PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT

FIRST SESSION

THURSDAY, 2 MAY 2019

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

By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

The ministry

Premier	The Hon. DM Andrews, MP
Deputy Premier and Minister for Education	The Hon. JA Merlino, MP
Treasurer, Minister for Economic Development and Minister for Industrial Relations	The Hon. TH Pallas, MP
Minister for Transport Infrastructure	The Hon. JM Allan, MP
Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice and Minister for Victim Support	The Hon. BA Carroll, MP
Minister for Energy, Environment and Climate Change, and Minister for Solar Homes	The Hon. L D'Ambrosio, MP
Minister for Child Protection and Minister for Disability, Ageing and Carers	The Hon. LA Donnellan, MP
Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. MP Foley, MP
Attorney-General and Minister for Workplace Safety	The Hon. J Hennessy, MP
Minister for Public Transport and Minister for Ports and Freight	The Hon. MM Horne, MP
Special Minister of State, Minister for Priority Precincts and Minister for Aboriginal Affairs	The Hon. GW Jennings, MLC
Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Suburban Development	The Hon. M Kairouz, MP
Minister for Health and Minister for Ambulance Services	The Hon. J Mikakos, MLC
Minister for Water and Minister for Police and Emergency Services	The Hon. LM Neville, MP
Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, and Minister for Racing	The Hon. MP Pakula, MP
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
Minister for Local Government and Minister for Small Business	The Hon. A Somyurek, MLC
Minister for Regional Development, Minister for Agriculture and Minister for Resources	The Hon. J Symes, MLC
Minister for Training and Skills, and Minister for Higher Education	The Hon. GA Tierney, MLC
Minister for Prevention of Family Violence, Minister for Women and Minister for Youth	The Hon. G Williams, MP
Minister for Planning, Minister for Housing and Minister for Multicultural Affairs	The Hon. RW Wynne, MP
Cabinet Secretary	Ms M Thomas, MP

Legislative Council committees

Economy and Infrastructure Standing Committee

Mr Barton, Mr Elasmar, 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 Elasmar, 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

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT—FIRST SESSION

President
The Hon. SL LEANE

Deputy President
The Hon. WA LOVELL

Acting Presidents
Mr Bourman, Mr Elasmar, Mr Gepp, Mr Melhem, Ms Patten

Leader of the Government
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

Member	Region	Party	Member	Region	Party
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
Elasmar, 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
Gepp, Mr Mark	Northern Victoria	ALP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
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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Thursday, 2 May 2019

The PRESIDENT (Hon. SL Leane) took the chair at 9.34 a.m. and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT (09:35): 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 and present and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament this week.

Papers

MAGISTRATES COURT OF VICTORIA

Report 2016–17

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (09:36): I present, by command of the Governor, the report of the Magistrates Court of Victoria for the year 2016–17. I move:

That the report do lie on the table.

Motion agreed to.

PAPERS

Tabled by Clerk:

Auditor-General's Report on Outcomes of Investing in Regional Victoria, May 2019 *(Ordered to be published)*.

Crimes (Assumed Identities) Act 2004—Reports 2017–18, pursuant to section 31 by the—

Australian Crime Commission.

Independent Broad-based Anti-corruption Commission.

Victoria Police.

Subordinate Legislation Act 1994—Documents under section 15 in respect of Statutory Rule No. 8.

Surveillance Devices Act 1999—Reports 2017–18, pursuant to section 30L by the—

Independent Broad-based Anti-corruption Commission.

Victoria Police.

Business of the house

ADJOURNMENT

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (09:38): I move:

That the Council, at its rising, adjourn until 12 noon on Tuesday, 28 May 2019.

Motion agreed to.

SESSIONAL ORDERS

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (09:38): I move, by leave:

That until the end of the session, unless otherwise ordered by the Council:

(1) the following sessional orders be adopted, to come into operation with immediate effect:

1. Procedure Committee

In Standing Order 23.08(3) for "four" substitute "five".

2. Privileges Committee

In Standing Order 23.09(2) for "four" substitute "five".

(2) The foregoing provisions of this resolution, so far as they are inconsistent with the standing orders or practices of the Council, will have effect notwithstanding anything contained in the standing orders or practices of the Council.

(3) The Clerk is empowered to renumber the sessional orders and correct any internal references as a consequence of this resolution.

Motion agreed to.

NOTICES OF MOTION

Notice given.

Committees

LEGAL AND SOCIAL ISSUES COMMITTEE

Reference

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (09:41): I move, by leave:

That:

(1) pursuant to standing order 23.02 and sessional order 22, this house requires the Legal and Social Issues Committee to inquire into, consider and report, no later than Tuesday, 27 August 2019, on the need for and potential impact of laws in Victoria to govern the disclosure of criminal history records, otherwise known as a legislated spent convictions scheme;

(2) the committee should consider the design of such a scheme that would be appropriate for Victoria, including, but not limited to:

(a) the types of criminal records that should be capable of becoming spent;

(b) the mechanism by which convictions become spent;

(c) any 'crime-free period' that should apply before a conviction may be spent including whether this should vary according to the age of the offender and type of conviction;

(d) the effect of subsequent convictions during the crime-free period;

(e) the consequences of a conviction becoming spent;

(f) any offences and penalties that should apply for non-compliance with the scheme, including for disclosing or taking into account a spent conviction where this is not permitted;

(g) interaction between a Victorian scheme and other jurisdictions;

(h) appropriate exceptions, such as for particular offence categories or specific regulatory schemes; and

(i) the interaction between any proposed 'scheme' and other legislation, such as the Assisted Reproductive Treatment Act 2008 and the Working with Children Act 2005;

(3) in considering the need for and design of a legislated spent convictions scheme, the committee should have regard to the experience of groups in our community who suffer particular disadvantage due to past convictions, such as young people and Aboriginal and Torres Strait Islander people; and

(4) the committee should be guided by the public interest in ensuring that the disclosure of criminal history records in Victoria operates in a fair and transparent manner and balances the interests of offender rehabilitation and reintegration with community safety, including the safety of vulnerable Victorians and the safety and wellbeing of victims.

Mr O'Donohue: On a point of order, President, the issue of a spent conviction scheme is one of significant public importance as a change to the way our justice system operates. I note there has been a private members bill on the notice paper in relation to this, I think since the first sitting week of this Parliament. It is the view of the opposition that the issue of family violence homicide and reforms to our homicide system are equally important and more urgent. I have given notice of motion 70 standing in my name, and I seek through this point of order that, given Mr Jennings's motion, which requires leave for it to proceed, it be considered concurrently with my notice of motion 70, which is about a very important and urgent reform—or consideration of reform—that is needed for change to the justice system, particularly in light of some recent high-profile developments. We wish to work cooperatively with the government in relation to the consideration of a spent conviction scheme, but we also think it is urgent that my notice of motion 70 be debated concurrently and be considered by the chamber as quickly as possible.

The PRESIDENT: I am not too sure if it is a point of order, Mr O'Donohue, but I think you have got your point across. Are you seeking leave? I am trying to get the leave right. I have asked if leave is granted for the Leader of the Government's motion. You have not denied leave at this point, but you are seeking leave for your motion, which is not necessarily a very similar topic. The similarity is that your motion is seeking to put a reference to a committee, similar to—

Mr O'Donohue: Thank you, President, for that explanation. The way you have summarised it is accurate. I consider these two issues to be relevant to be debated or considered concurrently because they both consider important possible reforms to the way our justice system in Victoria operates. As I said, the opposition welcomes consideration of a spent convictions scheme, but we would also seek the chamber's urgent consideration and debate of my notice of motion 70, particularly in light of the fact that the government has axed the previous joint house committee to consider these types of important law reform considerations. So I seek leave that we debate notice of motion 70 forthwith.

The PRESIDENT: I might be going about this a reverse way, but I think it might be helpful for the chamber to see if leave is granted to Mr O'Donohue to debate his motion concurrently with the motion Mr Jennings has just read out.

Mr JENNINGS: On the point of order, President, given Mr O'Donohue actually has compromised the procedures of the house, I am not—

Mr O'Donohue interjected.

Mr JENNINGS: Of course you have, because in fact you are seeking leave for something outside of what the current agenda is.

Mr O'Donohue interjected.

Mr JENNINGS: Mr O'Donohue, I was actually rising to my feet to be helpful to you. Your motion that you want to seek leave to actually put at this moment in time does not have a reporting date. I was going to draw to your attention that your motion that you want leave to move today is deficient in its current drafting in relation to the reference that you want to create. Your motion is deficient, so what I am indicating to you and to the chamber is that the government is prepared to consider the appropriate dual tracking of references to this committee. We are happy to facilitate it at the earliest opportunity. This is not the earliest opportunity for you to clarify the reporting date requirement of your reference. The government is prepared to address it either the next sitting day, or the government will actually support it if it is an own-motion resolution that comes from the committee itself. So do not tell me how to run the government's agenda or the Parliament's agenda. You are trying to confuse the status of this item before the President, and you are not going to succeed.

Mr Davis interjected.

The PRESIDENT: Mr Davis, can you give me 1 minute? I was just checking with the boffins if we have gone into a procedural debate, but we have not. I am happy to hear Mr Davis's point of order, given that.

Mr Davis: On the point of order, President, as Mr O'Donohue points out, notice of motion 70 seeks to establish a joint house committee and in doing so is in no way deficient, and the leader is being disingenuous in suggesting that. This is a very reasonable proposal that has been put forward by Mr O'Donohue—that both matters be considered concurrently—and that would lead to a better outcome for justice in this state.

The PRESIDENT: I apologise for the clunkiness; it is a new realm. I will go back and ask the chamber if leave is granted for Mr Jennings's motion.

Leave granted.

Mr JENNINGS: I speak on the motion to the extent that it is most unfortunate that we have got to a stage that looks as if there is conflict in the chamber where no conflict needs to exist. I think that is the unfortunate circumstance. The government is happy to support the intent of Mr O'Donohue's notice of motion and the reference. We are happy for that to occur. We are happy for the committee to self-reference to make that occur. We are happy for the Parliament to actually undertake that consideration at the same time. The only matter that has actually caused a degree of contention is in fact trying to create a contrivance in the way in which the chamber does its business and then being ultra defensive and aggressive about it in relation to this matter. There is no great policy divide within the chamber at this moment. The government is happy to facilitate a second reference and for it to occur in a timely and appropriate fashion.

Mr O'DONOHUE (Eastern Victoria) (09:51): As I said in the point of order I took earlier, Ms Patten has had a private members bill in relation to spent convictions on the notice paper since the first sitting week of the Parliament. The issue of spent convictions is an extremely important one. For someone who has committed a crime at a younger age but has lived a life predominantly free of crime, it can have a significant impact on their ability to obtain employment and their ability to live their life without intrusion and other obstacles, which can have an impact on their ability to remain crime free. As has been said previously, Victoria is the only jurisdiction that does not have a spent convictions scheme.

The challenge of course for all of us, and one of the issues I have with Ms Patten's bill or one of the questions I think we need to consider, is: where is that appropriate line to be considered? That is going to be a matter of judgement, taking into consideration the views of a range of stakeholders. I sought feedback from the Police Association Victoria, for example, who have some concerns about Ms Patten's bill as it is drafted. Others, such as the Law Institute of Victoria, think it is broadly consistent with other jurisdictions and should be supported. These are very important questions because we must make sure we get that balance right. It is important that in striking that balance the full range of stakeholder views is considered, ventilated and analysed, and the referral to this committee will enable that to occur.

Given that Ms Patten's bill has been on the notice paper since December, it is a pity that we, now in May, are only just taking this step forward, but doing that belatedly is better than not doing that at all. As I say, I will perhaps prosecute this more fulsomely in a subsequent point of order or by seeking leave. Whilst this matter is extremely important and we support the consideration of this by a committee, we think the issue of family violence homicide is extremely urgent and needs to be considered, and I look forward to discussing that further shortly.

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (09:54): Just for the benefit of the house, the motion put by Mr Jennings is about sending a reference to the Legal and Social Issues Committee which has been established by

this Parliament, and we have members of this chamber that are on that committee. It is not uncommon to have a private members bill directed by virtue of its being a piece of legislation or the issue itself to go to a committee to resolve. That is perfectly appropriate. Where I am a bit confused, Mr O'Donohue, is that you are asserting that the topic of your motion should have precedence over the motion that Mr Jennings has put, but your motion on the notice paper is not proposing to send a reference to the Legal and Social Issues Committee, which is open for you to do. Your motion does not suggest anything other than we should note that there is no longer a standing committee that you would like to have look at—

Mr O'Donohue interjected.

Ms SYMES: Your motion says that we should note the recent abolition of—

Mr O'Donohue interjected.

Ms SYMES: It calls for the establishment of a new committee. I do not understand. You are talking about the order of references and issues that should be dealt with. It would make more sense to me if you were proposing to send your reference to the Legal and Social Issues Committee and the Legal and Social Issues Committee can decide the precedence of spent convictions versus the family violence sentencing that you are proposing. I think that would be a much clearer way for the house to resolve this issue.

Ms PATTEN (Northern Metropolitan) (09:56): I obviously support this motion. Given that I certainly did put up a bill and I have spoken to the Police Association Victoria, the Law Institute of Victoria and various other organisations that have an interest in this issue, I agree that it could be canvassed with those organisations through a short inquiry. I am supportive of this inquiry that would be quite separate from any review of my bill.

Motion agreed to.

Motions

SENTENCING REFORM

Mr O'DONOHUE (Eastern Victoria) (09:57): I move, by leave:

> That this house notes the recent abolition of the law reform, road safety and community safety joint house standing committee and calls for the immediate establishment of a law reform, sentencing and community safety joint house standing committee, with the immediate objective to inquire into and report on the adequacy of Victoria's homicide, sentencing and parole laws, including:
>
> (1) the adequacy of current sentencing law and practice in matters of family violence homicide, including the adequacy of sentencing and parole consequences available where an accused fails to disclose what they know about the circumstances surrounding the death of the victim/s;
>
> (2) whether the current legal framework meets community expectations and appropriately considers the impact on the community following a homicide;
>
> (3) whether there should be greater penalties for perpetrators who fail to assist police, the courts and other authorities regarding the cause and circumstances surrounding the death of the victim;
>
> (4) what type of legislative and other changes may be required to ensure the rights of victims are adequately considered;
>
> and otherwise review the current legal framework in both Victorian and other key jurisdictions.

I thank the chamber for the opportunity to discuss the very important issue of family violence homicide and our homicide laws more broadly on the one hand and also to visit the issue of the joint house standing committees. The joint house standing committees have a long and proud history in this Parliament of delivering bipartisan, cross-party important public policy reform. One of the first acts of the Andrews government was to abolish those joint house committees, including the Law Reform, Road and Community Safety Committee. As members are well aware, the Law Reform, Road and

Community Safety Committee and its predecessors have been instrumental in delivering critical public policy reform in Victoria. As members are aware, the most often cited reform recommended was that of the introduction of the compulsory wearing of seatbelts. The introduction of compulsory seatbelts, which are now seen as very much part of road safety initiatives, back at the time was quite revolutionary.

But it had the support of the community and it had the support of the Parliament because it came out of a joint house committee with cross-party support. And, yes, we have committees in the chamber that represent different parties, but as we know the two chambers operate quite independently and quite separately. Frankly, often what we do in this chamber is not known to the other chamber. To have the true buy-in of the Parliament for contentious or important public policy initiatives we in the opposition believe in the model that existed up until it was abolished by this government, as one of its first acts after being re-elected, of having cross-party committees that draw their members from the Assembly and the Council.

Given the success, given the reputation of law reform initiatives that have taken place in the past my motion today is calling for the establishment of a new joint—

Members interjecting.

The PRESIDENT: Order! Can the Council come to order, please.

Mr O'DONOHUE: It is calling for the immediate establishment of a law reform, sentencing and community safety joint house standing committee so that these very important issues can be considered; these issues that can be very contentious and indeed difficult for government and opposition. As Ms Crozier—

Members interjecting.

The PRESIDENT: Order! Mr Davis. I understand there is a new dynamic in the chamber, and in recent weeks I have actually been going to bring up this sort of impromptu meeting room that happens down there.

Dr Cumming interjected.

The PRESIDENT: Well, I am on my feet Dr Cumming, but I heard that. Maybe we can accommodate something in the future. Maybe we can talk about it in the future. But Mr O'Donohue has the call, and I think he deserves the chamber's attention.

Mr O'DONOHUE: Thank you, President. So I was saying, it is about having the buy-in of the Parliament itself and having committees that operate across chambers to deal with very contentious and difficult issues. I mention the seatbelt inquiry. I also mention a more contemporary example: the Betrayal of Trust inquiry and the work it did in a way that was initially criticised by many members of the Labor Party—

Members interjecting.

The PRESIDENT: Order! Mr O'Donohue, can you take your seat again, please. Mr Davis, it really is an issue. I do not think it is a good thing—and this is not reflecting on the crossbenchers because people come to them—that that pocket of this chamber from time to time becomes this impromptu meeting room—

Dr Cumming interjected.

The PRESIDENT: I am on my feet, Dr Cumming. You could be the first winner of this session. Where I find it a little bit frustrating is that members of the coalition did not appreciate that going on while Mr O'Donohue was trying to put across his point on his motion and then his leader came across and started a meeting again. So let us have another crack at it.

Mr O'DONOHUE: Thank you, President. Yes, the Betrayal of Trust inquiry, which was chaired by Ms Crozier and deputy chaired by Mr McGuire from the other place, really opened up this issue of institutional child sex abuse that led to the royal commission that led to such enormous reform, introspection and so many stories coming forward of abuse—and enormous legislative change, not just in Victoria but right across the country, and it all started with the creation of that committee and that reference. I do not doubt that the Legal and Social Issues Committee or the other committees of this chamber can do important work, but I think the buy-in of the Parliament in total is best done by a committee that works across both houses.

I think it was a retrograde step of the government to abolish the joint house Law Reform, Road and Community Safety Committee, and my motion in this chamber is calling for the immediate establishment of a law reform, sentencing and community safety joint house standing committee.

My motion then goes on to express that the immediate objective of that committee should be to inquire into and report on the adequacy of Victoria's homicide, sentencing and parole laws. This government has said countless times that family violence is the top law and order priority of the government. We agree that family violence is a generational project that requires enormous focus from government. I was pleased that the Napthine government, under then Minister Wooldridge's leadership and others, committed enormous funds to grow programs and to do work in relation to family violence. The royal commission that the current government commissioned has built on and expanded that work, and a whole range of initiatives have been undertaken.

We in the opposition believe that an area of important public policy reform that has not been given consideration or could be given further consideration is the sentencing regime around homicide in general and around family violence homicide in particular. It is a particularly evil crime to kill a partner, but as we know it happens far too much, far too frequently, and it continues to happen.

We absolutely need behavioural change, we need cultural change and we need community-based programs and initiatives. Funding for some of those initiatives has been provided by government, and I congratulate government for that. The federal government has done much in that space is well. As many of the opposition members have said, these sorts of matters should be bipartisan. But one area that I think needs further analysis is the sentencing regime when it comes to family violence homicide, and homicide more generally, and how we deal with situations where someone refuses to cooperate with police and the courts but has information that is material to them that could have an impact on their investigation. These are very serious issues.

The easiest political thing to do would be to come up with a solution and advocate for it, but this requires more detailed analysis. It requires more fundamental examination by Parliament and examination, we believe, by a committee made up of members from both chambers so that it has the sort of gravity that came from the Betrayal of Trust inquiry and the sort of gravity that came from the seatbelt inquiry that has led to such enormous legislative change as well as—with community buy-in and the operation of a joint house committee—cultural change. We can change laws, and that is important, but we have to drive the cultural change. We believe that is best done by a joint house committee. I say that on the basis of 30 years of evidence. These upper house committees have operated in fits and starts since the reforms that occurred between 2002 and 2006, and their evolution is an ongoing matter.

Many of us will recall Ms Pennicuik advocating for a Senate-style model. I think the committees we have established in previous Parliaments and in this Parliament are a creature of this house, taking in influences from other chambers and other places. We have more than 30 years of evidence that joint house committees deliver significant public policy reform. The time to do that is now, frankly, early on in the term of the new Parliament, when the Parliament and its members have more time than they do in the lead-up to an election to consider these critical issues.

My motion was deliberately drafted to seek the support of the house for the establishment of a joint house committee. I want the buy-in of the house. We can figure out immediately after the house passes this motion—which I hope it does—the composition of the committee and all the details about the organisation of the committee. What this motion seeks to do is to get the house's support for the re-establishment of a joint house committee.

It takes a government that is prepared to listen to others to admit it was wrong. I think this is a moment where I would credit the government if it said, 'We made a mistake in abolishing those successful joint house standing committees that have done so much public policy reform and so much good in the past, and here is an opportunity on the back of a burning issue in the community at the moment to re-establish one of those committees to consider the critical issue of Victoria's homicide, sentencing and parole laws, including the issue of family violence homicide that is so important in the community right now today'.

I thank the chamber for granting leave to debate this matter forthwith. It is a very important issue. It goes to operation of the Parliament and its ability to drive important public policy reform across the chambers. It goes to this issue that is very live in the community and very important in the community at the moment and will continue to be so in the future. It is critical, as Mr Jennings himself said on Tuesday and as other members of the government have said, that the community has faith in the sentencing regime in Victoria. We are the elected representatives of the people of Victoria, and we are best placed to consider those community sentiments and reflect them in the legislation that the courts apply.

I call on the members of this house to support my motion, which was deliberately drafted to call for the support of the house. With the support of this house, and hopefully with an identical motion supported in the other place, we can get on with the job of considering important reforms to our homicide, sentencing and parole laws in Victoria.

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (10:13): How disingenuous can you get? We have structures in this Parliament that we have agreed to, and we have committees that have been established. To talk down the upper house committees for a political pointscoring activity is ridiculous. To suggest that upper house committees are not as competent as joint house committees is highly offensive to the members of this chamber.

For some reason you think the Legal and Social Issues Committee had a little bit more oomph when you were the Chair, perhaps, Mr O'Donohue. I quite enjoyed working with you on the end-of-life choices inquiry, which arguably produced the most comprehensive piece of legislation that this Parliament dealt with in the last term. To suggest that the Legal and Social Issues Committee of the upper house is not able to deal with the important issues that you have raised today is completely outrageous. The members of the Legal and Social Issues Committee are listed on the back of the notice paper. Who is on it? Let us have a look: Ms Garrett, Dr Kieu, Ms Lovell, Ms Maxwell, Mr Ondarchie, Ms Patten and Ms Vaghela, and the participating members are Ms Bath, Ms Crozier and Mr O'Donohue. I reckon that group of people can probably do a pretty significant piece of work, aided by the very, very competent staff that are provided to our committees.

I understand the importance of this issue, Mr O'Donohue, and I understand that you want it dealt with, but if you were really serious about this you would amend your motion and have it referred to the Legal and Social Issues Committee. We will not be supporting this stunt of a motion that you are proposing today. Actually, just to clarify, you are asking the house to call for something. We cannot establish the committee. This just goes to the absolute stunt of an activity that you are trying to pull today. I would urge everyone in the chamber to vote against this. Anybody has got the right to put up a motion to the Legal and Social Issues Committee.

I would urge anybody who wants to support the intention of Mr O'Donohue's motion to bear in mind that voting against it is not voting against an inquiry into this matter; in fact it is actually doing the opposite. It would prompt a proper way of getting this topic put to a committee for due consideration.

Dr Ratnam: On a point of clarification, President, around process, we have had two motions by leave that essentially have been sprung on the members of the crossbench, because we had no prior notice of the motions being put—the standing orders motion and the motion for the referral of the spent convictions matter to the Legal and Social Issues Committee. We had no notice of them prior to this morning, when we heard them being read.

I just want to say that one of the reasons I think we are getting this informal meeting room often springing up is because we are given inadequate notice, and we are then being courted for votes and support on the floor of this Parliament. I think it is a process improvement that we need to think about. We do need notice, particularly when motions by leave are being put forward by the government, so that we have adequate time to prepare for them.

In light of that, the motion that has been put forward now by the opposition is quite a significant and substantial motion and involves the setting up of a new committee. I do not believe we have an adequate—

Members interjecting.

Dr Ratnam: You are arguing against it because you are saying it is substantive. I am just saying that we do not have enough time to consider it. I would appeal to everyone involved that this be deferred to another time so we have time to consider it appropriately. It should have been the same case for the motion by leave that was presented by the government this morning. Just in terms of an overall process improvement, I ask that we please be given notice prior to things being brought onto the floor, because that is what leads to this kind of informal debate on the floor and courting of support.

On this matter before us, I do not believe that we have had enough time to consider it. It is substantial, and it does deserve due consideration. I would appeal to all those involved that this be deferred to another time so we have adequate time to consider it. Is there a procedural way that we could be afforded that time?

The PRESIDENT: I call Minister Pulford, further to the point of order.

Ms Pulford: That was a contribution on the question, was it not?

The PRESIDENT: I hate points of clarification, so I am going to turn it around. I think I will rule on it as a point of order. Do you want to speak further to the point of order?

Ms Pulford: I know, President, that you do not like points of order that are not points of order, so could I very briefly speak on the motion in response to Dr Ratnam?

The PRESIDENT: Yes, of course.

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (10:18): Thank you. On speaking to the question before the house, which is whether or not the house agrees to Mr O'Donohue's motion, in addition obviously to the position of the government that was put by Ms Symes a moment ago, I take the opportunity to quickly respond to a couple of points that Dr Ratnam made in her contribution. One was around the surprise element of the motion that was brought to the house by leave earlier today arising from the Procedure Committee meeting. I would just make the point that there was a meeting of the Procedure Committee yesterday. The crossbench are represented by two people on that committee. I think it is incumbent upon all members that are representing in some form or another other members in this place to let their mates know what is happening. Our Procedure Committee people made sure that government members were aware that this was coming, and to the best of my knowledge I think opposition

members on the Procedure Committee did so too. I know the current configuration of the house is very different—we have many new members—and I am not being critical, but I would just make the point that that should not be a surprise to anyone. It should not be a surprise to Dr Ratnam.

The second point that I would make in response to Dr Ratnam is that—just correcting the record there—Dr Ratnam suggested that the effect of Mr O'Donohue's motion 70 is to create a new committee. That is just simply not the case, and I think it is important that all members understand what it is they are voting on. What we are being asked to vote on is a motion about Mr O'Donohue's feelings about the current committee configuration, to which the house has already agreed. Mr O'Donohue has made some important points about things like family violence and about things like road safety, which are some of the most important issues affecting the Victorian community, but this motion does nothing to advance anyone's work or any committee's work on any of those important things.

The PRESIDENT: Dr Ratnam, when you stood up earlier you said you wanted a point of clarification. There is no such thing, so I have just taken it as a point of order. Gleaning from what you said, I am happy to give you a contribution after Mr Davis, who has got the call, as far as making a contribution to this debate is concerned. Also trying to glean from what you said, at that point I would suggest to you that you have the right to move that debate on this motion be adjourned until later this day or another day.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (10:21): President, I will be succinct on this. This has been an unedifying process today. I accept the criticism of the crossbench that the government, the opposition and indeed other Procedure Committee members ought to have advised the crossbench of the small tidy-up motion, and I think we should all take that on the chin and say we will do better to make sure that that is conveyed. I can assure Dr Ratnam that there is no trickery or anything in it. I think it is just a simple tidy-up, so I will put that on the record as point number one.

Number two, Mr O'Donohue was advised at 9.00 a.m. about the government's intention to move this particular reference. As Mr O'Donohue and indeed Ms Patten and others know, the opposition supports a spent convictions regime and has for some time. Mr O'Donohue is on the record widely on this, and it is right that such a regime is established. We did not agree with the way that this came to the chamber today, and I put on the record my concern about that. However, on this occasion we did give leave because it is an important issue and we did not want to deny leave on that important issue. So I pay tribute to Mr O'Donohue's work on spent convictions and also Ms Patten's work, and I note the existence of a bill that can be dealt with perfectly legitimately by the committee.

On the matter of this exact motion that we are dealing with now, I welcome the chance to talk about this motion. It is an article of faith for the opposition. It is something we believe very strongly in: that there should be—

Ms Symes interjected.

Mr DAVIS: I am speaking sensibly and calmly and making my points bit by bit. We strongly believe that there ought to be a structure, however constructed—preferably a joint standing committee, but if not that structure some other structure—across the chambers that can look at law reform matters and look at road safety matters across the state and across the chambers.

Ms Symes interjected.

Mr DAVIS: That is what this motion calls for. It is not a matter of losing or winning. This is actually about good governance for the state of Victoria. It is about having a proper law reform process in the state that actually brings both chambers together in a way that enables proper collaboration.

Ms Symes interjected.

Mr DAVIS: It is not a matter of losing that debate. It is about getting better outcomes into the future. The road safety component is one that particularly concerns the opposition. Without that joint approach across the chambers, we get a lesser response, and indeed I think that—

Ms Symes interjected.

Mr DAVIS: Just settle down, will you? Ms Symes is a bit worked up.

Members interjecting.

Mr DAVIS: I make the point that we are trying to speak very calmly and sensibly about an important matter of public policy into the future. It is important that there is a structure across the chambers of the—

Ms Symes: You lost that debate.

Mr DAVIS: It is not a matter of losing the debate; it is a matter of winning the debate for the community and actually getting a better outcome for the community. You seem to be unconcerned about the community outcomes, Ms Symes, and I think that is what this is about. It is about getting the best outcome for the community—actually getting the best road safety outcomes, the best law reform outcomes—and that is what Mr O'Donohue's motion is about today.

In the sense that the government brought forward this earlier motion, that is why Mr O'Donohue brought this forward at the time. We think some of these matters are better considered by a joint committee arrangement, and we certainly will continue to advocate for that in whatever format and in whatever forum we can, because this is actually about the community's long-term interests and about actually getting better road safety and better community outcomes with law reform. That is what this is about, and it is a commendable motion. It is a motion that we need to put and we need to deal with.

I accept the issue that the crossbench and others in the chamber have not had as much time as we would like, but that is the way this has developed today. We are conscious of that point.

Mr HAYES (Southern Metropolitan) (10:26): I move:

That debate on this matter be adjourned until the next day of business.

Ms PATTEN (Northern Metropolitan) (10:26): I appreciate Mr O'Donohue's motion. I oppose the abolishment of those joint house committees, and I think that they do significant work. But I support Mr Hayes's motion to adjourn because this is a significant motion and we should be given the appropriate time to prepare for this motion—to get our thoughts in order and to canvass the issue with our members and peak organisations. So I support Mr Hayes's motion.

Mr O'DONOHUE (Eastern Victoria) (10:27): The opposition will be opposing Mr Hayes's motion. I thank Mr Davis for his comments in relation to the timing of this motion, and I note the point of clarification or point of order that Dr Ratnam took earlier. As Mr Davis said, I accept those points. This motion is seeking the support of the house to re-establish a joint house committee with a view that the first reference be examining our current sentencing laws. The house can deal with the machinery of how that is to be established if and when this motion passes, but I think it is important today for the house to make a statement about the importance of these joint house committees and the urgency of dealing with the issue of sentencing reform.

Unfortunately, because the government has changed the sitting timetable for the Parliament, we are sitting less this year than in any non-election year this century, so the opportunities to ventilate and debate these issues are actually few and far between. We will not sit now for I think it is another three weeks. The timetable has been changed because the government did not want to hand down its budget this week before the federal election. So whilst I accept the points made by the crossbench about notice and the like, I do not think that is a reason not to come to a conclusion about this motion today—because we will not be sitting again for several weeks, because this issue is urgent and because if the

house supports my motion there is then the opportunity to sit down collaboratively for discussion on the mechanism of how this committee that I am proposing is established and how that reference that the opposition is proposing is set.

This is not about ambushing anyone. It is about the house coming together and expressing a view about an issue of enormous public importance and how that issue of enormous public importance should be ventilated and considered, and I believe that we have the opportunity to make that statement today and we should. Therefore the opposition will be opposing Mr Hayes's adjournment motion.

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (10:30): Just a few words in support of Mr Hayes's adjournment motion. This is an outrageous use of the Parliament's time, using victims of family violence to reprosecute an argument that this chamber has already resolved, and that is the establishment of the committees. You guys should be ashamed of yourselves. We will support Mr Hayes's motion.

House divided on Mr Hayes's motion:

Ayes, 26

Barton, Mr	Kieu, Dr	Ratnam, Dr
Cumming, Dr	Leane, Mr	Shing, Ms
Dalidakis, Mr	Limbrick, Mr	Stitt, Ms
Elasmar, Mr (Teller)	Maxwell, Ms	Symes, Ms
Garrett, Ms	Meddick, Mr	Taylor, Ms
Gepp, Mr	Mikakos, Ms	Terpstra, Ms
Grimley, Mr	Patten, Ms	Tierney, Ms
Hayes, Mr (Teller)	Pulford, Ms	Vaghela, Ms
Jennings, Mr	Quilty, Mr	

Noes, 10

Bath, Ms	Finn, Mr	Ondarchie, Mr (Teller)
Bourman, Mr	Lovell, Ms	Rich-Phillips, Mr (Teller)
Crozier, Ms	O'Donohue, Mr	Wooldridge, Ms
Davis, Mr		

Motion agreed to.

Debate adjourned until next day of meeting.

Members statements

ANZAC DAY

Mr ONDARCHIE (Northern Metropolitan) (10:38): On Anzac Day this year again it was my honour to attend the Epping RSL sub-branch's dawn service in my electorate of Northern Metropolitan Region as we commemorated with care and compassion the spirit of our Anzacs and those who served in the Boer War, World War I, World War II, Malaya, Korea, Borneo, Vietnam, East Timor, Iraq, Afghanistan and other fields of conflict.

May I congratulate Mill Park Secondary College captain Jack Thorn on his wonderful tribute to the Anzacs; Senior Sergeant Glenn Parker of Victoria Police for the reading of the Lord's Prayer; for the reading of the *Ode*, Mr Kevin Ind together with Madison Mason; and for the playing of the *Last Post*, bugler Denis Hayman. It is a wonderful group who brings this wonderful dawn service together at Epping RSL. It has been going for many years and gets bigger and better each year—I think there were about 5000 people at Epping this year for the dawn service. It was just beautiful.

To Ken Jeffery—Ken is not very well at the moment, so our prayers and thoughts go with him—who leads the organising committee; Terry Power, Frank Ciechomski, Glen Parker, Tanya Gook, Ross Harvey, Ray Miles, Simon Doherty, Geoff Lance, Bob McLeod and John Brown. Together they

brought together a solemn, memorable service as we celebrated and thanked those who have given so much for us. Lest we forget.

SHAWARMASTER

Mr ELASMAR (Northern Metropolitan) (10:39): A couple of weeks ago I was invited to officiate at the opening ceremony of a new restaurant in Preston called Shawarmaster. I was thrilled to literally cut the ribbon to allow the front door of this new eatery to open. It is wonderful to see new businesses open in my electorate, and I wish the owners all the very best for their new venture.

ANZAC DAY

Mr ELASMAR: On another matter, on Sunday, 14 April, I attended a moving ceremony and laid a wreath at the cenotaph in Preston to commemorate Anzac Day. The event, as usual, was very well attended and superbly organised by the Darebin RSL association's president, Mr Robert Cross, and his executive committee. It was my honour to pay my respects to the brave men and women who fought in the 'war to end all wars' at Darebin council's Preston town hall. Lest we forget.

GOVERNMENT ADVERTISING

Ms CROZIER (Southern Metropolitan) (10:40): Daniel Andrews and his government know no bounds, deliberately defying what is right and proper, and using a deceitful taxpayer-funded advertising campaign against another level of government in an election campaign. It is truly shameful that our great state has come to have a government with no moral compass, a government that abuses the trust of those it represents, a government so arrogant that it now no longer appreciates the privilege it has been given through our democratic process in governing for all Victorians.

It is a government so desperate in actual fact to have Bill Shorten and another level of government bail them out because they have blown the budget. Why else would you move budget day within days of bringing it down? Everyone has known for months that the federal election would be in May, so it just does not stack up that Treasurer Tim Pallas says he wants to wait for a new federal government. He is praying for a win by Bill Shorten, who just like Daniel Andrews will tax hardworking Victorians even further. They have to, because that is the only way they can pay for their cost blowouts and overspends.

Instead they should not be avoiding the facts of their mismanagement; they should be understanding the reality of what is happening in Victoria—the reality that in 2019 the Alfred hospital is having to use old shipping containers in the car park to conduct surgery. It is like a scene out of *M*A*S*H* or some Third World country, yet that great facility, one that is close to my heart, has been subjected to that situation. There is also the fact that wait times have blown out all over the place. It is no good arrogantly blaming anyone else, because you, Daniel Andrews and Jenny Mikakos, are responsible for the delivery of health services in this state. If you did not waste money, if you were not a government drunk on power and devoid of decency, you would understand the priorities of what is required. Sadly for us all, this government's priorities are all wrong. It is all about them and not Victorian patients or taxpayers.

DE LA SALLE CANNONS

Ms TAYLOR (Southern Metropolitan) (10:42): It was a delight to attend the De La Salle Cannons' first season launch, in particular because this group of very special over-35-year-old women grew up in an era—not unlike myself—when women were relegated to the sidelines and were not able to kick a footy other than perhaps, at best, at half time, maybe at the end of the game or perhaps with their dad in the backyard. And I can say that it was a very emotional game and there was a real sense of achievement, because they were out there and they were giving it their all. Even if they were red-faced and exhausted, they were going hard.

I should say this did not just happen. It took the collective will of each and every one of those women to band together and make this go. I am really proud of them. But it was also really nice that many

male members of the club came up to me and said how wonderful it was, because it had actually changed the whole dynamic of the club and made it a lot more welcoming and inviting space for everyone.

They now have updated facilities there for female players courtesy of the Andrews Labor government and Stonnington council and the local clubs working together. It really is all coming together at the right time, and I wish them all the best for the future. I know they are going to play hard.

COUNTRY FIRE AUTHORITY

Ms BATH (Eastern Victoria) (10:43): It is the lull before the storm. This summer Victoria has again experienced an intensive fire season, with significant fires across Eastern Victoria Region. Our CFA volunteers provided that vital surge capacity for days and weeks on end, and all deserve our undying gratitude for their gift of service. But volunteers are highly fearful that post the federal election Daniel Andrews will bring back in a bill that will tear apart the CFA, that will dismantle this beautiful, solid and traditional organisation. For the government to cry that it must do this modernisation only through ripping the CFA apart is a complete fabrication.

Changes can occur under existing arrangements. They can change existing boundaries. Staffing flexibility can occur to support times and locations and to support volunteers and career firefighters working together. What Daniel Andrews needs to do is equip the CFA with proper brigade equipment and requirements. I regularly hear of brigades that raise considerable funds themselves but put their grants in and get knocked back time and time again. The minister has signed off on this, and she needs to focus far more greatly on what the volunteers need. The government needs to come clean and support the CFA and support the volunteers and not bring back a divisive bill that will tear asunder this great institution.

MINISTERIAL STAFF ACKNOWLEDGEMENTS

Mr DALIDAKIS (Southern Metropolitan) (10:45): Yesterday I had the great pleasure of giving my address-in-reply speech, but unfortunately I ran out of time to be able to thank my personal private office staff, so I wish to use my members statement today to thank my personal staff from my time of being a minister.

My office was built around one person, Janine Robb. Janine Robb was my executive assistant at the time. She was a most fantastic person to work with, somebody that I relied upon deeply not just for her professionalism but for her pastoral care. She has now retired to the leafy surrounds of the country, and I do wish her well in her time away from politics—a chance for her to rehabilitate herself.

To Jason Chai, who ran my office, and to Ashlea Gilmore, Pablo Salina, Mel Henderson, Abby Pinskier, Sam Lynch and Ana Valleau, I thank them very deeply for the long hours that they worked, the time that they spent away from their families and the policy that they decided to commit themselves to achieving.

Other members in my office over the years included Andy Lee, Bec Martin, Rebekka Power, Caitlin Walsh and, of course, last but not least, Mehmet Tillem. Mehmet was my first chief of staff—a man that I love very deeply. We always used to joke that he was a Turkish Muslim and I was a Greek Jew and if we could work together we could solve the problems of the world. He is very ill at the moment. I wish him all the very best, and I hope that he does recover. I offer my deepest gratitude and thanks to him.

PROPERTY RIGHTS

Mr LIMBRICK (South Eastern Metropolitan) (10:47): There are many laws that libertarians do not like; however, property rights most certainly do not belong in this category. Indeed according to the philosophy of liberalism, property rights are human rights and vice versa. Let me explain. The first form of property that all humans are endowed with is their own body. It is generally accepted that

people own their own body and can use it as they see fit as long as they do not harm others. According to Lockean principles, when we use this property that is our body to conduct work through labour we are entitled to the just transactions resulting from that.

There have been recent violations of property rights by activists. Some of the people who committed these crimes were charged and given token fines. I believe these punishments were far outside community expectations. One of the prime reasons government exists is to enforce property rights. The Liberal Democrats strongly support the right of people to speak freely and to protest, but we draw the line when activists infringe on the rights of others.

SRI LANKA TERRORIST ATTACKS

Ms STITT (Western Metropolitan) (10:48): On 14 April I had the great pleasure of attending the Sri Lankan Multicultural Day for Unity in Deer Park, together with my colleague in the other place the member for Melton, Steve McGhie; local councillors; and community leaders. It was a celebration of unity marking the Buddhist New Year hosted by the Western Victoria Sri-Lankan Buddhist Association. It was an inclusive, warm and uplifting celebration of Sri Lankan culture and showed the very best of our multicultural community in Melbourne's west.

None of us were to know that just one week later Sri Lanka would be rocked by one of the most shocking and violent terrorist attacks we have seen, on Easter Sunday. I offer my deepest condolences to all those touched by this shocking act of violence. I know the Sri Lankan community at home and abroad, irrespective of the faith that they practise, will be deeply grieving for the many victims and for the shattering of the fragile peace of that country after decades of conflict. To the many thousands of Victorians of Sri Lankan heritage, including colleagues in this place, and to those Sri Lankan communities, I extend my deepest sympathies: I know you will draw strength from each other. Also please know that you are not alone. The Victorian community stands with you.

GOVERNMENT ADVERTISING

Ms LOVELL (Northern Victoria) (10:49): Is there anything Daniel Andrews will not do to protect his mate Bill Shorten and help Labor win the upcoming federal election? Firstly, the Andrews Labor government decided to postpone the Victorian state budget until late May, well after the federal election, in a clear attempt to protect Mr Shorten and his federal colleagues. The Premier does not want Victorians to know how bad Labor is at managing the economy before they cast their vote on 18 May. One suspects the upcoming state budget will be loaded with taxes, debt and cuts to services.

Not happy just to delay the budget, the arrogance of Mr Andrews knows no bounds as he spends $1 million of Victorian taxpayers money to help get Bill Shorten elected. Let us reflect on what $1 million in funding would do in the Shepparton electorate. One million dollars would fully fund the vital People Supporting People organisation for the next 19 years to continue to help homelessness and disadvantaged people in Shepparton. One million dollars would provide 500 000 breakfasts for Shepparton schoolchildren who currently rely on the Shepparton breakfast program. It would fully fund four mental health beds every day for one year at Goulburn Valley Health to help Shepparton patients suffering from mental illness, or provide the Greater Shepparton Lighthouse Project with enough funding for the next three years to support 660 disadvantaged Shepparton children.

Daniel Andrews and the Victorian Labor Party should be condemned for spending $1 million of Victorian taxpayers money on Labor's federal election campaign instead of spending it on assisting Victorians in need.

ROYAL CHILDREN'S HOSPITAL GOOD FRIDAY APPEAL

Ms MAXWELL (Northern Victoria) (10:51): Each year, the Good Friday Appeal provides an opportunity for all Victorians to dig deep in aid of the Royal Children's Hospital. Last year, more than 338 000 children were treated at the hospital's specialist clinics. They had more than 50 000 admissions and treated more than 86 000 children in emergency.

Many regional families rely on the Royal Children's Hospital, thousands making the often long and repeated journey for treatment. These regional communities always respond strongly to the call to shake the tin on Good Friday. Year on year, towns from northern Victoria feature strongly on the country board, and they did it again this year, with Wangaratta raising $116 053 and Wodonga raising $88 689. A special shout-out goes to Tatong, with a population of 300 people, who raised a whopping $58 458 through their family fun day and auction.

The CFA across Victoria are a key volunteer force on Good Friday, and I was proud to join my South Wangaratta CFA fire brigade in the truck again this year with children from the Warby Ranges—particularly the Evans children Caleb and Jesse—who look forward to the annual challenge of who can raise the most dollars between them. The money supports the Royal Children's Hospital, but also instils a sense of teamwork, morals and selflessness by taking time from their day to support other children who do not have that opportunity at Easter. CFA collectors around the state raised an amazing $1 612 671. Thank you to everyone from northern Victoria for doing your bit to support the Good Friday Appeal.

PREMIER'S SPIRIT OF ANZAC PRIZE

Dr KIEU (South Eastern Metropolitan) (10:53): The 25th of April every year is the occasion for the Anzac commemoration. For the event there is a prize called the Premier's Spirit of Anzac Prize every year, and this year is the 12th occasion. In the past a group of high school students from throughout Victoria was taken to the Western Front, to Turkey and to other places where Australia has contributed during its history. This year the trip was to Vietnam and Singapore. Our colleague Ms Kaushaliya Vaghela accompanied the group of students to Vietnam. They were taken to Nui Dat, one of the places where Australians were, and also the famous Battle of Long Tan. I met the students in Singapore and presented a different view of the Vietnam War. We also laid a wreath at the war memorial cemetery at Kranji.

ANZAC DAY

Dr KIEU: On 25 April this year I attended a ceremony at the Dandenong RSL organised by the Dual Identity Leadership Program. The most noble sacrifice is a sacrifice for others, and we as Vietnamese never forget the sacrifice of 521 Australian soldiers in Vietnam. Lest we forget.

ANZAC DAY

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (10:54): The spirit of Anzac is well and truly alive, and I have to say that in this recent period—on Anzac Day and for the surrounding commemorations—I was honoured to be at a number of locations, and the numbers seem to be growing at each and every one of these. The Prahran RSL event at Victoria Gardens was an important gathering, and was well attended, I might say. The commemoration that that RSL runs at Victoria Gardens every year is one that I am very honoured to attend, and I welcome the chance to talk to veterans and many community members too. The Wattle Park commemoration, run by the Wattle Park Heritage Group—with Ed Bright and presided over by Tom Thorpe—is at one very significant location. The Lone Pine is looking very healthy this year. It was not some years ago; it is now. I make the point that the son of the Lone Pine there is indeed growing very well. I welcome that, and the significant attendance.

I was honoured too to join the march on Anzac Day. That too was a very significant occasion. Brett Hayhoe laid a wreath at Oakleigh Cenotaph on my behalf, and I thank him for that greatly. I was also honoured to be at the Surrey Hills dawn service on Anzac Day itself, which seems to be growing significantly. I estimate more than 1000 people were there, and that is a reflection of the great spirit of Anzac that we so much welcome.

INTERNATIONAL WORKERS MEMORIAL DAY

Ms GARRETT (Eastern Victoria) (10:56): On Monday I attended the International Workers Memorial Day ceremony at Victorian Trades Hall with many other members of this chamber to honour the memory of all those who have lost their lives in their workplaces. It was a sad and solemn ceremony, and a vital one. I would like to commend Trades Hall secretary Luke Hilakari for preparing such an important and moving ceremony, and for his inspiring address. We were all left in tears, really, hearing firsthand stories of families devastated by the loss of a loved one at work. The fact is that too many people go to work and do not return and too many families and communities are devastated, pretty much on a weekly basis, all around the country.

I would like to acknowledge the extraordinary efforts of members of the trade union movement who work tirelessly every day to make our workplaces safer and the delegates who often face great hostility just going about their business as occupational health and safety reps. I thank them for their work. I also welcome the Attorney-General's recent announcement of 40 new WorkSafe inspectors to attend road and rail construction sites, as so many workplace deaths happen there. Everyone who goes to work has a right to come home safely. The catchcry of that ceremony was 'Honour the dead, fight like hell for the living'.

Business of the house

NOTICES OF MOTION

Ms STITT (Western Metropolitan) (10:58): I move:

That the consideration of notices of motion, government business, 10 to 31, be postponed until later this day.

Motion agreed to.

Bills

MAJOR TRANSPORT PROJECTS FACILITATION AMENDMENT BILL 2019

Second reading

Debate resumed on motion of Ms PULFORD:

That the bill be now read a second time.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (10:59): I am pleased to make a contribution to the Major Transport Projects Facilitation Amendment Bill 2019. It is a bill that facilitates allegedly earlier engagement with utilities by project authorities in relation to utility infrastructure in declared projects. It claims to facilitate the negotiation of utility agreements between the project authorities. The opposition will not oppose this bill, but we will ask some questions of the minister in committee and we will seek to clarify certain aspects of the bill and some matters around the declaration process.

The bill seeks to reflect practices that have built up of enabling utility negotiations to commence earlier with major projects. I put on record our support for the objective of the bill, which is to move these projects more quickly and smooth through some of the processes. Whether it achieves the objectives is the question, and whether it does it in a suitable way is another question.

The bill amends part 7 of the act to bring forward when the utilities regime can commence. The utilities regime formally comes into effect after the planning phase, when the project approvals have been granted and the project area has been determined. The amendment removes the requirement for the project area to be determined and instead enables the use of the utility regime when the project is declared to be a major transport project under the act.

This act, for the record and for the house, is a 2009 Brumby government act. It was not opposed but was supported by us in principle at the time. It was used in government by the coalition and it has been

used extensively by this government. We have some questions about the way that they are using this act now, but the principle of an integrated act that allows the declaration of a project and a series of steps to assess the project and to give appropriate powers is one that we agree with. It needs to be applied sensitively and sensibly and it needs to be an approach that does not short-circuit the ability of the community to have its input. It needs to be a process also that ensures that those that are impacted—whether they be home owners, businesses or, in this case, utility providers of various types—are dealt with fairly and are dealt with in a way that does not circumscribe their legitimate rights unfairly or unnecessarily and that the government in fact errs on the side of being fairer rather than riding roughshod over the rights of either the community or local businesses or indeed those who have interests through the utility provision that they provide into a particular area.

The act requires the project authority to give every utility company notice. The government argues that this is an unnecessary burden as some utilities have infrastructure in only limited geographic areas. The government posits I think a more efficient approach for all parties to require the project authority to take 'all reasonable steps'—there will be a question about what that means—to identify all utility infrastructure that may be affected by the project and engage with those utilities which the project authority believes may be affected by a declared project. This amendment is presented as removing redundant work for both the project authority and the unaffected utility companies.

There is a question of time lines. The bill also changes the negotiation process by reducing the prescription around notification and negotiation time lines. I will be looking for the government to indicate that it is intending to act fairly with the various utility groups, because the onus is on government to do the work and do the work ahead of time but also to act within a reasonable framework.

The bill claims to be reducing the risk of unnotified infrastructure. Currently if the utility companies fail to respond within 30 business days to a notice issued by the project authority then the utility infrastructure is deemed to be unnotified infrastructure. There is no option for the project authority to provide more time. The amendments will give the project authority discretion to provide more time for utilities to comply. That is a welcome step. Sometimes there is significant complexity in these matters and sometimes it is true that it is not clear what structures are in a particular area—historical structures, whether they be pipelines or some other utility—and it is a matter that there needs to be a little bit of flexibility on.

Unnotified utility infrastructure could result in significant costs to utility providers and ultimately their customers, so any impact that is posited onto the utility providers is not a cost-free outing for the community. Costs that are landed on utility providers ultimately find their way through to greater costs for consumers, whether they be businesses or householders, of those utility services.

'Unnotified utility infrastructure' is defined in the bill as:

> … utility infrastructure, the location of which is not known by the project authority, because it could not be identified even after taking all reasonable steps or because the utility failed to respond to a notice within 30 business days …

Utility infrastructure incorrectly described or its location incorrectly given also fits this description.

The Major Transport Projects Facilitation Act 2009 describes 'utility' as:

> … an entity (whether publicly or privately owned) that provides, or intends to provide, water, sewerage, drainage, gas, electricity or other like services under the authority of an Act of Victoria …

'Utility infrastructure' means:

> … any part of the supply, distribution or reticulation network owned, operated or controlled by a utility, including poles, pipes, cables, wires, conduits and tunnels …

and so forth.

Will the act provide for earlier dispute resolution if agreement cannot be reached? Well, that would be a good outcome, and I guess when the bill is passed we will actually see what happens, but that is the claimed intention. The bill enables either party to trigger the dispute resolution process within the period by notifying the other party that a dispute exists. This is designed to avoid unnecessary delays in circumstances where all reasonable endeavours to negotiate resolutions acceptable to both parties have been undertaken but agreement cannot at that point be reached. The government's argument is that negotiated agreement is always preferable—and I agree with that—to a determination by a third party, but if there is a stalemate there is no reason for the parties to wait for the clock to run down. So there is a legitimate point here, I think.

There are a number of issues. While early negotiation is in fact supported by everyone there is a risk that government will use the provisions inserted in the bill as a big stick to threaten utility providers and force government projects on them no matter what the cost or impact on that utility infrastructure owner is. This is really about the fairness of the way this operates, again noting that costs incurred by utility providers are not cost-free to the community, because they ultimately do get passed through into costs for consumers, whether they be businesses or households.

Resourcing is provided by the project authority—in the case of the North East Link, which was a case study in discussion at the briefing, and I thank the minister for the briefing for the opposition—to utility services providers to identify all utility infrastructure that may be affected by the project and identified by government as a feature of the utility's regime for all future major transport projects. It appears to have been not opposed by the utility providers, and certainly the ones that I spoke to and the industry bodies I checked with are not opposed to these changes in this bill.

There are a number of questions that I do have around the use of the Major Transport Projects Facilitation Act, and I want to put these on record. Before I do that, I want to look at *Alert Digest* No. 4 of the Scrutiny of Acts and Regulations Committee. SARC, as I have indicated for a long time, is weak on property rights and weak on looking at these things closely. It seems to me we are, through this bill—and, arguably, appropriately—altering the balance between the property rights of various utility holders and the government. I am not arguing against that, but I am just arguing that it does in fact do that. I do not think the charter issues of property rights are picked up routinely strongly enough by the Scrutiny of Acts and Regulations Committee—and I see Mr Barton nodding; he has heard me say this before. What it says at page 1 of the *Alert Digest* on this bill is:

> **Charter issues:**
>
> The Major Transport Projects Facilitation Amendment Bill 2019 is compatible with the rights set out in the Charter of Human Rights and Responsibilities.

We know that the charter is weak on a number of property rights issues, but it is implausible to argue that shifting the balance in this sort of bill does not impinge on property rights. It is just not true. It is the case that it might be legitimate, but let us not say that there is nothing there and it is not going to impact on anyone's property rights. The charter does deal, however inadequately, with property rights in its respective clauses. But it is not correct, as SARC has tried to outline here, that there are no impacts whatsoever. I think SARC needs in a longer term mode—and this bill is probably not the exemplar—to look at these property rights issues more closely rather than brushing them away.

