reduction, unless otherwise advised by the member; it provides that contributions payable for the financial year will be fixed and based upon the superable salary at the start of the financial year; it allows members to take a transition-to-retirement pension; it allows members on unpaid parental and carers leave to choose their level of contribution, and therefore the benefit that accrues to them; it provides members with the opportunity to make higher catch-up contributions; and it changes the method for calculating death benefits in respect of police recruits who do not have dependents.

The matters covered by the bill and the changes it makes to the emergency services scheme are of their nature very technical, and that is because superannuation legislation is very technical, particularly with the interplay of a state-based scheme enshrined in state legislation and the increasing overlay of

commonwealth superannuation legislation. The changes in the bill are to the benefit of account holders in the emergency services DB scheme, and in fact the costs to budget in the short term of this scheme over the forward estimates are estimated at \$11 million in the 2019–20 financial year and 2020–21 financial year, increasing to \$19 million in the 2021–22 and 2022–23 financial years, and obviously we expect that to increase beyond that.

The changes do reflect the unique nature of a defined benefit superannuation scheme, in particular the first change that I outlined reflecting where members of the emergency services DB may have reached the maximum of their benefit by virtue of having reached a senior role at a senior salary in the emergency services. That has been the basis on which their defined benefit superannuation entitlement has been calculated. If, however, an employee in such a situation subsequently works in a reduced role, in a part-time capacity or at a reduced level, that would change the final salary for the purposes of determining their superannuation entitlement. That of course was never the intention of the scheme, and as such the bill ensures that their final salary is maintained for the purposes of calculating a defined benefit payout.

Likewise, the amendments also recognise the reality that where a member has maximised their entitlement under the defined benefit scheme and continue to work, they may seek to have superannuation payments made into an accumulation scheme so they can continue to accumulate a superannuation benefit, notwithstanding that the defined benefit that they are entitled to has reached its maximum. This again underscores the complexity that now exists in our superannuation system, where we do have a mix of defined benefit schemes—most of which have been closed to new entrants, bar the emergency services scheme—and we also have the accumulation scheme, which applies to the vast majority of public sector workforce.

It is worth noting that the emergency services super board is now administering some eight individual defined benefit superannuation schemes, being the Revised Scheme, which opened in 1975 and was closed in 1988; the New Scheme, which opened in 1988 and was closed to new members in 1993; the State Employees Retirement Benefit Scheme, which opened in 1980 and closed in 1988; the Transport Scheme, which opened in 1988 and closed in 1993 to new members; the original scheme, which opened in 1928 and was closed in 1975; the Metropolitan Transit Authority super scheme, which opened in 1984 and was closed in 1989; the Melbourne Water Corporation employees super scheme, which was opened between 1981 and 1987 and also closed in 1993; and then the emergency services scheme. Emergency Services & State Super (ESSS) also oversees the closed parliamentary scheme.

So we have got a number of different schemes with different entitlements which were in place at different points in time, the majority of which still have active members either in pension phase or accumulating benefits. Then we have, as I said, the ongoing emergency services open defined benefit scheme.

ESSS is now responsible for the management of some \$30 billion of assets on behalf of state superannuants, with some \$36 billion of liabilities as accounted for by ESSS, with roughly, in 2018, a \$7 billion deficit between the assets and the liabilities that were owed to account holders under the defined benefits schemes.

It is worth noting that the way in which the liabilities of the portfolio of defined benefits super schemes are accounted for in the annual report of the ESSS is different to the way they are accounted for in the budget. Due to a different approach with the valuation of the liability, we actually get very different numbers between the liability recorded in the budget, which is based on a discount rate approaching the government bond rate, and the liability accounted for in the annual report of the super board, which is based on expected returns in valuing the liability. So you get very different numbers as to the total liability and very different numbers as to the deficit. The important thing, of course, is in a cash sense, the liability is still on track to be extinguished in the 2030 time frame, which has been a long-term, consistent goal across multiple governments in this state since the early 1990s.

The Emergency Services Superannuation Board has a complex job to do in managing the multiple defined benefit schemes and also in accounting for its responsibilities at a commonwealth level. One of the things that has been, I think, of increasing frustration to perhaps the entire workforce in Australia and particularly for those who administer some of the state schemes—some of the defined benefit schemes—has been the constant churn at a commonwealth level with superannuation legislation. The fact that a regulatory framework, which is supposed to provide for the long-term retirement benefits for all of the workforce in Australia, is something that is constantly being tinkered with by successive governments. It is something which should be providing a stable framework to allow people, whether they are in accumulation schemes or public sector defined benefit schemes, to plan for their long-term retirement future. The fact that successive commonwealth governments are constantly fiddling with entitlements, with contribution levels, with benefit caps, and that barely a year can go by without the commonwealth government fiddling yet again, really undermines the intent of superannuation as a concept and, frankly, undermines the capacity and ability of managers, such as the emergency services super board, to work in what is an already complex environment where you have the overlay of commonwealth legislation with schemes that are run by the state under state legislation.

There are a number of agreements between the state and the commonwealth, particularly as to the operation of the state schemes, because they are not technically subject to the commonwealth legislation but the members generally are. By agreement the state-administered state schemes established under state statute seek to operate within the framework that the commonwealth lays down, which is an incredibly complex thing to do when the commonwealth regulatory framework is largely geared towards accumulation products, and quite often changes are not put in place in a way that actually reflects the realities and the constraints of defined benefit schemes. Successive governments have encountered those challenges back over the last 20 years, when federal governments really started to fiddle with superannuation regulation. There have been numerous pieces of legislation that have been brought to this Parliament in order to amend the state defined benefit schemes in order to accommodate the latest thought from Canberra as to how superannuation should be taxed and regulated. This is an ongoing challenge for the administrators of the state super schemes and, frankly, for all Australians who have superannuation as a retirement benefit, given the commonwealth will not leave the framework alone.

The bill before the house is not in relation to commonwealth changes. It is in relation to the government's determination to increase some of the entitlements for emergency services workers through the mechanisms which are in the bill. The coalition does not oppose this. This is relatively straightforward as to its intent, even if complex as to its mechanism. We understand the government will seek to make some amendments to this bill in respect of other superannuation matters that are overseen by the emergency services super board, and we will deal with those in due course. But we do not oppose this bill and expect it will have a speedy passage.

Mr GEPP (Northern Victoria) (16:35): It is with great pleasure that I rise to speak on the Superannuation Legislation Amendment Bill 2019. Superannuation of course is a great Labor Party legacy to this nation. It has been the Labor Party that has driven the agenda on retirement income from every corner of this great nation. The bill before us today continues with those aspirations, long held by the Labor Party, to ensure that working people have the best retirement income schemes they can possibly have.

Before I get onto the terms of the bill I think it is probably worthwhile to just go back. Mr Rich-Phillips covered a little bit of ground in his contribution in terms of public sector superannuation here in this state, and I have touched on Labor's values when it comes to retirement income. Of course the house would know that it was the Keating Labor government that made superannuation compulsory in 1992 with the Superannuation Guarantee (Administration) Act 1992, initially commencing at a rate of 3 per cent.

Mr Barton interjected.

Mr GEPP: Could you imagine having a superannuation rate of 3 per cent today, Mr Barton? I think it would be a very brave politician that would run that number up the flagpole today. But it had risen to 9 per cent by 2000. The aim was to have a superannuation rate of 12 per cent, but that was subsequently frozen by the then Howard government. Today, just to underscore the importance of the retirement superannuation scheme, some 1.9 million Australians over 65 are partly or fully self-funded retirees.

Could you imagine the drain on the public purse if that was not the case, if this enormous economic reform was not introduced almost 30 years ago? Interestingly the Association of Superannuation Funds of Australia state that in order to:

... have a 'comfortable' retirement, single people will need \$545 000 in retirement savings, and couples will need \$640 000.

Without Labor's commitment to retirement income in this state and in this nation those sorts of numbers would not be available to working people across this nation. They would be simply out of reach. I have a number of quotes from members of the Liberal and National parties at the time that the debate was held in the federal Parliament, but it may well be a little bit churlish for me to repeat some of those statements because they were lost on nobody at the time—claims of mass unemployment permeating the country, that it was nothing more than a tax on business and that it would be the undoing of this nation. Of course none of that has proven to be the case; in fact quite the opposite. It is one of the great Labor economic legacies that this country, I predict, will have for many, many, many, many years to come and will only be improved. That is what this bill does today.

In February 2017 the government undertook to review certain aspects of the emergency services defined benefit scheme. It had terms of reference for that review, and they were: a review of design elements of the ESDB scheme, such as the maximum multiple; the calculation of death and disability benefits; the calculation of the resignation benefit; the feasibility of introducing a transition-to-retirement pension; and also a review of gender equity. Now, I will not run through all of the mechanics and differences of the accumulation systems vis-a-vis the defined benefits. Mr Rich-Phillips did that and explained that very eloquently. I suspect that many in the chamber understand the difference between those two schemes, but this is a particular scheme for, of course, our emergency service workers. This bill seeks to amend the Emergency Services Superannuation Act 1986 to improve the benefits provided to members of the ESDB scheme.

I should say at this point that arising from that review in 2017 the government during the election campaign made a commitment to support certain recommendations arising from that review, and this bill fulfils that commitment. It maintains faith with those workers about the changes that we said if we were re-elected we would make to this scheme upon the resumption of the new Parliament. This bill, as I said, keeps faith with that commitment, and in particular the reforms include that where a member of the ESDB scheme has reached the maximum benefit multiple the employer shall pay contributions to an accumulation account in respect of the employee at 3 per cent commencing in the 2019–20 year, rising to 12 per cent by 2026–27.

That is a particularly important point, because once you reached the maximum—and often that took around about 30 years, as I understand it—the only time your benefit then adjusted was in line with salary increases. Of course across this nation we are living in a time when there is very low salary growth, so this is a very important aspect of the reforms being proposed by the government to ensure that those workers are not leaving our emergency services early because there is no real retirement income benefit to them by remaining in that employment. We would have a mass exodus of experienced people out the door, but rather this ensures that there is a continued contribution that is made to their retirement income through an accumulation account that rises over the next few years. That is providing that a member's superable salary is maintained following a salary reduction, unless otherwise advised by the member. Again, that is very, very important.

I talked about transition to retirement, and there can be other aspects of that transition to retirement—not just financial. When in a workplace a worker decides to take a different set of duties, or it might be different hours of work, that may have an impact overall on their salary. These reforms seek to maintain that salary level for the purposes of superannuation without their longer term retirement being impacted unnecessarily. The reforms also include that contributions payable for the financial year will be fixed and based upon the superable salary at the start of the financial year, allowing members, as I said, to take a transition-to-retirement pension.

The reforms will also include allowing members on unpaid parental and carers leave to choose the level of their contribution and subsequently their benefit accrual. It is most important. These changes actually recognise that the workplace is changing and that the circumstances that exist in the modern Victorian workplace are very different to those that existed at the time that this scheme was first enacted. It has been amended over time, and the reforms will also include the provision for members with the opportunity to make higher catch-up contributions.

It will also change the method of calculating the death benefits in respect of police recruits who do not have dependants. That is a particularly important point, because at the moment they are not eligible, but these reforms will ensure that that anomaly is removed and that police recruits will have the method of calculating death benefits for those without dependants. Those barriers are removed.

On paying additional accumulation contributions for certain members, at present ESDB scheme members can accrue a maximum benefit of 8.4 times their average salary. As I said, a member contributing at 7 per cent of their salary will reach this maximum after 30 years. The last thing that we want in our emergency services sector is a plethora of emergency services workers, because they have reached the maximum under the defined benefit scheme, exiting the workplace, because there really is no financial advantage for them remaining at work, and moving into retirement earlier than they otherwise would have. Of course the work and experience that we have amongst our emergency services workers is very, very valuable, and these reforms will assist those workers to perhaps remain in the workforce longer and continue to make the wonderful contribution that they make to this state, and it will allow for a scheme that will ensure that, financially, they continue to benefit from the retirement income.

Mr Rich-Phillips talked about some house amendments, and I will very quickly go over those. Others may wish to make a contribution on those as well. People will recall, of course, that the first determination of the Victorian Independent Remuneration Tribunal recently took effect in line with other reforms made by the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019. It was passed by the Parliament earlier this year. Following this determination some inconsistencies have emerged in relation to the operation of the Parliamentary Contributory Superannuation Fund, and the bill as amended will remove those inconsistencies. It does so by inserting new definitions to clarify provisions dealing with the calculation of contributions to the fund, as well as benefits payable by the fund. The amendments will ensure that all relevant calculations are based on the basic salary portion amount that was determined by the independent remuneration tribunal specifically for the purposes of the fund. The amendments will preserve the previous superannuation arrangements for members of the fund while ensuring that there are no unintended windfall gains. This reflects the intention of the reforms to the fund passed by the Parliament earlier this year.

The bill as amended will also ensure that the provisions to fix the contributor's contributions for a financial year and maintain a member's salary for the purposes of the emergency services defined benefit scheme are operational from 1 July 2019. This is achieved by changing the commencement date of clause 4(5) to 1 July 2019 and making the consequential amendment to clause 3. The combined effect of these two amendments will ensure that all the proposals to improve the benefits of the members of the emergency services defined benefit scheme are operational in this financial year.

As I said, it was with great pleasure that I rose today to support this bill. Superannuation is in the DNA of the Australian Labor Party. It was the Australian Labor Party back in 1992 that introduced this most magnificent of economic reforms that will be a lasting legacy to not only Victorians but all of this nation, and you can think of no finer group of workers than emergency services workers, who put themselves on the line for our community every day. The improvements that I have outlined in this bill before the house today will ensure that those workers who give so much to this fantastic state receive something back by way of a better and well-supported retirement income scheme for emergency services workers in this state. I commend the bill to the house.

Mr BARTON (Eastern Metropolitan) (16:49): I rise to speak on the Superannuation Legislation Amendment Bill 2019. I note that this bill makes a number of changes to provide for significant improvements to the superannuation benefits for Victoria's emergency services workers. I commend the government for working to protect the rights and retirement of our hardworking emergency workers. We cannot pay them enough or provide enough benefits to compensate them for the work they do. Not everybody can do what they do.

In 1992 the Keating Labor government gave us the compulsory employer superannuation contribution scheme, and it has been a huge success. You will not find a stronger supporter of the scheme than I. Now, 27 years later, the Morrison Liberal-National government is conducting a review of Australia's compulsory superannuation scheme. It is possibly time; however, I share others' concerns regarding any delay in increasing the planned lifting of contributions or any winding back or reduction of this scheme. It is extremely concerning.

We in this Parliament are in a privileged position in regard to our own superannuation scheme. Twenty-seven years on from the Keating super plan we still have some workers falling through the cracks. Not everyone is lucky enough to have the same scheme as us. Some of our lowest paid and hardest workers have no superannuation. I want to make a comparison for the house with the Victorian taxi and hire car industry, who lost their superannuation—taken from them in the taxi and hire car reforms in 2017. I know the red team understands the importance of superannuation in the taxi industry. I would just like to remind the members on the red team what they had to say about the industry and their superannuation when they were in opposition only a few short years ago.

Minister Mikakos spoke in defence of taxi licences as superannuation investments in June 2013 in relation to the Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Bill 2013, and I quote from *Hansard*:

Many licence owners bought their licences as an investment and, in many cases, to provide for their retirement income as self-funded retirees. They are concerned that the unrestricted access to taxi licences in the market will have a massive downward effect on the value of licences, thereby devastating not only the industry but their families as well. I am talking here about small business owners, many of whom are immigrants and some of whom have worked their entire lives to pay off their licences, only to have them now devalued. This was to be their super and their nest egg for their retirement, and in many cases it is their only source of income.

Minister Mikakos said that many licence owners bought their licences as an investment, and in many cases they provided retirement income for the self-funded retirees.

Mr Melhem acknowledged that taxi licences were superannuation during debates around the ridesharing bill in June 2016. I quote from *Hansard*:

There could be some sort of levy for a fund to be put in place to compensate these people, because for many of these people that is their pension—that is their retirement nest egg—and we definitely do not want to see them going to the wall.

Well, I can tell you that they have gone to the wall.

Minister Somyurek was quite clear during debate on the foundation reforms in 2013. I quote from *Hansard* of 25 June 2013:

The threshold question for the members of the government to consider before they vote on this bill—and they should have a think about this—is whether they would like their superannuation to be ripped out of their hands. Would they want the government to step in and take away their houses or their superannuation? Those are the threshold questions. Members opposite should decide which way they vote today by considering those questions.