What I do want to say about the use of this act is that the government has now taken to using the act in a way that is not in the spirit in which it was intended. I remember the bill going through the house originally, as Mr Jennings and others also will. From a cursory glance at the table of contents of the Major Transport Projects Facilitation Act you will see there are sections that allow assessment committees and proper community engagement, the establishment of panels and a more fulsome assessment process. That, I would argue, is an important component of the act. The government has taken now routinely to declaring a project—that is the Premier's responsibility—but only declaring parts of the act, and essentially it has taken to declaring the nasty, tough parts of the act, the teeth in

the act. It has stopped, it seems, declaring the use of assessment panels, investigatory panels and better community engagement models that are laid out within, particularly, part 3 and part 8 of the act.

The government's current mode is to declare the tough bits—the sticks, the thumping bits, the bits that override communities, the bits that override councils, the bits that force things forward and give the government unbridled power—but it is not declaring parts 3 and 8 of the act. We have seen this as recently as just over a month ago in the case of the Toorak Road level crossing. That is a level crossing removal that is in principle supported by everyone. Everyone recognises its importance, but the Major Transport Projects Facilitation Act 2009 process has seen that declared project allocated to Minister Allan as the Minister for Transport Infrastructure, but again in that case the Premier has not declared parts 3 and 8 of the act and there has been no legitimate and satisfactory consultation with the local community.

The local councils have been lumped with this and told to comment around the edges. Stonnington, to its credit, has been quite direct and has said that it much prefers a rail-under-road solution, and the Premier told them to get nicked. Subsequent to that they have engaged with the government to try to do some constructive work to get some useful changes. Boroondara has put submissions to the LXRP—the Level Crossing Removal Project. But all of this is late in the piece. All of this is separate from the community. All of this is council officers scrambling on very tight deadlines to be able to make those submissions, and I pay tribute to the council officers who have sought to do that on behalf of their communities.

I note the councillors at the City of Stonnington have been very clear in their opposition—not all, but some. I want to put on record the thanks of the community to those who have been clear and for those motions that have said, 'Actually, we want the level crossing removed, but we want it done with a rail-under-road solution'. But my point here is that the use of this act is giving the government the leverage and the teeth to do many of these things without the proper engagement. The government appears in this case—and I am using this in a sense as a case study of the application of this act—to have declared the project and made an incomplete declaration, as it were, of the act, but it appears that it will also use the Planning and Environment Act 1987 to do whatever planning changes the minister from his high and mighty position deems to be appropriate, with again the sort of inadequate community input that has occurred here.

There has been no panel, there has been no process and there has been no proper community engagement. The Premier in effect has told the community and the councils to, 'Just suck it up and off you go. You do what you're told. You're not putting any money into it'—I think he said—'and therefore we do not want you to bother us'.

I do note that the federal government has put significant money into the announcement regarding the Glenferrie Road crossing. I note that they have put money forward for the commencement of an examination of Madden Grove, which is clearly a level crossing that will need to be removed. That will have significant impact on traffic movements across the Yarra and through those linkages to the freeway, and it will obviously impact both the Belgrave and Lilydale railway lines, including Camberwell, and also the Glen Waverley line. It is one of those crossings that has huge impact, and there is also a tramline quite close to it there which is impacted too.

The federal government announcement is also relevant in terms of Tooronga Road and says that is something that should be done. In a sense I am using this Toorak Road crossing as a case study here of the government's shoddy approach and shoddy planning and its failure to integrate in a fulsome way with a proper approach to land use planning overall. It would be much better if the government had an integrated approach to rail under road through Tooronga Road, Glenferrie Road and Toorak Road. We would actually get a better land use outcome. We would get better removals of crossings.

There are major impacts on schools. Auburn Primary School, Auburn High School and Bialik College are impacted. They have certainly written to me and others about those matters, and I have raised those

matters in the chamber on a number of occasions. They see the importance of removing the Tooronga crossing, and that is a legitimate point that they are making. If they did a triplet of these, it would be a much better outcome. There is no reason why that could not occur. The government did that in the case of Ormond, Bentleigh and McKinnon. It was a rail-under-road solution there. There was a line closure, but the outcome has been much better and the community are much more supportive of that outcome in the long term. Again, it was not excessively long. It was something that worked well in the end.

In conclusion, I want to draw the house's attention to issues around the use of the Major Transport Projects Facilitation Amendment Bill 2019 more generally. We need to stocktake carefully the way the government is using this bill, and we need to look for opportunities to improve the fairness of its application. We need to make sure that the objectives of smooth and fast infrastructure provision are not compromised, but we need to do that, and I think we are capable of doing that, in a way that enables fast movement of infrastructure projects but actually has that early community engagement. Just like the government is talking about engagement with the infrastructure stakeholders earlier, the government ought to be talking about engagement with local communities earlier and more constructively rather than presenting them with a fait accompli and telling them, 'We will now consult with you on the colour of the paint on the outside of the infrastructure that we are going to build'.

It should not be beyond a modern, sophisticated city like Melbourne to build infrastructure and to do it in a way that actually gets the best long-term outcomes, such as the protection of heritage and getting the best land use outcomes. I am not opposed to constructive, properly thought through value-capture propositions, but I am not in favour of just milking a community through a layer of taxes. That should all be thought through very, very carefully.

The government has taken some of the previous coalition's projects in this area, including—on the very line I was talking about—the Burke Road level crossing removal. That was a good outcome that fundamentally completed the coalition's project and added a value-capture component over to the side. Arguably we could have got an even better outcome in that circumstance as well, but I do not think we are going to get the best outcome in the current government proposals for Toorak Road.

I pay tribute to the many local community groups that have been prepared to fight for their local communities. With the CD9 level crossing removal the Caulfield-Murrumbeena-Hughesdale community fought very hard to get a better outcome, but this government was deaf to a better outcome and deaf to their concerns; it ploughed on and did not listen. If you go down there now you can see the outcome and it is less than ideal: the graffiti is significant and the undercroft of the elevated rail is not the outcome that you would want.

Equally the government has been deaf in locations like Eel Race Road. I have had significant representation from people in and around Eel Race Road about the government's claim that it is removing the level crossing there. It is actually just a closure. They are just closing that crossing and the community will be, to a significant extent, landlocked and unable to get out easily and smoothly from their homes, and indeed some of the schools and so forth will be impacted as well. This is a government that is just bent on an outcome, and we do not hear about whatever processes are occurring internally within the government.

I will be asking the minister when we can expect some of the documents that have been sought on the elevated rail proposal at Toorak Road. The chamber has passed a motion, and we still do not have a satisfactory response from government. In the interests of transparency and openness the government should provide that information to the community. I will be asking some of those questions in committee later.

Ms TAYLOR (Southern Metropolitan) (11:23): Before proceeding I would like to address a couple of points that were raised by Mr Davis. I would like to focus primarily on this bill, because I think that is what we are here to talk about today rather than going on rather peculiar tangents. Firstly, the bill does not change the rights of utility providers; it is really about protecting best practice. That is actually what the major project authority and utility providers actually do right now, because best practice in 2009 is not best practice now—it is an evolving space, as one would expect. So it makes good sense for the government to make these amendments at this point in time.

I would also like to pick up on what I feel is an unfair criticism of the Scrutiny of Acts and Regulations Committee. I happen to be on SARC, and I would like to say formally on the public record that SARC operates with the utmost objectivity. It is truly representative: it has Labor and Liberal members and we all have a say. We are not trying to play tricks or anything there, we are just trying to do our job and ensure that the bills reflect the central tenets of the charter. Just because Mr Davis does not agree with a SARC decision does not mean it is wrong; it is perhaps just inconvenient for him in the chamber right now. I think that he might want to be careful in the future about sledging SARC, because I take offence to that. I put my best endeavours in there, as I believe all the other members of SARC do as well. I am sorry that it is inconvenient for you when it makes a decision that you do not agree with.

I am very pleased he raised the topic of level crossings. Having driven through both Murrumbeena and Carnegie I know that people love that these level crossings have been removed. It saves so much time. It is so annoying with the 'Ding, ding, ding, ding, ding, ding, ding, ding, ding, ding' over and over and over again. For 20 minutes it goes on and on and on—believe me. I am not sure if Mr Davis has actually driven through Murrumbeena and realised just how terrific it is now. It is better because it is much safer. That was the fundamental tenet and reason for removing that level crossing, but it has also improved traffic flow and reduced congestion. I can say that in that community—and I am sure the member for Oakleigh, Mr Dimopoulos, would also agree—people have not been complaining, 'Oh dear, you've removed that terrible level crossing'. They have said, 'Thank you for removing that dangerous level crossing; that is a gift to the community'. So thank you for referring to the tremendous work that the Andrews Labor government has undertaken with regard to removing 29 level crossings to date. We have an extraordinary record on this front, and we are very proud about undertaking these major projects in a very appropriate way.

We also like to—and I might just put it out there—consult engineers before we come up with rushed project numbers because we are panicking about a federal election or whatever else might be going on. I do not know; I am just speculating. We actually like to go through a proper consultation process. Mr Davis might like to better inform himself about what actually happens rather than making stuff up.

I am now going to get back to the central tenets of the bill. We know that the Major Transport Projects Facilitation Act 2009 fundamentally sets out the process for negotiating agreements on how utility infrastructure will be removed, relocated or protected. This act has functioned well over time in terms of facilitating major transport projects, such as the projects which are still ongoing, including the Melbourne Metro Tunnel and those wonderful level crossing removal projects.

However, as I was saying at the start, we do have to make sure that the act reflects current best practice, and that is fundamentally where the purpose of these amendments is sourced from. That is the genesis of these amendments: to make sure that they reflect the kinds of critical conversations that are currently going on between the project authorities and utility providers. Because fundamentally—and you know this even as a layperson—when you are removing or relocating gas, water or electricity, you have to take great care and you have to very accurately anticipate how much time that part of the project is going to take. There are many different elements that have to come together just at the right time to prevent untoward delay and untoward costs. If you do not bring in the utility provider at the declaratory phase, there is a real risk to deadlines, fundamentally. I am going to go into a bit more detail regarding these issues.

Fundamentally what this amendment bill is trying to achieve, and will achieve, is to put a structure in place to facilitate a more expedient pathway to agreement based on what has been experienced to date. If you actually leave negotiation between the utility provider and the project authority right to the eve of construction, this inhibits the ability to find solutions. Solutions to potential delay and disruption in the process are better able to be achieved both for consumers and also the utility providers if you incorporate them in the planning stage. I think that makes sense. That really is just common sense. Part of the reason why is that when the construction companies are having to anticipate the various costs, there is quite an element of risk. Also, if we are looking at the bidders themselves, if they have to try to anticipate elements that are not covered in the planning stage, they may have to put in place a risk premium. What that means at the end of the day is a risk to the overall cost and cost blowout of a project, and none of us—no-one here in this chamber—wants to see any unnecessary escalation of cost or delay to a project. Fundamentally what we are all about here is delivering better outcomes in terms of transporting people around the community. That is what we are here to do. That is what fundamentally this is about. It is not political football. This is about saying, 'Hey, we've got some terrific transport projects. The community have said yes. Let's make them happen in the most expedient way'.

As Mr Davis referred to—and I have to say I was pleasantly surprised that he did refer to some of the salient features of the project, and I thank him for that—instead of having to wait for the expiry of the 30-day notification period, they can actually bring in the utility provider earlier once a utility provider has responded and supplied the information requested by the project authority. That is just common sense, so it is good to have it in a legislative format so it gives all parties security in the process.

The project authority also has the discretion to provide more time for utilities to comply because it does not make sense to have unnotified assets. That is also common sense. We are talking about gas, water and electricity. It makes sense to do everything possible to locate those assets in a timely manner, bearing in mind that you are dealing with major utility providers and you may need a little more time to get the right outcome in that regard.

Another benefit of the amendments to the act is ensuring agreements can be in place before tenders are finalised. This provides clarity regarding the total cost of relocation, removal or protection, as the case may be. It also helps with procurement and tendering. I was referring before to those risk premiums. It then provides an ability to overcome some of those overall risks to cost and time blowouts. I will reiterate that the bill does not alter the rights of utilities. That is not what is in play here. I think it is a little bit luxurious perhaps at best to take that little tangent there as a way to try to taint this bill in an unflattering manner. Really what this bill is about is bringing the utility provider in at the declaratory stage of a project. It is a logical thing to do. It saves money, and it saves risks to deadlines. It is about giving greater scope to come up with the best possible options and outcomes for the project.

Fundamentally I know—I could see this while reading through the bill itself—that it does not make sense to wait until the most difficult point, right on the eve of construction of a project, before you actually engage the utility provider. We know that in reality the project authorities are not waiting, because that is a waste of their effort and time, and they want to minimise the costs, the risks and the delays in the long run.

As has been mentioned, this bill also removes the redundant burden, so to speak, in the negotiation phase with utility providers. Some utility providers operate in a limited geographic space or area, so why include those particular utility providers unnecessarily? It is not about discriminating. It is simply a factual and logical definition of where utility providers are most likely to be. That is really what that element of the amendments is about. The 50-day negotiation period does not have to have expired, which has also been alluded to, before an expert determination can be sought to resolve any disputes.

We are talking about professional operators here, and if they have genuinely tried their hardest to reach an agreement and have been unable to do so and they can see that simply waiting there and twiddling

their thumbs for 50 days is not going to make the situation any better and is really just causing unnecessary delays and costs, then why not escalate and proceed—either party—to an appropriate dispute resolution process? Having been through many dispute resolution processes myself, I think we can say that professionals can pretty early on identify when they are not able to reach an appropriate outcome. Really, again, this is reflecting best practice in the modern era.

Fundamentally, major transport projects need many different technical processes to fall in line in a timely manner. I do not believe anyone in this house wants to see an unnecessary delay, because ultimately we owe it to the community to get the most efficient process possible in place to get these major projects delivered.

We know in the Andrews government we are all about delivering. We have a very strong and actually an impeccable record of delivering, and I do not say that to exaggerate. It stands to reason. You can actually look and see, and that is what the community has also identified and appreciated. They can see exactly where the transport infrastructure spend is going, and at the same time they can measure the direct benefit for themselves.

Fundamentally, I commend this bill to the house because of the very pragmatic and considerate nature of the amendments which have been proposed, which are fundamentally reflecting best practice as it is today between utility providers and project authorities. To delay on these particular amendments would actually in the long run be a negative for the community who we claim to serve.

I believe we are here to serve the community, so if we are going to honour that promise to the community, then we had better make sure that we reflect best practice in the modern era and allow an appropriate structure to bring utility providers and the project authorities together in a structured and purposeful way that lets them achieve the right outcome in a timely manner.

Mr HAYES (Southern Metropolitan) (11:37): This bill is about facilitation of the construction of the North East Link. As members will know, the North East Link is a freeway proposed to be constructed between the Metropolitan Ring Road and the Eastern Freeway. It is about 10 kilometres long, with about half of that in a tunnel.

My first observation is that in the run-up to the 2014 election Premier Andrews told readers of the *Heidelberg Leader* that he was not interested in building the North East Link. It was only after being elected in 2014 that the government decided it needed to build the link.

My second observation is that this project is a classic example of the serious downsides of Melbourne's rapid population growth. This rapid population growth has not always been a feature of Melbourne, but it has been for the last 15 years. During this period we have been adding an extra 70 000 vehicles a year to our roads—an extra 70 000 vehicles every year! This extra traffic undoes all the good intentions of this government and its departments and agencies and of councils, business and community groups, households and individuals to reduce our carbon footprint, and as a result Victoria's greenhouse gas emissions continue to rise when they need to be falling. But in addition it generates massive traffic congestion. We all see it and feel it on a daily basis. It is harming our quality of life and the community's physical and mental health. So the state government is under great political pressure to do something about the traffic; hence we get a project like this.

My third observation is that this project comes with a massive opportunity cost. The estimated cost of the project is $16 billion—$16 billion! If it did not proceed, the government could live without gambling revenue for the next 15 years or it could properly fund programs to tackle mental health, homelessness or Indigenous disadvantage. It could proceed with public transport programs which would do much to reduce car trips and make our city livable.

My fourth observation is that this project is truly enormous and will have serious detrimental effects on the area's precious and modest open space. Boroondara has very little open space, but the council has advised me it will be losing 20 per cent of its public open space in the Koonung Creek Reserve.

There will also be the removal of thousands of trees and the loss of important biodiversity sites along the Koonung Creek and the Yarra River.

Trees are not an optional extra. They are an essential part of this city's capacity to live and breathe, and casually destroying them flies in the face of mountains of scientific and medical evidence as to their significance and importance to the city's health. Indeed residents have told me that the whole of Koonung Creek Reserve will be bulldozed during the construction phase and that half of it will be wiped out forever. So 12.7 hectares of parkland will be permanently lost, and the Planning Institute of Australia has joined Manningham and Boroondara councils in condemning this loss of public parkland.

This project freeway is up there with the world's widest. The widest freeway in the world has 26 lanes; this one has got 24 lanes and two for buses. There will be a loss of amenity from increased traffic volumes and noise on Bulleen Road, connecting arterial roads and local roads, and there will be potential changes to these roads.

My fifth observation is that this freeway will have adverse effects on sporting and recreational pursuits for my constituents and on their amenity. The Boroondara Tennis Centre will go. The Freeway Public Golf Course will have two holes removed to make way for tunnel ramps. The reduction in size may make the course unviable. Boroondara council has been advocating for the tennis centre to be retained as a 23-court public facility and for the good-quality, playable and viable 18-hole freeway golf course to remain intact.

My sixth observation is that this project spells the end of the line for the Doncaster rail project. I would like to hear from the government whether this is so. What are its plans for the Doncaster rail project? Doesn't this project kill it off, and if provisions for the rail project remain, why not get on with it and build the railway? If it is true that the train corridor is being turned into bus lanes, that frankly is a pathetic outcome.

Indeed the government's own projections are that the North East Link will see nearly 6000 people leave the train network and use cars or buses instead. It has been reported to me that buses on the Eastern Freeway are not allowed in the bus lane until 7.00 a.m. The buses heading into the city from the Doncaster park-and-ride currently have standing room only well before 7.00 a.m., and many buses have to drive in congested car lanes until it strikes 7.00 a.m.—not very sensible.

Transport experts were quoted by Clay Lucas and Timna Jacks in the *Age* as saying the North East Link was 'a short-sighted solution to population growth'. When you look at a project like this, the idea that public transport should play the major role in transport to and from areas of high population density—or, in the government's terminology, activity centres—has clearly been abandoned by this government—if it was ever the government's intention to create activity centres for this purpose as opposed to it being a smokescreen for the government's cosy relationship with property developers.

My seventh observation is that no weight has been given to the experience with previous freeway projects. For example, increased volumes of traffic on Stud Road and on Springvale Road were used as the official justification for building EastLink. However, these roads, post-EastLink, continue to be congested. Similarly the promised benefits from the expansion of the M1 and other freeways have proved to be transitory.

My eighth observation is that there has been poor process surrounding this project. I am sick of commercial-in-confidence being used to hide from taxpayers how their dollars are being spent. The Sustainable Australia party believes in transparency, not hiding behind commercial-in-confidence, and I give notice that I will be pursuing full disclosure on this and other projects where taxpayers money is involved. Furthermore, the government is now going through an environment effects statement process, but many people believe the consultation process is a farce, a sham, a charade. The EES should come before the government locks itself into the project.

My ninth observation is that residents are concerned that the government is failing them when it comes to protection against noise. We are a First World country, and we should be implementing the highest First World noise standards. The World Health Organization has a standard of 53 dBA for new projects. In practice I am told that this would require walls of around 10 metres in height, and I understand that is not what is on the plan. I commend the work of Ben Dawson and other local residents and businesses who have been trying to ensure that local people do not have their lives unnecessarily rendered miserable by this project.

My final observation is this: if we do not curb Melbourne's population explosion—129 000 people per year—all the costs, all the pain, all the loss of open space of this project will be for nought. The relentless growth in traffic—70 000 extra vehicles every year—will just eat up those new car lanes and take us back to bumper-to-bumper snarling, impotent rage.

The Liberal opposition has said they are supporting this project, so there is little point in trying to head off this bill, but I appeal to the government to take more notice of the affected residents and take more notice of what these massive freeway projects are actually doing to our city—our inner suburbs in this case—in the longer term.

Dr KIEU (South Eastern Metropolitan) (11:46): I rise to support the Major Transport Projects Facilitation Amendment Bill 2019 and echo my colleagues here in supporting this amendment bill. This bill amends part 7 of the Major Transport Projects Facilitation Act 2009. At the moment a few major transport projects have been declared, including the regional rail link, Peninsula Link, the Melbourne Metro project, the West Gate Tunnel, the North East Link and the Western Highway duplication between Ballarat and Beaufort.

At the moment, project authorities have to notify all the utility providers, even though this is redundant in some cases as they do not have any utilities at the location of the projects to be built. On top of that, there is a notification process of 30 days for relevant parties or utility providers, and if there is no reply from the providers after 30 days, then that infrastructure will be deemed unnotified. Then there is the added time to resolve the unnotification before the project can proceed. There is also a period of 50 days during which the parties are able to negotiate to come to a resolution. If there is an impasse—if there is something that cannot be agreed upon—then the parties have to wait until the end of that 50-day period before they can access dispute resolution. Those are the obstacles and redundancies that are costly in terms of time and money, which add to the uncertainty of the time line for the completion of projects.

The currently proposed Major Transport Projects Facilitation Amendment Bill 2019 deals with the utilities regime under part 7 of the act. It tries to improve the process, lower the costs and reduce the time. This amendment bill proposes first of all that the project authority has to notify the relevant utility providers as soon as the project is declared. They do not have to wait until it is approved. Also, only the relevant parties will have to be notified, not all of the utilities as is the case at present. During the 30-day notification period the provider can be notified and then the negotiation can begin. During the 50 days of negotiation, if there is any dispute that cannot be resolved and there is an impasse, the parties can have access to dispute resolution to speed up reaching an agreement or the resolution that they may have come up with.

In terms of the tendering and the procurement processes, the bill will also make these very transparent and timely. The bill requires only that reasonable steps need to be taken to identify the facility that needs to be removed, relocated or protected. Not only that: these steps would also lower the risk premium that the tenderers would have had to build into their tendering documents otherwise. In terms of consumers, this also represents a benefit by removing uncertainty for the consumer, whether it is a private consumer or an industrial consumer. Also, during the identification and negotiation process any of the problems that might be identified can be identified in order to avoid any unnecessary delays or disruption to the consumer.

In all, the process proposed in the Major Transport Projects Facilitation Amendment Bill 2019 is necessary to remove all the redundancies, to improve timeliness, to avoid possible or potential delays and also to lower the cost to the government of building major transport projects. These transport projects are important for the growing population of Melbourne and Victoria as a whole. They are the generational projects that will make this state one of the driving engines of the economy of the whole of Australia.

In terms of the questions that might be raised about this amendment bill, one example is: 'In practice, what will the bill change for the utilities?'. The bill allows the project authority to take all reasonable steps to identify the infrastructure that may be affected, and it brings the process forward to when the project is declared—rather than when it is approved, which takes time—and also when the location is designated. The bill does not change the rights of utilities; it changes only the timing of the opportunity so that projects can be more efficient in the timing required.

In summary, the consumer will not be impacted; only the timing of the identification and negotiation process will be impacted. Consumers are not disadvantaged under the current system or under the changes. The changes also remove the uncertainty and the wait that the consumer may otherwise have to face. Why do we need to engage utilities earlier? It is obvious that it will make the costs more transparent and help the tendering process and also the procurement process to be more efficient, and it could lower the risk premium that would have been built in otherwise.

How does the bill enable agreements to be reached earlier? The bill will remove the requirement for project approvals to be granted and the project area to be determined before the utility regime begins. Now the project authority will be able to use the utility regime when the project is declared to be a major transport project under the act. In practice utilities will be engaged during the planning phase when the project authority is assessing the land, the planning and the environmental implications of the project. The authority will not have to engage with every utility but only with the relevant utilities. The authority only needs to take all reasonable steps to do so. Will the time frame be impacted? The time frames are not being shortened at all, but the steps can be completed earlier if the full time frame is not required.

Overall the project authority will continue to fund the utility relocation or protection costs. The earlier engagement may mean more work at the front end for some utilities, but the result may be less disruption during the construction of the project.

Does the bill mean that some steps can be skipped? No. The bill recognises in particular that the important North East Link Project authority has already taken all reasonable steps to identify utilities and notify them that utilities need to supply information on the location of their infrastructure. In most cases utilities have been or are compliant with the requests for information. If the required exchange of information has already occurred, the process does not need to be repeated to satisfy the new requirements. In relation to other major projects, these projects will operate under the new provisions moving forward from now on. With that, I support and commend this Major Transport Projects Facilitation Amendment Bill 2019 to the house.

Business interrupted pursuant to sessional orders.

Questions without notice and ministers statements

NORTH RICHMOND SUPERVISED INJECTING FACILITY

Ms CROZIER (Southern Metropolitan) (12:00): My question is to the Minister for Health. Minister, I refer you to the funding allocated to the North Richmond Community Health centre and drug injecting room. How much funding from the community health programs at North Richmond Community Health has been reallocated to the injecting room at the same facility?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:00): I thank the member for her question. As I have made very clear now to a number of members

who have asked me questions in relation to the North Richmond supervised injecting room facility, as mental health and drug and alcohol policy sits with the Minister for Mental Health, Minister Foley is in fact the responsible minister in relation to this matter. I am happy to refer this question to Minister Foley in relation to giving some advice to the member around the funding.

Ms CROZIER (Southern Metropolitan) (12:01): I note the minister took absolutely no notice of my substantive question, which was around the North Richmond Community Health centre, which she is responsible for as Minister for Health. Do you want me to remind you that you have responsibility for that and the funding in relation to that? That was the question. I was asking about the community health programs, but I will ask the President and take it up later. My supplementary question is: with investigation of North Richmond Community Health underway, do you have confidence in the CEO, Demos Krouskos?

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:02): Again I make the point to the member that the matters that she has referred to in both questions do relate to the supervised injecting facility, and therefore I will be directing those questions to Minister Foley as the responsible minister.

NORTH EAST LINK

Mr BARTON (Eastern Metropolitan) (12:03): My question is to Minister Pulford, representing the Minister for Public Transport. I ask the minister to detail the government's plans to ensure public transport infrastructure in the north-eastern suburbs of Melbourne is operating at peak capacity and offers the most attractive solution for travelling during the construction of the North East Link Project. The North East Link is a much-needed and welcome project in our car-dependent suburbs, but it is not without issues and will cause major disruptions. I believe we need plans in place now to make sure that people are diverted onto public transport and not onto rat runs through the suburbs. With early works for the North East Link predicted to begin as early as next year, I ask the minister: what plans are in place to increase public transport capacity during the North East Link construction, and can these works be expedited to encourage motorists out of their cars and onto the train and bus networks?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:04): I thank Mr Barton for his question and his interest in this very significant project, and we look forward to the speedy delivery of it for the benefit of Victorians that are on the roads or on public transport alike. I certainly assure the member that in the planning for this project every effort is going into making sure that the disruption for the Victorian community is minimised, that congestion management is undertaken in the most effective possible way and of course that public transport use is also optimised throughout what is going to be quite a long period of construction and a very significant and complex project. I will seek further information from the Minister for Public Transport, as you requested. I look forward to providing you with a response from that minister.

Mr BARTON (Eastern Metropolitan) (12:05): Thank you, Minister. The Hurstbridge line has been flagged by Infrastructure Australia as a major problem, with its single-line sections and irregular services having flow-on effects down the line. Second-stage upgrades on the Hurstbridge line are scheduled to begin in 2020. I ask the minister: will she review stage 2 Hurstbridge line plans with maximum efficiency in mind and bring those works forward to ensure our public transport system hits the ground running when the North East Link Project begins?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:05): I can certainly assure the house that the government will be taking every step available to it to minimise the disruption and the impact on communities by the delivery of this project. For the specific questions that you have asked in relation to the Hurstbridge line, I will seek a response from the Minister for Public Transport.

MINISTERS STATEMENTS: MINERAL RESOURCES GUIDELINES

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:06): I rise to make my ministers statement today in my capacity as Minister for Resources. I would like to inform the house that the Andrews Labor government is making changes to strengthen Victoria's resources guidelines that set a high standard for mineral explorers and miners entrusted with access to the state's mineral resources. There is certainly no place for mining cowboys in Victoria. We want to support minerals explorers and miners who can prove that they are reputable, community focused and set up appropriately for the duration of projects, including the full rehabilitation of sites around the state. It is exactly what these guidelines are designed to do.

This industry employs 120 000 people across Victoria. The state's minerals, exploration and mining sectors are growing steadily, and it is important to raise the bar on who can access our important state-owned minerals. New assessment guidelines will make sure a company's track record and the records of its directors and executives are examined when considering licensing decisions. The new guidelines will provide greater assurances for farmers and communities that public safety, infrastructure and the environment will be protected when mineral explorers and miners work on both private and public land. The changes will also benefit the sector by providing up-front and consistent information about how mining licence applications are assessed, making it easier for people who have a good track record to apply.

Last year we launched Victoria's first mineral resources strategy, *State of Discovery*. Victoria's wealth was built on goldmining, and the resources industry is continuing to prosper across the state, increasing opportunities for exploration and development in regional areas. This is great news for job creation and the boosting of our country communities.

LA TROBE UNIVERSITY SHEPPARTON CAMPUS

Ms LOVELL (Northern Victoria) (12:08): My question is for the Minister for Higher Education. La Trobe University in Greater Shepparton has outgrown its current facilities and needs to expand to cater for an expected 48 per cent increase in students over the next five years. La Trobe has a plan for expansion at a cost of $21.4 million. The Liberal federal government has already contributed $5 million, and La Trobe is asking for a state government contribution of $5.3 million. Minister, will you fund the extension of La Trobe University's campus in Greater Shepparton to provide for the expected 48 per cent increase in students?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:08): I thank the member for her question. I understand that she has raised it in this place as an adjournment matter and on a couple of other occasions as well. The fact of the matter is that the commonwealth holds the major responsibility in terms of funding of our universities in this country. From time to time the state government does make a contribution on a case-by-case basis. The fact of the matter is that in terms of Shepparton it was the state government that provided the land for that campus to be established, and I think it was towards the end of the Bracks premiership, just before Premier Brumby, that there was a contribution of $2 million to that campus, Ms Lovell, and you should be aware of that.

We are aware of the growth that is happening in terms of university places. We are also, of course, very much aware of the growth that is happening in terms of enrolments in free TAFE, which is also going to have a flow-on effect in terms of university enrolments. So, as I have indicated to La Trobe, we will consider proposals, but we are not going to enter into an arrangement whereby the federal government does not see itself as the overwhelmingly primary funder of university funding in this country.

Ms LOVELL (Northern Victoria) (12:10): The federal government have provided every cent that was asked from them. They are looking for a contribution from you, Minister. This is not about historic

funding; this is about the future, with a 48 per cent growth in students expected. Youth unemployment in the Shepparton region is hovering at around 15 per cent, the second highest in the state. The courses offered at the La Trobe University campus in Shepparton are based on the workforce needs of the region, such as nursing, social work, allied health, early childhood and primary education, accounting and agribusiness. Minister, why won't you commit to funding the extension to allow more young people to gain the qualifications needed to get them off the unemployment list and into jobs?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:11): Clearly the member's ears are painted on. I provided an answer to the substantive question, and in fact I do not need a lecture from Ms Lovell in terms of what the needs of the local community are in terms of labour market needs around Shepparton. Indeed that is why free TAFE is so successful—so that local people can go to their local TAFE or local universities and get local jobs, and that is happening at Shepparton.

Ms Lovell interjected.

Ms TIERNEY: I am really pleased with the fact that we have been able to turn things around in your electorate. You continue to want to trash TAFE. You want to try and get the state government to do things that are largely the responsibility of the federal government—the federal government that, I might add, has slashed funding to university. *(Time expired)*

1080 POISON

Mr MEDDICK (Western Victoria) (12:12): My question is through the Special Minister of State, Mr Jennings, for the Minister for Energy, Environment and Climate Change, Lily D'Ambrosio. Last week an article in the *New York Times* reported that feral cats in Australia are driving our native wildlife to extinction. Our government's response is to use 1080 poison. 1080 is sometimes reported as natural, target specific and easily biodegradable. It is none of those things, which is why it has been banned in all countries except New Zealand and Australia. Potassium fluoroacetate is a compound found in plants. Sodium monofluoroacetate, commonly known as compound 1080, is its synthesised and highly toxic form. First patented by Monsanto in the 1950s, 1080 is an indiscriminate super-toxin, killing mammals, including humans, and it has no antidote. It is intrinsically unstable and can remain toxic for extended periods. Australian native species are particularly vulnerable to 1080 poison, and the long-term impacts on wildlife are still unknown. Will the government seek an alternative form of controlling introduced animals and preventing their reproduction to protect our wildlife?

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (12:13): I thank Mr Meddick for his question and his concern. I do not know of anybody in the chamber or across the community who would be very happy about the circumstances which you describe in relation to the toxicity of 1080 and the adverse consequences that may be associated with it. In terms of its careful safe handling, I am certain that is a priority. The government has acted on advice, and as I understand it, the most recent advice from the RSPCA would indicate that if some bait or toxins are going to be used in this context it is recommended amongst a number of very, very ordinary options. However, rather than speculating beyond what I understand, in terms of the significance of this issue, I will ask my colleague to provide you with advice about not only the use and safe handling practices that should be associated with this activity but also the current status and reflection of any reviews or reconsideration of any alternative pathways that may be deemed to be more appropriate by the minister and her department.

MINISTERS STATEMENTS: VEHICLE REPAIR AND SERVICE

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (12:15): I am pleased to be able to update the house on the action the Andrews Labor government has taken to support Victorian small businesses and consumers. I recently lodged a submission backing a national scheme for the sharing of vehicle repair and service information. Like the 10 000 independent car repair businesses, I eagerly await the response to our submission.

If this scheme goes ahead, it will give Victorian vehicle owners and auto repair service businesses a fairer deal, because currently many of Victoria's 10 000 independent auto repair businesses face difficulties in accessing information from vehicle manufacturers to efficiently repair and service vehicles. Being unable to access information such as safety, environmental and security-related data concerning the car makes it more difficult and expensive for the repairer and indeed the consumer.

If the scheme goes ahead, this government stands ready to support its implementation to ensure a harmonious national scheme. An effective national scheme will level the playing field for smaller operators, boost competition in the auto repair market and save Victorian vehicle owners time and money by giving them a greater range of repair and service options. We support a fairer deal for car owners and independent auto service and repair businesses and look forward to action.

TIMBER INDUSTRY

Mr O'DONOHUE (Eastern Victoria) (12:16): My question is to the Minister for Agriculture, Minister for Resources and Minister for Regional Development. Minister, I refer you to your media release last Wednesday, 24 April, regarding, and I quote:

> … a new allocation … and the development of new timber plantation sites in Gippsland.

Your media release states:

> This allocation order, which reduces the overall area available for timber harvesting by 5000 hectares, will not affect VicForests' ability to meet contracts over the upcoming year.

Minister, can you advise: what is the total cubic metreage of VicForests' contracts over that coming 12-month period, and will the reduction in the overall area available for timber harvesting by that 5000 hectares mean that the demand for timber will have to be met by VicForests through imported and not Victorian timber resources, in a major blow to local investment and jobs?

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:17): I thank Mr O'Donohue for his question. I have got the information on exactly what the contracts are, but I do not have that on me. But it is around about 3000 hectares to deliver on the contracts for the next—

A member interjected.

Ms SYMES: Yes, 3000 hectares. It is a combination of mixed species and blue gum. I can get you the details of it. I am obviously not doing a very good job of retelling it from my memory, but it is around 3000 hectares of native forest that would need to be logged to meet the contracts under the current arrangements.

Mr O'DONOHUE (Eastern Victoria) (12:18): Thank you, Minister, for undertaking to provide that further information. I appreciate it and look forward to receiving that information. Minister, again referring to your media release of last Wednesday, can you confirm that, due to the government's delays in the release of the new timber release plan, to enable the Heyfield ASH mill to continue operations, Western Australian jarrah and American oak are currently being imported to meet the shortfall in local supply?

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:19): That is certainly not the information that I have.

NORTHERN VICTORIA REGION RAIL SERVICES

Mr QUILTY (Northern Victoria) (12:19): My question is to the minister representing the Minister for Public Transport. For the month of March V/Line managed a record low punctuality of only 53 per cent of services delivered on time on the north-east line. I will quote some passengers. Therese notes that instead of texting her colleagues when her train is late, she texts them when it is on time. With her new strategy, she has not had to text her workmates for weeks. Degan remarks that his 5.11 train

magically transforms into the 5.37 and then again into the 6.22, all while he is sitting in it. Perhaps Ms Frizzle is conducting the service. I have been using the service myself recently, and I feel their pain. North-east passengers note that V/Line trains are deliberately delayed to give Metro services priority, because Metro has targets and penalties for missing them and V/Line does not. Does the minister feel the time of regional travellers is less valuable than the time of metro passengers?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:20): I thank the member for his question. Whilst it is not for me to be expressing an opinion of another person, I would be quite confident that the minister does not, as you suggest, care less for the needs of regional public transport passengers compared to metro public transport users. I would be very confident that she would care greatly about the experience of all public transport users in the state. I will leave that to her to provide you with a further response to that, but I will just take the opportunity to observe that our government has for some time made absolutely clear our view about the train service through north-eastern Victoria. Indeed the Premier on a number of occasions has reflected on this. Indeed this is a matter very familiar to Ms Symes in her work in Northern Victoria Region. We are very conscious of the needs of public transport users in the north-east and are working to improve their experience, but I will refer your question to Minister Horne for a response from her.

Mr QUILTY (Northern Victoria) (12:21): Thank you for your response and for passing it on. In 2018 V/Line received record levels of taxpayer funding. For each $40 a customer spends on tickets, the taxpayer chips in $400. A recent report by the Auditor-General notes that V/Line still has $500 million worth of unperformed maintenance, has failed to meet a 77 per cent satisfaction target in 11 of the 15 previous quarters and has not managed to achieve an 88 per cent punctuality standard at any point in the last decade. Clearly throwing taxpayer money at the problem is not working. Northern Victorians need a new solution, not more of what is currently being done. What actions will the minister take to improve delivery of services on the north-east line?

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (12:22): I thank the member for his supplementary question. I am sure the minister very much would love to take the opportunity to provide you with a response to your question about what the government is doing to improve passenger experience on the north-east line. I will seek that response for you.

MINISTERS STATEMENTS: YOUTH CANCER RESOURCES

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services) (12:23): I rise to update the house on how our health services are working to support our young people with cancer. Recently I visited ONTrac at Peter Mac, Victoria's fantastic cancer service for adolescents and young adults, to launch resources specifically developed to assist young people throughout their battle with cancer.

I met with Lucy, a young LGBTIQ+ person, who spoke about how useful a resource like *Being OK … Being You: A Guide for Young People Who Identify as LGBTIQ+ and Have Cancer* would have been for her during her own cancer journey and to help her feel both seen and heard. This important resource is designed to ensure that all of our young people get the important information that they need and the support that they need. Another publication, *Getting to Grips with General Practice*, is a resource that aims to help young people to understand the importance of having a GP involved throughout their cancer journey. It helps to guide the best way for young people to use GPs to enhance their overall health and wellbeing during their cancer treatment and beyond. Finally, *Thinking Ahead: Your Guide to School, Study and Work* is another important resource, because we have seen research that shows that cancer leads to young people being disconnected from and disrupted in their education and work. This resource focuses on improving one's life chances after cancer and how young people can re-engage with both education or employment. I am informed that in fact this resource has been so valuable that cancer services in other states have been contacting ONTrac to get their hands on copies.

It was an absolute pleasure to meet the young members of the Victorian & Tasmanian Youth Cancer Action Board, who were the leading voice in the development of all of these resources, and I thank them for their valuable insights. I am proud that our government has supported development of these resources, together with the Youth Affairs Council Victoria, the Murdoch Children's Research Institute and Redkite, as well as of course the fabulous ONTrac. These resources will help young people living with cancer continue with their lives, putting their health and wellbeing front and centre during their treatment and throughout their recovery. Resources like these help young people throughout this process and can keep hope alive as they look to the future. We are making sure that they have the support that they need when they need it.

TIMBER INDUSTRY

Mr O'DONOHUE (Eastern Victoria) (12:25): My question is again to the Minister for Agriculture, Minister for Resources and Minister for Regional Development. Minister, I refer you to your media release of 24 April, and I quote again from that media release:

> … a new allocation and the development of new timber plantation sites in Gippsland.

You stated:

> This allocation order, which reduces the overall area available for timber harvesting by 5000 hectares, will not affect VicForests' ability to meet contracts over the upcoming year.

I ask: can you advise what consultation was undertaken with relevant industry and interested stakeholders in relation to the reduction of the 5000 hectares, and will you rule out further reductions being made to the overall area available for timber harvesting in Victoria?

The PRESIDENT: Minister, you can pick one of those questions if you like.

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:25): Thank you, President, and thank you, Mr O'Donohue, for your further question in relation to the government's allocation order announcement last week, which I can say has certainly been welcomed by industry. It is providing short-term certainty for the—

Mr O'Donohue: Exactly, short term—12 months.

Ms SYMES: Which is what the timber industry needs to meet their contracts. You asked about available resources and whether there will be further reductions. If there is a fire, if there is a flood, if there are identified protected species, then under the timber release plan those coupes will not be harvested, obviously. An allocation order is a map of where TRP coupes can be identified. It is not a hard and fast rule for identifying exactly where you can go in. Things change, and of course they should. We have to respond to climate change, the environment and all these measures to ensure that we get the balance right to ensure that our contracts can be met by VicForests. This allocation order provides that, but of course there could be changes to the TRP and places that you can go and access native timber, because we are in a changing environment. I would think you would want changes to areas of logging if need be.

Mr O'DONOHUE (Eastern Victoria) (12:27): Thank you, Minister, for that answer and for your candour that the amount of allocation is subject to a range of variables, which could see it reduce significantly further into the future. My supplementary question is: how are businesses involved in the timber industry supposed to make long-term investment decisions when you cannot guarantee future supply?

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources) (12:27): Thank you for your supplementary question. It was an important announcement last week. An allocation order allows VicForests to release their timber release plan, which means that the existing contracts can be met.

SENTENCING REFORM

Ms MAXWELL (Northern Victoria) (12:28): My question is to Mr Jennings, representing the Premier. I refer the minister to the time-honoured common-law doctrine of precedent, as well as to page 24 of the Victorian state government branded Sentencing Advisory Council document titled *A Quick Guide to Sentencing*, which says that in choosing a sentence a court is required to consider as a factor, and I quote:

> the current sentencing practices for the offence type (the sentences that have been given for similar cases).

Can the minister confirm that in May 2019 that wording still provides an accurate description of Victorian government policy and law?

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (12:28): I thank Ms Maxwell for her question. For the members of the community who may not be aware, Ms Maxwell asked me a question about a specific case yesterday, and then through various iterations of that question and answer we established that it would be undesirable for a matter that is the subject of a current determination of the court, and which is subject to further consideration in relation to whether it is appealed, to form a precedent that may be used in other sentencing arrangements. I volunteered that in the circumstances I just described it would be undesirable and not appropriate for that current sentencing determination to be used as a precedent in those matters. That is the backstory to what has happened in the last 24 hours.

In relation to the specific wording of what you have read, I take it on face value that it is, but I have not reviewed the act. But I would assume that you are accurately reflecting on the guidelines that have been established in accordance with the act, so I am not going to disabuse you of that. I have not read them of recent times, but I take it at face value that they are consistent.

Ms MAXWELL (Northern Victoria) (12:30): Given that answer, could the minister please explain how that position is possibly consistent with his own comments about precedent here yesterday, in response to, as discussed, the questioning about the Ristevski case. I quote:

> … as a standard by which other cases would be assessed. I think that is extremely unlikely … This should not be used as a precedent. No case should be used as a precedent in relation to this matter.

Isn't it clear that for as long as the principle of precedent continues to apply in Victorian courts this must mean that the sentencing decision in the Ristevski case does in fact set a precedent for comparable future cases?

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs) (12:31): Ms Maxwell's supplementary question was clearly written before my substantive answer to her question today. Because of the way in which you asked your substantive question today, I fully anticipated your concern, which is in relation to my comments yesterday in relation to precedent. I go back to what I said in my substantive answer. If you read my substantive answer to your question today, you will see that I actually outline that, given the circumstances of this current determination being subject to a consideration of whether it be appealed, it is extremely unlikely that at any immediate time in the future it may be used as a precedent, and that is the context in which I am responding to you now. I do not really want this to be an area of great concern between us. I actually understand your point of view very, very clearly from your questions in the chamber and your public commentary. I do not want to actually be construed to be saying something other than what I have been saying.

MINISTERS STATEMENTS: GOTAFE

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:32): Recently I had the pleasure of visiting GOTAFE's Shepparton campus to speak firsthand with staff and students who are part of this growing institute. There is absolutely no doubt that GOTAFE is turning the institution around. This has happened through the sheer hard work of their dedicated staff, the CEO, the executive team and the board. On my visit one staff member even grabbed my hand to thank the Andrews government for the support it has given GOTAFE and TAFEs across the state. This particular teacher also said that when the time comes he can now retire in the knowledge that new, energised people are coming through the system—new teachers and new staff to continue the great work going on at GOTAFE as we speak.

There has also been a significant increase in enrolments since the introduction of free TAFE. We have also seen an amazing buzz in the corridors and in the quadrangles. There is optimism in the air within the staff, the students and the wider community. Local students are enrolling in that local TAFE to get the skills they need for a good local job. People are proud of their local TAFE institutes, and they support free TAFE. The only people who do not want to hear about the success of free TAFE and how we are rebuilding TAFE are those opposite. They are only interested in having something negative to say about TAFE. They are only interested in denying young people in Victoria the chance to study at TAFE, denying young people the chance to better their lives and their families.

WRITTEN RESPONSES

The PRESIDENT (12:34): As far as today's questions go, can I thank Minister Pulford for her—

Mr Davis: On a point of order, President, I was just troubled by the response by the Minister for Health on community health centres—

Members interjecting.

Mr Davis: No, I just want to make one point. The minister is responsible under the administrative orders for the Health Services Act 1988.

The PRESIDENT: Mr Davis, maybe you should listen to what I was about to say, and then you might not need to make this point of order, for the expediency of the house.

Mr Davis: Well, I just think it is important that community health centres are clearly in the purview of the minister, including in division 6 of that act, which she is responsible for.

The PRESIDENT: Thank you for your assistance. As far as today's questions go, I will ask Minister Mikakos if she could give written responses to both Ms Crozier's questions within the standing orders, which require one day, and I thank her for that. Can I thank Minister Pulford for her commitment to get answers from the Minister for Public Transport for both Mr Quilty's two questions and Mr Barton's two questions. Can I also thank Mr Jennings for his commitment to get Mr Meddick a written response, as per the standing orders, from the Minister for Energy, Environment and Climate Change. I want to thank Ms Symes for her commitment to Mr O'Donohue to get him a written response on his first substantive question.

Ms Crozier: On a point of order, President, thank you for clearly understanding in relation to the question I asked, but as Mr Davis raised in his point of order, Ms Mikakos, as she well knows, has clear responsibility for community health centres. I would ask, by leave, that if she would like to come back and answer the question, I would be very happy for her to provide those answers to the house today rather than waiting for three weeks.

The PRESIDENT: I am sorry, question time is finished. I have asked Minister Mikakos to supply written answers to Ms Crozier's questions within one business day, in accordance with the standing orders.

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) (12:36): There are 30 written responses to questions on notice: 145–6, 240, 247, 250–8, 262–7, 269, 278, 284, 292–5, 297–300.

Constituency questions

WESTERN METROPOLITAN REGION

Mr FINN (Western Metropolitan) (12:37): My constituency question is to the Minister for Roads. The dodgy decision of the even dodgier Andrews government to postpone the budget until after the federal election may have one redeeming feature. It gives the government the opportunity to withdraw any money allocated for the partial duplication of Sunbury Road and direct it to a project that will actually have some positive effect. The government's current plan will merely relocate current bottlenecks and as such is a monumental waste of money. Minister, will you cancel the current flawed plan for Sunbury Road and redirect the savings into a project to duplicate it in its entirety, including the construction of the Bulla bypass?

EASTERN VICTORIA REGION

Ms BATH (Eastern Victoria) (12:38): My constituency question is for the Minister for Public Transport. On 20 April, a Latrobe Valley constituent and her son caught a coach to Melbourne to attend a football game at Docklands Stadium. I would have liked to say 'train'; however, as has been the case for Gippsland commuters, they were forced to catch replacement coaches while Public Transport Victoria upgrades metropolitan lines. There were adequate coaches travelling to Melbourne. However, the return journey was shambolic and highly inadequate. The match finished at 10 o'clock, but my constituent arrived home after 2.00 a.m. While the Geelong, Ballarat and other lines were serviced at regular intervals, passengers on the Latrobe Valley line had to scramble to catch the too-few coaches that were available. Some were told to depart only to miss the coach because it had left when the time was not indicated. My constituent feels that again Gippsland has been forgotten. Why was the Gippsland line so poorly organised, with inadequate services, when it was known to be a busy commuter night?

NORTHERN METROPOLITAN REGION

Dr RATNAM (Northern Metropolitan) (12:39): My question is to the Minister for Tourism, Sport and Major Events in the other place. It was a great relief when Heritage Victoria refused an application to tear down the Yarra building in Federation Square last month. The Heritage Victoria decision has put an end to the disastrous plan secretly hatched between the government and Apple for an Apple megastore to dominate one of our most important public spaces. This was a win for the community and incredible campaigners like Citizens for Melbourne who fought this project from day one and who were joined by tens of thousands of Melburnians who did not want our public space to be privatised. Public spaces are just that—public. They are spaces for the community to use to celebrate or mourn, to protest or gather. Public spaces are not business interests or commodities to be bought and sold. I ask the minister: will the government now acknowledge the importance of Federation Square to the community and, like other important cultural spaces, back its future with public funds?

NORTHERN METROPOLITAN REGION

Mr ONDARCHIE (Northern Metropolitan) (12:40): My constituency question this afternoon is for the Minister for Energy, Environment and Climate Change. Following the toxic Campbellfield fire that occurred at a licensed facility in my electorate of Northern Metropolitan Region, my constituents are asking me if there is any chance of this happening again. Minister, we already know that the Environment Protection Authority Victoria was at the location of the Campbellfield fire less than

24 hours beforehand, yet the fire still happened. It is suggested around the northern metropolitan area that other businesses have got toxic waste chemicals. The question I ask of the minister is: to your knowledge, is chemical waste able to be removed by the EPA or any other agency if a licensee is not complying with the suspension targets?

SOUTH EASTERN METROPOLITAN REGION

Mr LIMBRICK (South Eastern Metropolitan) (12:41): My question is to the minister representing the Minister for Solar Homes. Previously in this chamber I highlighted some concerns with the solar rebate scheme, including the looming toxic e-waste crisis with the upcoming ban on e-waste entering landfills. An article appearing on the ABC last week highlighted another significant problem with the solar rebate scheme that has affected companies operating in South Eastern Metropolitan Region. Among other problems, the article highlighted that a company in my electorate has already had to lay off half of their staff, with more set to lose their jobs. Another three businesses in Melbourne have apparently had to close their doors. Businesses that rely on government subsidies to operate are always vulnerable to changes in policy. My question for the minister is: why did the government not inform these businesses about the impending freeze on solar subsidies?

WESTERN METROPOLITAN REGION

Dr CUMMING (Western Metropolitan) (12:41): My constituency question is for Ms Symes, the Minister for Road Safety and the TAC. Will the minister ensure that a safe and accessible pedestrian crossing system is installed for people using public transport and the community hub at Hampstead Road and Emu Road in Maidstone? I was contacted this week by a constituent about this intersection. They have witnessed countless near misses of children and elderly people trying to cross this complex meeting of roads to access their homes and local businesses and services. The constituent, along with many others, has contacted local authorities and has not received a response that resolves this issue. As it currently stands, the intersection does not allow safe movement of pedestrians. Will the minister ensure that a safer, more accessible means of crossing these roads is installed?

WESTERN VICTORIA REGION

Mr MEDDICK (Western Victoria) (12:42): My constituency question comes from Uncle Rob Lowe in Warrnambool and is for the Premier of Victoria. Today is the last day of the Warrnambool May Racing Carnival. As crowds gather at the racecourse, something in need of urgent attention is happening just down the road. Members of Parliament have put on the record that they would also be at the carnival if it were not for the sitting week change. Nobody has been to visit the Aboriginal community down at Levy's Beach, who have been camping on site for months now in protest at racehorses being trained on their sacred site. Levy's Beach is a burial ground for our First Nations people. There are countless bodies dreaming there, including those of young babies. These elders invited the Premier to meet on country, talk about their concerns and tell him the site's history. They made this invitation via a message stick, which I personally delivered. Will the Premier take up their request to meet on country?

NORTHERN VICTORIA REGION

Ms MAXWELL (Northern Victoria) (12:43): My constituency question is to the Minister for Local Government and is about what seems to be an unusual set of planning act and planning scheme requirements applying to some northern Victorian councils. In short, planning schemes in my electorate often state that exemptions for buildings and works carried out by landowners, including councils, do not extend to the removal of vegetation. It appears that councils must therefore apply for a planning permit in each case of proposed removal of vegetation where their local planning schemes stipulate that one is required. I ask the minister whether the government will take action to exempt councils from what appears to be a very strange requirement to ask, in effect, for a permit from themselves each time they seek to remove, destroy or lop vegetation?

Bills

MAJOR TRANSPORT PROJECTS FACILITATION AMENDMENT BILL 2019

Second reading

Debate resumed.

Ms TERPSTRA (Eastern Metropolitan) (12:44): I rise to make a contribution in regard to the Major Transport Projects Facilitation Amendment Bill 2019. There have been a number of well-made contributions in the chamber today that articulated very well the Andrews Labor government's commitment to modernising Melbourne through a number of large infrastructure projects. One project in particular that has been commented on today was the North East Link.

The bill that is being proposed, as an overall objective, will do a number of things. The scope is quite narrow in the sense that it provides early opportunities to identify any issues that might arise by the placement of utilities that may not have been foreseen. That could be seen as a positive thing simply because it will avoid unnecessary delays; so that can only be seen as a positive thing. It allows utility companies to enter into early discussions with major infrastructure builders such as the North East Link road-building authority. Whoever the successful bidders are, utilities will be able to have those early discussions.

One of the objectives I have just indicated is that it is designed in part to enable interfaces between declared major transport projects. Importantly the government will need to identify a major transport project by declaring any project as a major transport project. So it does not apply by and large to just any project; it has to be a project that is declared as a major infrastructure project. As I said, once that process has been undertaken, it will then allow utility infrastructure to be identified and any issues to be resolved in the planning phase for those projects. That enhances the ability to identify any potentially unidentified utility infrastructure as a result of early planning. Potentially some of those large infrastructure projects may even be completed on time and under budget, which would be a fantastic result for the state of Victoria.

The other objective of the bill is to allow for best practice. It will ensure that interfaces are considered where there is the greatest scope to come up with an option that best serves the interests of the project and the utilities considered. By contrast, if interfaces are only considered during the construction phase then there may be limited scope to avoid unnecessary costs and unnecessary delays and disruptions to services.