Minister Somyurek spoke again in 2016 and said that the devaluation of the taxi industry was the equivalent of ‘taking our superannuation off us’. I quote from *Hansard* of 22 June 2016 during debate on the ridesharing bill:

The bill does not provide a level playing field across all industry participants. If the bill becomes law, thousands of Victorians could face bankruptcy. It would almost wipe out the value of existing taxi licences. It does not provide for any compensation or assistance and would financially ruin many families. A few years ago the taxi industry was deregulated. For a lot of Victorian small businesses—I guess they are microbusinesses; in particular I talk about the family or single licence-holders—the value of their asset was decimated overnight. It would be comparable—for those of us who are fortunate enough to have it—taking our superannuation off us. We have put some financial hardship provisions put in place, but without proper regulation of the ridesharing industry there will not be a level playing field, and the ... lack of a level playing field would be further financial hardship placed on taxi owners.

He said it would be comparable to ‘taking our superannuation off us’.

Minister Wynne in the other place was a strong defender of the taxi industry during the foundation reforms:

... we unambiguously support fairness, and that is what government ought to be about. We say that the bill that is currently before this house is fundamentally flawed, and it is not fair. It is not fair to licence-holders and it is not fair to consumers. Indeed it is a flawed bill.

Minister Donnellan was very critical of the coalition government’s foundation reforms. I quote from *Hansard* of 26 June 2013, when the minister spoke on the foundation reforms:

Comrades, the Cold War is not over because tonight we see that communism is alive and well on the other side of the house. Rent is being set in this legislation, and assets of other people are being appropriated with no compensation. The wood ducks on the opposite side pretend they represent small business, yet they sit in this place and vote to destroy the value of taxi licences of hardworking individuals. What we have is a group of people who pretend on an ongoing basis that they are business friendly, but at the end of the day they sit like wood ducks and help the Minister for Public Transport destroy the value of taxi licences.

People have worked hard to build up their assets, but today the team opposite is about to destroy the value of those assets ... You will wear this legislation like a crown of thorns on your heads, because at the end of the day people will remember what you have done.

I say to members on both sides—the red and blue teams—that you share that crown of thorns. We do remember what you have done, and that is why I stand before you today. I ask those current Labor members: when did these Victorian transport workers and their families become less worthy of their superannuation? At what point did the fairness that Minister Wynne spoke of no longer apply to the taxi industry? Perpetual taxi licences were seen as superannuation—in fact encouraged by Labor governments. They were held as collateral by banks and rolled into superannuation funds, and they served as a source of ongoing retirement income for those retired from the industry but able to lease out their licence for a fair ongoing income. Owning a taxi licence was superannuation.

Two years ago in 2017 the Andrews Labor government stripped the taxi industry of its licences—its superannuation—paying out arbitrary compensation and replacing them with a \$50 permit. Banks, with that collateral now worth nothing, called in loans. Retirees, suddenly robbed of an income from their leased licences, were forced to sell their homes and apply for a pension. Self-managed super funds with taxi licences as their nest egg became worthless overnight. Those still working in the industry saw their secure retirement plans dissolve. I say these Victorian transport workers are worthy

of having their superannuation and their retirement protected. They need and deserve their superannuation back. My colleague Mr Erdogan's father was a taxi driver, and he is now a hire car operator. Their family is deserving.

I know that there are those in the red team who are sympathetic and admit that these reforms did not land as they should or could have. They tell me it is too late and we must move on. We cannot move on. They are broken people. It is never too late to do what is right. I apologise; I have digressed again. Today of course I will support the magnificent work of our emergency service workers, and of course I will support this bill. I commend this bill to the house.

Ms SHING (Eastern Victoria) (16:58): I rise today to add my contribution to the Superannuation Legislation Amendment Bill 2019. At the outset I want to make a few remarks to reflect the general importance and the agreed significance across not just this place but also the Assembly in the course of debate of this particular bill. There are a few common elements across the two chambers—elements which span party divides, and appropriately so.

The first of these relates to a fundamental recognition of the value and the merit of the work undertaken by emergency services workers. I think it is important to indicate at the outset that that is well beyond the scope of any dispute in relation to any other subject matter in this bill or indeed the scope of the defined benefit schemes as they currently operate or as they are proposed to operate following what will hopefully be a successful passage of this bill. What we also note from the course of contributions, particularly in this chamber and from various parts of the chamber, is the fundamental recognition of the value of superannuation as retirement income.

We know that we are very much at a crossroads when it comes to an interjurisdictional approach to the way in which retirement income is captured, is maximised and is released—everything from the taxation treatment which applies to it through contributions and through drawdowns to the retirement income once the preservation age has been achieved, through to the way in which superannuation can be accessed and the quantum of contribution which applies not just through negotiations such as those which have been undertaken by emergency service unions here in Victoria way back to 1988 but through the advent of compulsory contributions to superannuation, which kicked in from 1992 as a consequence of Prime Minister Keating's efforts to make sure that there could be a safety net for workers across the board once they transitioned into retirement.

It is important to note that this bill does in fact build on a suite of reforms that have come about because of significant examination of aspects of the emergency services defined benefit scheme. This includes the changes that will mean that there is no longer a penalty for long-serving employees within the emergency services sectors, which will otherwise impose a cap to make sure that contributions can continue after 30 years. It will also mean that there are transition to retirement provisions which do in fact facilitate the reality of the world in which we live now. We know that workers will need between 68 per cent and 80 per cent of their annual income once retired in order to enjoy a standard of living which is comparable to that which they had prior to ending their paid work. We also know that it is important to recognise changes which occurred to the fraction mode and nature of employment, including throughout periods of unpaid and paid parental leave, carers leave and other periods of absence from the workplace.

It is a subject that is very, very dear to my heart. I have had the privilege of working within the industry super fund sector and with the Australian Institute of Superannuation Trustees in previous lives. It has been a significant exercise in negotiation, in policy evaluation and in ongoing effort to make sure that retirement income is not chipped away at and that investment decisions are made in the best interests of beneficiaries as well as to ensure that we are achieving the ultimate ends of the superannuation scheme as it was originally intended—namely, to make sure that in the absence of access to an old age pension there is a reasonable safety net available for people which accumulates throughout the course of their working lives. We know that this fundamentally benefits women; we know that this fundamentally benefits people who are otherwise not able to access financial means, support or a

safety net later in life; and we know that it makes a fundamental difference to the way in which people then seek to access welfare and welfare-related benefits. The bottom line is that these amendments go a long way to preserving and enshrining a level of equity for our emergency services workers as well as making a number of incidental changes to the way in which the review and the terms of reference for that review conducted in 2017 are given effect.

I would join with other members in commending the components of the bill that address emergency service worker inequities within the defined benefit schemes and the corresponding changes that will reduce inequity and improve access over time whilst also not penalising long-serving employees. I would also look to make sure, for avoidance of doubt and given recent discussions and decisions issued by the independent remuneration tribunal, that any unintended consequences do not crystallise in the way in which superannuation entitlements are carried forward and the way in which inconsistencies might otherwise have arisen.

There are a number of facets of the bill that deal with new definitions to clarify the way in which contributions to funds and payments payable by the fund are calculated and are determined. It is also important that we make sure that this harmonises with other statutes, both at a state and federal level, including to ensure that relevant calculations are based on the basic salary portion amount that was determined by the Victorian Independent Remuneration Tribunal, in particular for the purposes of the fund, as well as making sure that there is a preservation of previous superannuation arrangements for members of the fund whilst not then giving rise to an unintended consequence of a windfall, which was not as a net gain ever intended to be part of the scope or contemplation of the independent remuneration tribunal's decision.

So the bill, as others have indicated, will ensure that the provisions to fix a contribution for a financial year take effect and that that occurs from 1 July, and making a commencement date unambiguous within the scope of the bill itself is an important part of achieving this end. Also, making sure that we have all proposals to improve the benefits of emergency service worker entitlements and the operation of that scheme to operate from this financial year is another important way to provide that certainty and those safeguards to workers within this particular sector who are members of the fund and access entitlements accordingly. There is a measure of balance and of careful consideration in this bill which clearly shows that there is a lot of work going on, at least in Victoria, to preserve consistency and to prevent inconsistency, ambiguity, windfall gains or inequity. To that end we do see that there are reforms in this bill that overall complement the objectives of providing that safety net.

One of the other things that I do want to touch on is the general importance of superannuation as it relates to contributions that can then be accessed in a way that does not constitute a penalty as workers head toward a transition to retirement. When we look at the demographics that are playing out and the change to our population across Victoria we see an ageing workforce. We see an ageing workforce which is increasingly flexible in the way in which it works, and we see an ageing workforce which is also looking to make sure that a transition to retirement is addressed and accommodated in a sensitive, flexible and compassionate way.

The statistics are, in fact, quite alarming when you look at the way in which workers leave work and then, for men in particular, often face an inordinately higher risk of mortality within two years of retiring. But we know that a staggered retirement, and a scaled-down number of working hours as that transition occurs, goes a significant way to addressing those risks. We know that where that flexibility is afforded to workers, and where there are no financial hindrances or penalties applied that might otherwise but for this amendment have applied, and but for this bill might have applied, that we are putting workers in the best possible position, along with their families, to be able to make the most of retirement. And that is one of the fundamental pillars of the superannuation system as a whole.

We want to make sure that those pensions in transition to retirement are preserved and that they are not yokes around the necks of workers who are transitioning to retirement, as well as recognising that members on unpaid sick leave can choose their level of notional contribution. Making sure that catch-

up contribution provisions are improved is another important part, again, of not manifesting an indirect discrimination or an inequity for workers in this sector, particularly when we look at the way in which workers in emergency services and those professions are inordinately exposed to workplace hazards, to workplace stress, to post-traumatic stress and to ongoing challenges which can reduce or diminish their capacity to work full-time. Making sure also that we have death benefits for police recruits, and that distinction being removed to increase the death benefit paid in respect of police recruits without dependents, is another important clarification.

These are the sorts of careful, fine-tooth comb amendments that give effect to the many discussions and negotiations that were undertaken, including by the member for Melton in the other place when he was the head of the ambulance union, with more than 4000 members who worked alongside the Police Association Victoria and the United Firefighters Union to negotiate those contributions and that system with the Victorian government back in 1988. We know that this continues the commitment to make sure that there is a system of fairness, of transparency and of equity within the superannuation system at a state level, and we know that in fact it does preserve the intent and the purpose of the defined benefit scheme as it was set up.

In closing, I commend this bill to the house. I congratulate all who have been involved in getting right to the heart of the detail and the changes that needed to be made. One of the things that I think will give members of those funds within the defined benefit—and in fact other sectors—great comfort as emergency services workers is knowing that the dates are fixed and the system will be consistent, will be predictable and, from here on in, will be as durable as it can possibly be. This is against the backdrop of increasing change at a federal level and the challenge or threat of a ‘review’ of a system which to date has resulted in trillions of dollars in retirement income being carefully grown and nurtured by funds around the country to make sure that Australians can enjoy a significant, high and quality standard of life once they end their paid work and move into enjoying other stages, phases and activities within their lives. I commend this bill to the house, and I wish it a speedy passage.

Mr MEDDICK (Western Victoria) (17:11): I am proud to speak briefly on this bill as I am always pleased to support our emergency services workers. Those who take care of us and protect us when we need them most certainly deserve to be protected at retirement by a fair superannuation scheme. Of particular importance is the way this bill will allow emergency services workers to transition to retirement and avoid burnout. This is extremely important as we know that emergency services personnel are almost four times more likely to suffer the effects of post-traumatic stress disorder as a consequence of the trauma they see throughout their careers.

When our paramedics, police officers, firefighters and other employees covered by the defined benefit superannuation scheme reach their preservation age, they have contributed 30 years of active service to our emergency services organisations and our communities. This bill also amends the current arrangement where employer superannuation contributions cease after the 30 years, instead phasing in continuing superannuation contributions for those incredible emergency services workers who work more than those 30 years. There are some paramedics who have even clocked up 45 years, and we should rightly continue paying superannuation contributions to them while they are working. We know that the nature of the work of our emergency services personnel is harder than ever, and it is forever changing. That is why I am glad to see a mechanism for members to catch up on their superannuation contributions if they fall behind to ensure they receive the full benefit they deserve.

A member of the Animal Justice Party and a career paramedic, Ward Young, spoke to me personally about this bill and the impact it will have on his life. I would like to tell you what he said, because nobody can express it better than our emergency services workers:

Being a paramedic can be a bit of an emotional roller coaster—the highs are highs, and the lows are desperately low. But it reassures me to see a government that supports its paramedics, and gives me the comfort that I need in knowing that when I get to the end of my career, there is the mechanism for an orderly transition to retirement. This will allow me to retire with dignity and without adversely affecting my

superannuation, rather than working in a high-pressure role in the final two years of my career which is hard to maintain after 30 or 40 years in the job.

I thank Ward and all emergency services workers for the extraordinary service to the community that they continue to provide, and I am proud to have on the public record my support for their financial security when they enjoy a well-deserved retirement. It is the very least that we can do for them, and I commend the bill to the house.

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (17:15): I am very happy to follow Mr Meddick, who gave a very powerful speech just now, and to indicate why the government is so supportive of providing for superannuation entitlements for emergency services workers for the reasons that Mr Meddick has just outlined. Other members of the chamber and other members of the Parliament and certainly the government are thankful for and do appreciate the mighty efforts that are undertaken on behalf of the Victorian people each and every day by those who work in our emergency services and the challenge they confront in very stressful environments to respond to emergencies, to keep calm, to acquit their professional responsibility to keep us safe and protected and to enable our citizens to enjoy a quality of life you would hope a modern society such as Victoria could provide for.

A modern state such as Victoria should be able to account for the retirement incomes and the security of those who work in emergency services and to provide for a quality of life in retirement after a very stressful working life. Indeed that is the fundamental basis of the reforms that are associated with this piece of legislation before the chamber today, and the government made commitments to the organised workforce who represent emergency services workers in a number of different agencies to provide for just those outcomes.

This piece of legislation does a number of very important things. Other members who have contributed to this debate have already identified not only the value of these reforms but the significant difference that they make to the quality of the working life of emergency services workers, particularly in the later years of their working life. These amendments simply, in summary, are to ensure that for those emergency services workers who are covered by a defined benefit scheme within the Emergency Services Superannuation Act 1986—once they have reached the maximum of their entitlement under the defined benefit component of the scheme—if they have reached a stage of their working life where that contribution or their entitlement has been maxed out, there is an opportunity for them to continue to accumulate additional support for their retirement. That will in the first instance apply from this current financial year at a 3 per cent contribution and over the course of the next seven years increase to 12 per cent accumulation and beyond their defined benefit cap.

Also, as Mr Meddick has actually said, the bill does provide the opportunity for people to maintain the effective salary level for their benefit to be determined even if they work part-time or modify their working arrangements in the last number of years of their working life to enable their benefit to be maintained even though they may reduce their working hours or the stress associated with their workplace, and they will not be disadvantaged under those circumstances. The bill also does provide for continuity of effective service to those who have had a number of approved leave circumstances during the course of their working life and for an opportunity to catch up on some contributions that may have been missed as a consequence of that leave. Indeed it does provide for other benefits, particularly for police recruits who do not have dependants, the method for calculating their death benefits will be modified by this piece of legislation. Overall, the primary purpose of this bill is to enable a smooth transition to retirement pensions for emergency services workers.

Other contributors to this debate in the chamber today have identified that the government is bringing forward some amendments to the Parliamentary Salaries and Superannuation Act 1968, which is also administered by the Emergency Services Superannuation Board on behalf of the Parliament and the people of Victoria, that will give effect to the consequences of the Victorian Independent Remuneration

Tribunal's determination on superannuation entitlements for members of Parliament. I would like to circulate some amendments that I will be moving in the committee stage of this bill at this moment.

Government amendments circulated by Mr JENNINGS pursuant to standing orders.

Mr JENNINGS: As I indicated to the chamber, the amendments that I will be moving in the committee stage are to deal with some inconsistencies that occurred in terms of the determination of two categories of members of Parliament that may have been treated differently in terms of both their contributions and their benefits that may have accrued to them as a consequence of the remuneration tribunal. These amendments will ensure that there is no discrepancy between those classifications of MPs. Indeed it ensures that the effect of the remuneration tribunal's determination of the basic salary portion of the new base rate that has been determined by the tribunal to apply to MPs in the future is that the base salary portion will be the dollar amount by which contributions will be determined in terms of how much MPs will pay into the scheme and will be the basis by which the benefits will be determined and applied once a member of Parliament retires and their benefits are paid into the future.

The amendments will take effect, in terms of working out the contribution level that will be applied, from 1 July 2019, and the benefits will accrue from the time of the determination, which was 16 September 2019. The government will move those amendments in the committee stage. We hope those amendments will be supported by the Parliament today. This will mean that a fair contribution will be made by MPs. Their entitlements will be based upon a true amount, consistent with the remuneration tribunal's determination, and ultimately that will enhance the confidence in which the Emergency Services Superannuation Board will administer the fund. Ultimately with this piece of legislation, going back to the primary purpose of this bill, we want to make sure that the scheme is funded and managed appropriately.