I might just take the opportunity to talk about an example where these sorts of situations can arise and cause unnecessary delays, in particular the situation we see in Sydney with the building of the light rail project. There has been a long, ongoing problem there with the lack of identification over electricity supply, and an intractable dispute has in fact developed as a consequence of that. A project that perhaps could have been completed a long time ago is in fact still under dispute and has ground to a halt. This very bill is actually designed to give early consideration to those things to avoid those complications; it is a significant matter.

We need to take into account the way that our cities and suburbs may have been designed in the past. Of course some placement of early utilities may have arisen from the way suburbs were previously constructed, and perhaps those things may not be identified anymore. Parts of Melbourne, for example, might have been developed way back in the 1840s. Perhaps what occurred back then was that town councils were responsible for some of those utilities, which may then have been passed on to local gas or electricity generation companies that perhaps no longer exist. That is perhaps, through no fault of anyone really, just the haphazard way that things developed, but now there may be unforeseen problems with the early identification of any potential utilities.

The bill also allows for more efficient arrangements to be put in place to identify these utilities. Currently the act requires that the project authority must give notice to every utility company. We

believe this is an unnecessary burden as many utilities may only have infrastructure in limited geographical areas. A more efficient approach would be for all parties to require the project authority to take all reasonable steps to identify all utility infrastructure that may be affected by the project, and then the project authority can engage with those utilities that it believes may be affected by a declared project. So again this goes to comments that I made earlier. This is about the early identification of any utilities—setting in train a process whereby they can be identified—and then putting planning in place to remove or relocate those facilities. For example, existing time frames could be used more efficiently, and, again, that is a feature of this bill that will facilitate this to occur.

Currently the project authority or the utility may only give written notice of the intention to commence negotiations 30 business days after the project authority first provides notice of the potential effects of the project on utility infrastructure—so that is 30 business days after the project authority first provides that notice. If the utility fails to respond to a notice issued by the project authority within that 30-business-day time frame, then the utility infrastructure is deemed to be unnotified infrastructure. That provides another layer of complexity there and again a delay to the time frames. One of the objects of this bill is to speed up or provide a more streamlined process with notifications. Under the proposed amendments the 50-business-day negotiation period can be triggered as soon as the utility responds to the notice provided and supplies information requested by the project authority. This is a much more sensible approach.

The proposed amendments would also give the project authority discretion to provide more time for utilities to comply with or provide information on the utility infrastructure. As I mentioned, some town planning arrangements may have been historic. The ownership of those utility infrastructure placements may have been passed from authority to authority, and it may take some length of time to contact relevant organisations or access additional plans, depending on where they may be held, to find out appropriate and relevant information that allows for the proper identification of these utility infrastructures. The owner of these utility assets can contact the relevant authority and indicate that they do need more time. That is a sensible approach.

There are also some transitional provisions included in the bill. These provisions also recognise that project authorities for declared projects may have already taken steps to identify utility companies and to notify them that they need to supply information on the location of their infrastructure. Again it just provides for a further streamlining and the ability to identify these assets. The utility companies themselves or the organisations that own these assets may have already complied with the request for information and have commenced discussions with the project authority about what should be done to protect, remove or relocate utility infrastructure. Again the bill allows for the early facilitation of discussions and identification of these infrastructure assets.

The transitional provisions will formally recognise that when the required exchange of information has already occurred it does not need to be repeated to satisfy the requirements of the act—again, another commonsense approach to this matter. If the parties have already entered into early discussions and early identification of assets, that entire process does not need to be started again. That is again a mechanism aimed at facilitation of major infrastructure projects.

There are also other provisions which are eminently sensible and that relate to earlier dispute resolution if agreement cannot be reached. Dispute resolution mechanisms are always worthwhile. They allow parties to enter into a process whereby early discussion can potentially head off or truncate any protracted disputation, and that is always to be welcomed. For example, the current act provides for a 50-day negotiation period. This is when agreement cannot be reached between parties. If parties cannot reach agreement within the 50-business-day period, then either party may inform the other that a dispute in fact exists. It is proposed to enable either party to trigger dispute resolution within this period by notifying the other party that the dispute does in fact exist. As I said, that will aid and assist in avoiding unnecessary delays in circumstances where all reasonable endeavours to negotiate resolutions or solutions that might be acceptable to both parties have been undertaken but agreement

cannot be reached. It is a useful process that allows and encourages people to facilitate early discussions. It allows and encourages parties to explore alternatives and options around identification and perhaps relocation of infrastructure assets. That is to be welcomed. Again there is a process and a time frame around that where perhaps the parties are at a stalemate and both parties have undertaken reasonable arrangements but the agreement can still not be reached. That is a welcome process.

I know there has been much discussion around potentially what this might mean to communities and how communities might be impacted by this, but as I have indicated, the scope of the bill is indeed very narrow. The narrowness is confined to simply identification of infrastructure assets. As I have commented on earlier, the North East Link is the biggest road project in this state's history. It is a significant project. It will allow for the completion of the ring-road between the Eastern Freeway and the M80 ring-road, and it will allow for the connecting of the growing northern and south-eastern suburbs. It is a major infrastructure upgrade, and because it is a large project no doubt there will be a number of utility infrastructure placements that will be within the project footprint. That is something that will need to be identified. This bill allows for the early facilitation of appropriate discussions between the relevant authorities to allow that to occur.

Just as an example to date, the North East Link Project has entered into or is negotiating agreements with 17 utilities. That is a rather large number of utility companies to have to deal with. You can imagine, just by looking at that alone, that the project is indeed a large project. A large amount of utility infrastructure has been identified there. That is a large task just in and of itself, to try to allow for the relocation or removal of that infrastructure. It includes partnerships and resourcing agreements to enable the parties to resource the up-front planning required for utility identification and management. Identification is important, but there needs to then be a planning process. Whether the parties come together and look at how these utilities might be planned in terms of the removal and what the time frames might involve, whether there are other contracting arrangements that need to be undertaken to facilitate planning and whether other arrangements need to be undertaken, it is quite a large task. Early planning and identification will no doubt save time and hopefully facilitate the early completion of the project. That is just one aspect.

The bill will help the project authority and utility companies to get resolution of these types of agreements sooner. This will ensure that the agreements with utility companies can be locked in before tenders are finalised. As I commented earlier regarding the example of the light rail project in Sydney, this will be critical, because tenders to a project road builder, such as for North East Link, actually assist the tenderers in understanding what they may have to contemplate when they are in fact bidding for a project such as North East Link. That is going to assist everyone. It will assist communities, it will assist the road builders and successful tenderers, and it will obviously assist the government as well.

Bidders can therefore factor these proposals into their assessment of the project—into the costs and risks associated with utility infrastructure removal, relocation and protection. It is a very important aspect of this legislation. It allows for the full and transparent identification of potential risks that may have been unforeseen had it not been for this process. It is a very useful and helpful process. As I indicated, this will reduce the risk premium that bidders would otherwise price into their proposals, resulting in cost savings to the state and also to the successful bidders. *(Time expired)*

Sitting suspended 1.00 p.m. until 2.03 p.m.

Mr BARTON (Eastern Metropolitan) (14:03): I rise in support of the Major Transport Projects Facilitation Amendment Bill 2019, which is essentially about making sure that Victoria continues its role as the leader in infrastructure delivery. The proposed bill addresses the issues that often arise between utilities and project proponents in the identification of utilities that are affected by declared major project development.

Utilities such as power, gas and water are the framework of the growth of our cities, suburbs and towns. The bill identifies these and other services under the authority of the Victorian legislation. The

bill enables a streamlining of negotiations, which are often drawn out and sometimes result in the Victorian taxpayer paying a premium to utility owners, some of which are owned by or managed by overseas entities.

The bill is about sensible project planning. It recognises and responds to the needs of early identification and intervention. It recognises the need to provide utility owners, their customers and those delivering the declared infrastructure with certainty and resilient planning. The bill enables a more articulate approach to resolving disputes early, and in doing so it opens the way for more resilient project planning and execution.

Victoria has done more public-private partnerships to deliver major infrastructure projects than the other states. We have seen landmark projects that have fostered innovation and created many benefits from competitive bidding, world-class design and smart project planning. Smart project planning that is not rushed and smart project planning that is carefully considered are the critical success factors in major transport projects.

Just as we must ensure that there is additional provision for public transport to offset the impacts of construction disruptions, we also need to make sure there is certainty and early planning in the way utilities are managed, altered and/or relocated in a major project. The bill reduces the potential for negotiations to be drawn out. It provides mechanisms for disputes to be resolved without the unnecessary delays that ultimately create costs for utility customers and the Victorian public.

As a proponent of most major transport infrastructure projects, the government on behalf of Victorians can enable better outcomes for major projects. As an example, this bill could help ensure the early delivery of the dedicated busway as part of the North East Link Project. That is smart planning, and it would be disastrous if such an important element of the project that would help to reduce congestion during construction and promote alternative transport was held up because of issues and delays in managing utilities.

Given the need to ensure Victoria leads with smart project planning, the bill is about changing those project processes that were introduced a decade ago and are now well behind the best practice approaches used in major infrastructure delivery. It is about swapping the lawyers picnics—drawn out delays and unnecessary costs—for sensible, fair and efficient processes. Most of all it is about helping to ensure our major declared projects benefit from smart planning.

Ms STITT (Western Metropolitan) (14:07): I rise today to make a very brief contribution on the Major Transport Projects Facilitation Amendment Bill 2019 at rather short notice, so bear with me. Obviously this is an important bill. The Andrews Labor government has an extensive and important infrastructure plan in place that we will be rolling out. Significantly, the North East Link is the biggest road project in the state's history and something that will complete the ring-road between the Eastern Freeway and the M80 ring-road, connecting the growing north and the south-eastern suburbs. So this is a significant piece of legislation that will actually result in traffic management in Melbourne being much more manageable and connecting growing communities across our metropolitan area and beyond. Of course with these major road projects that the government is committed to delivering it is incredibly important that the planning for these projects is as efficient as it can possibly be. This is the major reason for this bill coming before the Council today.

Essentially what this bill seeks to do is to deliver proper planning for the delivery of power and utilities at the early stages of project planning, and this is obviously something that makes an incredible amount of sense when we are spending large amounts of money and resources in delivering these major infrastructure projects. It is incredibly important that the planning process is properly approached and that we are ensuring that that includes proper planning with utilities services so that these projects can move forward without delay and continue to deliver the kind of road network that modern Melbourne needs.

Obviously the government is committed to ensuring that the projects that we have announced and that we have funded are projects that have proper planning in place and deliver in terms of utilities that are brought into the regime earlier. Some steps can be moved through more quickly, and it makes sense to do that. The bill does not change the rights of utilities, just the timing of the utility notification process. In doing so, it ensures that consumers are not disadvantaged under the current system.

In closing, I would just like to reiterate that there is a very simple aim of this piece of legislation. This bill simply seeks to in a very logical and uncomplicated way ensure that our road projects are delivered and planned for, taking into account the significant planning that has to occur before projects are rolled out in relation to utility companies in particular. I commend the bill to the house.

Ms PULFORD (Western Victoria—Minister for Roads, Minister for Road Safety and the TAC, Minister for Fishing and Boating) (14:11): I would like to thank members for their contributions to the debate. It is an important and very specific piece of legislation that will support the government's delivery of major projects, an area in which we have a significant agenda and a significant and busy program of works ahead. I thank members for their support for the intent of what we are seeking to do here this afternoon.

I would take the opportunity to respond to a couple of points made by Mr Davis. I know these are matters that he has indicated he might wish to canvass in the committee stage, but I take the opportunity to respond now because questions that Mr Davis did pose during his contribution are outside the scope of this bill. This bill does have a very narrow scope. It only makes changes to part 7 of the existing Major Transport Projects Facilitation Act 2009. Mr Davis was asking about the declaration of projects. I would indicate that the declaration of projects is provided for under part 2 of the act. The bill makes no changes to that part of the act, only part 7, and so the questions that he has asked are somewhat outside the scope of the bill.

But let me take the opportunity to respond now. I think we will be kinder to the standing orders if I do it now. You can decide whether this satisfies your questions and we can proceed accordingly, Mr Davis. Mr Davis asserts that the government has taken to using the act in a way that is contrary to its original intent, declaring projects for the purpose of providing project authorities with access to delivery powers.

Mr Davis: Routinely is what I'm saying.

Ms PULFORD: Routinely, yes. The fact is that it has always been possible under this act either to declare a project to use the one-stop shop pathway and the delivery powers or to declare a project so that it may use delivery powers only. The only changes made to the declaration provisions in part 2 of the act were made by the previous coalition government in 2013. The provisions in this respect have otherwise remained unchanged. The previous coalition government declared the following projects for use of delivery powers only: the Western Highway project, the Melbourne metropolitan tunnel rail project and the Western Highway duplication project. Mr Davis's concerns that the declaration of projects for delivery powers only is against the spirit of the act is a little contrary to the practices of the government that he was a senior member of.

What Mr Davis, I think, was implying in his contribution was that if the project does not use the one-stop assessment and approval pathways under the act then there is no assessment, no consultation and no engagement with the community. This is not the case, and I think it reflects perhaps a misunderstanding of the one-stop shop pathways that are provided under the act. These pathways are an alternative means for securing the planning and environmental approvals a project may require, depending on its nature, location and potential impacts. If the one-stop shop process is not used, the project authority still needs to obtain relevant planning and environmental approvals in accordance with the prescribed process, so there are no shortcuts as such. When a project authority seeks and obtains planning and environmental approvals under other existing state and commonwealth laws, the authority must comply with the requirements to provide information, notify and consult. The North

East Link Project is currently going through this process right now. An environment effects statement, as I am sure members who have been participating in this debate are well aware, has been released and is open for public comment and submission. The EES is on display, has been since 10 April and will be until 30 May.

I gather Mr Davis might not completely agree with our interpretation of the legislation, but I thought I would take the opportunity to make those comments on part 2 of the act before we get into the committee stage and we are dealing with matters in part 7. But again I take the opportunity to thank members for their contribution to the debate on this piece of legislation and look forward to assisting members with any questions or other matters they want to raise in the committee stage, if we are to have one.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (14:17)

Mr DAVIS: If I can just begin very briefly, the opposition obviously does not oppose this bill. We think there is some merit in it; there are some matters for caution as well. But we do have a number of questions. The first thing is that, Minister, you read out a list of projects where declarations have been made. Would you make available to the chamber a list of all occasions where declarations have been made and which parts of the act have been declared, and the reasons why parts of the act in those cases were not declared?

Ms Pulford: Over what period of time?

Mr DAVIS: Well, since the act began—2009.

The DEPUTY PRESIDENT: Minister.

Ms PULFORD: Thank you, Deputy President, and belated congratulations on your role. It is the first time I have been in committee since you have been the chair of committees in this Parliament.

Yes, we are happy to provide that information. I will take that question on notice. That might take a little bit to compile. It is all information that is already publicly available but—

Mr Davis interjected.

Ms PULFORD: Yes, we will put it in one place so it is nice and straightforward for people to access.

Mr DAVIS: Could the minister indicate how the decision is made to declare an act, in the first instance, by the Premier—

Ms Pulford: Declare a project.

Mr DAVIS: Sorry, a project, I should say. And, secondly, how the decision is made to declare part or all of the act; and why.

Ms PULFORD: That question is beyond the scope of this bill. I think there are multiple other opportunities through the Parliament for Mr Davis to seek this information, but that does not go to the purpose of this bill or the function of it.

Mr DAVIS: With respect, it does in the sense that we are talking about amending clauses in this bill. The government makes a decision to declare the bill with respect to a certain project, and it often makes a decision to declare part or all of the sections. I want to understand why one section is declared

and not another section. It is entirely legitimate to consider amendments to a bill in the context of the whole bill.

Ms PULFORD: The purposes clause is really quite specific:

> The purpose of this act is to amend the **Major Transport Projects Facilitation Act 2009**—
>
> (a) to facilitate the earlier engagement of utilities by project authorities in relation to utility infrastructure affected by declared projects; and
>
> (b) to facilitate the earlier negotiation of utility agreements between project authorities and utilities.

So I am really very happy to answer any question you like about this piece of legislation before the house, but I think you are asking for the committee stage to be broadened quite dramatically.

Mr DAVIS: I would say: precisely, Minister. The purpose of it is:

> to facilitate … earlier engagement of utilities by project authorities in relation to utility infrastructure … by declared projects …
>
> to facilitate the earlier negotiation of utility agreements between project authorities and utilities.

My point is that the declaration itself is an important part of this, and which sections of the act are declared and which are not and how that decision is arrived at are entirely appropriate questions in consideration of these new changes and the objects of the act. The bureaucrats might say no, but it is not really their choice.

Ms PULFORD: Well, it is not a choice thing; it is a standing orders thing. We are currently considering this piece of legislation and you are asking a question that is quite unrelated to it. I am trying to be helpful; I am not trying to be difficult here. The substantive act deals with these matters, but those are not matters before the house today.

Mr DAVIS: I just record that it is frankly ridiculous to imagine that a bill that amends an act of this nature, amends the Major Transport Projects Facilitation Act 2009, does not raise a whole set of questions about when declarations are made and why. Your own purposes clause states 'to facilitate … earlier engagement'. I am going to scratch my head here. If you want to obstruct and not answer, you are entitled to do it. That will occur, and I will record that I am unhappy with that.

Ms PULFORD: I am not seeking to obstruct; I am not. I have indicated I am happy for our officials to collate for you a list of all of the projects that have been declared, because I think that is important context. This bill indeed names one project in particular in the transition provisions because of the particular point in that project's delivery that we are at this point in time. But I guess the Deputy President might have a view about how wide-ranging we want to go into the substantive piece of legislation that we are making reasonably modest amendments to today.

Mr DAVIS: I have made my point, and the minister can obstruct. It is a matter for her. The next point I want to make is about that project specifically, the North East Link. There are savings provisions in this to recognise that arrangements have been worked through.

As a broader point about the delivery of the North East Link Project, has the minister met with each of the councils in that project to discuss matters in this bill and to discuss related matters about the project?

Ms PULFORD: Let me just check with the responsible minister's advisers on that.

I am advised that the answer to your question is yes.

Mr DAVIS: What was the outcome of those discussions? Would the minister share with the house the outcome of those discussions?

Ms PULFORD: Being somebody who was not in those discussions, there are limits to how much I am able to inform you on that. That is perhaps a question I might take on notice for Minister Allan,

who may require a moment to reflect on the extent to which those discussions are able to be freely described on the public record and the extent to which those discussions were perhaps more of a private nature. If that would be to Mr Davis's satisfaction, I could take that on notice and Minister Allan would be able to respond to the extent that she is able to around any outcomes.

Mr DAVIS: Deputy President, with your indulgence, I might pick a couple of case studies that might inform our understanding of how this bill will be implemented. The first one I want to pick is the Toorak Road level crossing removal. It has been announced in recent weeks. It is a rail over road outcome that the community is quite unhappy with. I make that point so that people understand the context. I would ask what discussions the minister has had with the various utilities with respect to that. When did those discussions start, in particular?

Ms PULFORD: In the normal course of events it would be the project team, so in this case it would be the Level Crossing Removal Authority that would be engaging with utilities companies. Again, two of your questions are asking for things like what was discussed at this meeting that I was not at and what meetings or discussions someone other than me has had, so again I offer to take that on notice.

Mr DAVIS: You might want to frame it in this way, if this is helpful. When did the Level Crossing Removal Project or its predecessor, the Level Crossing Removal Authority, begin discussions with the various utilities with respect to that project, and can we have a list, please, of the authorities or the utilities with which they have had discussions?

Ms PULFORD: Again, the details around dates and times of meetings and discussions between the project team and authorities is not information that I have at hand. It is certainly relevant to the intent of the bill, but it does not directly pertain to the legislation before us today, so again I would take the opportunity to take that question on notice for Mr Davis.

Mr DAVIS: In a similar way to the metro rail project, there are a large number of utilities that are impacted through the central city and through other parts of the route of that significant and indeed important project. I wonder if the minister would provide a list of the utilities with which the Metro authority has had contact on these matters.

Ms PULFORD: I indicate to Mr Davis that all utilities companies that are impacted by the delivery of that project are routinely engaged with by the project team, as is the normal course of their work. Again, reflecting on the legislation that is before us today, this is simply about enabling those discussions that already occur to occur earlier and more formally, to provide greater financial certainty for all involved, which will provide—

Mr Davis interjected.

Ms PULFORD: Right. Well, there are probably other ways to do that, Mr Davis.

Mr Davis: Well, it is a legitimate point now, and I want to understand it.

Ms PULFORD: Yes, and you have made your point. Your feelings about the effectiveness of the act are something that you probably talked about a bit during the second-reading debate.

Mr Davis: Sure, but—

Ms PULFORD: But—

The DEPUTY PRESIDENT: Through the Chair.

Ms PULFORD: Yes. We are appropriately chastened, Deputy President. I can certainly assure Mr Davis that all utilities companies impacted by the government's major transport projects program and delivery are routinely engaged with.

Mr DAVIS: So, Minister, I take it that that means you will provide the list of ones contacted with respect to the metro project? Not necessarily now, but—

Ms PULFORD: I guess my point is this is so routinely done that you are quite possibly asking for every phone call from every person and every email, every note. This is a very broad scope. We have a very, very big range of projects agenda, and if we are going to spend the afternoon having you list them all—there are heaps of them—then I would again make the point that that is beyond the scope of the bill.

Mr DAVIS: A list of utilities that have been contacted formally does not seem beyond the capacity of the minister to provide. That is a very reasonable request—a major project that fits within the scope of some of the government's agenda. The truth of the matter is the government is seeking to look at ways of facilitating engagement with utility firms, and that is fair enough—we agree with that objective—but the government must have a list. The government at one point in this bill says the project authority 'must identify all utility infrastructure and utilities'. Well, I think they already do that—that is correct—but as a consequence they can provide a list.

Ms PULFORD: Again, there are a multitude of mechanisms available to a member of Parliament and others available to every member of the community that are, I think, more appropriate ways to seek the information that Mr Davis is seeking in this request about the nature of a project team's contact with a particular utility company. It is beyond the scope of this bill.

Mr DAVIS: I can only again record the minister obfuscating and not wishing to provide what are very simple details. The authorities must have contacted those utilities. I am sure they have in many cases. I have spoken to some of those utilities about these very matters. It is not news that they have been contacted, but there are many smaller utilities or smaller providers of services that I am interested to see if the government has formally contacted.

The DEPUTY PRESIDENT: Minister? Mr Davis?

Mr DAVIS: I think I have made my point.

Clause agreed to; clauses 2 to 12 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) (14:38): 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) (14:38): 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.

OPEN COURTS AND OTHER ACTS AMENDMENT BILL 2019

Second reading

Debate resumed on motion of Ms PULFORD:

That the bill be now read a second time.

Mr O'DONOHUE (Eastern Victoria) (14:39): I am pleased to speak on behalf of the opposition in relation to the Open Courts and Other Acts Amendment Bill 2019 and indicate to the chamber that the opposition will not be opposing this bill that comes before us today. The opposition is pleased that indeed it is before us today, because it has now been on the notice paper for some time. These reforms flow from the Vincent report completed by the Honourable Frank Vincent, AO, QC, in September 2017. So we have been waiting for some time for the Vincent report recommendations to be implemented, and I note at the outset that this legislation does not implement all of those, despite the government committing to all but one of the Vincent report recommendations.

Let me say too by way of introduction that the community is lucky to have people like Frank Vincent, so learned and capable, who for governments can navigate the complex public policy questions and legal questions around issues such as suppression orders and transparency in our courts and come to recommendations that try to find that balance that meets community expectations for transparency whilst also giving the courts some limited capacity in some rare circumstances to have a closed court. So I congratulate Mr Vincent for his report. Earlier today I noted the Betrayal of Trust inquiry, and of course Mr Vincent was integral in providing legal advice to that inquiry, a legal minefield as it was. Notwithstanding the extra privileges that Parliament has compared to other normal discourse, with parliamentary privilege and the like, Mr Vincent's advice to the inquiry committee I understand was invaluable and much, much appreciated.

It would be remiss of me also not to note that this bill, while drafted before the George Pell trial and sentencing, is being considered by this place after the George Pell trial and sentencing. The George Pell trial, the verdict and the sentence have generated enormous debate in the community. I make no observation about the decision or the sentence, but I will raise two issues that are relevant to this legislation that flow from that trial. The first is the challenge, in a modern technological environment, of making suppression orders and closing a court or keeping a decision of a court suppressed in an age when Victorian courts do not have the capacity to regulate the internet in other jurisdictions and do not have the ability to stop communication and discussion, particularly online, in overseas jurisdictions about the verdict of a Victorian court. This has made for a fundamentally very different environment now compared to what it was prior to the advent and proliferation of social media and the fact that so many people—I would say the vast majority of people—now get their information and news from some form of social media or news sites that may be domiciled outside Victoria or indeed outside Australia.

The second point I would make is just to reflect on the Chief Judge, Peter Kidd, and his decision to live stream his sentence. Again there are a variety of views about that sentence, and I make no observation about that, but anyone who listened to him step through the considerations he undertook in arriving at the sentence would, whether they agree with him or not, have to have a deeper appreciation of the variety of factors that must be considered before a determination is made. I note that the Supreme Court is, with greater frequency, live streaming sentencing determinations, and I know that the heads of all jurisdictions are looking at those options where they have them available. I think that can only be a good thing in increasing the community's understanding of the court processes and the court system. Similarly I think we have seen different heads of jurisdiction appearing on the Neil Mitchell or Jon Faine shows and on other media where they can explore issues perhaps in more detail than you can in a 1-minute or 1-minute-30-second news story or the like. Again I think that is an important part of the community understanding how our justice system works and some of the factors involved and the considerations involved. That to me is a positive thing.

As I said, the government has as I understand it accepted 17 of the 18 Vincent report recommendations. This legislation implements in full or in part seven of those 18 recommendations. I think 14 of them require legislative change, so this bill implements in effect half of the recommendations that require legislative change. I would ask respectfully for the Attorney-General to bring forward subsequent legislation to the other place, and in time to this place, so that the recommendations of Frank Vincent can be implemented.

In recent times—and this is not just an issue that has been a question for the Attorney-General, Jill Hennessy, but for previous attorneys-general back to, I would suggest, Rob Hulls—Victoria has had an unenviable reputation, as some would refer to it, as the suppression state. We have had more suppression orders than other jurisdictions. I think, if my recollection is correct, that the rate of suppression orders being granted in Victoria has increased disproportionately compared to other jurisdictions, whereby in 2017 it was reported that Victoria represented 52 per cent of the national total of suppression orders made. Whilst the percentage of cases that have a suppression order in them is a small percentage, the fact that we have as a jurisdiction more than half the suppression orders—at least in 2017—of all those granted across Australia is surprising, and I think not a good thing for openness and transparency.

The bill, as I mentioned, implements seven recommendations, in full or in part, of the Vincent report—that is, numbers 1, 2, 3, 6, 9, 13 and 15. The purpose of the bill is described as being:

> A Bill for an Act to amend the **Open Courts Act 2013** in relation to the prohibition and restriction of the publication of information in court and tribunal proceedings, to make related amendments to the **Children, Youth and Families Act 2005** and the **Judicial Proceedings Reports Act 1958** …

We had the Vincent report, we have 52 per cent of suppression orders from around Australia issued in Victoria and we have this legislation before us partly because the Open Courts Act 2013 has not, I do not think, been implemented in the way that the previous government had hoped. The Open Courts Act was introduced, as its name would indicate, to increase the transparency in our court system. I think in part it helped achieve that, and I congratulate the then Attorney-General, Robert Clark, for his work in doing that.

Mr Finn interjected.

Mr O'DONOHUE: An excellent man, Mr Finn—remarkable. What has become clear is that the Open Courts Act, despite its intentions, has not necessarily been applied in the way perhaps that the Parliament or the then government anticipated it would. So these amendments aim to emphasise the presumption and importance of the principle of open justice and the free disclosure of information and transparent court proceedings when assessing whether to grant suppression orders. The amendments will require courts and tribunals to provide a statement of reasons for suppression orders. I think that is an excellent idea. The court will be required to make that statement, and again—in a similar vein to the live streaming of a sentence—if a suppression order is granted, at least the reasons for that suppression order will now be required to be given. You may not necessarily agree with it, but at least there are transparent reasons as to why.

The bill will enable courts to be able to make orders to not utilise suppression orders in cases where there are victims of sexual offences and family violence post-conviction who do not necessarily wish to be the subject of a suppression order, and again I think that is a good thing. That particular element was the subject of some media coverage back in January when these reforms were again floated by the government. We have some situations where victims are happy for there to be no suppression order, but the perpetrator is able to secure a suppression order despite the wishes of the victim or those associated with the victim.

The bill amends the Children, Youth and Families Act 2005 to restrict publication of proceedings by substituting existing particulars with a new list of restrictions on the publication of proceedings, and

makes amendments to the Judicial Proceedings Reports Act 1958 to create a defence to the prohibition against the publication of a matter identifying a person against whom a sexual offence was committed.

This bill is virtually the same as that which was introduced to the Parliament last August, except for the obvious change to the commencement dates, et cetera. As I say, and as was our position at that time, we do not oppose this legislation, but we must see this as the first step. The remaining Vincent reforms need to be brought before the house. Of course it is important that we keep a close eye on the implementation of these reforms, given the history of the Open Courts Act. As I have described previously, the Parliament I think had an expectation that the 2013 legislation would deliver greater reform than it ultimately did.

Of course the Lawyer X royal commission is also afoot as we speak, and of course, again—without considering any of the material that is before that royal commission or making any judgement on that—the use of the suppression orders in relation to that matter has also been a matter of significant public interest.

The Liberal-Nationals support the concept of open courts. We support the concept of transparency in our court system and the community understanding how our court system operates, because that is critical to the administration of justice—the community's understanding of and confidence in the justice system. Understanding how that operates is key to that confidence. Some of the reforms that are taking place at the moment I hope will increase that confidence the courts have initiated themselves. We look forward to further reforms in this space to implement other recommendations of the Honourable Frank Vincent, AO, QC, from his report of September 2017.

Ms GARRETT (Eastern Victoria) (14:55): I am privileged to rise and make a contribution on the Open Courts and Other Acts Amendment Bill 2019. I pay tribute to the work of the previous Attorney-General, Mr Pakula, and the current Attorney-General, Ms Hennessy, on introducing a fine piece of legislation which will make a significant difference in how justice is not only delivered but seen to be delivered in the state of Victoria.

We are aware, all of us in this house, that our justice system is a fundamental tenet of how we live our lives in a free democracy. It is also a living organism, if you like. It perpetually needs to undergo scrutiny, discussion and change. It needs to be modernised and it also needs to understand the considerations of the community as to how justice is being delivered. While the independence of our judiciary is paramount and the independence of our system is paramount, the system is not operating within an ivory tower. Its members have to be in constant contact with and have an understanding of what community expectation is when they collaborate on these matters in an independent fashion.

This bill is a really important step in the process of ensuring that we have a fairer and more transparent court system. It speaks to accountability, to greater justice and to giving a stronger voice to those victims who should be able to speak out and who are currently constrained by our legal system.

This bill begins the process of addressing the recommendations that came out of the final report of the Open Courts Act review—a review that was made public just over a year ago. I will be going in great detail to the key elements of this bill, particularly around suppression orders and the rights of victims. I would also like, as the previous speaker, Mr O'Donohue, did, to pay tribute to the Honourable Frank Vincent. Those of us who have any relationship with either the justice system or public policy in this state will know the lion and the giant that is Mr Frank Vincent and his contribution across decades to the justice system. I certainly remember him when I was a young lawyer. Obviously he was in the courts and ultimately in the Court of Appeal. He also undertook a significant role on the parole board—a job that we really want people of Mr Vincent's calibre to take on, to make sure that the right decisions are being made when people are presenting themselves for parole. That was just one small sliver really of the contribution he has made. There could be no better person and no better jurist to have been involved in overseeing and making recommendations about this particular legislation. I congratulate him on his outstanding work.

The bill is the first step to ensuring that the current laws strike the right balance between people's safety and privacy, fair court proceedings and the public's right to know. As the previous speaker went through in detail, the different ways in which the public are now being informed about the reasoning behind judicial decisions is a welcome development. As I stated before, not only must justice be done but justice must be seen to be done so that people have confidence in the system. Opening up our justice system so that people gain a greater understanding can only lead to a greater confidence. That is a two-way street. It is also for those who are administering justice to open their minds and their thoughts to the views of the community.

I will go through the bill in detail, focusing on a few areas. When we talk about opening up our system and having a more transparent justice system, which this bill not only seeks to do but does achieve, in particular having a focus on making it absolutely clear that suppression and closed court orders should be the exception to the principle of open justice and should be made only when necessary, that is a key plank and a very big change in Victoria. It really is putting the emphasis, in absolutely no uncertain terms, on saying to our courts, 'It should be the exception rather than the rule that you are going down a suppression path or a closed door path. Really the presumption should be that you are as open and transparent as possible'. Part of how the bill achieves that is, of course, by requiring that the courts give reasons for the decisions for making a suppression order. Those decisions need to include the reasons for the terms and the reasons for the duration and the grounds and scope of the information. Again, it is not just about making grand statements. We all know that judges love a term or two or a provision of legislation. It is putting meat on the bones of that clear tenet and saying, 'You've got to stump up. You've got to provide an explanation for why you are seeking to make a suppression order—and we will want that in writing'.

Rather than our current system, which is very ad hoc, where orders can be made whenever and wherever without a full statement of reasons or the public understanding why they are being made and where things are happening behind closed doors, this is about making those who are administering justice provide information as to why they are making those decisions. I think that is a very significant development in Victoria's justice system, and I welcome it.

Of course the question will be asked, 'Will that lead to fewer suppression orders being made as a result of this bill?'. It is the expectation that there is likely to be a reduction in the number of suppression orders made because of that reinforcement of the importance of open justice and also because they are to be made only as exceptions. As I said, there is a further tenet to the bill. It prevents suppression orders being made under the Open Courts Act when a provision in other legislation prohibits or restricts the publication of information. This will of course prevent unnecessary duplication, which is sensational. This is about taking the courts to that next level, making sure that we can have them as open and transparent as possible and making sure that the community understands what is going on in this most important facet of our society.

The justice system at its heart needs to provide justice to victims and, through that, justice to the community. That is why the bill has a really significant focus on the voices of the victims. Increasingly it has been a community expectation and a community demand that the community can actually witness that the voices of the victims are being heard throughout the justice system—and that is in every aspect of the justice system, starting from when first contact is made with the police.

We have seen terrific changes brought in around dedicated family violence and sexual assault units, for example, to transform the experience of victims at that first stage of the justice process right through to the way in which victims are dealt with through cross-examination and how victims of child sexual abuse are dealt with. There is more to do always. As I said, this is a living organism; there is a dynamism about this. But it is to make sure the process throughout the justice system has at its forefront the rights of victims.

Also these changes allow victims, where they want to, to tell their story and to be able to be heard. We know that one of the most devastating consequences of being a victim of crime, in addition to any

physical or mental scarring that follows, is the feeling of powerlessness—that you just do not have a voice or that whatever voice you had has been smashed, trashed, destroyed and humiliated. Part of the provisions of this bill give some of that back to make sure that victims are able, where they want to, to tell their story, because we know there is great power and great taking back of power in the naming of things and the telling of the story, not only to restore some of that loss of power in the victim but hopefully to have the effect of making it less likely that the crime which the particular person has suffered will occur again.

At this point in my contribution I want to say that so much of the work of the Andrews Labor government in dealing with these issues in such an interconnected and multifaceted way has been about the steps from the beginning, as I mentioned, when you first meet the police, to how the services are provided. I would like to pay the deepest respect and tribute to the late Fiona Richardson, who was the Minister for Women and Minister for the Prevention of Family Violence in the last term before she was cruelly taken from us. She really led the charge on issues of gender equity not just through the justice system but through how we are administering our social services, to how we are changing social norms and social attitudes and to our gender equity campaign, knowing that these things are all interlinked. Her role in allowing the victims of family violence to be heard was a pioneering role, particularly given what had happened to her personally throughout her life, being a victim herself. This bill continues the work that the Andrews Labor government started and that she was such a key part of in progressing the equality of women and equality in our community, because there are women who want to speak about what has happened to them.

As the Honourable Frank Vincent explains in the review:

> An increasing number of victims reject the absurd notion that they have been in any way diminished by the commission of criminal acts committed against them by another and are prepared to have their identities disclosed. There seems to be no good reason why a person who adopts this view, or an adult who has previously suffered abuse as a child, and makes an informed decision to do so should not be entitled to opt for disclosure …

Of course this is always a balance, so there have to be safeguards for people who do not want to be identified, who fear for their safety or who just do not want to hear of it again. This bill takes those issues that are very difficult public policy issues—difficult issues of legality and difficult issues of practicality—and strikes a really important balance.

A lot of why the Attorney-General has been able to deliver this balanced piece of legislation, which strikes the right way forward for our justice system, is the extensive, deep, sensitive and respectful consultation that has occurred around the development of it. It is very difficult to come up with anything that is actually going to work if you do not talk to the people who are at the coalface of delivering it. Too often, in too many parliaments across the land, we have seen legislation that has been done in a kneejerk way or without proper regard and that simply does not work. But the beauty of this piece of legislation is that it does reflect that in-depth consultative process that in turn delivers the outcomes. So when we think of all of the stakeholders who were consulted, right from the courts through to Victoria Police, we can see that that is then reflected in this piece of legislation. I am mindful of the clock, so I will stop.

Mr BOURMAN (Eastern Victoria) (15:10): I rise to speak today on the Open Courts and Other Acts Amendment Bill 2019, which I do support. I have no problems with that. But I actually see the need for this bill as a symptom of a larger problem. Why on earth do we as a Parliament need to legislate the way suppression orders are done? Has it got that bad that we are not relying on the system to properly administer this? I start to wonder at these times who these suppression orders are protecting. I seem to remember a few cases of various people, victims, who were quite happy to have no suppression orders, but due to the nature of their cases suppression orders were put on. If a victim wants a suppression order, I think that is a fair call. It is up to them, particularly in some of these sexual crimes and things like that, but if the victims themselves do not desire suppression orders, then why

on earth are they being done? Why on earth are we having to pass a bit of legislation to more or less force the court system to do what is reasonable?

I see this bill as trying to fix a wider problem. Maybe this is just one part of it. Maybe it will stop here. I see that the courts have completely lost touch with the expectations of the community. Earlier there was talk about a live case, so I am not going to go into details, but sentencing is completely out of control. Parole has obviously gone through a fairly large change in attitude, but why are we always having to fight these fights? Why are we always having to have members statements about the sentencing for this or the suppression order for that? Why are we always worrying about victims that feel slighted? The systems are there to dispense justice.

Justice to me means that if there is a victim and the case is proven, then it is time that the system said that the weight should be the victim. The weight should say that the victim was subject to this crime and therefore there is a suitable punishment. Now, we can all get into the philosophy of whether prison is punishment or rehabilitation and all that sort of stuff, but in the end there are some crimes—murder, manslaughter, culpable driving and other ones—where a life is taken. A life can never come back, no matter what non-parole periods are given, no matter what sentence is given. There is constant navel-gazing by various people that look at this and basically say, 'Oh well, we need to leave it to the system'.

As much as I think there are some problems with an elected judiciary, there are also some good parts. You see the problem about populist policies and populist people getting in, but we answer to the people every four years. If they do not want us, they get rid of us. If we do not perform to their expectations, they get rid of us, and that is how it should be. Who do they answer to? No-one. I think the community would be very supportive of a review of just how our justice system works. There are obviously tenets that we would never get rid of—innocent until proven guilty and all the other various bases—but the actual administration I think leaves a lot to be desired.

Ms VAGHELA (Western Metropolitan) (15:14): I too rise to speak on the Open Courts and Other Acts Amendment Bill 2019. This bill is the first stage of the Andrews Labor government's response to the recommendations that were made by former Court of Appeal judge in the Supreme Court, the Honourable Frank Vincent, who after the independent review, made recommendations regarding the Open Courts Act 2013.

Through this bill the Andrews Labor government will reform Victoria's law relating to open justice. This will lead to openness and transparency in our legal system. Open justice is a fundamental principle of Victoria's legal system. It is essential to public confidence in our legal system. For our society to flourish it is vital to promote integrity and accountability of judicial officers. It is also integral for us to enable and protect those who are involved in our justice system.

We recently saw the live streaming of the sentencing of George Pell. That is an example of how court broadcasting can facilitate the public understanding of how court proceedings work and also how sentencing works. The public has a right to know what is happening in our courts. The public also has a right to know if someone has been given a fair trial and if the trial is in accordance with the law. If someone is found guilty, the public needs to know that the person is being held accountable for their conduct. Open justice ensures that those perpetrators are answerable for their offences.

It is also critical to let people who are victims of sexual violence crimes tell their story so that they are able to say openly and freely what they suffered. For some people, for some victims, telling their story could be an important part of their recovery process. It could also be much-needed closure. For the victims it can be frustrating to be stopped from speaking about what they have endured and what they have suffered.

Having said that, we are aware that there are some situations where publishing information about a court case can be unfair or risk harming victims or other parties. In these circumstances restrictions on what can be published may be appropriate. This bill is crucial to improving the suppression order

regime in Victoria. It is the first step in delivering the government's commitment to reforming the Victorian justice system to protect and promote the principle of open justice.

The Open Courts Act 2013 currently only contains general presumptions in favour of disclosing information and holding hearings in open court. These provisions do not adequately emphasise the importance of transparency in our legal system. The bill will amend the Open Courts Act to make clear that suppression and closed court orders are exceptions, based on necessity, to the principle of open justice. This will serve as a reminder to the courts and tribunals that they need to recognise and promote the principle of open justice when deciding whether to make a suppression or closed-court order.

This bill is expected to reduce the number of suppression orders made by Victorian courts and tribunals. This will happen through implementing the key changes recommended by the review. Currently the Open Courts Act does not require courts and tribunals to give any reason as to why they made the suppression order. Recommendation 6 of the review recommends that Victorian courts and tribunals will have to give a reason in writing for making each suppression order and that these reasons may be made publicly available. This will bring more rigour to the making of suppression orders and give the community greater confidence in the workings of the legal system. The Open Courts and Other Acts Amendment Bill 2019 implements in full or in part seven of the recommendations of the Open Courts Act review.

The Children, Youth and Families Act 2005 prohibits the publication of the convictions of young offenders who are convicted in the Children's Court. This is due to young people getting an opportunity for rehabilitation so that they avoid the stigma of long-lasting labels and being known as criminals. But there is little reason to prevent the community from knowing the juvenile convictions of hardened offenders who continue to commit serious crimes when they become adults.

The bill will amend the Children, Youth and Families Act to give the County Court and the Supreme Court a discretion to publish relevant juvenile convictions when sentencing an adult offender. Once published by the court, the information about the adult offender's juvenile convictions may be included in the media. Courts will only be able to publish this information where there is sufficient similarity between the juvenile offence and the adult offence and where the adult offending is serious. The terms 'serious' and 'sufficiently similar' are not defined in the legislation, so the court can take all relevant matters into account when making a decision.

Consistent with the recommendation of the Open Courts Act review, a court deciding whether to publish the juvenile convictions of an adult offender will also need to consider the adult's prospects of rehabilitation and their criminal history. This will ensure that juvenile convictions are only released where there is a 'continuing and entrenched propensity' to commit further crimes.

The Judicial Proceedings Reports Act 1958 prohibits victims of certain sexual offences from being identified publicly. Courts may also make suppression orders under the Open Courts Act to prohibit disclosure of the victim's identity or other information to protect victims of sexual and family violence offences. These laws can prevent victims who want to speak openly about their experiences from doing so. In some cases they have also prevented the media from identifying perpetrators. Preventing the willing victims from speaking publicly, through the media, about their experiences is inconsistent with a legal system that respects and promotes the rights of victims. The bill will amend the Judicial Proceedings Reports Act to enable courts to make an order lifting the prohibition on publishing the victim's identity if the victim consents and there are no other reasons for the information to be concealed.

The bill is the first stage of the Andrews Labor government response. Promoting open justice is not just about legislative reform, it is also about cultural change and changing the way the judicial officers, legal practitioners and parties think about suppression and where it is appropriate.

There are seven recommendations implemented by this bill, which include emphasising the importance of open justice under the Open Courts Act; preventing suppression orders being made under the Open Courts Act when provisions under other legislation apply; requiring courts and tribunals to give reasons for making suppression orders under the Open Courts Act; enabling suppression orders to continue until the determination of an appeal or unless varied or revoked by the appellate court; enabling the publication of relevant juvenile convictions of persons who continue to engage in serious offending as adults, subject to certain safeguards; and enabling adult victims of sexual and family violence offences to speak more openly about their experiences.

Justice Vincent was asked to review the Open Courts Act 2013 and other Victorian legislation to consider whether the current laws strike the right balance between people's safety and privacy, fair court proceedings and the public's right to know. I commend the bill and wish it a speedy passage through the house.

Mr GRIMLEY (Western Victoria) (15:26): I also rise today to speak on the Open Courts and Other Acts Amendment Bill 2019. With my background as a police officer I have spent many, many years in the courts. Sometimes we had good results and sometimes we had bad results, having dealt with many, many victims over this time. I can say that many of those victims unfortunately reported their assaults to police in the first instance and in the second instance felt assaulted by the courts, having gone through the sentencing and court process. So I welcome this sense of transparency and openness for the courts. Anything that will help and support victims along the way we are 100 per cent behind.

Derryn Hinch's Justice Party has long supported greater transparency within the legal system. Opening the courts up to greater public and media scrutiny can only have a positive impact on outcomes for victims. What I will say is that the courts are always open to the public. There are some occasions where they may be closed for specific reasons, but as a general principle if you want to go to the courts at any particular time, you can. You can just sit in and look at a case that may or may not interest you. The courts are open to the public most of the time.

The decisions made by the courts are made public. The classic example of this recently was with George Pell, as was mentioned previously. I was one of many, many thousands of people that watched with interest the proceedings unfold before our eyes. When I was sitting with somebody who did not really understand the court process it was fascinating to hear their feedback on the judge's comments and remarks. They were not aware that this was how courts and judges make their decisions. Having been a police officer I was fully aware of the decisions, the principles and the sentencing practices, but it was interesting to hear another person's perspective, someone who had no idea about the court system. In that regard, having that openness and transparency for the courts can only be a good thing. It can only educate the general public as to how these decisions are made, albeit sometimes insufficiently.

I was in the Ballarat Magistrates Court recently, before I changed careers and came into this role. I sat through a magistrate's hearing, and during his decision I found it fascinating that he made mention of the fact that community correction orders were a complete and utter failure of the system. For a magistrate to say that in a public forum I thought was quite remarkable, and it just indicates that more work needs to be done for our justice system to improve.

As someone who has worked closely with victims and their families throughout the sentencing process, I can appreciate the empowering effect that more transparency within the courts can have. Like I said before, the decisions made by the courts are always public and the information should also be available to the public. The Open Courts and Other Acts Amendment Bill 2019 is the first step in implementing the legislative recommendations of the 2017 Open Courts Act review. This bill keeps in place laws that currently work, such as those which relate to the Children's Court, while addressing deficiencies within other parts of the legal system. I also welcome the changes to broadcasting laws in

the courts that this bill addresses. As a result of these changes, high-profile cases will not be the only ones which are publicised, like I mentioned before.

I welcome the basic changes to suppression orders that this bill achieves. For too long suppression orders have favoured the rights of perpetrators over victims. As Mr O'Donohue said before in relation to suppression orders, Victoria has over the past eight years been the state within Australia with the highest percentage of suppression orders granted, at around 50 per cent of all suppression orders. Perhaps we should look at changing our number plates from 'The Education State' to 'The Suppression Order State'. The changes to suppression orders within this bill will ensure that victims of all crimes are legally able to share their story without being prosecuted alongside their perpetrator. Now that is empowering. However, there is still a lot of work to do for Victoria to move away from being the suppression order state.

It is interesting to note for you those of you that follow the courts on social media that they have become far more transparent and open in publicising information based on their sentencing practices and principles. I follow the Magistrates Court, the County Court and the Supreme Court on Twitter, and they have a number of tutorials, fact sheets and information available to the public which enlightens people like me about their practices. It goes back to the old adage that knowledge is power. The more knowledge you have of the practices and processes of the courts, the more you can understand the decisions that they come to.

However, having said that, as we have heard more recently, it is hard to understand some of the decisions and sentences that have been handed down in more recent times. So, like I said, there is more work to be done. Whilst I support the majority of this bill, because I believe it is a step in the right direction, I note that it does not legislate all the recommendations of the review. Having said that, we will be supporting this bill.

Mr LIMBRICK (South Eastern Metropolitan) (15:32): The Liberal Democrats support the principle of an open and transparent justice system. At the core of our philosophy is the belief that there should be more freedom and less government. While we believe that victimless crime should be abolished, laws that protect the rights of individuals and their property are essential. A just society requires that matters before the courts are heard in a fair, objective and reasonable way. In a free society it is essential that open and transparent justice is not just done but is seen to be done. This principle goes back to before the Magna Carta.

The growth of suppression orders in Victoria is supposed to support fair justice but removes transparency in the process. The Open Courts Act 2013 was intended to create guidelines to balance fairness and transparency. The fact that suppression orders in Victoria far outnumber other jurisdictions shows that it has failed in this endeavour. We hope that the bill before the chamber will do better at achieving transparency while not sacrificing the right to a fair trial.

Of note in this bill is the measure that would allow victims of crime to apply to have a suppression order lifted so that they could name the perpetrator. The idea that a victim would be further victimised by a suppression order protecting the anonymity of their perpetrator is just not right. I commend the government on their aim to rectify this. Any measures that allow victims of violent or sexual crimes to regain agency and empowerment are worthy of our support.

The reform that will allow the records of juvenile offenders to be presented in court for defendants that are accused of similar serious crimes requires more consideration. Children and adolescents that come before the courts require and deserve greater protections for their rights and privacy. This reform does seem to strike a sensible balance where only adults with a pattern of offending can have their juvenile records presented to the courts. This bill aims to improve both justice and transparency and has a very important measure improving the rights of victims to speak out about their experience. We support this bill.

Ms TERPSTRA (Eastern Metropolitan) (15:35): I rise today to make a contribution in regard to this bill. There have been many articulate contributions that have accurately set out the scope of the complexities of this bill and the ability of the bill to balance the needs of victims of crime with the needs of offenders. In support of the Open Courts Act 2013 review, which was conducted in 2017 by the Honourable Frank Vincent, AO, QC, the government did in 2018 publicly support in full or in principle all but one of the recommendations of the review.

The bill that is before the house today is in furtherance of implementing those recommendations. Rather than traversing all of the matters that have been set out today, I might just focus on one aspect, and it is something that was touched on in the last contribution that we just heard. There is a need to balance full and open disclosure around some convictions with the needs of victims of crime in order to tell their story, and this is a very important issue. It is something that victims of crime have commented on much and openly—the need to talk about their experiences and about what has happened to them and give voice to them in the justice process. In looking at balancing some of these imperatives, as an example the courts will be given the power to consider whether it is in the interests of the court process to disclose patterns of offending, and that is something our courts are often charged with doing in terms of being given discretion to take particular actions.

There are some very important safeguards that have been addressed in this bill. There are in fact four legislative safeguards. The bill outlines matters of which the court must be satisfied before it can disclose juvenile convictions in sentencing remarks. This example was touched on earlier, and it is something that was quite an important development. We saw this recently in the sentencing of Cardinal George Pell, where the judge in that case was able to go through his deliberations in the sentencing of Cardinal Pell and went to great lengths to inform the community about the many and varied aspects that the courts are required to take into account in sentencing. This was very well received by the community, and it allowed the community to have great insight into the complexities of the court system. It was very important and in fact I think a watershed moment in the history of the courts. It certainly allowed the community insight into such processes and a greater understanding and appreciation of the complexities of our sentencing regimes.

Certainly in regard to this matter and in regard to what the courts will be required to take into account—and I mentioned earlier the protections—one of the protections, for example, that the courts will weigh when they take into account the discretion that they need to apply will be that the courts will only be able to publish this information where there is sufficient similarity between juvenile and adult offences. So that is one aspect. The second aspect of protections will be where the adult offending is serious. Now, the terms 'serious' and 'sufficiently similar' are not defined in the legislation, but in fact this is consistent with what courts are often charged to do—that is, to weigh the facts and the circumstances of particular cases and, in the weighing of such, balance out whether, given the serious nature or being sufficiently similar, it is then warranted that a disclosure be made or not. It is in the public interest to do that, and that is an appropriate exercise of a court's discretion. It is what they are charged to do. That means that there will be consideration of the facts and circumstances particular to relevant cases.

Also consistent with the recommendations of the Open Courts Act review, a court, in deciding whether to publish juvenile convictions of adult offenders, will need to consider the adult's prospects of rehabilitation and lastly also their criminal history. So again it allows the courts to explore and enter into an assessment of the facts and circumstances of that particular case and to look at the prospects of rehabilitation and the offender's criminal history. These are all relevant matters. So in turn this will ensure that juvenile convictions are only released where there is a continuing and entrenched propensity to commit further offending. This then also, in doing that, means that the balance is well struck between ensuring community safety is upheld and that being done in the interests of disclosing information that is relevant and appropriate for community safety—allowing victims to tell their story nonetheless. But also the courts will determine what is appropriate in the circumstances for victims and offenders alike.

As I just touched on earlier in mentioning Cardinal Pell's sentencing hearing, these recent events have made it very clear to us how important it is to have a transparent and open court system. Sometimes it is very difficult for the community to understand why courts take such decisions, and sometimes there is a very heavy weight of expectation in the community about the appropriateness of sentencing. It is indeed a difficult balance, but we are fortunate in Victoria that this legislation will assist our court system to further get that balance right and to continue to strive to make sure that we have openness and transparency in our court system, allowing the community to get greater insight and understanding into how our courts operate.

The Andrews Labor government has shone a light on things like family violence, as we are all aware in this chamber. We are in fact willing to look into the darkness, and we have said to women who have been victims of family violence that we do want to hear from those victims. It is important that victims of family violence are able to talk about their stories. We hope and trust that with the implementation of this bill it will make it easier for them to tell their stories.

Some other aspects in regard to this bill are that it will amend existing prohibitions to allow adults, who as adults or as children were victims of sexual or family violence offences, to opt for disclosure of their identity once the offender has been convicted. Again that is another aspect that will facilitate victims of sexual violence to speak more freely about their experiences. To continue to have these matters contained in the dark further entrenches that aspect of perhaps shame or feeling that somehow a victim is at fault for something that has happened to them that was completely out of their control. It is important that we shine a light in the dark recesses and continue to expose these heinous crimes.

The bill creates a court process to allow the court to make an order authorising the disclosure, if the victim consents to such a disclosure and there are no other reasons for the prohibition to apply. The bill also clarifies the right of the victim to apply to revoke a suppression order under the Open Courts Act 2013 made solely on the basis of protecting the victim's identity—again, another significantly important reform.