We thank the Emergency Services Superannuation Board on behalf of the Victorian government and the Parliament for managing and acquitting their responsibilities in terms of managing the superannuation funds that come within their remit. We believe that the cost structures that are associated with these reforms have been accounted for within the budget. Certainly in the forward estimates and beyond the significant variations that apply to emergency service workers' entitlements have already been accounted for within the state budget settings. We think it is an appropriate commitment of the government to put its money where its mouth is in relation to these reforms and to provide that support to emergency workers. I thank the Parliament for its support, and I hope that I will receive support for the amendments when we go into the committee stage.

Motion agreed to.

Read second time.

Instruction to committee

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (17:26): I move:

That it be an instruction to the committee that they have power to consider amendments and a new clause to amend the Parliamentary Salaries, Allowances and Superannuation Act 1968 in relation to the Parliamentary Contributory Superannuation Fund.

Motion agreed to.

Committed.

Committee

Clause 1 (17:27)

Mr RICH-PHILLIPS: Just to speak briefly to the amendments the minister has circulated, the minister has outlined the purpose of these amendments—to basically preserve the footing of the

defined benefit superannuation scheme within the existing Parliamentary Salaries, Allowances and Superannuation Act 1968. The coalition will support these amendments to preserve the existing provisions with respect to superannuation. I note these arise from, as the minister outlined, some of the changes that were made with the introduction of the independent remuneration tribunal. I note that as the architect of the previous remuneration structure, which tied members' salaries to average weekly earnings, I was sceptical about the introduction of an independent remuneration tribunal and the complexity that that would potentially introduce. That complexity may well have been borne out by what we have seen in the last six weeks, but as I said, that decision has been taken. These amendments will ensure that existing entitlements are preserved and that there is not an increase, and the coalition will support these amendments.

Mr JENNINGS: I thank Mr Rich-Phillips for indicating the support of the opposition for this. As he indicates, the amendments that I am moving today into the Parliamentary Salaries, Allowances and Superannuation Act 1968 are to ensure that the policy intention that the government brought to the remuneration tribunal legislation in terms of the effect of any determination by the tribunal will be met, and in that context Mr Rich-Phillips is absolutely correct to say that the policy intent and the outcome are being preserved, as the government presented to the Parliament earlier this year.

Mr BOURMAN: A bit of a statement and then I might ask a couple of questions, if I may, on the amendments. It is kind of good. I understand the reasoning behind the amendments, and I have no problems with that, but the statement is that as crossbenchers we have to be across everything. We have to be our own whip. We have to be everything, but we get nothing extra—as backbenchers. I guess the thing is that the number of crossbenchers may come and go, up or down, but I think we are a feature of this place—at least hopefully for the foreseeable future—and perhaps something could be thought about on that, because there is a vast list of things people can get extra money for, and none of them is being a crossbencher.

Anyway, I do not expect the government to respond to that, but if I can ask a question about the third party, what exactly in the context of all the superannuation and the remuneration is the third party?

Mr JENNINGS: First of all can I just respond as a general proposition to Mr Bourman's first point that he made. The government is confident that in this and successive determinations the remuneration tribunal will be mindful of the role of all members of Parliament in acquitting their responsibilities, and I am certain that they will exercise their judgement over time about the range of matters that Mr Bourman has mentioned in terms of what the appropriate base rate is and the other allowances that may apply on the basis of acquitting the responsibilities of an MP, regardless of whether they are part of a parliamentary party, whether they are an Independent or whether they represent small parties. I am confident that the remuneration tribunal will work very hard over time to address that in a principled way that may remove some of the concerns that are implied in Mr Bourman's statement.

Having said that, in relation to the third party, 'third party' is determined in the relevant acts of the Victorian Parliament to mean a party that has 11 members. If you had 10 colleagues, Mr Bourman, in this Parliament at the moment, you would be a third party because the party status is determined on a formula that relates to the size of representation within the party. It has in the past been a number that the National Party has been able to achieve in its own right in the Parliament. They are currently sitting under that level of representation in this Parliament, and so there would be no designated person in this Parliament that would satisfy that element of the schedule.

I move:

1. Clause 1, line 9, after "Acts" insert "and to amend the **Parliamentary Salaries, Allowances and Superannuation Act 1968** in relation to the Parliamentary Contributory Superannuation Fund".

Amendment agreed to; amended clause agreed to.

Clause 2 (17:35)**Mr JENNINGS:** I move:

2. Clause 2, line 2, after “Act” insert “(except sections 4(5) and 16)”.
3. Clause 2, line 2, after this line insert—
 - “(2) Section 4(5) is deemed to have come into operation on 1 July 2019.
 - (3) Section 16 is deemed to have come into operation on 16 September 2019.

In terms of the logic of these clauses, so that the committee understands it, amendment 3 indicates that there is a change to clause 2 so that section 4(5) is deemed to have come into operation on 1 July 2019—that relates to contributions—and section 16 is deemed to have come into operation on 16 September 2019. That applies to benefits. Amendment 2 just acknowledges that they will be affected by amendment 3. Ultimately amendments 2 and 3 are just to make sure that the operative date applies to both the contributions and the benefits that are going to apply under the scheme.

Amendments agreed to; amended clause agreed to.**Clause 3 (17:36)****Mr JENNINGS:** I move:

4. Clause 3, line 7, before “then” insert “on or after 1 July 2019”.

Amendment 4 allows the salary maintenance provisions to apply from 1 July 2019 and will ensure consistent application of this provision, and section 4(5) by virtue of clause 2 above is deemed to have commenced on 1 July 2019.

Amendment agreed to; amended clause agreed to; clauses 4 to 15 agreed to.**New clause (17:37)****Mr JENNINGS:** I move:

5. Insert the following New Clause to follow after clause 15—

‘16 Amendment of the Parliamentary Salaries, Allowances and Superannuation Act 1968In the **Parliamentary Salaries, Allowances and Superannuation Act 1968**—

- (a) in section 10(1) **insert** the following definition—

“*additional salary* means the amount of additional salary calculated in accordance with the Table in subsection (6);”:
- (b) after section 10(5) **insert**—

“(6) For the purposes of the definition of *additional salary*, additional salary means the highest additional salary amount specified in the Table in respect of the offices held by the Member.

TABLE

<i>Office</i>	<i>Additional Salary</i>
	% per annum of basic salary
Premier	100
Deputy Premier	85
Any other responsible Minister of the Crown	75
Leader of the Opposition	75
President	65
Speaker	65

BILLS

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<i>Office</i>	<i>Additional Salary</i>
	% per annum of basic salary
Deputy President	20
Deputy Speaker	20
Deputy Leader of the Opposition in the Assembly	32
Leader of the Opposition in the Council	32
Leader of the Third Party (unless the Leader of the Third Party is also Leader or Deputy Leader of the Opposition or a Minister of the Crown)	32
Cabinet Secretary	32
Parliamentary Secretary to the Premier	20
Chairperson of the Public Accounts and Estimates Committee	20
Government Whip in the Assembly	18
Deputy Leader of the Opposition in the Council	18
Deputy Leader of the Third Party (unless the Deputy Leader of the Third Party is also Leader or Deputy Leader of the Opposition or a Minister of the Crown)	18
Parliamentary Secretaries	15
Chairperson of the Scrutiny of Acts and Regulations Committee	15
Chairperson of the Integrity and Oversight Committee	15
Government Whip in the Council	11
Opposition Whip in the Assembly	11
Opposition Whip in the Council	11
Whip of the Third Party in the Assembly	11
Whip of the Third Party in the Council	11
Deputy Government Whip in the Assembly	10
Chairperson of a standing committee appointed under standing orders in the Assembly or the Council	10
Chairperson of Joint Investigatory Committee within the meaning of the Parliamentary Committees Act 2003 which is not otherwise provided for in this Table	10
Chairperson of a joint select committee where resolution establishing committee so provides that chairperson is entitled	5
Deputy Chairperson of the Public Accounts and Estimates Committee	4
Deputy Chairperson of the Scrutiny of Acts and Regulations Committee	4
Deputy Chairperson of the Integrity and Oversight Committee	4
Secretary of the Party forming the Government	4
Secretary of the Opposition Party	4
Secretary of the Third Party	4

”;

- (c) in section 14(1) for “the gross amount of the instalment” **substitute** “an instalment of the aggregate of basic salary and additional salary”;

- (d) in section 14(2) for “occupies an office specified in section 6(2)” **substitute** “is an office holder specified in the Table in section 10(6)”;
- (e) in section 14(2) **omit** “payable to that member by virtue of occupying an office specified in section 6(2)”;
- (f) for section 21A(4)(a) **substitute**—
 “(a) the following definitions apply—
office means an office specified in the Table in section 10(6);
office holder means the holder of an office specified in the Table in section 10(6);
parliamentary allowance, in relation to a Member, means basic salary;
salary, in relation to a Member who is an office holder, means additional salary;”.

I will just run through what the effect of the new clause will be, and it will then become clause 16 of the bill. The first element of it is that it provides for a definition of the ‘additional salary’ that applies specifically for the purposes of the Parliamentary Contributory Superannuation Fund in part 3 of the act. The second thing that it will do is it will set out the meaning of ‘additional salary’ by specifying the percentage of the basic salary that shall apply. In this context, ‘basic salary’ means the basic salary portion as determined by the Victorian Independent Remuneration Tribunal, and the percentages of additional salary will be calculated in relation to that basic salary portion amount.

The next effect of the new clause will be to clarify that contributions to the Parliamentary Contributory Superannuation Fund will be calculated using the same basic salary, meaning the basic salary portion, and the new definition of additional salary that was inserted by subclause (a), which is the first item that I referred to in explaining the clause.

The next element that this will give effect to is it defines the office-holder and their parliamentary allowances and salaries that apply to each of those office-holders. That was the area where Mr Bourman picked out one of those office-holders to ask me a question about. There is a table that is inserted within this clause that apportions both the proportion of basic salary that will apply in terms of the benefits and the contributions that would accrue to MPs based upon that salary proportion that is in the table. That is included in this new clause, and this will align how contributions and benefits are calculated. It will also align the operation of the existing benefits scheme, which is for pre-1996 members, with the new benefits scheme members, which were from 1996 to 2004, so that all members are treated consistently. It also preserves for those members of the new benefits scheme the way in which benefits will be calculated under that scheme.

New clause agreed to; clause 16 agreed to.

Reported to house with amendment.

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (17:42): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (17:42): I move:

That the bill be now read a third time.

Motion agreed to.

Read third time.

The DEPUTY PRESIDENT: Pursuant to standing order 14.27, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill with amendment.

Adjournment

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (17:42): I move:

That the house do now adjourn.

MELBOURNE AIRPORT MANAGEMENT PLAN

Mr FINN (Western Metropolitan) (17:42): I wish to raise a matter on the adjournment this afternoon for the Minister for Planning. As I am sure he is aware and certainly everybody out in the north-west of Melbourne is aware, Melbourne Airport is a very, very important part of the local economy. Indeed it is a very important part of the Victorian economy, as a gateway to Victoria, as a major employer in that part of Melbourne and as a huge contributor to the economy of Victoria via tourism. It is the gateway of course for interstate and overseas tourists who are coming to Melbourne in increasing numbers.

People who live around the airport, including me, are very much aware of the need to protect the airport, and I think it is commendable that councils in years gone by, particularly the old Broadmeadows council and the old Bulla shire, went out of their way to ensure that the land around the airport was protected from overdevelopment, from housing. Sadly the old Keilor council—what can you say about them?—went the other way and not only did they build up almost to the gate of Essendon Airport, but they have done the same thing pretty close to Tullamarine airport. So on one side of the airport you have got full protection for the airport; on the other side not so much.

The Melbourne Airport management plan is something that is eagerly awaited by many people, including constituents of mine who have visited me wanting to find out what their position is as residents of Diggers Rest-Coimadai Road, and they want to see it removed from the environs overlay. One thing that the house may be aware of—it may not be aware of, but it may be aware of—is that the jets these days are a lot quieter than they used to be. Sometimes when I am travelling down Sunbury Road a jet will fly over the top of the car and I will barely notice that it is there. It is quite extraordinary. There is a degree of expectation that the overlays in the airport management plan will be restricted somewhat or indeed be changed significantly. So I am asking the minister to provide a time line for that Melbourne Airport management plan to ensure that local people can have an expectation that they will get a result very, very soon.

MURRAY-DARLING BASIN PLAN

Ms LOVELL (Northern Victoria) (17:45): My adjournment matter is for the Minister for Water, and it relates to the *Victorian Farm Modernisation Project: Options Review*, which was released in August, that found that any transfer of water to the commonwealth will have a definite social and economic impact on local communities in Victoria. Therefore the action that I seek is for the minister to categorically rule out handing over any more of Victorian irrigators' entitlements to the commonwealth as part of the recovery of an extra 450 gigalitres of up-water.

The Murray-Darling Basin plan has failed the irrigators of the Goulburn-Murray irrigation district and has contributed to the near collapse of the dairy industry in northern Victoria. The irrigators of northern Victoria are desperate for more water to grow their crops and maintain their livelihoods. At the same time they are watching the Murray and Goulburn rivers running at near-full capacity. There are signs of environmental damage being done to riverbanks through the erosion due to this incessant desire to push water downstream to South Australia.

While northern Victorian irrigators are forced to deal with water allocations of just 35 per cent, forests throughout my electorate are being flooded as the commonwealth environmental water holder flushes 400 gegalitres down the Murray River as part of the Southern Spring Flow program. We all acknowledge that the recovery of an extra 450 gegalitres of up-water, required under the Murray-Darling Basin plan, will have a devastating effect on our regional communities.

Despite a socio-economic test already in place regarding the recovery of more water on top of the plan's 2750-gegalitre target, the minister seems determined to help recover this additional 450 gegalitres. This is despite a review commissioned by the Andrews Labor government which found that the transfer of water from farm works will have negative social and economic impacts on irrigation communities. Irrigators and farmers are suffering deeply as a result of the Murray-Darling Basin plan, and the planned removal of the additional 450 gegalitres from the productive pool will take them to the brink of devastation.

Rather than continue her weasel words, it is time the minister took a firm stand for Victoria's irrigation communities by categorically refusing to contribute any Victorian water to this ridiculous plan to recover an additional 450 gegalitres. Therefore in light of the recent review into the Victorian Farm Modernisation Project released in August that found any transfer of water to the commonwealth will have a definite negative social and economic impact on local communities, the action that I seek is for the minister to categorically rule out handing over any more of Victorian irrigators' entitlements to the commonwealth as part of the recovery of an extra 450 gegalitres of up-water.

SCHOOL MOBILE PHONES POLICY

Ms VAGHELA (Western Metropolitan) (17:48): My adjournment matter is for the Deputy Premier and Minister for Education, the Honourable James Merlino, and my question relates to his portfolio of education. One of the top issues that parents, students and teachers raise is the prevalence and impact of bullying on students' health and wellbeing. Mobile phones are regularly a part of this, whether it is the use of social media, video recording in the yard or the use of Snapchat and messaging apps to cyberbully. Thanks to the Andrews Labor government, from the start of 2020 students will no longer be allowed to use mobile phones in government primary and secondary schools during school hours. This means phones must not be used or seen in the schoolyard, classrooms or in between classes, except when directed by the teacher for learning purposes or if used for medical issues. Students will be required to leave their phones switched off between the first and last bell of the school day. Phones will be stored securely in student lockers. The Department of Education and Training will work with schools to identify alternative management approaches where necessary.

The Andrews Labor government is investing \$12.4 million to deliver the resources schools need to implement this ban. The funding will ensure schools have the support they need as they implement the policy. Schools will be able to apply for funding for secure storage resources that work best for their school. In secondary schools mobile phones are most likely to be kept in secure lockers or a secure box. Schools will be able to apply for funding to purchase or upgrade lockers or buy new padlocks for existing lockers. For schools that do not have lockers or sufficient space, the Department of Education and Training is exploring other suitable options, including lockable pouches. The action I seek is for the minister to provide an update to my office on what the schools in my electorate of Western Metropolitan Region need to do in order to apply for this funding so we are ready for the policy implementation early next year.

LIVESTOCK THEFT AND BIOSECURITY

Ms MAXWELL (Northern Victoria) (17:51): My adjournment matter is for the Minister for Police and Emergency Services. I have previously raised here the ever-escalating problem of farm crime and was therefore very interested in her media release of 23 September. This said that the government would be creating, and I quote, a 'specialised' unit 'targeting farm crime, including livestock and equipment theft' with 'more than 70 new farm crime liaison officers' (FCLOs).

Since then I have spoken to many constituents and key stakeholders who, I unfortunately have to say, have been left disappointed by the impressions that were given of a new, rejuvenated approach. These people are insisting to me that, in reality, not much in the way of change will be occurring at all. Far from leading to the wideranging improvements they feel are desperately required in the policing of rural and farm crime, they think the announcement does little more than rebadge the roles previously undertaken by Victoria Police agricultural liaison officers, or AGLOs. They are also convinced the 70-plus farm crime liaison officers are not at least 70 new personnel but simply 70 or so people with new titles.

Whilst they do not doubt the minister's assertions that it will help that a specialist inspector will head the unit and that there will be better monitoring of crime trends and patterns, it is fair to say that these people believe far more comprehensive changes are still urgently required to counteract farm crime and to start restoring the morale of many communities in relation to it. In particular these constituents and key stakeholders had hoped the government would recognise, especially in considering the recently conducted but yet to be publicly released AGLO review, that it needed to appoint officers dedicated to solving farm crime full-time rather than just in addition to their other everyday duties, as has successfully occurred in New South Wales.

Given all of this, the action I seek from the minister is the provision of a statement with full details of what funding is being allocated to each of the initiatives that she announced on 23 September as being new. As part of that, I ask for clarification of how many AGLOs there were across Victoria Police immediately prior to 23 September and how, in a day-to-day sense, the roles of the FCLOs will practically differ from what the AGLOs were previously doing, including whether the FCLOs will be working full-time on farm crime issues or splitting this activity with other policing duties.

WESTERN VICTORIA REGION POWER POLES

Mrs McARTHUR (Western Victoria) (17:53): My adjournment matter is for the Minister for Energy, Environment and Climate Change and concerns Powercor's ongoing decision to use wooden, flammable poles in western Victoria rather than Dulhunty's non-flammable poles. Western Victoria Region has fallen victim to fires caused by faulty power poles in recent years, most notably the St Patrick's Day fires in 2018, which resulted in the loss of 23 houses, 40 000 hectares of land and 10 000 head of livestock. The poles currently in use by energy distribution network provider Powercor are either old, past their use-by date or new softwood, treated pine poles, built to last just seven years, susceptible to fire and weather damage and proven unsafe. At the current rate at which Powercor is replacing these unsafe poles, it would take 259 years to replace them all. Two weeks ago in the Geelong CBD yet another one of these power poles caught fire and left hundreds of properties temporarily without power, including the Geelong Magistrates Court.

Recently I visited Dulhunty Poles, a cement pole manufacturer in Geelong, who have tried to obtain a contract with Powercor but were rejected. Dulhunty Poles produce fireproof, termite-proof, waterproof, weatherproof, rustproof, lightweight, electrically non-conductive composite poles made from cement, clay and fibreglass that last more than 70 years. Dulhunty Poles are double the price, but this long-term investment would surely be a no-brainer. These cement poles are astronomically safer. They last more than seven times longer than the current wooden poles, are already used by AusNet Services in eastern Victoria, by Ausgrid in Sydney and Newcastle and by TasNetworks in Tasmania and are even exported to Tahiti and New Zealand. The current poles used by Powercor are clearly

unsafe, unsustainable and impossible to replace at the rate they expire. The action I seek from the minister is that she ensures Powercor contracts Dulhunty Poles to produce cement poles for Western Victoria Region or to find an energy distribution network provider that will.

PUBLIC LAND USE

Dr RATNAM (Northern Metropolitan) (17:55): My adjournment matter tonight is for the Treasurer, and my ask is that the Treasurer immediately freeze all current and future plans to sell off publicly owned land. Last Thursday we marked World Homeless Day, and once again on World Homeless Day Victoria remained in the midst of a housing and homelessness crisis. More than 24 000 Victorians are homeless on any given night. More than 85 000 people are waiting for public housing. These numbers are constantly growing as more Victorians are experiencing housing stress and are increasingly at risk of homelessness. Last week the YWCA reported on the growing demand for housing from women over the age of 50, who are the fastest growing group at risk of homelessness in Australia. Since 2011 there has been a 30 per cent rise in the number of older women in unstable accommodation or accessing crisis accommodation.

With so many more Victorians at risk of homelessness, we urgently need to do more to tackle the housing and homelessness crisis in our state. Victoria is in desperate need of a significant investment in our housing and homelessness sector that goes beyond support services and funds the creation of thousands of new homes. The best way to manage homelessness is to end it. The best way to end homelessness is to create more public, social and affordable housing for everyone who needs it. To create more public housing the government needs to protect and commit public land for housing development, yet this government is proceeding with plans to sell off 2600 hectares of government-owned land—151 public sites that should be kept for public use and are instead being sold to generate a profit for the government.

Of the 151 sites that are being prepared for sale, several have been singled out by Melbourne University housing academics as ideal sites for housing development. Two of these sites were in fact included in the report's top five sites to fast-track for social and affordable housing development. These pieces of land, one in Footscray and one in Clifton Hill, were ranked first and second due to their good access to transport and services, their appropriate size to make a difference in meeting affordable housing targets and their suitability to be developed into a residential site. Yet instead of taking this opportunity and utilising the land for public housing that Melbourne so desperately needs, the government is getting rid of it in order to prop up its bottom line.

This follows the unprecedented privatisation of our public housing estates throughout metropolitan Melbourne, allowing private developers to build on our invaluable public assets and dislocating our public housing tenants from the communities they love and are connected to. In a housing crisis the government should be investing in housing like it does in health and education. Housing should be worth billions in investment and given well-located land just like hospitals, roads and schools. But instead of acknowledging its responsibility to ensure everyone has a safe and secure home and creating more housing, the government is selling off land that has been identified as ideal for public housing development. I ask the Treasurer to immediately freeze all current and future plans to sell off our publicly owned land.

OSTEOPOROSIS SUPPORT SERVICES

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (17:58): My matter is for the Minister for Health. She is not here tonight, but it can be raised with her. It relates to a paper produced by Osteoporosis Australia, *Results for Victoria: Burden of Osteoporosis, Osteopenia and Associated Fractures in Victoria*. It is a paper by Sanders, Watts and others from the Australian Catholic University and Deakin University, and it looks at the impact of poor bone health and estimates the cost of fractures, the cost impact being very significant.

The total number of fractures in Victoria over a 10-year period is expected to be 419 000, with a very significant increase in the impact of fractures where there is osteoporosis present. The paper points to the ageing of the population and the impact on women in particular. Hip fractures are a significant impact of osteoporosis, and the report points out that current projections suggest that by 2022 more than 30 000 hip fractures will be experienced each year, at a projected cost of \$1.1 billion.

I am also in possession of a piece of correspondence to the Melbourne Osteoporosis Support Group and note the letter's support for fracture liaison coordinators in Victoria. I particularly want to draw the minister's attention to the need for those fracture liaison coordinators, and I quote:

Osteoporosis Australia released state burden of disease reports ... clinics within the hospital system to provide a range of prevention and screening services for people with musculoskeletal conditions, including fracture and re-fracture prevention services.

It pointed to the need for those services and the need for support for the osteoporosis support groups. What I seek from the minister is a close examination of the need for support for osteoporosis support groups and coordinators in our hospitals. It is very clear that proper support for those services results in fewer fractures, less impact and better management of them when they occur and consequently less cost in terms of subsequent fractures and readmission to hospital. This is one of those circumstances where sensible spending will actually result in lower spending, and I ask the minister to look at these results closely.

WESTERN METROPOLITAN REGION CHILD AND YOUTH MENTAL HEALTH SERVICES

Dr CUMMING (Western Metropolitan) (18:02): My adjournment matter this evening is for the Minister for Mental Health in the other place. The action I seek is for the minister to show evidence as to how the child and youth mental health services within Western Metropolitan Region provide the best care available and meet the needs of those within my region. The incidence of psychological distress within Western Metropolitan Region is amongst the highest in the state and under-reported by the community, and unfortunately the incidence is rapidly increasing amongst children and young adults. Amongst children and youth there is also a high number with multiple challenges, including physical disabilities, poverty and homelessness. Early intervention together with comprehensive, holistic and evidence-based care is essential in mental health, especially in order to improve long-term mental health outcomes for children and young adults.

The chief psychiatrist's advice is that care is provided in a person's area of origin. Research shows that the provision of care within the area of origin increases access to multiple health professionals and decreases the likelihood of vulnerable people falling through the cracks and missing out on the care that they need. Mental health services for children and young adults in Western Metropolitan Region are split into multiple locations based on age, type of mental health issues and also their severity. The services available are focused within the inner western and northern metropolitan areas. There is a small number of inpatient services, and they are relied upon heavily by young people in other regional areas. Travel times for many patients and families is several hours by car, if indeed they have access to a car, and presumably they are also required to travel between services to have their needs met when those needs are multiple. Comparatively, other services in the east provide multidisciplinary care and they are in just the one location. It is unclear why and whether services within the Western Metropolitan Region are really based on best practice standards of care and are meeting the needs of those needing the services.

NORTHERN METROPOLITAN REGION ROADS

Mr ONDARCHIE (Northern Metropolitan) (18:04): My adjournment matter tonight is for the Minister for Roads. It concerns Mickleham Road as it extends from Westmeadows through Greenvale out to Craigieburn—

Mr Finn: It is a shocker.

Mr ONDARCHIE: To pick up Mr Finn's interjection, it is a shocker. And also Somerton Road as it extends from Greenvale through to Roxburgh Park. Those roads, as the residents would describe it, are an absolute nightmare and in urgent need of some attention—duplication to say the very least. By way of example, residents tell me, as they told Michael O'Brien, Jim Overend and I when we were out in Craigieburn the other night, that a short trip that would normally take 5 minutes by car in a normal environment can take up to 40 minutes—40 minutes to go to the shop, 40 minutes to drop the kids at school. It is ridiculous. There are stories of dropping kids at school and waiting 30 minutes to get back out of the car park in the morning or of picking up the children from the local school in the afternoon and waiting 45 minutes to get back onto Mickleham Road from the school grounds.

They are essentially small country roads, and now that development has happened alongside and north of those roads, it has just become such a metropolis that the roads simply cannot cope with the traffic. It is affecting family lives, it is affecting lifestyles, it is affecting people's ability to get to jobs on time or get home on time and it is causing significant family stress, as we heard loud and clear last week.

Interestingly enough, the local member for that area is the Parliamentary Secretary for Road Infrastructure.

Mr Finn: Who is it?

Mr ONDARCHIE: Whoever the local member is. They do not know her very well out there, and nothing is happening. The one who is advocating very strongly for the community out there is a local resident who has been advocating for roads and support out in Craigieburn, a fellow called Jim Overend, who is doing a fantastic job—a fantastic job.

Mr Finn: Everybody knows Jim.

Mr ONDARCHIE: They do know him out there. The action I seek from the minister—because the local member has not been able to achieve it, maybe we can achieve it—on behalf of Jim Overend and the local residents, is that the minister join me for a visit to Mickleham Road and Somerton Road to have a look at the stress and to meet with the families and hear their stories. They are desperately in need of some attention, and they are getting nothing from the local member.

CROWN CASINO

Ms PATTEN (Northern Metropolitan) (18:07): My adjournment matter today is for the Premier, and it concerns further allegations—even more allegations—of illegal behaviour at Crown Casino. These allegations have been made by former staff and whistleblowers within the regulator, the Victorian Commission for Gambling and Liquor Regulation. The action I seek is for the Premier to urgently establish an inquiry to investigate these allegations and the many others that have come before.

On Monday I joined federal independent MP Andrew Wilkie in Canberra as we released video testimony from a former Crown employee detailing instances where he had witnessed activity such as the abuse of women, the transport of illegal drugs, the flouting of customs laws and more. Today Mr Wilkie called for a federal royal commission, which was voted down by the major parties, who do not want to face this issue.

Today documents and video leaked by whistleblowers from the casino regulator itself showed large amounts of money being laundered over the counter at the casino. Crown can continue to say, 'Nothing to see here', but this is footage from their own cameras. They say that they are scrupulous and have a strong record of compliance, that we should not believe our own eyes and that we should take their word that it is all 'fake news'. Well, in that case they should welcome an inquiry to clear their name.

The biggest travesty in all of this is that the public is not surprised by this behaviour at all. They just figure Crown is a mecca for illegal activity and nothing will be done because ex-politicians are on Crown's payroll, they are on the board and they are their lobbyists, and the business simply pumps too

much into our economy. Well, they should be shocked, and they should be outraged. They should expect more from us.

I ask the Premier: when is enough enough? When will this government act on what are clear breaches of our laws? This Parliament needs to restore some public faith in our systems and in our Parliament, so I am asking that the Premier acts. This government must establish an inquiry into Crown to shine a light on what we have seen to date and on whether this is, as one of the whistleblowers said, ‘just the tip of the iceberg’.

WASTE AND RECYCLING MANAGEMENT

Ms WOOLDRIDGE (Eastern Metropolitan) (18:09): My adjournment matter is for the Minister for Energy, Environment and Climate Change, and the action I seek is that the minister commit to Victorians that the hundreds of millions of dollars worth of taxes raised by this government via the Sustainability Fund be used to ensure that there is a viable and long-term sustainable waste and recycling strategy and to ensure that Victorians’ recycling is not sent to landfill in the future.

I recently contacted a number of members of the Nillumbik community, informing them that the recycling crisis meant their recycling was going to landfill and inviting them to provide feedback as to their concerns surrounding this. In response I was absolutely inundated with residents expressing outrage that this government was sitting on its hands as recycling was discarded in landfill. The overwhelming emphatic response was that the government should use the money that was collected through the bin tax to fix the problem and fix it for good.

Nillumbik council has negotiated with SKM for their recycling to stop being diverted to landfill as of last week, utilising the facility in Laverton North for processing. The council intends to work with the new owners of SKM to ensure a new contract is put in place to ensure proper disposal of their recyclable material. Unfortunately, though, in the longer term and broadly, this minister has ignored the recycling crisis until the last minute and continued to collect the bin tax without delivering residents the corresponding basic service—sending material to landfill that belongs in the recycling. There has been a fortune collected by this government, and it has been used to prop up their budget rather than for its intended purpose. This government’s waste and recycling policy has been a shambles, and this needs to be fixed.

MALLACOOTA COMMUNITY FIRE REFUGE

Mr BOURMAN (Eastern Victoria) (18:11): My adjournment matter is for the Minister for Police and Emergency Services and concerns the Mallacoota neighbourhood safer place. At high-risk periods Mallacoota can have up to 5000 tourists in town, with an established population of 1000, 60 per cent of whom are over 60 and with quite a number in their 80s. There is only one designated road out of Mallacoota, the Genoa-Mallacoota Road. However, you really do not want people leaving the area, as it is such a long drive to get anywhere through bush. The council and the CFA have two different incident management plans for Mallacoota. This can only cause confusion within the community and will put lives at risk.

The safer area is just a location on the foreshore for people to congregate out in the open. I think the objection relates to not having a fire-rated community building that could shelter people—a community fire refuge—with access to services such as water, toilets, supplies and so on. Also, the designated safer place does not cater for those with special needs, which is particularly relevant for Mallacoota where a vast number of the population are aged, have significant mobility issues, would struggle being out in the open and may not have the mobility to access a boat to evacuate onto the water. There are currently five community fire refuges in Victoria, none of which are in Gippsland. So the question is: why is there not a community fire refuge in Mallacoota, given that there is nowhere to evacuate to and given the demographics of the community?

Mallacoota should have seen the implementation of recommendations 3 and 4 of the Black Saturday royal commission relating to communities categorised as ‘very high risk’. However, these appear not to have been acted on, which is staggering, as the Mallacoota community has been categorised as at ‘extreme risk’. Recommendation 3 begins:

The State establish mechanisms for helping municipal councils to undertake local planning that tailors bushfire safety options to the needs of individual communities.

Recommendation 4 begins:

The State introduce a comprehensive approach to shelter options ...

The action I seek is for the government to work with the local community and emergency services to implement recommendations 3 and 4 of the Black Saturday royal commission in the Mallacoota community before it is too late.

NORTH RICHMOND SUPERVISED INJECTING FACILITY

Ms CROZIER (Southern Metropolitan) (18:13): My adjournment matter this evening is for the Minister for Small Business, and the action I seek is for the minister to join with me in visiting and speaking to concerned business owners in Victoria Street to hear their concerns and provide solutions to their problems. I do so because the Leader of the Opposition, who is also the Shadow Minister for Small Business, joined with me and met with a number of traders who have been severely affected since the opening of the injecting room in North Richmond. I do so because it appears that government ministers and local MPs have not shown any attention to the plight of these small business owners. The Minister for Mental Health does not want to listen; he organised a public meeting and then did not turn up. The Premier is not concerned for the welfare of residents and business owners; he has avoided them all. The local member, Richard Wynne, avoids the area. The Minister for Police and Emergency Services does not believe there is a problem. Local upper house member the Minister for Health is not across this issue at all and in fact does not understand the impacts on those people she supposedly represents, and I think that is an absolute disgrace.

So I ask the Minister for Small Business a reasonable request: for us to work together, along with the Leader of the Opposition and Shadow Minister for Small Business, Michael O’Brien, to support these struggling Victoria Street small businesses that have been so significantly impacted by the introduction of Labor’s drug injecting facility in North Richmond. They told us that some of their businesses have been impacted by up to 70 per cent declines in revenue. Some have been closing, and others are fearful that they will have to close because of the lack of trade that they are undertaking and the declines in revenue. These are serious issues that this small business community is experiencing but that the government MPs that I outlined have completely ignored. So I again request that the small business minister joins with the Leader of the Opposition and me and makes a time for us to jointly visit these businesses so that he can hear their pleas and hear what is happening on the ground, the reality that they have to face each and every day and their declining income because of the impact that the injecting facility is having on their businesses.