The court process under the bill also further requires the court to be satisfied of the consent of any other victim whose identity would be disclosed before it can make an order enabling victims of sexual or family violence offences to disclose their identity. Further, as an additional safeguard the court must also be satisfied the disclosure of the victim's identity is appropriate in all of the circumstances. Again the courts are being charged with the responsibility of weighing all of the circumstances of these particular cases and of making sure that the correct balance is in fact struck when weighing the importance of having openness and transparency in regard to the reporting of these offences but also making sure that victims of these particular crimes have their stories told.

The benefits for the media and the public—and this is something that has been commented on—come in the form of suppression orders. For example, the bill is expected to reduce the number of suppression orders made by Victorian courts and tribunals. This has been a matter that has been commented on particularly in cases where there have been high-profile offenders, particularly where it has been seen to be in the public interest to have transparency around high-profile offending. This will then allow for a reduction of the number of anticipated suppression orders. That seems to be more in line with community expectations around openness and transparency.

The bill will also allow the media to report more freely on proceedings before the Children's Court by limiting prescriptive restrictions applying to the identification of the parties and others. Again, another important feature of this bill is for greater transparency and more openness for public scrutiny. It allows the community and the general public to be more informed about the sorts of matters that are coming before our courts and how the courts are in fact dealing with them, lifting the cloak of what is often seen as secrecy around legal posturing, which might be obviously to protect or limit the amount of information that becomes available in the public arena. Sometimes that is not seen as being in the public's interest or particularly in the victim's interest. That gives greater weight to balancing these

factors, and the courts are able to make those appropriate determinations as they are charged to do, being required to weigh the particular facts and circumstances of particular matters before them.

The bill will also provide for greater transparency in the making of suppression orders and will require courts to give reasons for making them. So not only will the courts be required to weigh various considerations, but they will also be required to give their reasons in making those decisions—again, another important feature, which can only be seen as being in the public interest. Certainly the community has an expectation of being able to understand the reasons for the making of particular decisions by our courts, and the publishing of those reasons will give the community greater access to transparency.

Just in terms of the consultation for this particular bill, the report of the review was produced after consultation with over 40 stakeholders both in private meetings and through a public submission process. That was a consultation process that was well subscribed to and obviously something that our community here in Victoria thought an appropriate process. It allowed victims and others to make appropriate submissions to be taken into account. The bill was then developed in consultation with key stakeholders, and of course this included the courts, the Office of Public Prosecutions, Victoria Legal Aid, Victoria Police, the victims of crime commissioner and the Commission for Children and Young People.

In late 2016 the government did ask Court of Appeal judge the Honourable Frank Vincent to review the suppression order regime, and of course then the final report of the Open Courts Act review was made public in March 2018. This bill before us is a continuation of the review process and a combination of much work and consultation, as I have just discussed, with the community. This is something that has been an ongoing piece of work for the government to continue to make sure that our courts can remain open and accessible. It is a significant reform. As I touched on earlier, it enables victims to tell their story. We know that victims of sexual and family violence offences have special vulnerabilities. The bill includes significant safeguards. It allows our courts to do the jobs that they are charged to do—to give appropriate weighting to facts and circumstances in particular cases and to disclose relevant information using their discretion—but it balances that with making sure that victims in these processes can have their stories heard.

Ms MAXWELL (Northern Victoria) (15:50): I am very thankful and grateful to be able to speak on the Open Courts and Other Acts Amendment Bill 2019. I am going to keep this brief. We have had many speakers on this bill, as I would have expected.

I would like to extend my appreciation to the government for introducing this amendment to the act. Providing greater transparency and reducing the protection of offenders through suppression orders is supported not only by Derryn Hinch's Justice Party but the Enough is Enough campaign, which has advocated for victims of violent and sexual crimes over the past three years. In those three years, as a campaign advocate, I have spoken to many victims who have been subjected to suppression orders throughout the traumatic experience of losing a loved one, and that has been an incredibly difficult passage for people to come to terms with. Many victims have often felt that they were actually the ones under scrutiny, and they have often felt like they were the perpetrators of a serious crime.

The introduction of this bill provides an opportunity for victims to be heard, and it is so important that victims have that opportunity to be heard, not only within the court system but within their communities and other areas. It will allow them a freedom to express their grief and sorrow under their terms, without being constricted and confronted with concerns about committing an offence themselves should they reveal publicly the name of an offender who has taken so much from their lives. I speak on behalf of many victims I have met who have suffered for many years, as I said, by keeping a secret of a perpetrator who has traumatised and affected their lives forever.

I realise that this amendment will not be retrospective, but I do urge the government to consider revisiting retrospective suppression orders which have been inflicted upon victims families and who

to this day are still threatened many years after the tragedy with prosecution should they speak of the person who has not only destroyed their lives but taken the life of a loved one. With social media now a constant gateway of disseminating information about our lives, not only within Australia but all over the world, our laws need to reflect and convey the reality that suppression orders are in many cases becoming less likely to be enforced.

I also fully support this bill's approach with regard to the Children, Youth and Families Act 2005 to maintaining the existing restrictions on the publicising of details of cases heard involving children in Victoria. There is one thing I have learned over many years: our children are incredibly precious, and we need to do all that we can to protect them, because they as children do not have that ability to protect themselves. While I do advocate for further transparency of Victorian legal proceedings, I believe that the protection of children in Victoria is absolutely of the utmost importance, and I appreciate the approach that this legislation will take in maintaining the protection of vulnerable children involved in court proceedings.

I hope that this bill will provide all those who have been held at the hands of suppression orders over the years with a new-found hope that the justice system supports them over the rights of offenders.

Mr MELHEM (Western Metropolitan) (15:54): I also rise to speak on the Open Courts and Other Acts Amendment Bill 2019. As previous speakers have outlined, this bill allows the Andrews Labor government to fulfil its commitment in the last election campaign to reform suppression order laws in Victoria, to make sure that suppression and closed court orders are the exceptions to the principal of open justice and that they are only made when necessary.

As we know, the issue of suppression orders has been a topic in relation to recent court cases, including a few major cases in which courts made suppression orders and these made headlines. I can think of one, the George Pell matter, where the court ordered the suppression of a decision when there were two trials on at the same time. Now there are 30, or thereabouts, journalists or media people and other personnel who are in breach of a court order because a suppression order was issued by the court for reasons given by the court, and I think they were probably good reasons. That is one example.

It is really important that we allow the judiciary to have discretion in certain cases to make suppression orders. These could be court cases involving juveniles, for example, which deal with children, or cases such as the George Pell matter, which involves an adult. Courts should have that discretion to put a suppression order in place so that the name of a witness or victim or a person who has been charged with a crime is not revealed.

On the other hand, I think it is important to get the balance right and that we have an open court system in this state. To make the court system work better and to have the confidence of the people we have an open system. A closed system is not subject to scrutiny—not necessarily scrutiny, but the public need to understand and appreciate what actually goes on in a court scenario.

I think we all from time to time—and I have in recent times—question some of the decisions that judges hand down and try to understand whether they have been too harsh or too soft. But to be fair, I was not in the court. I think a lot of our citizens might pass judgement by saying, 'Well, that judgement was too harsh' and 'Why did you suppress that?'. Unless we have an open court system and people take some interest in what is happening in the court and the reasons why a particular judge, prosecutor or even defendant might seek a suppression order from time to time in relation to a particular case or a judgement that is handed down, we will not know what that judgement was based on. Not every person is necessarily going to go and read a 100, 200 or 500-page decision, but I think people largely form their opinion on what is reported in the media. So it is important to actually have an open court where the media have access, which they do now in most cases. It is very rare that they do not. They are not able to report everything, but I think it is important to have that open court system where people are able—if they want to—to have the facts in front of them. Then they can make a sound judgement on whatever issue the court is dealing with. But on the other hand, as I said, it is important to maintain

the discretion for judges in certain cases to be able to suppress certain things from being aired in public when there is a good reason for that. What this bill does is make that the exception, not the norm.

Justice Vincent was asked to review the Open Courts Act 2013 and other Victorian legislation to consider whether the current laws strike the right balance between people's safety and privacy, fair court proceedings and the public's right to know. The final report of the Open Courts Act review was made public in March 2018. The report made 18 recommendations for improving existing suppression laws, and the government has given support in full to 17 of the 18 recommendations. One recommendation is currently under further consideration by the Attorney-General and the government.

The Open Courts and Other Acts Amendment Bill 2019 is the first step in implementing the legislative recommendations of that review. It was very important to get the review done, and the good work that has been done by Justice Vincent is commended. This bill is based largely on the work that His Honour has done. The bill will reflect that and particularly the 17 recommendations which were accepted by the government.

The bill will also require the court and tribunal to give reasons for making suppression orders under the Open Courts Act, and I think that is very important. When a judge makes a decision about putting a suppression order in place or issuing a suppression order, there has to be some sort of logic and some sort of reason why. I think it has become an issue where we do not want to finish up in a situation where the public are losing faith in our justice system. I think our justice system in Victoria is one of the best in the world, and I have got full confidence in our judicial system. Our judges do a terrific job. They do an excellent job. I think sometimes we—particularly politicians—harshly judge them. As I said earlier, if I want to go and criticise a judge for a decision without having been privy to the proceedings, I do not think I would be qualified to make a judgement on that. The stress these judges are put under and their workload are tremendous. The last thing we want is politicians, and people in the public to some extent, throwing rocks at the very people who are actually trying to make sure that our justice system functions properly and that people get fair hearings and fair outcomes. We know that is taking its toll on judges, particularly in the Magistrates Court. We know there have been a number of suicides, where judges have taken their own lives because of the harsh criticism they sometimes get from the outside world.

I for one, as I said, have got full confidence in the judicial system. I think they do a terrific job. Our job as parliamentarians, as legislators, is to actually pass the law but not interpret the law. The separation of powers is very clear in our constitution. I think we should trust the very people we appoint to the judicial system. Regardless of the colour of governments, I think the appointments have been excellent and I think we should be able to trust them to implement the laws. Surely there is community expectation. That should be taken into account by legislators to make sure we reflect community expectation in relation to whatever laws we pass and by judges when implementing these laws. I think that is very important, but it should not be the only criteria taken into account when a judge hands down a decision in relation to a particular case.

The bill also enables suppression orders to continue until the determination of an appeal or unless varied or revoked by the appealable court. It also enables the publication of relevant juvenile convictions of persons who continue to engage in serious offending as adults, subject to certain safeguards. It also enables adult victims of sexual and family violence offences to speak more openly about their experiences. The bill also amends section 534 of the Children, Youth and Families Act 2005 to narrow the scope of particulars deemed likely to lead to the identification of a person.

The bill also, as I said earlier, reinforces the importance of open justice and make it clear that suppression orders under the Open Courts Act are only to be made as an exception to the principle. Where necessary, recommendations 1 and 2 of Justice Vincent will ensure that courts do not make suppression orders too easily by applying a mere presumption in favour of openness under the current laws.

I think it is very important to get that balance right. It is very important to protect the privacy and rights of individuals but also to have in place an open justice system so that we can regain some of the lost ground where the public has lost faith in the political system, in us as legislators and in judges, who actually implement the law. I think it is a real issue both for us as legislators and for judges, and the bill will hopefully go some way towards getting back that confidence in the system.

Access for the media will also be reformed as part of this. The bill amends the Children, Youth and Families Act to give a judge of the County Court or the Supreme Court who is sentencing an adult offender the discretion to publish the juvenile convictions of that offender. A court may only disclose the juvenile convictions of an adult offender where the adult offending is the same or of sufficient similarity to the child offending, where the adult offending is serious and where it is appropriate considering the offender's previous criminal history and prospect of rehabilitation.

The terms 'sufficient similarity' and 'serious' are not defined in the bill, to enable a court to apply discretion in the circumstances of an individual case. Again, we do not want to be too prescriptive by describing every single event and prescribe what the judges should be doing. I strongly believe that we should still allow our judges discretion to deal with these sorts of cases and a bit of flexibility, because they are the ones who actually hear the evidence, who hear the whole case and who are basically able to make a judgement. The only reason we actually appoint them to the bench is that they are supposed to be fair and reasonably minded persons who have sound knowledge of the legal system—fair people who will hand down a decision not based on any political persuasion and not based on their own personal view. If we appoint people to this sort of position, I think we need to support them and give them some discretion to determine certain matters as required.

The bill hopefully will go a long way to getting some confidence back in our judicial system and our legislation. Some further changes will be coming to the house—for example, ensuring that the reasons for making suppression orders are made publicly available in writing, recommendation 6; establishing a public register of suppression orders, recommendation 7; treating all suppression orders as interim orders for five days after they have become final unless challenged, recommendation 8; and the list goes on. There will be more to come in relation to that. The other supported legislative recommendations are expected to be implemented in 2020.

As I said earlier, the government is giving further consideration to recommendation 18—allowing the Public Interest Monitor to act as a contradictor in suppression order applications—and will be consulting with stakeholders in relation to what we do with that. There are a further four recommendations that are non-legislative. One was implemented when the government asked the Victorian Law Reform Commission to review the laws of contempt and aspects of the Judicial Proceedings Report Act 1958. The remaining three are being progressed independently, with a view to implementing them as soon as possible. With those comments, I commend the bill to the house.

Ms SHING (Eastern Victoria) (16:09): I rise today to speak in relation to the Open Courts and Other Acts Amendment Bill 2019. In doing so I note a number of substantive contributions that have been made in this chamber today that have gone into the detail of the bill itself from a number of specific angles that cover open courts, access to justice and the competing rights and priorities of victims and those affected by crime and criminal activity and of perpetrators and alleged offenders in the context of the criminal justice system and the administration of justice.

I note that in relation to this particular bill there is an extensive outline in the statement of compatibility, which was tabled with the second-reading speech, which talks to these competing priorities and the importance of making sure that we, wherever possible, move away from secrecy in the administration of justice but in doing so do not neglect the obligations that exist around a fair trial and do not compromise any particular appeal rights that may arise, and in fact that we have a justice system which is to the best extent possible something that reflects contemporary social and other media, the reporting of matters within the justice system and indeed the way in which information can be exchanged,

published, distributed and disseminated in an instant and in a way which is irretrievable once the send button or print button has been hit.

I note that this bill builds on a number of the reforms that have been proposed by Justice Vincent, who is one of the most influential operators in our justice system, who has led significant reform in the areas of evidence law and who has examined in great forensic detail and analysed in great detail the application of the principles of evidence as they are applied within the common law and as they interface within the statutory framework; that as a result of this work we have seen seven of the recommendations being implemented, with a further review in relation to contempt of court proceedings that, as is referred to in the materials in the context of this debate, is scheduled to be completed by the end of this year; and that 17 of the 18 recommendations have been accepted by the government in order to prioritise open justice and to make that demonstrably communicated and accessible to people within our community so they understand the roles that judge-made law and the distribution of information play in our everyday lives and the impact they can have for people whose lives are affected, often in extremely traumatic ways, as the Hinch party has outlined in a contribution earlier today.

I also wish to look at a number of the reforms that have been proposed that reflect changing attitudes toward the way in which information is covered, reported and distributed in public. In this regard I note the way in which the similarity provisions and the seriousness provisions as they relate to juvenile convictions are referred to specifically throughout the context of the bill and amendments as they might apply to the Children, Youth and Families Act 2005. In the course of the administration of justice, principles such as similar fact evidence are carefully considered by courts around the way in which competing priorities might exist in a legal proceeding—for example, where an offence has been committed which has a substantive similarity or a material similarity to an offence committed by that alleged offender at some other time.

This is the subject of a very, very careful process of analysis by the judge who is overseeing the proceeding, however, and this evidentiary principle of similar fact evidence is something which is the subject of a very, very broad body of jurisprudence. It is something which has been carefully refined over the years and it is something which is already taken into consideration by judges in the way in which matters are determined before the courts and the way in which principles around sentencing might otherwise be handed down and issued in recognising, perhaps, a propensity an offender may have or have had in the context of earlier offending. So this amendment around the publication of juvenile offences committed where that similarity exists, where that substantive seriousness threshold is met, is an important part of in fact communicating more of the work that judges undertake and the way in which they analyse and assess evidence, the way in which they balance those competing priorities around what indeed is admissible and the contest between admissibility as it relates to probative use of information versus the prejudicial nature of information that may be admitted in the context of a court proceeding.

These are matters which courts already turn their minds to. We have seen also the very careful decision-making processes that are undertaken by the courts which are often the subject of voluminous judgements. Having looked at many decisions which go into very, very granular detail it is often very difficult for the layperson to look at these matters—and indeed for many legal practitioners who operate within the system itself to look at these decisions—to examine these judgements and to identify where decisions have been made around fact and where decisions have been made and applications have taken place around questions of law and also, where someone is defending an offender or a defendant on the one hand, or in fact advocating on behalf of an appeal, that they are in the best position possible to identify areas which might give rise to those appeal rights.

In the recent transmission of Justice Kidd's decision in the matters of offending that were the subject of the Pell matter, we know that a very careful process of analysis was undertaken, a very careful balancing process occurred that shed light on the way in which information is considered, the way in

which evidence is analysed and the way in which the court is convinced or not as to the merit or the credibility of witnesses or their material and evidentiary accounts in the course of the proceeding. The way in which Justice Kidd's decision, his judgement, was published and transmitted has, as a number of other speakers have indicated, given the community a much greater insight into the way in which the administration of justice occurs. Reading a dense judgement is a very, very different proposition to having it accessed and accessible over our radio waves or indeed to see it produced in a live feed or real-time example through social media. The benefit that is associated with distributing and publishing that information has at its heart a greater level of confidence in the way in which the justice system is operating and the way in which our courts and our judges operate. This is a really careful balancing act in and of itself.

In that regard I want to turn to the contempt matters which are also the subject of this bill, and the way in which it is intended to operate. We need to make sure that the courts keep pace with the way in which information can, like lightning, be sent around the world, and we also need to understand the impact of suppression orders where in fact there may be an obsolescence to the application of such suppression orders in certain circumstances. Again, when we look at a number of contemporary matters we see that suppression orders themselves are only as good as the way in which they are applied and only have a deterrent effect to the extent that they are sought to be enforced.

We need to also make sure in the application of suppression orders and contempt proceedings that in administering these processes they in fact strike the right balance. That includes as it may relate to appeal rights, because miscarriages of justice are in fact often based, as much as anything, in process, as much as anything, in procedure and often—too often—as a result of avoidable issues. We need to make sure that we have a better understanding of those avoidable issues that may in fact lead to contempt, that may in fact lead to matters not following through to the conclusion of a proceeding other than to end them without a decision resulting in a conviction, which is for many victims and survivors, particularly of violent crime, a particularly difficult outcome to face. It is often extremely mystifying and bewildering and upsetting for victims and survivors—people affected by violent crime—to have an outcome which in fact has been compromised, infected or otherwise contaminated in a process-based way, such that it can no longer continue through the legal process.

We have seen this occur. We have also seen that the law needs to continue to evolve. We know that when we have a better access to the way in which our courts operate—a better access to the understanding behind matters which juries, for example, are able to take into consideration and are required to take into consideration in jury matters—we have a greater degree of confidence in the system. So making sure that we have those safeguards in place to make sure that disclosures of certain matters, particularly in the juvenile context, only occur where we have that same or sufficient similarity—where, for example, the adult offending is serious and where it is appropriate in consideration of the offender's previous criminal history and prospect of rehabilitation—we are in fact giving a greater level of effect to the objectives that underpin our justice system. These include deterrence, these include rehabilitation, these include the element of fairness around walking away and moving back from concerns around secrecy. Often we have too much concealment, not by design but by operation of our judicial system, which means that it is very difficult for people to have that measure of confidence in the way a court has arrived at a particular decision.

It may not be impenetrable for an appeal or an appellate jurisdiction to understand, given the volume of research, information and resources that they have to hand, and their relevant experience in understanding and interpreting judge-made law and the intersection of that with statute, but for the community, confidence all too often needs to rest with the way in which information is provided and can be provided to give that better insight into the way in which a judgement has been arrived at, what has played a role as a relevant consideration and what has been discarded or otherwise only given partial weight in the course of that process of balancing those competing priorities.

The process of consultation that has been undertaken in the course of this bill has been really extensive. More than 40 stakeholders have been part of the work associated with the drafting of this particular bill, and the work goes on. It is crucial that we understand that here in the Parliament it is for us to do our best to make the law, which then enables the courts and the court system and the judiciary and the stakeholders and agencies who work within it and alongside it to apply the law in a way that in fact gives that measure of public confidence.

We have seen too often that the reporting of matters before our courts is often and disappointingly inaccurate, it is often and disappointingly not necessarily the most relevant of arguments to make and it is often not something that gives the relevant level of accuracy to the way in which decisions are made by our courts. To some extent this bill does in fact go a way towards rectifying that. It does in fact provide a better reflection of the world that we live in now and it does in fact reflect the work that our judiciary is already undertaking—does already do—whilst also providing a measure of protection to people with those vulnerabilities, who are often part of a court system which can be deeply traumatic and upsetting and troubling.

The way in which access to justice operates is not only a crucial part of confidence in the system but also, for victims and survivors and, as indicated by the victims of crime commissioner, a part of telling a story, which can be a crucial component in moving beyond a violent or serious matter that has had a profound impact. Again, this bill is an important step forward in continuing that work as we try to evolve our legal system to better keep pace with our modern world and to better reflect the views and expectations of the community on the one hand and the judiciary on the other.

Mr DALIDAKIS (Southern Metropolitan) (16:24): I appreciate the opportunity to speak to the legislation before us, the Open Courts and Other Acts Amendment Bill 2019.

Members interjecting.

Mr DALIDAKIS: I might just pause for the chamber just to get a little bit of decorum. I know that I am the last person that would usually call for that, but it is getting late in the day on the third day of sitting this week, and I think it is important that people just calm down and have a Tetley's or any other preference of tea that you might like.

Can I just follow on from what I thought was actually a very valuable contribution by Ms Shing, and I thank her for that contribution. I think in light of the serious nature of the material that Ms Shing spoke of, to make light of that was somewhat disappointing. Now, I know that at times we in this place can be somewhat robust in our contributions. I know that in this place I also can be robust in my contributions, but I think when we are talking about issues of the gravity that Ms Shing was talking about we should be mindful of expressing a little bit more respect to each other in this place.

Having said that, I would like to speak on this bill. I think the bill has a number of parts to it that are important, and I wish to focus on what I believe is to be of the most importance, and that is giving victims a voice, giving victims, in particular of family violence, an opportunity to speak out, to share the tragedy and the tragic nature of their stories and to be able to do so with confidence, without having to hide, without having to have their stories somewhat muted and without having their stories prevented from being given full appreciation by having to keep their identity secret. And of course, in order to do that, the bill needs to make changes to a number of different acts of legislation as well.

This bill is the first stage of the Andrews Labor government's response to recommendations undertaken and made by former Supreme Court of Appeal judge Justice Frank Vincent, following his independent review of the Open Courts Act 2013. In so doing, as I said, we are giving victims a chance to speak of the terrors that they experienced and the trauma and torment that they were a party to without having to hide who they are. That is often part of the process that they need to undertake to be able to not just deal with the events that befell them but confront those events in a way of both healing

and being able to move on with their lives. For that reason I do give some sincere thought to this piece of legislation.

Can I also point out that earlier this week the opposition sought to quote me from some public utterances that I made in the last fortnight in relation to the Borce Ristevski sentencing. The reason that I raise that now is of course that I wish to provide a bit of clarity around that situation. Number one, I strongly believe in the separation between the legislature and the judiciary. I think it is a fundamental tenet of our democracy. The quote that was used—the comment that I made, the words that I said—was that it was manifestly inadequate in relation to the penalty that was provided by the justice in that case. That was as a result of a judgement that was provided by a justice—a justice, I might add, appointed by the previous government in September 2014, but a justice nonetheless—who appreciates the independence and the ability to carry on with his job and his judgement just as I, as a member of the legislature and a member of the community, am entitled to express an opinion as I saw fit as well.

The reason that I relate and refer back to that point is that if we are going to treat the issue of family violence seriously and talk about how this gives those rights back to the victims to be able to express themselves without hiding, without having their names withheld, we can be grateful that they are alive. In the case of Karen Ristevski, her life was tragically taken by a man committing an act of family violence—yet another woman being murdered by a partner or somebody known to her. At some point in time we as a community have to acknowledge that we must say, 'Enough is enough'. Either we are part of the solution or we remain part of the problem. I do not see any problems with the comment that I made in relation to the judgement being manifestly inadequate and the role that the judiciary plays as independent from that which we play in the legislature. As I said, it is a fundamental tenet of democracy. They have their rights to make judgement; we have our rights to pass judgement.

In relation to that case, there is a maximum penalty of 20 years for manslaughter. In any trial somebody, should they be the one charged and undergoing that trial, should be—and they are—entitled to the presumption of innocence until proven otherwise. Indeed in the case that I am discussing, that particular person also had the right not to allocute on the crime to which they eventually pleaded guilty. The fact remains that whilst they had the right not to allocute, the judge also has the right to find that, with a failure to allocute despite pleading guilty, the penalty handed down could be increased accordingly. The judgement was a fair and reasoned judgement. I read the judgement. The judge laid out the reasons for the penalty that he prescribed to Mr Ristevski. I have no problems with his judgement in that respect. What I believe is that judges who claim that a penalty handed down is within the range of previous penalties handed down for similar offences fail to appreciate that the legislature has provided a range that they can operate within—not a range to operate within because of past cases that have operated, but a range within the penalties that the legislature has provided to our justices in order to mete out justice to the victim and their friends and families who survive them and the community that continues to operate as well.

I return to the bill. What we have here is a bill that emphasises the importance of open justice under the Open Courts Act. In doing so, we are implementing in full or in part seven of those 18 recommendations by Justice Frank Vincent that I referred to earlier. The bill will prevent suppression orders being made under the Open Courts Act 2013 when provisions under other legislation apply. It requires courts and tribunals to give reasons for making suppression orders under the act; enables suppression orders to continue until the determination of an appeal or unless varied or revoked by the appellate court; enables the publication of relevant juvenile convictions of persons who continue to engage in serious offending as adults, subject to certain safeguards; and—this is the critical one that I was referring to earlier—enables adult victims of sexual and family violence offences to speak more openly about their experiences.

We as a community must confront the evils that occur within. We cannot change our behaviour as a society unless we are able to talk about that behaviour, as uncomfortable as that may be, as difficult as

that is, as challenging as we find it. The fact remains that family violence is the number one law and order issue that we must face. It is not the only law and order issue that we face. Of course we have issues with drug and alcohol dependence that have a myriad of consequential issues that we as a society also confront. We of course have our royal commission into mental health that also will shed light into areas of darkness within our society that we for far too long have overlooked, that we for far too long have refused to accept, that we for far too long have refused to acknowledge.

We have a case here where we can afford victims of family violence and victims of sexual violence a right and an opportunity to speak out with confidence, without fear or favour, and without having to hide any longer. Irrespective of the many other attributes of this legislation, that in and of itself is enough for us to be confident that this legislation is going to do things for us as a society and as a community that have been waiting for far too long to occur.

To slightly expand on that for just a little bit longer, the bill, as I said, amends existing prohibitions to allow adults who either as adults or as children were victims of sexual or family violence offences to offer disclosures of their identity once the offender has been convicted. Again, people must be afforded due process. As difficult as it can be to provide protection to people who have allegedly committed an act, we must still afford a degree of protection to people until they are found guilty. This too remains a fundamental part of our democracy: innocent until proven otherwise. But once that is proven, we have a responsibility to support the victim. We have a responsibility to support the victim in the first part, but once that guilt is proven in a court of law, either by a judge or by a jury, we also have a responsibility to make sure that that victim, their family, their friends, their community and our society is afforded the right to support them publicly and openly. There is no shame about what occurred to them. There must only be support for what they have gone through and an ability for them to deal with it as they see fit. If that is publicly revealing who they are and not having to hide from that, then who are we to say that that is not worthy of a change to our legislation to support their right—the victim's right—to be able to continue as said.

The bill of course does a range of other things. We have had a range of speakers that have dealt with this. I did wish to address what I believe to be the most serious part of the bill, the part that I have had the opportunity to speak on. With those remarks, of course I will be supporting the passing of the Open Courts and Other Acts Amendment Bill 2019. I thank Justice Vincent for the work he did and the recommendations he made. This is of course only the first part of a tranche of recommendations that we will legislate. With that, I commend this bill to the house.

Ms STITT (Western Metropolitan) (16:39): I rise today to add my voice to the many contributions that have been made about this very important bill and the reforms to our court system. It is an issue that obviously is incredibly important to the broader Victorian community. The overall objective of the Open Courts and Other Acts Amendments Bill 2019 is to improve the openness and transparency of our legal system. As many of my colleagues have said today, that is really at the heart of our democracy in Victoria. The principles of open and transparent justice are at the heart of the overall objectives of this bill, and those things are incredibly important. It is incredibly important to have a transparent justice system in a democracy such as ours. It is about people's understanding of the justice system being clear. It is about the community having the right to know whether justice has been done. It is not necessarily about the punishment attached to judgements or court proceedings; it is about making sure that victims' voices are heard and that their healing is at the heart of these reforms.

The background to the Open Courts Act review was obviously in late 2016 when the government asked retired Court of Appeal judge, the Honourable Frank Vincent, to review the suppression orders regime in Victoria. That is obviously an incredibly important part of how we have arrived at this bill which is before the house today. Justice Vincent was asked to review the Open Courts Act 2013 and other associated Victorian legislation to consider whether the current laws strike the right balance between people's safety, people's privacy and fair court proceedings. The final report of the Open Courts Act review was made public in March 2018. The report made 18 recommendations for

improving existing suppression laws. The government has given support in full or in principle to 17 of those 18 recommendations; one recommendation still remains under consideration.

The Andrews Labor government is overhauling Victorian suppression order laws to make it clear that suppression and closed court orders must be the exception rather than the rule in our justice system. Open courts need to deliver transparency that protects the public's right to information. Of course we have had no clearer example than the recent very high-profile case, which was the subject of suppression orders, to see why it is that our system so desperately needs to be overhauled and reformed. Obviously in the age of the internet and in the age of new technology it is very difficult when there are suppression orders in place in one jurisdiction to actually make them stick. We had a fairly unfortunate situation where we could learn what was going on in court proceedings that had been suppressed in our own jurisdiction simply by doing a bit of a Google search. These are some of the things that have obviously been highlighted through that very high-profile recent case.

In contrast, with the sentencing in that particular case you saw the absolute best of Victoria's judicial system at work. You had a judge who very carefully and very thoroughly, in a very transparent and open way, explained the basis of the sentencing in that particular case. I think that many laypeople who listened to that judgement and to that sentencing probably for the first time really got an appreciation of the very broad range of issues that our judges have to contend with when they are making these very difficult and complex decisions.

So of course one of the objectives of this bill is to ensure that our court system is open and transparent and that wherever possible we have the right balance between protecting the victims on the one hand and ensuring that the reputations of those charged and before the courts are not unfairly disparaged, allowing justice to take place and take its course in an open and transparent manner.

The emphasis and importance of justice under the Open Courts Act is obvious. We need to prevent suppression orders being made as a matter of course. They need to be the exception rather than the rule. We need to require courts and tribunals to give reasons to make suppression orders under the Open Courts Act and enable suppression orders to continue until the determination of an appeal or unless varied or revoked by an appellate court. The act enables the publication of relevant juvenile convictions of persons who continue to engage in serious offending as adults, subject to certain safeguards.

I just want to briefly touch on some of the aspects of the bill which I think are incredibly important in the light of some very disturbing and high-profile cases recently of family violence in our community. With record investment in trying to prevent family violence and in the very detailed response to the Royal Commission into Family Violence I think it is really important that if we are going to get that long-lasting cultural change, that we do support people, predominantly women, who are the victims of family violence in our court system. The bill amends existing prohibitions to allow adults who, as adults or as children, were victims of sexual or family violence offences to opt for disclosure of their identity once the offenders have been convicted. As others have noted, this is an incredibly important part of the healing process and it should be something that is actually backed up by the law and by our court system.

The bill creates a court process to allow the court to make an order authorising disclosures if the victim consents to disclosure and there are no other reasons for prohibition to apply. Again, it is so important that victims in these shocking circumstances are empowered through the legal process, not further victimised through the legal process. The bill also clarifies the right of a victim to apply to revoke a suppression order under the Open Courts Act 2013 solely on the basis of protecting the victim's identity.

The court process under the bill requires a court to be satisfied of the consent of any other victim whose identity would be disclosed before it can make an order enabling victims of sexual or family violence offences to disclose their identities. As an additional safeguard the court must also be satisfied that the

disclosure of a victim's identity is appropriate in all the circumstances. I have been quite carefully noting those parts of the bill, because I think it is important that the balance is struck in the right way and that victims are protected in these reforms.

Others have spoken about some of the other aspects of the bill permitting courts to disclose information about an adult offender's youth convictions. There were some recommendations made by Justice Vincent in relation to those matters. There are some amendments that permit judges of the County Court or Supreme Court sentencing an adult offender to publish a juvenile offender's convictions. Of course there has to be the right balance struck in relation to these reforms as well because we are dealing with some of the most vulnerable people and some of the most difficult areas of offending in our system. Justice Vincent accordingly recommended that this discretion be subject to appropriate safeguards so that the intention of allowing young offenders to rehabilitate is upheld and people are given that chance.

In terms of consultation that has been undertaken in relation to this bill and the reforms that the government has undertaken, the report of the review was produced after consultation with over 40 stakeholders in private meetings and through a public submission process. The bill was developed in consultation with other key stakeholders, including the courts, the Office of Public Prosecutions, Victoria Police, the victims of crime commissioner and the commissioner for children and young people. So there has been a significant level of consultation undertaken in the development of this bill which, given the content of the bill, is absolutely appropriate.

At the heart of the bill is the presumption that we should always be striving for an open justice system and that the law needs to empower victims and empower the community, and that that is not always what has happened under the current system. This is indeed just part of the first tranche of reforms that this government is committed to delivering.

I have been very pleased to be able to make this contribution to the debate today along with many of my parliamentary colleagues in this place. I am not surprised that the speaking list has been extensive, because this is an issue that is really important in our community. It is awful to see people who are victims of crime not being able to get the justice that they think will be served in our court system. I think these reforms do go a significant way towards ensuring that our justice system delivers that accountability, that transparency and that open justice that are at the heart of the recommendations that were made to the Andrews Labor government in the reviews that I mentioned earlier. So without further ado, I would recommend the bill to the house.

Ms TAYLOR (Southern Metropolitan) (16:53): I certainly would like to pay respect to all the various speakers today. It is a very serious topic and I think it is very important that we as a community are able to express how we feel about these very important matters. Having said that, I seek not to repeat what has been said here today. I am going to try to draw out some other aspects of the implications of these changes.

What really stuck out to me when I was looking at the legislation and so forth was that it really is commanding a cultural change within judicial officers, legal practitioners and parties to a proceeding. Although I never worked in criminal law myself—I studied criminal law at university—I used to triage, in a charitable format, victims of domestic violence. One thing I know for sure from when those victims were sharing their stories with me is that one of the most important things for them was to be heard and, secondly, to be believed, because there is nothing worse, having had the courage to front up to a police station to try to progress a matter, than finding that people do not take what you are saying seriously and try to dismiss it, even after you have found all that courage within to come forward in what can be often a very embarrassing situation—not that it should be, but just by human nature we usually do not want to have to talk about such personal and disturbing matters.

So I am particularly buoyed—I hope that is not overstating the emotion—by the fact that there is this incredible and actually profound paradigm shift, a cultural shift, here in terms of allowing victims to

have a voice. I will get to a further point on that issue because I think—and again, I do not want to overstate the ramifications of these particular amendments; there are plans, I understand from looking at the proposed legislative change, to come following the various recommendations from the review—that this is not the end point. As is typical of the nature of the law, it is being reformed bit by bit, over time, carefully and incrementally, to ensure that you do not then inadvertently create a further injustice when you are actually trying to make the situation better for all involved. And really, and this is the other angle that I was seeking to get to, when we are looking at a cultural change it is shifting a mindset as to when it is or is not appropriate to make or seek a suppression order.

On that note, one thing that I will say is that lawyers—and I am not here to defend lawyers; I am just trying to get into the mindset of all parties involved in these proceedings—have a duty to defend the client that presents in front of them. They do not have a choice to say, 'Well, I'll defend you because you're innocent' or 'I'll defend you otherwise because you're guilty'. They have to defend the client that presents in front of them. Sometimes people will say, 'How can you defend that person? They're obviously guilty. They've done something absolutely terrible. Why are you defending them?'. But if we truly believe in our system that you are innocent until proven guilty, we must have both sides of any scenario defended appropriately.

What that means for that particular lawyer is that they have to operate within the law as it stands. Their duty is to put the very best case forward that they can. If the law were to persist as it has without these proposed changes and those suppression orders were permitted under these circumstances as they have been up until the present time, then that is what the lawyer would have to work within. I think this actually empowers the legal profession to be able to not only operate in a different way so that they can defend a particular client appropriately but also answer and respond to the changing needs of the community as well. I am referring to judges as well, because often they are damned if they do and damned if they don't, which is a very difficult predicament.

We also know that the court process itself is not pleasant for anyone. It takes a lot of courage to get up and face cross-examination, and it is not enjoyable, but we do need that rigour in order to ensure that only guilty people are sent to prison. We do have to have that rigour, and I am not stating that we should in any way weaken the rigour that is required within the legal setting. Of course there are caveats and protections in place that have evolved over time to try to mitigate the trauma of the court process, but the downside of this is that it can be an antagonist and it can inhibit the courage of victims to come forward and go through the whole court process.

I do not want to overstate what these particular reforms may or may not deliver, but I hope that they will go some way to giving confidence to victims to see the court process through, knowing full well that they will have that opportunity to reveal their identity. Of course they do have to apply and obviously there are various caveats and protections, and if they do not want to reveal their private details, they do not have to. I think this will actually send a signal to the community that domestic violence—if we are looking at that in this circumstance—and sexual assault are not okay. By allowing victims to share their stories and show their pain we are actually sending a signal to the community that we expect better of our community and we expect better behaviour from people within our community.

I think that there are also sufficient protections within the bill itself in order to help overcome some of the injustices that we see when we look at circumstances where juvenile convictions of an adult offender in the past were not allowed to be shared, so to speak. I have often considered that particular issue and thought that there is a certain injustice when there is a history of repetition of particular offences and yet these are not allowed to be considered in sentencing situations. So it actually brings me some comfort on a personal level—thinking as a layperson—to know that there has been a shift in this regard in order to be able to, at the end of the day, achieve a more just and fair outcome.

I believe Mr Dalidakis and probably multiple speakers before me shared the very important caveats that must be in place when we are talking about disclosing the juvenile offences of an adult offender,

which are where their adult offending is the same or of sufficient similarity to their child offending—so you are looking for a correlation there, which makes sense—where their adult offending is serious and where it is appropriate given the offender's previous criminal history and the prospect of rehabilitation. That gives me some comfort that there are caveats in place to prevent these kinds of legislative changes actually causing more problems than we had in the first place. Ultimately it is our genuine will as legislators to ensure that any change that we bring about when it comes to law reform actually improves the outcomes for the community rather than making them worse.

The fundamental benefit for the media and the public is to reduce the number of suppression orders made by Victorian courts and tribunals—that is our genuine will. The bill will also allow the media to report more freely on proceedings before the Children's Court by limiting prescriptive restrictions applying to the identification of parties and others.

The bill also provides for greater transparency in the making of suppression orders by requiring courts to give the reasons for making them. With regard to the suppression orders, this is the first, if you like, tranche—you have to be careful with the use of that word—of changes in that regard. My understanding is that there are more changes to come, but I salute the fact that we now have these changes here being brought and passed through the Parliament for the betterment of our community as a whole.

Something fundamental that I did learn back in law school—and there is nothing new about this—is that if the law is to be upheld then it has to have the respect of the majority of people in the community, and it also has to be enforced so people actually take it seriously. Hence it is very important that the law reflects the changing attitudes of the community over time. That is fundamentally what this amending legislation is seeking quite rightly to do—to reflect the changing attitudes over time of the community in particular about offences such as domestic violence and sexual assault. If you think about the people who have committed domestic violence or sexual assault—and there are many reasons and complexities as to why a person might commit domestic violence or sexual assault, and I am not a psychologist, so far be it for me to go into those various reasons. On some level part of the reason was perhaps that we did not have the various mechanisms in place to be able to validate a victim's experience, to set them on their journey and to ensure that they were supported in the process towards a conviction as is required and appropriate. Ultimately we were not sending that signal that it is not okay, which therefore allowed the perpetrators on some level—and I am generalising—to say to themselves, 'Well, it's okay. I have the right to do this'.

Fundamentally what underpins this is a desire of the community for a sense not only of justice but also of equality—making sure that men and women are treated fairly and equally in the community and that, where people in the past might have overlooked a slap or a very destructive form of physical, emotional or other abuse, we now take a very different attitude. So this is a very important part of a holistic approach to overcoming some of the most serious offences in our community.

Accordingly, I wholeheartedly support this bill. I know that there are more legislative changes which will be required in order to be able to realise the various recommendations from the review, so I would ask, I suppose, also for the tolerance of the community to understand that it is important that we are careful in the implementation of each of these very significant and profound changes to ensure that we do get as close as we can to what we deem to be justice in our community. On that note, I commend the bill to the house.

Mr GEPP (Northern Victoria) (17:06): I too rise to speak in support of the Open Courts and Other Acts Amendment Bill 2019. There has been a long list of speakers, and it is going to be very, very difficult not to traverse some of the ground that has already been covered by many of the speakers. But that is because of course it is a very important bill. It is important because it strives to ensure that our courts are open and transparent and that the law protects the public's right to information as well as all of the rights of the people involved in court proceedings.

The bill of course implements in full or in part seven of the 18 recommendations of the Open Courts Act 2013 review that was conducted by Justice Frank Vincent. I cannot think of anyone more qualified than Justice Vincent to have conducted the review. I think it is important. If other speakers before me have dealt with Justice Vincent's qualifications, then I apologise. But of course he served 16 years as a judge of the Supreme Court, followed by a further eight years as a judge of the Court of Appeal. He was deputy chair and then chair of the Victorian Adult Parole Board, a position he occupied for some 17 years. He then served as a consultant to the Australian Law Reform Commission and was chair of the Australian Criminal Bar Association, amongst many other things. So there is nobody more qualified to conduct the review on behalf of the government and the Victorian Parliament.

Justice Vincent was particularly asked to look at the suppression order regime that existed in Victoria at the time, and he was asked to review the Open Courts Act 2013 and other Victorian legislation to consider some very important points, and they were whether the current laws struck the right balance between people's safety, their privacy, fair court proceedings and the public's right to know. It was a little over 12 months ago that that final report was made public, in March 2018, and it made 18 recommendations for improving existing suppression laws, and I will talk about a couple of those during the course of my contribution. The government has given support in full or in principle to seven of the 18 recommendations, with one still under consideration.

As I said at the beginning of my contribution, the bill in full or in part implements seven of the 18 recommendations. As Ms Taylor and others have noted during the course of their contributions, this is just the first tranche of legislation; there will be other legislation that the Parliament will be asked to consider in due course. But in particular we are looking at the importance of open justice under the Open Courts Act, preventing suppression orders being made under the Open Courts Act when provisions under other legislation apply, requiring courts and tribunals to give reasons for making suppression orders under the Open Courts Act, enabling suppression orders to continue until the determination of an appeal or unless varied or revoked by the appellate court and enabling the publication of relevant juvenile convictions of persons who continue to engage in serious offending as adults, subject to certain safeguards.

Many of the speakers before me have spoken about the importance of the presumption of innocence of anyone before a court and the rights that they have. Importantly, those rights need to be protected under any legislation. But the one that I think everybody that I have heard speak so far in this debate has been captured by is enabling adult victims of sexual and family violence offences to speak more openly about their particular experiences. That gives you some context into some of the issues dealt with by the bill.

I do want to talk a little bit about something raised earlier when we were I think debating the Major Transport Projects Facilitation Amendment Bill 2019. Mr Davis, when he was making his contribution raised the issue of the Scrutiny of Acts and Regulations Committee and its relevance. If I am misquoting him, then I apologise; I do not mean to. But he suggested that it perhaps did not have the teeth that it perhaps once did. I am not here as the chair of that committee to defend that committee. The role of the committee of course is a matter for the Parliament; it is not a matter for me as the chair. But when I was reading through this legislation, just to give Mr Davis and the house some comfort, I went and looked at the statement of compatibility, because contrary to popular belief—and as Ms Taylor, who sits on the committee with me from this place, as well as Mrs McArthur, who is not well, and we all wish her the best for a speedy recovery, could inform Mr Davis and all members of the house—when we do consider a piece of legislation, or indeed a regulation, we do so very, very thoroughly. We do not just give it a cursory glance. We are given a wad of papers every week. They are quite voluminous, and we take them very, very seriously, and we do assess the legislation that comes before this place against the human rights charter.

When I was doing my research on this piece of legislation I did turn to the statement of compatibility, and that statement of compatibility of course is there to ask the questions about whether or not the

minister—in this case the Attorney-General—believes that the particular legislation is compatible with the human rights charter.

I note from the statement of compatibility that the Attorney-General has said, in her opinion, the human rights under the charter are relevant to the bill: the right to a fair hearing under section 24 of the charter; the right to freedom of expression under section 15(2) of the charter; the right to privacy under section 13 of the charter; the protection of families and children under section 17 of the charter; the presumption of innocence under section 25(1) of the charter; the right against arbitrary and unlawful detention under sections 21(2) and 21(3) of the charter; and the rights of children in the criminal process under section 23(3) of the charter and in criminal proceedings under section 25(3) of the charter. The advice that we get from the statement of compatibility is that in the view of the Attorney-General the bill is compatible with these human rights.

To give some robustness to the work that the Scrutiny of Acts and Regulations Committee actually does do on a piece of legislation such as this, we rely upon the advice that we got from a consultant that was first attached to the Scrutiny of Acts and Regulations Committee back in 2007, Professor Jeremy Gans. Professor Gans is a professor at Melbourne Law School, where he researches and teaches across all aspects of the criminal justice system. He holds high degrees in both law and criminology, and as I said, in 2007 he was appointed as the human rights adviser to the Victorian Parliament's Scrutiny of Acts and Regulations Committee. The advice goes on to detail some of the work that Professor Gans has done over the journey in both his role as the adviser to that committee but also in his professional life as a criminologist, if I could use that terminology.

On this particular bill we wrote to the Attorney-General and we asked a couple of questions. The Attorney-General's response is contained in the *Alert Digest* that has been published in this place. That gives some strength to the role of SARC, the interrogation that we actually do apply to legislation and regulations that come before us, and it supports, if you like, the things that other speakers have said consistently throughout this debate in their contributions in relation to some of the rights that have to be protected in all of these pieces of legislation. SARC has certainly been satisfied through the work that it has done in assessing this piece of legislation against the human rights charter to ensure the rights of individuals throughout the system, be it the accused or the victim, are protected. The advice that we received and subsequently tabled in this place in the *Alert Digest*, which we table every first sitting day of every sitting week, contains a response from the Attorney-General to the committee about this particular bill. It went to ensuring that the rights that people have spoken about so eloquently today of all participants in some of those proceedings have been protected.

I thought it was important that we provide comfort to at least Mr Davis but also to the entire house that we do in fact take that role very, very seriously and we do apply the appropriate test with the assistance of some of the most qualified and senior criminologists in this state. In Professor Gans's case, for 10 years he has been advising our committee about the application of the human rights charter to all of these pieces of legislation. He does an excellent job. He certainly provides great support to the committee that Ms Taylor, Mrs McArthur and I sit on. We meet at the beginning of every parliamentary week to consider all of the legislation and regulations that come before this place.

The bill does many, many things, as we have talked about. At the outset I asked why we were doing this and what we were trying to achieve. What we are trying to achieve is the openness and transparency that everybody in our community wants from our judicial system. Everybody wants to be able to look and listen to what is going on throughout our judicial system and understand it, but importantly we want to also ensure that everybody's rights within that system are protected—those that are accused but particularly also the victims. This is unapologetically directed to victims rights—and we heard many, many contributions today. Ms Stitt particularly referenced people who are victims of family and sexual violence. They now have the right to choose to have their identity disclosed, to make that proposition to the courts and for the courts to then make a determination. If that assists

victims of some of those evil crimes to heal and manage the closure of their horrendous ordeal, then all strength to this legislation. With those words, I commend the bill to the house.

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (17:21): Firstly, I would like to thank everyone for their contributions in this debate this afternoon. Suppression orders in courts are generally used at points that are very distressing for people, and I think that with everyone's contributions today we have been able to demonstrate to those that have been in that situation that we do as parliamentarians take these issues very seriously. Indeed this debate has been underlined with respectful contributions. I also wanted to indicate that the nature of this bill essentially is about getting the balancing act right, and I think in general terms there is uniformity of opinion that that is about right. So it has been pleasing to hear the broad-based support in this chamber for the underlying principles of this legislation.

It is important legislation as we move to make our justice system as open as possible. Suppression orders are an area of the law that is of particular interest to many in the community. They have been cause for much discussion in recent times in particular, and indeed there were many conversations conducted in the media during the recent trial of George Pell. Transparency is absolutely an important part of our justice system. It is not, however, the only important part of our justice system. This legislation has acknowledged that as much as possible—that justice should not be pursued nor indeed decided in the dark. This bill acknowledges that there are times when suppression orders should be used, but it also draws a line the sand and states that they should not be without a limit, that there should be a time period and that they should not be used indiscriminately.

I do not wish to unnecessarily reiterate the points that have been canvassed for a significant number of hours today about the inception and development of this legislation. However, I will take a brief moment to remind the chamber that the legislation has come out of the Vincent review, which was a review of the operation of the Open Courts Act 2013. Of the review's 18 recommendations, 14 are legislative and four are non-legislative. The non-legislative recommendations are being progressed independently, and the government has already implemented recommendation 4 by asking the Victorian Law Reform Commission to review the laws of contempt and aspects of the Judicial Proceedings Reports Act 1958. The government has already implemented recommendation 16, which relates to the disclosure of the identities of adult victims in Children's Court proceedings. This was done in the Justice Legislation Amendment (Victims) Act 2018. This leaves 13 outstanding legislative recommendations. The recommendations implemented in this bill are those that can be implemented now. The recommendations that are not being implemented are complex and require further consultation and funding before they can be given effect.

The support proposed for future implementations is as follows, and many speakers—particularly government members—have mentioned that there is a second tranche, another bill, that will come before this Parliament. That will do a number of things, including: ensuring the reasons for making suppression orders are made publicly available in written form—that is recommendation 6; establishing a public register of suppression orders—that is recommendation 7; treating all suppression orders as interim orders for five days, after which they would become final unless challenged—that is recommendation 8; removing the distinction between proceeding and broad suppression orders in the Open Courts Act—that is recommendation 10; amending the Serious Offenders Act 2018 to restrict the making of orders suppressing the identities and whereabouts of serious sex offenders, having regard to the ramifications of disclosure, including individuals' personal safety—that is recommendation 14; and requiring the making of interim suppression orders at initial bail hearings in cases involving alleged sexual or family violence offences or creating a statutory prohibition as an alternative mechanism to protect victims, which is recommendation 17.

The other supported legislative recommendations are expected to be implemented in 2020. I think there were some issues that have been raised by people about the timing of where the second tranche of recommendations might be forthcoming, so we do indicate that the objective is definitely 2020. The

government is giving further consideration to recommendation 18, and in that consideration there will be full consultation with the stakeholders involved. That of course is about allowing the Public Interest Monitor to act as a contradictor in suppression order applications. So I think that there will be full and robust discussion that will ensue on those areas.

Of the four recommendations that are not legislative in nature, one, as I said, was implemented when the government asked the Victorian Law Reform Commission to review the laws of contempt and aspects of the Judicial Proceedings Reports Act. The remaining three are being progressed independently, with a view to implementing them as soon as possible. So I think that gives members of the chamber an idea about what the government will be doing leading up to the next tranche and indeed when we can expect to see an outcome that will enable the passage of the next round of amendments to the act.

But can I say that whilst there are many aspects to what is before us this afternoon, I think one of the points of significant interest that the community has is what the actual effect will be in terms of the number of suppression orders. Indeed with this bill it is expected that there will be a reduction in the number of suppression orders made by Victorian courts and tribunals through implementing four key changes recommended by the review. These changes are to reinforce the importance of open justice and make clear that suppression orders under the Open Courts Act are only to be made as exceptions to the principle of open justice where necessary. They are recommendations 1 and 2. This will ensure that courts do not make suppression orders too easily by applying a mere presumption in favour of openness as under the current law. Further, it will prevent suppression orders being made under the Open Courts Act when a provision in other legislation prohibits or restricts the publication of information. That is recommendation 4. This will reduce the number of suppression orders by preventing duplication. An example of such a provision is the prohibition against publishing the identity of a victim or alleged victim of a sexual offence in the Judicial Proceedings Reports Act 1958.

Further, requiring the courts to give reasons for making a suppression order under the Open Courts Act particularly implements recommendation 6. This will ensure that orders are only made to the extent necessary. It will also ensure that suppression orders made in a proceeding in a lower court continue on appeal. That is recommendation 9. This will reduce the making of suppression orders which essentially protect the same information of disclosure.

As many other speakers have mentioned, it also deals with the publishing of juvenile convictions of young offenders. It also deals with the reporting of Children's Court proceedings. It also talks about the expectations to give reasons for making every suppression order. It also deals with the reasons for making suppression orders being publicly available in a written form. Of course this bill will also benefit victims of sexual or family violence offences seeking to disclose their identities. This bill also protects victims of sexual or family violence offences who do not want their identities disclosed.

Overall I consider this to be a good bill in that it does get the balancing act right. It ensures that various users of the justice system, whether it be the courts themselves or indeed victims and perpetrators, understand that there is going to be greater transparency but that at the same time the rights of individuals will be protected.

Whilst this has been a fairly lengthy debate and discussion, the fact of the matter is that this has been an issue of interest and concern in the community for some time. As I mentioned and others have mentioned, the principles have been highlighted in a very active way in the media in recent times as well. In fact it is contemporaneous that this bill is before the house this afternoon, because it does give effect to making sure we do have a more finely tuned justice system in this state, where the principles of openness and transparency get a good footing. I look forward to the next tranche that comes before the house in 2020 that will deal with the outstanding recommendations of the Vincent review.

Again, I thank all members of the chamber who contributed to this debate this afternoon. I think we have canvassed a range of areas that are contained in the bill and have been able to provide a number of examples and lived experience that have added to the true nature of what we are wanting to do with respect to this bill today. I commend this bill to the house. I think it has got the balance right, and indeed I look forward to seeing the next tranche come before this house next year.

Motion agreed to.

Read second time.

Third reading

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (17:36): I move, by leave:

That the bill be now read a third time.

Motion agreed to.

Read third time.

The 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.

Rulings by the Chair

QUESTIONS ON NOTICE

The PRESIDENT (17:37): I have received a written request from Ms Wooldridge seeking the reinstatement of questions on notice directed to the Minister for Training and Skills. I have reviewed those responses, and I order that part (2) of questions on notice 107 to 121 be reinstated.