DELBURN WIND FARM

Mr O’DONOHUE (Eastern Victoria) (18:16): My matter this evening is a matter for the Minister for Planning. It relates to wind farm developments across Victoria and the standards that apply to the assessment process for which he as the minister is responsible. My adjournment matter flows from a recent meeting I had with concerned residents about the proposed Delburn wind farm.

The proposed Delburn wind farm is an enormous proposal. Whilst it is yet to be submitted for consideration, from the public meetings that have been held by those against this proposal and some contact from the proponent it is clear that it is a very large proposal with turbines higher than normal—250 metres or higher, noting that the regulations allow an extra 20 per cent as of right. So we are

talking about turbines that may stand more than 250 metres high and contain more than 1500 tonnes of concrete, each in a fault line area.

Those who are opposed to this wind farm, or should I say the scale of this wind farm, say to me that they support the notion of renewable energy and they support the notion of a more diversified energy source for Victoria's power grid but that we have to make sure we get it right. The research and the understanding about the impact of wind farms continue to advance. There have been several high-profile wind farms built in Victoria and a lot built overseas, and we are gaining a better appreciation of the impact on bird life and the impact on residents who live near these wind farms from infrasound—that is, noise that is not audible to individuals but is emitted by the wind farms and has an impact on nearby residents.

This is a very serious issue. This proposal, if it is submitted in the form that is anticipated, will have an end value of hundreds of millions of dollars and will impact several hundred residents across the Strzeleckis, from the South Gippsland shire region into Latrobe and possibly into the Narracan local government area. Local residents have a right to be heard, and it is critical that the most up-to-date, current information available from across the globe about the impact scientifically on both flora and fauna and on human beings is understood. The action I seek is for the minister to ensure that his guidelines and the guidelines that exist for the approval of wind farms consider all the most recent scientific data and analyses from Victoria and across the globe.

RESPONSES

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (18:19): There were 14 adjournment matters this evening: from Mr Finn to the Minister for Planning; Ms Lovell to the Minister for Water; Ms Vaghela to the Minister for Education; Ms Maxwell to the Minister for Police and Emergency Services; Mrs McArthur to the Minister for Energy, Environment and Climate Change; Dr Ratnam to the Treasurer; Mr Davis to the Minister for Health; Dr Cumming to the Minister for Mental Health; Mr Ondarchie to the Minister for Roads; Ms Patten to the Premier; Ms Wooldridge to the Minister for Energy, Environment and Climate Change; Mr Bourman to the Minister for Police and Emergency Services; Ms Crozier to the Minister for Small Business; and Mr O'Donohue to the Minister for Planning. Those matters raised will be referred to the relevant ministers.

I also have written responses to adjournment debate matters raised by Ms Bath, Mr Davis, Mr Finn, Ms Maxwell, Mrs McArthur and Mr O'Donohue on 13 August; Ms Lovell and Mr O'Donohue on 14 August; eight on 15 August, by Ms Bath, Mr Bourman, Mr Davis, Mr Grimley, Ms Lovell, Mrs McArthur, Mr Ondarchie and Ms Patten; five on 27 August, by Ms Bath, Ms Lovell, Ms Maxwell, Mr Ondarchie and Ms Vaghela; and eight on 28 August, by Mr Barton, Ms Bath, Ms Crozier, Mr Finn, Ms Lovell, Mrs McArthur, Mr Meddick and Mr Ondarchie.

Ms Crozier: On a point of order, President, I am just wondering if I could seek some clarification from the Minister for Health in relation to an answer to a question that I asked in question time in relation to I Cook Foods. The minister in her response said that:

I am advised that the testing of the food samples produced by the premises at I Cook Foods was positive for not one but four strains of listeria.

I do not know if the minister has inadvertently misled the house or if that is the advice that she has received, but it is my understanding that that information is not correct. I am not sure if the minister, as I said, has inadvertently misled the house, but I would seek some clarification in relation to the specifics of that information that she has received because it has consequences for the premises which were shut down. They lost their business and lost many employees as a result of the proceedings undertaken.

ADJOURNMENT

3306

Legislative Council

Tuesday, 15 October 2019

The PRESIDENT: Given the minister is not here, I will ensure that the transcript of your point of order gets to the minister as soon as possible. I am not sure if it is a point of debate, but I think, Ms Crozier, you will have an opportunity for another question or an opportunity for debate around that particular issue. But as far as your point of order goes, I will make sure that the minister does get the transcript.

The house stands adjourned.

House adjourned 6.22 pm.

Written adjournment responses

Responses have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.

Tuesday, 15 October 2019

RURAL DEVELOPMENT

In reply to Mrs McARTHUR (Western Victoria) (13 August 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

Regional Victoria is performing strongly, as evidenced by the regional unemployment rate of 3.7%. The Government's approach to regional development recognises the importance of locally driven, place-based approaches to respond to local needs and priorities.

Our Delivering for Regional and Rural Victoria Program is investing \$2.6 billion to boost regional tourism, create local jobs, underpin key industries, and provide the infrastructure and services that local communities rely on.

The program will improve public transport, country roads and TAFE facilities, and provide critical health facility upgrades across the whole state. The Program covers many portfolios, reflecting our whole-of-government approach to regional development.

Examples include:

- \$424.7 million for additional roadworks across regional Victoria to improve journey time and travel satisfaction;
- \$340 million to purchase 54 new VLocity carriages to meet the increasing demand on the regional rail network;
- \$100 million to boost the Regional Health Infrastructure Fund to enable regional health services to respond to local priorities and enhance service delivery;
- \$12.6 million to support drought-affected farmers in Wellington and East Gippsland shires; and
- \$8 million to extend the operating hours of the Phillip Island Urgent Care Centre.

This builds on our investment through the Regional Jobs and Infrastructure Fund which has been allocated across the entire state, recognising the diversity of regional communities.

Project examples include:

- Canning facility expansion at Burra Foods in Korumburra
- Conservation Ecology Centre's Wildlife Wonders project in Apollo Bay
- Upgrading the West Sale Airport
- Expansion of Australian Lamb in Colac

The 2019-20 Budget provided funding for the Regional Jobs and Infrastructure Fund to continue its focus on job creation and community infrastructure in rural communities.

Aside from our investment across rural and regional Victoria, I am working to achieve better outcomes for regional Victorians through a whole-of-government approach to government and community priorities that cross traditional portfolio boundaries. This will deliver leverage, profile and impact to regional initiatives and service delivery.

This approach complements the role of the nine Regional Partnerships, which are the key mechanism for connecting regional priorities and regional investment opportunities directly with the Victorian Government's decision-making processes. The Regional Partnerships have been successful in building a strong profile across rural and regional Victoria and with the support of DJPR are working to enhance its approach of regional co-ordination by nominating a single action plan for each Regional Partnership over 2019-2020 thereby building on existing regional Partnership activities and processes, including Outcomes Roadmaps and Implementation and Monitoring Plans.

EAST WERRIBEE EMPLOYMENT PRECINCT

In reply to Mr FINN (Western Metropolitan) (13 August 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

Seven National Employment and Innovation Clusters (NEICs) were identified in *Plan Melbourne 2017-2050* (Plan Melbourne) as areas that make a significant contribution to innovation and the national economy. The NEICs are areas with concentrations of businesses and institutions that provide a diversity of employment opportunities, including knowledge-based jobs.

The East Werribee Employment Precinct forms part of the wider Werribee NEIC, with opportunities to build on its existing health, education and high-tech research jobs.

The 775-hectare East Werribee precinct is the largest undeveloped surplus Victorian Government land in metropolitan Melbourne and comprises the 400-hectare site known as the East Werribee Major Development Parcel, and the full-diamond freeway interchange at Sneydes Road, as well as other significant arterial road upgrades.

I note the area has an existing Precinct Structure Plan (PSP). The PSP will guide the development of a future mixed-use precinct that aims to deliver 58,300 local jobs as well as homes, key infrastructure, advanced integrated water cycle management, sports facilities, and local parks. Any changes to the PSP must be in alignment with Plan Melbourne.

The broader future of the precinct will be managed by the Department of Jobs, Precincts and Regions.

GUARDIANSHIP ADMINISTRATION

In reply to Ms MAXWELL (Northern Victoria) (13 August 2019)

Ms HENNESSY (Altona—Attorney-General, Minister for Workplace Safety):

The Victorian Government recognises that a robust and well-resourced guardianship system can ensure that older Victorians are treated with dignity and protected from elder abuse. To that end, the Andrews Labor Government has provided \$5.4 million over two years through the 2018-19 budget to the Office of the Public Advocate (OPA), including for additional guardianship and investigation services for people with disability. In 2017, the government provided VCAT \$4.55 million to improve access to justice by modernising and streamlining its processes.

The pilot between OPA and three health networks—the Alfred, Eastern and Monash—has been a success. The project has reduced wait times for an OPA guardian to be allocated when a person is in hospital and enabled earlier transition of care. I understand that based on this initial success, the project has expanded this year to include Northern Health and Western Health. OPA and the partnering health networks are to be congratulated on the success of the project. The government is working with OPA and relevant stakeholders to consider options for continuation and expansion of this innovative approach to improve access to guardians for people in hospitals.

The government has also been working closely with VCAT to provide high quality and timely consideration of matters, including for guardianship applications. Commencing as a pilot in April 2018 with six metropolitan public hospitals, VCAT's 'Guardianship Hub' extends VCAT's online capability to enable electronic lodgement of applications and documents and online access to view relevant notices, documents and orders. Since July 2019, the Guardianship Hub has been available to all applicants wherever they are situated, including in the Northern Victoria Region. In 2019, the government provided \$2.5 million for further ICT improvements to the Guardianship Hub.

VCAT advises that it regularly conducts in-hospital guardianship hearings at six metropolitan public hospitals where sufficient demand exists. Scheduling of regular in-hospital hearing days supports timelier listing of applications, which in combination with the functionality of the Guardianship Hub has provided significant time savings for applicants. The new *Guardianship and Administration Act 2019*, scheduled to commence by March 2020, requires VCAT to hold a hearing within 30 days of a guardianship application.

COMMERCIAL PASSENGER VEHICLE INDUSTRY**In reply to Mr DAVIS** (Southern Metropolitan—Leader of the Opposition) (13 August 2019)**Ms HORNE** (Williamstown—Minister for Ports and Freight, Minister for Public Transport):

The passage of the Government's legislative reforms in 2017 and 2018 paved the way for financial assistance of half a billion dollars to eligible taxi and hire car licence holders—the most comprehensive assistance package in Australia. The new regulatory system has also reduced costs for businesses. Licensing has been replaced with a vehicle registration system. From 1 July 2018, the cost of TAC premiums for taxis was slashed by up to \$2000 per year.

Every licence-holder, including Mr Dias, received financial support, and in addition to the payments per licence, the Government established the Fairness Fund to provide further support to those who were in particular hardship.

While I am not able to comment on individual cases such as Mr Dias, the assessment of Fairness Fund applications followed exhaustive consideration of individual applications. The Government appointed an independent chair of the Fairness Fund to make recommendations about payments to applicants, and it was audited by KPMG. Together with departmental administrative support, the Chair and the auditors worked very carefully with a wide range of applicants to provide them with every opportunity to supply information in support of their application. All Fairness Fund payments were made in 2017 and early 2018, and the Fund is now closed. The Government recognised that the industry changes could be a distressing time for affected licence holders. From the announcement of the Government's reforms in August 2016 to the passing of the legislation by Parliament and completion of the financial assistance in 2018, a dedicated support hotline was available 24 hours a day to licence holders and their families. The support hotline offered counselling support and appointments could be arranged in person.

DELBURN WIND FARM**In reply to Ms BATH** (Eastern Victoria) (13 August 2019)**Mr WYNNE** (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

I thank the Member for Eastern Victoria for her question and for raising the concerns of her constituents.

A planning permit application for the proposed Delburn wind farm has not been lodged with me for consideration, at this time. The Member outlines several concerns about the impact of the proposal on the local community and environment. Under the requirements of the *Planning and Environment Act 1987*, these matters will be considered during the planning permit process, if an application is lodged.

The Member has raised noise impacts as being of primary concern to the community. A permit application must be supported by a predictive noise assessment report as well as an environmental audit of the predictive report. This information will allow noise impacts to be comprehensively assessed. I am advised that the developer has engaged independent experts to ensure that the project is designed to comply with the applicable noise limits.

I acknowledge the community's concerns about bushfire risks. If a permit application is lodged, it must be supported by information about bushfire risks, and I am advised that the proponent has engaged independent experts to ensure the proposal is designed with the community's safety in mind.

I assure the Member that amenity impacts and proximity of turbines to houses are key issues that will be considered during the assessment process. This will include assessment of visual impacts on those houses. Flora and fauna impacts will also be considered, alongside any other environmental effects. The potential impact on property values however, is not a valid planning consideration.

If and after a permit application is lodged, public notice will be given to the community under the requirements of the legislation. I strongly encourage any member of the community who has concerns to participate in the planning process by raising their concerns in writing, and I will consider these views as part of the assessment.

OVERSIGHT AND ACCOUNTABILITY OF COMMITTEES OF MANAGEMENT**In reply to Mr O'DONOHUE (Eastern Victoria) (13 August 2019)****Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes):**

In response to the Victorian Auditor-General's Office (VAGO) *Follow up of Oversight and Accountability of Committees of Management* recommendations, in 2018 the Secretary to the Department of Environment, Land, Water and Planning (DELWP) wrote to VAGO committing to a series of actions.

These actions have been incorporated into DELWP's broader Committee of Management Reform Program. The program will improve the governance, oversight and support of committees of management responsible for Crown land reserves, and address in full the recommendations outlined by VAGO.

Earlier this year, DELWP's internal auditors, Ernst and Young, conducted an audit to examine if DELWP's current and proposed actions in the Committee of Management Reform Program will address VAGO's recommendations and their underlying risks.

Overall, the Ernst and Young audit found that:

DELWP has developed and commenced a structured CoM Reform Program (with supporting governance and delivery frameworks) to address VAGO's recommendations. The Program takes a strategic and considered approach in identifying and implementing actions to strengthen the management and oversight of CoMs in the long-term to deliver sustainable change. The actions that are in progress (as part of Phase 1 of the CoM Reform Program) and planned (as part of Phases 2 and 3) are aligned to VAGO's original recommendations and aim to address the underlying risks and issues.

With respect to the San Remo Foreshore Caravan Park lease, I can advise that the San Remo Foreshore Caravan Committee of Management Inc engaged an independent broker to conduct the tender process for the lease of the Sam Remo Foreshore Caravan Park. The tender was widely advertised in local media and trade magazines for over 6 weeks in 2018.

DELWP reviewed the tender documentation and process and found it to be consistent with the requirements of the *Leasing Policy for Victorian Crown Land*. DELWP continues to work with the current lease holder and the committee of management to help to resolve any outstanding matters to the satisfaction of all parties.

COUNTRY FIRE AUTHORITY MOOROOPNA BRIGADE**In reply to Ms LOVELL (Northern Victoria) (14 August 2019)****Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):**

The safety and security of CFA volunteers is of paramount importance. The CFA is aware of the security concerns at the Mooroopna fire station and matters have been referred to the local police for investigation.

The CFA is investigating options for security fencing at the station to enhance current security measures, which include CCTV cameras and motion activated lighting for the station's car park. The station is located on a corner site and the local council has advised that it would approve a 'see-through' fence recessed from the corner to minimise visibility issues. The CFA is obtaining quotes to establish an accurate budget for construction and will continue to work with local council to confirm permit and approval requirements.

The CFA is considering funding options to support fencing construction.

KOO WEE RUP ROAD**In reply to Mr O'DONOHUE (Eastern Victoria) (14 August 2019)****Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating):**

The Department of Transport (DoT) manages the arterial road network in accordance with its Road Management Plan. According to the plan, Healesville-Koo Wee Rup Road is classified as a category 3 road, which is required to be inspected weekly.

The recent wet weather conditions have led to rapid and widespread deterioration of some sections of the arterial road network, including the section of Healesville-Koo Wee Rup Road between Pakenham and Koo Wee Rup. Besides carrying out minor pothole patching repairs, DoT has managed this road section by providing appropriate signage to warn road users of changes in road conditions.

I am pleased to advise that DoT completed further pavement repair works on the section of the road between Manks Road and Hall Road in early September 2019. These works have rectified the large potholes encountered by your constituent.

DoT will continue to monitor this section of the road as part of its maintenance program and will carry out any necessary short-term works to ensure that it keeps the road in a safe condition.