Bills

GUARDIANSHIP AND ADMINISTRATION BILL 2018

Introduction and first reading

The PRESIDENT: 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 re-enact with amendments the law relating to guardianship and administration, to repeal the **Guardianship and Administration Act 1986** and to amend consequentially various other Acts and for other purposes'.

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:38): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Mr SOMYUREK: I move, by leave:

That the bill be read a second time forthwith.

Motion agreed to.

Statement of compatibility

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:39): 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 Guardianship and Administration Bill 2018.

In my opinion, the Guardianship and Administration Bill 2018, 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 Guardianship and Administration Bill 2018 repeals the *Guardianship and Administration Act 1986* (GA Act), re-enacts with amendments the law relating to guardianship and administration, and amends various other Acts.

The Bill provides a legislative scheme in relation to guardianship and administration by: continuing the office of the Public Advocate and providing for the appointment of a Public Advocate; enabling certain persons with disability to have a supportive guardian, supportive administrator, guardian or administrator appointed in specified circumstances; enabling an administrator to be appointed for certain missing persons; improving processes at the Victorian Civil and Administrative Tribunal (VCAT) in relation to guardianship and administration applications; and providing a process for VCAT to consent to special medical procedures on behalf of persons incapable of giving consent to those procedures.

The Bill aims to provide a solution to the challenges posed when a person with disability lacks decision-making capacity in relation to certain matters. In such circumstances, the Bill enables a guardian or an administrator to be appointed by VCAT, in order to promote the person's personal and social wellbeing. The Bill contains many safeguards, which protect the rights of persons affected by the Bill. Importantly, the Bill expressly provides that provisions of the Bill and powers, functions and duties conferred or imposed by the Bill are to be interpreted to adopt the way which is the least restrictive of a person's ability to decide and act, and so that a person is given all the possible support to enable that person to exercise their decision-making capacity (clause 8). In addition, the Bill provides that a person making a decision for a represented person must have regard to the following key principles: the decision-maker should give all practicable and appropriate effect to the person's will and preferences, if known; if the person's will and preferences are unknown, the person should give effect to what the represented person would likely want, based on all the information available; the person should act in a way which promotes the represented person's personal and social wellbeing; and the represented person's will and preferences should only be overridden if it is necessary to do so to prevent serious harm to the represented person (clause 9). The principles in clauses 8 and 9 broadly reflect the paradigm shift signalled in the United Nations Convention on the Rights of Persons with Disabilities, ratified by Australia in July 2008. That Convention views persons with disability not as 'objects' of charity, medical treatment and social protection; but rather as 'subjects' with human rights to recognise people with disability as persons before the law and their right to make decisions for themselves.

The Bill also enables VCAT to appoint a supportive guardian or supportive administrator as an alternative to, or in addition to, a guardian or administrator where VCAT determines that a person would be able to exercise decision-making capacity in relation to certain matters with appropriate support (clause 87). A person for whom a supportive guardian or supportive administrator is appointed is called a 'supported person'. While it may be the case that a legislative framework based entirely on supported decision-making would be a less restrictive alternative to permitting any form of substitute decision-making, in my view, such a regime would not achieve the purpose of this Bill in relation to persons that have extremely limited decision-making capacity. I consider that the framework in the Bill is preferable, as it maintains the decision-making capacity of supported persons and represented persons where possible, but also addresses the situation where a substituted decision-maker is required.

Human rights protected by the Charter that are relevant to the Bill

Guardianship and administration orders

Part 3 of the Bill allows for a person to apply to VCAT for a guardianship or an administration order in relation to a person with disability who is of or over 18 years old (clauses 22, 23). Clause 3 of the Bill defines 'disability' as a neurological impairment, intellectual impairment, mental disorder, brain injury, physical disability or dementia. VCAT may make a guardianship or administration order where satisfied of various factors (set out below).

A guardianship order may confer on a guardian a range of powers in relation to a 'personal matter' of a represented person, including powers to determine: where the represented person lives; with whom the represented person associates; and whether the represented person works (clauses 3, 38(1)(a)). A guardianship order may also confer on a guardian the power to undertake legal proceedings on behalf of the represented person in relation to a specified personal matter (clause 40). An administration order may confer on an administrator power to make decisions in relation to particular 'financial matters' specified in the order (clauses 3, 46). There are many financial powers that may be conferred on an administrator, including: selling any property (clause 52(g)); paying debts (clause 52(i)); and paying for the maintenance of the represented person and represented person's dependents (clause 52(n)). An administrator may also continue the represented person's investments (clause 48), undertake legal proceedings on behalf of the represented person in relation to a specified financial matter (clause 51) and make a gift of the represented person's property in certain circumstances (clause 47).

The authority of a guardian or an administrator is such that their acts have effect as if taken by the represented person with the relevant decision-making capacity (clauses 38(3), 46(4)). A represented person is taken to be incapable of dealing with, transferring, alienating or charging their money or property without the order of VCAT or the written consent of the administrator, and any such dealing by any represented person is void and of no effect (clause 75).

Clause 30 of the Bill sets out the circumstances in which VCAT may make a guardianship order or an administration order. Clause 30 (and other related provisions in Part 3 of the Bill) engages various rights under the Charter as set out below.

Right to equality (section 8)

Section 8(1) of the Charter provides that every person has the right to recognition as a person before the law. Section 8(3) of the Charter relevantly provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Discrimination in relation to a person means discrimination within the meaning of the *Equal Opportunity Act 2010* on the basis of an attribute set out in section 6 of that Act. This includes discrimination on the basis of a disability. Section 8 of that Act provides that direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

The Bill is directed towards people with disability. Clause 30 of the Bill will have the effect of empowering another person to exercise decision-making powers in relation to a person with disability (referred to as the 'represented persons'). The provisions in Part 3 may consequently affect the capacity of represented persons to make legally effective decisions for themselves in important areas of their life. To the extent that the Bill treats persons with disability unfavourably because of their disability by potentially restricting their personal autonomy, the Bill will be discriminatory in its effect, and its operation as a whole will limit the right to equality.

However, a guardianship or administration order may only be made in limited circumstances. VCAT must be satisfied that: because of the person's disability, the person does not have decision-making capacity with respect to the personal or financial matters in relation to which the guardianship or administration order is sought; the person needs a guardian or administrator; and the appointment would promote the person's social and personal wellbeing (clause 30). For the purposes of determining whether a person 'needs' a guardian or administrator, VCAT must consider: the will and preferences of the person; whether the decisions in relation to the personal or financial matters for which the order is sought may be made more suitably by informal means or through negotiation or mediation; the wishes of any primary carer or relative of the proposed represented person, or other person with a direct interest in the application; and the desirability of preserving existing family relationships or other relationships that are important to the person (clause 31). Such requirements may promote other human rights under the Charter, such as the right to privacy in section 13, the right to freedom of association in section 16 and the right to protection of families and children in section 17.

A party to an application may apply to VCAT for a rehearing of an application and VCAT must conduct a reassessment of orders made under the Bill within specified time frames (Part 7). In addition, VCAT must adhere to the general principles and be satisfied that the order is the least restrictive alternative possible in relation to the person's ability to decide and act (clause 8). In my view, these factors mean that any limit on the right to equality arising from the making of a guardianship or administration order will be kept to the minimum extent necessary to achieve the purpose of the Bill.

In addition, a person will only be subject to a guardianship or administration order if VCAT makes such an order following a hearing. The proposed represented person must be present at the hearing unless VCAT is satisfied that the person does not wish to attend or their presence is impracticable or unreasonable despite any arrangements VCAT may make (clause 29). Additionally, the process for the making of guardianship and administration orders is designed to promote the participation of the proposed represented person and ensure

that VCAT has regard to their will and preferences. In making a guardianship or administration order, it was held in *PJB v Melbourne Health, State Trustees Limited* [2011] VSC 327 that VCAT will be subject to section 38 of the Charter and, accordingly, must give proper consideration to, and act compatibly with, human rights.

Once an order is made, the Bill also places restrictions on the powers of guardians and administrators. The power to make decisions in relation to a number of highly personal matters may not be conferred on a guardian or an administrator, such as decisions in relation to making a will, voting, marriage, and the care and wellbeing of any child (clauses 39, 53). A guardian and an administrator are subject to the decision-making principles (clause 9 referred to above) as well as obligations to: act as an advocate for the represented person; encourage and assist the represented person to develop the person's decision-making capacity; act in such a way so to protect the represented person from neglect, abuse or exploitation; act honestly, diligently and in good faith; exercise reasonable skill and care; not use the position for profit; avoid acting if there are conflicts of interest; and not disclose confidential information (clauses 41, 55). An administrator must also keep accurate records and accounts of all dealings and transactions (clause 59) and ensure that their personal property is kept separate from the property of the represented person (clause 60). Importantly, an administrator must not enter into a transaction in which there is, or may be, a conflict between the duty of the administrator to the represented person and the interests of the administrator unless the transaction has been authorised by VCAT (clauses 57, 58). Clause 61 provides VCAT may appoint a person to examine or audit accounts of all dealings and transactions relating to financial matters specified in the order.

Finally, Division 2 of Part 7 of the Bill requires VCAT to conduct a reassessment of guardianship orders and administrations orders within 12 months after making the order and then at least once within each 3 year period after making the order unless VCAT orders otherwise (clause 159(1) and (2)). VCAT may also conduct a reassessment at any time on its own initiative or on the application of any person (159(3)). As part of the reassessment, VCAT must consider whether the guardian or administrator has complied with their duties set out in clauses 41 and 55 (described above).

In my view, to the extent that the making of a guardianship or administration order limits the right to equality, any such limitation is demonstrably justifiable and constitutes the minimum interference necessary to enable persons with limited decision-making capacity to participate in society and enjoy personal and social wellbeing.

As mentioned, any appointment or order under the Bill, including orders for guardianship and administration, can only take effect when a person is aged 18 years or over. Such differentiation on the basis of age also engages the right to equality. However, in my view, this age limitation does not limit the right to equality. The age threshold in the Bill recognises that if substitute decision-making is required for a person under 18, the young person's parents generally have this power and responsibility. The Family Law Act 1975 provides that, usually, each of the parents of a child who is not 18 has parental responsibility for the child. "Parental responsibility" is defined as "all of the duties, powers, responsibilities and authority which, by law, parents have in relation to children."

Right to freedom of movement (section 12), the right to freedom of expression (section 15) and the right to freedom of association (section 16)

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and to leave it and has the freedom to choose where to live, which includes a right not to be forced to move from or to a particular location.

Section 15 of the Charter provides that every person has the right to hold an opinion without interference and the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, pursuant to section 15(2). However, section 15(3) provides that the right to freedom of expression may be lawfully restricted in a range of circumstances, including where it is reasonably necessary to do so to respect the rights and reputation of other persons.

Section 16(2) of the Charter provides that every person has the right to freedom of association with others.

A power conferred on a guardian in relation to a personal matter (as defined in the Bill), such as the power to determine a represented person's residence and place of employment, education or training, is relevant to the freedom of movement under section 12 of the Charter. Other human rights, such as the right to freedom of expression under section 15 of the Charter and the right to freedom of association under section 16(2) of the Charter, may also be relevant and/or limited depending on the nature of the order made by VCAT appointing the guardian as well as the manner in which the guardian exercises the power. For example, the right to freedom of association may be relevant to a guardianship order that allows a guardian to make decisions regarding access to the represented person by certain people.

However, in my opinion, the obligations on a guardian in relation to the exercise of their powers (outlined above) prevent any powers conferred by a guardianship order from operating in a manner that unreasonably or unjustifiably limits human rights. Importantly, VCAT may only confer decision-making power on a guardian in relation to certain personal matters specified in the order if it is satisfied that it will promote the represented person's personal and social wellbeing (clause 30(2)(c)). For these reasons, I consider that any limitation of section 12 of the Charter and other Charter rights discussed above imposed by the Bill is reasonable and justifiable.

Right to privacy, family or home (section 13)

Section 13 of the Charter relevantly provides that all persons have the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference with privacy will be lawful if it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary if it is not capricious, unpredictable or unjust.

The right not have one's privacy, family or home unlawfully or arbitrarily interfered with is relevant to the power conferred on a guardian in relation to personal matters and the power conferred on an administrator in relation to financial matters. For example, a decision that a person must reside in a particular place or a decision to sell a represented person's family home or a decision as to whether a represented person works or undertakes education or training may interfere with a person's right to family and home. In addition, a guardian or an administrator may be empowered to receive and disclose certain personal information about the represented person in order to make and implement decisions.

The safeguards outlined above in relation to the duties imposed on guardians and administrators ensure that the powers of a guardian and an administrator, if exercised in accordance with the Bill, will not unlawfully or arbitrarily interfere with a person's right to privacy, family life or home. In addition, the disclosure and use of personal information by a guardian or administrator is for a defined purpose and there is a specific duty not to disclose confidential information unless authorised to do so under the guardianship or administration order or by law (clauses 41(1)(i), 55(i)). Furthermore, where the Public Advocate has been appointed to act as guardian, clause 20 provides that it is an offence for the Public Advocate (and Public Advocate employees) to disclose information relating to the affairs of an individual acquired in the performance of a function or duty or the exercise of a power under the Act other than in limited, prescribed circumstances. For this reason, the right in section 13 of the Charter is not limited as any interference will not be arbitrary or unlawful.

Protection of families (section 17)

Section 17(1) of the Charter provides that families are the fundamental group unit of society and are entitled to be protected by society and the State.

The power conferred on a guardian in relation to personal matters and the power conferred on an administrator in relation to financial matters may limit the right to protection of families. For example, a guardian's decision about where a represented person resides or an administrator's decision to sell a represented person's family home may result in a person not being able to live with their family. The right to protection of children will also be relevant where the guardianship and administration orders affect a child's relationship with a represented person, particularly where that person is the parent.

However, I consider that any limitation on the right of families to protection which may arise due to a represented person being separated from their family will be reasonable, proportionate and demonstrably justifiable within the meaning of section 7(2) of the Charter, given the decision-making principles (clause 9) and other duties and limitations imposed on guardians and administrators that are outlined above. In particular, under the decision-making principles, a guardian or administrator could only make a decision that would have the effect of separating a person from their family after considering the represented person's will and preferences. A represented person's will and preferences can only be overridden if necessary to prevent serious harm to the represented person or to another person. If a guardian or administrator are unable to determine the represented person's will and preferences, they must consult the represented person's close family and carers and act in a manner which promotes the represented person's personal and social wellbeing.

Right to property (section 20)

Section 20 of the Charter provides that a person must not be deprived of his or her property other than in accordance with law. This right is not limited where there is a law which authorises a deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

International jurisprudence supports a view that a 'deprivation of property' may not be confined to situations of forced transfer of title or ownership, but could include any substantial restriction on a person's control, use or enjoyment of their property.

The power conferred on an administrator to make decisions in relation to specified financial matters is relevant to the right contained in section 20 of the Charter. The exercise of complete and exclusive management and control of a person's property by an administrator may constitute the *de facto* deprivation of a person's property. As described above, clause 75 of the Bill restricts the ability of the represented person to deal with their own property to the extent that it is under the control of an administrator. However, the safeguards outlined above ensure that, if the powers of an administrator are exercised in accordance with the Bill, any *de facto* deprivation of a person's property (if occurs at all) will only in accordance with law that is clear and certain and does not operate arbitrarily. For this reason, the right in section 20 of the Charter is not limited.

Clause 74 provides that an administrator may sell all personal effects of a person who is no longer a represented person that are in the possession of the administrator and unclaimed for 2 years after the date on which the person ceased to be a represented person. There is a similar provision in relation to the personal effects of a person who is no longer a missing person (clause 135). The sale must occur after public notice and is provided for by law that is clear and precise in its application. Accordingly, the right in section 20 of the Charter is not limited.

Administration (missing person) orders

Right to equality (section 8)

Part 5 of the Bill provides for an additional category of administration orders in relation to missing persons. A person may apply to VCAT for an administration (missing person) order for a missing person who is of or over the age of 18 (clause 99). VCAT may make an order in relation to the financial affairs of a missing person if it is satisfied that: the person is a missing person who usually resides in Victoria; while the person is missing there is, or is likely to be, a need for a decision to be made in relation to the person's financial matters; and the order would promote the missing person's personal and social wellbeing while the person is missing (clause 105). An administrator appointed by VCAT under Part 5 has one or more of the powers conferred by Division 3 of Part 5 as specified by VCAT (clause 110). These powers generally mirror those in Part 3 in relation to administration orders, such as a general power to make decisions about those financial matters specified in the order and a power to continue investments (clauses 110, 111). An administrator for a missing person must also abide by the duties referred to in Division 4 of Part 5. The duties are based on Part 3, Division 7 of the Bill and include the obligations to: act as an advocate for the represented person; act honestly, diligently and in good faith, exercise reasonable skill and care; not use the position for profit; avoid conflicts of interest; and not disclose confidential information. Clause 122 also provides VCAT may appoint a person to examine or audit accounts of all dealings and transactions relating to financial matters specified in the order.

Division 5 of Part 5 provides other protections, such as a requirement that an administrator must notify VCAT in writing without delay when the administrator becomes aware that the missing person is alive, or that the missing person has died (clause 124). Additionally, an administration (missing person) order continues in effect for the period not exceeding 2 years as specified in the order (unless the order is revoked earlier).

For the reasons discussed above in relation to administration orders and the conferral of powers on administrators, any limitation of human rights caused by the above clauses will be reasonable and justifiable within the meaning of section 7(2) of the Charter. Also, as discussed above in relation to guardianship and administration orders, in my view, the age limitation of 18 or above does not limit the right to equality.

Special medical procedures

Part 6 of the Bill concerns the carrying out of 'special medical procedures', which is defined in clause 3 as 'any procedure that will have the effect of rendering a person permanently infertile; terminating pregnancy; removal of tissue for purposes of transplantation to another person; or any medical or dental treatment that is prescribed by the regulations to be a special medical procedure for the purposes of Part 6.'

Part 6 applies to 'patients'. Clause 3 defines a 'patient' as 'a person with disability who is of or over the age of 18 years and does not have decision-making capacity in relation to giving consent to the carrying out of a special medical procedure, regardless of whether the person is a 'represented person' as defined in the Bill.

The right to equality (section 8)

Part 6 may also limit the right to equality to the extent that it treats persons with disability differently on the basis that they do not have decision-making capacity to consent to a special medical procedure (refer to ZEH (Guardianship) [2015] VCAT 2051).

Part 6 contains many safeguards. In particular, any such procedure must be authorised by VCAT (unless the patient has given an instructional directive regarding the carrying out of the procedure under the *Medical Treatment Planning and Decisions Act 2016* (MTPD Act)). It is an offence for a registered practitioner to carry out a special medical procedure without the consent of VCAT (or the medical treatment decision-maker

if VCAT has provided this person with authority to consent to the continuation of the procedure or a further special medical procedure of a similar nature to the procedure that was originally authorised) (clause 147).

VCAT may only consent to the carrying out of a special medical procedure if satisfied that: the patient has not given an instructional directive under the MTPD Act regarding the carrying out of the procedure; the patient does not have decision-making capacity in relation to giving consent; the patient is not likely to have decision-making capacity in relation to giving consent within a reasonable time; and the patient would consent to the carrying out of the special medical procedure if the patient had decision-making capacity (clause 145(1)). In order to be satisfied that the patient would consent to the carrying out of the procedure if the patient had decision-making capacity, VCAT must consider: any relevant values directive under the MTPD Act and any other relevant preferences that the patient has expressed and the circumstances in which those preferences were expressed (clause 145(2)(a) and (b)). If VCAT cannot identify any relevant values directive or other preferences, VCAT must give consideration to the patient's values, whether expressed other than by way of a values directive or inferred from the patient's life (clause 145(2)(c)). VCAT must also consider the effects and consequences of the procedure and whether there are any alternatives and consult the patient's nearest relative (clause 145(2)(d)). If it is not possible to ascertain or apply the patient's preferences or values, VCAT must only consent to the procedure if: VCAT is satisfied that the procedure would promote the personal and social wellbeing of the patient, having regard to the need to respect the patient's individuality; and VCAT has considered the likely effects and consequences of the procedure; and whether there are any alternatives that would better promote the patient's personal and social wellbeing (clause 145(3)).

I consider that the limitation on the right to equality under Part 6 constitutes the minimum interference necessary to enable persons without capacity to consent to a special medical procedure in order to receive appropriate and necessary medical care that would promote their personal and social wellbeing, and as such, any limitation of the right to equality will be reasonable and justifiable within the meaning of section 7(2) of the Charter.

As with other orders under the Bill, Part 6 only applies to a person who is 18 years or above. Such differentiation on the basis of age also engages the right to equality. In my view, the age limitation of 18 or above in relation to special medical procedure applications does not limit the right to equality. In accordance with the High Court decision in Marion's Case (*Department of Health and Community Services v JWB and SMB* [1992] HCA 15), court authorisation is required before a special medical procedure can be undertaken on a child.

Right not to be subject to medical treatment without consent (section 10)

Section 10(c) of the Charter provides that a person must not be subjected to medical experimentation or treatment without his or her full, free and informed consent. Part 6 of the Bill enables VCAT to authorise a special medical procedure to be carried out in certain circumstances without the consent of a patient. To that extent, some clauses in Part 6 of the Bill limit the right in section 10(c) of the Charter.

The right to be free from being subject to medical treatment without consent is an important right in the Charter, given the way in which any such treatment without consent significantly undermines the personal autonomy of individuals and the freedom of such individuals to choose whether or not they are subjected to a particular medical procedure. However, the right can be subject to reasonable limitations in accordance with section 7(2) of the Charter.

In this case, the necessity to enable VCAT to authorise a special medical procedure arises from the inability of the persons concerned to consent to such a procedure. In my view, the inability of persons to provide consent should not preclude persons from undergoing a necessary special medical procedure that may improve the patient's quality of life. Given the numerous safeguards in Part 6 (outlined above), including the many factors VCAT must consider in forming the reasonable opinion that the patient would consent if they had decision-making capacity, and the fact that a special medical procedure must promote the personal and social wellbeing of the relevant patient, I consider that any limitation of the right not to be subject to medical treatment without consent will be reasonable and justifiable within the meaning of section 7(2) of the Charter.

Special powers in relation to proposed represented persons

Clause 43 confers special powers on the Public Advocate or another specified person in relation to a person in respect of whom an application for guardianship order under the Bill has been made (proposed represented person). If VCAT has received information on oath that the proposed represented person is being unlawfully detained against their will or is likely to suffer serious damage to their health or wellbeing unless immediate action is taken, VCAT may by order empower the Public Advocate or some other specified person to visit the person in the company of a police officer for the purpose of preparing a report to VCAT. A police officer may use such force as is reasonably necessary to enter the premises (clause 43(4)).

Clause 43(3) provides that if, after receiving a report from the Public Advocate, VCAT is satisfied that the person is being unlawfully detained or is likely to suffer serious damage, VCAT may make an order enabling

the person to be taken to a specified place for assessment and placement until the application for the guardianship order is heard.

Right to freedom of movement (section 12), right to liberty (section 21)

Clause 43 of the Bill may limit a person's right to freedom of movement and freedom to choose where to live under section 12 of the Charter where the person has been removed from their place of residence and held in an alternative residence against their will until the hearing of the application for the guardianship or administration order. If the person is restrained from leaving the alternative residence, clause 43 is relevant to a person's right to liberty and security under section 21 of the Charter. However, any such deprivation will not be arbitrary given the process for VCAT authorisation described above, and, in my view, this power will not limit section 21 of the Charter. Furthermore, given the limited circumstances in which a person may be removed from their residence and the safeguards outlined above, I do not consider that clause 43 of the Bill unreasonably or unjustifiably limits the right to freedom of movement in section 12 of the Charter. Finally, the Public Advocate must adhere to the general principles in the Bill (clause 8) and will also be subject to section 38 of the Charter and, accordingly, must give proper consideration to, and act compatibly with, human rights.

Right to privacy, family or home (section 13)

Clause 43 provides for the entry to residential premises and the removal of a person from their place of residence, which may interfere with the right to privacy, family and home of that person and any other person residing in the premises. The right to privacy is broad in scope and is said to encompass a person's personal and social sphere. This includes their personal security/bodily integrity, which would be engaged by the forcible removal of a person to be taken to a specified place. The right to property may also be engaged as the use of force interferes with a person's enjoyment of real property, and may involve property damage (e.g. breaking down doors).

However, the Bill provides that entry to premises and any subsequent transfer may only occur in limited circumstances, namely by order of VCAT and based on evidence on oath regarding the unlawful detention of a person or serious imminent damage to the person. In the absence of a power to visit a proposed represented person, the Public Advocate and VCAT would be unable to ascertain the conditions of the person's detention and accommodation which may be relevant to determining whether to make the relevant guardianship or administration order under the Bill. The power to remove a person may be authorised by VCAT in very limited circumstances, namely where VCAT is satisfied that a person is being unlawfully detained against their will or is likely to suffer serious damage to their health or wellbeing unless immediate action is taken. Accordingly, for these reasons, I consider that any interference with the right to privacy would be neither unlawful nor arbitrary and therefore not limit section 13 of the Charter.

Order for represented person to comply with of guardian's decision

Clause 45 of the Bill provides that VCAT may make an order authorising a guardian or other specified person to take specified measures or actions to ensure that the represented person complies with the guardian's decisions in the exercise of the guardian's powers and duties under the guardianship order.

Right to freedom of movement (section 12), right to privacy, family or home (section 13), the right to freedom of expression (clause 15), right to freedom of association (section 16)

Clause 45 may limit a represented person's right to freedom of movement under section 12 of the Charter to the extent that it may authorise a guardian or other specified person to use physical or non-physical measures to force a represented person to comply with a guardian's decision, such as a change in accommodation. A guardian may also be authorised to take measures such as enforcing a curfew, preventing certain persons from visiting the represented person, or imposing rules regarding the person's diet or dress. Other human rights, such as the right to freedom of association under section 16 of the Charter and the right to liberty under section 21 of the Charter, may also be relevant and/or limited depending on the nature of the order made by VCAT under clause 45.

The measures outlined in clause 45 may also engage the right to home and privacy, which is said to encompass the right to individual identity and personal development, to establish and develop meaningful social relations. The right to freedom of expression may also be engaged by regulating the person's dress.

However, in addition to the safeguards outlined above in respect of the duties imposed on a guardian, the Bill provides for oversight of the exercise of the power to enforce compliance by providing that VCAT must authorise a person to take 'specified measures' and must hold a hearing to reassess an order made under clause 45 as soon as practicable after the making of that order, but within 42 days (clause 45(2)). In my view, any limitation of section 12 of the Charter and other Charter rights discussed above imposed by clause 45 is reasonable and justifiable.

Supportive guardianship orders and supportive administration orders

Part 4 of the Bill provides that VCAT may make a supportive guardianship order or supportive administration order in relation to a person with disability, subject to a number of requirements (clause 87). A person in relation to whom a supportive guardianship order or supportive administration order is made is referred to as 'the supported person'. The role of the supportive guardian is to support a supported person in making and giving effect to decisions in relation to any personal matters specified in the order. The role of the supportive administrator is to support a supported person in making and giving effect to decisions in relation to any financial matters specified in the order. The Bill provides that VCAT may only confer a power on a supportive guardian or supportive administrator if it is satisfied that the power will ensure that the supportive guardian or supportive administrator can give practicable and appropriate support to the supported person to enable that person to have decision-making capacity in relation to the relevant personal matter or financial matters (clause 90(2)).

Right to privacy, family or home (section 13)

A supportive guardian and a supportive administrator have certain powers under clauses 91 and 92 of the Bill to collect and disclose personal information of a supported person, which are relevant to the right to privacy in section 13 of the Charter. However, in my view, clause 91 does not limit the right to privacy as the collection of personal information by the supportive guardian or supportive administrator is permitted for a defined, limited purpose, namely information that is relevant to a supported decision and may be lawfully collected by the supported person. Similarly, a supportive guardian or a supportive administrator may only disclose personal information under clause 91 for the purpose of enabling the supportive guardian or supportive administrator to carry out their role, for any legal proceedings under the Bill or for any other lawful reason. Under clause 92 a supportive guardian or supportive administrator may only communicate information about the supported person for the purpose of supporting the person to make or communicate a decision. These limitations on the collection and disclosure of personal information ensure that any interference with the supported person's right to privacy will be neither unlawful nor arbitrary. Furthermore, the purpose of clauses 91 and 92 is to enable a supportive guardian or a supportive administrator to effectively support a supported person to make a relevant decision. For these reasons, in my view, the clauses do not limit the right to privacy.

Powers of the Public Advocate

The Public Advocate has a range of powers under the Bill to obtain information from persons and, in some circumstances, to enter premises. These powers are contained in clause 16(1)(i) and 17.

Right to privacy, family or home (section 13)

Clauses 16 and 17 are relevant to the right to privacy to the extent that a person is required to provide personal information to the Public Advocate and where the Public Advocate may enter residential premises.

The purpose of these clauses is to ensure that the Public Advocate can carry out its functions under the Bill of investigating complaints or allegations relating to persons under guardianship or in need of guardianship, and its function of making representations on behalf of, or acting for, persons with disability. As noted above, the Public Advocate will be subject to section 38 of the Charter and, accordingly, must give proper consideration to, and act compatibly with, human rights. The clauses are precise in their application and are appropriately confined to ensure that any interference with privacy is limited. The powers to obtain information under clause 16 are limited to an investigation or a report prepared by the Public Advocate. The power of entry to premises in clause 17 is limited to the premises of an institution, which is defined in clause 17(7) to include a disability service provider, a residential service, residential institution or residential treatment facility within the meaning of the *Disability Act 2006*, a designated public hospital within the meaning of the *Health Services Act 1988*, a mental health service provider within the meaning of the *Mental Health Act 2014* or a supported residential service within the meaning of the *Supported Residential Services (Private Proprietors) Act 2010*. Under clause 17, the Public Advocate is not authorised to inspect a person's medical records or personnel records, which may contain more sensitive personal information, without the person's consent. For these reasons, in my view, the clauses do not limit the right to privacy.

Right against compelled self-incrimination (sections 24(1) and 25(2)(k))

Clause 17 also allows the Public Advocate to undertake inspections in relation to certain accommodation and treatment facilities, and make enquiries relating to the admission, care, detention, treatment or control of any person who is a resident of those premises or who is receiving any service from the institution. Clause 17(5) provides that it is an offence for a person in charge, or a member of the staff or management, to refuse or fail to give full and true answers to the best of that person's knowledge to any questions asked by the Public Advocate in the performance or exercise of any power, function or duty under clause 17. The maximum penalty is 25 penalty units.

Clause 17 is based on section 18A of the GA Act. Like existing section 18A, clause 17 does not contain an express exception for self-incrimination. However, in my view, the clause does not purport to abrogate the privilege against self-incrimination. While the refusal or failure to give full and true answers to any questions asked by the Public Advocate in the performance or exercise of any power, function or duty under clause 17 is an offence, the principle of legality should operate to ensure that clause 17 will be interpreted narrowly, so as not to abrogate the privilege against self-incrimination at common law.

The privilege against self-incrimination is a 'basic and substantive common law right' that is governed by the principle of legality.(1) The principle of legality governs the relations between Parliament, the executive and the courts and is a 'working hypothesis' that guides the interpretation of statutory language.(2) According to that principle, courts will not impute to the legislature an intention to abrogate or curtail fundamental rights or freedoms unless such an intention is clearly manifested by unambiguous language, and any ambiguity will be resolved by a court in favour of the protection of those fundamental rights.(3)

Because clause 17 does not compel self-incrimination, the rights in sections 25(2)(k) and 24(1) of the Charter are not limited by clause 17 of the Bill.

Further support for this proposition is provided by section 32 of the Charter, which requires that, so far as it is possible to do so consistently with their purpose, all statutory provisions must be interpreted in a way that is consistent with human rights. In my view, a court would choose to interpret any ambiguity in the wording of clause 17 in favour of protection of the right against self-incrimination. The Public Advocate, as a public authority, would also be required to act compatibly with the Charter in undertaking inspections under clause 17.

Withholding of information held by an administrator

Clause 73 allows an administrator to apply to VCAT for an order that a book, account, notice or document in the custody of the administrator relating to a person who is no longer a represented person may be withheld. There is a similar provision in relation to an administrator for a person who is no longer a missing person (clause 134).

Right to privacy, family or home (section 13), right to freedom of expression (section 15)

Clauses 73 and 134 are relevant to the right to privacy and the right to freedom of expression (which includes the freedom to seek and receive information) to the extent that a former represented person or former missing person may not be able to access information relating to themselves. However, VCAT may only make such an order where it would be in the interests of the person who is no longer a represented person or a missing person for part of their financial affairs to remain confidential or where the book, account, notice or other document contains confidential information about a third party. Accordingly, I consider that any interference with the right to privacy would be neither unlawful nor arbitrary and therefore not limit section 13 of the Charter. Given that section 15(3) of the Charter provides for lawful restrictions necessary to respect the right and reputation of other persons, in my view, clauses 73 and 134 do not limit the right to freedom of expression.

Clauses 73 and 134 may also promote the right to privacy to the extent that confidential or sensitive information about a third party is withheld or where a third party is denied access to confidential or sensitive information about the former represented person or former missing person.

Access to documents

Clause 214 of the Bill will insert a new clause 37A into Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act) that provides that a person may make an application to the principal register that any documents lodged in relation to a proceeding under the Bill not be disclosed to a specified person or class of person. New section 37A(2) provides that the application must be determined fairly and according to the merits of the application.

Right to freedom of expression (section 15)

New clause 37A of Schedule 1 to the VCAT Act will potentially operate to limit the right to receive information under section 15(2) of the Charter. However, in my view, the restriction falls within the internal limitation in section 15(3) of the Charter, as it is necessary to protect the rights of others, including the right to privacy and reputation.

Hearings for guardianship and administration proceedings

The Bill sets out the procedural requirements for applications and hearings to determine whether an order should be made for guardianship, administration, administration (missing person), supportive guardianship, supportive administration, and in relation to rehearings and reassessments. These provisions can be found in Part 3, Part 4, Part 5 and Part 7. Clauses 24, 81, 100 and 160 set out the matters to be included in an application and includes the names of anyone who has a direct interest in an application. Clauses 25, 82, 101 and 161 sets out who are the parties to a proceeding and allows VCAT to add additional parties. Clause 26, 83, 102 and

162 sets out who is entitled to notice of an application, which includes the parties, the spouse or domestic partner, the primary carer, and any other person VCAT determines to have a direct interest in the application. As discussed above, clause 29 provides that the proposed represented person must attend a hearing in relation to an application for guardianship or administration unless VCAT is satisfied that the person does not wish to attend or attendance would be impracticable or unreasonable, despite any arrangement VCAT may make. There are similar provisions in relation to Part 4 (supportive guardianship orders and supportive administration orders) and Part 7 (rehearings and reassessments).

Clause 37(1) of Schedule 1 of the VCAT Act provides that, unless VCAT orders otherwise, a person must not publish or broadcast any report of a proceeding under the GA Act that identifies or could lead to the identification of a party to the proceeding. Clause 213 of the Bill applies this provision to proceedings under the Bill.

Right to protection of families (section 17) and cultural rights (section 19)

Under clauses 26, 83 and 102, the following people are entitled to notice of an application for guardianship, administration, supportive guardianship or supportive administration, as well as subsequent hearings and orders:

- any party to a proceeding;
- the spouse or domestic partner of the person, if any;
- the primary carer of the person, if any;
- any person referred to in the application as having a direct interest in the application;
- in the case of an application for a guardianship order, the Public Advocate if no one is proposed as a guardian; and
- any other person VCAT directs be given notice.

Clauses 24(e), 81(e) and 100(d) require the name and contact details of any person who has a direct interest in the application to be included in the application. A legislative note after these provisions makes it clear that the phrase 'persons having a direct interest' is intended to encompass, amongst others, the proposed represented person's relatives.

Clause 3 of the Bill defines 'relative' to include: a spouse or domestic partner; a child; a parent; a step-parent; a sibling; a step-sibling; a grandparent; a grandchild; an uncle or aunt; and a nephew or niece. This definition is consistent with the definition of 'relative' used in other aligned legislation, including the *Powers of Attorney Act 2014*.

Although the definition of 'relative' does not specifically refer to Aboriginal kinship relationships, the Bill encompasses a broad concept of personal relationship where the term 'relative' is used, and provides flexibility for VCAT to consider a range of relationships that might be appropriate in the particular circumstances. For example, certain provisions refer to a 'close friend', as well as a relative (i.e. clauses 9(b), 47, 57, 118). 'Close friend' of a person is defined in the Bill as another person who has a close personal relationship with the first person and a personal interest in the first person's welfare'. Other provisions that refer to a relative also provide VCAT with the discretion to consider a person with a 'direct interest' or 'special interest' in the matter (for example, clauses 31(c) and 183 of the Bill).

When compared to the existing GA Act, clauses 26, 83, 102 promote both the right to protection of families in section 17(1) of the Charter, and the right of an 'Aboriginal person … to maintain their kinship ties' set out in section 19(2)(c) of the Charter. The current notice provisions in the GA Act, which require notice to be given to a proposed represented person's 'nearest' relative, do not afford VCAT any discretion to consider whether the 'nearest' relative has a close or continuing relationship with the person, or any substantive interest in the application.

In contrast, clauses 26, 83 and 102 do not limit notice being given to one family member but allow VCAT to consider a broader range of relationships that are relevant and important to the proposed represented person or proposed supported person, including extended family and close friends. This discretion will also enable VCAT to accommodate the broader understanding of Aboriginal kinship networks.

Right to a fair hearing (section 24)

Section 24(1) of the Charter provides, relevantly, that 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 also encompasses the established common law right that each individual has unimpeded access to the courts and tribunals of a state. The right is limited if a person is precluded from having effective access to a court or tribunal, in that they are barred from properly presenting their case.

The Bill enhances the fair hearing right by including provisions ensuring participation of represented persons and other people who are relevantly involved in hearings. However, under clause 37 of Schedule 1 of the

VCAT Act, guardianship and administration hearings are confidential. In my view, the confidentiality requirement for proceedings under the Bill does not impose any limits on the right to a fair and public hearing under section 24(1) of the Charter as it recognises the particular, sensitive nature of the proceedings. It is generally in the interests of the people involved for such hearings to be closed, in order to respect their right to privacy. In addition, VCAT has the discretion to order that the proceedings not be confidential if it is in the public interest to do so. Finally, section 24(2) of the Charter provides that a court or tribunal may exclude the media, persons, and the general public if permitted to do so by a law other than the Charter and section 8 of the *Open Courts Act 2013* provides that other laws restricting or prohibiting publication are not affected by that Act.

Reassessments on the papers

As discussed above, the Bill requires VCAT to conduct a reassessment of all appointments under the Bill within 12 months after making the order and then at least once within each 3 year period after making the order unless VCAT orders otherwise (clause 159(1) and (2)). VCAT may also conduct a reassessment at any time on its own initiative or on the application of any person (159(3)). Clause 164 allows VCAT to conduct a reassessment on the papers where the reassessment is on its own initiative and it does not propose to amend, vary or replace the relevant order. Before conducting a reassessment on the papers, VCAT must take reasonable steps to contact the represented person or supported person and ascertain whether they would like VCAT to conduct a hearing (clause 164(2)). VCAT is also required to provide a notice to the parties informing them that they have 14 days after the date of the notice to request a hearing (clause 164(4). If any of the parties request a hearing in the prescribed timeframe, VCAT must give the parties 7 days' notice of the hearing (164(5)).

Right to a fair hearing (section 24)

Clause 164 is relevant to the right to a fair hearing as a reassessment without a hearing may not allow the represented person to properly present their case to VCAT regarding the operation of the order. However, given that a reassessment may only be conducted on the papers in limited circumstances (i.e. where VCAT does not propose any changes to the existing order) and the fact that the represented person or other party to the proceeding must be notified and can request a hearing, in my view, the right to a fair hearing is not limited.

Liability of guardians and administrators and the State

Clause 45(3) provides that the guardian or person specified in the order is not liable for any liability relating to action taken pursuant to the order of VCAT under clause 45(1) in certain circumstances. The person must have taken the action in the belief that it would promote the personal and social wellbeing of the represented person, and that it was reasonable to take the action in the circumstances.

Clause 181 provides that the Supreme Court or VCAT may order a guardian or administrator to compensate the represented person for a loss caused by the guardian or administrator when acting as guardian or administrator. However, clause 182 provides that if the Supreme Court or VCAT considers that a guardian or administrator is or may be personally liable for a contravention of the provisions of the Bill, acted honestly and reasonably and ought fairly to be excused for the contravention, the Supreme Court or VCAT may relieve the guardian or administrator from all or part of that personal liability.

Clause 186 provides that no compensation is payable by the State in relation to any damage, loss or injury sustained by a person by reason of an act or omission of a guardian or an administrator under this Act.

Right to a fair hearing (section 24)

In my view, to the extent that the right to a fair hearing is limited by the above clauses, such limits are reasonable and justifiable under section 7(2) of the Charter. The immunity from liability in clause 45(3) is important as it allows a guardian to take specified measures to enforce their authority in accordance with a VCAT order to ensure the personal and social wellbeing of the represented person.

In addition, while certain recourse to a court may be limited or removed by the above clauses, other recourse remains available in each case. Anyone can apply to VCAT for a reassessment of the order appointing the guardian or administrator at any time and the Supreme Court and VCAT may only relieve a guardian or administrator from liability to pay compensation for losses caused by their decisions where they have acted honestly and reasonably. In addition, general law remedies remain available to aggrieved parties through the courts.

I also consider that it is appropriate that no compensation is payable by the State in relation to the actions of guardians or administrators, as any such liability should instead rest with the guardian or administrator if they did not perform their duty in accordance with the order and the requirements of the Bill.

(1) *X7 v Australian Crime Commission* (2013) 248 CLR 92, [104]

(2) *Electrolux Home Products Pty Ltd v AWU* (2004) 221 CLR 309, 329 (Gleeson CJ)

(3) *Coco v The Queen* (1994) 179 CLR 427, 437 (Mason CJ, Brennan, Gaudron and McHugh JJ)

Second reading

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:40): I move:

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

Motion agreed to.

Mr SOMYUREK: I move:

That the bill be now read a second time.

Incorporated speech as follows:

I note that the Bill is substantially the same as the Bill that was introduced in the last session of Parliament but that lapsed upon dissolution of the last Parliament. Apart from the commencement date and minor technical changes, the Bill has not been changed from the Bill introduced in the last session.

Background

When it was passed in 1986, the then named Guardianship and Administration Board Act was a visionary piece of legislation, which took Victoria from a nineteenth century approach to guardianship and administration to modern guardianship in a single step. The new Act was part of a suite of Acts that overhauled Victoria's laws for dealing with mental health and disability services.

The new Act implemented the recommendations of the Cocks Committee on Rights and Protective Legislation for Intellectually Handicapped Persons by establishing a system of limited guardianship and administration appointments for people with disability, made and monitored by a tribunal, the Guardianship and Administration Board. The new Act also created an independent advocate for people with disability, the Public Advocate, who could also be a guardian of last resort.

Times and attitudes change and now it is necessary to replace the 1986 Act with a law that reflects a contemporary understanding of decision-making capacity and disability, and recognises the rights of people with a decision-making impairment and the responsibilities of those who interact with such people—carers, health and accommodation providers, and the courts and tribunals. The challenges have shifted from de-institutionalising the many people whose disability was treated as a condition best managed behind secure walls, to managing the increasing numbers of people living in the community who lose their capacity through the onset of dementia or an acquired brain injury.

Australian legislation increasingly seeks to fully recognise the dignity, equality and autonomy of people with disability, whose fundamental rights have been enshrined in the United Nations Convention on the Rights of Persons with Disabilities. Australia was an original signatory to the Convention in 2008. This Bill draws on the Convention, and also on the 2012 Report of the Victorian Law Reform Commission on Guardianship, the 2015 Report of the Australian Law Reform Commission on Equality, Capacity and Disability in Commonwealth Laws, and recent Victorian legislation, such as the *Powers of Attorney Act 2014* (POA Act), the *Mental Health Act 2014* and the *Medical Treatment Planning and Decisions Act 2016* (MTPD Act). The Government has sought to align the concepts and terminology in this Bill as much as possible with these other Acts to promote consistent approaches and understanding of the rights, responsibilities and functions in relation to substitute decision-making that are articulated in these pieces of legislation.

Recognising rights

There is an ongoing discussion about how the balance should be struck between recognising the rights of people with disability to make their own decisions, and ensuring that there are effective mechanisms for protection when protection is needed. Some advocates and organisations emphasise that a person's will and preferences should be given priority in all but very limited circumstances. Others are concerned that the barriers to protective action by VCAT or a guardian or administrator should not be so high as to render such action unavailable when it is needed, despite a represented person's will and preferences.

The Bill strikes this balance by recognising the need to support people with disability to make, participate in and implement decisions that affect their lives, and otherwise providing that a person's will and preferences should direct decisions affecting the person as far as possible. Before making any guardianship or administration appointment, VCAT must consider whether a person can make their own decisions if provided with support, or whether decisions could be made by informal means. VCAT can still appoint a guardian or administrator where needed and where this will promote a person's personal and social wellbeing, however such appointments must be tailored to the person's individual circumstances and regularly reviewed. Once

appointed, guardians and administrators must give effect to a represented person's will and preferences where possible, but can override the will and preferences where the person would otherwise be at risk of serious harm.

The Government believes that this is the best approach to promoting the rights of people with disability, while ensuring their safety and welfare. It is a significant departure from the notion of decision-making in the 'best interests' of people with disability, which will enhance their autonomy, dignity and equality.

Key provisions

The Bill will replace the 1986 Act with a new Act that provides for a more modern framework for the appointment of a guardian or administrator and further statutory recognition of supported decision-making.

Decision-making capacity

The concept of decision-making capacity is central to the new legislation.

The Bill defines decision-making capacity and recognises that a person had decision-making capacity if the person can make decisions with support. The definition includes provisions to assist with the assessment of a person's decision-making capacity. A person is presumed to have decision-making capacity unless there is evidence to the contrary.

The definition of decision-making capacity is intended to promote each person's right to recognition and equality before the law, and prevent arbitrary and unnecessary intrusions on the right to make decisions that affect their life. The definition is intended to prevent unnecessary appointments of guardians and administrators. VCAT will not be able to appoint a guardian or administrator simply because a person has a disability, or because someone else thinks that the person is making unwise decisions.

The definition of decision-making capacity is the same definition that has been enacted in both the POA Act and MTPD Act.

Supported decision-making

Supported decision-making is an emerging concept that underpins the United Nations Convention on the Rights of Persons with Disabilities and has been recently used in Victorian laws such as the POA Act, the Mental Health Act and the MTPD Act. Supported decision-making signifies a shift from the traditionally held view that decision-making capacity is an absolute concept. It recognises the reality that a person can experience partial or fluctuating capacity and that capacity can depend on the nature of the particular decisions and the context in which they are made.

The Bill recognises supported decision-making by allowing VCAT to appoint a supportive guardian or administrator. Like supportive attorneys under the POA Act, and support persons under the MTPD Act, a supportive guardian or administrator will not make decisions for a person but will be empowered to support the person to make and give effect to their own decisions. Often support in decision-making comes from family members and trusted carers, and the ability to appoint a supportive guardian or administrator acknowledges these relationships of support, while ensuring that the person with disability retains their right to make decisions.

While a person who has capacity to make their own decision with support would be able to appoint a supportive attorney under the POA Act, it will nevertheless be useful for VCAT to be able to appoint a supportive guardian or administrator in some circumstances. These include, for example, where VCAT decides in a proceeding that while a guardianship order is unnecessary, appointing a supportive guardian would assist the person in making and communicating their decisions. Alternatively, a person may seek a supportive appointment in circumstances where their capacity to make decisions with support is questioned.

VCAT appointments of guardians and administrators

The Bill retains the important role of VCAT in making guardianship and administration orders in relation to adults but ensures that an order is proportional and tailored to the person's individual circumstances. The basis for an order must be that:

- the person, because of a disability, does not have decision-making capacity in relation to a personal matter, in the case of a guardianship order, or in relation to a financial matter, in the case of an administration order. As already noted, a person will have decision-making capacity if they can make decisions with support. While a guardianship or administration order will not be needed in such a case, a supportive appointment might be appropriate;
- the person is in need of a guardian or administrator. As part of this consideration, VCAT must consider whether decisions could be made by informal means or through negotiation, mediation or similar means; and
- the order will promote the person's personal and social wellbeing.

The Bill makes improvements to VCAT processes when dealing with guardianship and administration applications, including by:

- clarifying provisions regarding who should be notified about an application. This includes providing notice to those with a direct interest in the application, such as a person's primary carer, relatives or close friend;
- ensuring greater participation of the proposed represented person wherever possible in the application and hearing process. VCAT must consider the person's support needs as part of its processes, and should not hold a hearing without the person's participation unless satisfied that the person does not wish to participate, or any support needs cannot be reasonably accommodated. VCAT is able to conduct a hearing in a variety of ways, including by using telephones, video links or any other system of telecommunication; and
- requiring VCAT to consider the desirability of appointing as a guardian or administrator a person who is a relative of the proposed represented person, or who has a personal relationship with the person, rather than appointing a person with no such relationship;
- enabling a current guardian or administrator, or relative of a represented person, to formally file a document with VCAT that states their wishes for future decision-making appointments.

As is currently the case, the Bill requires VCAT to conduct a reassessment of a guardianship or administration order within 12 months after making the order, unless VCAT orders otherwise, and in any case, at least once within each three year period. As part of the reassessment process, VCAT must consider whether the guardian or administrator has acted in accordance with the principles and duties under the Act.

The Bill also retains the power for VCAT to appoint an administrator to make decisions in relation to a financial matter or matters of a person who is missing.

For the first time, the Bill allows for the enforcement through VCAT of decisions of guardians and administrators against third parties.

The Public Advocate

Under the Bill, the Public Advocate will continue as an independent statutory office that promotes the rights and interests of people with disability. VCAT will continue to have the power to appoint the Public Advocate as a person's guardian where there is no-one else available or suitable for appointment.

I take this opportunity to commend the Public Advocate and her staff, and the volunteers who participate in the different programs co-ordinated by the Public Advocate, for their dedication to the work that they undertake for people with disability in Victoria. Their care and commitment to their clients is outstanding. They greatly enhance the lives of Victorians with disability, especially those who lack decision-making capacity.

The Bill includes provisions to improve the operations of the Office of the Public Advocate (OPA), including by:

- clarifying the confidentiality requirements of OPA staff when performing statutory functions;
- requiring the Public Advocate to prepare an annual report of OPA's functions, which will be tabled in Parliament by the Attorney-General. This change will clarify and formalise the currently opaque arrangements under which the Public Advocate's annual report is tabled; and
- allowing the Public Advocate to delegate powers and duties as a guardian, or as an enduring attorney, to a member of staff at OPA.

Other matters

The Bill will come into operation on a day or days to be proclaimed, or otherwise on 1 March 2020. The default commencement date of 1 March 2020 is intended to allow for a reasonable implementation period of approximately 12 months from the estimated date of passage of the Bill. Such an implementation period is reasonable given that the Bill represents the most significant change to guardianship and administration laws in over 30 years.

The Bill includes a dispute resolution process for guardians and administrators who are appointed for the same represented person. The Bill requires a guardian and administrator for the same represented person to consult each other where their decisions overlap, but, unless otherwise agreed or determined by VCAT, the decisions of the guardian prevail over those of an administrator.

Consistent with the POA Act, the Bill allows the Supreme Court or VCAT to order a guardian or administrator to compensate a person for a loss caused by the guardian or administrator contravening the Act. It also creates new offences that will penalise a guardian or administrator who dishonestly uses their appointment to gain a

financial advantage for themselves or another person or to cause loss to the represented person or another person.

The Bill retains the provisions that allow VCAT to consent to a special medical procedure where a patient does not have decision-making capacity to consent to that procedure. A special medical procedure includes: any procedure that will, or is likely to, result in rendering the patient permanently infertile; a termination of a pregnancy; or any removal of tissue for transplantation to another person. The Bill ensures that the approach taken by VCAT in these matters is consistent with the making of medical treatment decisions under the MTPD Act. In particular, the Bill requires VCAT to be satisfied that the patient would consent to the procedure if the patient had decision-making capacity, taking into account any valid and relevant values directive of the patient and any other relevant preferences or values of the patient. If VCAT is unable to ascertain the patient's preferences or values, VCAT may consent to the procedure if satisfied that it will promote the personal and social wellbeing of the patient.

Future issues

There are a small number of Victorian Law Reform Commission recommendations where further work and consideration is required. These include: the feasibility of an online register of appointments of guardians, administrators and enduring attorneys; the Public Advocate's investigation functions; merits review of guardians' and administrators' decisions; and the support framework for 17-year-olds with disability that affects decision-making capacity.

The full implementation of the National Disability Insurance Scheme might also affect the operation of Victoria's guardianship and administration laws. Its impacts will be closely monitored by the Government.

I note that the broader issue of elder abuse is the subject of a report by the Australian Law Reform Commission and that its recommendations are currently being considered by the ministerial Council of Attorneys-General. It is likely that those discussions will lead to further reforms in respect of elder abuse, which will of course be relevant to the position of senior Victorians who have guardians, administrators or enduring attorneys looking after their personal or financial affairs.

In conclusion, I would like to thank all those individuals and organisations who contributed so thoughtfully to the Victorian Law Reform Commission's Guardianship Report, and to the development of this legislation. This is a sensitive and complex area of the law where a range of positions is reasonably held by many people of all types of ability and interest, including people who dedicate themselves to supporting people with disability and improving the policy and service frameworks with which they engage.

This Bill represents a milestone in the way that Victoria upholds the rights and meets the needs of people with disability whose decision-making capacity is impaired. It moves away from the old 'best interests' principle that underpinned a paternalistic approach to disability, to a position of promoting the dignity, equality and autonomy of people living with disability, while retaining the safeguards necessary for them to most fully realise their potential.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (17:40): I move, on behalf of my colleague Mr O'Donohue:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

PROFESSIONAL ENGINEERS REGISTRATION BILL 2019

Introduction and first reading

The PRESIDENT: 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 establish a scheme for the registration of professional engineers to promote best practice in providing professional engineering services, to provide for the endorsement of registration, to provide protection to consumers of professional engineering services and to make consequential amendments to other Acts and for other purposes'.

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:41): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Mr SOMYUREK: I move, by leave:

> That the bill be read a second time forthwith.

Motion agreed to.