BRIDGE ROAD, RICHMOND, TRAM STOP

In reply to Mr ONDARCHIE (Northern Metropolitan) (15 August 2019)

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating):

Bridge Road is an important tram corridor, as well as a key destination for people walking, cycling and driving to access schools, jobs, the hospital and other local activities.

The movement of trams at this location is not controlled by traffic lights to ensure that trams are not delayed along this route.

The staggered pedestrian crossing, and the operation of the pedestrian crossing lights are designed to make pedestrians more aware of any approaching trams. When pedestrians wish to cross Bridge Road at this location, they are required to wait safely within the median tram stop and give way to oncoming trams in both directions before completing their crossing. The configuration of this tram stop and pedestrian crossing is similar to other tram stops across Melbourne.

While VicRoads (now part of the Department of Transport) advises me that it does not recommend a change to the configuration of this tram stop and pedestrian crossing at this time, it will continue its regular review and monitoring of this location.

HYDROMORPHONE TRIAL

In reply to Ms PATTEN (Northern Metropolitan) (15 August 2019)

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries):

This young man's family contacted me recently and shared his poem with me. My thoughts are with all his family and friends for their terrible loss.

Alcohol and other drug problems—including those that result in overdose—are complex, affecting not just individuals but their families, their friends and their communities.

This is why, in 2019-20, the Government is investing a record \$273.1 million in drug services, representing an increase in investment of 65 per cent through the last five State Budgets.

Pharmacotherapies such as methadone and buprenorphine are highly effective treatments for opioid dependence, and therefore a key part of this Government's investment. We want to maximise the life-saving potential of pharmacotherapy.

The potential listing of new Long Acting Injectable Buprenorphine pharmacotherapy provides an opportunity to look at how new clinical products can be incorporated into existing pharmacotherapy services to support more people to successfully engage with harm reduction services.

These new treatment pathways and medications highlight the need to keep assessing new evidence for all treatment options for drug dependence, like hydromorphone.

We also need to minimise barriers to treatments that are already known to be effective. This includes advocating to the Commonwealth to remove systemic cost barriers by eliminating uncapped daily dispensing fees for methadone and buprenorphine and treating pharmacotherapy like all other subsidised medicines.

We will never stop working to reduce the harm drugs cause in communities across Victoria. We will never stop working to help individuals and families to tackle addiction, and ensure our community is safe.

HOPETOON P-12 COLLEGE**In reply to Ms LOVELL (Northern Victoria) (15 August 2019)****Mr MERLINO (Monbulk—Minister for Education):**

The Andrews Labor Government has invested more than \$6.1 billion over the past five State Budgets to build new schools and modernise existing educational facilities across Victoria. However, it will take some time for the entire asset portfolio to be brought up to a standard commensurate with our ambition to build the Education State. Our ongoing challenge is to responsibly balance and prioritise the needs of over 1,500 government schools, all in varying condition.

On 2 September 2019, we announced that every single Victorian government school, including Hopetoun P-12 College, would benefit from a \$515 million investment in funding to carry out essential maintenance works as part of a 'Maintenance Blitz' to improve their condition. I am pleased to announce that as part of this Maintenance Blitz, the college was allocated \$169,135 to undertake essential maintenance works.

As you are aware, the college was also allocated \$246,000 as part of the Planned Maintenance Program in 2016-17 to complete refurbishment works to its main building, which contains the science and food technology areas. In addition, the college was allocated \$30,000 in 2015-16 to deliver outdoor learning, playground equipment and shade covers.

Regarding your concern about the Department of Education and Training's Rolling Facilities Evaluation (RFE) program, RFE data provides both schools and the Department with comprehensive and up-to-date information regarding the condition of school facilities. RFE data will update the findings of the Department's 2012 condition audit. I can assure you that the information collected through the college's RFE assessment will further inform state-wide school infrastructure planning investment decisions.

I am aware that the college may have capital or maintenance requirements. I can assure you that the infrastructure needs of all schools, including Hopetoun P-12 College, will continue to receive fair and equitable consideration through the State Budget process, and when determining future priorities for the school capital works program.

I trust this information is of assistance.

GEELONG MALL CRIME**In reply to Mrs McARTHUR (Western Victoria) (15 August 2019)****Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):**

Victoria Police has been working with the City of Greater Geelong, traders and other agencies to address anti-social behaviour in the Geelong Mall.

Protective Services Officers at Geelong Train Station patrol the train stations from Waurn Ponds to Lara and patrol the Moorabool Bus Exchange which is adjacent to the Mall.

Victoria Police is devoting significant resources to crime issues in and around the Geelong Mall. There are increased patrols and operations in the Mall and Geelong CBD to reassure the community, improve community safety and address anti-social behaviour.

Operation Safeguard Geelong is a new operation to target anti-social behaviour as well as drug, weapon, property and traffic offences. The operation will be highly visible and will see increased foot patrols in Geelong's CBD with support from specialist units such as Mounted Branch, Highway Patrol and Transit Safety Division. A combination of uniform and plain-clothes officers will be working so while police may not always be visible, chances are they will still be out and about patrolling the streets.

There are a number of other operations targeting the Geelong CBD. Operation City Safe is a visible police presence within the Mall using uniform police members and the Mounted Branch. Operation Spotter is a traffic operation with a police presence, targeting pedestrian and vehicle laws. Operation Pluto is a traffic operation targeting drug and alcohol offences involving Passive Alert Detection dogs and the Mounted Branch. There are also daily foot patrols and ongoing bicycle and highway patrols.

Victoria Police and the City of Greater Geelong have an ongoing partnership, which involves the monitoring of City Safe CCTV cameras at the Geelong Police Station. This enables Victoria Police to identify persons wanted on warrants, identify offences being committed and subsequently arrest offenders. The next 'Week of Warrants' will be held from 21 to 25 October 2019.

The government has also provided more than \$2 million in funding for community crime prevention initiatives in the City of Greater Geelong. This includes \$1.4 million towards Reignite, a Youth Crime Prevention Grant program that seeks to divert young people away from offending and into education, training or employment.

As part of the government's record investment into police recruitment, 53 new police officers have been deployed to the Geelong Division, with a further 38 to be deployed over the next 12 months.

We will continue to give Victoria Police the resources they need to keep the community safe and drive down offending.

FOREST MANAGEMENT YOUTH SYMPOSIUM

In reply to Ms BATH (Eastern Victoria) (15 August 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

The Department of Environment, Land Water and Planning (DELWP) is leading Victoria's negotiation with the Commonwealth to modernise Regional Forest Agreements. The modernisation of RFAs is a part of a major program of forest management reform and has involved engagement with industry and the broader community.

DELWP advises that regional Victorians, including industry workers and the broader community, have been well represented in this engagement. Of the face-to-face engagement events, 79 percent have been held in regional Victoria. Of the youth delegates at the Youth Forest Symposium, 39 per cent travelled from regional Victoria, and 39 per cent of all online survey respondents were from regional Victoria.

As the Victorian Government continues its program of forest management reform, there will be further opportunities for the youth of regional communities to present their views on the future management of Victoria's forests.

MYKI DATA

In reply to Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (15 August 2019)

Mr ANDREWS (Mulgrave—Premier):

The Victorian Government is committed to improving its approach to data capability and publishing processes while meeting the responsibilities placed on it under the Privacy and Data Protection Act 2014.

Both the Department of Premier and Cabinet and the Department of Transport have accepted the Victorian Information Commissioner's recommendations.

DROUGHT ASSISTANCE

In reply to Mr BOURMAN (Eastern Victoria) (15 August 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

The Victorian Government is committed to supporting farmers through drought and dry conditions. We have provided over \$50 million of additional support to enable farmers and communities to prepare for and manage dry seasonal conditions.

I understand Victorian farmers are concerned about access to quality and affordable grain and fodder coming into Spring, which has been exacerbated by the ongoing dry conditions in New South Wales and Queensland. However, initiatives like fodder freight subsidies can have unintended consequences such as inflated prices for everyone else in the market.

The Farm Business Assistance program provides a one-off payment of up to \$3,500. This payment is flexible and can be used to address business cost pressures such as council rates or feed for livestock.

Farm businesses in East Gippsland can also access a range of financial support to assist them manage and respond to drought and dry conditions. This support includes the:

- On-Farm Drought Infrastructure Support Grants of up to \$5,000 to implement on-farm infrastructure that improves drought management and preparedness

- Pasture Recovery and Management Grants of up to \$5,000 to implement pasture restoration and other land management activities that may aid in pasture recovery
- Catchment Management Authority Drought Employment program, which provides off farm employment and training for farmers, farm workers and individuals affected by drought.

A large range of mental health, technical and small business support is also available to Victorian farmers. I would encourage people to visit the Agriculture Victoria website or contact Agriculture Victoria's Customer Service Centre on 136 186 to find out more details.

My department continues to undertake analysis and discussions with farmers, communities, and industry groups regarding the impact of ongoing dry conditions across Victoria and the likely outcomes from the 2019 growing season. These actions will inform any potential further support for farm business and communities affected by drought and dry seasonal conditions.

VICTORIA POLICE MEMORIAL

In reply to Mr GRIMLEY (Western Victoria) (15 August 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

The Victorian Government supports Victoria Police by ensuring they have the resources they need to perform their roles, but more importantly the support they need to live healthy and fulfilling lives.

The government is supporting Victoria Police through a number of emergency worker mental health reforms, including the Provisional Payments Pilot Scheme. The Scheme allows eligible emergency workers, including Victoria Police employees, to access payments for reasonable medical treatment and like expenses for mental health injuries, while their WorkCover claim is being assessed. The Scheme will last for 12 months and is provided over a continuous 13-week period. I note your ongoing interest in and support of this important scheme.

In addition, the government has invested \$6 million towards the Victoria Police Early Intervention and Prevention Fund to help expand on the ground mental health support and a further \$6 million for the establishment of a specialist network of clinicians and a Centre of Excellence for Emergency Worker Mental Health, alongside founding partner Beyond Blue. Victoria Police has also launched a new website www.bluespacewellbeing.com.au for current and former employees, and their family and friends to access information about mental health and wellbeing issues.

The eligibility criteria for inclusion on the Victoria Police Memorial in Melbourne is a matter for Victoria Police. Currently, Victoria Police aligns its approach with that of the National Police Memorial Steering Committee which determines the eligibility criteria for inclusion on the National Police Memorial in Canberra. This position is also supported by the Police Federation of Australia and The Police Association of Victoria.

I note recent comments by Chief Commissioner of Victoria Police, Graham Ashton that there are good arguments from both sides of this discussion and that there may be an opportunity to develop a separate memorial to remember Victoria Police members lost to suicide.

BROADMEADOWS TRAIN STATION

In reply to Mr ONDARCHIE (Northern Metropolitan) (27 August 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

Protective Services Officers (PSOs) are deployed at Broadmeadows Railway Station every night, from 6pm until the last train. PSOs will also be deployed to Broadmeadows Railway Station between 3.30pm and 4.00pm to facilitate safe passage of students. Local police have also been engaging with Penola Catholic College and the school has been provided with a police contact, should any issues arise.

In addition to PSO presence, Victoria Police is conducting 'Operation Visible,' which covers the wider Broadmeadows High Risk Community Locations. As a part of this operation, police have been directed to patrol Broadmeadows Railway Station during the hours of 3.00pm and 4.00pm. Local police units are also tasked to attend this area if they are not otherwise engaged.

The Member for Broadmeadows, Frank McGuire MP has been a strong advocate on behalf of his constituents in relation to these matters and I appreciate him bringing them to the attention of Victoria Police to inform their tasking decisions.

As a part of the Community Safety Statement 2017, Victoria Police is recruiting an additional 100 PSOs over the next four years to form mobile squads to tackle hotspots across the public transport network. Half of these new PSOs have already been deployed and additional PSOs are in training to meet this commitment.

The additional PSOs allow Transit Safety Division to provide a visible policing presence at railway stations and on trains daily in the Melbourne CBD. These PSOs continue to provide intelligence-led patrols through the day and at night. Transit Safety Division will continue to deploy PSOs across the public transport system in a manner that is intelligence led and evidence based.

SCHOOL BREAKFAST CLUBS

In reply to Ms VAGHELA (Western Metropolitan) (27 August 2019)

Mr MERLINO (Monbulk—Minister for Education):

The Andrews Labor Government was proud to announce \$58 million for the expansion of the School Breakfast Clubs program in the 2019-20 Victorian State Budget.

This program was established in 2016, in partnership with Foodbank Victoria and has been supporting students in 500 disadvantaged government primary schools across the state to access healthy and nutritious breakfasts.

We know that a child's ability to concentrate, self-regulate and learn is negatively impacted if they are hungry. It has been reported that the rising cost of living makes it increasingly difficult particularly for low-income families and families living in poverty to provide enough healthy food for all the family each week.

The School Breakfast Clubs Expansion Program seeks to address the impact disadvantage can have on educational outcomes by offering free and healthy food for students in 1000 Victorian government schools.

Building on the success of the 2016-19 School Breakfast Clubs Program, the expansion will include:

- delivery of healthy breakfasts in 1,000 primary, secondary, P-12 and specialist schools
- provision of nutritious lunches and holiday food supplies targeted to students in need; and
- delivery of meal preparation and nutrition classes to families at 100 disadvantaged schools.

50 schools across the Western Metropolitan area are already benefiting from the School Breakfast Club program and under the expansion, a further 55 schools from the Western Metropolitan area will be invited to join the program.

125 schools will be added to the School Breakfast Clubs Program each term next year, ensuring more students from families that are experiencing disadvantage have the support they need to succeed at school.

I am pleased to advise that 34 schools in the Western Metropolitan area have just been invited to participate in the new program from 2020. A further 21 schools will receive an invitation early in 2020.

Schools that currently host the School Breakfast Clubs Program—including Debney Meadows Primary School in Essendon and Stevensville Primary School in Sunbury—will start serving lunches at school and providing holiday supplies to students who need it in term 3 of this year.

This expansion of the School Breakfast Clubs program across Victoria means that even more students from disadvantaged families will have the support to fully participate in their learning at school and build happy and healthy lives.

SHEPPARTON REGION HOMELESSNESS

In reply to Ms LOVELL (Northern Victoria) (27 August 2019)

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries):

Thank you for raising the need for action to address homelessness and the need for social housing in the Shepparton electorate. The Victorian Government is committed to continue addressing the issue of affordable housing across the state.

The Government is aware of the need in Shepparton, and financial commitments to address this need include:

- \$5.5 million to a project with Wintringham—Specialist Aged care for 28 one-bedroom homes in Shepparton to support vulnerable older Victorians
- over \$38 million in homelessness services across the region with \$7 million specifically for Shepparton

- over \$1.5 million for the Education First Youth Foyer in Shepparton to assist 40 young people annually.

The Government is also investing a record amount in housing and homelessness services at a state-wide level. This includes 1,000 new public housing properties over the next three years and 500 new affordable rental properties delivered in 2019 through the \$1 billion *Social Housing Growth Fund*.

An additional \$50.4 million over the next five years will be invested into homelessness services. Shepparton has been identified as one of several sites to receive this funding. This will see more on site treatment services in crisis-supported accommodation, private rental assistance for over 6,000 Victorians and the continuation of the state-wide homelessness after-hours crisis services.

Another \$103.5 million in matched funding will be provided through the National Housing and Homelessness Agreement to provide funding to 48 agencies to deliver services to people experiencing or at risk of homelessness. This includes early intervention, housing and support and homelessness prevention.

TOMORROW TODAY FOUNDATION

In reply to Ms MAXWELL (Northern Victoria) (27 August 2019)

Mr MERLINO (Monbulk—Minister for Education):

The Playgroup Program run by the Parents Early Education Partnership (PEEP) you have raised falls within the portfolio responsibility of The Hon Luke Donnellan MP, Minister for Child Protection.

As part of my portfolio responsibilities, the Andrews Labor Government is investing \$160 million in School Readiness Funding for kindergarten services, with 32 local government areas to benefit from the funding in 2020. By 2021 every funded kindergarten service across Victoria will receive this funding. This Australian-first, needs-based funding aims to reduce the impact of educational disadvantage and is supporting children's communication (language development); wellbeing (social and emotional), and their access to and inclusion in kindergarten programs.

I can advise that the PEEP is included on the School Readiness Funding 'menu of evidence' informed programs and supports. This is in recognition of their work and this will allow kindergartens across the state to benefit from the PEEP.

Thank you for your advocacy on this early childhood program. I wish this organisation all the best for its bright future.

RAWSON PRIMARY SCHOOL

In reply to Ms BATH (Eastern Victoria) (27 August 2019)

Mr MERLINO (Monbulk—Minister for Education):

Public Transport Victoria (PTV) commenced a review of the Rawson School Bus service in 2019. As part of the review process, PTV provided the review's draft report to the Rawson Primary School in August 2019.

I am advised that both the Rawson Primary School and the wider school community were invited by PTV to provide feedback on the draft report findings.