Statement of compatibility

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:42): 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 Professional Engineers Registration Bill 2019.
>
> In my opinion, the Professional Engineers Registration Bill 2019 (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**
>
> This Bill establishes a single registration scheme for engineers to promote professional development within the engineering profession; reduce the risk of loss and harm to the public; and give consumers more confidence in procuring professional engineering services.
>
> The Bill will require individuals to be registered in one or more areas of engineering to be able to lawfully provide professional engineering services in Victoria. It is intended that over time, other areas of engineering will be included in the scheme. A register of engineers will be established under the Act.
>
> The Bill ensures consistent eligibility criteria across Victoria for engineers, establishes minimum continuous professional development requirements and provides a three year registration for professional engineers.
>
> The registration scheme will be jointly administered by the Business Licensing Authority (BLA), Consumer Affairs Victoria (CAV) and, in relation to engineers engaged in the building industry, the Victorian Building Authority (VBA), with assessment undertaken by approved assessment entities. Among other things, the Bill will confer on CAV a range of entry and inspection powers to enable CAV the ability to effectively enforce the provisions of the Bill.
>
> The Bill contains provisions to transition engineers currently registered under the *Building Act 1993* into the Engineers Registration Scheme when their current registration renewals fall due. The Bill also makes consequential amendments to a range of other Acts.
>
> **Human rights issues**
>
> Human rights protected by the Charter that are relevant to the Bill
>
> In my opinion, the human rights under the Charter that are relevant to the Bill are:
>
> a. the right to equality as protected by section 8 of the Charter;

b. the right to privacy and reputation as protected by section 13 of the Charter;

c. the right to freedom of expression as protected by section 15 of the Charter;

d. property rights as protected by section 20 of the Charter;

e. rights in criminal proceedings as protected by section 25 of the Charter; and

f. the right not to be punished more than once as protected by section 26 of the Charter.

For the reasons outlined below, I am of the view that the Bill is compatible with each of these human rights.

Equality

Section 8(3) of the Charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

Clause 12(2)(c) of the Bill disqualifies a person from obtaining or renewing a registration on the grounds that they are a represented person within the meaning of the *Guardianship and Administration Act 1986* (Guardianship Act). A represented person is a person subject to a guardianship or administration order under the Guardianship Act. Persons subject to such orders are persons with disabilities who are unable to make reasonable judgements about certain matters because of intellectual impairment, mental disorder, brain injury, physical disability or dementia.

A represented person is disqualified under clause 12(2)(c) of the Bill because of his or her inability to make reasonable judgements about certain matters, rather than because of his or her disability.

In my view, these disqualification criteria do not limit the right to equality. , To the extent that the provision may be considered to discriminate against represented persons, such discrimination is reasonable and justified because the provisions recognise the fact that a represented person cannot effectively carry out the functions of a professional engineer providing professional engineering services.

Right to Privacy and Reputation

Section 13 of the Charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought.

Several clauses of the Bill provide the BLA and VBA with broad powers to access the private information of individuals in order to determine applications for registration, registration renewal, endorsement and endorsement renewal; determine applications for approvals of assessment schemes; and regulate registrations and assessment schemes. Additionally, the Bill provides CAV inspectors with powers of entry, search and seizure that may interfere with the privacy of individuals.

Obtaining, using and sharing the personal information of applicants and registered professional engineers

Division 1 of Part 2 of the Bill sets out the application processes for obtaining registration as an engineer, as well as for the renewal of a registration. An application for a registration or renewal must be accompanied by prescribed information.

It also sets out the process by which the BLA and VBA may conduct inquiries concerning an application to enable it to be satisfied that the applicant is suitable to be granted a registration or have a registration renewed, including in the case of an applicant who wishes to be engaged in the building industry, whether they are a 'fit and proper person' within the meaning of the *Building Act 1993* to hold an endorsement.

Division 1 of Part 3 sets out the process by which assessment entities may seek to have their assessment schemes approved. As assessment entities can be natural persons, the information sought may also engage the right to privacy.

Although the right to privacy is relevant to the provisions governing registration, endorsement, approval schemes and renewal applications, applicants who are seeking to participate in a regulated industry have a diminished expectation of privacy. The information that will be initially sought by the BLA and VBA is only information that is necessary for or relevant to the determination of the applications, and any subsequent exercise of the information-gathering powers are a direct consequence of their application.

Given that there is a reduced expectation of privacy in this context, and the applicants and relevant persons will have given their consent for their information to be checked or verified, in my opinion there will be no limitation on the right to privacy or reputation where the relevant information is obtained, reviewed and shared within the confines of the relevant provisions.

The Register

Clause 28 requires the Licensing Registrar to establish and keep a Register of Professional Engineers that contains certain prescribed particulars. Clause 29 requires that certain information from the register must also be published on the BLA's website. The information to be listed on both the register and the website will include not only information relating to current registered professional engineers but also matters relating to discipline of those engineers.

The purposes of the register include recording necessary information to monitor compliance with the registration scheme and to allow the BLA, CAV and VBA to fulfil their obligations. The register will also make information about registered professional engineers, or engineers who were previously registered, available to the public. This serves the important purpose of promoting transparency, which will in turn assist consumers to make informed decisions about whether to engage a particular professional engineer.

Clause 28 sets out when the BLA is able to record the information on the register, and provides that the information about a disciplinary or criminal sanction is to remain on the register until the expiry of five years after the sanction ceases to have effect.

Not all of the information disclosed in the register will be of a private nature. Nevertheless, to the extent that the right to privacy is relevant to the information required to be listed on the register, I believe that any interference with that right is lawful and not arbitrary. The particulars which are to be listed on the register and the website are clearly set out in clauses 28 and 29, and their listing is therefore a known condition of any person seeking to be registered as an engineer. The collection and publication of information on the register is necessary for and tailored to ensuring compliance with the registration scheme and promoting transparency, and accordingly does not constitute an arbitrary interference with privacy.

Compliance and enforcement powers of inspectors

Part 6 of the Bill provides for the powers of CAV inspectors to monitor compliance and investigate potential contraventions of the Bill.

Clause 71 requires a registered professional engineer or their employer to keep all documents relating to their practice as a professional engineer and make them available for inspection at all reasonable times. Former registered professional engineers or their employers must also make documents available for inspection in a form and at a place where they can be readily inspected.

Under clauses 71 to 76, registered professional engineers, their employers and certain third parties who have possession, custody or control of documents relating to an engineer's practice as a professional engineer, can be required to produce documents and answer questions relating to the engineer's practice as a professional engineer. The Bill also provides for specified public bodies, certain other specified persons or bodies, and authorised deposit-taking institutions to produce information upon request of an inspector for the purpose of monitoring compliance with the Bill or regulations.

Clause 77 permits an inspector, with the written approval of the Director of CAV, to apply to the Magistrates' Court for an order requiring a person to answer questions or supply information relating to a registered professional engineer's practice as a professional engineer. Following consideration of evidence, if a magistrate is satisfied that such an order is necessary for the purpose of monitoring compliance with the regime, the magistrate may grant an order requiring supply of information and answers.

The Bill also provides for the entry, search and seizure powers of CAV inspectors. Inspectors may exercise powers of entry to any premises with the consent of the occupier, or where entry to the premises is open to the public. In the case of premises at which a registered professional engineer or their employer is conducting a business of providing professional engineering services, inspectors may, for the purpose of monitoring compliance and only during ordinary business hours, enter and search those premises without consent and seize items and inspect or make copies of documents. For premises that are not those at which a registered professional engineer or their employer is conducting the business, where an inspector believes on reasonable grounds that there is evidence on those premises of a contravention of the Bill or regulations, CAV inspectors may apply to the Magistrates' Court for a search warrant.

In my view, while the exercise of these compliance and enforcement powers may interfere with the privacy of an individual in some cases, any such interference will be lawful and not arbitrary. As noted above, the purpose of the inspection powers is to enforce compliance with the Bill and relevant registration conditions, to ensure professional engineering services are provided in a competent manner. Engineers and others engaged in providing professional engineering services have a diminished expectation of privacy in the regulatory context, and it is reasonable that they can be required to produce information and permit entry to business premises for compliance purposes. In the case of persons who are not involved in providing professional engineering services, inspectors' powers to require third parties to answer questions or provide information are limited to those individuals who have control over relevant documents and information, or

bodies that are likely to hold relevant information, and only for the purpose of monitoring compliance. If it becomes necessary for enforcement purposes to require any other third party to answer questions or produce information, the Bill only provides inspectors with these powers where a magistrate has first made an order.

Right to freedom of expression

Section 15(2) of the Charter provides that every person has the right to freedom of expression. Section 15(3) of the Charter provides that special duties and responsibilities are attached to the right to freedom of expression and that the right may be subject to lawful restrictions reasonably necessary to respect the rights of other persons or for the protection of national security, public order, public health or public morality.

Offence to make certain representations

Clause 68 of the Bill provides that it is a criminal offence for a person who is not registered as an engineer in a particular area of engineering to represent that they are registered to provide professional engineering services in that area of engineering. Further, the clause also restricts representations that they are an endorsed building engineer, that they are a professional engineer or that they are registered.

It may be that the right to freedom of expression extends to certain kinds of commercial expression. However, commercial expression is generally afforded a lesser degree of protection under the right compared with political or artistic expression. Restrictions on commercial expression are likely to be subject to less scrutiny generally on the basis that commercial expression serves a private, rather than a public, interest. Also, as with other forms of expression, commercial expression is subject to section 15(3) of the Charter. In these cases, the provision aims to protect consumers from being misled and so is necessary for the protection of the public interest.

In light of the fact that these new sections serve to protect consumers from being misled by persons who are providing professional engineering services but who are not appropriately registered or qualified, these provisions do not in my view limit the right to freedom of expression. They do not fall within the protected scope of section 15(2) of the Charter, or in the alternative, they fall within the exceptions to the right in section 15(3) of the Charter, as reasonably necessary to respect the rights of other persons and for the protection of public order and public health.

Provision of assistance when search warrant executed

Clause 84 will enable an inspector to be authorised by warrant to require a person to provide reasonable and necessary assistance or information to enable information in electronic or digital format to be accessed from the premises the subject of the warrant.

These provisions enable appropriate oversight and monitoring of compliance with the Bill. They only allow an inspector or the Director to require information, documents or assistance to the extent that it is reasonably necessary to determine compliance or non-compliance with the Bill. A warrant issued under clause 84 compelling the provision of information or assistance can only be issued if a magistrate is satisfied that an inspector has reasonable grounds to believe a contravention has occurred and after consideration of the rights and interests of the parties to be affected by the warrant.

The assistance of the persons to whom these provisions relate is necessary to conduct investigations into whether the regulatory obligations of the Bill are being complied with.

Although an engineer or other person at premises from which professional engineering services are being provided may not wish to offer information in respect of the provision of those services, their cooperation is essential to ensuring the effectiveness of the regulatory scheme. The assistance of those responsible for, and familiar with, the processes and operations of the engineer's practice is necessary to enable investigations into regulatory compliance.

Right to property

A number of provisions in the Bill provide for the seizure of documents and things and may therefore interfere with the right to property. Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

Search and seizure powers of inspectors

The Bill provides that CAV inspectors may, for the purpose of monitoring compliance, enter any premises with consent and examine and seize anything found on the premises believed to be connected with a contravention of the Bill or regulations, provided the occupier consents to the seizure. The Bill also provides, in the case of premises at which a registered professional engineer or their employer is conducting a business of providing professional engineering services, that an inspector may enter and seize or secure against

interference anything believed to be connected with a contravention of the Bill or regulations. In addition, seizure of items may occur in accordance with a search warrant issued by a magistrate where there are reasonable grounds to believe that there is a thing connected with the contravention of the Bill or regulations on any premises.

In each provision that permits inspectors to seize or take items or documents, the powers of inspectors are strictly confined. For example, before items are seized with consent, inspectors must first inform the occupier that they may refuse to give consent and that anything that is seized may be used in evidence. Where a magistrate issues a search warrant, only things named or described in the warrant, or things that are of a kind which could have been included in the search warrant, are permitted to be seized, and the rules in the *Magistrates' Court Act 1989* that govern the use of search warrants will apply. Entry and seizure without consent or warrant is only permitted at premises at which an engineer or their employer is conducting a business providing professional engineering services, and the powers of inspectors are appropriately circumscribed to only permit seizure of, or secure against interference, material necessary to investigate breaches of the Bill.

Embargo notices

Where a search warrant authorises the seizure of a thing that cannot, or cannot readily, be physically removed, clause 87 of the Bill provides for an inspector to issue an embargo notice prohibiting a person from selling, leasing, transferring, moving, disposing of or otherwise dealing with the thing or any part of the thing. Performing a prohibited act in relation to a thing, where a person knows that an embargo notice relates to the thing, is an offence. Further, the Bill renders any sale, lease, transfer or other dealing with a thing in contravention of clause 87 void.

The Bill enables an inspector, for the purpose of monitoring compliance with an embargo notice, to apply to the Magistrates' Court for an order requiring the owner of the thing, or the owner of the premises where it is kept, to answer questions or produce documents, or any other order incidental to or necessary for monitoring compliance with the embargo notice or clause 87. An inspector may also, with the written approval of the Director of CAV, apply to a magistrate for the issuing of a search warrant permitting entry to where the embargoed thing is kept for the purposes of monitoring compliance with an embargo notice.

To the extent that the restriction on selling, leasing, transferring, moving, disposing of or otherwise dealing with the thing that is subject to an embargo notice constitutes a deprivation of property, any such deprivation is for the purposes of ensuring that enforcement action under the Bill is not frustrated due to disposal of evidence. These restrictions can only occur in clearly circumscribed circumstances, and monitoring of compliance with embargo notices is subject to the supervision of the Magistrates' Court. Any such deprivation will therefore be lawful and will not limit section 20 of the Charter.

Requirements for retention and return of seized documents or things

Clause 90 of the Bill imposes a number of requirements that inspectors must comply with where they have retained possession of a document or item in accordance with any of the seizure or retention powers conferred by the Bill. These requirements will ensure that a person is provided with a certified copy of any documents seized or taken from them, and that inspectors take reasonable steps to return documents or things to the person from whom it was seized either if the reason for their seizure no longer exists, or in any event return them within three months unless an extension is granted by a magistrate.

In my opinion, for the reasons outlined above, any interference with property occasioned by the Bill is in accordance with law and is therefore compatible with the Charter.

Rights in criminal proceedings

Presumption of innocence—reverse onus

The right in section 25(1) of the Charter is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

Clause 67, which makes it an offence to provide professional engineering services without registration, could be perceived as creating a reverse onus in that it provides two exceptions to the operation of the main body of the offence. However, clause 67 does not require a defendant to raise evidence in support of their defence in relation to any aspect of the offence, but instead requires the prosecution to prove all elements of the offence, including that:

- a person provided professional engineering services in an area of engineering; and
- that person was not registered in that area of engineering; and

- that person did not provide the professional engineering services in accordance with a prescriptive standard; and
- that person did not provide the professional engineering services under direct supervision.

Clause 80(3), which makes it an offence not to comply with a requirement of an inspector when entry is effected into premises without consent or a warrant (other than the permanent place of residence of a person), enables a person to raise a defence of 'reasonable excuse' in response to a requirement to produce documents or answer questions under clause 80(1), relating to entries without consent or warrant.

Clause 92(2) of the Bill makes it an offence for the occupier of a premises where an inspector is exercising a right of entry for compliance enforcement purposes, or an agent or employee of the occupier, to, without reasonable excuse, refuse to comply with a requirement of the inspector. These requirements include giving oral or written information to the inspector, producing documents to the inspector, and giving reasonable assistance to the inspector.

Clause 94 enables a person to raise a defence of 'reasonable excuse' in response to a requirement by an inspector more broadly under Part 6 of the Bill dealing with enforcement.

By creating a 'reasonable excuse' exception, the offences in clauses 80, 92 and 94 may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as to a reasonable excuse. However, in doing so, these offences do not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution who must prove the essential elements of the offence. I do not consider that an evidential onus such as this provision limits the right to be presumed innocent, and courts in other jurisdictions have taken this approach.

For these reasons, in my opinion, clauses 67, 80, 92 and 94 do not limit the right to be presumed innocent.

Right to protection against self-incrimination and the right to a fair hearing

Section 24 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. It also addresses the ability to exclude persons from hearings if permitted by law, and requires hearings to be public unless the best interests of a child otherwise requires or a law other than this Charter otherwise permits.

Section 25(2)(k) of the Charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt. This right is at least as broad as the common-law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid.

These rights are relevant to clauses 84, 93 and 98, which applies to the enforcement powers of CAV inspectors provided by Part 6 of the Bill.

Clause 84 of the Bill will enable a warrant issued by a Magistrate under clause 77 of the Bill to authorise an inspector to require a person to provide reasonable and necessary information or assistance. Clause 84 of the Bill provides that it is not a reasonable excuse for a natural person to refuse or fail to provide information or assistance that a person is required to provide under clause 84 if the provision of the information or assistance would tend to incriminate the person.

The purpose of issuing a search warrant under clause 84 is to enable a search to be undertaken of specified premises for information or a thing connected with a contravention of the Act. The process is predicated upon evidence of a contravention not yet being in the possession of an inspector, and in the ordinary course of investigative action, a request for assistance made by an inspector under clause 84 would precede any decision to charge or not to charge a person with an offence under the Act.

This clause of the Bill is directed to addressing the increasing prevalence of storage of business documents and information in digital or electronic format, including "off-site" storage in cloud networks. Commonly, access to such information is subject to security requirements such as passwords or encryption technology. If a trader were able to refuse to provide a necessary password or de-encryption key to access business documents the regulatory scheme would increasingly become unable to be effectively administered.

The information or assistance contemplated under clause 84 is for the purpose of enabling access to information concerning an alleged contravention of the Bill. A duty to provide such information or assistance is consistent with the reasonable expectations of persons who participate in a regulated activity with associated duties and obligations. Moreover, it is necessary for regulators to have access to such information to ensure the effective administration of the scheme.

The Bill does not limit section 25(2)(k) in this respect, because the person required to assist an inspector is not a person who has been charged with a criminal offence. While there is no formal restriction on the use of the powers after a person has been charged, this reflects that, in practice, the execution of any search warrant occurs before any action for a contravention of the Bill or regulations is taken. The purpose of this action is to gather evidence in relation to the contravention. In addition, the person is not being required to testify against himself or herself because they are not giving evidence in court. Finally, the person is not being required to confess guilt. While the information the person provides may enable an inspector to obtain evidence that incriminates the person, the giving of that information, such as a computer password or similar, is not in itself a confession of guilt.

Further, it is important to recognise that the purpose of abrogating the privilege against self-incrimination in relation to the giving of assistance is to access information stored in digital or electronic format. While the Bill refers to accessing 'information' in clause 93(3), the information when accessed would amount to a pre-existing document. As noted below, the privilege against self-incrimination is significantly weaker for pre-existing documents, reflecting that they do not require a person to testify against themselves.

Even if the Bill could be said to limit section 25(2)(k), the limitations are reasonable and justified because of the fact that the investigation could be blocked by non-disclosure of the relevant information (such as a password to access a computer). If a person has locked hard copy business documents in a cupboard, an inspector would not need the person's assistance in breaking into the cupboard, under warrant, to seize that evidence and the person has no right to try to block the inspector from breaking into that cupboard. If the person has also 'locked' business records inside a computer through encryption, the person should not, simply because of their use of more sophisticated technology, now be empowered to stymie investigations by refusing to divulge the electronic key to that evidence.

While it was held in *Re an application under the Major Crime (Investigative Powers) Act 2004* [2009] VSC 381 that a derivative use immunity would apply where a person was required, under coercion, to provide an encryption key, it is important to recognise the nature of the Bill differs from that Act in that the purpose of that Act was to facilitate the investigation of serious organised crime, while the Bill has a regulatory and protective purpose. Reflecting this, the maximum penalties available under the Bill are considerably lower than the offences in relation to which the *Major Crime (Investigative Powers) Act 2004* apply, with no terms of imprisonment being available for contraventions.

Further, unlike orders made under the *Major Crime (Investigative Powers) Act 2004* which do not have any express requirements regarding access to encrypted data, there is also the safeguard that the magistrate issuing the search warrant will have discretion not to include such a power in the warrant where the inspector applying for the warrant has not made out an adequate case for the need for such a power.

Accordingly, the Bill does not provide a use immunity in relation to material seized as a result of the disclosure of a password. To do so would undermine the central point of the new power, to enable inspectors to access material that has been intentionally hidden or encrypted. As I have noted, a person who locked records in a cupboard cannot prevent an inspector from accessing those records under a search warrant. Where the person has simply used a more technologically sophisticated form of locking device (computer encryptions), they should not have any greater power to stymie an investigation.

There are no less restrictive means available to achieve the purpose of enabling regulators to have access to relevant digital or electronic information. To excuse the provision of information and assistance to enable access to digital or electronic records would significantly impede the regulator's ability to investigate and enforce compliance of the scheme in the contemporary business environment.

To the extent that clause 84 of the Bill could enable a person's right to protection against self-incrimination and a right to a fair hearing to be limited in compliance with a warrant authorising an inspector to require information, which is likely to be minimal, I consider this to be reasonable and justifiable.

Clause 93 provides that it is a reasonable excuse for a person to refuse or fail to give information or do any other thing that the person is required to do under Part 6, if the giving of the information or the doing of the thing would tend to incriminate the person. However, this protection does not apply to the production of a document that the person is required to produce under Part 6, and is therefore a limited abrogation of the privilege against self-incrimination.

The privilege against self-incrimination generally covers the compulsion of documents or things which might incriminate a person. However, the application of the privilege to pre-existing documents is considerably weaker than that accorded to oral testimony or documents that are required to be brought into existence to comply with a request for information. I note that some jurisdictions have regarded an order to hand over existing documents as not constituting self-incrimination.

The primary purpose of the abrogation of the privilege in relation to documents is to facilitate compliance with the scheme by assisting inspectors to access information and evidence that is difficult or impossible to ascertain by alternative evidentiary means. Taking into account the protective purpose of the Bill, there is significant public interest in ensuring that professional engineering services are being provided in compliance with the provisions of the Bill and the regulations.

There is no accompanying 'use immunity' that restricts the use of the produced documents to particular proceedings. However, any limitation on the right in section 25(2)(k) that is occasioned by the limited abrogation of the privilege in respect of produced documents is directly related to its purpose. The documents that an inspector can require to be produced are those connected with an engineer's practice as a professional engineer, and for the purpose of monitoring compliance with the Bill or regulations. Importantly, the requirement to produce a document to an inspector does not extend to having to explain or account for the information contained in that document. If such an explanation would tend to incriminate, the privilege would still be available.

Further, clause 71 of the Bill creates an obligation for registered professional engineers and their employers to keep all documents relating to the practice as an engineer available for inspection, and for former registered professional engineers to make documents relating to the engineer's practice as a professional engineer available for inspection. The duty to provide those documents is consistent with the reasonable expectations of persons who operate a business within a regulated scheme. Moreover, it is necessary for the regulator to have access to documents to ensure the effective administration of the regulatory scheme.

There are no less restrictive means available to achieve the purpose of enabling inspectors to have access to relevant documents. To excuse the production of such documents where a contravention is suspected would allow persons to circumvent the record-keeping obligations in the Bill and significantly impede inspectors' ability to investigate and enforce compliance with the scheme. Any limitation on the right against self-incrimination is therefore appropriately tailored and the least restrictive means to achieve the regulatory purpose.

Sections 125 and 126 of the *Australian Consumer Law and Fair Trading Act 2012* (ACLFTA) requires the production of information, documents or evidence. These sections are applied by clause 98 of the Bill, reflecting that both the ACLFTA and the Bill affect the regulation of the engineering profession. Inspectors administering the Bill will have been appointed under the ACLFTA and will be responsible for administering both the ACLFTA and the Bill. The approach of applying the provisions from the ACLFTA ensures that there can be a consistency of approach when investigating engineers in relation to matters under the ACLFTA and the Bill. The analysis contained in the Statement of Compatibility for the Australian Consumer Law and Fair Trading Bill 2011 (as it then was) of what are now sections 125 and 126 in relation to the protection against self-incrimination is equally applicable when considering the application of those sections to the Bill and its regulation of the engineering profession.

For the above reasons, I consider that to the extent that clauses 84, 93 and 98 may impose a limitation on the right against self-incrimination, that limitation is reasonable and justified under section 7(2) of the Charter.

Right not to be punished more than once

Section 26 of the Charter provides that a person has the right not to be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

Clause 12 of the Bill sets out the eligibility criteria for applications to be registered as an engineer and renewal applications. According to these criteria, an applicant may be refused registration in circumstances including where that person has previously been convicted or found guilty of certain indictable offences. Similarly, consideration of an application for an endorsement under clause 14 may give rise to similar considerations.

The right in section 26 of the Charter has been interpreted as applying only to punishments of a criminal nature and does not preclude the imposition of civil consequences for the same conduct.

I do not consider that the consequences under these clauses are punitive so as to engage section 26. Their purpose is not to punish the convicted person, but to protect the integrity of the registration regime by ensuring that only appropriate persons are able to be registered. Disqualification is based solely upon the fact of a conviction or finding of guilt for particular kinds of offences, rather than a consideration of the individual offending of the relevant person. However, the kind of offending which is caught is either the standard criteria employed across a number of occupational licensing schemes regulated by the BLA and other laws that impose specific obligations on persons providing professional engineering services. These provisions are therefore targeted at, and consistent with, one of the purposes of establishing the registration scheme, namely to effectively regulate the engineering profession by ensuring that no unfit persons are granted registration.

Accordingly, I am of the opinion that the eligibility criteria are compatible with the right in section 26 of the Charter.

Clause 60 enables VCAT to take disciplinary action against a registered professional engineer. Such action can be taken where VCAT is satisfied that a registered professional engineer has contravened the Bill or regulations, including where a person has been convicted or found guilty of an offence. Where an action under clause 60 follows a conviction for an offence under another provision, a question arises as to whether a disciplinary action constitutes double punishment for the purposes of the right in section 26 of the Charter.

The actions that may be taken by VCAT under clause 60 are of a regulatory nature and are for the purpose of protecting the integrity of the registration scheme by ensuring there is appropriate accountability, rather than being aimed at punishing the engineer. VCAT's powers under the Bill are supervisory and protective in nature and any such disciplinary action under the Bill does not amount to a finding of criminal guilt. Further, even if some of the actions that may be taken against a registration scheme under clause 60 amount to a sanction, those sanctions are not of a criminal nature and the right in section 26 of the Charter does not preclude imposition of civil consequences for the same conduct.

I therefore consider that clause 60 does not engage section 26 of the Charter.

Conclusion

I consider that the Bill is compatible with the Charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

GAVIN JENNINGS MLC
Special Minister of State

Second reading

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:42): I move:

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

Motion agreed to.

Mr SOMYUREK: I move:

That the bill be now read a second time.

Incorporated speech as follows:

Prior to the 2014 election, the Victorian Labor Government committed to 'work with relevant stakeholders on the introduction of a mandatory, statutory registration scheme and work with other jurisdictions to develop a nationally consistent registration scheme for engineers'.

The government subsequently brought forward an Engineers Registration Bill to the last Parliament, but it lapsed when the Parliament expired. Despite this, the government remains determined to deliver on its commitment, particularly in light of the recent structural problems with the Opal Tower in Sydney which highlights the problems that can occur with poor engineering. The Bill I present today substantially replicates the 2018 Bill, while also containing some minor and technical amendments to improve terminology.

A registration scheme for engineers is an integral part of the government's plan for infrastructure. We have already established Infrastructure Victoria and the Office of Projects Victoria, and appointed the Chief Engineer, to ensure Victoria's infrastructure is world class. We also have many new major projects under way including the Melbourne Metro Rail Tunnel, the West Gate Tunnel and the Level Crossing Removal project.

But the Andrews Labor Government's investment in infrastructure is bringing with it an important challenge: a need for suitably qualified and experienced engineers to develop and oversee these projects.

However, it is not just in infrastructure where engineers are critical to the state's future economic development. Engineers are central to driving greater innovation and productivity growth across the whole economy, from manufacturing to new energy technologies.

This was brought home in the recent Victorian State of Engineering Report, released in October 2018. That report found that engineering-enabled industries are responsible for more than 600,000 jobs and contribute nearly a quarter of Victoria's gross state product.

Despite the fundamental role in the economy that engineers have, the often complex nature of their work and the importance of their work in ensuring public safety, most engineers are not required to hold any kind of formal registration or licence. This stands in contrast to almost all other professionals in Victoria, including lawyers, doctors, nurses, architects and teachers.

At the moment in Victoria, only engineers engaged in the building industry need to be registered, and even then, coverage is limited to civil, electrical, mechanical and fire safety engineering. Such limited coverage means that only a small proportion of engineers in Victoria has had their qualifications and experience scrutinised.

Further, the engineering profession is increasingly globalised. Many of Australia's trading partners have recognised this and have begun to establish engineering registration schemes as an important tool to help promote exports of their engineers' services. A government-backed registration scheme will help give Victorian engineers the edge they need to compete in this global marketplace by giving prospective purchasers of their services the assurance that the engineer they engage is suitably qualified and experienced, and will comply with well-recognised and internationally understood professional benchmarks.

The government has undertaken extensive consultation with stakeholders, and I would like to thank those stakeholders for their input into the Bill. The professional associations representing engineers have expressed strong support for the introduction of a registration scheme, and many of those same associations have also expressed an interest in becoming assessment entities as the registration scheme rolls out to their areas of engineering.

This brings me to the key features of the Bill.

The Bill in detail

The engineers registration scheme that the Bill proposes will at its onset regulate five areas of engineering including civil engineer, structural engineer, mechanical engineer, electrical engineer and fire-safety engineer. A separate endorsement will apply for professional engineers who are 'engaged in the building industry'. Feedback from stakeholders indicates that these areas of engineering cover most of the engineers operating in Victoria. Further, these areas cover about 80 per cent of engineers registered under the Queensland Professional Engineers Act 2002. Registration in these specified areas will be rolled out progressively, with the regulations able to specify when professional engineers in an area of engineering require registration through the use of the exemption power. However, the Bill enables other areas of engineering to be prescribed by regulation. Over time, it is expected that the scheme will expand to cover other areas of engineering.

Once rolled out to a particular area of engineering, the registration scheme established by the Bill will prohibit any person from providing professional engineering services in that particular area of engineering unless they are either registered in the area, working under the direct supervision of a professional engineer registered in the area, or working in accordance with a prescriptive standard such as an Australian standard.

The Bill will also prohibit unregistered people from representing that they are a registered professional engineer, can provide professional engineering services or are an endorsed building engineer.

The registration scheme is based on a co-regulatory registration model which will be managed by the Business Licensing Authority (BLA), with support from Consumer Affairs Victoria (CAV), approved assessment entities, and the Victorian Building Authority (VBA). Reflecting its important new role, membership of the BLA will be expanded to include a person who has qualifications and experience in the field of engineering.

The Victorian scheme is modelled closely on the Queensland scheme. However, some differences exist due to differences in legislative requirements in the two jurisdictions. For example, engineers engaged in the building industry in Victoria must hold professional indemnity insurance to underpin certification requirements under section 238 of the *Building Act 1993*.

Under the co-regulatory model, the BLA will approve assessment entities. Before doing so, the BLA will be able to seek the advice of the Chief Engineer. Assessment entities will have to satisfy the BLA that they will be capable of undertaking a range of different matters related to the assessment of an applicant for registration, including assessing qualifications and competencies, ensuring audits of continuing professional development and providing independent and authoritative assessments in a timely fashion. The Bill also sets out the process for revoking an assessment entity's approval if they fail to meet these requirements.

After an engineer is approved by the assessment entity, they may then apply to the BLA to be registered. The BLA will also take over registration functions for engineers engaged in the building industry from the VBA once the scheme comes into effect.

Before deciding to register an applicant, as well as considering the report of the assessment entity, the BLA will assess whether the engineer meets a number of other eligibility criteria. In addition, the BLA will be able to check a range of probity matters. Where an engineer wishes to be engaged in the building industry, the Bill establishes a process where the VBA can check a range of building-related probity matters in relation to applicants for building industry endorsements, including whether the engineer has the required insurance under the *Building Act 1993*. The VBA will then report their assessment to the BLA.

If satisfied that a person is eligible for registration, the BLA will add the person to the Register of Professional Engineers. This register will enable consumers to check details of the registered professional engineer, including conditions on the registration, as well details of disciplinary matters up to five years old. This will further assist consumers to choose high quality engineering services.

Registration will be valid for a period of three years, and the BLA may impose conditions on the registration. After three years, an engineer may renew their registration by applying to the BLA and paying a registration fee. It is expected that a condition for renewal is completion of continuous professional development of 150 hours over the last three years. In addition, it is expected that assessment entities will also have to conduct regular audits of CPD.

If an application for a registration or registration renewal is refused by the BLA, or a condition is imposed, the applicant will be able to seek review of the decision by the Victorian Civil and Administrative Tribunal (VCAT).

Engineers who are already registered under the Building Act will have those registrations recognised under the new scheme. Further, because engineers who have been registered under the Building Act in the past may not have the necessary qualifications to meet assessment scheme standards, they will be given up to 5 years to complete any necessary training.

The Bill also sets up a disciplinary system that will see CAV or the VBA taking the lead, depending on whether an engineer has an endorsement. Where an engineer has been engaged in both building-related and non-building related engineering, if the engineer is an endorsed building engineer, the VBA will take the lead on investigating and disciplining the engineer in relation to the endorsement.

This dual regulator approach has been proposed to ensure that the VBA can continue to carry out 'end to end' investigations of non-compliant building work. Endorsed building engineers will be subject to the disciplinary grounds of the Building Act in relation to their endorsement. They will be subject to the grounds in the Professional Engineers Registration Act in relation to their registration. Disciplinary sanctions for engineers under the Bill will be similar to those available under the Building Act to ensure that engineers face consistent outcomes regardless of whether their misconduct was building-related or not.

Disciplinary procedures will be slightly different. It is expected that CAV will generally apply directly to VCAT for disciplinary action in relation to a registration, while the VBA will use the show cause process in the *Building Act 1993* in relation to an endorsement. In practice, outcomes from these processes are likely to be consistent, because engineers who are dissatisfied with a proposed sanction imposed by the VBA may apply to VCAT for a review of that sanction.

The Bill also sets out a range of entry powers available to the Director of Consumer Affairs Victoria. It also applies a range of powers under the *Australian Consumer Law and Fair Trading Act 2012* to ensure courts can order redress or make a range of other orders consistent with other consumer Acts administered by CAV. The VBA will rely on entry powers under the *Building Act 1993* in relation to engineers who have a building industry endorsement.

The engineers registration scheme proposed by the Bill will: help to promote professional development within the engineering profession; reduce the risk of loss and harm to the public; and give consumers more confidence in procuring engineering services. It will also improve opportunities for the export of engineering services by Victorian engineers.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (17:42): I move, on behalf of my colleague Mr Rich-Phillips:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

SALE OF LAND AMENDMENT BILL 2019

Introduction and first reading

The PRESIDENT: I have received a further message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to make various amendments to the **Sale of Land Act 1962** in relation to off-the-plan contracts, terms contracts, rent-to-buy arrangements and options to purchase land under land banking schemes, to amend the **ANZAC Day Act 1958** to impose restrictions on public auctions, and to amend the **Estate Agents Act 1980** in respect of payments that may be made from the Victorian Property Fund and for other purposes'.

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:43): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Mr SOMYUREK: I move, by leave:

> That the bill be read a second time forthwith.

Motion agreed to.

Statement of compatibility

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:44): 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 (**Charter**), I make this Statement of Compatibility with respect to the Sale of Land Amendment Bill 2019 (**the Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this Statement.
>
> **Overview**
>
> The Bill makes a number of amendments to *the Sale of Land Act 1962* (**the Act**), as well as amending the *ANZAC Day Act 1958* (**AD Act**) and the *Estate Agents Act 1980*. Relevant to this Statement of Compatibility, the Bill amends the Act to: provide for restrictions on the use of sunset clauses in certain off-the-plan contracts; prohibit the use of certain terms contracts and rent-to-buy arrangements; regulate moneys paid in respect of options to purchase land under land banking schemes; and provide for related matters. The Bill amends the AD Act to restrict the conduct of public auctions on ANZAC Day.
>
> **Human Rights Issues**
>
> Several aspects of the Bill raise human rights issues, which I address in this Statement as follows.
>
> Right to property
>
> Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. The 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.
>
> *Prohibition on terms contracts*
>
> Terms contracts are presently regulated by the Act. A terms contract for the sale of land includes (broadly) a contract under which the purchaser is obliged to make two or more payments (other than a deposit or final payment) to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land, or under which the purchaser is entitled to possession of the land or receipt of rents and profits before the purchaser becomes entitled to a conveyance or transfer of the land. The right to property may be relevant to certain provisions of the Bill which amend the existing regulation of terms contracts under the Act.
>
> Clause 20 of the Bill creates new offences with respect to terms contracts. New section 29EA prohibits a person from knowingly selling residential land (other than residential land that is agricultural land) under a

terms contract where the sale price of the land is less than the monetary amount to be prescribed in the regulations. New section 29EB prohibits a person from knowingly arranging or brokering such a sale, or knowingly inducing a person to enter into such a sale. The Bill creates penalties for contraventions of sections 29EA and 29EB. New section 55(2), as inserted by clause 28, provides that these provisions do not apply to a contract entered before the commencement of section 20 of the Sale of Land Amendment Act 2019.

In addition, through the operation of current section 29F of the Act, a terms contract entered into in contravention of the Act entitles a purchaser to avoid the contract at any time before completion of the contract, unless certain circumstances apply.

These provisions may be relevant to property rights under section 20 of the Charter, as they restrict a person's capacity to dispose of property under a terms contract in certain circumstances. However, in my opinion, any restrictions are in accordance with law and therefore do not limit the right. The situations in which the disposal of property is restricted are clearly formulated and confined to specific circumstances.

They also serve the important purpose of protecting consumers, where terms contracts for lower-value residential property sales are typically brokered between financially stressed vendors and purchasers, and where the arrangements are typically unaffordable and can lead to significant financial detriment.

Prohibition on rent-to-buy arrangements

The Bill amends the Act to prohibit certain types of rent-to-buy arrangements and to make related amendments regarding rent-to-buy arrangements. A rent-to-buy arrangement is defined as an arrangement that involves a person entering into one or more contracts that provide for a right of, or obligation on, that person to purchase residential land and for payment of rent or any other amount by that person in respect of a period of occupation of the residential land for more than 6 months before the right to purchase that land may be exercised or the purchase of the land is completed. The amendments contained in the Bill do not apply to a rent-to-buy arrangement that involves a contract entered into by the Director of Housing, a registered housing association (as defined), a prescribed person or class of persons, or a rent-to-buy arrangement that complies with certain prescribed requirements.

Clause 22 of the Bill creates new sections 29WC and 29WD. New section 29WC prohibits a person from knowingly selling residential land under a prohibited rent-to-buy arrangement. New section 29WD prohibits a person from knowingly arranging or brokering such a sale, or knowingly inducing a person to enter into such a sale. The Bill creates penalties for contraventions of sections 29WC and 29WD.

In addition, new section 29WF provides that a purchaser of residential land under a prohibited rent-to-buy arrangement may avoid any contract that is part of the rent-to-buy arrangement by giving written notice to the vendor, at any time before completion of the contract. If a prohibited rent-to-buy arrangement involves two or more contracts and a purchaser avoids a contract that is part of the arrangement, all of the contracts that are part of the arrangement are void.

These provisions may be relevant to property rights under section 20 of the Charter, as they prevent a person from disposing of property under a prohibited rent-to-buy arrangement. In my opinion, the provisions do not limit the right. The situations in which the disposal of property is restricted are clearly formulated and confined to specific circumstances. New section 56(2) provides that these provisions do not apply to arrangements entered before the commencement of section 22 of the Sale of Land Amendment Act 2019. Further, the provisions serve the important purpose of protecting consumers. Rent-to-buy arrangements are typically brokered between vulnerable parties, and purchasers under these contracts are often unable to afford the high ongoing rental and options payments, with the result that they are forced to move out of the property or are evicted, and forfeit their payments towards the property.

New section 29WG provides that a purchaser who avoids any contract can recover any money paid under that arrangement (other than a sum which represents fair market rent for any period for which the purchaser occupied the land). This is relevant to the right to property, as it can require property (money paid to the vendor) to be forfeited in certain circumstances. However, I do not consider that these amendments limit the right to property. The situations in which money paid is to be returned to the purchaser are clearly formulated and confined to specific circumstances. As noted, new section 56(2) provides that these provisions do not apply to an arrangement entered before the commencement of section 22 of the Sale of Land Amendment Act 2019.

Terms contract—removal of restriction on avoidance of contract

Section 29F(1) of the Act currently provides that where a terms contract is entered into in contravention of the Act, the purchaser may avoid the contract at any time before completion of the contract. Section 29F(2) currently restricts this termination right by providing that the contract cannot be avoided if a court is satisfied that certain conditions are established.

Clause 21 creates new section 29F(2A) which limits the application of the restriction on termination in section 29F(2), so that section 29F(2) does not restrict a purchaser from avoiding a terms contract, where the contract was for the sale of residential land (other than residential land that is agricultural land) under the prescribed threshold.

This may be relevant to property rights under section 20 of the Charter, as it restricts a person's capacity to dispose of property under a terms contract, as a purchaser is able to avoid the contract in certain circumstances, without exception. However, in my opinion, the amendments do not limit the right. The situations in which the disposal of property is restricted are clearly formulated and confined to specific circumstances. The purpose of the provision is to prevent a person from circumventing the proposed prohibition on entering into a terms contract for the sale of residential land (other than agricultural land) under the prescribed amount, which serves the important purpose of protecting consumers. New section 55(2) provides that new section 29F(2A) will not apply to a contract entered into before the commencement of section 21 of the Sale of Land Amendment Act 2019.

Applications to terminate terms contracts and rent-to-buy arrangements

Clause 28 also inserts new sections 55(3) and 56(3) into the Act, which allow a purchaser under a residential terms contract or a rent-to-buy arrangement entered before the commencement of sections 20 and 22 of the Sale of Land Amendment Act 2019 (and which would have been a contract to which section 29EA to section 29EC apply, or an arrangement to which Division 5 of Part 1 applies) to apply to a court or to VCAT to terminate the terms contract or a contract under the rent-to-buy arrangement. New sections 55(4) and 56(4) empower the court or VCAT to terminate such a contract.

These amendments may be relevant to property rights under section 20 of the Charter, as they restrict a person's capacity to dispose of property under a terms contract and rent-to-buy arrangement, as a purchaser is able to terminate the contract or arrangement in certain circumstances. In my opinion, these amendments do not limit the right. The situations in which the disposal of property is restricted are clearly formulated and confined to specific circumstances. The court or VCAT's power to terminate the contract is clearly circumscribed by new sections 55(5) and 56(5) as the order cannot be made unless, at the time the contract was entered into, there was a reasonable prospect that the purchaser would not be able to make or continue to make payments required or to obtain, on reasonable terms, the finance needed to complete the contract, or the purchaser no longer occupies the land purchased under the contract because they could not afford payments required, and it is just and equitable for the contract to be terminated. It is appropriate to allow for the termination of the contract where payments cannot be made and where it is just and equitable for the contract to be terminated, having regard to the fact that rent-to-buy arrangements, and residential terms contracts can carry significant risks, particularly for purchasers.

New sections 55(7) and 56(7) also empower the court or VCAT, in an application for termination of a contract under new sections 55 or 56, to make an order providing that the purchaser is relieved of any liability under the contract (including for breach of any condition or contractual term) and that the vendor must repay to the purchaser all or any specified payments made by the purchaser under the contract, except for a sum that represents fair market rent for any period which the purchaser was in actual possession of the land (in the case of residential terms contracts and rent-to-buy arrangements) or entitled to the receipts of rents and profits of the land (in the case of rent-to-buy arrangements).

New sections 55(7) and 56(7) may be relevant to property rights under section 20 of the Charter, as they can require property (money paid to the vendor) to be forfeited in certain circumstances. However, I do not consider that these amendments limit the right to property. The situations in which money paid is to be returned to the purchaser are clearly formulated and confined to specific circumstances. The court or VCAT's power to make the orders is clearly circumscribed by the threshold requirements imposed by new sections 55(8) and 56(8). These sections provide that the order cannot be made if it would result in undue financial hardship for the vendor or it would otherwise not be just and equitable taking into account all the circumstances and the nature and extent of any other person's interest in the land.

Options to purchase under land banking schemes

The Bill inserts new sections 29WH and 29WI into the Act, which regulate the circumstances in which a vendor may sell an option to purchase land under certain land banking schemes (as defined). These sections may be relevant to the right to property as discussed below.

New section 29WH(1) provides that a vendor must not sell to a purchaser an option to purchase land under a land banking scheme except as provided for in section 29WH.

New section 29WH(3) requires that any money paid by the purchaser for the option must be held on trust by the vendor's lawyer, conveyancer, or licensed estate agent, until a plan of subdivision is registered in respect of the land or lot or the expiry date for the exercise of the option (whichever occurs earlier). Section 29WH(4)

requires an agreement for an option to purchase land under a land banking scheme to provide for the money paid for the option to be held on trust in accordance with section 29WH(3). New section 29WH(5) provides that the purchaser may rescind an agreement if the requirements of section 29WH(3) and (4) are not satisfied.

Relevantly, new section 29WI creates an offence and penalties for a vendor who fails to comply with the section 29WH(3) obligation relating to money paid by a purchaser for an option under an agreement.

The treatment of money under new sections 29WH and 29WI may be relevant to the right to property, as the requirement that the money must be held in trust restricts the use of property (the money). However, I do not consider that these amendments limit the right to property. The situations in which moneys are to be paid and held on trust are clearly formulated and confined to specific circumstances. In addition, options to purchase agreements can carry significant financial risks for purchasers, and it is appropriate that money paid under the agreement be held on trust until a plan of subdivision is registered or the date by which the option must be exercised has expired.

New section 29WH(7) provides that, despite anything to the contrary in the agreement in respect of the option to purchase, the agreement will automatically expire if the event triggering the purchaser's right to exercise the option does not occur within 5 years of the entering into of the agreement. Further, as noted, new section 29WH(5) provides that the purchaser may rescind an agreement if the requirements of section 29WH(3) or 29WH(4) are not satisfied. This may be relevant to the right to property, as it restricts a vendor's ability to dispose of their property in certain circumstances. However, I do not consider that these amendments limit the right to property. The situations in which the automatic expiration occurs or rescission is permitted are clearly formulated and confined to specific circumstances. Further, limiting the duration of an option agreement is intended to provide greater clarity over the risk profile of the investment for both parties to the agreement, which is appropriate.

New section 29WH(8) provides that the purchaser is entitled to the immediate return of moneys paid under the agreement between the vendor and purchaser on the occurrence of specified events, these being that the purchaser has rescinded the agreement under section 29WH(5) or otherwise, or the agreement for the option has expired under section 29WH(7) or otherwise, or the event triggering the purchaser's right to exercise the option does not otherwise occur. This may be relevant to the right to property, as it can require property (money paid by the purchaser to be held on trust by the vendor's lawyer or agent) to be returned to the purchaser.

However, in my opinion, these amendments do not limit the right to property. The situations in which money paid is to be returned to the purchaser are clearly formulated and confined to specific circumstances. In addition, the provisions serve an important purpose of protecting investors with respect to certain land banking schemes, which are forms of speculative real estate investment that carry risks for investors. The provisions seek to ensure that property developers in certain types of schemes bear the financial risk of their land banking schemes, and that investors' money is returned if the scheme does not proceed. The provision also provides increased protection for purchasers by preventing their money from being tied up for lengthy periods of time.

Sunset clauses

New sections 10A–10F of the Act regulate the manner in which a residential off-the-plan contract can be rescinded by a vendor under a sunset clause. It is noted that most vendors affected by the amendments are likely to be corporations and therefore do not enjoy human rights, as the Charter only protects individuals. A sunset clause is defined as a provision of a residential off-the-plan contract that provides for the contract to be rescinded if the relevant plan of subdivision has not been registered by the specified sunset date or if an occupancy permit under the *Building Act 1993* has not been issued by the sunset date.

New section 10A makes the rescission of a contract under a sunset clause (that purports to automatically rescind the contract on the part of the vendor) subject to Division 1 of Part 1 of the Act, which includes new sections 10A to 10F. New section 10B provides that a vendor must not rescind a residential off-the-plan contract under a sunset clause unless the vendor gives written notice to each purchaser (containing information prescribed by the section) and each purchaser consents in writing to the rescission. Alternatively, section 10E provides that a vendor may apply to the Supreme Court for an order permitting the rescission pursuant to the sunset clause. New section 10C provides that a provision of a residential off-the-plan contract has no effect to the extent that it is inconsistent with sections 10A and 10B. New section 10D provides that the purported rescission of a residential off-the-plan contract in contravention of Division 1 of Part 1 of the Act is taken to be a breach of that contract. New section 10F(1) provides that a sunset clause in a residential off-the-plan contract must include a statement specifying (in summary) that the vendor is required to give notice of a proposed rescission of the residential off the plan contract, the purchaser has the right (but is not obliged) to give written consent to the proposed rescission of the contract and the vendor has the right to apply to the Supreme Court for an order permitting rescission by the vendor. Penalties are created for contravention of section 10F(1).

New section 54(1) (inserted by clause 26) and clause 2(2) provide that new sections 10A–10D are taken to have come into operation on 23 August 2018 and will apply to residential off-the-plan contracts entered into, and in force immediately before 23 August 2018. However, new section 54(2) provides that the amendments will not apply to any proceeding concerning the effect or operation of a sunset clause in a residential off-the-plan contract commenced before 23 August 2018. New section 54(3) (inserted by clause 27) and clause 2(3) provide that new section 10E will commence on the day after the Bill receives Royal Assent and will apply to residential off-the-plan contracts entered into, and in force immediately before, that date. However, new section 54(3) provides that new section 10E will not apply to any proceeding concerning the effect or operation of a sunset clause in a residential off-the-plan contract commenced before the day after the Bill receives Royal Assent. New section 10F(2) provides that section 10F(1) does not apply to a residential contract entered into before the date on which this section comes into operation.

These amendments may restrict a vendor's right to property and ability to deal with their property, by restricting the vendor's ability to rescind an off-the-plan sale of land under a sunset clause. However, in my view the right is not limited, as the situations in which the ability to deal with property is limited are clearly formulated and confined to specific circumstances. The requirements to be included in the vendor's written notice under new section 10B, and the requirement that a purchaser's consent be written, are clearly set out in the provisions. The power of the Supreme Court to permit rescission is clearly set out in new section 10E, and new section 10E clearly sets out the test to be applied by the Court and the factors the Court must consider in making its order. The purpose of these amendments is to protect purchasers. New sections 10A–10F of the Act seek to regulate and prevent the misuse of sunset clauses, in response to evidence that suggests that some developers are delaying progress of their developments and rescinding off-the-plan contracts under such clauses, in order to capitalise on increased property values since the contracts were signed, to the detriment of purchasers under those contracts. These issues were identified in the course of a public review of the operation of the Act undertaken between 2016 and 2017, and the amendments are based on a similar New South Wales legislative reform contained in section 66ZL of the *Conveyancing Act 1919* (NSW).

To the extent that the amendments are taken to come into operation on 23 August 2018 and apply to contracts in force immediately before that date, they have potential to affect the rights which may have accrued under those contracts and therefore have a retrospective operation. An accrued right may in some cases be considered a property right in and of itself. Any deprivation of a property right effected by the retrospective operation has been done according to law, and while there was no legislation in force from 23 August 2018, vendors were on notice of the Government's intention. A similar Bill to the present Bill was introduced into the previous Parliament, which included provisions equivalent to new sections 10A–10C and 10E. That Bill was read for a second time in the Legislative Assembly on 22 August 2018. The retrospective operation is designed to ensure that vendors taken to be on notice of the proposal cannot take advantage of relevant sunset clauses in the period between the original Second Reading speech and the date when this Bill comes into operation. To the extent that the retrospective operation might be considered to limit property rights, in my view it is justified because the provisions operate to protect purchasers, in circumstances where vendors may misuse sunset clauses and have done so in the past. Further, as noted, most vendors are likely to be corporations and therefore do not enjoy human rights.

New section 10D was not included in the original Bill; however, I also consider its retrospective commencement and application to be appropriate. The retrospective application of new section 10D provides potential contractual remedies for purchasers where vendors have sought to take advantage of relevant sunset clauses to rescind an existing contract before the passage of the other amendments. In my view, any limitations on the property right of vendors are reasonable and justified in the circumstances for the reasons noted above.

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 is qualified by section 15(3) of the Charter, which provides that special duties and responsibilities are attached to the right of freedom of expression and that the right 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.

Advertising sales under terms contracts and rent-to-buy arrangements

New section 29EC (as created by clause 20 of the Bill) prohibits a person from knowingly advertising the sale of residential land (other than agricultural land) under a terms contract where the sale price is less than the prescribed monetary amount. The Bill creates penalties for contravention of section 29EC.

Clause 22 inserts new section 29WE into the Act, which prohibits a person from knowingly advertising the sale of a residential land under a prohibited rent-to-buy arrangement. The Bill creates penalties for contravention of section 29WE.

These provisions do not apply retrospectively. The prohibitions relate to advertising the sale of land under contracts and arrangements that are unlawful. In my view, the right in section 15(2) of the Charter either does not extend to protecting expression that is unlawful or promotes unlawfulness, or if it does, is qualified by section 15(3) of the Charter. To the extent that these prohibitions may be relevant to the right to freedom of expression, in my view the provisions do not limit the right. The provisions aim to protect consumers with respect to terms contracts for low-value residential property and rent-to-buy arrangements which can carry significant risks of financial detriment, and where entering into such contracts is unlawful, and can be characterised as reasonably necessary to protect the rights of other persons.

Further, the prohibition is not a general restriction on advertising and is restricted to advertising of sales that are prohibited by the Act. As such, the provision is limited to the extent necessary to achieve the objectives of the Bill, and functions to achieve the important purpose of protecting consumers with respect to terms contracts and prohibited rent-to-buy arrangements.

AD Act amendments

The AD Act prohibits certain activities on ANZAC Day, including certain sporting and entertainment activities, without a permit from the Minister.

Clause 29 of the Bill inserts new section 5AB into the AD Act to provide that, despite anything in any other Act or a statutory rule, a person must not conduct a public auction of land or a business before 1pm on ANZAC Day. The Bill creates penalties for contravention of new section 5AB.

Unlike the approach taken in sections 5 and 5A of the AD Act, it is not possible for a person to apply to the Minister for an exemption from the prohibition on conducting a public auction before 1pm on ANZAC Day.

The right to freedom of expression may be relevant to clause 29 as it prohibits the holding of public auctions. However, in my view, the right is not limited, as it falls within the exceptions to the right in section 15(3) of the Charter. The provision is consistent with community values that certain activities such as sporting events and public auctions should be restricted on ANZAC day, and the restriction is therefore reasonably necessary for the protection of public morality. In any event, I consider that the limitation is reasonable and justified. The restriction only applies for the specified time on the prescribed day, concluding at 1pm. Further, new section 5AB(2) provides the prohibition of a public auction does not apply to an online public auction that has commenced but has not been completed before 1:00pm on ANZAC Day. I therefore consider that any interference with the right is limited, and that a reasonable time is afforded for the holding of public auctions on ANZAC Day following 1pm.

This provision may also be relevant to property rights under section 20 of the Charter, as it restricts a person's capacity to dispose of property during the regulated period. However, in my opinion, the provision does not limit the right. The situations in which the disposal of property is limited are clearly formulated and confined to specific circumstances, and the provision only operates for the specified time on the prescribed day, concluding at 1pm. Further, the provision will not apply to an auction that has commenced but has not been completed before 1:00pm on ANZAC Day.

Fair hearing

Section 24 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.