I am advised that PTV are to now consider the feedback provided and will communicate a second draft or a final report prior to the end of Term 3, 2019.

PASCOE VALE TRAFFIC LIGHTS

In reply to Mr ONDARCHIE (Northern Metropolitan) (28 August 2019)

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating):

Balancing the needs for people moving around the Gaffney Street, Cumberland Road and Boundary Road area in Pascoe Vale is challenging and people can experience traffic congestion during peak periods.

For example, there are at least six schools in the area and the Department of Transport (DoT) needs to ensure that the road network operates in a way that maximises the safe movement of our most vulnerable road users, while also ensuring other modes, including the numerous buses, and other motorists can also get where they need to go.

To manage these competing demands, particularly noting it is in an established road network, traffic lights help to prioritise and control the movements.

DoT advises me that it has reviewed the operation of traffic lights in the area, particularly at the intersections of Cumberland Road/Gaffney Street, Gaffney Street/Derby Street, and Cumberland Road/Boundary Road. This review found that changing the way the traffic lights operate would create further congestion or safety problems and therefore no changes will be implemented at this time.

Regarding the upgrade project at the intersection of Gaffney Street and Sussex Street where the roundabout will be replaced with traffic lights to help people move through the intersection, DoT further advises me that pre-construction works (such as land survey and other planning activities) have commenced. Next steps include detailed design, stakeholder engagement, land acquisition and utility service relocation.

As there is a significant number of utility services that will require relocation, and multiple land parcels needing to be acquired to facilitate the upgrade, it is anticipated that the pre-construction activities will be completed by the end of 2020. DoT aims to advertise the construction contract in early 2021, with construction to commence in late 2021 and completed by mid-2022. DoT will continue to work closely with stakeholders and keep exploring opportunities to achieve an earlier completion.

DONCASTER BUSWAY

In reply to Mr BARTON (Eastern Metropolitan) (28 August 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

I thank the Member for his question about prioritising the planning and construction of the Doncaster Busway element of the North East Link Project.

As the Member would be aware, the North East Link Environment Effects Statement (EES) is currently the subject of an inquiry and advisory committee, which is holding public hearings until 16 September 2019. Local businesses, residents and stakeholders have made submissions on the EES, and those submitters that choose to will present at the hearings.

I expect the new busway to improve the Doncaster Area Rapid Transit services will be an important part of Melbourne's public transport system. Ongoing operation of bus services will, no doubt, be one of the key considerations in managing traffic during construction of the project.

I look forward to receiving the inquiry and advisory committee's report to consider when preparing my assessment of the environmental effects of the project. My assessment will then be considered by project decision-makers.

COUNTRY FIRE AUTHORITY KINGLAKE WEST BRIGADE

In reply to Ms LOVELL (Northern Victoria) (28 August 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

The Victorian Government values the Kinglake West CFA Brigade (Brigade) and its selfless contributions to the safety and wellbeing of the community. The Victorian Government also acknowledges the Brigade's significant efforts to fund improvements to its station over the years, including through the generous support of the local community.

The 2019-20 budget provided \$14.7 million in funding for new station developments, which is in addition to CFA's annual funding of approximately \$5.7 million to maintain its 1,229 fire stations.

The prioritisation of station upgrades and replacements within the CFA Base Capital Works Program is informed by a number of fit for purpose factors, including the condition of existing stations, suitability to support current and projected service delivery needs and occupational health and safety standards.

The CFA advises that the Kinglake West station was last inspected on 12 September 2019 and that no evidence was found to suggest that the roof or other building infrastructure is leaking. The CFA has also advised that the water experienced on the engine bay floor is from the appliance overflow points.

The CFA advises that its fleet replacement and cascade program considers asset condition, utilisation, rate of brigade response and brigade risk profile when determining replacement priorities. All vehicles are regularly inspected and maintained to ensure they are safe for active, operational use. The CFA advised that Tanker 1 at Kinglake West brigade is not on any current replacement programs.

The Brigade moved from District 13 to District 12 in the second half of 2010 as part of a boundary realignment. The move to District 12 has not impacted on the Brigade's priority ranking for station upgrades or vehicle replacement.

Over the past 7 years, the Brigade has received \$100k through the Volunteer Emergency Services Equipment Program (VESEP) to purchase a medium tanker.

The CFA has advised that the Brigade has not applied for the recent 2019-20 VESEP grant program. The Victorian Government encourages the Brigade to apply for future funding through relevant government funding programs.

SHEPPARTON EDUCATION PLAN

In reply to Mr QUILTY (Northern Victoria) (28 August 2019)

Mr MERLINO (Monbulk—Minister for Education):

The Andrews Labor Government is committed to increasing educational opportunities for all Victorians. We have invested more than \$5.6 billion over the past five State Budgets to build new schools and modernise existing ones. We have committed to opening 100 new schools over eight years (2019–2026) to meet the increasing demand for student places arising from Victoria's growing population.

The Shepparton Education Plan (the Plan) was developed in response to an identified need to improve educational outcomes for young people in Shepparton and Mooroopna, with \$21.5 million invested by the Government to date. Extensive consultation was undertaken in 2017 and 2018 regarding the Plan, which included direct community consultation in Shepparton and Mooroopna, as well as social media feedback and a public website. Over 4,700 items of feedback were analysed during this phase and the consultation identified four options for secondary schooling in Greater Shepparton. Of these four options, the preferred option was the single school, single site model.

The Shepparton single school, single site model combines small school communities with big school facilities. Students will learn and socialise in house communities of 300 with students located in 'houses' that provide academic and pastoral care.

As part of the Education State vision, we want all students to be happy, healthy and resilient. We know that there is a direct link between the health and wellbeing of a student and their ability to learn. The new school will put in place an anti-bullying policy that sets clear expectations and support for students and staff in addressing these issues. Additionally, at Greater Shepparton College (interim name), specialist health and wellbeing staff will be in place to identify and support students requiring extra assistance.

The Greater Shepparton College (interim name) school leadership team is working closely with teaching staff to work through transition arrangements. I have asked the Department of Education and Training to continue supporting the school leadership team in relation to job certainty for staff throughout the transition process.

Significant changes in secondary education in Greater Shepparton will occur over the next few years and I appreciate that this will bring change for families, parents, carers and students. However, the Shepparton Education Plan has been designed to transform schooling in Greater Shepparton and improve educational outcomes for all young people in Shepparton.

YOUTH VIOLENCE

In reply to Mr FINN (Western Metropolitan) (28 August 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

After a thorough investigation into a report of an assault in Werribee during the evening of 25 August, Victoria Police has confirmed that no offences have been detected. Victoria Police has provided appropriate support and referrals to parties involved.

The Government supports Victoria Police in its efforts to drive down youth offending. Under the Community Safety Statement, the government has provided Victoria Police with funding of \$3 billion for 3,135 new police and 42 youth specialists, new powers, equipment and additional measures they need to target youth-related criminal activity. The government has also invested close to \$18 million in the Youth Crime Prevention Grants Program and \$1.5 million in an Embedded Youth Outreach Pilot, partnering youth workers with police officers in the community. The latest Community Safety Statement has recommitted government to improving and extending existing measures to reduce networked youth offending.

Regarding networked offending more broadly, Taskforce Wayward continues to target networked and violent offenders across the entire North West Region. There is a focus on proactive investigations, disruption and dismantling of high harm networks and the application of referral pathways to prevent future offending by these offenders. The Victoria Police Early Identification Tool is used to identify young people who are deemed at risk of ongoing contact with the criminal justice system to ensure that multi-agency early intervention can take place.

Victoria Police is committed to working with communities to divert at-risk youth, and on 27 February 2019 it hosted the Wyndham Youth Forum which involved community leaders, educators, service providers and young people engaged in discussions to identify local issues affecting youth. Issues raised at the Forum included peer pressure, mental health, social media, gangs, racism, family violence and perceptions of safety. The outcome of the discussions highlighted the need for further encouragement of young people to engage in volunteer activities (mentoring) and greater access to support services. The Wyndham Youth Forum was the first of four regional youth forums to be held in each police region.

DUCK HUNTING

In reply to Mr MEDDICK (Western Victoria) (28 August 2019)

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing):

Victoria's nature-based attractions, including our national parks, wetlands, reserves and marine areas, are an important part of our visitor economy which draw thousands of visitors to the state.

Visitors enjoy a range of activities every day within these environments and the Victorian Government is committed to ensuring that all activities on Victorian public land and waterways, such as bushwalking, kayaking, fishing and hunting, co-exist safely and responsibly.

The Department of Environment, Land, Water and Planning estimates there are over 35,000 wetlands in Victoria covering an estimated 784,000 hectares, which can be identified through MapshareVic: <https://mapshare.vic.gov.au/MapShareVic>.

Through MapshareVic, users can filter for areas where hunting does and does not occur during the hunting season and identify areas that they can safely enjoy. Information about safety during the hunting season is also provided on the website of the Game Management Authority, including hunting maps and fact sheets at <http://www.gma.vic.gov.au/hunting>.

In the specific areas that you have mentioned, I am advised that hunting is not permitted on the Murray River and the Barmah National Park, including many of its surrounding wetlands. These are areas where businesses can safely operate. In the more popular duck hunting areas of Cohuna and Kerang, there are also wetland areas where hunting is not permitted.

In 2019, Victoria's duck hunting season commenced on 16 March and closed on 19 May. Illegal hunting is not tolerated by the Victorian Government. Witnesses to illegal behaviour are encouraged to report these activities to the Game Management Authority online or on 136 186 or through Crime Stoppers on 1800 333 000.

INTERNATIONAL DRIVERS

In reply to Mrs McARTHUR (Western Victoria) (28 August 2019)

Mr ANDREWS (Mulgrave—Premier):

A review of crashes by the Australian Transport Safety Bureau found that overseas born drivers were not over represented in crashes where injuries occur. Victorian crash data indicates 2.7 per cent of fatal and injury crashes in Victoria involve international drivers, and 3.2 per cent involve interstate drivers.

PUBLIC HOUSING RENEWAL PROGRAM

In reply to Dr RATNAM (Northern Metropolitan) (28 August 2019)

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries):

The Victorian Government is committed to providing better homes and stronger communities for all Victorians.

The Director of Housing has a number of commercial approaches available for delivering new and redeveloped public housing. This includes renovations, purchasing ready-built dwellings, direct delivery/construction, development agreements and other partnership models which do not include sale of government land. Not all nine estates will be redeveloped under the same commercial approach. It will depend on the characteristics of each site.

All redeveloped estates will have a mix of social, private and affordable housing that will meet the housing needs of a greater number and range of Victorians. The mix of housing options is key to creating a diverse community which is facilitated by the private and affordable housing sectors buying or renting dwellings at the redeveloped estates.

Public land is not being sold to private developers. After renewal, the Gronn Place estate will be made up of a mixture of social and private housing with private sales being managed directly between the Director of Housing and the end purchaser. The property developers, AV Jennings, will not own the land but receives a development fee for redeveloping the estate. The profits from the sale of private homes will be reinvested in building the new public housing dwellings on the site.

The integrated development at Gronn Place, Brunswick West will deliver a 60:40 ratio of social to private dwellings which will include public housing, community housing and affordable housing.

The Director of Housing will own the 111 public housing dwellings at Gronn Place. Community housing provider Women's Housing Limited will own 8 community housing dwellings at Gronn Place. An additional 79 private homes built on the site will be made available for sale to individual purchasers, such as First Home Buyers.

The Director of Housing has provided a legally binding Deed Poll to all tenants guaranteeing their right to return to their estate after redevelopment, with the same security of tenure and to have their rent calculated in the same manner as other public housing tenants.

NORTH RICHMOND SUPERVISED INJECTING FACILITY

In reply to Ms CROZIER (Southern Metropolitan) (28 August 2019)

Mr MERLINO (Monbulk—Minister for Education):

The Department of Education and Training's "Responding to Intruder Threat: Guidelines for Early Childhood Services and Schools" on the School Policy and Advisory Guide advises all schools to monitor, assess and where necessary to report to Victoria Police incidents where students, staff or any adults are acting suspiciously on or near school grounds.

The Richmond West Primary School has an Emergency and Critical Incident Management Plan that has been reviewed, updated and approved in August 2019. This plan provides that in the case of an intruder, where school staff deem it necessary, they should call 000, and seek and follow the advice given.

In cases where persons not employed by schools observe intruders or persons acting suspiciously on or near school grounds, they are encouraged to inform the school directly. Further, these observers are also encouraged to contact the Police directly, particularly when they are concerned about activities that are occurring outside of school hours.

BAW BAW AND SOUTH GIPPSLAND POLICE NUMBERS

In reply to Ms BATH (Eastern Victoria) (28 August 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

Police perform a difficult role in balancing the competing rights and interests of citizens while maintaining public order and security. While all '000' calls for police assistance are treated seriously, police response times will vary depending on a range of factors. The work of police is complex and involves constant judgement calls by police officers and the Victorian Government will always back Victoria Police to make these decisions.

Victoria Police constantly review their operational decisions in order to increase the level of service provided to the community. Feedback from community members contributes to this process and helps Victoria Police in tasking decisions and the allocation of the range of additional resources that the government's record \$3 billion investment in Victoria Police is delivering.

This includes the state-wide commencement of the \$212 million Police Assistance Line and online reporting portal on 1 July 2019 for non-urgent matters. Members of the public can now report non-urgent crime and

events anytime, anywhere by calling the Police Assistance Line on 131 444 or submitting an online report. This is assisting local police to better prioritise calls for assistance and respond to urgent reports as quickly as possible. It is estimated that more than 24,000 hours have been returned to Frontline Police Officers since commencement of operations.

Every instance of crime is distressing, particularly for those impacted. Reducing crime and keeping our community safe is exactly what is driving this investment, including an additional 3,135 extra police officers. Through this investment an additional 30 police officers have been deployed or allocated to the Morwell Division, which services South Gippsland, with more to be allocated over the coming years. Victoria Police advises that as a result, there has been an overall increase in service delivery in the area with more on duty patrol time, more timely response to calls for police assistance and an increased visible police presence.

Residents of Baw Baw and South Gippsland Shire continue to receive a 24-hour police response. Victoria Police balance counter service hours to the public in a flexible manner to ensure the best possible use of available resources.

FRANK D'ABACO

In reply to Mr FINN (Western Metropolitan) (29 August 2019)

Mr ANDREWS (Mulgrave—Premier):

After a thorough investigation into a report of an assault in Werribee during the evening of 25 August, Victoria Police has confirmed that no offences have been detected. Victoria Police has provided appropriate support and referrals to parties involved.

A 19-year-old man is expected to be charged on summons for submitting a false report to police.

WORKING WITH CHILDREN CHECKS

In reply to Mr GRIMLEY (Western Victoria) (29 August 2019)

Mr DONNELLAN (Narre Warren North—Minister for Child Protection, Minister for Disability, Ageing and Carers):

The Department of Health and Human Services is not responsible for the management of Working with Children Checks. This question should be redirected to the Department of Justice and Community Safety.

DRIVER FATIGUE

In reply to Mr QUILTY (Northern Victoria) (29 August 2019)

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating):

We know that there are often many contributory factors for any given crash, and there is no one solution to road trauma. That's why the Victorian Government has a multifaceted, whole of system approach to road safety through our \$1.7 billion Towards Zero Road Safety Strategy and Action Plan.

Towards Zero aims to improve road safety by way of the Safe System, which is built on key investments and initiatives across the pillars of Safe Roads, Safe People, Safe Speeds and Safe Vehicles. The Safe System approach to road safety underpins road safety strategies elsewhere in Australia and around the world.

The Victorian Government is proactive in its approach to addressing issues like fatigue on our roads, with the TAC engaging the Victorian community via dedicated mass media and social media campaigns such as the 'You can't fight sleep' campaigns, and direct engagement activities such as 'Driver Reviver' sites on high volume long weekends. The TAC reminds all Victorians to plan ahead and make safe choices when driving longer distances, such as taking regular breaks.

Through the Towards Zero Community Grants program, the Department of Transport is also focusing specifically on driver fatigue and distraction, to empower local communities to establish innovative ways of reducing the burden of drowsy and distracted driving in their local area.

Fatigue as a casual factor in crashes is difficult to determine and is recorded based on police member opinion. Fatigue is suspected to be a primary cause in approximately 20 per cent of road fatalities. This estimate is based on subjective Victoria Police Member Opinion of Cause data, descriptions of crashes, and the number of fatalities potentially involved fatigue as a contributory factor. Please note, when talking about contributory

factors, these subjective flags refer to an operator involved in the crash and do not necessarily represent the actions of the deceased.

In relation to individual accident statistics and locations such as 'black spots', please refer these questions to the Minister for Police, as Victoria Police are better placed to respond.

LIVESTOCK THEFT AND BIOSECURITY

In reply to Ms BATH (Eastern Victoria) (29 August 2019)

Mr ANDREWS (Mulgrave—Premier):

The Victorian Government condemns any illegal actions in the name of animal rights activism and will protect the right of farmers to work without fear or intimidation. We are also committed to protecting Victoria's biosecurity. When unauthorised people enter farms, they could inadvertently introduce or spread diseases.

That is why we supported the establishment of the Economy and Infrastructure Committee's Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture.

Our laws already give courts the power to impose significant penalties for illegal protests, including up to \$4000 fines or six months imprisonment for trespassing. The inquiry will consider whether these deterrents are adequate, and the Government will review the findings of the inquiry before considering any legislative change.

I note that Mr Gommans made a written submission to the inquiry and has also presented at a hearing in Warragul. His experience and recommendations will help shape the Committee's findings.

I encourage people with concerns about welfare of livestock to contact Agriculture Victoria. Animal Health and Welfare Officers monitor compliance with animal welfare legislation, respond to complaints, and have the power to seize livestock and commence prosecutions when an offence has occurred. RSPCA Victoria also investigates animal welfare complaints.

The Victorian Government is currently updating the Prevention of Cruelty to Animals Regulations 2008 to provide an even stronger regulatory framework to protect Victoria's animals. We recognise the deep community concern for animal welfare and the right to protest, but it is important that protesters respect the law and farmers' private properties.

BEACH ROAD TRUCK BAN

In reply to Mr ERDOGAN (Southern Metropolitan) (10 September 2019)

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating):

Since the implementation of the Beach Road 24/7 truck curfews introduced in February 2019, overall sentiment has been positive and travel times along Beach Road have remained consistent with previous conditions.

It is too soon to determine whether truck-related crashes have statistically improved because of the curfew.

In balancing the needs of freight, it is important to note that Beach Road has maintained its role in facilitating the movement of over-dimensional and oversize and/or overmass vehicle combinations, when helping to transport large items such as generators.

Freight operators, through extensive communication, are encouraged to use parallel north-south routes such as the Nepean Highway. The Department of Transport (DoT) has adjusted the signal operations along this route and recent traffic data indicate negligible change in travel times.

DoT will continue to monitor safety and operations along Beach Road and the Nepean Highway.

CLIMATE CHANGE

In reply to Mr FINN (Western Metropolitan) (10 September 2019)

Mr MERLINO (Monbulk—Minister for Education):

I can advise that the Department of Education and Training has comprehensive procedures for dealing with the misconduct and unsatisfactory performance of its employees and any allegations that members of the teaching service are acting inconsistently with their obligations to students and to their employer are managed consistent with those procedures.

Critical discussion with students about important political issues is encouraged and should be undertaken in accordance with curriculum objectives and with the support of school leaders.

I trust this information is of assistance.

PRISON DRUG AND CONTRABAND USE

In reply to Ms MAXWELL (Northern Victoria) (10 September 2019)

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support):

Keeping contraband, including illicit drugs, out of prisons is a critical part of maintaining a safe and secure environment for staff, prisoners and visitors.

Corrections Victoria employs a range of methods to prevent contraband from entering Victorian prisons, including the use of advanced technology on entry into a prison; intelligence-led searches of prisoners, staff, visitors and vehicles by the Security and Emergency Services Group (a team of highly trained custodial officers); and the use of drug-detection dogs.

Visitors and prisoners face tough penalties if they are caught trafficking or attempting to traffic drugs and other contraband into prison. These penalties may include bans on contact visits, being charged with an offence by Victoria Police, and up to two years' imprisonment.

In December 2017, the government made it a more serious offence to possess or use the worst types of contraband, including explosives, firearms, and electronic devices. In February 2018, government also passed new laws regarding the use of drones in the vicinity of prisons.

A range of treatment options are made available to reduce demand for illicit drugs. Corrections Victoria also operates a drug-testing regime, which informs detection and is part of the broader integrated deterrence strategy.

The annual number of random drug tests has been introduced as a new BP3 measure for the prisoner supervision and support output in 2019-20, with a target of more than 11,800. The random general drug test rate is also one of the measures against which the performance of each prison in deterring the use of illicit drugs is routinely assessed.

The 2018-19 figures are available in the publicly available June 2019 Drugs in Victorian Prisons Report. There were 10,899 random general drug tests in prisons in 2018-19. Of these, 4.67 per cent returned a positive result. This compares with a recent figure of approximately 11 per cent in the prison system in England and Wales.

While achieving a zero positive rate is desirable, the high rates of drug use in the prisoner population in the community and the new and changing ways prisoners obtain drugs whilst in prison makes achieving this a significant challenge for all prisons in the Western World. For this reason, a specific numerical target or benchmark is provided for each prison to help focus efforts on minimising drug use. Benchmarks vary according to the profile of each prison, which is based largely on the particular prisoner cohort. Individual benchmarks are reviewed at least every two years.

Drug test outcomes recorded as positive include instances of refusal to undergo the test, interference with or adulteration of the test, inability to do the test (without valid reason) and no test occurring (without valid reason).

'Reception urinalysis' refers to the urinalysis testing of prisoners upon arriving at a prison location. There is no requirement for all prisoners to be tested upon reception into custody, although there is a requirement that prisoners are tested upon being transferred between public and private prisons, and vice versa. In the full 2018-19 financial year, reception tests made up 8.5 per cent of overall urinalysis testing throughout the Victorian prison system.

UNIVERSITY FREE SPEECH

In reply to Mrs McARTHUR (Western Victoria) (10 September 2019)

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education):

I endorse the right of students enrolled in Victorian universities to freedom of speech. As you point out, the purpose of universities is to pursue truth and learning, explore new ideas and research, and promote open discourse. I support diversity of opinion on our university campuses and the ability of students and staff to express their opinions.

Former Chief Justice, Robert French, has found that there is no freedom of speech crisis on our university campuses. The adoption of Justice French's model code is a matter to be considered and decided by individual universities, and I respect the legal autonomy of Victoria's universities and their capacity to make decisions regarding their operation and governance.

I encourage universities to continue to engage on this issue to ensure that the right to freedom of speech is preserved on Victorian university campuses.

I trust universities will continue to uphold the principles of academic freedom and freedom of speech, while also recognising the need to foster the wellbeing of staff and students by promoting diversity and inclusiveness, and an absence of discrimination on the basis of race, gender, sexuality, religion and political belief.

KINSHIP CARERS

In reply to Ms BATH (Eastern Victoria) (11 September 2019)

Mr DONNELLAN (Narre Warren North—Minister for Child Protection, Minister for Disability, Ageing and Carers):

I thank the Member for her comments and for highlighting the critical role foster and kinship carers play in our community.

The Victorian Ombudsman made seven recommendations to the state government following its own motion investigation into financial supports to kinship carers—and all were accepted in principle.

The Andrews Labor government has committed to getting it done. We have implemented six of the seven recommendations and have made significant progress towards implementing the final recommendation.

I can assure the parliament, and Ms Heather Baird from A Better Life for Foster Kids, that our government is committed to improving the lives of vulnerable Victorian children and young people in out of home care, including kinship care.

In the 2019-20 State Budget, we committed to ongoing funding for the new model of kinship care, investing \$106.1 million over four years in addition to \$10.1 million to continue the Aboriginal kinship finding service.

The new kinship model is enhancing placement quality, stability and support for children and their kinship carers. It includes identifying potential kinship carers earlier, strengthening community connections for Aboriginal Children, dedicated kinship care workers to support the placements, and delivering better and more flexible support that sustains these carer arrangements.

As part of the kinship model, the First Supports program is providing active support, comprehensive assessments of child, carer and placement needs and flexible brokerage (average of \$1000 per family) to kinship households to purchase items to assist in maintaining stability of the kinship care arrangement. The First Supports program is delivered by community service organisations and Aboriginal Community Controlled Organisations.

I will ensure Ms Baird is updated on our substantial progress against the Victorian Ombudsman's recommendations.

MENTAL HEALTH SERVICES

In reply to Ms MAXWELL (Northern Victoria) (11 September 2019)

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries):

The Department of Health and Human Services' (the department) provided a response to each of the Victorian Auditor-General's recommendations which was tabled in Parliament alongside the report in March. The department has accepted all 6 recommendations arising from the audit into the accessibility of clinical mental health services.

The implementation of some of the recommendations will be informed by recommendations arising from the Royal Commission into Victoria's Mental Health System and as such, the full implementation of the recommendations will not be complete until after the Royal Commission has delivered its final report to the government.

The terms of reference for the Royal Commission specifically ask it to inquire into and report on strategies to attract, train, develop and retain a highly skilled mental health workforce. It also highlights the need to investigate strategies to improve mental health outcomes of people in rural and regional communities.

The Andrews Labor Government has invested in a number of initiatives to address workforce attraction and retention challenges across the state. One of these is the Workforce Strengthening Project which provides additional funding to allow Area Mental Health Services to recruit workers, with a focus on increasing nursing positions. It will deliver more than 250 additional training places and ongoing positions in mental health between 2018 and 2022.

Funding has also been made available through the 2019-20 State Budget for Hello Open Minds recruitment campaign, which is focused on attracting and recruiting mental health workers to address immediate supply shortages in public specialist mental health services.

There are known shortages of mental health nurses and psychiatrists in public mental health services in Victoria in specific geographical areas. Work is underway to improve the department's understanding of public mental health service vacancy rates for nurses and psychiatrists across the state.

In the 2019-20 State Budget, the Andrews Labor Government invested in a number of initiatives to support the psychiatry workforce. This includes funding for a Director of Training for Specialist International Medical Graduates, in recognition of the increasing reliance on international medical graduates training and working in the Victorian mental health system, particularly in rural and regional areas. The Director of Training will provide a greater level of support for graduates from overseas to help them adapt to the local health system and differing cultural contexts.

The Budget also provided investment to support a Director of Advanced Training in Addiction Psychiatry to develop training and career pathways for addiction psychiatry; a scholarship program to support and promote leadership for psychiatrists that offers development opportunities in priority areas such as clinical governance; and funding to promote the uptake of established telehealth infrastructure for workforce development and secondary consultation by psychiatrists.

NORTHERN METROPOLITAN REGION LEARN LOCAL PROVIDERS

In reply to Mr ELASMAR (Northern Metropolitan) (12 September 2019)

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education):

Firstly, I'd like to thank Mr Elasmr for his adjournment matter and his ongoing support for the Adult and Community Education sector in his electorate.

Through the Adult, Community and Further Education (ACFE) Board, the Andrews Labor Government provides grants to Learn Local providers under the Capacity and Innovation Fund. The Capacity and Innovation Fund provides opportunities for Learn Local providers to develop and implement projects designed to increase participation and attainment in pre-accredited training programs and meet learner needs.

The latest round of the Capacity and Innovation Fund provided grants to Learn Local providers for 60 projects across the state, based on Regional Council areas. Within the North Western Regional Council area, 15 projects were funded in the latest round, totalling \$688,944.

A list of all Capacity and Innovation Fund projects is available on the Department of Education and Training website which can be accessed via the website below.

www.https://www.education.vic.gov.au/training/providers/learnlocal/Pages/acfeboardfund.aspx

MORNINGTON PENINSULA REGIONAL DEVELOPMENT FUNDING

In reply to Mr O'DONOHUE (Eastern Victoria) (12 September 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

Schedule 2 of the *Regional Development Victoria Act 2002* ("the Act") identifies the 48 local government areas and six alpine resort areas that are eligible for funding under the Regional Jobs and Infrastructure Fund. The eligibility of local government areas has not changed since the Act was established in 2002. I note by way of your adjournment debate the Liberal-Nationals Coalition's apparent change in its definition of regional Victoria.

The Mornington Peninsula Shire Council is eligible for funding under the Labor Government's \$250 million Growing Suburbs Fund. Since the Growing Suburbs Fund was established in 2015, the Mornington Peninsula Shire Council has received funding to support 14 projects. These projects include:

- \$4 million for the Destination Rosebud project;
- \$1 million for the upgrade of facilities at Emil Madsen Reserve in Mount Eliza;
- \$2 million for the Hastings Streetscape Renewal; and
- \$2 million for the Mornington Community Hub.

I encourage the Mornington Peninsula Shire Council to continue to engage with Local Government Victoria through the Growing Suburbs Fund to improve local infrastructure and services.

WARRACKNABEAL EDUCATION PRECINCT

In reply to Mr GRIMLEY (Western Victoria) (12 September 2019)

Mr MERLINO (Monbulk—Minister for Education):

The Andrews Labor Government has allocated more than \$6.1 billion over the last five State Budgets to build, upgrade and maintain school infrastructure across Victoria. Our ongoing challenge is to responsibly balance and prioritise the needs of over 1,500 government schools in Victoria, all in varying condition.

The Government has masterplans to locate Warracknabeal Primary, Secondary and Special Developmental Schools on the one site, with a central consolidated administration area, gymnasium and function room. The completion of Stage 1, at the end of last year, was a major accomplishment in the proposed restructure of educational facilities and programming at Warracknabeal.

As you are aware, in the 2016–17 State Budget, \$4 million was allocated to the Secondary College and \$2 million to the Special Developmental School. In addition, \$50,000 was also allocated to the Special Developmental School in Round 1 of the Inclusive Schools Fund.

Further, in September 2019, the Government announced that every government school, including Warracknabeal Primary, Secondary, and Special Developmental Schools, would receive a share of the \$515 million in the single largest boost to school maintenance ever taken. I am pleased to confirm that, as part of this Maintenance Blitz, Warracknabeal Primary School will be receiving \$90,716, Warracknabeal Special Developmental School will be receiving \$63,368, and Warracknabeal Secondary College will be receiving \$220,817 to undertake essential maintenance works.

I can assure you that the needs of all schools, including those in the Warracknabeal Education Precinct, will continue to be considered when determining future priorities for the capital works program. We are committed to delivering stages 2 and 3 of the precinct, and we will continue to consider the requirements for the second stage through the State Budget process. This project will continue to receive fair and equitable consideration when determining future priorities for the school capital works program.

Regarding your concerns about leaking roofs and exposed power cables, ensuring school premises are safe, secure and well-maintained is a shared responsibility between schools and the Department of Education and Training. If a school has urgent maintenance or repair issues that are beyond its budget capacity and directly impact on student or staff safety, an application for funding can be made under the Emergency Maintenance Program and with the assistance of the Department's Regional Office.

HOSPITAL INDUSTRIAL RELATIONS

In reply to Mr LIMBRICK (South Eastern Metropolitan) (12 September 2019)

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services):

I am informed that:

The Andrews Labor Government is proud of the contribution made by every doctor, nurse, midwife, paramedic, allied health worker and the many other health professionals who deliver world-class care to Victorians.

The Department of Health and Human Services has engaged in discussions with the Australian Medical Association and with the public hospitals' industrial representative—the Victorian Hospitals' Industrial Association—to better understand the doctors' concerns.

I understand that the parties are working productively to identify what sits behind the doctors' concerns and the best ways to ensure all employees of Victoria's public hospitals enjoy a safe workplace and a safe workload.

Our 2019-20 State Budget is investing a \$2.5 billion boost to the health system, meaning hospitals will receive a record \$12.2 billion this year.

The Victorian Government has provided supplementary funding to public hospitals to support their implementation of pay increases and other outcomes contained in the *AMA Victoria—Victorian Public Health Sector—Medical Specialists Enterprise Agreement 2018-2021*, and the *AMA Victoria—Victorian Public Health Sector—Doctors in Training Enterprise Agreement 2018-2021*.

Ultimately, health services are responsible for determining how many staff, of what type, they need to deliver appropriate care.

The Victorian Government expects all public hospitals to comply with their obligations under the enterprise agreements that cover their employees.

ADULT FILM INDUSTRY

In reply to Mr QUILTY (Northern Victoria) (12 September 2019)

Ms HENNESSY (Altona—Attorney-General, Minister for Workplace Safety):

Victorians have a right to enjoy adult content safely, with the comfort that they will not be exposed to material that is harmful, offensive or demeaning in some way.

In Victoria, adult content is regulated under *the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (the Classification Act).

The Classification Act forms part of a broader cooperative arrangement between the Commonwealth Government and state and territory governments, taking a national approach to classifying computer games, films and certain publications. This is known as the National Classification Scheme (NCS). The NCS is underpinned by an Intergovernmental Agreement on Censorship, to which Victoria is a party.

Under the NCS, the Commonwealth classifies films, computer games, and certain publications in accordance with the National Classification Code and the classification guidelines.

To complement the NCS, the Victorian Classification Act prohibits the sale, distribution and advertising of unclassified films or films classified as 'RC' or 'X18+' and places restrictions on how certain classified films can be sold, distributed or advertised.

Victorian legislation supports the NCS by, in effect, requiring films, publications and computer games to be submitted to the Classification Board for classification under Commonwealth legislation.

Any attempts to amend the Victorian legislation outside of the cooperative national framework undermines the effectiveness of the NCS in Victoria.

The Victorian Government will continue to support the NCS and does not intend to depart from the national regulatory framework by deregulating adult content.