As noted above, clause 21 creates new section 29F(2A), which removes the restriction on a purchaser's ability to avoid a terms contract entered into in contravention of the Act in relation to certain residential land, where a court is satisfied that certain conditions are established.

While the removal of the power of the court to consider and allow such a contract to be entered into may appear to engage the fair hearing right, in my view it does not do so. Both parties retain the right to have any relevant proceedings determined by a court. The provision merely alters the substantive law to be applied.

Hon Adem Somyurek MP
Minister for Local Government
Minister for Small Business

Second reading

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:44): I move:

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

Motion agreed to.

Mr SOMYUREK: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The *Sale of Land Act 1962* ("the Act") was originally enacted in 1962, with the purpose of protecting purchasers under terms contracts and contracts for the sale of land off-the-plan. Subsequently, the Act was amended to protect the interests of property purchasers more generally, and it now regulates the treatment of deposit moneys, provides for mandatory pre-contractual vendor disclosure and regulates public auctions, among other things. It is recognised as a critical piece of consumer protection legislation underpinning Victorian property law.

During 2016 and 2017, the Act's operation was examined as part of the Andrews Labor Government's broader Consumer Property Law Review ("the review").

The bill I am introducing today is substantively the same as the Sale of Land Amendment Bill 2018 that passed the Legislative Assembly on 20 September 2018 but was not debated by the Legislative Council before the expiry of Parliament on 30 October 2018 and therefore lapsed.

The bill continues to support the Act's role in providing critical consumer protection by introducing a number of key reforms to address substantive consumer detriment in the Victorian property market identified during the course of the review, and to address other issues attracting community concern.

One of the most significant reforms to be introduced by the bill relates to the use of 'sunset clauses' to rescind residential off-the-plan contracts.

Under the Act, a purchaser under an off-the-plan contract has the statutory right to rescind the contract if the plan of subdivision relevant to the lot they have bought is not registered within 18 months of the contract being entered, or another period specified in the contract.

This statutory right to end an off-the-plan contract if it is not completed within a certain time reflects the conditional nature of off-the-plan projects, which involve some risk to a purchaser that the project will not be completed or that completion will be delayed.

The Act does not expressly give vendors (including developers) a similar right to end off-the-plan contracts of sale in this event. However, it does not preclude contracts from including such a right, and it is very common for off-the-plan contracts to include a clause enabling the vendor to end the contract if the plan of subdivision has not been registered by a specified date.

Contractual clauses of this type are known as 'sunset clauses'.

The Government has become aware of a number of instances in which developers have used (or propose to use) sunset clauses to rescind residential off-the-plan contracts, apparently with the intention of re-selling the relevant lots at a higher price, and in circumstances where it is alleged that completion of the project was deliberately delayed.

Although the number of developers who may seek to take advantage of rescission rights in this way may generally be low, the risk of this occurring increases when prices increase faster than expected. Termination under a 'sunset clause' in an attempt to capture this value is therefore always entirely opportunistic.

The consequence for the purchaser in this scenario is that despite having paid a significant deposit and having waited a period of time for their property to be developed, upon rescission of the contract, they are denied the benefit of any increase in the value of the property, are repaid only their deposit (without interest) and must then find an alternative property to buy, which also may have significantly increased in price over that period of time. Some purchasers in this situation may have to continue to rent, long past the time which they expected to be paying off a mortgage on their own home.

Members will appreciate the disappointment and distress experienced by purchasers to whom this occurs, and their loss of confidence in the integrity of the off-the-plan industry, where it seems that vendors have not used best endeavours to complete the project.

Therefore, in order to address the misuse of sunset clauses by vendors, the bill provides that a vendor may not rescind a residential off-the-plan contract pursuant to a sunset clause without the agreement of the purchasers, or alternatively the express permission of the Supreme Court. The bill provides that a purported rescission under a sunset clause contrary to Part I, Division 1 of the Act constitutes a breach of contract, enabling affected purchasers to claim damages or other appropriate remedies from the vendor.

The bill provides that the provisions restricting the circumstances in which a vendor can exercise a right to rescind a residential off-the-plan contract under a sunset clause are taken to have come into operation on 23 August 2018. This is the day after the day on which the Sale of Land Amendment Bill 2018 was second read.

This is designed to protect purchasers under existing residential off the-plan contracts from vendors who may have sought to rescind a residential off-the-plan contract under a sunset clause in the period between the Sale of Land Amendment Bill 2018 being second read and this Bill achieving passage through Parliament.

The term 'sunset clause' is defined in the bill to mean a clause that enables rescission of an off-the-plan contract if either the relevant plan of subdivision is not registered by a specific date, or an occupancy permit has not been issued in respect of the lot by a specific date.

The Supreme Court may make an order allowing the rescission of the off-the-plan contract if it is just and equitable in all the circumstances.

In making such an order, the Supreme Court is required to have regard to factors including whether the vendor has acted unreasonably or in bad faith, the reason for the delay in registering the relevant plan of subdivision or the issuing of an occupancy certificate, and whether the relevant lot has increased in value.

Vendors will be responsible for their own costs in making such an application to the Court, and will also be responsible for a purchaser's costs, unless the purchaser has acted unreasonably in withholding consent.

The bill also addresses predatory conduct in the alternative housing finance sector that has led to vulnerable consumers entering into unaffordable and high-risk 'terms contracts' or rent-to-buy arrangements for the purchase of residential property.

The bill amends the Act to prohibit the use of terms contracts for residential land sales (other than sales of agricultural land) under a monetary threshold to be prescribed in regulations made under the Act.

Terms contracts are contracts for the sale of land where the vendor and purchaser agree that the purchaser will pay the purchase price of the property in instalments, prior to the vendor completing a transfer of land in the purchaser's favour. The purchaser may be entitled to occupy the property during this period.

During the review it was suggested that market changes over the last 50 years, in particular, the contemporary competitive mortgage market has meant that there is less of a need to use terms contracts as a way of purchasing a home, and that they are now used mainly to take advantage of vulnerable people who cannot access conventional mortgage finance to purchase a home.

Indeed, the review received evidence about an increasing trend for terms contracts for lower-value residential property sales to be brokered between financially stressed vendors and purchasers, often in regional or outer-metropolitan areas. Such arrangements are almost always unaffordable for the purchaser, and are of little benefit to the vendor. It was further noted that parties generally cannot afford to obtain independent legal and financial advice prior to entering such contracts, or (in the case of purchasers) use provisions existing in the Act designed to protect their interests.

The Government acknowledges, however, that terms contracts can be a useful and appropriate arrangement for the sale of commercial, high-value residential and agricultural property, where the parties are more likely to have equal bargaining power and have involved independent financial and legal advice. Accordingly, the amendments introduced by the bill will not impede the continued use of this form of contract in these circumstances.

The bill will also amend the Act to prohibit the sale of land through rent-to-buy arrangements.

A rent-to-buy arrangement typically involves a residential tenancy agreement, allowing a person to occupy a residential property for a fee, and a sale option (or sale deed), which gives that person a right or option to buy the residential property at a specified–usually inflated–price, at a future point.

Rent-to-buy arrangements present significant risks to consumers. For example, if during the rental period, a person defaults on the residential tenancy agreement (for example, does not pay their rent for a month), the landlord can potentially exercise their rights under the *Residential Tenancies Act 1997* to terminate the lease, and as a result the rent-to-buy arrangement. Upon termination of the lease, the person will lose both their option to purchase and any fees paid under the sale option.

During the review no evidence was provided of the successful use of rent-to-buy arrangements as a means of achieving home ownership. Rather, the review received substantial feedback that this type of arrangement is of no discernible benefit to consumers and causes significant financial and personal distress.

However, the Government recognises that future models of rent-to-buy arrangements may be legitimate, and that these should not be prevented.

Therefore, the bill includes a number of exemptions from the general prohibition on rent-to-buy arrangements directed at arrangements which are likely to lead to home ownership, for example, where one of the parties is the Director of Housing or a registered housing association. Provision is also made for other prescribed persons and classes of persons, and arrangements that comply with prescribed requirements, to be exempt from the prohibition on selling residential land under a rent-to-buy arrangement.

The bill also closes a regulatory gap that has enabled developers associated with unregulated and problematic land banking schemes to spend the money they have raised selling options to unsophisticated investors without regard to their interests.

'Land banking' is a type of speculative real estate investment where property developers buy large blocks of undeveloped land with a view to dividing it into smaller lots.

Before any formal subdivision or development has occurred, small-scale domestic investors are offered the opportunity to either buy a lot 'off-the-plan' or pay money to purchase an option to buy a lot at some point in the future. The value of the option is tied to the likelihood of the land being approved for development by the relevant council, enabling the investor to purchase the land at a profit.

While monies paid by purchasers under off-the-plan contracts are protected under the Act, purchasers of an option to buy land are at considerable financial risk, because the land which is the subject of the option may be unsuitable for re-zoning or development, and moneys paid for the option are not required to be held trust and are therefore at risk of being dissipated.

Previous land banking schemes that have involved the sale of options have collapsed, with investors unable to recover their option fees. Such investors have typically been persons with limited funds and limited investment experience.

The bill puts in place similar protections for persons who pay money for options to purchase land in a land banking schemes as are in place for purchasers under off-the-plan contracts by requiring option moneys to be held on trust by a legal practitioner, conveyancer or licensed estate agent acting for the vendor of the option until a plan of subdivision has been registered, or until the time by which the option must be exercised has expired. If the option expires, moneys paid for the option must be returned to the purchaser.

In addition, the bill provides for the expiry of options to purchase land as part of a land banking scheme after five years so that investors can regain access to their money (which will have been held on trust) should the development not have progressed within this time period.

The bill specifically exempts options sold in respect of land banking schemes that are registered managed investment schemes under the *Corporations Act 2001*, and options that are financial products issued by the holder of an Australian Financial Services Licence ("AFS"), from the amendments to be made to the Act. This recognises that registered managed investment schemes and AFSL holders are already subject to Commonwealth oversight.

The bill also includes amendments to address some issues which, while infrequent, are of concern to the community when they arise.

One such issue relates to the disclosure of certain facts regarding a property for sale, for example, its history as the site of a homicide, or its past use as a site on which illicit drugs were manufactured.

The bill will amend the Act to strengthen an existing requirement not to fraudulently conceal 'material facts' about a property, with the intention of inducing another to buy that property. Additionally, amendments will be made to enable the Director of Consumer Affairs Victoria to publish guidelines designed to assist vendors and estate agents to understand what is meant by the term 'material fact'.

Another issue of concern to the community is the holding of public auctions on ANZAC Day.

There are currently no restrictions on this practice, however public auctions that are held on ANZAC Day are considered to be disrespectful by many members of the community.

The Andrews Labor Government has listened to the concerns raised by the community on this issue. The bill amends the *Anzac Day Act 1958* to make it an offence to conduct a public auction of land or a business before 1pm on ANZAC Day, consistent with the general prohibition of shop trading before 1pm on that day.

Finally, the bill makes a number of miscellaneous and consequential amendments to the Act, and introduces some transitional provisions relevant to other amendments made by the bill.

In conclusion, I would like to take this opportunity to thank the many stakeholders who contributed to the review of the Act. The bill introduces critical reforms designed to mitigate consumer detriment identified during the review, while not impeding legitimate and beneficial property transactions.

I commend the bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (17:45): Following Mr Somyurek's enthusiasm, I move:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Adjournment

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (17:45): I move:

That the house do now adjourn.

BIG GROUP HUG

Mr ONDARCHIE (Northern Metropolitan) (17:45): My adjournment matter tonight is for the Minister for Health and is concerning a wonderful organisation in the Northern Metropolitan Region, specifically in Bundoora, called Big Group Hug. It was established in 1984 as a new and independent charitable organisation with a clear mission to galvanise and mobilise community support to respond to the immediate needs of young children, in particular vulnerable children, and their families wherever they may reside. These people are all volunteers. They have a premises that they rent and try and raise money for in Bundoora, and in there they collect nappies, toys, clothing and everything to assist families, particularly those who need it.

Now, the government may say, 'Well, we help out with our baby bundle', but that only helps newborn babies. We are talking about families beyond that, particularly disadvantaged women who are subject to a whole range of social challenges, including family violence, that are looking for support. These volunteers are doing a wonderful job in Bundoora, but the fact is despite the amount of fundraising and the amount of work that they do, they are struggling to pay the bills. So the action I seek from the minister is to find a way in the upcoming state budget to support Big Group Hug so they can support the many women in the north and west corridors of Melbourne to find solace and support for their families.

TAFE FUNDING

Ms VAGHELA (Western Metropolitan) (17:47): My adjournment matter is for the Minister for Training and Skills. I am incredibly proud of our Labor government for investing over $172 million in the free TAFE initiative. Since the start of this year free TAFE has meant that thousands of people have started their journey to gain the skills they need for a good, sustainable job. Free TAFE for priority courses reduces the financial barriers for eligible students wanting to train in the courses that lead to the jobs that are most in demand from Victorian employers.

In my electorate of Western Metropolitan Region Labor's free TAFE has created fantastic opportunities for my constituents. The Western Metropolitan Region has the fastest growing suburbs in the country, and access to free TAFE courses is helping meet the demands of the growing population. Many of my constituents have found their true calling through free TAFE. Some of the students will finish their qualification and work on the huge infrastructure projects in my electorate funded by the Andrews Labor government. But with the increase in students across our TAFE campuses there is also a need for more TAFE teachers at our TAFE institutes. Therefore the action I seek from the minister is for her to provide me with information and resources available to assist constituents in my electorate looking to become TAFE teachers.

BUNGOWER ROAD–NEPEAN HIGHWAY, MORNINGTON

Mr RICH-PHILLIPS (South Eastern Metropolitan) (17:48): I wish to raise a matter for the attention of the Minister for Roads. I have received representations from prominent residents in Mornington regarding the intersection of Nepean Highway and Bungower Road, Mornington, in relation to the flow of traffic seeking to turn right out of Bungower Road onto the Nepean Highway. The residents have written that a right-turn arrow has recently been installed at the intersection of Bungower Road and the Nepean Highway to facilitate right-turning traffic out of Bungower Road; however, that right-turn arrow is not operative at the time at which it is needed. Presumably it is being used at morning peak hour and possibly evening peak hour, but that does not cover the period where congestion is causing difficulty for traffic that is seeking to turn out of Bungower Road onto Nepean Highway.

In fact my correspondent writes that in the particular cycle that they were concerned about, which occurred at 10.30 in the morning on a weekday, more than 10 cars were banked up seeking to turn right out of Bungower Road into Nepean Highway. Given the only 30-second cycle time for the green light, only about two cars were able to get through. Likewise on the next cycle again only two cars were able to make a right turn because of oncoming traffic.

The issue is not one of installing a right-turn arrow. That has occurred; that is there. It is about ensuring that it is activated through the shoulder period, where it is apparently required. So the action I seek from the Minister for Roads is to ensure that that right-turn arrow, which has been installed for traffic turning right out of Bungower Road into Nepean Highway, is activated through the shoulder period as local traffic demands.

CRISIS ACCOMMODATION

Dr RATNAM (Northern Metropolitan) (17:50): My adjournment matter tonight is for the Minister for Housing, and the action I seek is that the government take immediate steps to improve funding for crisis accommodation in Victoria. In February the Northern and Western Homelessness Networks released their report *A Crisis in Crisis*, detailing the appalling state of emergency accommodation in Melbourne's northern and western suburbs. Victoria's housing crisis means that more and more Melburnians are experiencing homelessness, and more of us are accessing housing support services, including seeking emergency accommodation. But the government currently provides funding for just 423 crisis beds, which is nowhere near enough to meet the growing demand.

To meet the gap, homelessness and family violence services have been left to rely on the private sector, purchasing rooms in motels and private rooming houses. The quality and conditions in these places are often very poor, with many service users reporting that they feel unsafe accessing the accommodation. People have reported theft, constant police presence at motels, broken facilities or a lack of facilities altogether and fears for their safety due to threats of violence and drug use. Some have reported that they returned to living in their cars or on the streets, finding it preferable to remaining in the available accommodation.

What service users clearly stated is that they want safer, secure, longer term accommodation, with support available when needed. Yet our housing crisis means that this is in short supply, as our public housing stock is woefully inadequate. Waitlists have skyrocketed, and rental affordability is at an all-time low. Victoria desperately needs a significant investment in public housing in order to provide enough secure, affordable housing for those who need it. But given that this government is unwilling to support our public housing sector, it now needs to provide enough funding for homelessness support services to assist all those who present to them. I urge the minister to immediately increase funding for crisis accommodation.

GRAHAMVALE AND KIALLA WEST PRIMARY SCHOOLS PEDESTRIAN CROSSINGS

Ms LOVELL (Northern Victoria) (17:52): My adjournment matter is for the Minister for Roads and Minister for Road Safety, and it is regarding an answer I received from her this week in relation to safety measures at school crossings outside the Kialla West and Grahamvale primary schools. The action that I seek from the minister is for the minister to, as a matter of urgency, instruct VicRoads to act on implementing additional safety measures at school crossings outside the Kialla West and Grahamvale primary schools that will warn motorists of their impending approach to the schools and prevent further accidents, like the dreadful accident that occurred outside the Kialla West Primary School in September 2018, whilst we wait for long-term permanent solutions to be implemented.

Members of this house will know that I have spoken many times of the dangerous arterial roads on which the Grahamvale and Kialla West primary schools are located. I have spoken of the horrific crash in September 2018 at the school crossing outside Kialla West Primary School involving a young mother and her three children. The effects of this collision are still being felt by this local family. I have relayed the dangers that parents face each day travelling on Doyles Road when taking their children to Grahamvale Primary School and told of the near collisions outside the school between vehicles and large trucks on the Shepparton alternate route. I have made personal representations to the minister on these issues and have shown her video footage of some of the near misses outside the Grahamvale Primary School. I would like to thank the minister for her prompt responses to my contributions on the matter of improved safety at both Grahamvale and Kialla West primary schools, and I acknowledge her concerns about the current situation at each school.

In her response regarding Grahamvale Primary School the minister spoke of long-term plans to relocate the school entrance on a new road away from Doyles Road. This planned new road is part of a long-term planning strategy by the Greater Shepparton City Council and may not be built for many years. Similarly the minister has noted that investigations into the viability of a pedestrian overpass or underpass at Kialla West are being conducted by Regional Roads Victoria, again a longer term solution.

Considering the collision at Kialla West occurred nearly eight months ago, further immediate steps are required to improve safety for motorists and students. An interim solution is needed immediately to improve safety at both of these crossings while we wait for longer term upgrades. The solution for these two crossings may be as simple as some signage painted on the road, a set of rumble strips just prior to the reduction in speed sign that would alert approaching vehicles of upcoming changes in traffic conditions or the gateway treatment recently installed on the Murray Valley Highway to alert motorists to the change of speed through Strathmerton.

The action that I seek of the minister as a matter of urgency is that the minister instruct VicRoads to act on implementing additional safety measures at school crossings outside the Kialla West and Grahamvale primary schools that will warn motorists of their impending approach to each school and prevent further accidents, like the dreadful accident that occurred outside Kialla West Primary School in September 2018, whilst we wait for the longer term, permanent solutions to be implemented.

TIMBER INDUSTRY

Mr QUILTY (Northern Victoria) (17:55): My adjournment matter is for the Minister for Agriculture and Minister for Regional Development, Jaclyn Symes. A government media release from 24 April quotes Minister Symes as saying:

> We're getting on with planting more than 500 hectares of new plantation forest this winter …

The 500 hectares she refers to is not new plantation acreage but is merely the replanting of land that was previously a privately run softwood pine plantation. There is no increase in plantation timber, only an increase in government spending. This replanting is going to cost taxpayers $110 million.

Why are the taxpayers footing the bill for this instead of private investors? Why is the government getting back into the timber industry? Perhaps it is because they have driven out private business. The firm that had the plantation sought to renew the lease but failed to come to commercially viable terms with the Treasury. What efforts did the government make to secure this lease or to secure a lease with another business?

In the same press release the minister also claims that the new timber allocation order provides certainty for the timber industry. If the minister was actually concerned about providing certainty, why was the timber allocation order nine months overdue, and why does it only provide information for one year instead of the usual five? The only certainty this government is providing is the destruction of the timber industry. Unbelievably these two inclusions are supposed to be the spoonful of sugar in an otherwise bitter announcement. In addition to their $110 million expense and this nine-month-late allocation, the timber industry will face a reduction of 5000 hectares in available logging area. There are 7 800 000 hectares of native forest in Victoria. VicForests harvests less than 4000 hectares of this each year. At that rate, with absolutely no regrowth at all, it would take 2000 years to log Victoria's forests.

For those of you who are unaware, timber is a renewable resource—it grows back. A timber industry provides increased sequestration of carbon dioxide, helping us to fight the climate emergency. Instead of destroying regional Victoria's industries and communities, the minister should be letting them thrive. Victorian forests are not in danger, but the livelihoods of Victorian timber workers are. I call upon the minister to reverse these attacks on the Victorian logging industry.

YARRAVILLE PARKING METERS

Mr FINN (Western Metropolitan) (17:58): My adjournment matter this evening is addressed to Minister Somyurek in his capacity as Minister for Local Government, but it also overflows into his other portfolio of small business. I have recently had a meeting with traders in Yarraville. The minister might recall that over recent years a matter of some considerable conjecture has been the placement of parking meters in Yarraville. This was a cause of some considerable consternation for locals, to the point that Maribyrnong council actually had to back down. The problem is that the actual parking meters are still there. There are no expectations that people will be paying for parking, but the parking meters are still there, which leads some to believe that they could be fined if indeed they park near the parking meters and do not put any money in them.

Mr Jennings interjected.

Mr FINN: It is not good, Minister. The traders are far from happy about this, because of course it does lead a number of people to go elsewhere.

Yarraville village—I do not know if either minister over there has been to Yarraville village—is an absolutely delightful place. You would want to go there to actually shop. It is not on the way to anywhere; you would have to make a firm decision to go there. A lot of people apparently are not doing that because they are concerned that they will get into strife with the parking meters.

So I am asking Minister Somyurek, in his capacity as local government minister but also in order to support local small businesses, to counsel Maribyrnong City Council to physically remove the parking meters as a matter of urgency. It is clear that that would help local traders enormously, and they have expressed to me in no uncertain terms that it is something they would like to see happen yesterday. I ask the minister to have a chat to Maribyrnong council and to emphasise to them the importance of getting on with it and removing the parking meters.

E-CIGARETTES

Mr LIMBRICK (South Eastern Metropolitan) (18:01): My adjournment debate item is related to the Minister for Health's portfolio. Yesterday in this chamber my parliamentary colleague Ms Patten posed a question to the health minister in regard to legalising the vaping of nicotine to reduce smoking

rates, a call which I support. Today I wish to address another aspect of vaping in Victoria, which is the current burdens that are strangling the legal business of selling e-cigarette products in the state. The 2018 policy platform for the Victorian Labor Party states that Labor will:

> work to reduce regulatory approval times across jurisdictions and make it easier to comply with regulatory measures to help Victorian businesses—

and will also—

> examine opportunities to lessen the load on small and medium business by reducing red-tape and levies …

Vaping stores represent a perfect opportunity to deliver on this promise. For the 10 stores fortunate enough to have been eligible to become certified specialist e-cigarette retailing premises, some issues include only being able to display one item from each product line, not being able to recommend a product, limited ability to display prices and information about products and restrictions on the amount of space where products can be displayed, which for the 10 stores that are registered as certified specialists is 4 metres square, and for everyone else it is less.

While there is certainly a need for obvious regulations like the prohibiting of sales to minors, the current measures represent unreasonable restrictions on businesses operating legally. The growing interest in vaping as a smoking alternative demonstrates the desire of smokers for a safer option. Most of the owners and staff working in these stores are ex-smokers who have expert knowledge of both the devices that they sell and, more importantly, the experiences and challenges that people might face when transitioning from smoking to vaping. For stores that are unable to register as certified, the situation becomes even more challenging. Imagine purchasing an electronic device at a specialist store where you are unable to view the products and can only receive limited advice. I have heard from some business owners that customers bypass their local stores to drive considerable distances to one of the few stores that are actually allowed to display products.

Challenges in understanding compliance persist, and with enforcement being left to local government health officials there has been a lack of guidance from both the department and local government. For the limited number of stores that are fortunate enough to be certified specialist e-cigarette retailers, they cannot move nor sell their businesses without losing this certification. One measure that would restore the ability of these businesses to function legally and compete with black market and overseas operators would be to allow for the expansion of the certified specialist e-cigarette retail premises scheme. This is my request for the health minister.

LATROBE SPECIAL DEVELOPMENTAL SCHOOL

Ms BATH (Eastern Victoria) (18:04): My adjournment matter this evening is for the Honourable James Merlino, the Minister for Education in the other place. It relates to the Latrobe Special Developmental School. This is a fantastic school with fantastic students, parents and supporters. It is based in Traralgon. I have raised this issue for a number of years, and it is of the utmost importance to this community. This is the last sitting day before the delayed state budget comes out, so it is timely to remind the minister of a matter that is of the utmost importance to the families, the school, the hardworking staff, the friends and the students of this fantastic school.

The Latrobe Special Developmental School only yesterday sent an email to the minister and to a number of MPs, myself included. It is worth giving the minister a reminder of the words of this special working group that has been designed to support and to be the receptacle of knowledge and communication around what is needed for that school and to work with the Victorian building planning department and also the education department. They say, and I quote:

> The Latrobe Special Development School working group acts on behalf of the parents and community in the Latrobe area.
>
> We consist of parents and community members who have come together to ensure that a new school is built for our most vulnerable students and that foremost the students' best interests are a priority.

> We will continue to be patient but there are still questions unanswered.
>
> When will our new school be fully funded?
>
> Can we have confirmation that we will stay a developmental school?
>
> Just to reiterate the Latrobe Special Developmental School was never built for students with disabilities. It is unsafe, inadequate and has asbestos. We would like the first purpose-built Latrobe Special Developmental School to be a gold standard in education, care and assist our students 'towards independence'—

which is their motto.

In February this year the Andrews government came out with a commitment to say—and this was much needed to be heard by this group of people—that the Latrobe Special Developmental School and Traralgon College will not be merged. That was welcome news. Now what they need—and this is the action I seek from the minister—is to have included in the 2019–20 budget specific funding for this developmental school, as requested by the school community, as a standalone school.

CHINA AND INDIA TRADE STRATEGIES

Ms WOOLDRIDGE (Eastern Metropolitan) (18:06): My adjournment matter this evening is for the Minister for Jobs, Innovation and Trade, and the action that I seek is that he review and revise the targets set in Victoria's trade strategies for China and India. Victoria's trade with India and China is absolutely key to economic growth for the state for so many businesses and individuals across Victoria. The Premier has travelled to both China and India, demonstrating a commitment to those relationships. What is very clear is the lack of meaningful targets in the trade strategies to genuinely drive performance throughout the government and beyond to enhance our trade and investment ties with these two countries.

The government's China strategy was released in 2016 and the India strategy in 2018. It does not have meaningful targets for developing our relationships. The 2018 progress report on Victoria's China strategy shows that after just two years the 10-year target for Chinese investment in Victoria has already been exceeded, as has the target for postgraduate Chinese students. Other 10-year targets have nearly been met. Both the India and China strategies set out to grow the number of international students from those countries by 25 per cent over the next 10 years, as a specific example. With the Premier's recent visit to China, the government sought to brag that they had already achieved the 10-year target number for Chinese postgrad students in just two years. If anything, I think this was not something to brag about but rather a reflection of the failure of those strategies to set any kind of legitimate target to drive this performance over the 10 years ahead.

Looking specifically once again at international student enrolments, Chinese postgrad enrolments over the last 10 years have grown by 345 per cent, while Indian postgrad enrolments have grown by 209 per cent. The strategy sets a pretty low bar when the government expects growth over the next 10 years to be just 25 per cent in each of these strategies. These are redundant targets. The annualised growth rate of Indian postgrad student numbers is 15.8 per cent since 2002, and for Chinese students it is 16.1 per cent. Given that the Chinese target was achieved in just two years and it seems likely the Indian target will be achieved in a similar period, I seek that the minister review and revise not just the international student targets I have talked about but all the targets in the strategies so that they might actually serve to drive government policy and drive jobs and investment between India and Victoria and China and Victoria, rather than just declaring victory after achieving the low-ball targets these strategies have set.

CROYDON SPECIAL DEVELOPMENTAL SCHOOL

Mr ATKINSON (Eastern Metropolitan) (18:09): My matter for the adjournment is actually to Minister Merlino in his role as Minister for Education, and it follows a similar theme to the matter raised by Ms Bath this evening. It is in respect of a school in the eastern suburbs, which you, President, would probably also be aware of, being the Croydon Special Developmental School. Like the school mentioned by Ms Bath in the Latrobe Valley, this school seems to be bypassed in terms of funding for crucial infrastructure works at the school, and support programs, in favour of other schools that perhaps

have stronger populations of parents and so forth who are able to chip in and certainly to lobby government for additional resources.

The Croydon Special Developmental School has some 15 portables. Those portables obviously are rudimentary, and they are clearly not designed for children with special needs. In fact some of the equipment that exists in this school has been required by WorkSafe to be shut down and not used. They have been to the school and have seen that the conditions in some of these classrooms and the conditions surrounding some of the equipment are totally inadequate and in fact dangerous.

The ability of teachers to actually provide support to students, many of them with very challenging behaviours and some of them needing to be separated from one another and managed on a very personal schedule, is compromised by the facilities available to those teachers, the staff, the support staff and indeed those parents or volunteers who are involved in the school.

The school buildings are riddled with asbestos. The school have tried to address some of those issues through applying for some of the funds that are available under various programs, including the School Pride program, and in a number of cases they have actually had to do second submissions because they have been told, 'Oh, no. Look, there's no money in that program anymore, but perhaps if you apply over here'. This is a dreadful waste of time and effort and something that is really discouraging and frustrating for the principal, the staff and the parents who support this school. These children are obviously in need of our support, and I would ask the minister to actually look in the budget for, at the very least, master plan funding to ensure that this school could be upgraded.

WESTERN VICTORIA REGION RAIL FUNDING

Mr GRIMLEY (Western Victoria) (18:12): My adjournment matter is for the attention of the Minister for Transport Infrastructure, the Honourable Jacinta Allan, and it relates to funding for rural and regional rail services in western Victoria. The state government's commitments to increasing overall funding in western Victoria are welcomed by the community. Large-scale projects such as the Western Highway extension, in addition to local road projects, have ensured that many of my constituents get home quicker and safer.

Over the past few weeks I have travelled around my electorate and met with numerous local councils. There is a common need for greater passenger and freight rail services in each of these councils. The mayors of both Horsham and Portland have expressed the need for the state to further fund business cases for freight rail to service their towns, whilst the Geelong and Corangamite councils are pursuing funding for greater passenger rail services.

The Public Transport Development Authority has publicly declared support for the Waurn Ponds rail duplication project, with the state government committing $140 million to the initial cost of the project. The federal government has committed $750 million to the project; however, only $50 million is to be delivered between now and the next state election. In addition to the Waurn Ponds rail duplication project, the federal and state governments have indicated their support for fast rail services from the CBD to Geelong. A total of $2 billion has been committed by the federal government, whilst initial project funding is still required from the state in order for a detailed business case to be fully developed and construction to begin.

I note an unprecedented level of investment in infrastructure spending across the state which is being undertaken by the Andrews government. The action that I seek is for the minister to provide a public time line for both freight and passenger rail service extensions in western Victoria and to highlight whether these projects going ahead are dependent on both federal and state funding commitments being met.

RESPONSES

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business) (18:14): I have had adjournment matters from Mr Ondarchie to the Minister for Health; from Ms Vaghela to the Minister for Training and Skills; from Mr Rich-Phillips to the Minister for Roads; from Dr Ratnam to the Minister for Housing; from Ms Lovell to the Minister for Roads; from Mr Quilty to the Minister for Agriculture and Minister for Regional Development; from Mr Limbrick to the Minister for Health; from Ms Bath to the Minister for Education; from Ms Wooldridge to the Minister for Jobs, Innovation and Trade; from Mr Atkinson to the Minister for Education; and from Mr Grimley to the Minister for Transport Infrastructure.

In relation to Mr Finn's adjournment matter, unfortunately I do not have the power to direct councils in their operational matters. They are self-governing entities who are responsible and accountable for their own governance—the decisions and the actions they take. That is underpinned by local democracy. Having been on the Electoral Matters Committee for a long time, he will know all about the electoral mandates. As Minister for Local Government I say that to Mr Finn. However, I am willing to go out to Yarraville and speak to those businesses. I am always keen to go out and meet businesses and local governments. I am happy to go out there and meet with them. If Mr Finn wants, he can take me out there and introduce me to them. In the meantime we will make some gentle inquiries with the council to see what the real issues there are.

I have written responses to adjournment debate matters raised by Mrs McArthur on 5 March 2019 and Dr Ratnam on 21 March 2019.

The PRESIDENT: The house now stands adjourned.

House adjourned 6.17 p.m. until Tuesday, 28 May.

Written adjournment responses

Responses have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.

Thursday, 2 May 2019

WESTERN VICTORIA REGION SECONDARY SCHOOLS INTERNET ACCESS

In reply to Mrs McARTHUR (Western Victoria) (5 March 2019)

Mr MERLINO (Monbulk—Minister for Education):

I am informed as follows:

The Digital Hub proposal has not been supported by the Department of Education and Training because of the costs, complexities and risk burdens that the proposal places on the education system.

AARNET, does not provide student appropriate internet filtering, requiring each school to implement and maintain their own technical protection technologies, which are expensive and complicated. Adding cost impost on schools, diverting valuable school resources and places an unnecessary liability and burden on Principals and School Councils.

Risk and complexity is not confined to individual school or schools, using AARNET. The introduction of a third party network exposes the rest of the state-wide network, other schools and the Department to network-based attacks, viruses, malware, and ransomware. AARNET is not a member of the Whole of Victorian Government Telecommunications panel, which governs public service procurement in this area.

The cost to taxpayers of setting up separate infrastructure and supplier arrangements to Victorian government schools who are already serviced by a fibre optic network and benefiting from state-wide IT investment cannot be justified.

Leveraging existing investments is our greatest strength as it enables us to fulfil our obligation in the Education State to put the right policy and organisational settings in place so that every Victorian government school is better able to do their job for the benefit of all their students.

A program of bandwidth upgrades where undertaken through 2018 to lift the minimum bandwidth provision to 100 Mbps for the Geelong and Surf Coast Government Secondary school members of the GSSC.

This was a first for any network of schools in the State and presented an opportunity to trial, demonstrate and inform the potential for further rollouts and capacity planning for maintaining school bandwidth in alignment with the adoption of a digital curriculum.

AARNET is an academic research network that is not designed to cater for a whole jurisdictions school. The capacity on offer far exceeds the current needs of the schools.

The Department is working with the commercial organisations on the Whole of Victorian Government TPAMS panel to develop the next connectivity solution for schools that will be able to scale, when and if required, to capacities delivered by AARNET, without Government needing to redirect investment funding to these organisations.

As part of the development of the next connectivity solution there will be opportunities for Schools in the Geelong region to pilot the solution(s).

WESTERN HIGHWAY TREE REMOVAL

In reply to Dr RATNAM (Northern Metropolitan) (21 March 2019)

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure):

The $672.3 million Western Highway duplication between Ballarat and Stawell will vastly improve safety for communities in Western Victoria.

Over the last five years, there have been 93 crashes on the Western Highway between Ballarat and Stawell, including 11 fatalities and 52 serious injuries.

The Federal Government has committed $501.3 million and the Victorian Government has committed $171 million to the Western Highway duplication, between Ballarat and Stawell.

The upgrade of the Western Highway, between Buangor and Ararat, is a significant project that we committed to delivering. The completion of this project is important to the communities of Western Victoria.

These communities have waited for this upgrade and the project has overwhelming support from locals as it will provide a vital boost to the regional economy.

There has been comprehensive planning on this section of the Western Highway duplication, including an independent Environment Effects Statement process and Cultural Heritage Management Plan, which obtained approval in accordance with the *Aboriginal Heritage Act 2006*.

The Victorian Government has worked closely with the Aboriginal community on this project since its inception. Work has been undertaken with the Djab Wurrung community, the Registered Aboriginal Party, Martang Pty Ltd, as well as the Eastern Maar Aboriginal Corporation—with cultural and environmental sensitivities firmly in mind.

Martang Pty Ltd, the Registered Aboriginal Party, approved the Cultural Heritage Management Plan for the project in October 2013.

Notwithstanding, extensive consultation has also been undertaken with the Eastern Maar Aboriginal Corporation in the development of the project. These discussions highlighted the significance of two trees to the Aboriginal community, which is why the Victorian Government has taken proactive steps to change the road alignment. The realignment includes approximately one kilometre of localised design changes to avoid removing the two trees.

MRPV is currently discussing the revised alignment, which impacts a small number of much younger trees, with Eastern Marr Aboriginal Corporation

The Federal Minister for the Environment has noted Major Road Projects Victoria's (MRPV) continued commitment to consult with indigenous groups and willingness to alter the road alignment to avoid removing two trees of significance. The Federal Minister for Environment received an application from Djab Wurrung Traditional Owners in June 2018, seeking a declaration under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (ATSIHP Act). In January 2019, the Federal Minister for the Environment made a decision not to make a declaration under the ATSIHP Act because she was satisfied that State heritage protection legislation, particularly the State Plan, and the Victorian Government's commitment to continue consultation on the trees of significance, provided effective protection.

The Federal Department of the Environment and Energy (DoEE) has made MRPV aware it will now re-assess this decision. MRPV is awaiting further advice from DoEE on the next steps it will take in assessing the application.

In the interim, MRPV has agreed to not progress any works for a period of four weeks while the matter is resolved.

MRPV is committed to continued engagement with the Traditional Owners and will undertake cultural heritage values mapping on future road projects along Western Highway.

Answers to constituency questions

Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers and received by Hansard in the period shown.

22 March to 2 May 2019

SOUTHERN METROPOLITAN REGION

In reply to Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (19 December 2018)

Mr ANDREWS (Mulgrave—Premier):

Thank you, Mr Davis, for your question on community access to the Melbourne Sports and Aquatic Centre (MSAC). Our Government appreciates the importance of this facility to you and the residents in the City of Port Phillip.

MSAC is a valuable state facility that contributes to the State's visitor economy and provides vital facilities for the local community to achieve their health and wellbeing goals. The management of MSAC remains the responsibility of the State Sports Centre Trust. The Trust is a statutory authority that manages MSAC, the State Netball and Hockey Centre and Lakeside Stadium.

The State Sports Centre Trust, which remains responsible for the management of the Melbourne Sports and Aquatic Centre, is committed to providing the best experience for all users of the facilities.

NORTHERN VICTORIA REGION

In reply to Ms LOVELL (Northern Victoria) (21 February 2019)

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services):

I can advise the member that Mark Gepp MP and myself visited Swan Hill District Health on 29 March 2019 and took the opportunity to meet with the Swan Hill Needs a New Hospital committee. I want to congratulate the Committee and local community on their campaign. It's wonderful to see Victorians passionately supporting their local community.

Work is well underway for the planning of future services and infrastructure at Swan Hill District Health. My department is currently working with the health service and the Victorian Health and Human Services Building Authority on a master plan to guide the future infrastructure needs of Swan Hill hospital. This is the first step towards any future works and follows an extensive service planning process that helped to identify the future health needs of the Swan Hill Catchment over the next five to ten years.

I can inform the member that under our Government Swan Hill District Health has received $3.8 million from the Regional Health Infrastructure Fund for various projects; including fire safety equipment, new medical equipment and a new sub-acute service, which I announced will be opened in the coming months on my recent visit.

In 2018-19, the Andrews Labor Government is providing Swan Hill District Health with operating funding of $40.3 million. The Government has increased operating funding to Swan Hill District Health by $7.98 million or 24.7 per cent more than in the last year of the previous Liberal National government.

Unlike the previous Liberal National government that cut funding to Victoria's health system, closing hospital beds and leaving thousands of Victorians stuck on waiting lists, a Labor Government will always deliver high quality and accessible healthcare to Victorians.

I note that Victoria is in ongoing discussions with the Federal Government in relation to public hospital funding. The Morrison Liberal National Government has offered a funding agreement which would shortchange Victorians by $2.1 billion in five years. For Swan Hill District Health this means an estimated shortfall of $7.3 million over the first 5 years of the agreement and is equivalent to 1,182 elective surgeries, 58 nurses or 24 doctors.

The Morrison Liberal National Government has also made a decision to retrospectively change the funding rules thereby clawing back $305 million for services already provided by Victorian hospitals for the years 2016/17–2018/19. I invite you to advocate for Victorian patients and Victorian hospitals by making representations to Minister Hunt and Minister Frydenberg about the impact of their unfair hospital funding decisions on your constituents.

EASTERN VICTORIA REGION

In reply to Ms BATH (Eastern Victoria) (21 February 2019)

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries):

The Andrews Labor Government knows that it is critical to ensure Victorians get the treatment and support they need, when and where they need it. That's why in 2018-19 we have committed $259.9 million to tackle this issue through a range of treatment options.

The Government is increasing the number of residential rehabilitation beds from 208 in 2014-15 to 478 once all beds are operational, with over half the new beds located in regional Victoria.

The proposed facility in the Latrobe Valley is the first state funded youth-specific residential rehabilitation facility in regional Victoria and will predominately service young people 16–21 years, however young people up to 25 years deemed developmentally appropriate will be able to access the service.

The HOPE Restart Centre, a 30-bed adult residential rehabilitation facility in Bairnsdale that is currently being built will address the alcohol and other drugs needs of Victorians of all ages in the Gippsland region. The Victorian Government has committed more than $10 million over the next four years to operate this new service.

In acknowledging the Member's support for the increase in residential rehabilitation facilities for alcohol and other drugs in regional Victoria, her implied criticism fails to withstand an assessment against the investments made by the Baillieu/Napthine Governments.

A statewide increase of two residential beds, a botched recommissioning of services that saw less people receive support—and nowhere more so than the Latrobe Valley—and a loss of skilled staff to the sector, is not a position that allows the honourable member to be critical of this Government's record investment.

SOUTHERN METROPOLITAN REGION

In reply to Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (5 March 2019)

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

Any redevelopment of this sporting facility is a matter for the City of Greater Dandenong as the Council managing the Maurice Kirby Velodrome in Noble Park.

The member may also be interested to learn that none of my portfolios include responsibility for velodromes.

NORTHERN METROPOLITAN REGION

In reply to Mr ONDARCHIE (Northern Metropolitan) (5 March 2019)

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

I am advised by Regional Roads Victoria that flexible guard fence is being installed on Plenty Road. Flexible guard fence is not the same as a traditional "Armco-type" barrier, but provides comparable safety benefits.

NORTHERN METROPOLITAN REGION

In reply to Ms PATTEN (Northern Metropolitan) (5 March 2019)

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport)

The Andrews Labor Government is working to deliver better digital connectivity across Victoria's public transport network.

We are investing in improved mobile phone coverage on regional train lines. The Regional Rail Connectivity Project has already seen every VLocity train fitted with mobile phone signal boosters.

The Government is also buying 100 new buses over the next two years to replace and modernise the ageing state-owned bus fleet used on routes operated by Transdev. As part of this new order, Transdev will explore passenger-focused improvements including onboard wi-fi, mobile phone charging and improved passenger displays.

These measures are in addition to the existing free wi-fi coverage in the CBDs of Melbourne, Ballarat and Bendigo.

For the vast majority of passengers, existing mobile data coverage provides a good level of online connectivity. There are currently no further plans to provide wi-fi coverage on other services and transport modes.

SOUTHERN METROPOLITAN REGION

In reply to Mr HAYES (Southern Metropolitan) (5 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

The protection of Victoria's heritage is important to me and I have taken steps to prioritise this.

In November 2017, I agreed to support local councils apply interim Heritage Overlays as part of their planning scheme if the council has completed the necessary research and there is evidence of development pressure.

The Department of Environment, Land, Water and Planning (DELWP) has approved, under delegation, a number of amendments to introduce blanket interim Heritage Overlays in the City of Boroondara to support the council's heritage gap studies on a suburb-by-suburb basis.

An interim Heritage Overlay provides immediate protection to properties while an amendment to introduce the controls on a permanent basis proceeds through the public exhibition process and independent review. This is to balance the need for heritage protection with the requirement to afford natural justice to the land owner.

I am advised that Heritage Victoria declined a request for an Interim Protection Order under the *Heritage Act 2017* for Currajong House at 337 Auburn Road, Hawthorn.

DELWP officers are finalising their assessment of Boroondara Planning Scheme Amendment C309 for interim Heritage Overlays in Hawthorn. I expect a decision will be made shortly.

It is important to note that the council consented to the demolition of Currajong House in July last year before submitting its request for an interim Heritage Overlay on 10 January 2019. If Amendment C309 is approved, the owner of Currajong House may still act on their building permit.

WESTERN METROPOLITAN REGION

In reply to Mr FINN (Western Metropolitan) (5 March 2019)

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport):

The new commuter carpark at Sunbury station is part of the Andrews Labor Government's $60 million investment to deliver over 2000 new parking spaces across Belgrave, Craigieburn, Epping, Hurstbridge, Sandown Park, & Sunbury Stations. Design work and technical investigations, including geo-technical and structural assessment are currently underway to determine the best options for expansion of commuter car parking at Sunbury Station.

EASTERN METROPOLITAN REGION

In reply to Mr ATKINSON (Eastern Metropolitan) (5 March 2019)

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

I am advised that VicRoads has no plans to remove the existing pedestrian-operated crossing facility at 120 Mountain Highway in Wantirna.

EASTERN VICTORIA REGION

In reply to Mr O'DONOHUE (Eastern Victoria) (5 March 2019)

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries)

The Andrews Labor Government supports the provision of high-quality mental health services for residents of all ages across the Mornington Peninsula.

The Government funds a range of programs that provide important mental health support and treatment options for young people on the Mornington Peninsula, including a youth Prevention and Recovery Centre and inpatient services.

Over the last four years, we have developed and funded a number of initiatives to improve mental health supports available in schools, including the Victorian Anti-Bullying and Mental Health Initiative, the Safe Schools program and the Enhancing Mental Health Support in Schools initiative.

Our new Mental Health in Schools program will build on these initiatives and will allow schools across the state, including Rosebud Secondary College, to employ over 190 qualified mental health professionals, to ensure that secondary school students receive the mental health support they need, when they need it.

The existing Headspace at Frankston also works in partnership with local schools, providers and councils in the area to ensure timely access to mental health services. However, I am aware that there has been substantial community interest in establishing a Headspace on the Mornington Peninsula and would like to acknowledge the advocacy of the Member for Nepean on this issue.

I was pleased to hear the recent announcement by the Federal Opposition that if elected, they will fully fund a Headspace centre in Rosebud, delivering a full service to the community rather than the half-baked commitment proposed by the Federal Health Minister.

It is disappointing for the Mornington Peninsula community that their Federal Member of Parliament has only recently woken up to the mental health needs of the Peninsula. It is even more disappointing that after 18 years as their local member and two years as the Federal Health Minister he has tried to short-change the community on this issue, committing to only half of the funding for these vital services.

WESTERN METROPOLITAN REGION

In reply to Dr CUMMING (Western Metropolitan) (6 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

Social housing provides homes for Victorians in need. However, there is not enough social housing available for Victorians who need it and the Victorian Government is addressing this issue.

Homes for Victorians, the Victorian Government's housing strategy is designed to address the whole spectrum of Victoria's housing crisis. Our government is providing record investment of over $1 billion in housing and homelessness support and $2.1 billion in financial backing to kick start new forms of social housing investment. In October 2018, the government announced $209 million in an election commitment to help more Victorians escape from family violence, homelessness and life on the streets with 1,000 new public housing properties to be delivered in three years.

Braybrook and Maidstone have high proportions of households in social housing when compared to the City of Maribyrnong municipality and the whole of Victoria.

The Director of Housing is currently in discussions with the City of Maribyrnong to work with the council on housing renewal needs for Braybrook and the 1000 homes initiative.

NORTHERN VICTORIA REGION

In reply to Ms LOVELL (Northern Victoria) (6 March 2019)

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport):

As part of the Safer Country Crossings Program, the Government is continuing to upgrade level crossings across regional Victoria.

For information about the program, please visit the Vic Track website.

WESTERN METROPOLITAN REGION

In reply to Mr MELHEM (Western Metropolitan) (6 March 2019)

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services):

The Andrews Labor Government is committed to ensuring delivery of high-quality healthcare for all Victorians.

On 14 March 2019, I had the pleasure of visiting the site of the Joan Kirner Women's and Children's Hospital in Sunshine with the member and other Labor colleagues. This brand new $200 million hospital will allow more women to give birth closer to home and provide world-class maternity and specialist paediatric care for families needing children's services. More than 150 nurses and midwives will call this hospital home when it opens its doors. This is in addition to the extra 600 nurses and midwives that will be employed across the State as a result of our Government's recent improvements to the *Safe Patient Care Act 2015*.

Government's changes to the Act will create a range of positive impacts for all public health services, including those in the western metropolitan region. For example, amendments to the rounding methodology will mean that, in most circumstances when calculating staffing requirements, the number of nurses or midwives must be rounded up to the next whole number, ensuring that staffing reflects increasing patient complexity and contemporary workload levels.

In addition, new and increased ratios across a range of clinical settings will create consistency in service provision and deliver more nurses and midwives where we need them most.

Together, these changes will have a positive and lasting impact for healthcare provision in this State and in particular, for the member's local community in the west of Melbourne.

The Andrews Labor Government will also establish a $50 million Nursing and Midwifery Workforce Development Fund that will build the capability and capacity of the workforce.

WESTERN METROPOLITAN REGION

In reply to Mr FINN (Western Metropolitan) (6 March 2019)

Mr MERLINO (Monbulk—Minister for Education)

The safety of students and school communities is of paramount concern for the Andrews Labor Government.

The Andrews Labor Government has invested $200 million to roll out the largest ever removal of asbestos from our schools. We conducted a state-wide audit of 1,712 government school sites and found high risk asbestos at 497 schools. And by March 2016 we had removed it all.

We are now delivering the next phase of our asbestos removal program, by targeting asbestos that, although not classified as high-risk, may pose a risk in the future.

This is in stark contrast to the former Liberal Government who did not allocate one cent to fund a dedicated Asbestos Removal Program. Instead the Department was forced to fund removal of Asbestos on a reactive basis, through a very small internal allocation of funds.

The Liberal's simply slapped yellow sticks on asbestos ridden buildings and then put their heads back in the sand and hoped the problem would go away.

The Department of Education and Training is working closely with Essendon North Primary School to ensure the questions and concerns of school community members are addressed.

I have asked the Department to organise an independent investigation to understand how this matter occurred. This is already underway and I await the results of that investigation before providing further comment.

I have also asked the Department to engage an independent occupational hygienist to undertake a health risk assessment for individuals impacted by the asbestos incident. On 15 March, an initial assessment was provided to the school community, which found that individuals have has low-risk levels of asbestos exposure. This is primarily due to the relatively low level of disturbance of asbestos-containing material and the bonded nature of that material.

The Department has asked all of those who were affected by the incident to register their—or their child's—involvement on eduSafe (that is, the Department's Occupational Health and Safety Reporting System). By doing so, a permanent record of each individual's involvement will be created.

Furthermore, I have asked the Department to undertake a range of works across the school. These works include:

- replacing the Grade 1 classroom (Block C) with a new relocatable building (between the hard courts and the oval as per discussions with the school)—the new building will be ready for use at the start of Term 2;
- removing the asbestos containing ceiling and window mastic and old carpet from the prep classroom and reinstating these items;
- stripping back and removing all building rubble and asbestos to make way for the new synthetic oval;
- refurbishment of the main classroom wing, and classrooms 7, 8 and 9; and

In addition, the previously planned oval upgrades have been brought forward. The oval will now be upgraded to a synthetic oval, instead of the grass oval that was previously planned. These works have been commenced and as such the oval has been closed since Tuesday, 2 April 2019. The remediation works on the oval will be completed during the school holidays with the laying of the synthetic oval to proceed in Term 2.

I understand that the school community may have concerns about these works, and the Department provided staff members on site in the weeks leading up to the school holidays to provide advice and respond to any asset concerns immediately. Department staff are also available to address concerns as works proceed. To support school staff, the Department organised Asbestos Awareness and Management training to be provided by occupational hygienists at the school with the first training delivered on 20 March 2019 and the second delivered on 4 April 2019.

I trust this information is of assistance.

EASTERN METROPOLITAN REGION

In reply to Mr ATKINSON (Eastern Metropolitan) (6 March 2019)

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport):

Ensuring the public transport network is accessible and safe for all Victorians is a priority for the Andrews Government.

As part of the removal of the level crossing at Heatherdale Road, a new station has been built that provides passengers with improved amenity and facilities.

The new station has improved accessibility through the upgrade of access paths between the station platforms and car parking facilities to comply with Disability Discrimination Act (DDA) standards.

NORTHERN METROPOLITAN REGION

In reply to Dr RATNAM (Northern Metropolitan) (6 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

Heritage Victoria is responsible for determination of permit applications for State listed heritage places included on the Victorian Heritage Register under the *Heritage Act 2017*.

Although Federation Square is not currently included on the Victorian Heritage Register, an Interim Protection Order was issued in 2018 which allows for a permit application to be lodged with Heritage Victoria before a decision is made on its heritage registration by the Heritage Council of Victoria.

A permit has already been issued for Federation Square under the Interim Protection Order allowing for the demolition of the Melbourne Information Centre as part of works for the Melbourne Metro project.

A permit application for the demolition of the Yarra Building and construction of an Apple Flagship Store was advertised between 30 January 2019 and 13 February 2019.

The *Heritage Act 2017* requires the Executive Director of Heritage Victoria to consider various matters in determining a permit application including the extent that the application, if approved, would affect the cultural heritage significance of the place; the extent that refusal would affect the reasonable or economic use of the place; and any submissions received in response to public notice of the permit application.

It is understood that a determination on the permit application by Heritage Victoria is expected in mid-2019.

Questions regarding the suitability of an Apple Flagship Store at Federation Square should be directed to the Minister for Tourism.

NORTHERN METROPOLITAN REGION

In reply to Mr ONDARCHIE (Northern Metropolitan) (6 March 2019)

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport):

Melbourne's north is one of the fastest growing areas in the state and the Andrews Labor Government is working to meet the transport needs of Victorians living in Melbourne's growing suburbs. As the Member mentioned, the government has delivered the Mernda Rail Extension,

The Andrews Labor Government is aware of the high demand for car parking at stations across the network. To address this demand, the Victorian Government has committed to establishing a $150 million Car Parks for Commuters Fund which will see new carparks being built at some of our busiest metropolitan and regional stations. This builds on the more than 2,000 new and upgraded car parking spaces as part of the Government's $60 million investment in station parking in the 2018-19 State Budget.

The Department will continue to consider opportunities for improving station access across the network, which will include reviewing the temporary car parking lease at South Morang station.

NORTHERN VICTORIA REGION

In reply to Ms LOVELL (Northern Victoria) (7 March 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

This question is most appropriately directed to the Minister for Higher Education, the Hon Gayle Tierney MP.

WESTERN METROPOLITAN REGION

In reply to Mr FINN (Western Metropolitan) (7 March 2019)

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

My responsibilities as Minister for Roads relates to all operational, legislative and planning matters on the declared arterial road network.

The Major Transport Infrastructure Authority was established on 1 January 2019, which includes Major Road Projects Victoria, North East Link Project, Level Crossing Removal Projects, West Gate Tunnel Project and the Rail Projects Victoria. These Authorities report to the Minister for Transport Infrastructure, the Hon Jacinta Allan MP. Minister Allan is therefore the appropriate minister to respond to any queries that are directly related to the delivery of the associated projects.

Below is the list of major road projects that fall under the Transport Infrastructure portfolio.

- North East Link
- West Gate Tunnel Project
- Bacchus Marsh traffic upgrade
- Barwon Heads Road Duplication
- Chandler Highway Upgrade
- CityLink Tulla Widening
- Drysdale Bypass
- Echuca-Moama Bridge
- Hallam Road Upgrade
- M80 Ring Road Upgrade
- Monash Freeway Upgrade
- Mordialloc Freeway
- Northern Roads Upgrade Package (includes 7 road projects)
- O'Herns Road Upgrade
- Plenty Road Upgrade
- Princes Highway East—Traralgon to Sale
- Princes Highway West—Winchelsea to Colac
- South Eastern Roads Upgrade Package (includes 7 road projects)
- South Gippsland Highway
- Hoddle Street Streamlining
- Swan Street Bridge Upgrade

- Thompsons Road Upgrade
- Western Highway
- Western Roads Upgrade Package (which includes 8 road projects)
- Yan Yean Road Upgrade

I also encourage you to access the below websites that provide greater detail about which section of the road is being upgraded, a list of the projects as part of greater packages (i.e. Northern, Western and South-Eastern packages) and any road maintenance components with the projects. Any additional road projects that fall under the Transport Infrastructure portfolio will also be added as they are announced.

<roadprojects.vic.gov.au/> <westgatetunnelproject.vic.gov.au/> <northeastlink.vic.gov.au/>.

WESTERN VICTORIA REGION

In reply to Mr MEDDICK (Western Victoria) (7 March 2019)

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes):

I appreciate your concerns and acknowledge that there are people in the community that are not supportive of recreational duck shooting.

The government is committed to ensuring that game hunting in Victoria is conducted in a safe, responsible and sustainable manner.

This year, the duck hunting season opened on 16 March and will close on 19 May, three weeks earlier than usual due to the dry conditions currently being experienced.

To coincide with the commencement of the duck hunting season, the Department of Environment, Land, Water and Planning (DELWP) has released new hunting maps that show where game and pest animal hunting is permitted on public land in Victoria. These maps are available on the Game Management Authority website.

The hunting maps deliver a commitment of the *Sustainable Hunting Action Plan 2016-2020* and seek to improve hunting location knowledge by providing clear information on where, when and what people can hunt.

The hunting maps are intended to support hunters in making a decision on where to hunt and will also provide an important tool for other recreational users to understand where hunting is occurring. Hunters however, will continue to be responsible for ensuring that they use firearms in a safe and responsible manner and are acting in accordance with the *Firearms Act 1996*.

Compliance officers from various agencies, including DELWP, the Game Management Authority, the Department of Jobs, Precincts and Regions, Parks Victoria and Victoria Police are active throughout the duck hunting season to ensure compliance with hunting and public safety laws.

WESTERN VICTORIA REGION

In reply to Mrs McARTHUR (Western Victoria) (7 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

It is well known that women, Aboriginal Australians, people with a disability, people from culturally diverse backgrounds and people who are gender diverse are under represented on Victorian Government boards.

Appointments to Victorian Government boards should, as far as practicable, reflect the diversity of the Victorian community. Increased board diversity will support new thinking to complex problems and ensure Government boards reflect our diverse communities.

It is government policy that opportunities to appoint women, Aboriginal Australians, people with a disability, people from culturally and linguistically diverse backgrounds, and lesbian, gay, bisexual, trans, gender diverse and intersex people should be actively explored.

It is also government policy that no less than 50 per cent of all new appointments to paid Victorian Government boards and Victorian courts, and Chairs of paid Victorian Government boards be women.

The advertisement is part of a broad recruitment strategy to encourage all Victorians to apply to these boards. The appointments will be merit based as all applicants will be subject to a competitive selection process to ensure they meet the skill and experience needs of the boards.

NORTHERN VICTORIA REGION

In reply to Ms MAXWELL (Northern Victoria) (7 March 2019)

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support):

The Victorian Government is committed to supporting victims of crime. We continue to invest in victim support services and progress reforms so the system better meets the needs of victims.

The Government funds a statewide Victims Assistance Program which provides case management and practical and therapeutic supports to victims of crime. While I cannot comment on the services provided to individuals, these are available in Northern Victoria and the Government is able to support people to access them.

Victims of crime can also contact the **Victims of Crime Helpline** on 1800 819 817, seven days a week between 8am and 11pm. The Helpline provides free access to information, advice and support to help victims manage the effects of violence.

Separately, financial assistance to victims of crime is provided by the Victims of Crime Assistance Tribunal, which operates independently of Government. In 2017 and 2018, we asked the Victorian Law Reform Commission to review the operation and effectiveness of the *Victims of Crime Assistance Act 1996* and the Victims of Crime Assistance Tribunal.

The Commission's report was tabled in Parliament on 19 September 2018. The Commission made 100 detailed recommendations which the Government has accepted in principle. We are undertaking significant work to progress these reforms and will ensure that victims can access state-funded financial assistance in a way that is fast, fair and equitable.

EASTERN VICTORIA REGION

In reply to Ms BATH (Eastern Victoria) (7 March 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

An application was lodged with the Latrobe Valley Authority (LVA) by the Club on 27 February 2019 following an earlier Expression of Interest, seeking funding for the construction of a netball court, sports lighting and a modular change facility. The application is being assessed.

SOUTHERN METROPOLITAN REGION

In reply to Ms CROZIER (Southern Metropolitan) (7 March 2019)

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services):

I am advised that the Department of Health and Human Services (the department) receives notifications on all cases of Buruli ulcer in Victoria. All notifications are reviewed weekly to monitor current trends, both in terms of case numbers and geographical distribution.

The department has previously provided funding of approximately $800,000 (from 1997 to 2010). This has advanced our understanding of disease transmission and has resulted in the development of a rapid diagnostic test. Other recent activities have included:

- The Beat the Bite Campaign, a prevention activity to reduce a range of infections from potential mosquito sources;
- Development of a Royal Australasian College of General Practitioners learning module on Buruli ulcer;
- Utilising new laboratory techniques such as Whole Genome Sequencing to analyse samples from identified cases to better understand the spread of infections to new endemic areas; and
- Sampling of possum excrement to provide insights into the environmental presence of *Mycobacterium ulcerans* (the bacterium causing Buruli ulcer) in particular areas of risk in Victoria.

A $3 million National Health and Medical Research Council Partnership Grant has been awarded to the University of Melbourne and research partners including the department, the Doherty Institute, Austin Health, Barwon Health, CSIRO, the Mornington Peninsula Shire, and Agriculture Victoria. The department has provided more than $830,502 of cash and in-kind support for this research.

The Beating Buruli in Victoria partnership project comprises a number of sub studies. There are two main sub studies.

- The first is a case control study that is looking at risk factors for developing the disease. Cases and controls are currently being recruited to take part in the study.
- The second is a large cluster randomised control study that will look at the impact of mosquito control interventions on the number of cases of Buruli ulcer. Currently, mosquito surveillance is underway to inform this sub study.
- The department is leading the Mosquito Control Study and has contributed an additional $300,000 to support enhanced mosquito surveillance as part of this work.

In addition to the ongoing research the department is working closely with laboratories and clinicians to strengthen testing, reporting and management options for Buruli ulcer in Victoria.

NORTHERN VICTORIA REGION

In reply to Mr QUILTY (Northern Victoria) (7 March 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

There are several measures in place to protect the integrity of firearms registry data. All law enforcement data is subject to the *Privacy and Data Protection Act 2014*. Under that Act, Victoria Police has data security obligations under the Victorian Protective Data Security Standards. The Office of the Victorian information Commissioner has an Assurance Model in place to monitor and measure data security practices against those Standards, which can include own motion audits and reviews.

Victoria Police relies on licence holders providing accurate and up to date information promptly and in the form and manner approved by the Chief Commissioner of Police. Victoria Police strives to ensure its processes and the quality of data retained on the system is of a high standard.

All licence holders are required, as per the conditions of their licence, to notify Victoria Police in writing of any change of address within 14 days. It is recommended that licence holders submit their notification using a change of details form, which can be downloaded from the Victoria Police website or obtained via their local police station. They can submit that form via email, fax or by post.

If an error in processing a change of address does occur, Victoria Police will amend any errors as soon as they become aware and will do all that is necessary to rectify the issue. A return address is provided on their envelopes and they would expect if a document is received at an address no longer connected to the licence holder that it would be promptly returned to police.

The ongoing rollout of Victoria Police's Electronic Lodgement Project, which will include licence renewal applications, will also further reduce the need for Victoria Police to issue documentation by post.

NORTHERN METROPOLITAN REGION

In reply to Mr ONDARCHIE (Northern Metropolitan) (7 March 2019)

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police and Emergency Services):

I thank the Member for his question and note the concerns from his constituents. No complaints have been made directly to Victoria Police regarding the specific locations in Craigieburn. Residents of Craigieburn should contact the CrimeStoppers Hoon Hotline to report this behaviour.

The Victorian Government takes hoon driving very seriously and has passed laws to enhance the ability of Victoria Police to stop reckless drivers in their tracks, including immediately impounding vehicles.

NORTHERN METROPOLITAN REGION

In reply to Mr ONDARCHIE (Northern Metropolitan) (19 March 2019)

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

The Victorian Government is making record investments in transport. Focusing on road and rail initiatives, we are undertaking the most comprehensive project pipeline in Victoria's history. This is happening after 4 years of the previous Liberal National Government in Victoria where transport infrastructure went on a 'go slow'.

The pipeline includes new construction, transport infrastructure upgrades and rethinking our use of current assets to maximise value from our transport infrastructure.

The Andrews Government as part of the Level Crossing Removal Program has earmarked the rail crossings on Bell Street at Preston (near St Georges Road) and Coburg (near Sydney Road) to be removed. The level crossing removal near St Georges Road is currently in the planning stage while works associated with the other one near Sydney Road is expected to commence later this year.

This will improve traffic flow and safety along Bell Street as well as the movement of people via various modes including the current high frequency Smart Bus service.

NORTHERN METROPOLITAN REGION

In reply to Mr ELASMAR (Northern Metropolitan) (19 March 2019)

Mr MERLINO (Monbulk—Minister for Education):

The tragic events in Christchurch on Friday 15 March have had a profound impact, and I take the opportunity to extend my condolences to the people of New Zealand.

I am proud that Victoria is a state that values and celebrates diversity. Following the tragic events, I contacted the principals of each of Victoria's Islamic schools to express my condolences, and offer the principals and students support during this time. I reinforced the Department of Education and Training's commitment to working with each principal to provide advice and support through this difficult time.

The supports offered include:

- access to the Department's Student Support Services workforce
- access to counselling support for school staff
- advice on supporting students in the wake of tragedies
- connection to Departmental Area Executive Director for ongoing support.

In addition to my contact, the Department's Area Executive Directors have reached out to each of the principals identifying themselves as a key contact, and providing further information regarding available support for the principals, for students and for the broader school community.

These supports are also available to all government schools across Victoria who may be impacted by the events in Christchurch.

The Department is considering further actions to support cross-cultural collaboration within and across our schools. As part of the condolence motions on Tuesday 19 March, I announced that I will hold an Islamic Schools Roundtable with principals in April.

NORTHERN METROPOLITAN REGION

In reply to Ms PATTEN (Northern Metropolitan) (19 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

The Victorian Government's *Homelessness Services Guidelines* require that any organisation using government funds for crisis accommodation ensures clients are housed in accommodation that is appropriate and safe. The government will continue to work with specialist homelessness services to ensure this is a priority. The Department of Health and Human Services is working with agencies in northern and western Melbourne to examine ways of using funding to source the most suitable crisis accommodation options.

Under the Victorian *Public Health and Wellbeing Regulations 2009*, specific accommodation types, including rooming houses, hotels and motels, must be maintained in a clean, sanitary and hygienic condition. The regulations also require that all bed linen in such premises is changed with clean linen at least weekly and between occupiers.

Concerns regarding conditions of cleanliness and hygiene should be reported to the local council. Local councils are responsible for inspecting prescribed accommodation (such as hostels, hotels and motels) under the *Health and Wellbeing Regulations 2009*. For the North Melbourne area, the contact information is City of Melbourne Health and Wellbeing Unit on telephone 9658 8831 or email health@melbourne.vic.gov.au.

NORTHERN VICTORIA REGION

In reply to Ms LOVELL (Northern Victoria) (19 March 2019)

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services):

The Victorian Government has significantly invested in growing and expanding the range and quality of cancer services in regional Victoria. This has included the development of Regional Cancer Centres in Ballarat, Bendigo, Warrnambool and Albury Wodonga, as well as new models of care at sub-regional health services linked to major regional hospitals. Radiotherapy has been a feature of the Regional Cancer Centres.

On 21 March 2019, GenesisCare announced a plan to develop a radiotherapy facility in Shepparton. The Department of Health and Human Services is in negotiations with GenesisCare to support public patient access to radiotherapy treatment at this facility at no out-of-pocket cost and to ensure that this radiotherapy service is integrated with other cancer services in the region.

All existing regional radiotherapy services in Victoria are supported by the Victorian Government to provide access for public patients at no out-of-pocket cost and the Department of Health and Human Services is working to establish similar arrangements in Shepparton.

In addition, the Andrews Labor Government will deliver 500,000 move specialist appointments, including 40,000 cancer specific appointments, across regional and rural Victoria over the next four years. This initiative will improve access and reduce waiting times for specialist appointments in regional areas.

SOUTHERN METROPOLITAN REGION

In reply to Mr HAYES (Southern Metropolitan) (19 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

In September 2018, new planning controls were introduced to prevent overshadowing of solar panels by new developments. This change was introduced by Amendment VC148 to the Victoria Planning Provision and applies to all planning schemes in Victoria.

The changes mean that overshadowing of an existing home's solar panels and solar hot water systems must be considered in planning decisions that will ensure the capacity of an existing rooftop solar facility on a neighbouring property in most areas is not unreasonably reduced.

I understand the 'Woolworths application' was refused by Glen Eira City Council and is proceeding to be reviewed by the Victorian Civil and Administrative Tribunal (VCAT).

The Woolworths application is within the Mixed Use Zone (MUZ) and Mr Huntly's property is within the Residential Growth Zone (RGZ). Both the MUZ and RGZ have general decision guidelines about impacts on overshadowing on existing rooftop solar energy facilities. VCAT will be required to have regard to these guidelines.

Following a request from Glen Eira City Council, I approved interim built form controls for the Elsternwick Activity Centre ranging from 2 to 12 storeys in August 2018. This was to prevent inappropriate development occurring in Elsternwick while the council prepares to implement a structure plan for the activity centre and new planning scheme controls on a permanent basis.

The council now has the opportunity to do further work to justify eight storeys for this precinct. I will reconsider the proposed height controls for Elsternwick Activity Centre when the council requests authorisation to prepare and exhibit a planning scheme amendment to implement the controls on a permanent basis.

EASTERN VICTORIA REGION

In reply to Mr O'DONOHUE (Eastern Victoria) (19 March 2019)

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

The Andrews Labor Government is proud of the work we've done to put money back into the pockets of hardworking tradies.

The extension of the trade apprentice discount scheme provided support through a 50 per cent reduction in registration and transport accident charges for eligible apprentices.

Apprentices can be eligible if they are using their own vehicle for approved work purposes or if they are using their car to get to and from work between 8.30pm and 5.30am—a time when public transport may not be readily available.

EASTERN METROPOLITAN REGION

In reply to Mr BARTON (Eastern Metropolitan) (19 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

I appreciate the concerns you raise regarding people experiencing homelessness, especially those who are sleeping rough. Every year in Victoria, our homelessness services support more than 100,000 people.

The Victorian Government is committed to working to break the cycle of homelessness. In January 2018, the government announced more than $45 million for the *Homelessness and Rough Sleeping Action Plan*. These initiatives include assertive outreach, supportive housing teams, therapeutic services in inner city crisis accommodation and an additional 106 accommodation units with support.

The *Action Plan* builds on our commitment to grow Victoria's social housing supply, ensure better collaboration between agencies and improve support services for vulnerable Victorians.

The government's existing commitment includes $109 million of early intervention programs to prevent homelessness, $120 million to increase the supply of social housing, $185 million to upgrade nine low-rise estates, $152 million to build and buy more housing for women and children escaping family violence, $33.2 million to support people to maintain current tenancies and $9.8 million for the *Towards Home Proj*ect.

The *Towards Home Project* provides housing and support to people sleeping rough across inner Melbourne. Thirty new modular and relocatable homes have been built on public land, in six different sites. In the City of Monash, five houses have been built which opened in August 2018.1 am very pleased to advise that the City of Monash is a key partner in this initiative.

In 2018-2019, the Victorian Government provided $14 million to homelessness services in the Inner Eastern Melbourne Area, covering the Cities of Monash, Whitehorse, Boroondara and Manningham to support people experiencing homelessness and those at risk of homelessness.

WESTERN VICTORIA REGION

In reply to Mrs McARTHUR (Western Victoria) (19 March 2019)

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education)

As you are aware, Chilwell Primary School was allocated $2.41 million for the upgrade and modernisation of its facilities by the Andrews Labor Government.

I am advised that Victorian School Building Authority (VSBA) staff have continuously engaged with the school and school council throughout the design stages of this project. Unfortunately, the option of a two-storey building was over budget by nearly $3,102 million beyond the amount allocated in the State Budget.

The VSBA has informed me that, on 24 August 2018, three refurbishment design options were presented to the principal, school council and senior staff, and a preferred option was selected. On 19 September 2018, the chosen design was presented to the principal, school council and senior staff along with colour and material samples, which the principal confirmed after the meeting.

The flexible learning general purpose classrooms were designed to expand through the circulation space. As requested by the school, sliding doors will provide the flexibility to work in groups. Considering that the

footprint of the building has not changed, the school is not losing space but, rather, having spaces repurposed in line with the needs of the school.

On 22 January 2019, the VSBA undertook further consultation with the principal, assistant-principal and school council president. The purpose of the meeting was to clarify and review the tender documentation prior to the start of tender, on 7 February 2019. Furthermore, VSBA staff visited the school on 30 January 2019 to review and confirm the electrical layout of power and data points with the school principal.

The VSBA visited the school again on 14 February 2019, as part of the tender process with four local builders to perform a site inspection. On 13 of March 2019, the school was informed of a successful tender outcome and agreed to meet upon the engagement of a building contractor to discuss strategies moving forward.

I am further advised that a building contractor was officially appointed on 19 of March 2019 and a construction start-up meeting was held on 25 March 2019. Construction will commence during the April 2019 school holidays for stage 1, with the expected completion of stage 1 and 2 scheduled for later this year.

I trust this information is of assistance.

SOUTHERN METROPOLITAN REGION

In reply to Ms CROZIER (Southern Metropolitan) (19 March 2019)

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure):

The Andrews Labor Government is removing 75 congested and dangerous level crossings across Melbourne, including the level crossing at Toorak Road in Kooyong. These 75 level crossings were all clearly outlined prior to the election, and their selection based on the Government's level crossing removal prioritisation framework.

The Member for Southern Metropolitan's safety concerns need to be considered alongside the fact that the previous Liberal Government did not remove a single level crossing on the Glen Waverley line in four years. At the last election, the list of level crossings the Liberal Opposition committed to removing did not include any on the Glen Waverley line.

The schools the Member refers to are all in the electorate of Hawthorn. Fortunately, they now have a local member who supports the removal of level crossings, I am aware that the Member for Hawthorn, John Kennedy MP, will be meeting with all these schools to discuss the removal of dangerous and congested level crossings.

He will also discuss options to improve safety around Tooronga road and the school precincts with the schools, and the Andrews Labor Government will work with him and the schools to address any concerns.

NORTHERN VICTORIA REGION

In reply to Ms LOVELL (Northern Victoria) (20 March 2019)

Mr SOMYUREK (South Eastern Metropolitan—Minister for Local Government, Minister for Small Business):

I thank the Member for Northern Victoria for her question regarding funding support from the Growing Suburbs Fund program towards a business case for the proposed Mernda health and wellbeing hub.

The Andrews Labor Government has made a significant investment of $200 million through the Growing Suburbs Fund towards meeting the critical infrastructure needs of communities in Melbourne's diverse and fast-growing interface local government areas. This fund has brought forward many community infrastructure priorities, delivering projects that improve the amenity, liveability and resilience of interface communities, whilst supporting connections, enhancing services and providing local jobs.

EASTERN METROPOLITAN REGION

In reply to Ms WOOLDRIDGE (Eastern Metropolitan) (20 March 2019)

Ms HENNESSY (Altona—Attorney-General, Minister for Workplace Safety):

The Victorian Law Reform Commission is undertaking a community law reference on the law governing disputes between neighbours involving trees on private land that cause damage.

It is reviewing current practices in dispute resolution, and considering whether the law should be changed to provide better, fairer ways of resolving these disputes. The Commission is not considering disputes about

trees on public land, or disputes about trees that block sunlight and views. An issues paper was released in December 2017 that is available on the VLRC website at:

http://www.lawreform.vic.gov.au/projects/neighbourhood-tree-disputes/neighbourhood-tree-disputes-consultation-paper

WESTERN VICTORIA REGION

In reply to Mrs McARTHUR (Western Victoria) (20 March 2019)

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

We won't be lectured by the Opposition on infrastructure funding when it's their federal mates ensuring that Victoria doesn't receive its fair share.

The Victorian Government has strongly advocated for the Commonwealth Government to invest more funds in Victoria's transport network.

At the moment Victoria only receives 11.8 per cent of Commonwealth transport funds which is significantly less than Victoria's population representing 26 per cent of the nation.

Victoria's south west has a large and growing freight task to support the region's agriculture, dairy, timber and renewable energy sectors, and the Victorian Government is investing record amounts in country roads.

The Victorian Government is awaiting details of the Commonwealth's media announcement; in particular, confirmation of this funding in the Federal Budget and the Commonwealth's Forward Estimates to ensure that the Commonwealth genuinely stands ready to meet its obligations to south west Victoria.

SOUTHERN METROPOLITAN REGION

In reply to Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (20 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning):

The City of Boroondara is currently the responsible authority for planning decisions regarding the Bills Street, Hawthorn site owned by the Director of Housing and the University of Melbourne former Hawthorn campus.

No formal proposals have been submitted to the Department of Environment, Land, Water and Planning regarding the renewal or development of either site. Any future development proposals for the sites will be subject to community consultation and input from Council.

NORTHERN VICTORIA REGION

In reply to Ms LOVELL (Northern Victoria) (21 March 2019)

Mr WYNNE (Richmond—Minister for Housing, Minister for Multicultural Affairs, Minister for Planning)

The Victorian Government is working to break the cycle of homelessness by intervening early, getting rough sleepers housed quickly and strengthening support services to keep vulnerable people off the streets. We have invested more than $45 million in initiatives as part of *Victoria's Homelessness and Rough Steeping Action Plan* (the Action Plan), which is part of a record investment of over $1 billion in housing and homelessness services, and $2.1 billion in financial backing for social housing.

While the latest Street Count indicated the government's policies are having an impact on the incidence of rough sleeping in the Melbourne CBD, we are aware that vulnerable people sleep rough in locations throughout the state, including Shepparton and the Northern Victoria Region. Investment in the Northern Victoria Region by the Victorian Government includes:

- A recent contribution of $5.5 million to a project with Wintringham—Specialist Aged Care, to deliver 28 one-bedroom homes in Shepparton to support vulnerable people, in particular elderly people experiencing or at risk of homelessness.
- Acquisition of 15 new dwellings across Mildura, Bendigo and Echuca for people experiencing homelessness.

- Purchase of five additional modular units for the Bendigo area for people experiencing or at risk of homelessness.
- Over $38 million in homelessness services in the following locations:
  - $4 million in Wodonga
  - $2 million in Whittlesea
  - $7 million in Mildura
  - $7 million in Shepparton
  - $18 million in Bendigo.

The Action Plan provides $19 million to establish assertive outreach teams in areas of greatest need across the state, including in Swan Hill in the Northern Victoria Region.

The allocation of these investments is focused on the areas of highest need across the State. The government will continue to deliver targeted support and long-term housing solutions to ensure people experiencing or at risk of homelessness have access to stable, secure accommodation that meets their need.

WESTERN VICTORIA REGION

In reply to Mrs McARTHUR (Western Victoria) (21 March 2019)

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes):

Ensuring the safety of Victorians is our highest priority.

I recently visited Mortlake to meet with community members and discuss their concerns about the safety of power poles in South-West Victoria. I have assured the community that I will continue to look into these matters as a priority.

I have met with Powercor, the distributor that operates throughout western Victoria, and with Energy Safe Victoria (ESV), the state's energy safety regulator, regularly to ascertain the extent of any potential issue and will seek rectifying actions in order to protect the community.

In January and February 2019, Powercor inspected almost 20,000 power poles in the area. From these inspections, Powercor has concluded that the electricity network in this area is in safe working condition.

ESV is undertaking its own program of work to verify Powercor's results and report on power pole safety across the state. ESV also continues its legal investigation into the Terang and Garvoc fires that occurred in March 2018.

ESV has recently concluded the successful prosecution of Powercor on 51 charges relating to the January 2018 fires in Rochester, Port Campbell and Strathmerton. The details were released on 10 April 2019 and involved charges for 189 powerline clearance breaches and three fires, resulting in a $374,000 fine for Powercor.

Additionally, the Andrews Labor Government commissioned the independent Review of Victoria's Electricity and Gas Network Safety Framework, also known as the Grimes Review. The Review found that while Victoria has many of the key elements of a leading network safety framework, there are also areas for improvement. The government supported 42 of the Review's 43 recommendations and is already taking steps to progress these and improve safety for Victorians (by reducing risks such as bushfires ignited by electrical infrastructure).

Over the last 10 years, the Victorian Government has made significant investments in reducing the risk of catastrophic bushfires. This includes improvements to the electrical network by installing electrical safety technologies to improve powerline fault detection on over 30,000 km of high voltage powerlines in hazardous bushfire areas.

I thank the Member for her question.

WESTERN METROPOLITAN REGION

In reply to Dr CUMMING (Western Metropolitan) (21 March 2019)

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations):

Land tax revenue is used by the Government to provide the core services and infrastructure that Victorians rely on. These investments make Victoria a more liveable state.

Land tax assessments increase with the value of land. A taxpayer's current land tax assessment is based on the 2018 revaluation, covering the period between 1 January 2016 to 1 January 2018. Over this two-year period there was strong price growth in the Victorian property market.

I would like to highlight that land value increases are partially the result of Government investments in infrastructure and improvements in service delivery, making Victoria a more liveable state. Land tax is one way to recover the costs of such investments and services from those who directly benefit from them.

As I do not have information on Mrs Kerry's aggregate taxable landholdings, I am not able to make comment on the increase in her land tax liability directly. Broadly, the changes in a taxpayer's land tax liability are dependent on changes in the value of their aggregate landholdings, and the change in land tax bracket(s) that the taxpayer is subject to. Given land values have generally grown throughout the State over the past two years, some taxpayers will see a larger increase in their 2019 land tax assessment. However, any increase in the land tax liability is relatively small when compared to the increase in the value of the underlying asset.

To reduce the bill shock some taxpayers have experienced with two-year valuations, commencing in 2019, the Government is moving to annual valuations. This will ensure that land tax assessments more accurately reflect the value of taxpayers' property assets. Annual valuations will also ensure that if land values are falling, that is passed on to taxpayers more quickly. This measure will assist taxpayers like Mrs Kerry to better manage the costs associated with their investment properties going forward.

The Victorian Government is conscious of the financial burden of land tax. Taxpayers are able to pay their bill in instalments across a nine-month period from the date of assessment. Taxpayers experiencing financial hardship may contact the State Revenue Office directly to discuss payment options.

I note that Mrs Kerry has also raised concerns over the increase in her council rates. In December 2015, the Government established the Fair Go Rates system which sets rate caps to limit the annual increases in council rates. In this system, councils cannot increase average rates by more than the average rate cap set for them without additional approval. The Fair Go Rates system is encouraging councils to improve accountability and transparency, ensuring they are listening to their communities and delivering the services that matter most.

Thank you for raising your concerns.

WESTERN METROPOLITAN REGION

In reply to Mr FINN (Western Metropolitan) (21 March 2019)

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport)

Globally the taxi and hire car industry is changing and governments in all jurisdictions have moved to regulate ridesharing. 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 largest assistance package in Australia.

Applications to the Fairness Fund were carefully assessed on a case-by-case basis. This was in addition to the $332 million of transition assistance payments, paid in 2017, with over 4,130 payments issued.

The new regulatory system has reduced costs for businesses. Licensing has been replaced with a vehicle registration system with a cost of $53.80. From 1 July 2018, the cost of TAC premiums for taxis was slashed by up to $2000 per year.

The program of reforms, and extensive financial assistance and support, was completed in mid-2018.

NORTHERN VICTORIA REGION

In reply to Ms MAXWELL (Northern Victoria) (21 March 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

I am aware of this matter in my capacity as the Member for Northern Victoria and my electorate office have had ongoing involvement with concerned community members.

Constituency questions provide an opportunity for members of parliament to ask a question to a Minister about a matter within the Minister's current public responsibilities.

Your question relates to land currently owned by the Department of Education and as such your constituency question should be directed to the Minster for Education, James Merlino. It is not appropriate for me to respond through the parliament in my capacity as the Minister for Regional Development, however I am happy to continue to work with you, Moira Council and the Yarrawonga community as the Member for Northern Victoria.

WESTERN VICTORIA REGION

In reply to Mr MEDDICK (Western Victoria) (21 March 2019)

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes):

Victoria has a large network of dedicated volunteer wildlife rehabilitation organisations and shelter operators who respond to calls for assistance with sick, injured and orphaned wildlife.

I acknowledge that Wildlife Victoria provides a valued service to the community through the operation of its call centre, and this is a significant contribution to the overall wildlife rehabilitation effort. Discussions are underway with Wildlife Victoria regarding ensuring it has a sustainable business model to be able to continue to provide this service into the future.

In recognition of the hard work and dedication of these volunteers, the Victorian Government has invested in the Wildlife Rehabilitator Grants Program which, now in its 11th year, provides funding to support wildlife shelter operators and foster carers, to purchase a range of equipment and infrastructure to assist with the operation of their facilities and to attend appropriate training.

Since it began in 2008, the Wildlife Rehabilitator Grants Program has provided over $1.3 million to volunteer shelter operators and foster carers.

A Help for Injured Wildlife tool has also recently been developed by the Department of Environment, Land, Water and Planning, which connects members of the public with the contacts and information they require to get help with sick, injured or orphaned wildlife. This tool is a key action under the Victorian Government's *Living with Wildlife Action Plan*.

NORTHERN METROPOLITAN REGION

In reply to Mr ONDARCHIE (Northern Metropolitan) (21 March 2019)

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

While I can confirm that modelling and analysis were undertaken as part of the Streamlining Hoddle Street Project, the project team works for Major Road Projects Victoria (MRPV), which falls within the portfolio responsibilities of the Minister for Transport Infrastructure, the Hon Jacinta Allan MP. As such, 1 am asking Minister Allan to respond to Mr Ondarchie's request.

The intersection of Punt Road/Swan Street/Olympic Boulevard is a very complex and unique intersection. VicRoads advises that it will continue to work with MRPV and review the performance of the site, specifically during peak periods, and will implement adjustments to the operation of traffic lights to further improve the safety and movement for road users travelling through this area.

SOUTH EASTERN METROPOLITAN REGION

In reply to Mr LIMBRICK (South Eastern Metropolitan) (21 March 2019)

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure):

I thank the Member for South Eastern Metropolitan for his question.

The Andrews Labor Government made an election commitment to remove the Eel Race Road level crossing, which is one of 18 level crossings being removed on the Frankston line.

The former Liberal Government did not remove a single level crossing on the Frankston line and went to the last election with a commitment to not remove the Eel Race Road level crossing.

The Andrews Labor Government delivers on its election commitments and work to remove the Eel Race road crossing, along with two other congested level crossings in Carrum, is currently underway.

The extension of McLeod Road through to the Nepean Highway and the new Station Street bridge over the Patterson River means travel times will be slashed for all residents, including those living near Eel Race Road. Advice from emergency services is that the project will improve access to this area.

The decision to not extend the elevated rail line from Carrum over Eel Race Road was made after an extensive public consultation period during 2016.

I have met with the Eel Race Road community groups, and the Member for Carrum, Sonya Kilkenny MP, continues to meet with residents to discuss all aspects relating to the removal of dangerous and congested level crossings in Carrum.

Further information on the project is available online at <www.levelcrossings.vic.gov.au> and I would be happy to coordinate a briefing for the Member on all aspects of the project.

Written responses to questions without notice

Responses have been incorporated in the form provided to Hansard and received in the period shown.

22 March to 2 May 2019

SOLAR HOMES PACKAGE

In reply to Mr LIMBRICK (South Eastern Metropolitan) (19 March 2019)

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs):

The Andrews Labor Government has invested record funding of more than $100 million over the last four years in the waste and resource recovery sector. This includes $37 million to deliver the Recycling Industry Strategic Plan.

This funding will further support the growth of the recycling industry in Victoria by diverting more recoverable materials from landfill, create jobs and increase the recovery of valuable resources.

With rapidly changing technologies and demand for the latest devices, e-waste is a fast-growing waste stream in Australia. In line with our commitment to ban e-waste from landfill, Victoria's e-waste ban will commence on 1 July 2019. The Andrews Labor Government has invested $15 million in infrastructure upgrades across the state, and an additional $1.5 million for a community education and awareness campaign.

This record investment has supported upgrades to more than 130 collection and storage sites across Victoria and has increased local government's capacity to safely collect and store e-waste. These grants will establish the best e-waste collection network in Australia.

In November 2016 the Minister for Energy, Environment and Climate Change urged Australian Environment Ministers to agree to develop a national product stewardship scheme for solar photovoltaic systems, which was agreed to.

Sustainability Victoria is leading the development of the scheme and making excellent progress. The scheme will establish a system of shared responsibility for safely recycling and disposing of end-of-life PV products in Australia.

FAMILY VIOLENCE

In reply to Mr GRIMLEY (Western Victoria) (19 March 2019)

Ms MIKAKOS (Northern Metropolitan—Minister for Health, Minister for Ambulance Services):

I am advised that:

The Andrews Labor Government has demonstrated an unparalleled commitment to ending family violence. We have invested over $2.6 billion as we work to implement all 227 recommendations of the Royal Commission into Family Violence. This is more than any other jurisdiction, including the Commonwealth, combined.

We welcome the Commonwealth Government's recent commitment of $328 million to reduce violence against women and their children, as we always welcome funding from the Commonwealth in relation to addressing these issues.

At this stage, there is no detail available on how much of this funding will be available to Victoria. My Department understands that eligible agencies will be able to apply for the emergency accommodation grant funding, however at this stage it is unclear which agencies will be deemed eligible.

The Andrews Labor Government has in the last three budget years funded nearly eight times the Commonwealth Government's commitment, including but not limited to—

- $50.7 million for Victoria's first primary prevention strategy and to establish Respect Victoria in 2016-17 and $24 million in 2018-19 to expand the primary prevention advertising campaign
- $270.8 million for after-hours victim crisis support, counselling and therapy
- $122 million to support families and children
- $103.9 million for specialist family violence services such as crisis support

- $448.1 million to establish 17 Support and Safety Hubs across the state
- $133.2 million towards additional long-term housing, more rental assistance, improved crisis accommodation and better support for people fleeing family violence
- $64 million for Keeping Women Safe in their Homes

Decisions around the 2019-20 Victorian Budget will be made in due course.

BUSHFIRE PREPAREDNESS

In reply to Mr QUILTY (Northern Victoria) (20 March 2019)

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs):

RESPONSE TO SUBSTANTIVE QUESTION

2019-20 will see the continued delivery of a co-ordinated approach to bushfire risk management under the Andrews Labor Government's *Safer Together* between communities and agencies.

Safer Together, the Government's risk-based approach to bushfire management, sets a state-wide risk reduction target to maintain bushfire risk at or below 70 per cent.

Fuel management, including planned burning, is one avenue to achieve this target.

The number of hectares treated does not equate directly to the amount of bushfire risk reduced, as fuel management in some areas is more effective at reducing risk than in others.

FFMVic has programmed 205,000 hectares of planned burning and approximately 10,000 hectares non burn—mechanical works for 2018/19. I expect a similar area to be identified for fuel treatment during 2019/20.

RESPONSE TO SUPPLEMENTARY QUESTION

To ensure planned burns are ready and safe for ignition operations, FFMVic invests significant time and resources in both planning and preparing burns before they are considered for ignition.

Detailed job planning was carried out for 248,000 hectares of planned burns and 274,000 hectares of planned burns had site preparation works carried out during 2017/18.

Once planned and prepared, burns only go ahead when conditions, including the weather and fuel conditions are suitable for it to be done safely.

2017 was Victoria's sixth-warmest year on record and came with lower-than-average rainfall followed by a dry start to 2018.

Dry conditions across the state during February, March and much of April delayed the start of the 2018 autumn planned burning program, by about 5 weeks.

A constrained burning period was experienced late last autumn before the onset of cooler conditions in May. This resulted in limited planned burning opportunities across most areas.

As well as having committed to and paying for the planning and preparation of these burns, significant changes have occurred in the governments approach to fuel management, and the costs of these are included in the 2017/18 annual report, such as:

- Implementation of the *Safer Together* policy and the transition towards a risk-based approach to fuel management.
- Implementation of the *Reducing Bushfire Risk* policy, including roads and fire breaks to be maintained and updated for access for first attack—bushfire response.
- Improvement in engagement of stakeholders through roundtables and other forums.
- Provision of more equipment and vehicles to support field activities.

A risk-based approach also means FFMVic are planning and delivering an increasing number of complex burns closer to communities, which are very resource-intensive burns, and much smaller than remote country burns.

COUNCIL BUILDING INSPECTORS

In reply to Mr HAYES (Southern Metropolitan) (20 March 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

Victoria continues to lead other states in its commitment to dealing with systemic factors which led to cladding risks. The government is implementing the Taskforce's recommendations, which include consideration of improvements to the current private surveyor model. There are a range of ideas for dealing with this complex issue which will require ongoing commitment and careful analysis.

The government has recognised that there is a lack of clarity about the regulatory responsibilities of state and local government particularly in relation to building works where a private building surveyor has been appointed. This issue was identified by the Victorian Cladding Taskforce established by the government very shortly after the tragic Grenfell disaster in July 2017, which delivered recommendations through its Interim Report in November 2017.

In considering these issues, we must remember that building system challenges are nation-wide and require a national response. In April last year, the Minister for Planning welcomed Professor Peter Shergold AC and Ms Bronwyn Weir's final report to the Building Ministers' Forum assessing the broader compliance and enforcement problems within the building and construction systems across Australia. The report emphasised the need to comprehensively address any potential conflicts of interest arising from the system that is in place and ensure greater regulatory oversight of the inspection regime adopted by jurisdictions.

In relation to development in activity centres, in September 2018 the Minister for Planning released findings of the Activity Centre Pilot Program and amended Practice Notes relating to the application of mandatory height controls in activity centres by councils. This updated guidance will assist the assessment of future planning scheme amendments proposing building height controls in activity centres.

MEMBER CONDUCT

In reply to Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (21 March 2019)

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs):

RESPONSE TO SUBSTANTIVE QUESTION

When answering this question on 21 March 2019 I made the following points:

I totally accept the requirement for the government and members of the government to ensure we undertake our actions in accordance with the public interest not personal interest, and we manage our affairs to prevent that potential or real conflict from occurring.

One of the fundamental building blocks of the reforms that I introduced into the Parliament ensured that the register of members' interests is far more prescriptive and clear than it has ever been before.

I can say that from my working with the Treasurer over a long period of time he has never prosecuted a case for the exclusive benefit of any private company as distinct from a consideration of the public value and the merits of a government determination.

I stand by those comments.

On the same day the Treasurer said when asked a similar question in the Legislative Assembly:

"I have complied with the rules and the forms of this place. I have complied with the act, and that as far as I am concerned is a compliance with all my obligations to this place."

RESPONSE TO SUPPLEMENTARY QUESTION

The previously titled *Members of Parliament (Register of Interests) Act 1978* set out the interests that Members of Parliament were required to declare.

The Government's Victorian *Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* modernised the *Members of Parliament (Register of Interests) Act 1978*, including by:

- renaming it the *Members of Parliament (Standards) Act*; and
- expanding what Members of Parliament are required to declare in their Register of Interests.

The updated Act commenced on 20 March 2019, and includes a requirement for Members of Parliament to submit primary returns by 17 April 2019.

The updated Act also addresses administration and enforcement of the Register of Interests.

In addition, the *Code of Conduct for Ministers and Parliamentary Secretaries* requires Ministers and Parliamentary Secretaries to comply with relevant requirements, and sets out mechanisms for dealing with private interests. For example, the Code requires Ministers to comply with obligations to disclose interests on the Register of Interests for Members of Parliament. Ministers must provide any information required by the Premier to the Cabinet Secretary, and notify any significant changes in their private interests within 28 days of the changes. Ministers are also required to be conscious of actual or potential conflicts of interest so that their obligations to the people of Victoria for honest, effective and efficient government are maintained.

HIRE VEHICLE NUMBERPLATES

In reply to Mr BARTON (Eastern Metropolitan) (21 March 2019)

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

Yes, I can confirm the VH plates will only be provided to commercial passenger vehicle licence holders.

VicRoads is working with Commercial Passenger Vehicles Victoria to establish a system where plates in the VHC–VHZ range can be ordered by the commercial passenger vehicle licence holders.

PRISONER COMPENSATION PAYMENTS

In reply to Ms MAXWELL (Northern Victoria) (21 March 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

The Andrews Labor Government is committed to putting victims first, reducing crime and improving safety for all Victorians.

We have invested over $35 million in additional support for victims and changed laws to give them a greater voice in our justice system. We have also committed to fundamentally reform the way we provide financial assistance for victims of crime.

In 2008, the then Labor Government amended the Corrections Act 1986 to establish the Prisoners Compensation Quarantine Fund to hold certain damages awarded to prisoners in trust. This provides an opportunity for victims and others to make claims for compensation against those funds.

It is not appropriate to comment on individual compensation matters and the amounts paid.

The Andrews Labor Government is committed to ensuring that our justice system empowers, respects, and supports victims of crime.

Victims are notified of payments into the Prisoners Compensation Quarantine Fund in accordance with the Corrections Act. Following a payment, the Secretary of the Department of Justice and Community Safety publishes a notice advising of the award of damages in the Victorian Government Gazette, the Herald Sun and The Australian newspapers, and on the Victorian Government's Victims of Crime website. The Victims Register also directly notifies any of the prisoner's victims who are registered.

It is not appropriate to comment on individual compensation matters and the amounts paid.

FURTHER RESPONSE TO SUBSTANTIVE QUESTION

The Andrews Labor Government is committed to putting victims first, reducing crime and improving safety for all Victorians.

We have invested over $35 million in additional support for victims and changed laws to give them a greater voice in our justice system. We have also committed to fundamentally reform the way we provide financial assistance for victims of crime.

In 2008, the then Labor Government amended the *Corrections Act 1986* to establish the Prisoners Compensation Quarantine Fund to hold certain damages awarded to prisoners in trust. This provides an opportunity for victims and others to make claims for compensation against those funds.

Before an award is paid into the Fund, payments to statutory creditors like Medicare, the Australian Tax Office and lawyers are deducted. If the amount left is more than $10,000, it is paid into the Fund.

From 1 July 2014 to 30 June 2018, a total of eight compensation awards had been paid into the Prisoner Compensation Quarantine Fund (PCQF).

Any victim, in relation to a criminal act by a relevant prisoner, may apply to the Secretary of the Department of Justice and Community Safety for information about the amount of the award paid into the Fund.

For privacy reasons, it would not be appropriate to provide information about individual compensation claims and the amounts paid to individual prisoners.

FURTHER RESPONSE TO SUPPLEMENTARY QUESTION

Victims are notified of payments into the Prisoners Compensation Quarantine Fund in accordance with the Corrections Act. Following a payment, the Secretary of the Department of Justice and Community Safety publishes a notice advising of the award of damages in the Victorian Government Gazette, the Herald Sun and The Australian newspapers, and on the Victorian Government's Victims of Crime website. The Victims Register also directly notifies any of the prisoner's victims who are registered.

The notification process enables victims to decide whether to commence legal proceedings to claim damages against the prisoner, and/or other creditors to seek to enforce an existing award, judgment debt or entitlement. Not all victims of the prisoner decide to commence legal proceedings.

If a victim commences legal proceedings, the payment is quarantined until the end of the proceeding. At the end of the quarantine period, the Secretary must pay to any victim or creditor any award, judgment debt or entitlement against the prisoner from the Fund with the remaining balance paid to the prisoner.

For privacy reasons, it would not be appropriate to provide information about individual claims by victims or the amounts paid to those victims.

Noting that Ms Maxwell has raised concerns with my prior response to her question, the Minister for Victim Support is able to arrange a verbal briefing to answer any additional questions that she may have on this topic.

MEMBER CONDUCT

In reply to Mr FINN (Western Metropolitan) (21 March 2019)

Mr JENNINGS (South Eastern Metropolitan—Leader of the Government, Special Minister of State, Minister for Priority Precincts, Minister for Aboriginal Affairs):

RESPONSE TO SUBSTANTIVE QUESTION

I am advised that in January 2019, Mr Fowles' staff made contact with the Victorian Public Sector Commission to request that he be removed from the Register of Lobbyists. Mr Fowles' staff member was informed that a request must be made by Mr Fowles himself and that request was received on 21 February 2019.

RESPONSE TO SUPPLEMENTARY QUESTION

You are correct that Section 5.3 of the Lobbyists Code of Conduct requires that a Lobbyist shall submit updated Lobbyist's Details in the event of any change to the Lobbyist's Details and failure to comply would see a Lobbyist being removed from the Register Under section 9.2 of the Code.

Mr Fowles has removed himself from the Register of Lobbyists and I am advised that he has undertaken no work as a lobbyist since October 2018.

CORRECTIONS SYSTEM

In reply to Ms PATTEN (Northern Metropolitan) (21 March 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

The Report on Government Services 2019 shows that Victoria continues to provide prisoners with some of the longest periods of time out of their cells in comparison with other jurisdictions in Australia—particularly in secure prisons where Victoria averaged 10.7 hours out of cells per day compared to a national average of nine hours per day.

Placing prisoners in management or high-security units is restrictive—but it is used as a last resort to ensure the safety and security of prisoners, staff, the prison and the community.

Less than two per cent of male prisoners and less than one per cent of female prisoners are in long-term management placement in Victoria.

Corrections Victoria acknowledges the importance to prisoners of maintaining family ties and friendships to assist them in maintaining their links to the community.

Prisoners may participate in a contact visit program subject to a range of conditions. Contact visits provide a valuable incentive for good behaviour, and loss of access to contact visits is not considered to be a penalty, but rather a consequence of poor behaviour where a prisoner has been found guilty of a prison offence through a disciplinary process.

Contact with children and family is considered a high priority unless unsafe to do so.

Telephone and visit contact with children and family cannot be withdrawn as a punishment for disciplinary offences, except where it is demonstrably justifiable.

Any prisoner who is unable to participate in a contact visit program still retains the right to non-contact visits at least weekly.

MURRAY-DARLING BASIN

In reply to Mr BOURMAN (Eastern Victoria) (30 April 2019)

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education):

Victoria remains committed to working with the Commonwealth Government, other Basin jurisdictions and the Murray-Darling Basin Authority to deliver the Murray-Darling Basin Plan in a way that balances social, economic and environmental outcomes, as agreed.

The Basin Plan will help us prepare for a drier future. It is also helping us to modernise irrigation infrastructure so farmers can do more with less water. It will help the environment by building infrastructure to allow iconic wetlands to be watered even in dry periods, to create a refuge for plants and animals.

This government understands the negative socio-economic impacts of water recovery under the Basin Plan that are already being felt by Victorian communities. That's why we sought and achieved agreement with other Basin States and the Commonwealth that there will be no more water recovery unless that has positive or neutral socio-economic impacts.

In terms of water allocations in Victoria, allocations are determined based on the water available in dams, the expected inflows over the period and the need to meet commitments. Victoria's allocation policy has focussed on providing Victorian water users with an allocation every year—an approach that other states will need to look at with the reduction in water availability due to climate change.

Typically allocations start low and increase over the year. GMW as Resource Manager, assesses inflows monthly and makes further allocation available depending on increased availability. For example, seasonal allocation in the Murray for high reliability water shares started at 41 per cent and reached 100 per cent before the end of the season.

More information about the current outlook, allocations and processes can be found at the Northern Victoria Resource Manager website www.nvrm.net.au.

YOUTH CRIME PREVENTION

In reply to Mr GRIMLEY (Western Victoria) (30 April 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

RESPONSE TO SUBSTANTIVE QUESTION

The latest release of quarterly crime statistics for the 12-month period to December 2018 shows a decrease in the overall crime rate in Victoria for the seventh consecutive quarter. The latest data also shows a 4.6 per cent decrease in the number of recorded alleged youth offender incidents.

The Andrews Government is working hard to address the underlying causes of crime and prevent young people becoming engaged in the criminal justice system through a sustained focus on prevention, early intervention and diversion.

The Government funds initiatives such as the Youth Support Service and the Aboriginal Youth Support Service—voluntary, community-based early intervention services for young people at risk of entering the Youth Justice system. These services assist young people with access to education, employment and training, drug and alcohol treatment, and mental health services.

Similarly, the Children's Court Youth Diversion Service provides an opportunity for eligible young Victorians early in their contact with the Children's Court to undertake certain activities and interventions, such as improving attendance at school or reengaging in education, and avoid the stigma associated with a criminal record.

More broadly, the Government committed to developing a whole-of-government strategy on preventing crime amongst young cohorts. We are also delivering the necessary reforms to Youth Justice through the implementation of the Youth Justice Review and Strategy: Meeting needs and reducing offending by Penny Armytage and Professor James Ogloff. This was the first comprehensive review into Victoria's Youth Justice system in nearly two decades. All recommendations have been approved in-full or in-principle.

RESPONSE TO SUPPLEMENTARY QUESTION

Youth Justice case managers collaborate and work with the broader service system to address the needs of young people including education and employment, housing, mental health, alcohol and drugs, disability and family support.

Across government there are a number of initiatives designed to support young people to remain in school or find employment. This includes the Navigator program, that supports young people aged 12–17 years who are not connected to schools or are at risk of disengaging, providing intensive case management and assertive outreach support to disengaged learners to return them to education. Also, the Government's JobsBank and the Jobs Victoria Employment Network are helping disadvantaged Victorian jobseekers gain employment, including disengaged young people and young people in contact with the Youth Justice system.

The Government has also implemented new Youth Justice orders with strict community-based supervision. For example, young people sentenced to a Youth Control Orders are subject to intensive case management and judicial monitoring, and must engage in education, training or employment and abide by any additional requirements ordered by the court. Additional requirements can include participating in community service, attending alcohol or drug treatment, attending counselling, abiding by a curfew, or not contacting people.

In February this year, Youth Justice implemented a new approach to the case management of young people who are subject to community and custodial based orders. This ensures that where a young person comes into the Youth Justice system, the focus is on rehabilitation, including delivering education and pathways into employment, and providing effective case management and programs that address their offending behaviour, and reducing their risk of re-offending.

PLANNING POLICY

In reply to Mr HAYES (Southern Metropolitan) (30 April 2019)

Ms SYMES (Northern Victoria—Minister for Regional Development, Minister for Agriculture, Minister for Resources):

We do not concede that local planning policies are being disregarded, in decision making or that property developers are favoured over local communities and residential amenity in planning decisions.

This government supports the rights of communities to set mandatory height controls in their neighbourhoods, where such heights are strategically justified. The Minister for Planning provided greater certainty to these communities through recent planning reforms, including the changes to the residential zones and the Activity Centre Pilot Program.

The reforms to the residential zones came into effect on 27 March 2017, where he introduced mandatory heights into the Neighbourhood Residential Zone and the General Residential Zone, which together cover approximately 43 per cent of metropolitan Melbourne. The reforms also gave councils the ability to specify mandatory height controls in the Residential Growth Zone, Mixed Use Zone and Township Zone.

Further to this, in September 2018 the Minister for Planning released findings from the Activity Centre Pilot Program and amended planning guidance about the application of mandatory height controls in activity centres. The pilot program found that mandatory controls can deliver clarity, certainty and consistency in outcomes for building height within activity centres.

Current state planning guidance provides clear direction to councils, and outlines the level of strategic work to be undertaken to support mandatory building heights in activity centres. The guidance states that mandatory provisions are appropriate only where it can be clearly demonstrated that discretionary provisions are insufficient to achieve desired development outcomes. It is at the discretion of councils to request mandatory height controls, and to justify if their application is appropriate.

Following requests from councils, the Minister for Planning recently determined that interim mandatory height controls were appropriate for several activity centres on an interim basis, including Moonee Ponds (Moonee Valley), Ivanhoe (Banyule), Johnston Street (Yarra), Bentleigh, Carnegie, Elsternwick (Glen Eira) and Sorrento (Mornington Peninsula).

This was to allow an orderly planning process to be undertaken to implement the council's adopted structure plans on a permanent basis and ensure that development in the intervening period did not compromise the liveability of the centre and prevent the permanent controls from having their full effect.

VCAT is an independent body designed to provide fair and efficient dispute resolution outcomes. VCAT considers development applications on their planning merits, taking into account the views of the communities involved, the *Planning and Environment Act 1987*, and the planning scheme including local policies. It is VCAT's role to balance competing objectives and policies to achieve net community benefit. Indeed section 84B of the *Planning and Environment Act 1987* requires that VCAT acting as the decision maker take into account and give effect to both state and local planning policies of the basis of section 7(4) which clearly puts in place a hierarchy of policies to ensure a co-ordinated planning outcome.

DRUG DRIVING

In reply to Mr LIMBRICK (South Eastern Metropolitan) (30 April 2019)

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

The TAC's Enhanced Enforcement Program provides funding to boost the capacity of Victoria Police to undertake additional enforcement activities across the state. Additional enforcement activities include drug testing, mobile speed cameras and random breath tests. The TAC has provided around $12 million over the past three years to Victoria Police to undertake these activities.

In relation to your supplementary question regarding the training of Victoria Police members and the metric of drug impairment assessments undertaken, these matters fall within the portfolio responsibilities of the Minister for Police and Emergency Services.

The Minister for Police and Emergency Services advises me that there are currently 804 serving police members who are trained. The Drug Impairment Assessment (DIA) training commenced in 2000.

Drug impaired assessments done:

2016—179

2017—192

2018—133

2019—34 (to 30/04)